



**TOWN OF CEDAR LAKE – PLAN COMMISSION
PUBLIC MEETING MINUTES
JULY 19, 2017 7:00 P.M.**

Call To Order (Time): 7:38 pm

Pledge to Flag:

Roll Call:

Present Heather Dessauer

Present Chuck Becker

Present John Kiepura

Present Jerry Wilkening

Present Richard Sharpe

Present 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

Minutes:

Minutes for June 7, 2017 Work Session and June 21, 2017 Public Meeting

Motion made by John Kiepura and seconded by Chuck Becker to approve the minutes for the June 7th and June 21st, 2017 meetings.

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	Yes	Yes	Yes	7-0

New Business:

1. Building/Zoning Permit Fee Amendatory Ordinance

Request: Amended Building/Zoning Permit Fees

1. Town Attorney's Review: David Austgen stated, this is a Public Hearing and the notice of this item was duly advertised two (2) times at least ten (10) days before tonight's meeting. The Public Hearing may properly be conducted, this is the proposed Building/Zoning Miscellaneous Amended Permit Fees Ordinance.
2. Town Administrator: Jill Murr stated, as this was previously discussed at the June 7th, 2017 work session meeting, this is exactly what is in front of you. Attorney Austgen has drafted the ordinance to include the fees, if you recall the primary fees being addressed are the residential and non-residential building permits. Some of the changes include a different fee for signs; with and without electric, re-inspection fees, no additional changes were made from the work session meeting till now.
3. Remonstrators: none.
4. Building Department Comments: Tim Kubiak stated, we took the advice of the financial advisor and this is what we have come up with. The multiplier was one of the concerns, we were undervaluing when assessing the home with the \$85, so we brought that up to \$100 which has put us more in line.
5. Commission's Discussion: John Kiepura stated he is good with it.
6. Recommendation to Town Council:

Motion made by Richard Sharpe and seconded by John Kiepura to send a favorable recommendation to the Town Council for the Amended Building/Zoning Permit Fees.

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	Yes	Yes	Yes	7-0

2. Daniel Allen-Final Plat/1-Lot Subdivision

Owner/Petitioner: Daniel Allen, 4524 Juniper Dr., Palm Harbor, FL 34685

Vicinity: 7508 W. 134th Pl. & 7512 W.134th Pl., Cedar Lake, IN 46303

Legal Description: RESUB. LTS 1 & 2, 69 & 70 89, 90 & 91,160 & 161 255 TO 377 & 382 TO 403 OF CEDAR PT. PK. ALL L.3 BL.3 **and** RESUB. LOTS 1 & 2, 69 & 70, 89, 90 & 91, 160, 161, 255 TO 377 & 382 TO 403 OF CEDAR POINT PARK ALL LOT 4 BLOCK 3

Tax Key Number(s): 45-15-26-127-005.000-043 **and** 45-15-26-127-004.000-043

Request: Petitioner is requesting a Final Plat for 1-Lot Subdivision

- 1. Town Attorney’s Review: No audible recording.
- 2. Petitioner’s Comments: Daniel Allen stated, he is hopeful that we are there. He stated he is going back to Florida in 10 (ten) days and wants to get started.
- 3. Town Engineer’s Comments: Don Oliphant stated, the updated plat was received today at 1:00 with no time to review it. He sent an email to the petitioner’s engineer last week and only received the plat today. Daniel Allen questioned as to why he wasn’t copied on the email. Don stated, typically he does not reach out to the petitioner’s engineers as a reminder. We issued a letter on June 26th for the preliminary plat and he hasn’t even addressed those contingencies.
- 4. Building Department Comments: Tim Kubiak stated, we are assuming that Glenn made the changes requested to the final plat but without time to review them, Don will not make the recommendation for final plat approval. You are still able to demolish the home with a permit.
- 5. Commission’s Discussion: Greg Parker asked if they are able to address this as a Special Public Work Session at the next meeting? David replied, that isn’t what your pattern and practice have been but you can hold that special meeting with a motion to that effect. Greg Parker stated, in an effort to keep this project in motion, I am open to that idea if someone were to make that motion. David Austgen asked, what assurance do you have that everything will be in order from the petitioner’s party at this Special Public Meeting?
- 6. Commission’s Decision:

Motion made by Chuck Becker and seconded by Richard Sharpe to hold a Special Public Meeting for this agenda item at the next Plan Commission Meeting on August 2nd, 2017.

