



**TOWN OF CEDAR LAKE – PLAN COMMISSION
WORK SESSION MINUTES
November 6, 2019 - 7:00 P.M.**

Call to Order (Time): 7:14 p.m.

Pledge to Flag

Roll Call:

Present Heather Dessauer
Present Chuck Becker
Present John Kiepora
Present John Foreman
Present Richard Sharpe
Present Jerry Wilkening

Absent Greg Parker
Present Donald Oliphant, Town Engineer – CBEL
Present David Austgen, Town Attorney
Absent Tim Kubiak, Director of Operations
Absent Michelle Bakker, Building Administrator
Present Sarah Rutschmann, Recording Secretary

OLD BUSINESS:

1. Lakeside Unit 1, Block 2 Performance LOC - Expires 12/7/19-\$165,546.21

1. Petitioner's Comments: Jack Huls from DVG was present tonight on behalf of Lakeside. Huls indicated the previous request was for waiver for surface coat and convert the letter of credit from performance to maintenance. The asphalt has been inspected and they will be asking at the next meeting for the reduction. The amount of the maintenance LOC is \$66,218.48. Huls stated the bank will not issue a letter of credit unless the Plan Commission has taken action and denoted the amount. He will not be able to provide the bond prior to that day.
2. Town Engineer's Comments: Oliphant stated the letter that was sent last night was not in the packet but the work has passed and has been inspected.
3. Building Department Comments: In her absence, Parker read Bakker's comment, "Will need to be renewed or turned into maintenance and voted on November 20."
4. Commission's Discussion: None.

2. Summer Winds Residential Unit 2 Performance LOC – Expires 12/20/19 - \$376,950.23

1. Petitioner's Comments: Jack Huls from DVG was present tonight on behalf of Summer Winds.
2. Town Engineer's Comments: Oliphant has been in communication with them and noted they may ask for extension, if it has not been received before the expiration date.
3. Building Department Comments: Nothing noted.
4. Commission's Discussion: None.

NEW BUSINESS:

1. Henn-Concept Plan

Owner/Petitioner: Richard Henn, 13733 Wicker Ave., Cedar Lake, IN 46303
Vicinity: 13301 Lincoln Plaza, Cedar Lake, IN 46303
Legal Description: PT. E2 N2 NE NE S.28 T.34 R.9 '114.47X185X152.58X185FT. Ex. W.50ft
SUBJECT TO STS. & ALLEYS. 0.35Ac
Tax Key Number(s): 45-15-28-228-006.000-014

Request: Petitioner is requesting Access to alley for employee parking and remove island in front parking lot

1. Petitioner's Comments: John Henn was present tonight on behalf of Richard Henn and Henn & Sons. He stated they would like to remove the concrete islands in the parking lot and have access from the alley for employee parking. Henn noted he, Carissa from the Early Learning Center, were available to answer any questions tonight.
2. Town Engineer's Comments: Oliphant stated the median curbs they want to remove were part of the RDA Broadway project one year ago. Oliphant addressed concerns for the limited number of parking considered with 4 dedicated in the one location and 7 or 8 in front along with the traffic pattern concern in the alley to the east. Henn responded the plan would be one entry to get into the building. He also noted this property was considered a meets and bounds property and would need to become a 1-lot subdivision. Oliphant stated at the time of the 1-lot subdivision, consideration made for additional dedication of alley.
3. Building Department Comments: In her absence, Parker read Bakker's comment, "Concept plan; Mr. Henn will be at meeting."
4. Commission's Discussion: Foreman stated his opinion of having daycare going in/out the front door that removing the concrete islands would help the parking in the entire zone and adds additional parking for the area and possibly spur more economic growth with visiting retailers in the area. Oliphant asked the Commission if they would require the developer to improve the alley like they did with Tech Credit. Parker stated that the right of way was purchased by the Town from the previous owner as well as every other property owner to create a public right of way. The Town not only paid for it, but they own it. He stated that anything that would be involved, plus the \$600,000 investment that the RDA spent in improvements to the thoroughfare to the grocery store. He felt it would not be good practice to tear out public ways. Foreman discussed his interaction with the prior owner Julie Sadler regarding placement and measurement of the buffers because of the driveway. He stated that because of the change in function of the building, it would allot for more parking for not only Henn, but also the other businesses in the area. Parker did not agree and felt the taxpayers paid for the improvements. Wilkening asked if this item would end up at BZA because of the change of use; Oliphant stated yes. Wilkening asked if the islands were removed and there were enough room to park, is there room for someone to park and go into the west door and still pass northbound to 133rd. Wilkening stated the conceptual traffic flow was a bit different than what was originally talked about, noting the driveway disappearing, but felt these issues will be presented at BZA. Kiepura asked how the children would be dropped off and if certain times during the day. Henn stated there would be spaces in the front of the building for parking and the parents would escort their children into the building during designated times of day. Carissa from the Early Learning Center stated the most she ever had at the current facility was six cars in a row. Wilkening commended her for the streamline pattern of traffic. Oliphant clarified for Kiepura that the property would need to be turned into a 1-lot subdivision. Dessauer asked Henn how many spots would be available if the islands were removed. Henn felt there would be 2-3 spots and possibly a handicap spot. Multiple discussion took place regarding the number of possible spots, Town owning the location Town parking. Wilkening stated he felt this was a great use for the building.

