



**TOWN OF CEDAR LAKE – PLAN COMMISSION
PUBLIC MEETING
May 17, 2017 7:00 P.M.**

Call To Order (Time): 7:00 pm

Pledge to Flag:

Roll Call:

Present Heather Dessauer

Present Chuck Becker

Present John Kiepura

Present Jerry Wilkening

Absent Richard Sharpe

Absent John Foreman

Present Greg Parker

Present Donald Oliphant, Town Engineer – CBEL

Present David Austgen, Town Attorney

Present Tim Kubiak, Director of Operations

Present Michelle Bakker, Building Administrator

Present Jessica Chick, Recording Secretary

Old Business:

1. Watt Holdings, LLC – Preliminary Plat/3-Lot Subdivision

Owner: Monte Watt, 11411 135th Pl., Cedar Lake, IN 46303

Petitioner: Watt Holdings, LLC, 11411 W. 135th Pl., Cedar Lake, IN 46303

Vicinity: 11255 to 11500 W. 136th Pl., Cedar Lake, IN 46303

Legal Description: Muir Woods Outlot A *and* Muir Woods Outlot B *and* Muir Woods Outlot C *and* PT SE1/4 NE1/4 S.29 T.34 R.9 0.209 Ac

Tax Key Number(s): 45-15-29-278-011.000-014 *and* 45-15-29-278-012.000-014 *and* 45-15-29-278-013.000-014 *and* 45-15-29-278-014.000-014

Request: Petitioner is requesting Preliminary Plat/3-Lot Subdivision

Deferred from August 17, 2016 Public Meeting

Deferred from September 21, 2016 Public Meeting

Deferred from October 19, 2016 Public Meeting

Deferred from November 16, 2016 Public Meeting

Deferred from December 21, 2016 Public Meeting

Deferred from February 15, 2017 Public Meeting

1. Town Attorney's Review: David Austgen stated, all legals are in order.
2. Petitioner's Comments: Monte Watt stated, updates on all the plats were received and submitted to Don. They were just sent to him so we are not expecting that he had time to review them. There will be a request for the sidewalks so they are continuous with the rest of the subdivision, which will be submitted in writing. Also, in regard to the retention since it is already connected. That will also be submitted in writing to the Building and Planning Department.
3. Town Engineer's Comments: Don Oliphant stated, the plans were received at noon today. This project is loosely connected to other drainage issues within the subdivision. The lots 5 & 6 fix was approved in January to install a larger pipe to prevent some erosion between those two lots. The overall drainage issues which are at that corner have not been discussed since the winter sometime. The Commission had discussed tying these issues together, the 3 lot subdivision that is before us now as well as the erosion between lots 5 & 6. Monte Watt stated, it had been approved contingent upon meeting with Tim Kubiak and Don Oliphant to discuss these details between lots 5 & 6. Don Oliphant stated, we can no doubt get together to discuss the lot 5 & 6 project, we did some analysis last year to try and fix the problem coming into those lots but there is a dollar amount to doing so.
4. Building Department Comments: see other comments.
5. Commission's Discussion: Jerry Wilkening asked, regarding lots 1, 2, & 3, if and/when those are built on, what is the probability that the water issue to the south will be made worse? Don Oliphant answered, it will be minimal but there will be an increase in run off due to the building of hard surface without the equivalent green space. Jerry Wilkening also stated, a reminder about the woman who was here, Linda Hughes. Don Oliphant stated, this was more of a sanitary issue, not related to this project. Bob Carnahan presented pictures of the area with flooding during the last big rainfall. This issue was also brought up at the Stormwater Board, seems as if they are waiting for the Plan Commission to take the lead.
6. Commission's Decision: Motion to defer this item to the next work session on June 7, 2017.

Motion: Jerry Wilkening 1st John Kiepura 2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
YES	YES	YES	YES	N/A	N/A	YES	5-0

2. Rossman Partners, LLC-Site Plan

Owner: Cedar Lake Ventures One, LLC, 20001 51st St. W, Bradenton, FL 34209
 Petitioner: Rossman Partners, LLC, 11061 Broadway, Crown Point, IN 46307
 Vicinity: 9708 Lincoln Plaza, Cedar Lake, IN 46303
 Legal Description: PT N.904.77FT OF NE1/4 NE1/4 S.28 T.34 R.9 0.828Ac
 Tax Key Number(s): 45-15-28-228-023.000-014

Request: Petitioner is requesting site plan approval

Deferred from April 19, 2017 Public Meeting

1. Town Attorney's Review: David Austgen stated, all legals are in order.
2. Town Engineer's Comments: See agenda item three (3).
3. Building Department Comments: See agenda item three (3).
4. Commission's Discussion: See agenda item three (3).
5. Commission's Decision: Motion to defer till the June 6, 2017 work session meeting.

