



**TOWN OF CEDAR LAKE – PLAN COMMISSION
PUBLIC MEETING MINUTES
September 18, 2019 - 7:00 P.M.**

Call To Order (Time): John Kiepura called meeting to order at 7:00 p.m.

Pledge to Flag

Roll Call:

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

* Ryan Deutmeyer was present in Austgen's absence.

MINUTES:

Motion by Chuck Becker and seconded by Jerry Wilkening to approve the August 21, 2019 Public Meeting and September 4, 2019 Work Session meeting minutes.

Motion: Chuck Becker --1st Jerry Wilkening --2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Absent	YES	YES	YES	YES	Absent	Absent	4-0

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: None.
3. Building Department Comments: Bakker stated the petitioner asked to be deferred; they are awaiting survey. Kubiak indicated they have had trouble obtaining the survey.
4. Commission's Discussion: Nothing noted.
5. Commission's Decision: Jerry Wilkening made a motion with second by Chuck Becker to defer this item to the October Work Session.

Motion: Jerry Wilkening --1st Chuck Becker --2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Absent	YES	YES	YES	YES	Absent	Absent	4-0

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

Deferred from August 21, 2019 Public Meeting

1. Petitioner's Comments: Jack Huls from DVG and Jack Slager from Schilling Development were present tonight representing Beacon Pointe West. Slager reviewed items from the prior meetings. He stated since the last Plan meeting, they had attended BZA and ultimately received a blanket variance with final consensus of request of all lots being minimum of 80 feet wide and 10,000 square feet. Slager stated the plat has been revised to reflect the minimum requested sizes. He indicated there was a net loss of four lots in the Centennial location. Moving forward for clarification, the northern half of the site will be known as Beacon Pointe Phase 5 and the south half of the site will be known as Centennial Estates Unit 1 & 2. Schilling will develop the northern half including the barn and retention/detention ponds. Slager stated the last two lots, in question by Bakker, were kept as a shorter front building line because they were only 111 feet deep.
2. Town Engineer's Comments: Oliphant stated a letter was issued today at 4:45pm. There are quite a few outstanding items because of the partial submissions. Some of the items remaining are waivers and items they are asking for. He indicated they have not seen the covenants or HOA documents. Park dedication has not been mentioned for this unit. Slager stated this plat does not have a landing spot for a park, but the overall plat of Beacon West that goes all the way up to Summer Winds. There is a large parcel of land in the center of the site they intend to dedicate as a park with the intention to make a cash donation and calculation based on the ordinance. Slager stated the intention was to do all cash with the hope that it might be dedicated to improvements to the park in Beacon Pointe West. If all land, it would be a 5.3 acre park. This park is 2.65 (about half of what is required); so the contribution would be half land and half monetary donation. Slager confirmed to Kiepura that park dedication comes during the final plat and the two units in Centennial would be responsible for their own parks. Slager stated the outline of the covenants that were similar to that of Lakeside and they exceeds the Town's minimum with additional restrictions. Oliphant indicated a waiver for the depth of the pond was requested. Slager stated the dry pond with the channel was about 5 foot deep. Oliphant stated a waiver was requested for the 1.5 to 1 for compensatory storage, noting there is a substantial floodplain field along Sleepy Hollow, and asking that that be brought down to 1:1. Huls addressed wetland permitting with Oliphant. Oliphant stated they had quite a bit to work on. Oliphant stated the depth of pond waiver is common especially when they are not a wet pond. The waiver is required due to safety issues. Kiepura asked Oliphant to explain the 1.5:1 compensatory storage. Oliphant stated this was common in most ordinances, if you fill in a floodplain you have to replace that

fill in an incremental over a period of time at 1.5:1 rate. He noted they had a similar request for Beacon Pointe West that had been approved. He did not see a problem with this 1:1 request.

