

Cedar Lake Plan Commission

Public Meeting – Minutes

December 21, 2011

The Cedar Lake Plan Commission held their Public Meeting on December 21, 2011. It was called to order at approximately 7:05 p.m. at the Cedar Lake Town Hall. Those Members present were: Diane Cusack, Greg Parker, Robert H. Carnahan, Stacy Brooks, John Foreman, Vice President and Tim Kubiak, President. Don Oliphant of Christopher B. Burke Engineering LTD, Ian Nicolini, Town Administrator; Attorney Tim Kuiper of Austgen, Kuiper & Associates, and Jenn Montgomery, Recording Secretary were also present. James Hunley, member, was not present at tonight's meeting.

1. **Minutes:** Greg Parker moved to accept the Minutes from the November 16, 2011 Public Meeting. Stacy Brooks seconded. Motion carried.

New Business:

1. Franciscan Friary – Preliminary and Final Plat Approval

Owner/Petitioner: Franciscan Friars LBVM Province, Inc., 9230 W Highland Park Avenue,
Franklin, Wisconsin

Vicinity: 12915 Parrish Avenue, Cedar Lake, Indiana

Request: Preliminary and Final Plat Approval

- (1) Attorney's Comments: Attorney Kuiper stated the notices and publications were in order at last month's meeting and was properly continued to tonight's meeting.
- (2) Petitioner's Comments: Ken Gembala of Plumb, Tuckett & Associates was present tonight representing the Friary. Mr. Gembala stated the upper house was originally a housing unit for the friars. They have since moved to the lower house. The upper house and a garage will be demolished and replaced with landscaping. The south entrance will be widened and asphalted to accommodate traffic. The northern entrance will be turned to gravel and will be used for emergency vehicles only. No new buildings will be erected. There are currently multiple parcels that make up the property, and the Petitioner would like to combine these parcels to make a one-lot subdivision.
- (3) Remonstrators: None.
- (4) Town Engineer's Comments: None.
- (5) Building Department's Comments: Ian Nicolini stated that all the requirements have been satisfied. There is a thirty (30) day waiting period that is required between the approval tonight and the signatures on the Mylar.
- (6) Commission's Discussion: John Foreman asked if the newer garage will still be moved by the lower house. Ken Gembala stated that the garage will remain at this time.
- (7) Commission's Decision: John Foreman moved to approve the request for preliminary and final plat approval, contingent on the thirty (30) day waiting period, and the demolition of the two (2) buildings. Greg Parker seconded. After a roll call vote, the motion carried 6-0.

2. WPPI – Final Plat Approval

Owner: Doris Dunn, 12260 Rolling Hills Road, Monmouth, Oregon

Petitioner: WPPI, 1000 E 80th Avenue, Suite 700N, Merrillville, Indiana

Vicinity: 6905 W 133rd Avenue

Request: Final Plat Approval

- (1) Petitioner's Comments: Les Dewes of WPPI was present at tonight's meeting to request Final Plat approval of a four- (4) lot subdivision, which will hold three (3) buildable lots, and one (1) lot for detention.
- (2) Town Engineer's Comments: Neil Simstad provided a letter stating that all items have been addressed and that the submittal is in compliance for approval.
- (3) Building Department's Comments: Ian Nicolini stated that the assigned addresses and building setback lines need to be reflected on the Mylar.
- (4) Commission's Discussion: None.
- (5) Commission's Decision: Bob Carnahan moved to approve Final Plat, contingent that the Mylar reflects the building setback lines and addresses. Stacy Brooks seconded. After a roll call vote, the motion carried 6-0.

Other Business

1. Union Station - Rezone

Owner: Philip C. Rietvelt Trust
Vicinity: 141st Avenue and Parrish Avenue
Request: by Town to return zoning to A-1

