



**TOWN OF CEDAR LAKE – PLAN COMMISSION
PUBLIC MINUTES
September 16, 2020 - 7:00 P.M.**

Call to Order (Time): 7:01 p.m.

Wilkening read the following off the agenda, “In accordance with the Governor’s Executive order relating to COVID-19, we have arranged a live stream of tonight’s meeting at <https://cedarlakein.org/view-town-meetings/>. You must join the meeting through the link to participate during public comment. If you have a question or comment about an item on the agenda, please email michelle.bakker@cedarlakein.org by 5 pm. Ms. Bakker will ensure that all submissions are shared with the board members and that the submission will also be entered into the minutes of the meeting. Please keep your comments civil and constructive to the policy issues on the agenda.”

Pledge to Flag

Roll Call:

Present Heather Dessauer
Present Chuck Becker
Present John Kiepura, Vice President
Present John Foreman*
Present Richard Sharpe
Present Jerry Wilkening, President

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

**Indicates member present electronically*

MINUTES:

Motion by John Kiepura, seconded by Heather Dessauer, to approve the August 19, 2020 Public Meeting minutes.

Motion: John Kiepura --1st Heather Dessauer --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

Motion by John Kiepura, seconded by Heather Dessauer, to approve the September 2, 2020 Work Session minutes.

Motion: John Kiepura --1st Heather Dessauer --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

NEW BUSINESS:

1. Beacon Pointe Unit 5 – Preliminary Plat Extension

Owner: Beacon Pointe of Cedar Lake, PO Box 677, St. John, IN 46373
Petitioner: Cedar Lake 133, LLC, PO Box 677, St. John, IN 46373
Vicinity: 13800 Parrish Ave., Cedar Lake, IN 46303
Tax Key Number(s): 45-15-25-100-001.000-043

Request: Petitioner is requesting Preliminary Plat Extension-Expires 9-18-20

1. Petitioner's Comments: Michael Tiller with Schilling Development, present tonight on behalf of Beacon Pointe, stated he was present tonight to request a one-year Preliminary Plat Extension. He started dirt work has actually started this week and will be continuing throughout the next few months.
2. Town Engineer's Comments: Oliphant indicated he had no comments.
3. Building Department Comments:
4. Commission's Discussion: Commission members had no comments.
5. Commission's Decision: John Kiepura made a motion, seconded by Richard Sharpe, to extend the petitioner's request for one year until September 18, 2021.

Motion: John Kiepura --1st Richard Sharpe --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

2. Centennial Estates – Preliminary Plat Extension

Owner: Region Holdings, Inc., 425 Joliet St., Ste. 425, Dyer, IN 46311
 Petitioner: Olthof Homes, 8051 Wicker Ave., Ste. A, St. John, IN 46373
 Vicinity: 13830 Parrish Ave., Cedar Lake, IN 46303
 Tax Key Number(s): 45-15-28-426-006.000-014

Request: Petitioner is requesting Preliminary Plat Extension-Expires 9-18-20

1. Petitioner's Comments: Cameron Wignall with Olthof Homes, present tonight on behalf of Centennial Estates, stated he was present tonight to request a one-year Preliminary Plat Extension. He started dirt will be starting and continue throughout the winter.
2. Town Engineer's Comments: Oliphant indicated everything was good.
3. Building Department Comments:
4. Commission's Discussion: Commission members had no comments.
5. Commission's Decision: Heather Dessauer made a motion, seconded by John Kiepura, to grant the request for the extension through September 18, 2021.

Motion: Heather Dessauer --1st John Kiepura --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

3. Fagan – Preliminary Plat & Final Plat 1-lot Subdivision

Owner/Petitioner: David Fagan & Genevieve Fagan, 7021 W. 126th Ave., Crown Point, IN 46307
 Vicinity: 7021 W. 126th Ave., Cedar Lake, IN 46303
 Legal Description: PT.E. 5 AC. OF W. 10 AC. OF W2 NW NE S.23 T.34 R.9 EX. N. 30FT. 3.05 AC.
 Tax Key Number(s): 45-15-23-202-002.000-043

