



**TOWN OF CEDAR LAKE – PLAN COMMISSION  
PUBLIC MEETING MINUTES  
August 21, 2019 - 7:00 P.M.**

Call To Order (Time): 7:13 p.m.

Pledge to Flag

Roll Call:

Present Heather Dessauer	Present Greg Parker
Present Chuck Becker	Present Donald Oliphant, Town Engineer – CBBEL
Present John Kiepura	Present David Austgen, Town Attorney
Present John Foreman	Present Tim Kubiak, Director of Operations
Present Richard Sharpe	Present Michelle Bakker, Building Administrator
Present Jerry Wilkening	Present Sarah Rutschmann, Recording Secretary

**MINUTES:**

Motion by Heather Dessauer and seconded by Richard Sharpe to approve the July 10, 2019, July 17, 2019 and August 7, 2019 meeting minutes.

Motion: Heather Dessauer --1<sup>st</sup> Richard Sharpe --2<sup>nd</sup>

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
YES	YES	YES	Abstain*	YES	YES	YES	6-0

\*John Kiepura noted he had been absent during this time frame and was going to abstain from voting.

**OLD BUSINESS:**

**1. Papiese – 1-Lot Subdivision**

Owner/Petitioner: Richard & Karen Papiese, 9710 Genevieve Dr., St. John, IN 46373  
Vicinity: 8029 Lake Shore Dr., Cedar Lake, IN 46303  
Legal Description: PT. E2. NE. S.22 T.34 R.9 .58 A  
Tax Key Number(s): 45-15-22-288-004.000-014

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

**Deferred from June 19, 2019 Public Meeting**  
**Deferred from July 17, 2019 Public Meeting**

1. Petitioner's Comments: Petitioner not present.
2. Town Engineer's Comments:
3. Building Department Comments: Bakker indicated there has been no contact.
4. Commission's Discussion: Members had multiple conversations about deferring this item or removing it from the agenda.
5. Commission's Decision: Jerry Wilkening made a motion with second by Heather Dessauer to defer this item for one month.

Town of Cedar Lake – Plan Commission  
August 21, 2019  
Public Meeting Minutes

Motion: Jerry Wilkening --1<sup>st</sup> Heather Dessauer --2<sup>nd</sup>

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. Starcevic-Preliminary Plat

Owner/Petitioner: Tom Starcevic, 7615 W 142<sup>nd</sup> Ave, Cedar Lake, IN 46303  
Vicinity: 7615 W 142<sup>nd</sup> Ave, Cedar Lake, IN 46303  
Legal Description: PT. LOT 1 NW. S.35 T.34 R.9 0.62 Ac  
Tax Key Number(s): 45-15-35-104-001.000-043

**Request: Petitioner is requesting a Preliminary Plat for 2-Lot Subdivision**

1. Petitioner's Comments:
2. Town Engineer's Comments:
3. Building Department Comments: Bakker stated a letter was received from the petitioner requesting he be removed. After doing more investigation on the tax assessment for two lots, he decided it would not be a good plan.
4. Commission's Discussion:
5. Commission's Decision: John Foreman made a motion seconded by John Kiepura to remove this item per the petitioner's request.

Motion: John Foreman --1<sup>st</sup> John Kiepura --2<sup>nd</sup>

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. Summer Winds Commercial LLC-Preliminary Plat Extension

Owner/Petitioner: Summer Winds Commercial LLC, 11125 Delaware Parkway, Crown Point, IN 46307  
Vicinity: 9730 Lincoln Plaza Way, Cedar Lake, IN 46303  
Legal Description: Lincoln Plaza West Lot 4 and Lincoln Plaza West Lot 5 and Lincoln Plaza West Lot 6 Ex. S.123.43ft. and Lincoln Plaza West Lot 7 Ex. Pt. of S.243.43 ft.  
Tax Key Number(s): 45-15-28-227-006.000-014; 45-15-28-227-007.000-014; 45-15-28-226-005.000-014; and 45-15-28-226-004.000-014.