Motion: Jerry Wilkening 1st John Kiepura 2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	N/A	N/A	Yes	5-0

3. Rossman Partners, LLC-Preliminary Plat & 1-Lot Subdivision

Owner: Cedar Lake Ventures One, LLC, 20001 51st St. W, Bradenton, FL 34209
 Petitioner: Rossman Partners, LLC, 11061 Broadway, Crown Point, IN 46307
 Vicinity: 9708 Lincoln Plaza, Cedar Lake, IN 46303
 Legal Description: PT N.904.77FT OF NE1/4 NE1/4 S.28 T.34 R.9 0.828Ac
 Tax Key Number(s): 45-15-28-228-023.000-014

Request: Petitioner is requesting a Preliminary Plat & 1-Lot Subdivision

Deferred from April 19, 2017 Public Meeting

1. Town Attorney's Review: David Austgen stated, all legals are in order. Pat Schuster did get ahold of me two weeks ago regarding easements, he stated he had drafted documents which were received and reviewed. We submitted our comments to the Town, Don and Pat Schuster, the Petitioner's Attorney. We are still working through the legal instruments but I do not see a problem. There are a few legal instruments that are being reviewed with the Petitioner's Attorney, I think things will be resolved. This is a simple lot, it has complexity because of the history and the previous control, and I think that the body can act, most of the issues have been fixed.
2. Petitioner's Comments: Jack Huls with DVG engineering stated, plans were submitted to Don Oliphant, Town Engineer, late. The site plan approval cannot be worked out until I have a final plat in place. There is some concern regarding the engineering on the site related to the primary plat. Those comments have been completed, and resubmitted to him.
 The easements on the property cannot be recorded till just before the final plat. There is currently nothing that is preventing this body from approving the Preliminary Plat. The easements that are related to the Town do not impact the building site location, we are doing that per the Town's request. I am confident that the easements will be put into place in order for the sale to go through. There is a contract deadline that the Petitioner is up against and not receiving Primary Plat tonight may result in the sale not going through. The Petitioner agreed on the easement up front, the east side, as well as the west side of the parcel should be dedicated as right of way, this is shown on the plat.
3. Town Engineer's Comments: Don Oliphant stated, the plans were received yesterday. I was able to look at them regarding the site plan. Most of the comments were addressed, the actual engineering of the plat is self-explanatory. We might have a letter out by Friday.

- 4. Building Department Comments: Tim Kubiak stated, he is curious as to where we stand with the approval of preliminary plat, there is a fine timeline. Ideally if everything is in order tonight, then things can move forward with the Final Plat and Site Plan for next month.
- 5. Commission’s Discussion: See above comments.
- 6. Commission’s Decision: Motion to approve Preliminary Plat & 1 Lot Subdivision approval contingent upon the engineering by CBBEL review, compliance by DVG, and the completion of the legal documentation related to easement acquisition as discussed and on the record.

Motion: John Kiepura 1st Chuck Becker 2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	N/A	N/A	Yes	5-0

New Business:

1. Beacon Pointe-Final Plat, Unit 1

Owner/Petitioner: Beacon Pointe of Cedar Lake LLC, PO Box 677, St. John, IN 46373
Vicinity: 9505 W. 137th Avenue/13900 Parrish Avenue
Legal Description: Part of W1/2 SW1/4 S.27 T.34 R.9 55.96 Ac
Tax Key Number(s): 45-15-27-351-004.000-014

