

Town of Clear Lake - Plan Commission Special Meeting Minutes – September 8, 2014

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

Bonnie Brown
Emma Brown
Roger Dammeier
Chris Folland
Alan Korte
Bob Lewis
Mike Long

Town Attorney Mike Hawk and Zoning Administrator Amy Schweitzer were present for the meeting. It was determined that a quorum was present.

President Long began the meeting with an explanation of the UDO Amendment process beginning with the election of officers and make-up of the Executive Committee of the Plan Commission at the February meeting each year. He told the audience that throughout the year, the Zoning Administrator compiles a list of topics and issues that have arisen since the previous UDO amendment. The Executive Committee meets to review these topics and develop solutions. If needed, the Executive Committee has access to a professional planning consultant for technical assistance. The Executive Committee reports on the topics being discussed at the regularly-scheduled February meeting and asks for comments from the Plan Commission as well as the public. The Executive Committee continues to meet to finalize the proposed amendment, and at the regularly-scheduled May Plan Commission meeting the proposed changes are discussed and debated among the Plan Commission. Public comments are appreciated at this point as well. Once a consensus is reached, the proposed changes are forwarded to the Town's Planning Consultant to create a "red pen draft" so the changes can be viewed in context. The "red pen draft" is then made available in printed format in the Town Hall and in electronic format on the Town's website. At the regularly-scheduled August meeting, a Public Hearing is held. After the Public Hearing, the Plan Commission discusses the proposal and has the option to certify it to the Town Council with a favorable, unfavorable, or no recommendation.

With regard to the current proposed UDO Amendment, President Long stated that at the February 3, 2014 meeting, the Executive Committee reported a list of twelve (12) items that had been discussed as part of the 2014 UDO Amendment. No members of the public attended this meeting. At the May 7, 2014 meeting, eight (8) of the original twelve (12) topics were discussed and the Plan Commission decided to move forward with six (6) of the items for amendment and requested additional research and discussion on the other two (2) topics. The Zoning Administrator was instructed to forward those six (6) items to the Planning Consultant so the "red pen draft" could be created. No members of the public attended this May Plan Commission meeting.

President Long continued by telling the audience that on July 22, 2014, a Legal Notice was published in the local paper and on the Town's website stating information about a Public Hearing and indicated the proposed UDO Amendment was available in the Clear Lake Town Hall and on the Town's website. The Plan Commission held a Public Hearing as part of its regularly-scheduled August meeting. Approximately twenty-five (25) members of the public were present and several expressed their views on the proposed UDO Amendment. Three (3) letters were also received and read aloud. After the Public Hearing, there was discussion among the Plan Commission, and the majority of the Plan Commission certified the proposed UDO Amendment to the Town Council.

Long stated that the proposed UDO Amendment was on the agenda of a special Town Council meeting scheduled for August 14, 2014. Two hours before meeting, the Town Attorney advised Town Council President Bob Lewis the Legal Notice was insufficient, and recommended the Plan Commission advertise a revised Legal Notice and hold another public hearing, which brings us to tonight's meeting. Long concluded by stating the process is consistent and the topics of the proposed UDO Amendment have been discussed since the beginning of 2014.

President Long asked Staff Schweitzer to give a summary of the proposed UDO Amendment. Schweitzer stated the content of the proposed UDO Amendment includes:

- Adding Natural Resources Protection Areas as accessory special exception uses and adding a definition for Natural Resources Protection Area;
- Changing the minimum lot width for the Lake Residential (LR) District to fifty (50) feet;
- Permitting only asphalt, concrete, and/or pavers for new or expanded driveways and parking surfaces in most zoning districts, as well as adding standards for driveways in the Lake Residential (LR) and Lake Accessory (LA) districts;
- Adding 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;
- Minor changes regulating the use of LP tanks greater than 30-pounds, drainage, location of fences, chimneys within the side yard setback, and clarifying the terminology used in the viewshed regulations; and
- Minor changes in the non-conformance section to address flatwork and to clarify language with regard to legal-nonconforming lots.