**Request: Petitioner is requesting Preliminary Plat Extension**

1. Petitioner's Comments: Jack Huls from DVG was present tonight representing Summer Winds Commercial. Huls reminded the commission that the petitioner came to Plan Commission to answer questions at the last work session and had requested removing the Final and requesting the extension of the preliminary plat.
2. Town Engineer's Comments: Oliphant had nothing to note at this time.
3. Building Department Comments: Kubiak agreed that 12 months was a good period of time because 6 months did not seem like long enough with the months approaching with potentially bad weather.

4. Commission's Discussion: Parker read the excerpt from the previous minutes reading the suggestion of 12 months with 90 day updates.
5. Commission's Decision: Jerry Wilkening made a motion seconded by John Kiepura to approve the preliminary plat extension for 12 months with 90 day updates.

Motion: Jerry Wilkening --1<sup>st</sup> John Kiepura --2<sup>nd</sup>

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. Beacon Pointe West-Preliminary Plat

Owner: Region Holdings, Inc. 425 Joliet St., Ste. 425, Dyer, IN 46311 and  
 Beacon Pointe of Cedar Lake LLC, PO Box 677, St. John, IN 46373  
 Petitioner: Schilling Development, PO Box 677, St. John, IN 46373  
 Vicinity: 13800 Parrish Ave., Cedar Lake, IN 46303  
 Legal Description: Pt. NE.1/4 SE.1/4 S.29 T.34 R.9 18.31 Ac and Pt. NE.1/4 SE.1/4 S.29 T.34 R.9 16.69Ac  
 Tax Key Number(s): 45-15-28-426-006.000-014 and 45-15-28-426-009.000-014

**Request: Petitioner is requesting a Preliminary Plat on 35 acres**

1. Attorney Review: Austgen stated the proof of publication is in order with timely publishing noted in two newspapers and the notices to the adjoining are in order.
2. Petitioner's Comments: Jack Huls from DVG, Jack Slager from Schilling Development and Ed Recktenwall from Olthof were present tonight representing Beacon Pointe West. Slager reviewed items from the work session two weeks ago. Slager handed out a color drawing to members and noted the coloration was to help clear up any confusion from the meeting previously. Slager stated since the last time they were at Plan Commission, they had gone before the BZA and received a deferral to their next meeting. Slager requested the public hearing proceed since they did publish and notification was to neighbors to see if anyone attended, allow them to speak and noted slight changes had been made to the plat based on comments from the board in meeting with Plan and the BZA. One change was the lots that back up to Parrish Ave have been shortened to standard lot depth and have included a 42' deep out lot behind those lots against Parrish. That out lot will serve a couple of purposes: it will allow the berm to build on HOA land, which would be owned and maintained by the homeowners association, and allow for a proper swale to go through there and it would also eliminate the double-fronted lots. All of the lots in the Centennial area meet the 8500 minimum; proposing 70' wide lots. The lots in Beacon Point are 10,000 square feet minimum; proposing 80' wide lots. Everything is single family.
3. Town Engineer's Comments: Oliphant stated a comment letter was issued on the 12<sup>th</sup> and they are reviewing the resubmittal letter that was received on Monday.
4. Building Department Comments: Kubiak expressed his concern in the far west area near the Industrial Park with no buffer. Slager indicated those lots were at least 10 feet deeper with the intent to add swale, trees, save existing trees, or whatever needs to exist. It was noted that this area is not included in the primary plat at this point.
5. Remonstrators:
  - a. Joyce Russell, 9628 Eagle Crest Court, expressed concern about lot lines not lining up. Slager stated because of the way the lots were laid out, it does not work. Russell asked if the larger lot in the corner could be a park. Russell thanked the group for the clarification and explaining to the homeowners what the plan was.
  - b. Richard Thiel, 13513 Industrial Drive, stated he was aware this was for the first 35 acres preliminary plat but wanted to reiterate what Kubiak stated for mutual or mirrored

screening and does not want it to be forgotten. Wilkening inquired about dimension of screening or if it was still in the preliminary phase. Oliphant stated it was not part of the phase yet, so it is not relevant now. Thiel just wanted to make sure it was not forgotten. Dessauer suggested the two parties speak to each other to come up with a compromise. Thiel suggested a possible park with screening.