2. Summer Winds Development, LLC-Final Plat

Owner/Petitioner: Summer Winds Development, LLC, 40 E. Joliet St., Ste. 1B, Schererville, IN 46375
Vicinity: King St., south of 133rd Ave.
Legal Description: Pt. NW NE S.28 T.34 R.9 1.672Ac
Tax Key Number(s): 45-15-28-203-001.000-014

Request: Petitioner is requesting Final Plat for Unit 3

1. Petitioner's Comments: Jack Huls from DVG was present tonight on behalf of Summer Winds. Huls recapped that the location as south of 133rd and King, platted and recorded 2 units, having 7 lots, and last month obtaining extension of primary plat. Huls stated the letter from Oliphant has been received and they would be seeking final plat approval in 2 weeks.
2. Town Engineer's Comments: Oliphant stated they issued a letter on October 30th. He indicated it was a rather small unit with a lot of the infrastructure in. He stated the final plat is in order. Inspection fees total \$1749.06, Performance Letter of Credit set at \$29,817.59 and MS4 fee of \$1500.
3. Building Department Comments: Nothing noted.
4. Commission's Discussion: None.

2. Beacon Pointe Unit 4 – Final Plat

Owner/Petitioner: Beacon Pointe of Cedar Lake LLC, PO Box 677, St. John, IN 46373
Vicinity: 9505 W 137th Ave/13900 Parrish Ave
Legal Description: Part of W1/2 SW1/4 S.27 T.34 R.9 13.7 Ac
Tax Key Number(s): 45-15-27-351-004.000-014

Request: Petitioner is requesting Final Plat for Beacon Pointe Unit 4

1. Petitioner's Comments: Jack Huls from DVG was present tonight on behalf of Summer Winds. Huls stated this was a Planned Unit Development on the west side of the lake on Parrish south of 137th and 141st. This is the last unit, which will complete Beacon Pointe. He noted they had come before the board earlier in the year for a PUD amendment for this unit to remove the quads and added duplexes and cottage homes. They will be seeking final plat approval in 2 weeks and having been working with Oliphant on establishing the letter of credit recommendations.
2. Town Engineer's Comments: Oliphant stated this came in a bit late. He stated it contains 42 lots with 48 units and hoped they would have everything available in 2 weeks.
3. Building Department Comments: Nothing noted.
4. Commission's Discussion: Foreman stated he met some people who live in Beacon Pointe and live on the lake and they love the area. Huls said they looked forward to similar designs with Beacon West.