3. Building Department Comments: Kubiak noted the location was zoned R2, not PUD. Bakker stated restrictions could be made in the PUD portions that the Town doesn't govern. Huls stated covenants could denote the restrictions during the final plat. Kubiak asked why Slager didn't want to do the tile survey. Slager stated said they have never done along with being a waste of time and money, stating the estimate of cost was \$20,000. Slager stated they are primarily done when a farm is surrounded by farm fields as the tiles will cross connect. He stated this particular development has no undeveloped farm around it anymore. Kubiak agreed with Slager. Oliphant noted the 2015 drain tile ordinance. Becker, due to personal experience with drain tiles, felt the survey needed done. Kiepura asked if the survey is done and tiles are found, what would happen. Oliphant stated then the location would be known, know if they were functioning, and know if they extend off site. He said you would get their alignment, their functionality, and where they are coming from/going to.
4. Commission's Discussion: Wilkening had concerns regarding the Centennial portion considering no one from Olthof was present to answer specific questions. Centennial's HOA and covenants were of concern. Slager stated there would be a master HOA to take care of the 3 sub-units, but that there would be sub-HOAs. Slager agreed with Wilkening that he could not speak for the covenants on the Centennial lots. Multiple discussions occurred regarding items that were not part of the preliminary plat and Slager speaking for Beacon Pointe but not Centennial's portion of items for specifics. Slager reassured the commission that Centennial would have to abide by Town Code. Kiepura stated the confusion seems to be with the names and suggested separating the entities with different names. Becker inquired about the Park Dedication. Multiple conversations continued regarding the park dedication, square density, calculations of price per lot (estimated at \$400-500 for this area), and land/money donation. Oliphant stated the fee is based on existing fair market value of improved land per acre per lot and stated there were 81 lots in that unit. Wilkening had concerns about approval with the unknowns. Deutmeyer stated if they were complying with the subdivision control ordinance, then the commission would lose any digression at this point. If they were not compliant, then digression or conditions upon approval could be made. He recommended due to engineering issues needing worked out, any motion contingent be upon engineering review. Deutmeyer stated the board would need to determine if they could approve a plat for an entity that the person was not present. He stated they could still approve considering that Slager was indeed representing both entities. Huls noted Slager has been noted as the petitioner for Schilling Development and Region Holdings was the owner Slager was the applicant who signed the documentation. Slager stated that for straight R2 zoning, the ordinance does not require them to provide covenants at the preliminary plat stage.
5. Commission's Decision: Chuck Becker made a motion to defer this item 2 weeks and have a special public meeting and requesting the presence of Centennial/Olthof. Kubiak asked what they were expecting to see differently in two weeks. Becker indicated they would be able to speak to Centennial's developer. Kiepura stated that during BZA Slager assured him that he had full authority to speak for Olthof builders. Bakker, Huls and Kubiak reminded the board that regardless of who the developer is, the ordinance rules for the R2 zoning would need to be followed. No second was made and Kiepura stated the motion was dead. Jerry Wilkening made a motion seconded by Richard Sharpe to grant the requested Preliminary Plat approval on 35 acres, speaking for the other developer, with the contingencies being all of the engineering comments addressed, waiver for pond depth, 1:1 compensatory storage fill depth non-incremental, also noting there will be no waiver granted for the field tile drain survey.

Motion: Jerry Wilkening --1st Richard Sharpe Kieपुरa --2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kieपुरa	Richard Sharpe	John Foreman	Greg Parker	Vote
Absent	YES	YES	YES	YES	Absent	Absent	4-0

NEW BUSINESS:

1. Carey-Offshore Estates – Final Plat

Owner/Petitioner: David & Debra Carey, Ryan Dykema, 7205 W 145th Ave, Cedar Lake, IN 46303
Vicinity: 13430 Morse St, Cedar Lake, IN 46303
Tax Key Number(s): 45-15-26-179-032.000-043 and 45-15-26-179-033.000-043 and 45-15-26-179-034.000-043 and 45-15-26-179-039.000-043 and 45-15-26-179-040.000-043 and 45-15-26-179-041.000-043 and 45-15-26-179-042.000-043 and 45-15-26-179-043.000-043 and 45-15-26-179-044.000-043 and 45-15-26-179-045.000-043 and 45-15-26-179-046.000-043 and 45-15-26-179-004.000-043