After calling for any additional remonstrators for or against, Parker called the public hearing portion of this meeting closed at 7:49 pm.

6. Commission's Discussion: Kiepora asked for clarification before remonstrators on the width of the lots. Slager stated members seemed confused by his Centennial comments at the last meeting and went back to find where in the minutes of October 17, 2018 where it was discussed when they brought in and presented three projects: Beacon Point West, Beacon Pointe East, and Oakwood. Slager indicated the Plan Commission directed them to have more single family in the one area and stay away from the cottage homes but agreed to duplexes along the industrial portion. Slager stated their intention has always been to develop 80' wide lots. The 70' single family lots coincide with what Centennial is already developing and that is the desire to keep cohesiveness. The covenants that are used in Copper Creek are what will be used for this development, with minimum home size of 1800 square feet up to 2200 square feet and the Centennial portion to have home size of 1700 square feet up to 2800 square feet. Slager reminded the group that their other projects have been PUD and this one is not. He stated he felt caught off guard when the BZA was in opposition to coming off from the 90' lot width. He stated they had done it in Lakeside and numerous other developers have come in with 60-80' lots, specifically noting approval of Rose Garden Estates at 60' and 70'. Slager feels they have a nice product. Parker stated that the glossing over Slager mentioned may have been due to the rapid transaction that took place. Austgen stated it was the fastest transaction he had ever done. Multiple discussions took place regarding what had been requested at the BZA meeting including: how the 90' lots just do not work; asking for 35% lot coverage, noting 25% plus the additional 10% to include sheds, covered porches, and decks; and 10,000 square foot.

After remonstrators, Slager clarified to Wilkening that the buffer was for the Centennial portion only. Wilkening asked about what would take place in Phase 5. Slager stated they have the barn and a small berm on lot 27. After Oliphant inquired, Austgen stated they would have to revise their application. Slager asked if it could just be part of the negotiation at the meeting. Slager stated if there was still confusion, they would be willing to ask for a deferral tonight and get the results from the BZA then return to Plan Commission. Wilkening stated he felt the 80' wide and 135' depth and 10,000 square foot seems to work better. Dessauer asked what the resistance was initially at the BZA of the 80' instead of the 90'. Wilkening stated primarily it was the lot coverage and the brand new neighborhood, that turned into lot width, that turned into other issues. Slager stated a lot of the subdivisions lately have been going PUD and in his observation that it does not seem like there have been new development in front of the BZA of this magnitude where the whole development is coming in for a variance, stating the last one they did was Lakeside where they asked for 80' instead of 90'. Slager reminded the board that Schilling and Olthof were presenting together at Plan commission because of the engineering, but the requests at BZA were separate entities. Multiple discussions took place regarding members being opposed to the 70' lots. Foreman felt the 70' lots might be ok because they are the same as the adjoining Centennial area. Bakker asked about the 6 lots that were in question previously; Slager and Hulls stated they had been revised and are all now 8500 square foot plus. Recktenwall stated the request was 35-38% but could definitely make 30% work. He stated most of the lots were laid out as 70'x125' but some were 70'x110' or 111' and the homes were 8500 square feet. Hulls indicated if they did 80', they would be down 7-8 lots. Kiepora stated he understood why the engineering would be done jointly but felt the plat and descriptions needed to remain separate to avoid any further confusion. Austgen stated these were two business models in one plat; one legal process;

