

**VILLAGE OF NORTH UTICA**

801 South Clark Street

North Utica, IL 61373

Planning Commission

Public Hearing

October 24, 2019

[www.utica-il.gov](http://www.utica-il.gov)

AGENDA

- I. **6:00 p.m.** Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. **6:00 Continued Public Hearing:**
  - 1.) Petition of Jason L. Galvan, Owner of property located at 310 Towpath Road, Utica, IL, currently zoned R-1, seeking a Special Use permit requiring certain text amendments to the Village of North Utica Zoning Ordinance, and possible amendment of the Hotel and Motel and / or Bed and Breakfast Ordinances, to allow the operation of a vacation dwelling rental.
    - a) Consideration of amendment of Section 10-7A-3 to allow vacation dwelling rentals as a Special Use and the granting of a Special Use permit to the Petitioner, Jason L. Galvan, for property located at 310 Towpath Road, Utica, IL
    - b) Consideration, alternatively, to amend the Zoning of the property, located at 310 Towpath Road, Utica, IL, to a classification of R-3, C-1 or C-2; and to grant the Petitioner, Jason L. Galvan, a Special Use to operate as a vacation dwelling rental on the property.
    - c) Consideration of such other relief as is necessary to allow operation of a vacation dwelling rental, including any amendments necessary to the Hotel and Motel Ordinance (Sec 3-7-1 et. seq.) and / or the Bed and Breakfast Ordinance (Sec. 3-8-1 et. seq) of the Village, at said property location.
  - 2.) Discussion and Possible Recommendations of the Planning Commission regarding such Hearing.
- V. Consideration and Possible Action on Planning Commission Meeting Minutes: 8-22-19
- VI. Old / New Business
- VII. Public Comment
- VIII. Adjournment

POSTED 10-22-19

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### MINUTES

At 6:04 pm the meeting was called to Order by Chairman Tom Guttilla who then led the Pledge of Allegiance. Village Clerk Laurie Gbur recorded the meeting attendance. Present at the meeting were Members Doug Gift, Warren Munson, Bill Zens and Mike Brown. Member Dennis Hamilton and Roy Chapman were absent from the meeting. Also present were Village Attorney Herb Klein, Village Engineer Kevin Heitz and Public Works Director / Zoning Enforcement Officer Curt Spayer.

Continued Public Hearing: Attorney Herb Klein provided a brief summary of the Petition of Jason L. Galvan, Owner of property located at 310 Towpath Road, Utica, IL, currently zoned R-1, seeking a Special Use permit requiring certain text amendments to the Village of North Utica Zoning Ordinance, and possible amendment of the Hotel and Motel and / or Bed and Breakfast Ordinances, to allow the operation of a vacation dwelling rental. The Public Hearing began on 8-22-19 but was continued for further review. There had been questions raised regarding the access to the property using the Towpath Rd. for a vacation dwelling rental business. The road is under the jurisdiction of IDNR not the Village of North Utica. At that time, IDNR reached out to the Village and stated that they needed additional time to consider the use of the road for this purpose, therefore the Hearing was continued to 9-26-19 at 6:00 pm.; that meeting was cancelled due to a lack of a quorum of the Planning Commission. The Hearing was then continued to 10-24-19 at 6:00 pm.

Attorney Klein also reminded everyone that the Village has not yet addressed vacation dwelling overnight rentals in the Zoning Ordinance. Currently the only provisions in the Village Zoning Ordinance for overnight accommodations are a Lodging House, a Bed & Breakfast or Hotel / Motel establishments. Therefore, the following items are being considered for this Petition:

- a) Consideration of amendment of Section 10-7A-3 to allow vacation dwelling rentals as a Special Use and the granting of a Special Use permit to the Petitioner, Jason L. Galvan, for property located at 310 Towpath Road, Utica, IL
- b) Consideration, alternatively, to amend the Zoning of the property, located at 310 Towpath Road, Utica, IL, to a classification of R-3, C-1 or C-2; and to grant the Petitioner, Jason L. Galvan, a Special Use to operate as a vacation dwelling rental on the property.
- c) Consideration of such other relief as is necessary to allow operation of a vacation dwelling rental, including any amendments necessary to the Hotel and Motel Ordinance (Sec 3-7-1 et. seq.) and / or the Bed and Breakfast Ordinance (Sec. 3-8-1 et. seq) of the Village, at said property location.

