

Town of Clear Lake - Plan Commission Special Meeting Minutes – February 22, 2016

Plan Commission President Mike Long called the meeting to order at 7:00 PM. Members introduced themselves, and the following members of the Plan Commission were present.

Emma Brown
Roger Dammeier
Mike Long
Don Luepke
Jill Powers

Plan Commission Attorney, Mike Hawk, and Zoning Administrator, Amy Schweitzer, were present for the meeting. Plan Commissioners Bonnie Brown and Chris Folland were not present. President Long announced that a quorum was present.

President Long announced that the Plan Commission would be considering two applications filed by Cliff Hewes of 764 South Clear Lake Drive. The first would be for a Minor Subdivision of Land that creates one new 8,500 square foot lot off of a 2.18 acre parent tract of land. The second application would be rezoning the proposed lot from AG (Agriculture) to LA (Lake Accessory).

Doug Schultz, 7317 Coventry Woods Drive, Dublin OH, introduced himself stating that he, along with Cliff Hewes and two cousins own the property that is the subject of the applications. Mr. Schultz and Mr. Hewes also own the cottage 764 South Clear Lake Drive. Mr. Schultz stated the property has been in the family for 58 years. Schultz told the Board that his family has maintained the land and paid taxes on it for that duration and never altered the land with the exception of generously granting the Town a 10-foot easement to expand County Road 850 East (Buck Point Drive) as it comes towards the lake.

Mr. Schultz stated that Don and Sandy Ayres live next to the Schultz/Hewes cottage at 764. Schultz stated that Mr. Ayres' vehicular handicap gate is accessible from the side of the van meaning there can't be another vehicle in the garage. The Ayres approached them about selling some of this land to allow the Ayres to build a garage. Schultz told the Plan Commission they agreed to a price, and are now going through the process to get the lot approved.

Mr. Schultz told the Commission he had hired the Davey Group to complete a wetland delineation report on the proposed lot. The Army Corps of Engineers reviewed the Davey Group's wetland delineation report and concluded that less than one-tenth (.10) of an acre of wetland would be affected. Schultz stated that he was aware of the Clear Lake Township Land Conservancy's concerns, but reiterated that less than one-tenth (.1) of an acre would be impacted. Mr. Schultz shared that eleven cottages back up to their property. Eight of the cottages have a one-car or two-car garage; six cottages back up to swamp. Schultz told the Commission his family is never going to develop any of that land; the proposed lot will be the only to develop.

Mr. Schultz stated, if the project is approved, Lynn Delagrange would be doing the construction of the garage, and if the Board of Zoning Appeals would allow a 25-foot setback from the street (as opposed to the required 30-feet), the proposed building would be 6-feet, 9-inches from the wetland. The proposed garage would not be on or in the wetland. Mr. Schultz stated that according to Mr. Delagrange, the proposed construction would have no impact at all on the wetlands.

In conclusion, Mr. Schultz told the Plan Commission he "gingerly" sent the Clear Lake Township Conservancy's packet of information that is in opposition to the project to the Davey Group. The Davey Group told Schultz the Conservancy's packet references Beacon information from the Steuben County

GIS, and that it is not the most accurate. Davey Group told him the Army Corps information is the most accurate.

President Long asked the Plan Commission if they had any questions. Mrs. Powers asked if the Davey Group's response was in writing. Schultz stated it was not, that he had just sent them the information last week, and he had talked with them on the phone.

Mr. Luepke stated that Unified Development Ordinance does not permit construction within 30-feet of a designated wetland; 6-feet, 9-inches is not even close to 30-feet. Luepke stated that Clear Lake is "clear" because of the wetlands, and the community needs to do everything it can to preserve that. Luepke applauded Mr. Schultz and Mr. Hewes and their families for keeping the wetlands intact over so many years. Mr. Luepke stated passers-by may think it looks like it is a mess, but it is vital to the health of the lake. Luepke concluded he has significant concerns with the proposed project.

Mr. Schultz stated that Mrs. Ayres would be willing to downsize the size of the garage if that would make a difference. Commissioner Emma Brown asked what size would be sufficient. Mr. Schultz stated the Delagrange had conveyed it could be made smaller, but didn't get any more specific.

Mrs. Brown stated she had spent a lot of time thinking about the proposed lot and the building of a garage on it. She walked it multiple times, with multiple people, and continues to wrestle with a decision.

There was discussion about the adjacent garage, owned by Mary Ann Barth, and how it appears to be built right on the edge of the wetland. There was discussion about variances for that project. Mr. Dammeier stated the project had received a height variance when it was built in 2008.

