

Cedar Lake Plan Commission

Minutes

March 2, 2011

The Cedar Lake Plan Commission held their Special Public Meeting on March 2, 2011. It was called to order at approximately 7:43 p.m. at the Cedar Lake Town Hall. Those members present were: Stacy Brooks, Diane Cusack, Robert H. Carnahan, Greg Parker, John Foreman, Vice President; and Tim Kubiak, President. Also, present were Tim Kuiper of Austgen, Kuiper and Associates; Sandra Bucklew P.E. of Christopher B. Burke Engineering LTD; Ian Nicolini, Town Administrator; and Laurie Wyrick, Recording Secretary. James Hunley, Member, was not present at tonight's meeting.

President's Comments: Tim Kubiak stated that as the Town Council completed the Board and Commission appointments at the Town Council meeting on March 1, 2011 all members have been reappointed; therefore, officers will need to be elected at tonight's meeting. The President amended the agenda.

Election of Officers and Board of Zoning Appeals Appointment:

President: Robert H. Carnahan nominated Tim Kubiak as President. John Foreman seconded. As there were no more nominations, Robert H. Carnahan moved to close the nominations. John Foreman seconded. After a voice vote the motion carried unanimously and the nominations were closed. Robert H. Carnahan moved to elect Tim Kubiak as President. Diane Cusack seconded. After a voice vote, the motion to elect Tim Kubiak as President carried unanimously.

Vice President: Stacy Brooks nominated John Foreman as Vice President. Greg Parker seconded. As there were no more nominations, Robert H. Carnahan moved to close the nominations. Greg Parker seconded. After a voice vote, the motion carried unanimously and the nominations were closed. Greg Parker moved to elect John Foreman as Vice President. Stacy Brooks seconded. After a voice vote, the motion to elect John Foreman as Vice President carried unanimously.

Plan Commission Appointment to Board of Zoning Appeals

Greg Parker moved to appoint James Hunley to the Board of Zoning Appeals. Stacy Brooks seconded. After a voice vote, the motion carried unanimously.

Old Business:

1. Horvath Communications – Site Plan

Owner: Town of Cedar Lake, P.O. Box 707, Cedar Lake, Indiana
Petitioner: Horvath Communications, 123 4th Street, Chesterton, Indiana
Vicinity: 7408 Constitution Avenue
Request: Petitioner is requesting Site Plan approval.

Deferred from the February 16th Public Meeting.

- (1) Town Attorney's Comments: Tim Kuiper stated that this item was continued from the February Public Meeting to allow review of alternate sites for the proposed wireless tower and to offer direction to the Petitioner.
- (2) Petitioner's Response: Richard Riley stated that the public meeting in February was continued to allow the investigation of alternative sites. The original site is preferred by the Petitioner; however, the western choice of the two (2) sites staked on the Town Grounds for review as alternatives is preferred as the site is less sloping. Some of the dimensions can be adjusted and the existing roadways could be used for installation and maintaining of the site, once construction has been completed. The maintenance on site is normally completed one (1) time per month.

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- (3) Town Engineer's Comments: Sandra Bucklew stated that the comments for the original site had previously been addressed. In the event that a new site is agreed upon, a similar review of information and requirements will take place.
- (4) Building Department's Comments: Ian Nicolini stated that the eastern location is approximately two hundred (200) feet from Morse Street to allow for a larger vision triangle and keep the alternate location planned for future growth of the Town's buildings in tact, and a more level parcel of ground. The alternate locations were staked with the assumption of permanence of the current location of the Lake of the Red Cedars Museum. Ian Nicolini stated concerns about the old growth trees near the location. Mr. Riley explained that the proposed staking for the sites are larger than needed and can be adjusted to lessen the impact to the trees.
- (5) Commission's Discussion: John Foreman requested information concerning the elevation at the two (2) proposed sites versus the original site. Mr. Riley responded that the engineers will need to discern the difference and that three (3) or four (4) feet is not usually a significant change to the elevation to alter the proposed tower height. Diane Cusack stated concerns about the existing trees. Mr. Riley responded that many of the trees are larger trees on site. Ian Nicolini stated that an arborist would be the most qualified to address those concerns. John Foreman stated that the lighting of the flag pole and nearby residents was a concern and requested an opinion from the Petitioner of how an alternate location could alter the lighting of the site. Mr. Riley responded that the lighting will be reviewed by the engineers for submittal. Robert H. Carnahan requested clarification of FCC regulations regarding the tower height and safety lighting. Mr. Riley responded that the tower is not of a height that will require FCC lighting. John Foreman suggested "terracing" the land to level the site to include the existing soccer fields. Mr. Riley responded that the impact to the site would be greater than working with the current elevations. Tim Kubiak stated concerns about line of sight from the parking area to the soccer fields at times when parents arrive to collect children after soccer and similar events and concerns about the location of the electrical source. Tim Kuiper stated that the right-of-way and easements can be a part of the lease agreement between the Town Council and the Petitioner.

