



Plan Commission Minutes – Monday, November 9, 2020

Call to order at 7:00 PM. by President Bonnie Brown.

Roll call: Members Present: President Bonnie Brown, Dan Rippe, Scott Lazur, Tyson Johnston.  
President confirmed we have a quorum (4).

Others Present: Seventeen guests signed in and attended the meeting.

Seven guests signed up to speak.

Bonnie Brown asked for a motion to approve minutes.

**Motion by:** Tyson Johnston

To approve the August 3, 2020 minutes with no changes

**2<sup>nd</sup> by** Dan Rippe

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

#### **Case Hearings:**

Bonnie Brown introduced Plan Commission Case 2020-01: Quiet Harbor Estate, Cottages 1223-1239 represented by resident Mr. Kenneth Walter 1224 Quiet Harbor Drive. Request a minor sub-division of section known as “common ground” currently zoned as Lake Accessory (LA).

Mr. Walter presented a brief history of Quiet Harbor w/ details on the leach field. Primary concern was each property owner was operating under their own/individual restrictions for their properties versus being standardized and in compliance with the UDO. There is now unanimous/100% support from all existing landowners. Erosion from end lots poses a secondary concern.

Resident Mr. Darin Thorp spoke in support of the request. Mr. Thorp outlined IC 36.7.310 requiring 100% agreement which they do have. Mr. Thorp spoke of the original intent of the UDO regarding the amount of right of way space needed and the original classification of the area.

Dan Rippe presented questions on the intent. The observation is this request is meant to allow construction opportunities per the UDO. Dan introduced conversation about drainage and Mr. Thorp responded with detailed history on previous drainage issues.

Tyson Johnston posed a question about the back lots being numbered differently than the front lots. Mr. Thorp answered that county regulations and the UDO required the lots have their own designation.

Dan Rippe introduced concerns with the landowners using guidance under the plat versus the UDO. Mr. Thorp responded that the PC has the authority to override the UDO because the plat takes precedence over the UDO.

Bonnie Brown asked for any additional questions/comments. No further discussion and hearing moved forward into review of the staff report. Bonnie referred to this case being prepared for approximately 1 ½ years to ensure all details were covered. Bonnie provided additional details on right of way clearances compared to other properties and are subject to landscaping requirements.

Bonnie requested a motion to close the hearing.

**Motion by:** Tyson Johnston

To close hearing and open comments to the public

**2<sup>nd</sup> by** Scot Lazur

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

Bonnie Brown asked the public to speak for or against the proposal. No comments were made.

Bonnie Brown asked for a motion for public comments to be closed and to re-open the hearing.

**Motion by:** Dan Rippe

To close public comments and reopen hearing

**2<sup>nd</sup> By:** Scott Lazur

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

Hearing was moved to PC to discuss merits of the case.

Dan Rippe reiterated his concerns with individual drainage issues from each lot. Dan would like more details on how each lot would manage their individual drainage. Darin Thorp provided additional info on how each lot would/could address their individual drainage.

Bonnie Brown ensured all members were agreeable to the setbacks proposed on the end lots. All agreed.

**Motion by:** Dan Rippe

To accept the findings of fact for the Waiver for divisions of land that result in more than three parcels when no public streets are being constructed.

**2<sup>nd</sup> By:** Scott Lazur

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

**Motion by:** Tyson Johnston

Plan Commission finds the findings of fact to approve the primary plat.

**2<sup>nd</sup> By:** Scott Lazur

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

Town of Clear Lake Plan Commission – Meeting Minutes 11/9/2020

Bonnie Brown introduced case PC # 2020-03: Norton, David & Sally, 723 SCLD, Fremont, IN 46737. Case request to reinstate a zone change from Lake Accessory (LA) to Single Residential (SR) which would enable the Norton's to re-build their existing deteriorating home.

Mr. David Norton presented the case. Mr. Norton presented historical purchases and previous construction projects by previous landowners. Specifically, Mr. Norton cited the flat roof and the numerous problems/fixes they have had to complete over the years. Mr. Norton made it clear upon completion of construction, they intended to replace all trees that were removed.

Mr. Norton cited some discrepancies between zoning classifications between TOCL and the County Assessor (see attached). The County Assessor still has the property listed as SR and that is what the Norton's have been paying taxes on since they have owned the property for past 43 years. Mr. Norton was concerned with the property changing zoning classifications by TOCL with no awareness to the property owners. Mr. Norton cited common goals to create a residence that supports having family visitations, lake use equipment, and general recreation. Mr. Norton concluded by requesting the property be returned to an SR zoning as it was originally zoned many years ago. He provided a plat example of 12 neighboring properties that retained their original SR zoning when the UDO was implemented. Mr. Norton thanked the committee.

Bonnie Brown opened the hearing for questions from the PC.

Dan Rippe asked if Mr. Norton knew what the original zoning was prior to 2009. As far as Mr. Norton knew the property had always been zoned SR.

Bonnie Brown introduced pictures for the PC members to analyze.

Dan Rippe asked when the last time the Norton's used the home. Mr. Norton replied it was to the point when black mold was found in the home which was a little over two years ago.