3. Keric-Rezone

Owner: KORDAL, LLC, 9710 99th Ct., St. John, IN 46373
Petitioner: Mo Keric, 9710 99th Ct., St. John, IN 46373
Vicinity: 13410 Morse St., Cedar Lake, IN 46303
Legal Description: Cedar Point Park Lots 445,446,447&448
Tax Key Number(s): 45-15-26-131-008.000-043

Request: Petitioner is requesting a Rezone from R-1 (Residential Single Family) to R-T (Residential Two Family)

1. Petitioner's Comments: Jack Huls from DVG was present tonight on behalf of Kordal LLC; also present was Mo Keric. Huls stated Keric was a client/builder and owned the parcel. He indicated the location was south of the Town Hill Tavern in a wooded location at the entrance to Cedar Point Park. He stated the parcel contains a single family residence, 40 lots and 70 feet of frontage. He stated it would be considered non-conforming use, planned to combine the lots and build a duplex, thus requesting the rezone change from R1 to RT.

2. Town Engineer's Comments: Oliphant stated he had nothing at this time.
3. Building Department Comments: In her absence, Parker read Bakker's comment, "Might need variance for minimum lot, front yard and rear yard. Lot was 9825 square feet with 10,000 required; front yard setback off Morse was 40' + Rear yard 35' = 75'." Huls stated there would definitely be some BZA directions needing completed before proceeding.
4. Commission's Discussion: Parker asked Austgen for input. Austgen stated the petitioner is required to meet the provisions of the Indiana Code, notably one of the criteria are compliance with or conformance to the Town's Comprehensive Plan. It occurs to him that as he is hearing the explanation, that the current property at its vicinity location is in the path of development that is contemplated by the Comprehensive Plan to be somewhat developed in that area of town, notably Midway Gardens project and concept, and connection to and with the Town Complex. If allowed and determined appropriate to change it to green flag residential area in a change mode, it may not be the best thing to do. He stated every petitioner has a lot to it and this one does have things to consider. He felt that bringing in a brand new residential duplex was good but where it is proposed may not be. Austgen spoke of the Town Council's initiative to replace/rehab Morse Street that falls into place with the Comprehensive Plan and growth and with that project and the road possibly widening, structures may be in the way. Foreman spoke about rezoning parcels from R1 to B1. He asked questions of the petitioner regarding residence and possibility of business. Keric stated he was just looking to make things look nice. Foreman stated he appreciated residents like Keric trying to help the Town. He said that in the past duplexes were allowed in various areas of town and they are now trying to fix it. Foreman stated ideally it does not fit the Comprehensive Plan and it was his personal opinion to strive to create a business district and add to what was proposed in the Comprehensive Plan. Huls indicated that with a B1 zone, it would present challenges for use of the parcel. Dessauer stated it was previously discussed doing a commercial on bottom and residence on top. Foreman stated focus should be on B1 zoning and that Keric could get a copy of what businesses would be included in that from the Building Department. Wilkening noted the end game suggestion is exactly right but asked the petitioner since he had proposed a duplex with two addresses and parking if there would be room for parking. Huls stated there were some grade change challenges on the 4 lots. Austgen reminded Huls to be cognizant of expansion of Morse Street with Foreman stating the possibility of widening for walking and/or bike lane.

UPDATE ITEM:

1. **Zoning Ordinance Amendment:** In her absence, Parker read Bakker's comment, "sent to board on November 1, 2019."
2. **As-Built Ordinance:** Austgen stated he was working on it.
3. **Hanover High School Lighting:** Oliphant stated he has nothing new to report.
4. **Beacon Pointe Unit 1A – Performance LOC - \$63,022.93 to Maintenance LOC:** Oliphant stated 1A and 2 were paved last week. They were working on finalizing as-builts. They do not expire until 2020 and will show up as a reduction or rollover to maintenance.
5. **Beacon Pointe Unit 2 – Performance LOC - \$421,567.05 to Maintenance LOC:** See Oliphant's comment noted in #4 above.
6. **Tech Credit Union – Performance LOC \$63,688.86 to Maintenance LOC - \$5,789.90:** Oliphant stated it will be on the agenda in two weeks for rollover from Performance to Maintenance for improvement of the alley.
7. **Summer Winds Commercial LLC – Developmental Update:** Huls stated he would have an update for the board in 2 weeks.