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

1. Attorney Review: Austgen indicated legals are in order for the Public Hearing. He stated as long as engineering comments are complete, the only thing of note was there would be a 30-day signature hold on the mylars.
2. Petitioner's Comments: David Fagan is present with his daughter Christine Swisher tonight. Swisher stated they were present tonight to request both Preliminary and Final Plat approval for their lot today. She stated they had completed the survey and complied with all documents.
3. Town Engineer's Comments: Oliphant stated relevant information had been incorporated in the Final Plat information that were minor items. Austgen reminded the Commission that if Preliminary Plat items were not addressed, they could return in 20 days to address the Final Plat. Oliphant said that with holding the mylars for 30 days, the items should be addressed and not an issue. Swisher inquired if approved tonight, if the mylars would need to be held for 30 days, as she indicated it was her understanding the mylars could be completed by her surveyor with approval. Oliphant clarified that the mylar could be produced but not signed for 30 days due to the State statutory requirement. Swisher asked for documentation to be able to be seen on that. Austgen stated there is a 30-day period where a person can appeal or invoke legal process and due to statutory and constitutional procedures, we are not able to revoke that process. Wilkening clarified for Swisher is was not a problem with their project, it was just the process to follow the law and due diligence. Oliphant stated his comments would not hold up the process and he had confidence in their surveyor.
4. Building Department Comments:
5. Remonstrators: Wilkening called for remonstrators at 7:14 pm. None were noted.
6. Commission's Discussion: Commission members had no comments.
7. Commission's Decision: Heather Dessauer made the motion, seconded by Richard Sharpe, to approve the Preliminary Plat for the 1-lot subdivision pending final review and comments from Oliphant.

Motion: Heather Dessauer --1st Richard Sharpe --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

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

1. Petitioner's Comments: See above
2. Town Engineer's Comments: Oliphant stated the comments were same as above noted. He indicated there had been a request for 5 waivers including stormwater detention, widening of public road way, park dedication, tree placement and sidewalk.
3. Building Department Comments:
4. Commission's Discussion: Kiepura inquired about the sidewalk waiver. Oliphant explained the waiver for not placing it was due to it being on a very steep hill and thus not being ADA compliant.
5. Commission's Decision: Heather Dessauer made the motion, seconded by Chuck Becker, to approve the Final Plat for the 1-lot subdivision pending Oliphant's final review and taking care of the comments, holding the mylars for 30 days and to include the waivers requested.

Motion: Heather Dessauer--1st Chuck Becker--2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

4. Cedar Lake Early Learning Academy – Site Plan

Owner: Rich & Carole Yancey, 11622 Burr St., Crown Point, IN 46307
 Petitioner: Cedar Lake Early Learning Academy, 13115 Wicker Ave., Cedar Lake, IN 46303
 Vicinity: 13410 Wicker Ave., Cedar Lake, IN 46303
 Legal Description: YANCEY'S SUBDIVISION LOT 2
 Tax Key Number(s): 45-15-29-229-034.000-014

Request: Petitioner is requesting a Site Plan Approval

1. Petitioner's Comments: Clarissa Regula, present tonight on behalf of the Cedar Lake Early Learning Academy, stated was here tonight requesting a Site Plan Approval.
2. Town Engineer's Comments: Oliphant indicated he had no comments.
3. Building Department Comments: Bakker stated they had obtained BZA approval and worked with the Fire Department regarding a plan.
4. Commission's Discussion: Austgen stated everything looked good. Regula clarified for Wilkening that the Fire Department had met on-site and everything looked good on the plan. The State Fire Marshall was meeting with them tomorrow. Wilkening asked if the playground in the back would be screened. Regula stated everything was in compliance with the State and they would not be allowed to open if not. She indicated the enclosure would be a chain-link fence. Oliphant noted there would also be jersey barriers.
5. Commission's Decision: John Kiepura made the motion, seconded by John Foreman, to approve the plan as presented.

