



**CEDAR LAKE PLAN COMMISSION PUBLIC MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
AUGUST 18, 2021 at 7 PM**

CALL TO ORDER:

Mr. Wilkening called the Plan Commission meeting to order at 7:04 PM, on Wednesday, August 18, 2021, with its members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present: Robert Carnahan; John Foreman (arrived late); Richard Sharpe; Chuck Becker; John Kiepura, Vice President; Jerry Wilkening, President. **Also Present:** Don Oliphant, Town Engineer; David Austgen, Town Attorney; Jill Murr, Planning Director; Rick Eberly, Town Manager; and Margaret Abernathy, Recording Secretary Pro Tem **Absent:** Heather Dessauer

MINUTES:

Mr. Wilkening entertained a motion for the approval of the July 21, 2021, Public Meeting minutes. A motion was made by Mr. Sharpe and seconded by Mr. Becker to approve the July 21, 2021, minutes. Motion passed unanimously by roll-call vote.

Mr. Carnahan – Aye

Mr. Foreman – Aye

Mr. Sharpe – Aye

Mr. Becker – Aye

Mr. Kiepura – Aye

Mr. Wilkening – Aye

New Business

1. Hardig – Final Plat One (1) Lot Subdivision

Petitioner: Bernadette Hardig

Vicinity: 8025 West 126th Place, Cedar Lake, IN 46303

Mr. Wilkening stated the first item of New Business was for the Final Plat of a One (1) Lot Subdivision in the vicinity of 8025 West 126th Place by Petitioner Ms. Bernadette Hardig. Mr. Wilkening asked Mr. Austgen if everything was in order for the legals. Mr. Austgen stated it was a public meeting and to make sure that everything was good with the Town Engineer.

Mr. Wilkening asked Mr. Oliphant if everything was good for this item. Mr. Oliphant stated there were no further comments. He did not know if waivers are necessary to be read into the record as they were during the preliminary plat. Mr. Austgen commented they did not.

Mr. Wilkening asked if this was the property that some language was contemplated for. Mr. Oliphant responded in the negative. Mr. Oliphant stated this property had a new address. Mr. Wilkening asked if everyone was good with the new address. The response was in the affirmative.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Foreman and seconded by Mr. Becker to approve the Final Plat of the one (1) lot subdivision. The motion passed unanimously by roll-call vote.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

2. Birchwood Farms – Phase 3 – Final Plat
Petitioner: Hanover Development LLC
Vicinity: 12400 Wicker Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for a Final Plat in the vicinity of 12400 Wicker Avenue by Petitioner Hanover Development LLC. The petitioner is requesting Final Plat for 38 Lots and 2 Outlots.

Mr. Jeff Yatsko, Olthof Homes, stated they are requesting final approval for Birchwood Farms Phase 3. They received Mr. Oliphant's review letter and agree with the contents within for the inspection and Performance Letter of Credit. There are 38 Lots and 2 Outlots.

Mr. Wilkening asked Mr. Oliphant if the \$288,556.68 is the amount for the Letter of Credit. Mr. Oliphant responded the Performance Letter of Credit, along with the \$2000 MS4 fee and the 3 percent inspection fee, is \$31,443.22. Mr. Wilkening asked if there were any questions. Mr. Oliphant stated this would include the second entrance.

Mr. Wilkening asked if the building department had anything. Ms. Murr responded in the negative.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Foreman to approve the Final Plat of 38 Lots and 2 Outlots, per Mr. Oliphant's letter with all the sureties. The motion passed unanimously by roll-call vote.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

3. Centennial – Phase 13 – Convert Performance Letter of Credit to Maintenance Letter of Credit

Petitioner: North Centennial Development LLC

Vicinity: 141st & Parrish Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated that the next order of business was to convert a Performance Letter of Credit to a Maintenance Letter of Credit for Centennial Phase 13 by Petitioner North Centennial Development LLC.

Mr. Yatsko stated they completed all of the Performance Letter of Credit items, so they are looking to convert this to a Maintenance Letter of Credit for 3 years.

Mr. Oliphant stated the Petitioner's Maintenance Letter of Credit would be in the amount of \$121,699.59. Mr. Wilkening asked Mr. Austgen if the legals were in order. Mr. Austgen responded in the affirmative. Mr. Wilkening asked if there were any questions. None were had.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Foreman and seconded by Mr. Kiepura to approve the conversion of the Phase 13 Performance Letter of Credit to a Maintenance Letter of Credit for the amount listed by Mr. Oliphant in the July 29, 2021, letter for 3 years. The motion passed unanimously by roll-call vote.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

4. Centennial – Phase 15 – Performance Letter of Credit

Petitioner: North Centennial Development LLC, 8051 Wicker Ave., St. John, IN 46373

Vicinity: 141st & Parrish Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was regarding the Performance Letter of Credit for Centennial Phase 15 by Petitioner North Centennial Development LLC. The Petitioner is requesting a Performance Letter of Credit extension and to establish a pull date for Performance Letter of Credit expiring on September 5, 2021.