Tim Kuiper requested consensus from the Plan Commissioners concerning the preferred site; the voiced opinions were as follows: Greg Parker – middle, Diane Cusack – middle, John Foreman – liked the original and recognized that moving to the middle is further from residences; stating that the wireless communications tower is a necessary item in the vicinity to alleviate may areas that do not have reliable service and the location on the town's property the town has some control over the aesthetics, Tim Kubiak – prefers the original and not in the middle of the grounds, Stacy Brooks – not on the town grounds, Robert H. Carnahan – middle as the least obtrusive location and that there are many towers around that people don't notice. Mr. Riley stated a preference for the original location and relocating the tower to the southern portion of the leased parcel. Robert H. Carnahan stated concerns about walking area for the pedestrian traffic. John Foreman suggested paving additional parking and drive area with sidewalks. Mr. Riley stated that the site should not exceed the existing paved drive by an amount significant enough to justify the expense of such additional improvements. Tim Kubiak stated concerns about the location of the sheds for the equipment. Mr. Riley responded that the equipment sheds and cabinets are standard for the carriers and located on pedestals above the ground. Diane Cusack suggested that the tower be placed outside of the fence and showed example pictures to the Petitioner and Plan Commissioners. The fence in the picture is a white vinyl/PVC material. Mr. Riley stated that the suggestions about the fencing materials and location are amiable.

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Tim Kuiper requested consensus from the members concerning location mainly discussed and of locating the tower outside of the fence. John Foreman stated that eventually the flags could become a focal point.

- (6) Commission's Decision: Greg Parker moved to recommend the Petitioner submit plans for the "middle" site as discussed with the tower outside of the equipment fence. Diane Cusack seconded. The motion carried by a vote of 4 to 2, with Stacy Brooks and Tim Kubiak voting against.

Public Comment:

- A. Steve Henclewski, 330 Tulip Lane, Lowell, Indiana, stated concerns about electromagnetic interference and electromagnetic radiation.
- B. Sandra Herman, 7429 W. 136th Court, recently moved to the area and stated regret about the move considering the proposed cellular tower to the town grounds, and concerns of health effects to children.
- C. Jack Marsh, 12804 Alexander, former electrician, stated that the fears are exaggerated and a fence is planned is planned for the site and approves of any location on the grounds.
- D. Cheryl Parker, 7227 W. 136th Court, stated concerns about the aesthetics and finding a location not on town municipal grounds and moving to other town owned land. Mrs. Parker stated concerns about health and atmospheric quality.
- E. Tammy Warczynski, 7417 W. 136th Lane, stated concerns about residents and taking away choice. John Foreman stated that wireless communications tower are a fact; the location on the town municipal complex gives the governing bodies of the town a level of control over the aesthetics and the impact to the town. Greg Parker stated that the addition of the leased property for a wireless tower deters development of this parcel of property that is owned by the town. Robert H. Carnahan stated that the revenue can be used as funding for improvements to existing town owned property including but not limited to the "beach" area on the Town Grounds.
- F. Susan Slivka, 11702 W. 119th Court, stated findings of fact requirements associated with variances and referenced the Comprehensive Plan for the Town and the use of the municipal grounds as a community park (Page 2-7 of the Comprehensive Plan).

Adjournment: 9:05 p.m.
Tim Kubiak adjourned the meeting.

Press Session: None

James Hunley

Greg Parker

Diane Cusack

John Foreman, Vice President

Stacy Brooks

Tim Kubiak, President

Robert H. Carnahan

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Attest: _____
Laurie Wyrick, Recording Secretary

Cedar Lake Plan Commission

Work Session - Minutes

March 2, 2011

The Cedar Lake Plan Commission held their Work Session on March 2, 2011. It was called to order at approximately 7:03 p.m. at the Cedar Lake Town Hall. Those Members present were: Diane Cusack, Greg Parker, Stacy Brooks, Robert H. Carnahan, John Foreman, Vice President, and Tim Kubiak, President. Also, present were Sandra Bucklew of Christopher B. Burke Engineering LTD; Tim Kuiper of Austgen, Kuiper and Associates; Ian Nicolini, Town Administrator; and Laurie Wyrick, Recording Secretary. James Hunley, Member, was not present for tonight's meeting.

1. Minutes: The minutes of the February 16th Public Meeting were handed out for acceptance at the March 16th Public Meeting.