Attorney Klein also noted that the previously approved Petition by Ms. Christy Donahue was as a Special Use with an amendment to the Bed & Breakfast Ordinance noting special circumstances in that Ms. Donahue lived in a reasonable proximity to the rental home and that she would also be operating a daily retail business on the property, therefore a manager was not required to reside on the property. It was also noted that the property was already zoned as commercial property. (C-2).

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MINUTES

Mr. James Galvan, representing the Petitioner, was sworn in by Attorney Klein to provide Testimony.

Petitioners' Exhibit #1 was then entered into the record: An IDNR letter dated 9-24-19 granting permission of access to the proposed vacation dwelling rental home via the use of Towpath Rd., Utica, IL.

Petitioner's Exhibit #2 was then entered into the record: A letter from Mr. Jason Galvan, Petitioner, supporting their request to seek approval of utilizing the property as a vacation rental, outlining the size of the home, the proposed management of the rental property, and noting that there were no objections from their immediate neighbors regarding the use of the property as overnight rental accommodations. The letter also indicated that the rental of the property would be listed on the AirBnb website and in that listing it will state that access to the property is via an unimproved road and that renters would require sufficient vehicle transportation during the winter season. This is due to the fact that Towpath Rd. is not plowed regularly during the winter and the path is also used by snowmobiles.

Mr. James Galvan stated that the property, with two homes, was purchased approx. 1 ½ years ago. The smaller home has been fully renovated and would be the property that would be rented. The larger home will be used as the permanent residence for the Petitioner and his family beginning in April 2020. The smaller home was being rented in a long-term lease which has now expired so the home is empty. They would like to begin renting the home for overnight accommodations to bring more people into the Village.

Member Gift asked Attorney Klein whether the Petitioner would be subject to the rules and regulations of an Ordinance if the Village creates one regulating overnight vacation dwelling rentals.

Attorney Klein stated that the Village has had some brief discussion about vacation rentals and if the Village approves the Petitioners' request to operate such, they would have to comply with any regulations set forth in an Ordinance. Such discussion has included size of property and zoning districts that vacation rentals would be permitted in, regulations for inspections of the property, Village taxes and fees, how many renters would be permitted to utilize the property at one time and how many vehicles would be allowed and parking requirements for such. Attorney Klein also stated that a motion made by the Planning Commission can also include the requirement of compliance with any future regulations.

Chairman Tom Guttilla also noted that this property, currently zoned R-1, is comprised of approx. 25 acres whereas most residential lots in the R-1 district are significantly smaller.

Mr. James Galvan then stated that AirBnb does research their clients and if there are any complaints received about the rental home, its' cleanliness or the management, they will not continue to rent out the property. He also stated that the renovation of the home was a large investment and they want to be sure their property is taken care of so it will be managed very well.

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**MINUTES**

Chairman Guttilla then asked if there were any questions for Mr. Galvan. Hearing none, Chairman Guttilla Then asked if there was anyone present who would like to speak in favor of the Petition.

Ms. Christy Donahue was then sworn in by Attorney Klein to speak in favor of the Petition.

Ms. Donahue stated that she owns Willow Tree Lane Property located at 229 S. Clark St., Utica, IL and the property is used as an overnight rental home. The property, since opening in the fall of 2018, has been rented consistently. "Utica is known as a destination community and these private rentals help to bring additional tourism into the Village. The patrons will usually stay one or two nights and they will dine and shop in the Village in addition to visiting the State Parks." Ms. Donahue also noted that the rentals are primarily on the weekends and she supports the Petitioners request to operate a vacation rental in the Village.

Chairman Guttilla Then asked if there was anyone present who would like to speak in opposition of the Petition. There were no objectors present to speak at the Hearing.

Member Gift asked about the snow removal on Towpath Rd.

Zoning Enforcement Officer Curt Spayer was sworn in by Attorney Klein.

Spayer stated that the road is not under the jurisdiction of the Village to snow plow however, if there is a significant snow fall of several inches, sometimes the Village Maintenance Department will try to help out IDNR to remove some of the snow. He noted however, that the department does not do this on a regular basis and that a base of a couple of inches of snow needs to remain on the path for the snowmobile traffic.

