

**Town of Cedar Lake – Plan Commission  
Public Meeting Minutes  
November 20, 2013**

**Call to Order:** 7:05 p.m.

**Roll Call:**

Present	Jim Hunley Member	Present	Donald Oliphant Town Engineer
Absent	Julie Rivera Member	Present	Jack Slager Building Commissioner
Present	Greg Parker Member	Present	David Ausgten Town Attorney
Present	Robert Carnahan Member	Present	Jessica Chick Recording Secretary
Present	Tim Kubiak Member	Absent	Diane Cusack Member
Absent	John Foremen Member		

**Minutes:**

1. October 16, 2013 Public Meeting  
Motion made by Greg Parker and seconded by Robert Carnahan. Vote: 4-0

**Public Hearing/New Business:**

**1. Eugene Goc/ Terri Cox- Zone Change**

Owner/Petitioner: Eugene Goc & Terri Cox, 8505 W. 139<sup>th</sup> St., Cedar Lake, IN 46303  
Vicinity: 8600 W. 139<sup>th</sup> Ct., Cedar Lake, IN 46303  
Request: Petitioner is requesting to rezone from R-2 to B-1 (Neighborhood Business)

- (1) Town Attorney's Comments: Legals and notices are in order for tonight's public meeting, the lists of adjacent owners are also in order, and the notices to those adjacent owners are in order.
- (2) Petitioner's Comments: not present.
- (3) Remonstrators: Michelle Hassey, a neighbor to the business is against this request for rezoning. A second written remonstrator signed by a list of the surrounding neighbors to the vicinity against this request for rezoning. A petition is also enclosed signed by Barry Hassey, Tim & Debbie Cunningham, Robert & Darlene Hamilton, Marse Clemens, Cindy Wornhoff, Tom & Jennifer Sargent, James Cole, Charlotte & Glenn Weidman, Ryan Boehner, and David Kralek. Barry Hassey, 8619 W. 139<sup>th</sup> Ct., present against the request for the rezone from R-2 to B-2.
- (4) Building Department Comments: no comment.
- (5) Commission's Discussion: At the Board of Zoning Appeals meeting, it was discussed that the petitioner come back with some sort of special use that is closer to a neighborhood B-1 zoning district. There was no specific plan for what type of special use variance the petitioner was wanting; therefore she was advised to come back with a more targeted plan. The reason for the rezone is that when the town's blanket rezoning was done in 1989, the parcel was rezoned residential R-2. Although it was of business use it had a non-conforming use attached to it for several years. Within the past many years it has been vacant. In order to request a special use, it didn't make much sense to have a residentially zoned commercial building with a business use attached to it. It also didn't make much sense from a planning perspective to go with anything other than a neighborhood business zoning. Without a variance of use, no business can be in the building. B-1 is the most restrictive when it comes to zoning on what can be allowed.
- (6) Commission's Recommendation to the Town Council:

Town Attorney: There are two paths that are parallel to each other regarding the Plan Commission and the Board of Zoning Appeals. As of right now this parcel is zoned at residential and it is a policy decision as to whether the board wants to see a new residential business in the neighborhood. The neighborhood has activated, so a policy call as to whether the zoning should be changed to a B-1 is in order. If the BZA were to think that a special use is appropriate, that is a great tool that can be used with a specific plan, many controls, for that user only. There can be enforcement and monitoring with a special use for that particular request. If the parcel were to change zones, permitted by right businesses can come and go. Waiting for the BZA is not necessary. If a favorable recommendation is sent it would be in the Town Council's hands. This case can be viewed as inverse zoning. It is a recommendation that

the petitioners send out another certified mail notice to the adjacent owners for a continued meeting for the Plan Commission.

Commission’s Discussion (continued):It is preferred for this parcel to be kept as residential and if they want to apply for a special use then so be it. If this is rezoned than it will be zoned as a B-1 for forever.

Motion made by Robert Carnahan to continue this item till next month’s public meeting contingent upon the BZA’s decision also to re-notify the adjacent property owners and seconded by Greg Parker.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	NO	ABSENT	YES	YES	ABSENT	NO	2-2

Motion made by Jim Hunley to continue this item to next meeting work session and have the adjacent property owners re-notified of the continuance and seconded by Greg Parker.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	NO	YES	ABSENT	YES	3-1

It is suggested per Town Attorney David Ausgten for a motion to deny the application for failure of the petitioner to appear, present and prosecute and substantiate this request for a zone change under Indiana code 36-7-4-603 and Town code previsions. This motion was made by Greg Parker and seconded by Jim Hunley.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	NO	YES	ABSENT	YES	3-1

Motion made by Jim Hunley to table this item and seconded by Greg Parker.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	NO	YES	ABSENT	YES	3-1

This item will stay on the agenda until the next public meeting with the written remonstrator’s letters to stay with the item until next public meeting.