Motion: John Kiepura --1st John Foreman Dessauer --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

5. Davids - Rezone

Owner/Petitioner: Lance & Jill Davids, 730 Quinlan Ct., Crown Point, IN 46307
 Vicinity: 12828 Wicker Ave., Cedar Lake, IN 46303
 Legal Description: PT. E. END S2. NE. S.20 T.34 R.9 2 AC. (653.4 X 133.333 FT.)
 Tax Key Number(s): 45-15-20-278-024.000-014

Request: Petitioner is requesting a Rezone from Residential (R2) Zoning District to Neighborhood Business (B-1) Zoning District

1. Attorney Review: Austgen indicated legals are in order.
2. Petitioner's Comments: Lance Davids, present tonight, stated he and his wife are the owners of Illiana Eyecare and his wife is the doctor. He stated they have been in the community for 14 years and they have been growing and would like to expand into a larger space.

3. Town Engineer's Comments: Oliphant indicated he did not have comments on zoning. Oliphant noted the parcel was metes and bounds and confirmed for Austgen that a subdivision and INDOT driveway permit would most likely be required.
4. Building Department Comments: Bakker stated zoning to the north was B-2 and to the south was B-1.
5. Commission's Discussion: Davids clarified for Dessauer that there was currently a garage and shed on the property and there used to be a house. Foreman stated he was familiar with the location, felt it would be a great idea and was in favor. Davids confirmed for Wilkening the plan was for a building. Austgen confirmed for members that the zoning goes with the land for the proposed use.
6. Commission's Decision: Wilkening called for a motion for Favorable Recommendation to Town Council for the Rezone of the property at 12828 Wicker Ave. Chuck Becker indicated so moved, seconded by John Kiepura.

Motion: Chuck Becker --1st John Kiepura --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

OLD BUSINESS:

1. Centennial Phase 12 – Performance Letter of Credit

Request: Performance Letter of Credit in the amount of \$398,959.00—Expires October 13, 2020

1. Petitioner's Comments:
2. Town Engineer's Comments: Oliphant stated a letter was issued on the 2nd regarding repairs within the phase. It was Olthof's intent to role this into Maintenance. He spoke with Jeff Yatsko this afternoon and they are on schedule for completion. Oliphant felt they would be able to get the items completed but recommended making a contingent pull date. Austgen stated the Commission could permit the attorney and engineer to act upon to proceed. Oliphant stated the Letter of Credit, if changed to Maintenance, would be for 10% of the initial total construction cost for the next 3 years.
3. Building Department Comments:
4. Commission's Discussion: Austgen confirmed for Wilkening the contingent date should be indicated as October 6. Kiepura inquired if the motion would include if the work is not complete by October 6, they would give authority to the Town Engineer and Town Attorney to pull on the Letter of Credit. Oliphant clarified for Wilkening the draw date would be October 6 and a new Letter of Credit would be the maintenance letter of credit for 10% of the initial total cost of construction for a 3-year period.
5. Commission's Decision: John Kiepura made the motion, seconded by Chuck Becker, that if the work is not complete by October 6, we authorize the Town Engineer and Town Council to pull on the Letter of Credit. If it is completed by then and accepted, then they could reduce to Maintenance Letter of Credit to 10% of the original total.

Motion: John Kiepura --1st Chuck Becker --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

2. Rose Garden Phase 1 – Performance Letter of Credit

Request: Performance Letter of Credit in the amount of \$6,067,696.25—Expires October 16, 2020