Parker stated that per Wilkening's request that Austgen provide an update and synopsis of Franks BBQ and Sadler properties based on his understanding of the two items.

Franks BBQ: Austgen discussed Franks BBQ first stating the use proposed by the petitioner had been commenced with improvements on the property and from Kubiak's reports, he has been observing site improvements. Parker asked Oliphant if he has been copied on anything or if he has been requested to review anything. Oliphant stated he has only heard bits and pieces but indicated nothing had been submitted. Parker asked in regards to the parking lot at Franks if it would be common to re-asphalt the parking lot without a storm water plan or something to that nature to make sure it would not affect the surrounding property. Oliphant stated that every site is different, but it would be viable to see a site plan to make that determination especially considering the system on the west side of 41 had some challenges. Parker stated since Austgen and Oliphant were the professionals, did they feel that some sort of review should have taken place or brought before a board. Austgen stated it was his opinion that just like they have required of other properties in this Town, review and check off should have been done. Foreman asked if that should be at the Town or Plan Commission level. Austgen stated at the Town level. Oliphant concurred. Foreman stated he, Murr and Parker were copied in an email from Kubiak where Niemeyer asked a question. Foreman read Kubiak's response, "Randy, originally the owner received permission to clean up the property. The Building Department is still waiting on the site plan that was requested by the BZA. This is why we have not released any occupancy permits. This was explained to Mrs. Howe, the owner of the property, who contacted the State about the culvert repair. They said the State does not require a permit. I confirmed that with Don (Oliphant). I personally checked the culvert elevation and then issued a permit to resurface existing parking lot, clean up and paint. We are waiting for the Site Plan with the understanding that there may need to be a larger area for more parking spaces. If needed, I try to use the common sense approach in dealing with these projects and always look out for all." Foreman stated that the petitioner was told at Town Council they had to replace the culvert. Wilkening stated he among others wanted to know the status. Foreman stated this item was a BZA item and it became a Council item when BZA sent it to them. Oliphant added that the entire line needed to be fixed and stated they have talked to the State about it and they do not take ownership of it. He said they would take ownership to openings to the road but anything underground was the Town's issue. Wilkening had been asked by some people who saw digging after hours. Oliphant said that he had concerns, without a site plan, that the owner is working at risk to a point. Austgen stated noting when occupancy is issued or not and when the discovery is made. Dessauer asked how it is known if it is right if it is covered up. Foreman stated Kubiak stated in the email he read and he knows a thing or two about building and construction. Wilkening noted that he trusts his calibrated eye but at the BZA the proposed conceptual drawing was admittedly inaccurate by the owner and it was discussed all these other things would follow. Parker noted it was promised the items would follow and they did not. He denoted there were numerous times where the owner brought in items and it was not accurate. He states it is a good practice or good policy and moving forward that we hold certain people to minimum requirements.

Sadler: In Kubiak's absence, Foreman stated Kubiak met with Sadler with Bakker and Rutschmann present to take notes. Due to the past, Kubiak felt it best not to meet with Sadler alone. Sadler came with a plan and put it in writing where she could park a 10' x 20' truck only overnight in front of the doors, personal vehicles to the left, nothing in the back and ingress/egress flow from the southern to northern part of the lot. He stated if you look at the rules for B3 for boating business, there are other things being done in a B3 zone, so he felt it may be difficult not to work with her with the new concept and plan. Wilkening stated it was a similar comparison but not selling retail boats. Kiepora said her main business is sea wall reconstruction or construction. He stated you cannot compare it to a boat business, so she would need to get approval to do her construction business out of there. If she wanted to do the second business at the same location, Kiepora stated she would have to get approval. Foreman stated there was an issue because she does not have a building license in the Town and has incomplete permits pulled that have not received green tags. Parker asked Austgen for his opinion. Austgen indicated the issue is complicated and every time we have a property use circumstance present itself with Ms. Sadler, it is always unclear, murky and without parameters. He stated the team's request of her to put together a drawing has always worked with her. Ultimately, when she does that, then there is a