President Long asked Plan Commissioner Roger Dammeier to speak about the proposed minimum lot width change from 30 to 50 feet and changes to the driveway standards. Mr. Dammeier began with some history of changes to lot width and lot area regulations. He told the audience that in November of 1971, the Town Council passed Ordinance #84 setting the minimum lot width at 50-feet and the minimum lot area to 10,000 square feet. These restrictions applied to both sides of the road. In 1974, the Town Council passed Ordinance #104 extending the minimum lot width to 70-feet and the minimum lot area to 12,000 square feet. Dammeier continued by stating that in the late 1970's/early 1980's there was discussion about the availability of federal money to install sewers within Clear Lake, but the Town decided not to pursue these funds partly because the increase in development that would result. Without sewers, development was limited. In August 2003, the minimum lot area was increased again to 14,000 square feet. This minimum lot area, along with the 70-foot minimum lot width remained in effect until 2009.

Mr. Dammeier told the audience that the Town Council lifted a sewer moratorium in 2005 shortly after sewers were installed, but put a limit on the number of new connections permitted specifically to slow new construction. After several zoning issues, the Town adopted the Unified Development Ordinance in 2009 after substantial public input and the help professional planning consultants to create the document. All of the property zoned Lake Residential was platted and "grandfathered," hence the minimum lot width was irrelevant. Dammeier continued by stating the UDO also provided that after five years, if a cottage spanning two or more lots was torn down, the multiple lots effectively became one lot. Therefore, because it appeared that minimum lot width in Lake Residential was irrelevant, the minimum lot width in the UDO was reduced to 30-feet.

Mr. Dammeier told the audience that recent planning documents and community input surveys provide evidence that the residents of Clear Lake also want to limit development within the Town. Dammeier cited the *2006 Comprehensive Plan* as well as the *2012 Update to the Comprehensive Plan* and surveys completed as part of both planning efforts.

Dammeier went on to say that a couple of years ago the Zoning Administrator informed the Plan Commission that the 30-foot minimum lot width for the Lake Residential District did become a factor

when a cottage that spanned two 30-foot wide lots was torn down. Since the minimum lot width is 30-feet, each of those 30-foot wide lots become buildable lots. The provisions about the two lots effectively becoming one only applied to non-conforming lots (those less than 30-feet wide). The Town's Attorney confirmed. Knowing that Town officials have tried to limit development for years and the residents have expressed support in the past for limiting development, the Plan Commission proposed changing the minimum lot width for redevelopment to 50-feet. Mr. Dammeier stated that the minimum lot width in all other zoning districts is 50-feet or greater, including Lake Accessory. If a 50-foot wide lot is required to build a garage, shouldn't a 50-foot lot be required to build a residence?

Mr. Dammeier addressed many of the misconceptions about the proposed lot width change stating that the vast majority of 30-foot wide and 40-foot wide lots would continue to exist as they do today, or as their current or future owners wish them to exist. Owners of these lots can tear down and rebuild as long as their building meets the setbacks, structure height, and other standards that existing in the UDO. The only exception is an owner that is using a lot that is less than 50-feet wide in combination with another. The proposed change is saying, the Town does not want any more additional development by right on 30-foot wide lots than exists today.

Dammeier stated this is a quality of life issue. After researching the potential for the "tear-down one, rebuild-two" scenario, the Plan Commission Executive Committee found that scenario has more potential to be repeated than they first thought. Dammeier asked if folks wanted an estimated additional 95 new residences around Clear Lake. Because these new residences are on the first tier, does that make it more palatable? The Plan Commission doesn't think so. Dammeier went on to say more residences means more vehicles, more boats, more docks, etc.

Regarding gravel driveways, Mr. Dammeier stated the Town spends a significant amount of money to maintain and improve our streets. He explained the process used in asphaltting and that gravel that is dragged onto asphalts abrades the surface and deteriorates the asphalt seal reducing the life of asphalt surfaces. Gravel can and has caused damage to the Town's leaf vac and during snow plowing and heavy rains gravel can get transported or washed into areas like catch basins and lawns. Mr. Dammeier explained gravel being dragged into the streets also causes safety concerns for pedestrians. In conclusion, Mr. Dammeier reiterated that the proposed change requiring concrete, pavers, or paved surface driveways applies only to new driveways.