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kieपुरa	Richard Sharpe	John Foreman	Greg Parker	Vote
Yes	Yes	Yes	Yes	Yes	Yes	Yes	7-0

Update Item:

- 1. **Zoning Ordinance-** David Austgen stated, this is a project that we are still working on, I brought a copy. Zoning, lighting requirements, and others are complete in draft, progress is being made.
- 2. **Centennial Bonds/Letters of Credit**
Joe Lenehan representing Olthof Homes is present. Joe Lenehan stated, we have appreciated being a part of the Town and look forward to continued work. He handed out a copy of the Phase 7 Plat, which showed the section of Liberty Drive that the letter of credit he is referring to is in. Joe continued, last summer a Maintenance Letter of Credit was placed over Phase 7. During the same time, an additional Letter of Credit was requested over the section of Liberty Drive, due to construction traffic. Although we didn’t want to, in the end we agreed for that bond to put it in place for a year. In the last month, the performance letter of credit was up for an extension, which we objected on. We objected because we are very familiar with what the State requires for bonding and so forth for subdivisions. One of our other concerns that Liberty Street would be used by other trucks as well. The Letter of Credit was drawn upon by the Town while we were in the process of extending it, we then instructed the bank to just pay it. We believe that the money has to be used for construction of Liberty Street. Liberty Street is in good shape and we don’t see any need for those funds to do anything to the road. It is also covered by a Maintenance Bond for 2 more years. I am here tonight to talk about Liberty Street and possibly a refund. We have 2 Maintenance Letters of Credit, 8 & 9 the Town has approved the release of the performance bond and we need to give you a maintenance letter of credit in their place. We ask that that language be added to those Letter of Credit that will state that when that Letter of Credit is drawn upon those deficiencies be outlined. Those are my requests for tonight’s meeting.
Town Engineer’s Comments- Don Oliphant stated, Phases 1-4 were all put in the same Maintenance Bond which was a 5 year bond. State statute has changed since to a 3 year Bond, and the perception of Liberty Street would be that it is used for more than 3 years hence the request for the Performance Letter of Credit. The Letter of Credit was designed for a renewal on an annual basis where it would be decided to either renew it or release it based on where you were at with the construction. That was the intention, at the time the towns representatives and myself had meetings and that’s where it was set. It was recommended to renew it because it is still being used for construction purposes. We are

not implying that it isn't in good shape, we just don't know how long you will be building out and years down the road who knows what it will look like. Because this is being broken out to smaller phases, we have no time line of when Liberty Drive will not be used for construction purposes. The curbs are in rough shape and that is just from building homes, not to mention the lots along Liberty Street have not even been platted yet. If those aren't platted and the maintenance bond is already gone, then there goes our security for the road. Joe stated, we had offered to extend it. Although it was late in the game we did put forth that offer. Our bank had reached out to Ryan Deutmeyer, and we were working on changing the location of the bond. We were told that the Town was looking for payment and not an extension. We are also still willing to extend it, we do not feel like we are obligated to extend it but we will.

Town Attorney's Comments- Attorney David Austgen stated, the taxpayers of the Town would end up paying to fix this road if we were to release this bond to them. The Town currently has the money in hand, First Midwest Bank honored the site draft request which was required to do, and it is a UCC instrument that was presented to them. It was done on the eve it was authorized by this commission that we draw on this before the expiration date. We don't understand under the UCC how you can intervene with what this instrument request requires. When people start talking about extensions on the eve of a deadline, that isn't going to happen. Joe stated, we don't believe that there is any provision from providing this kind bond, we are confident in that. However, I do take responsibility of starting the process of renewal too late. David Austgen asked Don Oliphant does this subdivision have the required number of access points under our code now, without Liberty Street. Don replied, no. David continued, how long did this project go without having the mandatory second access? Don replied, phases 1 through 6. Joe replied, probably 2007-2013. David Austgen continued, so for roughly 10 years, this subdivision went without having the 2 access and this Town did not require you to do that. We have worked with them through the various phases till we got to Parrish Avenue. Now that we are to Parrish, you know that the bulk of the construction traffic will be passing through Liberty Street. Don Oliphant stated, the other entrance has a "No Construction Traffic" sign posted. David Austgen stated, the law permits that this Plan Commission to impose reasonable conditions upon its approvals. It is clearly in the code and clearly explained. There are often conditions added when things are passed. That is why the language that was proposed for future letters will not be acceptable, it is based upon the ordinances and any conditions imposed by the plat approval or of the like. That is why the language submitted was rejected and First Midwest Bank was informed of it. Greg Parker stated, you have always been professional and strategic. This is not personal from this Commission, when we don't have our ducks in a row somebody drops something on us. Once we create a situation where that is not covered, it leaves us open for the next situation. David Austgen stated, or we eat it and our taxpayers end up paying for it. Jerry Wilkening stated, I have been here for all of these meeting and I'm sure you can understand why we did what we did. David Austgen stated, I do not want there to be any misunderstandings when it comes to the money. That money is here, it will be in an interest bearing escrow account. It will not be merged or mixed in with anything else and will be held for the express purposes for which it has been provided. When we get to annual review, on the back end it may be released. It will not be spent or used on anything else. Subject to any of the findings that Don had stated. Joe stated, his concern is that the road should have been efficient by now. I would like to work with you all and do not want to be off track. Tim Kubiak stated, when we discussed this Liberty Bond, we had some concerns about the amount. It mostly was attributed to the sheer number of homes that needed to be built still.

Public Comment: none.

Adjournment: 8:12 pm

Press Session:

Plan Commission Work Session – August 2, 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.

Chuck Becker

Heather Dessauer

John Foreman

Greg Parker

John Kiepura

Richard Sharpe

Jerry Wilkening

Attest: Jessica Chick, Recording Secretary