- (1) Town Attorney's Comments: Tim Kuiper stated that this item was remanded back to the Plan Commission by the Town Council on December 13, 2011.
- (2) Owner's Comments: Attorney Randy Wyllie of Wieser & Wyllie, LLP was present at tonight's meeting representing Philip Rietvelt. Attorney Wyllie presented the Plan Commission with a written remonstrance stating his objection to the proposed rezone. In 2006, Hawk Development, then the owner of this parcel, rezoned the property to multiple zones. It has remained as this zoning since then. In May 2011, Mr. Rietvelt purchased this property with the current zoning, and invested approximately \$900,000 in 106 acres of land. Within sixty (60) days, the Town began the process of rezoning the property to Agricultural (A-1). Multiple requests for continuances were submitted by Attorney Wieser, all of which were granted until the November 16, 2011 hearing. After the Plan Commission made a recommendation to revert the zoning back to A-1, this item was heard before the Town Council, who then remanded it back to the Plan Commission. Attorney Wyllie stated that when considering a rezone, according to Indiana Code 36-7-4-603, that five (5) things must be considered: 1. The Town's Comprehensive Plan; 2. The current conditions and character of the current structures and uses in the district at issue; 3. The most desirable use of the land; 4. The conservation of property values throughout the jurisdiction; and 5. Responsible development and growth. Attorney Wyllie stated that this rezone does not meet any of these requirements. The Town's current comprehensive plan provides that this property should be a combination of multiple zoning, including residential and/or business, not agricultural. The property in question is surrounded by residential zoned property. To rezone this land to agricultural would be inconsistent with the surrounding areas. Attorney Wyllie stated that prior to the rezone in 2006, the land was zoned residential to begin with. Attorney Wyllie stated that a rezone would not only devalue his client's property, but that it would devalue the surrounding properties, as agricultural land is the least desirable land. A valuation report was provided within the written remonstrance. Attorney Wyllie stated that the value of this property would decrease by fifty percent (50%)

if it were to be rezoned to agricultural. Mr. Rietvelt stated that he obtained engineering plans worth approximately \$300,000 that will become worthless if this property is rezoned to agricultural. Attorney Wyllie stated they are unaware of the reasons why the Town of Cedar Lake is interested in rezoning the property. Mr. Rietvelt stated he is not one to destroy land and has complied with requests from citizens in order to keep dirt and debris out of the creek.

- (3) Building Department's Comments: Ian Nicolini recommended that the Commission withhold any action and review the information that they have been given.
- (4) Commission's Discussion: Greg Parker asked Attorney Wyllie what the land is currently being used for, to which he responded: agricultural. Mr. Parker stated that the Town is trying to zone the property to what it is being used for, which is agricultural. John Foreman asked what Mr. Rietvelt wants the property to be zoned at. Attorney Wyllie stated that they want the zoning to remain the same. Stacy Brooks stated she was under the understanding that the zoning was for the Union Station development and that it was contingent upon Hawk Development owning the property. Attorney Tim Kuiper explained that the plat extensions were attached to the developer. The zoning was not tied directly to the developer when it was changed. John Foreman stated that the property was rezoned according to a plan when multi-family homes were popular and that that plan changed as a result of the economy. The comprehensive plan is nothing more than a plan, which can be changed at any time. Mr. Foreman then asked what the current plan for the property is. Philip Rietvelt stated he has no plans at this time, other than to invest in the property. Tim Kubiak reiterated that the plat extensions were contingent upon that Hawk Development owned the property. Tim Kubiak stated that only a small portion to the north of the property was zoned residential, while the majority was agricultural. Bob Carnahan stated that he was unaware that the property owner wanted to keep the current zoning on the property. Stacy Brooks responded that at the time the Comprehensive Plan was adopted, this project was already approved and there was nothing we could do about it.
- (5) Commission's Decision: John Foreman moved to continue this item to January 18, 2012. Diane Cusack seconded. After a roll call vote, the motion carried 6-0.

Update Items

- A. Woods of Cedar Creek – Bond Update. Attorney Tim Kuiper stated that he received the bond renewal as of today, so the Town will not have to draw on that bond.
- B. Monastery Woods South – Attorney Kuiper stated he also received the bond renewal for Monastery Woods South earlier this month.
- C. T&J Landscaping – Site Plan Status. No new information.
- D. Krystal Oaks Bond – Update. No new information.
- E. Turnquist – Site Plan Update. No new information.

Correspondence: None.

Public Comment: David Spall of 6125 W 135th Place stated that without the Town's Comprehensive Plan, the development at 133rd Avenue that was voted on tonight probably wouldn't have happened. Mr. Spall stated that not everything is how it should be, but events like a downturn in the economy have accounted for that. Despite these issues, however, Mr. Spall stated that he believes a Comprehensive Plan and Master Plan is a good thing to follow.

Adjournment: The Public Meeting was adjourned at approximately 7:40 p.m.

Press Session: None.

James Hunley

Greg Parker

Diane Cusack

John Foreman, Vice President

Stacy Brooks

Tim Kubiak, President

Robert H. Carnahan

Attest: _____
Jenn Montgomery, Recording Secretary