President Long stated that only those who signed up to speak when they signed in would be allowed to speak, and speakers should go in order by the number assigned to them. Long asked folks to state their name and address for the record, and that each person speaking would be limited to two minutes. Long encouraged all comments to be germane to the topics before the Plan Commission. Interruptions from the crowd will not be tolerated. President Long stated that if a letter was received by someone that has chosen to speak at the meeting, their letter will not be read. With the rules announced, Long entertained a motion to close the regular Plan Commission meeting and open the Public Hearing. Mr. Dammeier made a motion suspend the Plan Commission meeting. Mr. Korte seconded the motion. Motion carried with all in favor. Mr. Dammeier made a motion to open the Public Hearing; Mr. Lewis seconded the motion. Motion carried with all in favor.

1. Mark Hansbarger, 1000 Lane 440 Lake James, introduced himself and stated he is involved with Hansbarger properties and his family owns cottage #300. Hansbarger stated he is a real estate agent, developer, and broker, and has been involved with Clear Lake for over 55 years. His concern over this that lake front property values are established incrementally. By limiting the number of value lot increments, the price goes off on a curve. Those that have multiple lots, the impact is 20%. Mr. Hansbarger stated he was concerned with legal nonconforming effects because legal nonconforming use carries several red flags – with appraisers, disclosers, realtors, buyers, lenders. Hansbarger stated he was also concerned with the language Mr. Dammeier brought up regarding Acts of God, Fire,

where if 70% of physical structure is gone, new construction has to comply with the Unified Development Ordinance.

2. Mary Lee Gecowets, 1040 South Clear Lake Drive, owns 1046, 1041 South Clear Lake Drive as well. Mrs. Gecowets stated that she understands the purpose somewhat, but thinks there are other ways to do what we are trying to do. She stated that she's worked in government in her whole life, and that good government tries to get everyone informed. She is still trying to sort out what "grandfathered" means, and her present house sits on two lots. If her heirs wanted to build two houses, one on each of those lots, the Town's laws would say they couldn't. Mrs. Gecowets stated that's not the way we should control development. She concluded by stating that she wanted everyone to enjoy the lake and didn't want more boats and all that, but she believes there is a better way to do it than what is being proposed.
3. Speaker #3 passed.
4. John Jarrett, 1112 South Clear Lake Drive, introduced himself. He stated he does not like to see developers buying property that is 80 or 60-feet in width, and putting two houses on it. Mr. Jarrett stated that they are nice homes, but they are increasing the population on the lake. He does not want to see the population increase because the lake communities that have allowed growth – you can't even ride on a boat because it is so crowded or ski on a Saturday because you might get run over if you fall off. He simply does not want to see additional development on the lake where developers make the money and we suffer the consequences.
5. Sam Thompson, 886 South Clear Lake Drive, stated that he had heard about things being "grandfathered." He stated there is no legal definition for this, but if push came to shove, "grandfathering" would be honored. Thompson mentioned he was also concerned about this nonconforming lot matter, saying that is a terrible label to put on a lot. Although it probably will not impact things during his lifetime, it certainly is not good for advertising. He stated there should be a name change and that such a negative term should not be used.
6. Don Luepke, 1057 South Clear Lake Drive, stated that he's been coming to Clear Lake for 71 years. He stated it is a beautiful lake and he takes pictures. Luepke explained he does not see himself as a landowner even though he pays taxes. He's a steward, and we are all stewards looking at ways we can manage the land and not necessarily go through and use/abuse land. He stated if this helps to maintain the kind of community we want to have here, then so be it. There are lots of things we need to do as members of this community that we can all participate in – one of which he has been involved with is Water Quality. Water Quality is a big one. He stated that with regard to the driveway regulations, basically the Town is asking for concrete/asphalt surfaces. Mr. Luepke mentioned we should be looking at permeable surfaces, and there are such things as permeable concrete and asphalt. We want the water to not runoff, but rather to filter through the land acting as the kidneys. Mr. Luepke asked the Plan Commission to consider that aspect of it – looking at permeable surfaces.
7. Heidi Smith, 340 Penner Drive, stated that she worked with a piece of property at the corner of 700 and 120 a year and a half ago. The Conservancy showed up at that zoning meeting concerning that piece of property and was very opinionated in saying that anything other than gravel would not make sense because of filtering. She asked the Plan Commission what has changed since then. The second item she wanted to mention was the cost involved in having a new concrete or asphalt driveway installed. The cost of concrete far exceeds the cost of stone.
8. Nancy Brennan, 358 East Clear Lake Drive stated that her attorney, Jason Butterworth, who is a real estate attorney in Ohio and also has multi-state experience, looked over the Unified Development Ordinance and the proposed amendment. His opinion of the UDO is that it is the most restrictive