1. Petitioner's Comments: Tom McSharry, Project Manager with Lennar, was present tonight on behalf of Rose Garden Estates. He indicated the letter has been received and Mackie would be preparing a response to the issues noted. He stated it is not their intention at this point to ask for an extension and would prefer obtaining a reduction, however would be open for the extension if they are unable to completed the items. McSharry confirmed to the Commission that they would not be skirting around their responsibilities, have a substantial amount of money invested in the community and were not planning on going anywhere. They would like to see this reduced, but stated it could be extended.
2. Town Engineer's Comments: Oliphant stated the original reduction did not meet Town Subdivision Ordinance requirements, which would drop it to 18%, noting we do not go below 25%. He stated the inspection undertaking was large due to its size for as-builts, field review and utilities. He indicated a letter was issued to the developer on the 1st regarding as-built review and field inspection review. The Town's Public Works issued their storm water underground review yesterday. He stated there are a lot of items to address before considering a reduction and he does not feel it can get done before the 16th. Oliphant clarified for Dessauer there were 85 items and Public Works had about 60. He stated water and sewer underground did pass testing, but there are a substantial number of items needing corrected before reduction. Oliphant indicated there needed to be a motion made on how to proceed or a Special Public Meeting for the first meeting in October because of the expiration date and they do not know what the number would be reduce to due to the incomplete work. McSharry felt pressure could be placed on his contractors to make things happen, but Oliphant stated it was also a monumental effort on his part and Public Works to do all of the reviews and did not feel, even if some items were removed, they would be able to get it down to 25%. Oliphant explained certain items can be stripped down and it could be done but did not feel all of it could be completed.
3. Building Department Comments: McSharry told Bakker that he would work on getting a revised Letter of Credit from the bank and did not feel obtaining one in 3 days would be impossible. Bakker confirmed for Austgen 85 permits had been pulled for this project. Austgen stated that was a lot of permits with a lot to go.
4. Commission's Discussion: Multiple discussions took place regarding if the items on the extensive list could be addressed in a timely enough manner to allow for the reduction, if they should have a Special Public Meeting on October 7 for this item's re-review or if they should extend the Performance Letter of Credit for a period of time, up to a year. Kiepura asked why put us under stress for 2-3 weeks when he could finish what he needs to by granting him an extension. Oliphant clarified Lennar did not ask for an extension, but rather a reduction. Oliphant addressed Wilkening's inquiry that Mackie sent a formal letter in August, which initiates Public Works to start their process. They were notified in response to that letter that their request did not meet Town Code, but we would still initiate our reduction inspections to accept or deny public infrastructure. He explained that because it is such a large and extensive Letter of Credit, it is a longer process, requiring a lot of inspections. Foreman suggested a 6-

month extension as a possibility and did not feel that in 2-weeks it would be reduced by 25%. Austgen clarified they have the right to ask for it, but in turn we do not have to give it to them. Wilkening noted the inspections were time consuming. Oliphant clarified for Dessauer that he would discuss with Lennar regarding the reduction amount and bring it back for a Special Meeting in two weeks, if they decided on the meeting, and how much could be stripped down. Oliphant confirmed for Sharpe that he would be able to have a number then.

5. Commission's Decision: See two motions noted below, first did not pass.

John Kiepura made a motion, seconded by John Foreman, to extend the Letter of Credit for one year to October 16, 2021. The motion was then amended to include the addition of if the Letter of Credit is not provided by October 12, it would be pulled on.

Motion: John Kiepura --1st John Foreman --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
NO	NO	YES	-	NO	YES	YES	3-3

Dessauer asked what type of time Oliphant had to dedicate in the next 8 days for this. Oliphant stated it depends on what is submitted and when. He noted that the inspections done by Public Works were notified today and they need reinspection in order to get them off the list and then revised as-builts where they would need to get into the field for inspections by his staff to make sure issues were addressed and corrected. He stated it was a decent undertaking and they are doing the best they can. Oliphant confirmed for Dessauer that a timeline could be provided ASAP to McSharry, noting the quicker they get things, the quicker they can review and get things stripped out. Becker asked if it would cause undue stress to Public Works and possibly overtime without working on anything else. Oliphant indicated everyone was busy. Wilkening noted response to Becker in that it was a lot to ask for. Oliphant explained items can be stripped out, but how they do it is where they would like to go through at least one set of reviews before stripping out and have enough reductions to have a Letter of Credit issued for. He continued they like to get substantial reductions because it is what makes it worth it for them and for us not having to do multiple reductions on one phase creating more paperwork and a trail that is difficult to track. Oliphant clarified for Becker and Dessauer that utility items came in June, formal request in August, Public Works had to go out, everyone is busy and this is a big project, stating that it may have taken longer than others, but the Letter of Credit is also three times the size of normal ones. Kiepura stated McSharry could come back anytime in that year and why make it beneficial for him when Kiepura is looking out for what is beneficial for this Commission, its Town and its residents. Wilkening felt McSharry had infinite time to return for a reduction. Oliphant stated the sanitary and water passed, which were large ticket items, and road items could be stripped down. McSharry explained there were items that were part of the list that are part of it; Oliphant confirmed. Wilkening asked how many hours it would take for Public Works to complete. Oliphant stated the line of storm inspections would need done for approximately 65 structures for repairs. McSharry indicated it would be 3-4 days of work for his crews plus that of Public Works.