Mr. Wilkening stated the asphalt needs to be redone. Mr. Yatsko commented that was correct. As discussed in the Work Session, they are going to correct the asphalt. They will be getting the road paved and inspected next week. However, by the time its paved and inspected, it will be after the expiration date. They are wanting to extend the Letter of Credit and within a couple of months he would be back asking to convert this Letter of Credit into a Maintenance Letter of Credit.

Mr. Wilkening asked if the Petitioner was asking for an extension tonight. Mr. Yatsko responded in the affirmative. Mr. Oliphant responded in the same and recommended an extension of 60 days.

Mr. Wilkening asked if the motion was for an extension. Mr. Oliphant responded in the affirmative and to set a pull date in case the asphalt does not come in. Ms. Murr recommend to set the pull date of Monday, August 30 to begin the process.

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Mr. Wilkening asked if the extension date is 60 days from September 5 and a pull date of August 30. Ms. Murr responded in the affirmative. Mr. Oliphant stated if the Letter of Credit is not in by August 30, they will pull. Mr. Kiepura stated that is not 60 days. Mr. Oliphant explained that the extension will be for 60 days. Discussion was had about the extension and what would need to be voted on.

Mr. Yatsko stated he understood needing to pull a new Letter of Credit before August 30, but he was confused on the 60 days. Mr. Oliphant stated it was up to the Petitioner. Mr. Yatsko stated typically their Performance Letter of Credit were for 3 years, and this Letter of Credit was only for 1 year. Discussion ensued about a potentially longer extension for the Letter of Credit.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Foreman and seconded by Mr. Kiepura to approve the Performance Letter of Credit having a pull date of August 30, 2021, as well as extending the Letter of Credit to 90 days. The motion passed unanimously by roll-call vote.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

5. Henn – Final Plat – One (1) Lot Subdivision
Petitioner: Rob Henn, Henn & Sons Construction
Vicinity: 13324 Wicker Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated that the next order of business was for the Final Plat of a One (1) Lot Subdivision in the vicinity of 13324 Wicker Avenue by Petitioner Mr. Rob Henn.

Mr. Ryan Marovich, DVG Team, was present on behalf of Mr. Henn to request approval for a Final Plat. Everything should be in order for the review.

Mr. Wilkening asked Mr. Austgen if everything was in order. Mr. Austgen responded in the affirmative. Mr. Wilkening asked Mr. Oliphant if he had any comments on this item. Mr. Oliphant responded everything was good for this item. Mr. Wilkening asked Ms. Murr if the Building Department had anything. Ms. Murr stated they received a letter on August 2, 2021, from Christopher Burke, and it is the same letter that was reported at the Work Session. Mr. Wilkening asked if all the visuals were good. Ms. Murr responded in the affirmative.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Becker and seconded by Mr. Sharpe to approve the Final Plat of a One (1) Lot Subdivision. The motion carried unanimously by roll-call vote.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

6. Sedor – Preliminary Plat – One (1) Lot Subdivision

Owner: Edward A Sedor as Personal Representative of the Estate of Joseph Sedor

Petitioner: Joseph C. Svetanoff

Vicinity: 13616 Cedar Street, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for the Preliminary Plat of a One (1) Lot Subdivision in the vicinity of 13616 Cedar Street by Petitioner Mr. Joseph Svetanoff. Mr. Austgen advised Mr. Wilkening that the legals are in order for this item.

Mr. Wilkening asked Mr. Oliphant about the language that had been discussed for this property because of some of the caveats, and if he had come up with anything. Mr. Oliphant responded not for the preliminary. If they opt to putting something on the plat it will be put on the Final Plat. Mr. Wilkening asked if any of the Commissioners had any comments for this item. None were had.

Mr. Wilkening opened the floor for public comment. Ms. Judy Hoffer stated she lives at the bottom of 136th Place and there has been flooding in her front yard and back yard. She has come to a series of Storm Board meetings. Ms. Hoffer explained the amount of flooding that occurs on her property.

Mr. Wilkening stated this is only the Preliminary Plat, and asked Mr. Austgen if the Final Plat may require language requiring drainage. Mr. Austgen rendered his legal advice, which was with storm water being discussed, it could be added at this stage. Ms. Hoffer asked if the Commissioners wanted the pictures of the flooding. Mr. Wilkening responded in the negative. They are trying to sort through the language that they may or may not want to attach to the Preliminary Plat. Discussion ensued regarding the previous drainage system and how One (1) Lot Subdivisions should have their own parameters regardless of owner. Including discussion about the elevation of the property to the lake. Mr. Oliphant explained the drain system in that area and what causes the flooding.