Hearing no other questions from the Plan Commission, President Long entertained a motion to close the regular meeting of the Plan Commission. Mr. Dammeier made a motion to close the regular meeting of the Plan Commission. Mr. Luepke seconded the motion. Motion carried with all voting in favor. Mr. Dammeier made a motion open the Public Hearing portion of the meeting. Mrs. Powers seconded the motion. Motion carried with all in favor.

President Long stated that anyone wishing to speak on the project was welcome to do so. Ms. Bridget Harrison, 111 Gecowets Drive and from the Clear Lake Township Land Conservancy, introduced herself. She began by expressing her and the Conservancy's understand of Mrs. Ayres dilemma and that the Conservancy feels for her. Ms. Harrison stated she did not want to get personal with her comments as it is never easy when a loved one is ill.

That being said, Harrison told the Plan Commission that the Conservancy is here for the future, as well as for right now. She encouraged the Plan Commission to consider the proposed lot/garage after we are all dead and gone. Ms. Harrison asked the Plan Commission to think about preserving Clear Lake for the future, concluding that this project is not in the best interest of Clear Lake's future.

Ms. Harrison stated the water table is shallow and putting a structure in can have indirect impacts on the wetland: runoff, sediment, and can change the balance of the ecosystem. Harrison stated this specific wetland is a Category 3, which is the best. Ms. Harrison stated that in 2011 the Davey Resource Group completed a watershed assessment for the Conservancy. She referenced a map from that assessment stating that the 2011 delineation matches up closely to the information from the Beacon GIS. Harrison questioned if Mrs. Barth's adjacent garage has impacted the wetland.

Harrison also drew the Plan Commission's attention to the statement in the Army Corps letter that said, "...believe the wetlands onsite are slightly larger than the delineation graphic. Development of this property, therefore, will likely require a federal permit prior to the initiation of any work." With regard to

the size of the wetland, Harrison encouraged the Plan Commission to error on the side of caution and consider a larger wetland delineation.

In conclusion, Ms. Harrison also expressed concern with setting a precedent for developing in and/or around a Category 3 wetland going forward. She stated her letter to the Plan Commission had outlined a lot of information before asking for questions.

Mrs. Brown asked about “Category 3” wetlands. Ms. Harrison stated there are Category 1, Category 2, and Category 3 wetlands. Category 3 wetlands are the best because they have the most favorable soil, best diversity of plant species, and hydrology. Harrison confirmed the wetland in question is a Category 3 wetland according to the 2011 delineation assessment. Mrs. Powers asked how likely a project, such as the proposed, would be to degrade that wetland. Harrison stated there was no way to tell really – that there are direct and indirect impacts that can include changes in hydrology, increase in sedimentation, increase in flow. Ultimately, a project such as the proposed, will throw off the current balance and create changes in the ecosystem.

Mr. Schultz, in rebuttal to the Conservancy’s comments, stated during this process, he was told any delineation report that is three years old or older is not valid anymore because of the constant change.

Mrs. Powers asked if the proposed structure was going to require any fill. Neither Harrison nor Schultz knew. Staff Schweitzer stated that there are many areas around the lake that are wet and require piers to be put in under buildings for stabilization. Schweitzer stated she didn’t know the details for this specific project, but piers were common. Schweitzer added any fill in the wetland would require a federal permit.

Mrs. Brown asked Ms. Harrison if there were any other options. Harrison wondered if there was a way to accommodate the Ayres and protect this wetland. Harrison added that it is difficult to justify this proposed solution, when it is not the best solution in the long term. Maybe a permeable surface could be added to the lot for parking that would allow water to filter through it.

Mr. Luepke stated that standards within the Unified Development Ordinance require a 30-foot setback from the wetlands. He shared he thought the Board of Zoning Appeals would not approve a variance from that standard. Luepke cautioned the applicant that even if the lot were approved, the Board of Zoning Appeals may not approve the variance or variances necessary to build.

Peg Zeis of 95 Lane 100A Lake Anne told the Plan Commission that she has had the privilege of working with the Water Quality Committee in Clear Lake for seven years and that many people do a lot of work in the interest of Clear Lake and the surrounding waters. Ms. Zeis stated she had spent the vast majority of her life on or along the watershed that starts at Clear Lake and that one small thing can turn into more things that impact the Maumee River and even Lake Erie. Born and raised in Cleveland, Ohio, Ms. Zeis stated the beaches of Lake Erie were unusable because of contamination. She stated folks often underestimate that impact one activity can have on a huge system. Zeis encouraged the Plan Commission to protect the entire system, remember the big picture, and be very cautious about interrupting the pristine natural area.