surveyor-drawn survey with site plan components appended to it. He said it is a starting place and she did submit a hand drawn rendering to the building permit application. Murr stated documentation has been submitted with her permit to the Building Department, but it has not been reviewed. Parker asked if Oliphant or Austgen had reviewed it. Oliphant and Austgen both indicated no. Wilkening stated Sadler came in for BZA approval and asked where that went. Multiple discussion took place and it was determined by Austgen for a second time she withdrew the petition before BZA. Members discussed it had gone from BZA to Town Council then back to BZA. Kiepura mentioned because it came back to BZA they would need to reapply. Austgen stated they were advised to withdraw, bring the complete package in and make it current. Parker stated when they come to the Town Council and try to site all of the concerns the BZA had and have the Town Council correct them, he felt that was not the correct venue due to the BZA having its own concerns. Kiepura reiterated Sadler needing to go through the proper channels and steps in the process. Foreman noted several examples of similar properties, specifically noting Schieben Auto; Parker did not agree. Austgen stated Schieben is a great example as it was approved by BZA in conjunction with the site plan, parking plan, use plan, etc. It was subject to the BZA proceeding and the property owner complied. He feels that is all the BZA is looking for from Sadler noting it needs to be understandable, practical, workable, is safe and has parameters. Wilkening noted the request for the fence in the front yard and the 6 foot fence on the west side where the buffer is, noting Sadler requesting BZA waive the buffer. Dessauer noted residents would prefer the fence to the pile of junk. Becker asked when parking her trucks how far it would be off Morse and if there would be a sight obstruction. Wilkening noted that is why Kubiak wanted it in writing, stating we would not be designing it. Foreman stated this is really not a Plan Commission item, noting it was a BZA item. Parker asked if it was statutorily correct between BZA and the Building Department; Austgen noted it could be. Wilkening stated that when she is out of compliance, someone has to be the “hammer.” Parker stated there are elected officials and staff that need to make a decision on what they want to do and utilize the engineer and legal representatives to avoid liability issues. Kiepura asked if she wanted to just maintenance/construction business, would she need to go before BZA or could she get a license to do it. Kiepura stated it was his understanding that she went before BZA because she had multiple uses – the sea wall construction, sale of boats, storage of boats and storage of boat lifts and trailers. Austgen stated not necessarily because in this particular instance, it has been a long-standing commercial property that has been abandoned from its previous use, has lost the integrity of commercial use and requires check off on and review of current modernization standards being applied and utilized to rehabilitate that business, noting a commercial site plan minimally. He stated perhaps it is a permitted use within the zoning district classification, however it needs to be 2020 compliance code wise. Kiepura asked if that is done through the BZA; Austgen stated it could be depending on if there is enough parking, enough setbacks, access to property, parking stalls and improvements. Wilkening noted by her putting it in writing it would be a guideline; Austgen agreed it would be a map.

Parker asked members if they had anything else on those two items and if Wilkening was satisfied. Wilkening noted he knows what is going on now. He stated that members who live here and see things going on, receive calls from individuals and are uninformed, it is embarrassing. Foreman agreed it is embarrassing when things are not known. Parker stated a private citizen and business owner adjacent to Franks BBQ called him and she was not happy, noting he does not blame her. Parker felt that what makes it look bad is that there are two sets of rules because there were a set of rules from when she did her business and there was another set in 2019 that are more lax when she did her business. When you start treating citizens and business owners differently and two sets of rules, he states it creates animosity, anger and if there is a storm water issue that harms her, she will sue the Town. Foreman said what confuses him is that people can move in like behind Subway, open up a business and none of us know. Foreman said they are uninformed and it is crazy the Town does not have a business license. Dessauer asked why we do not have them. Foreman stated that when Nicolini was Town Administrator, he approached the Chamber with the idea of business licenses and received a lot of opposition. Parker stated that Nicolini wanted permits for tree cutting and use of satellites for violations. Foreman stated he feels business licenses should exist. Wilkening said it is not a license, just a notification. Dessauer and Foreman inquired about making it a registration like a golf cart or dog registration with a fee to cover the cost of the documentation. Kiepura asked if Subway had a business license; Foreman noted no one does. Kiepura said he had never heard of a town without business licenses; Foreman said we do. Kiepura said when he had