zoning law he's ever seen. He also feels these amendments are completely unnecessary because of the restrictive nature of the ordinance as it exists. She warned the Plan Commission that if they continue to make more and more restrictions in the document, the Town will be opened up to lawsuits. She stated that the Town is taking away an owner's property rights if the law forces you to use two lots as one. Ms. Brennan cautioned the Plan Commission to balancing property rights and community rights. She agrees that Clear Lake needs to be maintained, but not at the expense of future generations. Ms. Brennan encouraged the Plan Commission to not make the proposed minimum lot change and stated that gravel is the best surface for driveways as it filters water before it reaches the lake.

9. Mike Kinder, 354 East Clear Lake Drive and 1116 South Clear Lake Drive seconded what Ms. Brennan said. Referring to the UDO, Mr. Kinder said it was basically canned zoning that was purchased. Kinder said he runs into these things all the time in his business, and it is all about power. It's all about restricting everything you want to do and sending you through the variance process to see what you can get through. Over $\frac{3}{4}$ of this manual doesn't even pertain to Clear Lake. Kinder stated the next thing that comes up is the amendment process which is more power to the Plan Commission. He stated they are living on two small lots that are grandfathered and doesn't want to be on legally-conforming lots or whatever it was being called. He stated the terminology was undesirable. Kinder stated that his business is developing cell phone towers. He works with attorneys who will chew this thing up (referring to the UDO) and spit it back out, and they will make some things very unpleasant around here. He stated the he loves Clear Lake. But they are against big government and that's what the UDO represents – a small group of people that want to control what everyone else does. Mr. Kinder stated that if people are pushed hard enough, he and others will hire these attorneys who will mire the Town, put the Town in a quagmire, and get us in so much legal debt. This is not something he wants to do, but he will because there are a lot of places to exploit in the UDO. The document is open to be exploited and open to make a mess of Clear Lake if the Town keeps pushing people.
10. John Wilhelm, 206 West Clear Lake Drive stated he takes the opposite view of Mr. Kinder. The Town's officials are elected by the community to look forward and make rules and plans to make it what it is. Past Plan Commissions have made rules that have made it what it is today. The reason we are here is we love Clear Lake. Wilhelm asked what is different about Clear Lake than Lake James or other places? Wilhelm stated the difference is the rules like these that the Plan Commission has made. He urged the Plan Commission to adopt the amendment as proposed even though he personally quarrels with the gravel issue. Wilhelm stated he believes and hopes the gravel issue will be corrected in the future. Mr. Wilhelm stated that people that are at the meeting trying to put fear in others don't know what they are talking about because every town has a UDO as stringent as this – at least the desirable towns. Again, Wilhelm encouraged the Plan Commission to move forward with the proposed amendment that was consistent with the Town's Comprehensive Plan.
11. Jay Yoder, 48 West Clear Lake Drive, introduced himself saying he was a simple carpenter. Yoder stated he does understand when someone is trying to take value from him that he has invested his life savings in. What right does the board have to take that value from him without compensation? Yoder asked what right do we have from restricting the public from the use of Clear Lake? He stated it gives him great joy when he sees people using the Public Beach. Mr. Yoder also questioned if the Plan Commission would adopt stricter regulations for legal non-conforming lots in the future. Are legal-nonconforming lots even insurable?
12. Gregg Richhart, 880 South Clear Lake Drive, stated that most of his comments have already been addressed except one. He stated the Plan Commission is creating separation between legal nonconforming and conforming lot owners. He stated that's where the problem is. Richhart stated he does not want to see any more development on this lake, but there may be situations where a lot may need to be split because it is too big and not affordable. There should be a way to restrict those types

