

Town of Clear Lake - Plan Commission Meeting Minutes – August 4, 2014

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
Bob Lewis
Mike Long

Plan Commissioner Emma Brown was not present. Town Attorney Mike Hawk and Zoning Administrator Amy Schweitzer were present for the meeting. It was determined that a quorum was present.

President Long stated there would be a Public Hearing on a proposed amendment to the Unified Development Ordinance. There were several people in the audience, and Long asked everyone to sign in on the sign-in sheet. He stated that each person that desired to speak at the Public Hearing needed to fill out a “Record of Public Hearing Appearance and Presentation of Evidence” form on the blue half-sheets of paper. President Long stated that each person would be limited to 3 to 5 minutes.

Long asked the Plan Commission to review the minutes of the May 7, 2014 meeting. Mr. Korte made a motion to approve the minutes of the May 7, 2014 Plan Commission meeting as presented. Mr. Dammeier seconded the motion. Motion carried with six (6) votes in favor and zero (0) votes against.

President Long entertained a motion to suspend the meeting. Mr. Folland made a motion to suspend the regular Plan Commission meeting. Mr. Lewis seconded the motion. Motion carried with all in favor. Mr. Korte made a motion to open the Public Hearing portion of the meeting. Mr. Dammeier seconded the motion.

President Long stated the meeting was open if anyone wanted to speak. Audience members asked for a summary of the UDO Amendment.

Mr. Dammeier made a motion to suspend the Public Hearing. Mr. Lewis seconded the motion. Motion carried with all in favor. Mr. Lewis made a motion to re-open the Plan Commission meeting. Mr. Dammeier seconded the motion. Motion carried with all in favor.

Schweitzer read from the minutes of the May 7 meeting summarizing the content of the proposed 2014 UDO Amendment:

- Added Natural Resource Protection Areas as an accessory special exception use and added a definition for Natural Resource Protection Area;
- Discussed modifying structure height for accessory structures, but decided to table that discussion until 2015;
- Agreed to change the minimum lot width for the Lake Residential district to fifty (50) feet;
- Tabled discuss on adding architectural standards and encouraged Staff to discuss such standards with local builders;
- Mr. Hawk, the Plan Commission’s attorney, gave some legal advice on proposed changes dealing with drainage, both generally and with regard to driveways;
- Discussed the use of driveways and decided to move towards not allowing any type of stone for new or expanded driveways and parking surface, although it was not unanimous. There had been

discussion about damage caused to the Town's leaf vac due to stones. Also the use of new grass pavers as a parking and driveway surface was discussed;

- Moved towards the creation of Redevelopment Standards that would apply to the Lake Residential District when one house that straddles two lots is demolished and more than one house is proposed; and
- Agreed to minor changes regulating the use of LP tanks greater than 30-pounds, chimneys within the side yard setback, clarifying the terminology used in the viewshed regulations.

With the summary complete, President Long entertained a motion to suspend the regular meeting. Mr. Dammeier made a motion to suspend the regular meeting of the Plan Commission. Mr. Lewis seconded the motion. Motion carried with all in favor. Mr. Korte made a motion to re-open the public hearing. Mr. Dammeier seconded the motion. Motion carried with all in favor.

President Long welcomed the public to the podium. Mr. Gregg Richhart, 880 South Clear Lake Drive, introduced himself stating that he read through all of the proposed amendments to the UDO. He questioned the change in the minimum lot width to 50 feet, asking what the purpose was of going from 30-feet to 50-feet when the entire Town is platted lots that are 45-feet wide or less?

Mr. Long stated that an ordinance passed in the 1980s made the minimum lot width 50-feet. Then, when the UDO was completed, they looked at the majority of the lake and made the lot width 30-feet. With controversy about things that have happened in the past, a survey was taken as part of the Master Planning process and the majority of the respondents did not want growth. So, with that in mind, the Plan Commission is looking at going back to 50-feet.

Mr. Richhart proposed a scenario of two 45-foot wide lots being used in combination – one with a house and one with a garage, concluding that requiring the owner to legally combine those lots was not fair in his opinion. Richhart stated that a 90-foot wide lot is much harder to sell than two 45-foot wide lots which means a damage to property values and a financial hardship to property owners in this situation. Mr. Dammeier stated the Plan Commission respects his opinion and will consider it.