one subdividing process; one single application; one BZA process and this is the manner in which they have decided to appear before the boards. Recktenwall reminded the group that the product backs up to Centennial which are 70' lots. Recktenwall said if there was something that is not liked about Centennial, he would definitely like to hear about it and if there is something different they can do with it. Recktenwall said this development would be its own and have its own covenants. Multiple discussions took place regarding the lot coverage, 80' and 70' lot widths, 125' and 135' lot depth, consistent footprints with the neighbor, and the 10,000 and 8500 square foot. Huls indicated they will stay on the same petition for BZA with requests from suggestions presented tonight. Slager stated they are flexible and open to what the Town wants. Members agreed on the 25% lot coverage + 10% for accessory. Members agreed Oliphant should wait to review the revision received this week until the next one comes in due to all of the changes from tonight.

7. Commission's Decision: Jerry Wilkening made a motion seconded by Richard Sharpe to defer this item.

Motion: Jerry Wilkening --1<sup>st</sup> Richard Sharpe Kiepura --2<sup>nd</sup>

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

#### **UPDATE ITEM:**

1. **Hanover High School Lighting:** Wilkening and Kubiak felt the option on the east was the favorite of the two. Oliphant will direct them to switch the lighting to the east option.
2. **Great Oaks Acres Storage:** Kubiak stated Henn dug up the pipe. There is a section of the subdivision control ordinance that allows the water main to be within 8 feet of the manhole. That pipe is within a fraction of an inch of 8 feet. Torrenga will verify these numbers on their as built. The pipe and manhole are uncovered. Oliphant did the math on the separation since the pipe is 30-40" deeper than the water main. Kubiak told Wilkening the 10 foot separation falls under State and Town guidelines, which were confirmed by engineers Oliphant and Simstad.
3. **Monastery Woods Maintenance – Expires 10/29/19:** Oliphant stated they are completing infrastructure inspections will be completed by the expiration date.
4. **Lennar Homes:** Bakker stated Austgen brought her a review on August 7; comments were exchanged afterwards. Her last comment was on Aug 13 and Attorney Wieser sent a document on Aug 14, which was the old document. Austgen stated it is ongoing but will be finished for recording soon.
5. **Plan Review Checklist and Zoning Ordinance:** Bakker asked that these items be combined. She handed out binders with information to the members from the meetings in 2015 and 2016. Foreman and Dessauer thanked Bakker for her work on creating these binders. In the zoning ordinance is a complete Zoning map that Oliphant assisted her with. Behind that is the Plan Commission check list that Simstad assisted her with. Bakker responded to Dessauer that this book would replace their green book. Bakker asked members to bring their binders back to the next meeting.

**Public Comment:** Kubiak passed out documentation samples and spoke about occupancy permits for businesses, fire department inspection, parking plan, and clarified that site plans were not official review of plat. Wilkening asked for clarification on the checklist. Bakker stated that members said when someone came to the Plan Commission that they didn't have their information. She stated members requested a check list with everything available before the petitioner could even be put on the agenda. Wilkening asked Bakker where it said they needed