a business, he had to have a license. Dessauer stated, as a business owner, she would not have a problem with that. She asked how we make that happen, suggesting even a \$10 fee; Austgen stated it should be enough of a fee to cover the cost of the documentation for registration. Foreman inquired if that was a Plan Commission function. Austgen stated it would be a Town Council item. Parker asked Dessauer if she had to submit a site plan and make storm water improvements when they opened up the building on the east side; Dessauer said they did have to do that. Parker asked if she felt that should apply to other businesses; Dessauer said absolutely.

FEBRUARY MEETING:

1. Papiese: 1-Lot Subdivision

Public Comment: Murr stated some research had been started regarding the business licenses. She noted the following: Cedar Lake – Yes; Dyer – Yes/\$75 annual fee; Griffith – Yes/\$35 annual fee; Hebron – No; Highland – Yes/\$30 fee; Hobart – No; Lowell – No; Munster – Yes/\$75 fee; Schererville – Yes/\$25 fee; St. John – Yes/\$25 fee. Parker said that with the storm water fees that business owners pay here, it seems like government thinks that business exists to fund government. He felt it was ridiculous and just because someone is a business owner does not mean they are rich. Wilkening stated the figured Murr presented did not seem like much more than the cost of the paperwork. Parker inquired what the benefit to the business owner was; Austgen indicated public safety. Parker felt it was another regulation. Austgen stated it would allow for emergency contact and for services to be expedited. Parker indicated the Town has done fine without it all these years and wondered what the Chamber would have to say about it. Foreman said they just finished talking about how they review the plan and everything including parking should be right. Multiple discussions occurred recapping the two previously discussed items (Franks & Sadler). Parker stated we know what the Howes did per statute because it is on file in Town Hall, but with Franks we do not know because he just did it. Foreman stated that Kubiak checked it off as indicated in the email. Wilkening stated Kubiak has a good eye and believe that the pipe is running the right way, but there is no documentation, no numbers or no road map. Wilkening stated Lindemulder came in with a conceptual plan from 40 feet up with hundreds of spaces and when asked if they were to scale, he was told they were not. Wilkening said when moving in, they keep adding and adding. Wilkening stated like with the storm water issue and ditch, 8” were added at a time and the ditch is full. Parker felt that Foreman thought it was okay and said then everyone should be permitted to do it. Foreman reiterated Kubiak checked off on it. Parker said then we do not need Oliphant anymore; Dessauer disagreed. Wilkening said the biggest concern is Lindemulder has not finished anything he has started in town and items sit, citing numerous examples, and noting the items keep getting deeper and deeper. Wilkening noted he feels Kubiak knows what he is looking at, he trusts him and Oliphant, but when he is told things will get done and it is not here then he wonders. Parker asked members if they felt like there were two sets of rules. Foreman stated it does not seem like it if the is talking to the building commissioner and items are checked. Parker asked Foreman if it seems like there are two sets of rules when one guy can get an approval from the building commissioner and the next one has to go through BZA, Plan Commission and other committees. Foreman stated it does not to him because he was at the BZA and had a list of things.

Adjournment: Meeting was adjourned at 8:26 p.m.

Press Session:

Next Meetings: Plan Commission Public Meeting – November 20, 2019 at 7:00 p.m.
Plan Commission Work Session – December 4, 2019 at 7:00 p.m.

Town of Cedar Lake – Plan Commission
November 6, 2019
Work Session Meeting Minutes

Chuck Becker

Heather Dessauer

John Foreman

Greg Parker

John Kiepura

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.