Mr. Richhart stated the proposal makes his 45-foot wide lot a legal non-conforming lot, and asked what happens in the future when a rule changes – when the rules are changed and say an owner cannot do something with a legal non-conforming lot. For example, the Supplemental Setback that is being proposed, what happens if a new “supplemental setback” is created for all non-conforming lots? How is that fair?

President Long thanked Mr. Richhart and stated the Plan Commission would take his comments under consideration. Plan Commissioner Alan Korte asked what would be a recommended minimum lot size. Richhart asked what the average of the lot width on Clear Lake is? The proposed 50-foot eliminates everyone but a handful of lots. Richhart stated that a lot of nice looking homes are built on 45-foot wide lots. He likes to build on 45-foot wide lot or larger, but it is hard to tell someone that owns a platted lot you can't build on a 30-foot wide lot.

Mr. Richhart asked the Plan Commission about the size of their lots. Mr. Lewis stated he had a 35-foot wide lot when he built, and probably now around 40-feet. Mr. Lewis confirmed that anyone with a 30-foot wide lot can still build on it as long as they meet the setbacks and such. Lewis confirmed his lot was non-conforming when he built on it.

Plan Commissioner Folland explained a little history of lot widths, stating prior to UDO, a conforming lot in the Town of Clear Lake was 70-feet, making virtually everything within the Town, except Quiet Harbor and Powhattan Bay, nonconforming. An ordinance passed in the 1980's prohibited the redevelopment of paired lots unless they were 50-feet in width. It was believed, because it was the original intent, that the UDO provided that any house that was built over a lot line lost their nonconforming status after five years. When Mrs. Schweitzer became the Zoning Administrator, she

discovered that it wasn't that way and the Town's attorneys confirmed it. Folland stated, this is really a drafting error. The 50-foot minimum lot width proposal is simply restoring what was in place before the UDO with regard to the redevelopment of a pair of lots. Fifty (50) feet was chosen because that was consistent with previous ordinances. We didn't look to pick winners and losers. If a property owner wants to redevelop a pair of lots, they can go to the BZA and request a variance to do that, as opposed to redeveloping by right.

Mr. Richhart asked about making the minimum lot width 100-feet and making everyone nonconforming. Folland stated it was believed the UDO made any house built on a pair of lots nonconforming.

President Long asked for anyone else wishing to speak. Mary Jo Fitzenrider, 332 East Clear Lake Drive, commented that she agreed with some of the things Mr. Richhart said. Mrs. Fitzenrider stated that she had spoken with Schweitzer who had referred her to the nonconforming section of the UDO. There was a section that would be very helpful to folks that have 30-foot wide lots. The old original section of where the lake started out are all plotted as 30-foot wide lots and people are concerned about what it means eventually.

Mrs. Schweitzer stated that Article 8 is the nonconforming section of the UDO, and what she read to Mrs. Fitzenrider was actually from the proposed language, as the Plan Commission is tweaking the nonconforming section a little. Schweitzer read 8.05A, "*A legal nonconforming lot shall be permitted to be developed as long as the desired structures and uses meet the current Unified Development Ordinance. If the application of the current Unified Development Ordinance renders the lot undevelopable, for example the current setbacks do not permit a developable building envelope, the owner may request a reasonable variance through the variance process established in Section 9.19 Variance. The variance application fee shall be waived for such a variance, but the owner shall be responsible for the publication costs established in the Town of Clear Lake's fee schedule.*" Fitzenrider asked when that language would be available. Mr. Folland stated it has been on the Town's website for multiple weeks. Schweitzer provided a copy to Mrs. Fitzenrider.

Mrs. Fitzenrider stated that she did see some of Mr. Richhart's points, with the majority of the lake becoming nonconforming with the 50-foot minimum width, and that can be a red flag on the value of a property.

Ms. Bonnie Brown reiterated that folks on a single 30 or 40-foot wide lots could still rebuild on the lot. Mr. John Zachrich, 434 Lake Drive, stated Clear Lake is setting itself up to be an elitist lake if every lot has got to be 50-feet. He stated that building on a 30 or 40-foot wide lot would involve a trip to the BZA and in his experience, that was not a very kind experience. Zachrich asked about the date of the 50-foot wide lot and about the Comp Plan surveys. Zachrich stated the 50-foot lot width is going to stop a lot of people from coming to Clear Lake.