Motion made by Greg Parker that it is required for the neighbors to be re-notified of the continuing of this item until next month’s public meeting and seconded by Jim Hunley.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	YES	YES	ABSENT	YES	4-0

**New Business**

**1. Christine Gudas- Dental Office- Site Plan Approval**

Owner/Petitioner: Christine Gudas, 13963 Morse St., Cedar Lake, IN 46303  
Vicinity: 13361 Lincoln Plaza Way, Cedar Lake, IN 46303  
Request: Petitioner is requesting a site plan approval.

- (1) Town Attorney’s Comments: Legals and notices are in order for this item per town attorney David Austgen.
- (2) Petitioner’s Comments: Doug Hallmier with McMahon Associates is present to represent the petitioner. The owner and architect are both present for any questions. We had gone before the BZA and had obtained approvals regarding the fence and

setbacks. There have been a few small comments received from the town engineer that will have minimal effects on the site plan.

- (3) Building Department's Comments: no comment.
- (4) Town Engineer's Comments: The small comments spoke of are pertaining to utility connections. One new comment pertains to public improvements, the entrance road to the business is a private road, the east west platted alley way is public. We both agree that there are no utility feeds installed and the utility that they will have to connect to are on the north and south portion of the road. We have made a recommendation for a performance bond in the amount of four thousand, eight hundred thirty-two dollars and fifty-two cents (\$4, 832.52) to be posted for the public improvements, and also the three percent (3%) inspection fee in the amount of one hundred thirty-one dollars and eighty cents. (\$131.80)
- (5) Commission's Discussion: no comment.
- (6) Commission's Decision:  
Motion made by Robert Carnahan and seconded by Jim Hunley for site plan approval contingent upon engineering comments.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	YES	YES	ABSENT	YES	4-0

**2. Olthof Homes- Centennial Phase 6- Final Plat Approval**

Owner/Petitioner: Olthof Homes, 8051 Wicker Ave., St. John, IN 46373  
Vicinity: Centennial Phase 6, Cedar Lake, IN 46303  
Request: Petitioner is requesting a final plat approval.

- (1) Petitioner's Comments: Joe Lenaham is present representing Olthof Homes. This plat includes two duplex lots; all of the public improvements have been installed and inspected by the engineers. We did pay the inspection fee and a copy of the maintenance bond that was required was e-mailed to the Town today.
- (2) Town Engineer's Comments: Improvements were inspected and are in good order.
- (3) Building Department's Comments: no comment.
- (4) Commission's Discussion: no comment.
- (5) Commission's Decision:

Motion made by Jim Hunley and seconded by Greg Parker for approval of final plat.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	YES	YES	ABSENT	YES	4-0

**3. O'Reilly's Auto Parts- Maintenance Bond Approval**

Owner/Petitioner: O'Reilly Automotive Stores, Inc., 233 S Patterson Ave., Springfield, MO 65802  
Vicinity: 10205 W 133<sup>rd</sup> St., Cedar Lake, IN 46303  
Request: Petitioner is requesting to establish a maintenance bond and release performance bond.

- (1) Petitioner's Comments: not present.
- (2) Town Engineer's Comments: see below.
- (3) Commission's Discussion: This was previously discussed at the work session; our ordinance would require a one thousand three hundred dollar (\$1,300) maintenance bond, for improvements of the aprons, curb cut, and driveway. To administer this bond and renew it would cost more than it is worth. The public portions of those improvements are small in comparison. The curb was taken out then put back; they effectively closed an old entrance. The bond would be for one thousand three hundred fifty-two dollars and forty cents (\$1,352.40) for three years.
- (4) Commission's Decision:

Motion made by Greg Parker and seconded by Jim Hunley to release the performance bond and waive the maintenance bond.

Diane Cusack	Jim Hunley	Julie Rivera	Robert Carnahan	Greg Parker	John Foreman	Tim Kubiak	Vote
ABSENT	YES	ABSENT	YES	YES	ABSENT	YES	4-0

**Correspondence:** none.

**Public Comment:** none.

**Adjournment:** The meeting was adjourned approximately 7:45 p.m.

**Press Session:** Plan Commission Work Session- December 4, 2013 at 7:00 p.m.

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Jim Hunley

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Greg Parker

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Diane Cusack

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Robert H. Carnahan

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Julie Rivera

\_\_\_\_\_  
Tim Kubiak

\_\_\_\_\_  
John Foreman

Attest: \_\_\_\_\_  
Jessica Chick, Recording Secretary