a survey; Bakker told him to refer to the Concept Plan and the Preliminary Plat sections. Parker stated they wanted to avoid litigation; Foreman interjected and further delays. Kubiak said he had obtained what was needed from the checklist including the parking plan but then received the request for the site plan. Kiepura indicated no one had explained the difference between the site plan and the parking plan, but now has a different train of thought after Kubiak's explanation. Kubiak stated there is inconsistency and confusion, giving the scenario of Franks BBQ as example noting they did not need a site plan before the concept plan. Wilkening said he felt the boards need to expect more and after viewing the rendering from Franks BBQ at the BZA meeting, he and another member felt it was only 50% accurate. Kubiak asked Wilkening and Kiepura if for zoning purposes it portrayed what it needed. Kiepura and Wilkening both said yes. Kubiak stated he and Bakker met with the petitioner and told them what the requirements were going to be and told the petitioner they would need to show the board the concept, parking lot, and serious about putting the business where they wanted it located. Kubiak expressed his frustration where if the petitioner cannot get a blessing from the BZA to operate and move forward on a piece of property, then what is the point of any of the next steps. Members had multiple discussions about BZA and Plan Commission purpose and function and how sometimes those overlap. Kubiak expressed he wanted to be able to work with people in the community who wanted to develop businesses especially with the old existing buildings and they not take the business elsewhere. Parker expressed his concerns about litigation and asked Austgen to expand. Austgen stated they had conversations about enforcement and uniform application of our ordinance, our interpretations, our direction, and our consistency by our boards and commissions with standards. If we stay on a uniform application path, we will be fine. Austgen gave example of the Sadler property/Lake Front Maintenance, noting it as a complete disaster in terms of interpretation. He stated it was bad because there were no surveys, no identifiers for the site plan, no parking identification, no ingress/egress, there were more than the number of access cuts, and more than the number of vehicles. He stated it tsunamied the Town and ended up in litigation. Austgen stated petitioners should have a site plan with parking, access, and storm drainage. Kubiak stated that could happen with any property but asked how the Town requests that from every business. Austgen stated anyone who wants to run a business generally comes prepared and planned. Austgen stated everyone exists here under bodies and commissions for a reason under the law. He stated BZA exists for the 900 series, which is about variances of use, special exceptions, and developmental variances. He stated the Plan Commission's role is for the planning and development and uniformity of standards in the Town to meet the criteria of policy that is established, citing the Policy Update. He said they do not cross completely and because they do not cross completely, there has been confusion. Austgen said BZA has the right and should have the information it needs to assure that the provisions of the 900 series 36-9-7-918.4 is fulfilled. He discussed forbidden use. Austgen stated the criteria have to be met based on the findings of fact, indicating it is the burden of the petitioner, and compliance with plan, adversity on the adjoining and adjacent property owners. Austgen stated there were five total criteria inclusive of the findings of fact. Austgen gave example of Bugaboo's, noting it was not a permitted business. It was an abandoned business that was reinvigorated, but there was a process because it had been abandoned and empty for so long. He said, ultimately, the decision for Bugaboos contained conditions because the law permits the imposition of reasonable conditions so that the neighbors that were residents and those impacted by the traffic, hours and music. Kubiak stated that Lakefront Maintenance that was owned by Chuck Curry was bought out by the Sadler group and took over their business and never came to the board for anything and that's where issues started. Kubiak stated there was never an occupancy and never a site plan. Parker expressed his concerns for court costs and wanting to look out for Kubiak too. Kubiak expressed how he wants everyone to get on the same page. Bakker confirmed for Wilkening that will follow through with whatever the board approved. Austgen told Kubiak it was not a concept but rather a hard use. Kubiak and Bakker explained how if there was a small business that came into Town and wanted to make improvements they did not feel that the petitioner would have to spend the money for the site plan if they did not know they had BZA approval. Kiepura said he would like a sketch of what they want to do at BZA. Dessauer stated there needs to be a streamlined easy process or we will not have any businesses. Multiple discussions took place. Members expressed the need for everyone being on the same page and consistency yet noting that applications are uniquely different.

**Adjournment:** Parker adjourned the meeting at 9:03 pm.

**Press Session:**

Town of Cedar Lake – Plan Commission  
August 21, 2019  
Public Meeting Minutes

**Next Meetings:** Plan Commission Work Session – September 4, 2019 at 7:00 p.m.  
Plan Commission Public Meeting – September 18, 2019 at 7:00 p.m.

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**Chuck Becker**

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**Heather Dessauer**

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**John Foreman**

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**Greg Parker**

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**John Kiepora**

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**Richard Sharpe**

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**Jerry Wilkening**

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**Attest: Sarah Rutschmann, Recording Secretary**

*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.*