President Long offered the opportunity for others from the audience to comment. After a brief pause and no one coming forward, Long entertained a motion to close the Public Hearing portion of the meeting. Mrs. Brown made a motion to close the Public Hearing. Mrs. Powers seconded the motion. Motion carried with all in favor. Mr. Dammeier made a motion to re-open the regular meeting of the Plan Commission. Mr. Luepke second the motion. Motion carried with all in favor.

Before President Long asked for discussion, he reminded the Plan Commission that it could impose restrictions and/or commitments – for example limiting the size of the garage and/or the driveway. Plan Commission Attorney Mike Hawk nodded in agreement. Long asked for discussion.

Mr. Luepke stated he would like to see a statement or condition that the 30-foot setback along the wetland be adhered to. After some discussion, Schweitzer clarified that would make the lot unbuildable – not unusable, but unbuildable.

Mrs. Powers asked about driveways and driveway surfacing. Discussion ensued about construction of a parking pad, as opposed to a garage. There was additional discussion about the impacts Mrs. Barth's adjacent garage might have had on the wetland.

President Long reiterated from the Army Corps letter that the wetland is believed to be slightly larger than the delineation report's illustration and the impact would be to less than one-tenth (.10) of an acre.

Mr. Dammeier stated he did not think it would be possible to build a garage on the proposed lot without fill. Long and Luepke agreed. Dammeier reference Policy 6.1 of the *Clear Lake Comprehensive* which states, "Encourage and assist with the preservation of natural areas around Clear Lake," and Objective 6.1.2. "Protect environmentally sensitive areas such as wetlands through the enforcement of existing land use regulations and modification of those regulations when necessary." Dammeier concluded that building on this lot would not follow the Comprehensive Plan.

Mrs. Powers asked if a parking pad would be required to meet the 30-foot setback around the wetland. Staff Schweitzer read aloud Section 5.22 D "**Environmental Feature Protective Setback: Primary structures, accessory dwellings, storage-based accessory structures, occupiable accessory structures, and support based-accessory structures shall be at least thirty (30) feet from the delineated boundary of a wetland or the edge of the water at normal elevation of a lake, channel, pond, creek, or stream.**" The Plan Commission discussed the logistics around permitting a parking pad on the proposed lot, as well as reducing the size of the lot so it would meet the minimum lot standards for the Lake Accessory District, but not be buildable. A lot that is 85-feet wide by 60-feet deep would exceed the minimum 5,000 square foot lot size, but after applying setbacks would not allow for any structures to be built.

President Long mentioned the overhead power lines and encouraged Mr. Schultz to take those into consideration. Mr. Schultz stated that Mr. Delagrang, the builder, has said the power lines will not be an issue.

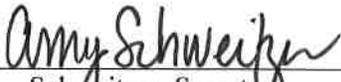
Mr. Luepke suggested an 85-foot by 60-foot lot with no building on it, but permitting a parking pad. Luepke asked if approving a non-buildable lot would meet the Ayres's needs. Luepke stated in his mind, the 85-foot by 100-foot lot is dead in the water. He acknowledged that no vote had been taken on it, but said the conversation is leaning that way.

The Plan Commission discussed tabling the application until Mr. Hewes and Mr. Schultz can have a conversation with Mrs. Ayres about the lot being non-buildable, accommodating only parking.

Mrs. Brown made a motion to table the Hewes Subdivision of Land Application until Mr. Hewes and Mr. Schultz come back to us. Mrs. Powers seconded the motion. Motion carried with all in favor. President Long told Mr. Hewes and Mr. Schultz the next regularly scheduled meeting of the Plan Commission is April 25, 2016 in the Town Hall, at 7:00 PM.

President Long told the Commission that it needed to appoint an alternate for Don Luepke to the Board of Zoning Appeals. After some discussion, Mr. Dammeier made a motion to appoint Mrs. Emma Brown to be Mr. Luepke's alternate appointment to the Board of Zoning Appeals. Mrs. Powers seconded the motion. Motion carried with all voting in favor.

Hearing no other business, Mr. Luepke made a motion to adjourn the meeting. Mr. Dammeier seconded the motion. Motion carried with all in favor. Meeting adjourned at 8:03 PM.



Amy Schweitzer, Secretary

Plan Commission Special Meeting
February 22, 2016 @ 7:00 PM
Sign-In Sheet

Name	Address	Email
Bruce Spangler	222 W CLD	bdaniel43500@yahoo.com
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Cliff Hewes	764 S CL Dr.	crhewes@sbcglobal.net
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Peggy Zin	95 Lam 100A Lake Anne Farm	pegzps@frontier.com
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