New Business:

2. Centennial Phase 3 – Final Plat

Owner/Petitioner: Olthof Homes, 8051 Wicker Avenue, St. John, Indiana
Vicinity: Centennial Subdivision 141st Avenue and Parrish Avenue
Request: Final Plat approval

- (1) Petitioner's Response: Joe Lenehan was representing Olthof Homes at tonight's Work Session. Mr. Lenehan requested final plat approval of Phase 3, stating that the plat will consist of five (5) lots and approximately fifty-one (51) town home units. The infrastructure is almost completed; the fencing, streetlights and surface course of asphalt need to be installed. According to the Town's Engineer, the required Performance Bond amount is fifty-six thousand, five hundred sixty-nine dollars and thirty-five cents (\$56,569.35); a bond in that amount was submitted to the Town earlier today. The Town Engineer's comments have been addressed and submitted for review along with a digital copy of the as-builts.
- (2) Town Engineer's Comments: Sandra Bucklew stated that the revised plans and as-builts were submitted today and a review will be completed prior to the Public Meeting in two weeks. The estimated costs of the remaining infrastructure is below twenty-five percent (25%) of the total cost of improvements to the phase; according to the subdivision ordinance the reduced bond amount of twenty-five percent (25%) of the cost of the improvements to the subdivision will be fifty-six thousand, five hundred sixty-nine dollars and thirty-five cents (\$56,569.35).
- (3) Building Department's Comments: Ian Nicolini stated that the original plat delineated outlots and open spaces that currently are shown incorporated into the lots. This incorporation of some of the smaller outlots into the developed lots does not alter the amount of open space for the subdivision; however, it does reduce a burden on the future Property Owners Association of taxing and maintenance of miscellaneous smaller parcels in the subdivision. Joe Lenehan added that the units and their locations are unchanged and the open spaces often become access easements for use by the property owners. Ian Nicolini stated that in 2009, timeframes for completion of improvements along 141st Avenue were discussed and agreed upon. Ian Nicolini asked if the time frames are still accurate. Mr. Lenehan responded that the items are planned for completion prior to the date of October 30, 2011 to include the entryway improvements, road widening and sidewalks as discussed and approved.
- (4) Commission's Discussion: Tim Kubiak requested a time frame that the drainage improvements along 141st Avenue will be completed. Mr. Lenehan responded that the drainage improvements are a part of the road widening and sidewalks planned for completion this year. Robert H. Carnahan stated concerns about snow plowing in the

subdivision and the responsible party(ies). Ian Nicolini stated that the streets are the responsibility of the developer as the town has not accepted the improvements at this time.

3. Lighthouse at Paradise – Site Plan

Owner/Petitioner: DJ Cedar Lake LLC, 1000 E. 80th Avenue, Suite 700N, Merrillville, Indiana
Vicinity: 7501 Constitution Avenue
Request: Site Plan approval

- (1) Petitioner's Response: Les Dewes was present representing DJ Cedar Lake at tonight's meeting. Mr. Dewes stated plans to add an addition to the Lighthouse Restaurant. The first floor would gain additional restroom area, storage and space for the beverage line. The second floor would gain additional dance floor area and dining area. The two-story addition is approximately forty-eight (48) feet in width and twenty-one and one-half (21.5) feet in depth added to the southern portion of the restaurant. The stairs and an outdoor shed will be relocated on the property as shown.
- (2) Town Engineer's Comments: Ian Nicolini stated that this item is under review with Nies Engineering.
- (3) Building Department's Comments: See Commission's Discussion
- (4) Commission's Discussion: Robert H. Carnahan requested that a layout of the changes to the interior of the structure be submitted to assist the Plan Commissioners in making an informed decision on the proposal. Mr. Dewes agreed to the request. John Foreman stated that the addition will be to the south side in an area that is not visible from the parking area and will assist in straightening the southern building line. John Foreman questioned the primary use of the stairs shown on the plans. Mr. Dewes responded that the current emergency stairs will be relocated as shown. Tim Kubiak stated concerns about the fact that the restaurant very recently did an addition to the building and added boundaries to the subdivision and didn't consider these changes to the restaurant that are before the Plan Commission tonight in the recent planning adding that the proposed changes show a zero (0) lot line which is similar to the reduced northern lot line. Mr. Dewes explained that the zero (0) lot line will be for approximately twelve (12) feet and not the entire length of the addition and that this addition was not planned at the time of the recent changes referenced by Tim Kubiak. Patrons have requested a larger dance floor for the banquet area and during some events patrons are lined up to use the facilities; the business is considering the patrons needs in the proposed changes. Ian Nicolini stated that the Plan Commission can make any approvals contingent upon the approvals of the Variances before the Board of Zoning Appeals for this month. Robert H. Carnahan stated concerns about the proposed zero (0) lot line and emergency access as this parcel is not owned by the same persons that owns the lot(s) to the south. Tim Kubiak requested the required setbacks for the zoning district (twelve (12) feet side yard setback) be followed. Concerns of the property adjacent to the south were discussed. Greg Parker suggested that the separation be addressed when the Petitioner is seeking approvals for the property to the south. Ian Nicolini stated that in the last presentation for the property to the south, a larger right-of-way was shown along the property adjacent to the restaurant and utilized as a drainage/outfall preserved as open space. Tim Kubiak suggested that additional property be added to the restaurant parcel similar to the final plat approved on February 16, 2011 by the Plan Commission. Ian Nicolini recommended that the Petitioner seek advice from the Fire Chief to discuss fire safety and emergency access concerns. Stacy Brooks stated