Scot Lazur asked about the unknown re-zoning that took place in 2009 and the efforts by the landowners at that time to address the issue. Mr. Norton reiterated they never knew the property had been re-zoned when the UDO was adopted in 2009.

Tyson Johnston discussed the sewer bills from the time of the re-zoning which provides proof of residence at the time of the re-zoning.

Bonnie Brown thanked Mr. Norton and introduced the staff report to the PC. Bonnie cited the Norton's bringing the case to the PC in February 2020 and they were denied (Case #2020-02). The staff report included admin data as recorded by Steuben County which was R01. The report highlighted the conversion to the sewer system in 2004 despite having a fully functioning septic system and the Norton's have paid all sewer fees since that time. The report cited the zoning of the residence was incorrect when the UDO was adopted by TOCL. This seemed to happen due to a lack of reviewing the sewer records on hand which clearly showed the residence as a SR.

Bonnie Brown cited UDO SEC 8.01: Intent. Further statements were introduced citing no intent to change the use of the property and the case does not set any precedence. All cases stand on their own regardless of previous decisions.

Bonnie Brown reiterated the landscape standards including canopy tree requirements.

Bonnie Brown introduced the 2013 comprehensive plan, policy 2.1. Policy 7.2 ensures flexibility for land use measures. Bonnie pointed out that the lot in question greatly exceeds the UDO square footage requirements by at least 12,000 sq. ft. The Norton's lot is almost 22,000 sq. ft.

Bonnie requested a motion to close the hearing.

**Motion by:** Tyson Johnston

To close the hearing and open to public comment.

**2<sup>nd</sup> By:** Dan Rippe

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

Bonnie asked for public comments that were in favor of the request.

Darin Thorp from 1236 Quiet Harbor Drive, Fremont, IN 46737. Mr. Thorp spoke that he did not personally know the Norton's but had been able to walk through the home when they had a garage sale and he reiterated that this was in fact, a home not a garage. Mr. Thorp also noted case law that handled mass re-zoning without the knowledge of the landowners. Specifically, this is known as down zoning and a lot of case law exist on this issue. Mr. Thorp believes the Norton's were inadvertently down-zoned w/o proper notice by TOCL. Mr. Thorp stated he felt like they residence was improperly zoned in 2009 and felt the Norton's were not properly notified.

Bonnie Brown asked for public comment against the proposal. There were none.

Bonnie Brown introduced nine letters of support from adjoining or close neighbors of the Norton's. All nine letters were provided to the PC and all nine were read aloud by Scot Lazur. The first letter cited previous rejection of the re-zoning proposal in Case # 2020-02. However, with the new evidence provided, they now fully support the re-zoning request. The rest of the letters maintained similar verbiage and all fully supported the re-zoning request.

Bonnie Brown asked for a motion for public comments to be closed and to re-open the hearing.

**Motion by:** Tyson Johnston

To close the public comments and re-open the hearing.

**2<sup>nd</sup> By:** Scot Lazur

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

Bonnie Brown cited an extensive computer search for the previous requests by the Norton's on their options for re-zoning. The only correspondence found was an email with a previous ZA (Amy Schweitzer).

Bonnie Brown asked for any further comments and non were received.

Bonnie outlined that the PC simply votes on a recommendation to the Town Council and the Council has the final vote. Bonnie requested to entertain a motion to for a favorable or unfavorable recommendation to the proposal.

**Motion by:** Scot Lazur

To find the proposal favorable for the Town Council

**2<sup>nd</sup> By:** Tyson Johnston

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

### **Old Business:**

Jack Wickland began cleanup. He now has until the end of November to get rid of the shed and one of the lifts. Mr. Wickland was informed that the unsafe and very large cottonwood tree on his shoreside must be removed as it is rotted, unsightly, and poses a major safety concern. Mr. Wickland has until November 30<sup>th</sup> to remove the tree. If he does not comply, TOCL will file a lien against the property backdated to November 2018.

There was a discussion concerning home businesses. Specifically, the Baker vegetable stand. Scot Lazur stated he's called Chris Baker three times. Bonnie stated the need to update the UDO to find common ground on this topic of home businesses.

Bonnie Brown introduced the ZA vacancy and asked Tyson Johnston to provide updates on the candidates. Tyson provided details on a possible candidate (Travis Holcomb). A second candidate had yet to submit a resume but had education background in construction management. Bonnie asked Tyson when interviews would take place and Tyson suggested Travis attend the next Town Council meeting to provide his resume and conduct an interview with the council.

End of old business.

### **New Business:**

Bonnie Brown and Dan Rippe created a list of UDO proposed changes. Dan found inconsistencies between the UDO and ILP approvals.

Dan Rippe provided specific details on the items needing addressed in the UDO. Currently there are at least 15 items to be addressed in the UDO.

Bonnie Brown entertained a motion for adjournment.

**Motion by:** Tyson Johnston

To close the meeting

**2<sup>nd</sup> By:** Scot Lazur

Vote: 4 Ayes 0 Nays 0 Absent Motion Carried

Meeting adjourned at 9:20 P.M.

*Bonnie Brown*

Plan Commission President: Bonnie Brown

*Travis Holcomb*

Attest: Travis Holcomb