Request: Petitioner is requesting a Final Plat for a 9-lot Subdivision

1. Petitioner's Comments: David Carey was present tonight asking for the final plat and a waiver of the standard 25% bond to a 10%. He reiterated that all of the infrastructure is in. The only thing remaining is the final coat of asphalt, street signs and striping. He clarified the one street in question was changed to Beach Place.
2. Town Engineer's Comments: Oliphant stated the plat is in order. The numbers required as part of the plat are: 3% inspection fee of \$10,016.51 (3% of the infrastructure cost); MS4 fee of \$2000; and 25% maximum reduction cost would be \$83,470.95. The waiver he is seeking, if the Plan Commission sees fit to grant it, Oliphant indicated would reduce that number to \$33,388.38. Oliphant stated the remaining improvement cost are \$28,454.30, so it would be less than 10% than the request. Oliphant stated the Town has been talking about doing improvements from 136th to Cedar Street, so that will likely be a cash contribution to the Town to be included into the improvements; Carey agreed.
3. Building Department Comments: Kubiak agreed with the 10% instead of the 25% due to the redevelopment of this property and Oliphant's numbers show that the 10% is covering the remaining items needing done with additional for a cushion. Kubiak stated it has been an awesome improvement to an old part of town that brought life back to an area that was an eye sore. Kubiak stated a curb would be extended along the Carey property 500 feet from where he stopped down to Knight St and a catch basin to be tied in to capture the water going down the hill. The cost of that was \$78,000.
4. Commission's Discussion: Wilkening asked how long letters of credit lasted. Oliphant stated Performance Letters of Credit do not have a time frame. A final coat of asphalt can be done at 80% of lot build outs. He would need to build 6 or 7 lots of the 9 or seek a waiver to get it sooner. He would need to install lights, signage and striping. Multiple discussions took place on if the cost of the remaining improvements could increase. Oliphant stated signs and lighting were set costs; the only increase would be in asphalt if petroleum costs increase. Wilkening asked Oliphant if he was good with the pond; Oliphant stated all testing was completed and the pond is good.
5. Commission's Decision: Jerry Wilkening made a motion seconded by Chuck Becker to grant the requested Final Plat for the 9-lot subdivision with a redevelopment relief amount for performance bond to be \$33,388.38 and to include the fees required of 3% inspection fee of \$10,016.51 and MS4 fee of \$2000.

Town of Cedar Lake – Plan Commission
 September 18, 2019
 Public Meeting Minutes

Motion: Jerry Wilkening --1st Chuck Becker --2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Absent	YES	YES	YES	YES	Absent	Absent	4-0

2. Lakeside-Preliminary Plat Unit 2

Owner/Petitioner: Cedar Lake 133 LLC, 8900 Wicker Ave., St. John, IN 46373
 Vicinity: 5711 W. 133rd Ave., Cedar Lake, IN 46303
 Legal Description: Pt. E.1/2 NW.1/4 S.25 T.34 R.9 52.57A.
 Tax Key Number(s): 45-15-25-100-001.000-043

Request: **Petitioner is requesting a Preliminary Plat Unit 2**

1. Attorney Review: Deutmeyer stated everything was in order.
2. Petitioner's Comments: Jack Slager from Schilling Development were present tonight representing Cedar Lake 133 LLC. Slager stated it has previously been approved on August 1, 2018. They had intended to return to ask for a one year extension since there was no development on this piece. The approval was good for one year. The Town was notified in July that they wanted to come in for an extension, but missed the cut off date by one day. Slager stated they have since re-advertised and re-notified. They are requesting Primary Plat approval noting no changes and no development. He indicated they are awaiting on the Town to have water availability to that location.
3. Town Engineer's Comments: Oliphant stated he had no comments.
4. Building Department Comments: Kubiak stated it was just a technicality on the missed date. He stated that the prior contingency included the 26 lots, and asked that the same contingency be extended as it was previously along with any other contingencies. Deutmeyer added that any motion could refer back to the contingencies that were approved in 2018.
5. Commission's Discussion: None
6. Remonstrators: Kiepura called for any remonstrators. No remonstrators for or against. Kiepura called the Public Hearing closed at 8:15 pm.
7. Commission's Decision: Jerry Wilkening made a motion seconded by Chuck Becker to grant the Preliminary Plat Unit 2 extension for one year with all same contingencies from 2018.