of things so that someone cannot buy 150-foot of frontage and divided into five 30-foot lots. But, creating the separation is just not good. Richhart stated he believes that Plan Commission can come up with something that will work for everybody.

13. Gerry McArdle, 294 Prospect Street, stated that he typically gives the Plan Commission a hard time about what they do. However, this time McArdle stated the Plan Commission got it right. He stated Clear Lake does not want those extra cottages, and this should have been done before. Mr. McArdle stated he had some extra comments that he provided to the Staff.
14. Jon Zachrich, 434 Point Park Place, first congratulated the Plan Commission on running a better meeting this week than the last one. His biggest concern was how fast the Plan Commission tried to ram-rod this through. Zachrich stated he is very much for keeping Clear Lake the way it is. He stated we love Clear Lake and have been here a long time. Where was the outcry when all the small cottages were tore down two and three together and replaced with one large one? Now that there have been two homes replaced with four, but look at all the ones that have been torn down – two to build one. Zachrich stated that all the Plan Commission has done is put neighbor against neighbor and caused a divide. Zachrich stated the Plan Commission should be ashamed of themselves because there is better ways to do it.
15. Dick Waterfield, 858 South Clear Lake Drive and 240 West Clear Lake Drive, has been at Clear Lake since 1964 and in and around real estate business for 40 years, primarily Lake Wawasee. He stated that he can say with some authority that low density is better. While it may not maximize value for the seller who wants to sell one lot, but it does maximize the value for the whole lake. People understandably when they leave the lake, want to maximize what they get. Builders and developers have a right to try to maximize their profits and build as many houses as they can. Waterfield stated that role of Plan Commission is not to worry about those that are leaving the lake or those that are building on the lake and then moving on. He stated it's the Plan Commission's job to look out for the rights of the entire community, and encouraged the Plan Commission to follow through with the amendment.
16. Julie Monson, 134 Lakeview Drive and 280 West Clear Lake Drive stated there are 25 people outside and to know there is this many people outside and continue the meeting when it could have been taken outside would have been much more considerate. Monson told the Plan Commission last year she obtained a quote to add on to her house and she had to have five feet on each side. She stated that now she'd need 20-feet if the amendment is passed. Her plans now will not go through. As a property owner she should have the right to add on. Also, as far as the gravel, there are 187 driveways that are gravel and someone told her there are 230. She stated we should all have the right to our opinions.
17. Steve Gill, 876 South Clear Lake Drive, identified himself, but was stopped because he was not signed in as speaker 17. The Plan Commission agreed to let him speak. He stated it was obvious that everyone in this room loves Clear Lake and wants what is best. He stated that the UDO is too restrictive, is divisive and doesn't bring us together as a community. He stated he does not like being nonconforming and believes there are other ways to go about achieving this.
18. Bill DeWert, 156 West Clear Lake Drive, commented his house number has recently changed. He also owns 1058 South Clear Lake Drive. DeWert stated that most of the points have been made, but he wanted to pick up where Mark Hansbarger left off with regard to nonconforming status. The UDO states that if a house is straddling more than one lot, those lots have to be used as one which is an automatic take-away. Also, there is a provision in the UDO that if a house burns down and 70% of it is gone, then you can build a new house on the old foundation. DeWert commented that an old foundation is not designed to take the stresses of a new home. DeWert stated he loves Clear Lake like it was; he loves Clear Lake how it is; and he's going to love Clear Lake going forward regardless

of the outcome of this meeting. He stated he's never been in a traffic jam on Clear Lake roads. He's never been on the traffic jam on the water – not even on the fourth of July. He stated that the Plan Commission is trying to protect the Town from the worst day of the year and it does not make sense. DeWert stated the worst day of the year is tolerable except for the fireworks. He asked the Plan Commission to address catch basins.