Request: Petitioner is requesting a Final Plat, Unit 1, Lots 1-28

- 1. Town Attorney’s Review: No public hearing needed for this item.
- 2. Petitioner’s Comments: Jack Slager stated, we received Primary Plat and PUD approval at the January 18th Plan Commission meeting. At that time the approval at the Plan Commission level was contingent upon the PUD approval by the Town Council, which did happen on February 21st, 2017. Other than that we are coming in with Unit 1, the first 28 lots located on the north end 18 cottage homes, 10 duplexes, and the retention pond. This is what we are requesting Final Plat approval on. As we complete the development there will be a continuous sidewalk down the East side of Parrish and the South side of 137th Ave. We are anticipating 4 (four) phases for this development, if we were to determine the Park Fee payment schedule based off of acreage unit 1 (one) covers 23.83% (twenty-three point eight three percent) \$14,297.96 (fourteen thousand two hundred ninety-seven dollars and ninety-six cents), so roughly \$15,000 (fifteen thousand dollars) per phase. We are planning to use the same lighting for the entrance that the Town currently uses with the black loop style down 133rd.
- 3. Town Engineer’s Comments: Don Oliphant stated, a letter was issued regarding final plat review and establishment of the Performance Letter of Credit. Some of the contingencies include some entrance landscaping, how the park fee will be collected; the developer is requesting to pay in portions as the units develop. The fee in lieu of \$60,000.00 (sixty-thousand dollars), a portion of the sidewalk construction from the Sleepy Hollow Bridge north to 137th would be deducted from that amount. It is up to the Commission how the payment be made, whether that be in phases, all up front, or another way. The sidewalk will cost roughly \$4,000 (four thousand dollars), which was one of the other contingencies. We do not yet have any information regarding any utilities going through the corridor. There are mature trees, sanitation, water, many different utilities to deal with regarding where the sidewalk placement is anticipated. We will need to look at the sidewalk placement from an engineering standpoint. There are also some smaller comments regarding the PUD covenants that are currently being worked on. There is a decorative lighting call out at each entrance. Also, the appraising for the pond release, since the pond toward the south will not be built till later, they will need a smaller temporary release.
We have numbers regarding inspection fees and the Letter of Credit. The overall cost for construction of Unit 1 of Beacon Point is \$875,637.72 (eight hundred seventy-five thousand, six hundred thirty-seven dollars and seventy-two cents). The sanitary sewer has been tested, inspected, and approved by Town Public Works staff. They are still required to provide record drawings of that. Water mains are in and a majority of storm water, just not inspected yet. The actual performance letter of credit will be set at 110% (one hundred and ten percent) of the amount with the sanitary sewer taken out, that amount will be \$814,651.44 (eight hundred fourteen thousand, six hundred fifty one hundred and forty-four cents). There is also the 3% (three percent) inspection fee which comes off the overall improvements \$26,269.13 (twenty-six thousand two hundred sixty nine dollars and thirteen cents) the development is also subject to and MS4 fee of

\$2,000 that can be paid prior to building as well as all the contingencies mentioned before.

- 4. Building Department Comments: No comment.
- 5. Commission’s Discussion: Heather Dessauer stated, I have concern for the Park fee, I would like to see it all. Jerry Wilkening stated, I would like to see \$60,000 (sixty thousand dollars) of wholesale building material for the park. Tim Kubiak stated, the next step in needs for the park grading, dirt, and seed. During the construction of other subdivisions, the park is generally in the middle of the development therefore, not constructed till later. John Kiepura stated, I would like all of the money upfront and to see the follow through with the construction of the park, whether that be during phase one or phase two. Chuck Becker stated, imagine what were to happen if there were another recession, and those other phases never get built out. The Town would never receive that money to put forth for the parks. Greg Parker stated, I do not see an issue with the current bridge. Dialogue continued in regard to the bridge.
- 6. Commission’s Decision: Motion to approve the Petitioner’s request for final plat Unit 1, Lots 1-28 with the Park fee in lieu to be paid 50%, \$30,000.00 (thirty thousand dollars) at the Final Plat of Phase 1 and 50%, \$30,000.00 (thirty thousand dollars) at the Final Plat of Phase 2 with the contingencies to be met in full with the engineering company.