Motion: Jerry Wilkening --1st Chuck Becker --2nd

Heather Dessauer	Chuck Becker	Jerry Wilkening	John Kiepura	Richard Sharpe	John Foreman	Greg Parker	Vote
Absent	YES	YES	YES	YES	Absent	Absent	4-0

UPDATE ITEM:

1. **Zoning Ordinance Amendment:** Bakker stated she will be working on this and bring it back in October or November.
2. **As-Built Ordinance:** Bakker and Deutmeyer stated Austgen is working on a draft.
3. **Hanover High School Lighting:** Oliphant stated new fixtures are on order and should arrive in 6-8 weeks.

Wilkening indicated that until the items are noted as complete they should remain on the update items. Oliphant confirmed to Wilkening that the sewer/water line item had been completed. Kubiak agreed to leave items on until completed.

4. **Lennar Homes:** Oliphant stated mass grading continues and they should be returning next month for their final plat.
5. **Monastery Woods Maintenance LOC – Expires 10/29/19 - \$130,172.97:** Oliphant stated a letter was issued to McFarland and Schilling summarizing the inspections.
6. **Ledgestone Performance LOC – Expires 11/15/19 - \$896,843.45:** Oliphant stated Bakker received an email this week requesting a reduction, but they need to do quite a bit more work to get to that 25%. Kubiak stated Diamond Peak was notified that at 10 lots, if no progress was made and the big pile of dirt was not moved, their permits will be halted.

November Meeting:

1. **Summer Winds Commercial LLC – Preliminary Plat Extension:** Kieपुरa read this as a reminder.

Public Comment: Debra Nelson – 8605 W 131st Ave – stated she came in August to the Building Department for retention wall guidance. Her neighbor had this retention wall and she had previously been told that the fence that was on her property, she could take it down. She indicated it was damaging her property and the retention wall had been cracked from a missing gutter. She has brought up to the homeowner that the wall is falling around the time they were starting another project without a valid permit. She gave the Building Department the address and asked if they could look at the wall, determine if there was a common wall or his/hers. Kubiak stated the neighbor had been red tagged for the deck built without a permit but did not inspect the retaining wall. Kubiak stated he was not a surveyor nor was he able to resolve disputes over property lines without a survey. Deutmeyer stated if the property line was the issue, it was beyond the scope of the Town. Nelson noted an open well on the neighbor's property and water running off into her yard. Wilkening inquired about Indiana Storm Water laws governing the protection of ones property from water; Deutmeyer confirmed. Deutmeyer stated he is not able to give legal opinion of what can/cannot be done with Stormwater discharging from someone's property. He stated if there is something on your property that is not yours, generally speaking, you can remove it, but you must also confirm where your property is and isn't. Kubiak indicated Nelson could come to a storm water board meeting. He said unfortunately it is difficult in Muir Manor because a large hill is terraced down and there is not a common fence line or common anything. Kubiak stated the neighbor's deck permit required a survey to be issued, so it would show the boundaries of the property.

Adjournment: Kieपुरa adjourned the meeting at 8:30 pm.

Press Session:

Next Meetings: Plan Commission Work Session – October 2, 2019 at 7:00 p.m.
Plan Commission Public Meeting – October 16, 2019 at 7:00 p.m.

Chuck Becker

Heather Dessauer

John Foreman

Greg Parker

John Kieपुरa

Richard Sharpe

Jerry Wilkening

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.