President Long stated, Ordinance 170, passed in 1986, required a minimum width of 50-feet for redevelopment. The 50-foot lot width for redevelopment was in effect from 1986 to 2009. For new lots, the minimum lot width went to 70-feet in the 1990s.

Mr. Brad "Cricket" Gay, 88 Lake Drive, stated he has two platted lots, and he would like his right to develop those lots retained. Folland stated he didn't have the right until 2009. There was conversation about development versus redevelopment. Folland stated that when the community was asked about growth, it was clear that the community wanted to limit growth. Mr. Gay stated he was part of that survey, and thought the question was geared more towards second row development, following that everyone around Clear Lake is against second row development. Mr. Gay stated that this redevelopment of existing lakefront lots was a different issue, and the Town is overstepping its boundaries. Mr. Gay also thanked the Plan Commission for the job they do, stating it was a "thankless" job.

Ms. Mary Brooke, 878 South Clear Lake Drive, introduced herself stating she owned two 45-foot wide lots, and she wanted them kept as two. Ms. Brooke said she doesn't want them combined.

Mr. Richhart stated that if a property owner was granted a permit to legally build across a property line without being required to combine the lots, the right to tear down and give one lot to one child and the other lot to the other child should be preserved. Requiring the property owner to build on the two lots as one is unfair because they did the right thing when they built over it legally. Schweitzer stated that anything built today has to meet the UDO standards. Richhart stated that property owners that tear down one house on two lots, should be able to build two houses one on each lot. Richhart went on to say that requiring a property owner to sell one 90-foot wide lot, as opposed to two 45-foot wide lots, is a financial strain. Any lot over 60-foot begins to drop in price because people can't afford it.

There being no additional public comment, Plan Commissioner Roger Dammeier read aloud the following email correspondence sent to Amy Schweitzer:

- Brett Bueher, 782 South Clear Lake Drive, general information and questions regarding his specific property.
- Greg Waid, no address, question regarding the 50-minimum lot width.
- Richard Waterfield, 858 South Clear Lake Drive and 240 West Clear Lake Drive, in support of the 50-foot minimum lot width.

President Long asked if there were any more comments from the public. Mr. Richhart asked if he could speak again. Commissioner Bob Lewis stated they wanted to give others the opportunity to speak.

Mr. Matthew Miller, 214 West Clear Lake Drive, identified himself and questioned that gravel would no longer be a permitted surface for driveways. Commissioner Chris Folland stated that if Miller had an existing gravel driveway, he would be able to maintain it forever. Mr. Miller questioned the expense of concrete and also the imperviousness of concrete stating that it doesn't make any sense. In the past, the lake wanted gravel driveways so the water filtered better. Commissioner Bob Lewis stated that stones do tear up the inside of the leaf vac and get into the street.

Mr. Chad Korte, 442 Park Point Drive, introduced himself and stated that he heard that the proposal is to counter the adverse effects of one house on two lots being developed into two houses. Mr. Chad Korte asked who has been affected negatively personally. Mr. Chad Korte stated a question could be worded to get any result stating the question could have been asked, "*Are you in favor of limiting the rights of existing property owners?*" And the outcome of the survey would have been different.

Mr. Lewis stated the adverse effect is eventual overpopulation of the lake. There was discussion about how the survey question was wording and the impacts of fishing tournaments exponentially overpopulating the lake.

Mr. Larry Dean, 504 East Clear Lake Drive, identified himself and asked when the survey was taken. Mr. Lewis stated one was taken in 2006, and Schweitzer added that an additional survey was conducted in 2012 for the Comprehensive Plan Update that was approved in 2013.

Mrs. Fitzenrider asked for a little more thought and discussion on the stone driveway issue. When the UDO was developed, the thought was the Town didn't want concrete driveways because of all of the runoff. Mr. Lewis told the audience that the Town is requiring property owners to make drainage accommodations for their own runoff. Fitzenrider and other audience members agreed runoff from concrete and the expense of concrete are issues.

Plan Commissioner Bonnie Brown stated that the Plan Commission had discussed these issues at the regularly scheduled public meeting in May, and no one from the public attended. She was initially against requiring concrete, but changed her mind after hearing about the damage to the leaf vac. The

Town paid a lot of money for this service and that this is a small compromise so folks can operate the machine safely.