19. Doug Mulvaney, 760 South Clear Lake Drive, stated he provided some written comments this afternoon and won't cover that. Mr. Mulvaney stated the UDO does not make it clear that you are grandfathered. He serves on the Elkhart BZA, and Elkhart has a specific savings clause that makes it clear that anybody that is legal now continues to be legal nonconforming. He also expressed concern about rebuilding stating that in his case they have 5-feet and the way the UDO is currently written he could not rebuild his cottage.
20. Mark Jones, 787 South Clear Lake Drive, stated that with all due respect, one cannot just rebuild on a lot if you are on a legal nonconforming lot. If that is the intent, then Clear Lake's ordinance needs to be rewritten. Regarding flood, Act of God, or fire, 50% for a flood and 70% for fire - why the difference? He stated no stone – there's less runoff with stone was mentioned earlier. He stated the UDO definition of Abandoned Use is weak at best. What if there is an estate, but it is not a contested estate? The UDO doesn't cover it! He asked about not being able to do anything to increase longevity? What does that mean? He stated he has a real problem with the language in this Ordinance, and has an issue with the increase in the minimum width.

With no other members of the audience signed to speak, President Long asked members of the Plan Commission to read the letters received concerning the UDO Amendment.

Commissioner Emma Brown read the following letters:

- Ron Kummer, 844 South Clear Lake Drive, in favor of 50-foot change
- Terry Melton, 1062 South Clear Lake Drive, requests more time for public input

Mrs. Emma Brown had some difficulty speaking loud enough for the audience to hear, so Mr. Don Luepke (from the audience) read the following letters on her behalf:

- Joan Hagerman, 426 Point Park, in favor of 50-foot change
- Harold and Nancy Winch, 428 Point Park, in favor of 50-foot change
- Jim Skinner, 416 Point Park, in favor of 50-foot change
- Richard Eckhart, 598 East Clear Lake Drive, in favor of the 50-foot change

Commissioner Bonnie Brown read the following letters:

- Jeff and Kate Hasting, 146 West Clear Lake Drive, in favor of 50-foot change
- Peter Beck, 806 South Clear Lake Drive, not in favor of the UDO Amendment
- Bruce Spangler, 222 West Clear Lake Drive, in favor of UDO Amendment
- Barb Wenger, 166 West Clear Lake Drive, in favor of 50-foot change

Commissioner Chris Folland read the following letters:

- Dave and Judy Russert, 444 Point Park Drive, in favor of 50-foot change
- Ron Walters, 954 South Clear Lake Drive, in favor of 50-foot change
- Pat Eckert, 348 East Clear Lake Drive, wording of the UDO should address the tear-down one, build-two scenario, but leave the minimum lot width at 30-feet
- Bruce and Jan Matasick, 834 South Clear Lake Drive, in favor of 50-foot lot width change and redevelopment standards
- Sue and By Dickes, 228 West Clear Lake Drive, in favor of 50-foot lot width change
- George and Kathy Schenkel, 144 West Clear Lake Drive, in favor of 50-foot lot width change

Commissioner Bob Lewis read the following letters:

- Greg Ward, 336 East Clear Lake Drive, minimum lot width needs to stay 30-feet
- Brett Buehrer, 782 South Clear Lake Drive and 506 East Clear Lake Drive, asked specific questions about his property
- Bert and Sue Elliot, 602 East Clear Lake Drive, in support of 50-foot lot width change
- Jon and Nancy Dresser, 604 East Clear Lake Drive, in support of 50-foot lot width change
- Jack Horrell, 800 South Clear Lake Drive, in support of 50 feet lot width change
- Stewart and Risa Griest, 892 South Clear Lake Drive, observation that this is a challenging situation and new homes recently built on smaller lots appear oversized
- Larry and Joyce Schavey, 1052 South Clear Lake Drive, does not like the nonconforming term but is in support for 50-foot lot width change
- Bryon Stephens, 956 South Clear Lake, support the 50-foot minimum lot width change and Redevelopment Standards

President Long entertained a motion to close the Public Hearing. Mr. Folland made a motion to close the Public Hearing; Ms. Bonnie Brown seconded the motion. Motion carried with all in favor. Mr. Dammeier made a motion to reopen the regular Plan Commission meeting; Ms. Bonnie Brown seconded the motion. Motion carried with all in favor.