concerns about the impact to the restaurant in the event that the adjacent property to the south is purchased by a different entity in the future. Ian Nicolini suggested that the next item on the agenda be visited at this time as it directly relates to this property.

4. Paradise Cove PUD Phase 1 – Amendment to PUD

Owner/Petitioner: Paradise Cove LLC, Lake, 1000 E. 80th Avenue, Suite 700N, Merrillville, Indiana
Vicinity: vicinity of 13800 Lake Shore Drive
Request: Amendment to the PUD

- (1) Town Attorney's Comments: Tim Kuiper stated that the Planned Unit Development (PUD) is an Ordinance, meaning any changes of use or approvals to the PUD is required to be advertised as a public hearing at the Plan Commission who recommends any changes to the Town Council for final approval. The Plan Commission has a right to request provisions in the amendment to the planned unit development ordinance concerning items, including the open space on the northern boundary located adjacent to the restaurant, as negotiating item(s) between the owner and the Town.
- (2) Petitioner's Response: Les Dewes was representing Paradise Cove LLC at tonight's Work Session. Mr. Dewes stated that an amendment to the Planned Unit Development is requested to allow an accessory structure with outdoor dining, entertainment, dancing, and the sale and use of alcohol for a parcel of property to be leased to DJ Cedar Lake (owner of the Lighthouse Restaurant, Item #3 on the agenda) for weddings and similar events.
- (3) Town Engineer's Comments: Not present.
- (4) Building Department's Comments: Ian Nicolini stated that this item will be a public hearing at the public meeting as an Ordinance amending the Planned Unit Development.
- (5) Commission's Discussion: Tim Kubiak stated concerns about the time frame requested for the amendment as a permanent or temporary change to the planned unit development. John Foreman requested clarification from the Town Attorney concerning the actions of amending a planned unit development. Tim Kuiper stated that a planned unit development is approved with a developmental plan: a use and a plan, as the reasons behind the need for a planned unit development. When a person or entity requests a change in the use of the planned unit development, the change is enacted by ordinance and not changed/amended until such time as new action takes place as an ordinance at the public hearing level. One of the advantages of a planned unit development is the latitude for negotiations and this instance is an example of where a governing body and developer can negotiate the items both parties desire to be incorporated into the planned unit development and in this instance directly relating to adjacent parcels and land use. Greg Parker stated that a minimum twelve (12) foot easement can be added to the agreement to keep a separation/easement from the restaurant that is located on the parcel to the north. Tim Kuiper agreed that it can be a part of the contractual agreement.

Old Business

5. Union Station - Plat

Owner/Petitioner: Captiva LLC, 1313 White Hawk Drive, Crown Point, Indiana
Vicinity: 141st Avenue and Parrish Avenue
Request: Preliminary Plat renewal (expires April 18, 2011)

Deferred from the February 16th Public Meeting.

- (1) Petitioner's Response: Not present
- (2) Town Engineer's Comments: None
- (3) Building Department's Comments: None
- (4) Commission's Discussion: Robert H. Carnahan requested an overview of the item. Tim Kuiper stated that the preliminary plat was approved and the approval is about to expire. The Plan Commission requests an update of the status prior to renewal of the plat. Ian Nicolini stated that the zoning for the parcel is established, the plat is under review for renewal.

Other Business

- A. T&J Landscaping – Site Plan update.
- B. Krystal Oaks Bond – update.
- C. Woods of Cedar Creek Bond – update.
- D. Turnquist – Site Plan update.
- E. Lynnsway Subdivision – information.

Written Communications: Letter dated February 25, 2011 from CBBEL, concerning Illiana Storage – Flap Gate Submittal. Sandra Bucklew stated that part of the agreement with Illiana Storage is a check valve. Mr. Boersma constructed a flap gate as an economical equivalent alternative. The Plan Commission retains the right to require the previously approve check valve to be installed in the event the manufactured flap gate does not perform as required.

Public Comment: None

Adjournment: The Work Session was adjourned at 7:43 p.m.

Press Session: None

Attest: _____
Laurie Wyrick, Recording Secretary