Mr. Chad Korte suggested leaves be required to be a safe distance from stone driveways. Another audience member suggested that there is stone between the pavement and the grass in many areas around the lake streets, so it's not about the driveways.

Sue Dickes, 228 West Clear Lake Drive, identified herself. She stated that there are millions of stone driveways and millions of leaf vacs, and if the Town's machine is getting damaged from stones, then we have the wrong machine.

Mrs. Fitzenrider again suggested the Plan Commission look at the environmental impacts of the proposed change. Mr. Folland stated that since 2009, crushed limestone has not been permitted as a driveway or parking surface, and the original focus of this change had nothing to do with the leaf vac. Folland told the audience that the Town has spent \$350,000 this year alone, trying to fix our roads, and that means requiring water be channeled appropriately and stones stop getting dragged into the roads. Folland stated that the Plan Commission was trying to look at the bigger picture by allowing the grass paving mats, which are environmentally-friendly. Anyone that has a stone driveway now can maintain that stone in perpetuity.

Mrs. Teresa Gay, 88 West Clear Lake Drive, identified herself and stated that she owns two 40-foot wide lots. She stated she hopes they never tear down and build two, and hope their neighbors don't either, but that her neighbor has no right to tell her what she can/cannot do with her property and vice-versa. She stated that if either neighbor does decide to tear down and rebuild two, she hopes the houses are as beautiful as those that have been built over the last year.

President Long asked if there were any other comments from the public. Hearing none, Mr. Dammeier made a motion to close the Public Hearing. Ms. Brown seconded the motion. Motion carried. Mr. Dammeier made a motion to reconvene the Plan Commission meeting. Mr. Alan Korte seconded the motion. Motion carried with all in favor.

President Long asked the Plan Commissioners for discussion. Mr. Korte thanked the audience for attending and voicing their opinions. President Long stated that committee spends many hours in meetings trying to develop solutions, and thanked the audience for attending and participating.

Mr. Alan Korte stated that lot sizes and stone driveways are huge issues. Korte asked if letters could be sent out on these two issues, and how many 30-foot wide lots existed. Mr. Folland brought up the Lot Width Study, and Schweitzer explained that her research centered around properties where one house was built on two or more complete lots...and the number of additional houses that could be built. Mr. Korte stated he did not have a copy of the Lot Width Study. Schweitzer provided one for him.

Mr. Folland responded by stating the discussion was not about what the proper width is, but rather about restoring a law that was in place and needs to be in place. The UDO was not intended to allow redevelopment when one house straddled two lots, but in fact, a drafting error allowed this. Until 2009, those lots could not be redeveloped without a BZA hearing. Folland mentioned a very unhappy neighbor with regard to one of the recent redevelopments, and that everything that was done was within the law.

There being no additional discussion, Mr. Lewis made a motion to certify the 2014 UDO Amendment as presented and forward it to the Town Council. Ms. Brown seconded the motion.

Secretary Schweitzer took a roll call vote:

Ms. Bonnie Brown voted in favor of the motion;

Mr. Dammeier voted in favor of the motion;

Mr. Long voted in favor of the motion;

Mr. Folland voted in favor of the motion.
Mr. Lewis voted in favor of the motion.
Mr. Korte voted against the motion.
Motion carried with five (5) votes in favor and one (1) against.

In Old Business, President Long asked for the Plan Commission Executive Committee report. Schweitzer stated the Executive Committee's meetings have been limited to the proposed UDO Amendment.

Long asked for the Zoning Administrator's Report. Schweitzer told the Plan Commission that she has been in discussion with Mr. Kenny Walter about subdividing the Quiet Harbor Common Area, stating that there was a lot of work to be done before it could be completed. Mr. Lewis asked about some details concerning the Quiet Harbor Association. Folland stated he was at the last meeting of the Association, and a motion was made to dissolve the Association. Mike Hawk stated our advice to Mr. Walter was to get legal counsel to help get through this process. Schweitzer mentioned the Common Area was zoned Lake Accessory (LA) and Walter's plan was to have nine (9) Lake Accessory (LA) lots for free-standing garages.

President Long asked for Old Business, and hearing none asked for New Business. There being no New Business, President Long entertained a motion to adjourn. Mr. Korte made a motion to adjourn the meeting. Mr. Dammeier seconded the motion. Motion carried; meeting adjourned at 8:15 PM.

Amy Schweitzer, Secretary