President Long stated the Plan Commission would address some of the questions.

Plan Commissioner Alan Korte asked if a property owner put a three-foot wide concrete bumper between the paved street and the private driveway, then use stone for the rest of the driveway. Mr. Korte stated he had a lot of calls about the legal non-conforming term – that folks simply don't like the way it is worded. Mr. Korte stated he would personally like to see this go back to the Plan Commission Executive Committee for discussion because there is a lot of dissent on the issue. Korte also expressed folks had contacted him about the new twelve-foot side wall separation that if an adjoining structure was only three-feet off the property line, a new building would need a nine-foot setback. Commissioner Bonnie Brown told Korte the twelve-foot separation was only for a "redevelopment scenario." Staff Schweitzer read from the proposed Redevelopment Standards stating the standards were only applicable in the "tear-down one, build two" scenario.

Plan Commissioner Chris Folland asked Staff Schweitzer and Attorney Mike Hawk to comment on eco-friendly driveway options and the use of the term "legal nonconforming." Schweitzer stated that part of the proposed UDO Amendment allows for grass pavers as driveway surfaces and parking surfaces. In some cases, these surfaces are 100% permeable, but in other cases they are less permeable than that. Ordinance permits these types of surfaces. Mr. Hawk stated that the term "legal nonconforming" is a standard, legal, recognized term used in many UDOs. It is used in reference to lots and structures. The legal definition is in the UDO and is common to most that are applied around the State of Indiana. "Grandfathered" is the slang term.

Plan Commission Bob Lewis asked about grandfathered being rebuilt? Schweitzer stated there were a lot of comments during the meeting about rebuilding after a fire or flood. The proposed UDO Amendment does not make any changes to this part of the ordinance. Schweitzer also stated folks had commented on nonconforming uses – and that wasn't what was being discussed. An example of a nonconforming *use* is a gas station in a residential district. A nonconforming *lot* is a piece of ground where the dimensions no longer meet those minimums in the Ordinance. Schweitzer stated she'd been in zoning for 16 years and gets lots of calls from lots of realtors, but has never been asked if a lot is legal nonconforming. She stated she gets calls from banks and the only thing they want to know is if the property is in the flood zone.

Plan Commissioner Bob Lewis also asked Schweitzer if Clear Lake's restrictions on legal nonconforming lots were stricter. Schweitzer stated the restrictions are the same for all size lots that have the same zoning. The lot coverage restrictions are actually more generous for smaller lots.

Mr. Korte asked how many “tear-down one, build two” scenarios have been completed in the last five years. Schweitzer stated just the two sets that have been completed in the last year. Schweitzer was reminded that one of those sets was on 50-foot wide lots.

Ms. Bonnie Brown reminded the audience that they have enjoyed 38 years of legal nonconforming lots on Clear Lake from 1971 to 2009.

Mr. Korte made a motion to turn this back to the Executive Committee for further study because there is a huge split. President Long asked for a second. Hearing no second, President Long declared the motion dead.

Mr. Dammeier made a motion to approve the UDO Amendment as proposed and certify it with a favorable recommendation to the Town Council. Mr. Folland seconded the motion. A roll call vote was taken with Mr. Dammeier voting yes; Mrs. Emma Brown voting yes; Ms. Bonnie Brown voting yes; Mr. Lewis voting yes; Mr. Long voting yes; Mr. Folland voting yes; and Mr. Korte voting no. Motion carried with six (6) votes in favor and one (1) vote against.

There being no additional business, Mrs. Emma Brown made a motion to adjourn; Ms. Bonnie Brown seconded the motion. Motion carried; meeting adjourned at 9:05 PM.

Amy Schweitzer, Secretary