Chuck Becker made a motion, seconded by Richard Sharpe, to request a Special Public Meeting to be held on October 7 contingent upon no stress on Public Works.

Motion: Chuck Becker --1st Richard Sharpe --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	NO	-	YES	NO	YES	4-2

3. Off Shore Estates – Performance Letter of Credit

Request: Performance Letter of Credit in the amount of \$33,388.38—Expires October 30, 2020

1. Petitioner's Comments: David Carey was present tonight on behalf of Off Shore Estates and requested an extension for one year.
2. Town Engineer's Comments: Oliphant stated this would be an extension and note it had already been reduced from a special waiver down to 10% of the original. Until the final coat of asphalt is put down and 80% of the lots, it would be recommended for an extension.
3. Building Department Comments:
4. Commission's Discussion: Oliphant confirmed for Wilkening that previous issues have been addressed. Austgen confirmed for Wilkening all was good.
5. Commission's Decision: John Foreman made the motion, seconded by Richard Sharpe, to grant the petitioner's request for the Performance Letter of Credit in the amount of \$33,388.38 extension for one year.

Motion: John Foreman --1st Richard Sharpe --2nd

Heather Dessauer	Chuck Becker	John Foreman	Robert Carnahan	Richard Sharpe	John Kiepura	Jerry Wilkening	Vote
YES	YES	YES	-	YES	YES	YES	6-0

UPDATE ITEMS:

1. Beacon Pointe Unit 3 – Performance Letter of Credit – Expires May 13, 2021
2. Beacon Pointe Unit 4 – Performance Letter of Credit – Expires October 1, 2021

Oliphant confirmed for Wilkening that the above items were just for a notice.

October Update Items:

1. LedgeStone – Performance Letter of Credit: Oliphant stated they have been given authorization to proceed and will be doing the final coat of asphalt, thus likely rotate into a Maintenance potentially in October.

Public Comment: No public comments noted in person or electronically.

Wilkening noted Bakker's Summaries being nice and wondered if update status for items in the last 6 months could be provided. Oliphant indicated he and Bakker review items prior to meetings, but that things are different for every application. Wilkening indicated that some times things get let go and then all of a sudden someone wants an occupancy for example without finishing items. He inquired if following it more closely would get things done such as Site Plans. Oliphant reminded individuals of the request for 5-10 business days prior to the next meeting to allow time for review. Multiple discussions took place regarding motions with contingencies without, giving several examples of ongoing projects and moving forward including timelines with the contingencies. Multiple discussions took place regarding the simultaneous work on the Henn barn and home and simultaneous occupancy issuance. Kiepura felt that dates would be beneficial. Austgen recommended a systematic, simple approach with an internal calendar system using existing resources, noting the Building Department is swamped and the last report from the Town Administrator at the Town Council was 175 new single-family home permits this year. Wilkening suggested using a system similar to the flagging system of the Letters of Credit. Austgen confirmed and agreed with Bakker that items like the Preliminary Plat already have a timeline of 12 months. Discussions ensued regarding Commission members requesting updates on the agenda with noting timeline on

contingencies to ensure contingencies are completed and not missed or forgotten. Oliphant asked Austgen if when making a motion like a Preliminary Plat with contingencies, if a timeline is placed, that the Plat would not be issued if the timeline not met. Austgen confirmed it could be done.

Adjournment: Wilkening called for Public Comment one last time. None being heard, he adjourned the meeting at 8:30 pm.

Press Session:

Next Meetings: Plan Commission Work Session – October 7, 2020 at 7:00 p.m.
Plan Commission Public Meeting – October 21, 2020 at 7:00 p.m.

Chuck Becker

Robert Carnahan

Heather Dessauer

John Foreman

John Kiepura, Vice President

Richard Sharpe

Jerry Wilkening, President

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.