Motion: <u>Jerry Wilkening</u> 1 st <u>Heather Dessauer</u> 2 nd							
Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	N/A	N/A	Yes	5-0

2. Centennial Liberty Street – Performance Letter of Credit-Expires June 15, 2017

Owner: Olthof Homes, 8051 Wicker Ave, St. John, IN 46373
Petitioner: Olthof Homes, 8051 Wicker Ave, St. John, IN 46373
Vicinity: Centennial Phase 8, Cedar Lake, IN 46303

Request: Performance Letter of Credit in the amount of \$7,555.75 will expire on June 15, 2017

- 1. Town Attorney’s Review: Dave Austgen stated, this is an act to be taken by the Commission, no legals are necessary.
- 2. Petitioner’s Comments: Greg Bauer, representing Olthof Homes, stated he recently reviewed the files and a year ago his client had posted a Maintenance Bond. This agenda item being spoke of is a Performance Letter of Credit, on November 24, 2015 Don Oliphant, Town Engineer issued a letter explaining in phases 7 and 8 what was needed to be done to complete it all. To my knowledge, all of those items were addressed and the bond was released. Then Olthof needed to post a Maintenance Bond, a concern was stated regarding the use of Liberty Drive entrance. That number was adjusted in order to protect that short distance on Liberty Drive, Parrish Avenue to Flagstaff Street. The Maintenance Bond expires in June 2019. There is nothing in your ordinance that governs this Performance Letter of Credit, at least to my knowledge. The Maintenance Bond is roughly \$15,000.00 (fifteen thousand dollars) that will cover this Letter of Credit. This Performance Letter of Credit is actually an extra bond. Letters of Credit tie things up and hinder the ability to keep things moving. It was Olthof’s choice to do that but, it enters into a gray area in our subdivision ordinance. You are not supposed to final coat roads until you have an 80% build out, but those technically aren’t lots. They will be whenever they decide to plat them, when we set this there was and is a chance that the buildout won’t be till 7 years down the road. The agreement was to make it fair to all parties then to review it on an annual basis. This Letter of Credit is just an extra line of protection or the Town. My client’s request is that you go out and take a look at the road and in hopes to not have to renew this Letter of Credit.
- 3. Town Engineer’s Comments: Don Oliphant stated, this situation is unique as it was only platted with the right of way and not with the corresponding lots. As it appears, Liberty Street will continue to be a construction entrance as there are still a good 200 (two hundred) units to build out there.
- 4. Building Department Comments: Tim Kubiak stated, this is the only entrance into the rest of the phases of the subdivision, and they are doing 6 lots in a phase. The concern of the Town is the construction traffic, we normally require an 80% build-out before you can put the final asphalt in. The way that this is progressing, all that traffic is going through Liberty Street, that is the unique situation here and why it was agreed to, there is not another entrance further down. This construction continues to go through the heart of the neighborhood, and that discussion was a contingency based off the traffic. This was negotiated because of the uniqueness of the situation and the traffic pattern. The Performance Letter of Credit amount is in order to mill and resurface this road at

the end of the construction. We wanted to ensure that we don't have a road that is completely shot when these phases are completed. We have been lenient to allow them to work at their pace, 3 lots or 6 lots at a time. We have also expressed concern for Richmond Street. Meeting were held not only here at the Plan Commission meetings but also offline in length. We have looked at this as a compromise for our protection as well as the buyers in the subdivision. We are willing to renegotiate if they are wanting to come here and do so. Dave Austgen stated, I am not sure nor do I have the record in front of me as to when this particular bond was imposed, but I am certain it took place out here. I am certain that when it took place that was made that approval with the condition that the amount of surety for the particular bond was based upon the record and knowledge of the circumstances.

5. Commission's Discussion: see above.
6. Commission's Decision: Motion to deny the release of the Performance Letter of Credit and to extend it for one year for review.

Motion: John Kiepura 1st Chuck Becker 2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	N/A	N/A	Yes	5-0

Update Item:

1. Centennial Phase 1-4-Maintenance Letter of Credit-Expires June 30, 2017

Don Oliphant stated, an update from Ed was received they are finishing up some of the work. I asked that they have things tidied up by next month in order for the Public Meeting in June. I believe they will be ready.

2. Zoning Ordinance

David Austgen stated, this is currently being worked on, it had been reported to the Town Council that we are about 40% (forty percent) the way through it. Our target is the end of summer.

Public Comment: Don Oliphant, Town Engineer, stated concern for the plan submittal time frames in lieu of the meetings. Plans were submitted for this docket on Monday, Tuesday, and Wednesday this week. I think it is a good idea if we set submittal time frame or the item will be deferred if not received. It is suggested to imply the submittal be a ten (10) calendar day time frame. Dialogue continued regarding this topic and more will be forthcoming.

Adjournment: 8:48 pm

Press Session: Plan Commission Work Session – June 7, 2017 at 7:00 pm

The Town of Cedar Lake is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, please contact the Town Hall at (219) 374-7400.