Mr. James Galvan then reiterated that it will be listed on the rental website that the path is an unimproved road that requires a sufficient vehicle to access the property during the winter season.

Chairman Guttilla asked if the Village receives any complaints about the snow on the path or the limited access as there are other homes along the road.

Zoning Officer Spayer stated that Mr. Mark Shafer lives further down on Towpath Rd. and he has a 4wd truck and knows what to expect with the snow on the road.

Village Engineer Kevin Heitz was then sworn in by Attorney Klein.

Engineer Heitz stated that he had also spoken with Utica Fire Chief Ben Brown about the Petition requesting to use the property as an overnight rental and whether the Fire Department or Ambulance would be impacted in any way.

Chief Brown stated that he has no issues with the use of the property as an overnight rental and if there is an emergency, both Fire and Ambulance will get there.

With no additional Testimony or comments, the Public Hearing was closed at 6:28 pm. Motion made by Member Brown, seconded by Member Zens.

All in favor

Motion Carried

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Chairman Guttilla then asked Attorney Klein about the previous approval and current zoning of Ms. Donahue's Willow Tree Lane property to operate an overnight rental.

Attorney Klein stated that Ms. Donahue was granted approval as a Special Use in the C-2 district to operate a Bed & Breakfast with the special circumstance that a manager would not reside on the property because she also has another retail business located on the same property. The property was already zoned commercial, C-2, and is located along Rt. 178.

Member Gift asked if the recommendation could be a zoning of agriculture, to which Attorney Klein responded that a zoning classification of R-3, C-1 or C-2 could be considered, followed by a recommendation to allow a vacation rental property as a Special Use in the district.

Mr. James Galvan asked about the definition of the residential zoning classifications.

Attorney Klein stated that the classifications are as follows: R-1 is single family, R-2 is duplex and R-3 is multi-family.

Then the zoning classification of R-R was discussed. This classification is defined as rural residence.

Chairman Guttilla stated that this seems to fit the property better than its current R-1 zoning. The group agreed that R-R zoning would make sense because of the location and the size of the property being several acres.

It was then motioned by Member Zens, seconded by Member Gift to recommend to rezone the property to R-R.

4 Yes

Motion Carried

It was then motioned by Member Munson, seconded by Member Brown to recommend amending the definition of the R-R zoning classification to include short term vacation rentals as a Special Use. Short-term vacation rentals will be defined as shorter than 30 days (other than rentals to family), on a minimum of 5 acres and not for the operation of a Bed & Breakfast or a Hotel or Motel.

4 Yes

Motion Carried

Attorney Klein then reviewed the seven Findings of Fact to be considered before granting a Special Use:

1. Is necessary or desirable to provide a service which is in the interest of public convenience.
2. Will cause no additional threat to public health, safety, or welfare or creation of a nuisance.
3. Will cause no additional public expense for flood protection, fire rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
4. Will not unduly increase traffic congestion on public roads and highways.
5. Will not alter the essential character of the property or neighborhood in question.
6. Meets other requirements of this title, such as parking and landscaping.
7. Is consistent with the purpose and intent of the comprehensive plan.

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It was then motioned by Member Brown, seconded by Member Gift to recommend granting approval of a Special Use to the Petition for property located at 310 Towpath Rd., Utica, IL for the purpose of operating a short-term vacation rental. The Petitioner must comply with any future regulations set forth for governing short-term vacation rental properties in the Village of North Utica.

4 Yes

Motion Carried

Minutes: It was motioned by Member Brown, seconded by Member Zens to approve the Minutes from the 8-22-19 Planning Commission meeting as presented.

All in Favor

Motion Carried

Old Business / New Business: The review of the Villages' Zoning Ordinance will continue at the next meeting.

It was motioned by Member Zens, seconded by Member Brown to reschedule the November 21, 2019 Planning Commission meeting to December 5, 2019 at 6:00 pm.

All in Favor

Motion Carried

Public Comment: NONE

With no additional business, the meeting was adjourned at 6:55 pm. Motioned by Member Brown, seconded by Member Zens.

All in Favor

Motion Carried

Respectfully submitted,

Laurie A. Gbur  
Village Clerk