Mr. Wilkening asked if they would be continuing the problem if they did not provide clarity for those who serve the Town in the future. Mr. Oliphant discussed options that they had utilized in the past to deal with similar situations. Mr. Oliphant states that this lot does not have drainage issues, it would potentially contribute drainage issues if it is built upon.

Mr. Foreman asked in the event that a house is built on the property if the water is drained onto Cedar Street would that help the water problem. Mr. Oliphant responded in the negative. Mr. Becker stated the pipe that drains the whole subdivision into the lake is only 18 -inch. Mr. Oliphant responded he did not remember if an 18-inch or 24-inch pipe was used. Mr. Becker stated he has the notes from the Storm Board meeting. Mr. Becker read the Storm Board notes including the capacity issues, history, and the discussion of it being a large project to redo the system.

Mr. Wilkening asked if this lot could contribute to the problem. Mr. Oliphant stated without knowing exactly knowing what the Petitioner is going to do, it cannot be said with certainty it would make anything worse. Mr. Austgen asked Mr. Oliphant if the end use of getting the One (1) Lot Subdivision was a single-family home what would the effect of the storm water be on adjacent properties. Mr. Oliphant discussed reasonable conditions, what would be reasonable conditions, and if it is or is not a buildable lot. Discussion ensued about reasonable conditions for this lot. Discussion also ensued about individuals creating one (1) lot subdivisions and the process thereof.

Mr. Lepore stated in his opinion, when they get a heavy rain and the lake is raised, it's like a dam there. The water cannot drain that quick. Mr. Wilkening responded they are trying to establish preventing this property to add additional hardships. Mr. Lepore stated there are two drains and the water cannot go down the drains. Mr. Wilkening stated that Mr. Austgen is recommending a storm water review as a reasonable condition prior to allowing a permit. Mr. Austgen commented that is correct. Multiple conversations occurred simultaneously.

Ms. Debbie Gruett asked the Commissioners to look at a picture of the lot that the Petitioner is asking for a one (1) lot subdivision of. She described the lot and how it abutted the property she lived on and other properties that it is elevated from. Mr. Wilkening discussed the lot and its potential future effects on the area. Discussion ensued about the Storm Board and a potential detention pond on the back of the property for flood relief.

Mr. Carnahan asked Mr. Oliphant to discuss the process of purchasing a lot for a detention pond through the Storm Board. Mr. Oliphant responded it is part of mitigation grant from the Department of Homeland Security through the State. This grant provides opportunities to obtain grant money to purchase repetitive loss structures. Once it is purchased it is torn down and turn it into green space or a detention pond. Discussion occurred about reasonable conditions.

Mr. Wilkening closed the public portion of the meeting for this item. Mr. Wilkening asked the Petitioner to clarify his request.

Mr. Svetanoff stated they are here for a one (1) lot subdivision. They are requesting approval for the Preliminary Plat. If any concerns about the lot as a buildable site would occur, there would be a site plan and Storm Board review approval. At this time, they just want approval on a preliminary one (1) lot subdivision.

Mr. Wilkening asked Mr. Austgen if the notice and review of the site plan needed to occur at the Plan Commission for preliminary approval. Mr. Austgen stated that the Preliminary Plat was before the Commissioners. Mr. Wilkening asked Mr. Oliphant if the extra retention pond would need to come internally. Mr. Oliphant responded in the affirmative. If the Commissioners wanted to make a note on the plat reinforcing that, it was the Commissioners decision.

Mr. Austgen asked if there was any recommendation from the Storm Board. Mr. Oliphant stated there was a plan and dollar amount in place to replace the drain system. Mr. Oliphant discussed looking at the grant route versus installing a new drainage system. Mr. Austgen asked if a watershed analysis is being done. Mr. Oliphant responded in the affirmative.

A motion was made by Mr. Foreman and seconded by Mr. Kiepura to approve Preliminary Plat for a one (1) lot subdivision with the following waivers provided by Mr. Oliphant: a. Stormwater Detention. We do not believe development of this lot will have a significant impact on runoff volumes or rates. Runoff routing will be reviewed at the building permit level. b. Widening and improvements to the public roadway frontages. c. Park Dedication d. Tree Placement Requirements e. Fronting Sidewalk Requirements 2. Any future site plan related to this parcel will be reviewed prior to a building permit being issued to address existing drainage concerns in the surrounding area.

Mr. Becker asked to have a discussion about the motion. Mr. Wilkening responded to proceed. Mr. Becker asked if a One (1) Lot Subdivision is subjected to the Subdivision Control Ordinance in regards to storm

water and the flow of the water. Mr. Austgen responded that was up to the Commissioners to determine if an analysis needs to be done for a plat. Mr. Foreman discussed the building process back in the 1990s and how it affected the storm water. Mr. Foreman expressed that the storm water portion should take place during a Site Plan for building a new house. Mr. Becker stated the watershed from the Sedor property will impact the rest of the drainage. The area is over capacity, and cannot take anymore water. Mr. Becker discussed the current flooding of the area and trying to address the flooding of this area, instead of in the future when a potential structure is presented. A discussion ensued between Mr. Becker and Mr. Foreman about the curbs and flooding problems in the area. Mr. Wilkening asked Mr. Foreman if he would be willing to amend his motion to add a close-up review of this property. Mr. Foreman responded in the negative and he was leaving the motion as is.

The motion passed by 4 Ayes to 2 Nays by roll-call vote.

Mr. Carnahan – Nay
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Nay
Mr. Kiepora – Aye
Mr. Wilkening – Aye

Ms. Murr advised if everything is in order for this item it will appear next month for the Work Session and Public Meeting for a Final Plat, provided everything is to Mr. Oliphant in time for review. Mr. Wilkening asked for notes to be added to the file. Ms. Murr discussed the process change in the Building Department for approval of permit for a new home or structure in a pre-platted older subdivision.

7. Wiers – Rezone

Owner: John & Darlene Boersma

Petitioner: Jeff Wiers (Electric Power Solutions LLC)

Vicinity: 12828 Wicker Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for a rezoning in the vicinity of 12828 Wicker Avenue by Petitioner Mr. Jeff Wiers of Electric Power Solutions LLC. The Petitioner is requesting a rezoning from a Neighborhood Business B1 to General Business B3. Mr. Marovich, DVG Team, stated he was present with Mr. Wiers and Mr. Cronin, who are going to be developing the property and are requesting a rezone from B1 to B3.

Mr. Wilkening asked Mr. Austgen if the legals were in order. Mr. Austgen responded in the affirmative. Mr. Wilkening asked if Mr. Oliphant had any comments regarding this item. Mr. Oliphant did not have any comments at this time. Mr. Wilkening asked the Building Department if they had anything for this item. Ms. Murr stated as previously discussed this is on the US 41 Corridor. The Comprehensive Plan had been just been updated for the US 41 Corridor. The Petitioners have met with Mr. Eberly and what they want to do will fit within the B3 zoning. The Petitioner will be coming back for platting and site plan.

Mr. Wilkening asked if this is where the storm water will be dealt with. Ms. Murr and Mr. Eberly responded in the affirmative. Mr. Wilkening asked if any Commissioners had any comments. Mr. Foreman asked the Petitioner if Electric Power Solutions is a commercial, industrial, or residential. The response was all three.

Mr. Wilkening asked if there was any public comment for this item. None was had at this time.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Becker and seconded by Mr. Sharpe to make a Favorable Recommendation to the Town Council for the rezone of this item from B1 to B3. The motion passed unanimously by roll-call vote.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepora – Aye
Mr. Wilkening – Aye

8. Cedar Lake Ministries PUD Amendment, Rezone, & Preliminary Plat

Petitioner: Cedar Lake Conference Association (Cedar Lake Ministries)

Vicinity: 13701 Lauerman, PO Box 665, Cedar Lake IN, 46303 & 8861 West 137th Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for three petitions: a request to rezone from R-1 and PUD to PUD, a preliminary plat for a one (1) lot subdivision, and a PUD contract amendment for the property owned by Cedar Lake Conference Association, known as Cedar Lake Ministries, 13701 Lauerman, PO Box 665 & 8861 West 137th Avenue.

Mr. John Terpstra, attorney for Cedar Lake Ministries, stated they are here on a 3-part petition. The first is to rezone from R1 and PUD to PUD. The second is for a Preliminary Plat approval for a one (1) lot subdivision as designated by Unit Two in the PUD document. The third is for a favorable recommendation to the Town Council to approve the amended PUD contract. Mr. Terpstra stated he was aware there were individuals present to speak on this item, and to let them speak first then he would state some closing remarks.

Mr. Wilkening asked if the individuals who live in the area are able to see the documents presented to the Commissioners. Mr. Terpstra responded in the affirmative. There had been a meeting with the homeowners last month prior to the Work Session. The document was circulated and discussed at that meeting. They understand the document and everything contained within the process.

Mr. Wilkening stated he had talked with Mr. Peterson on the phone. That Mr. Peterson has included the detail along the lake front. Mr. Wilkening stated he is under the impression that Mr. Terpstra and Mr. Austgen are working over the legal details. Mr. Terpstra responded in the affirmative.

Mr. Wilkening opened the floor for the public hearing portion. Mr. Jerry Tessarolo stated that Cedar Lake Ministries is a unique property. They have been around for around 100 years and existed before the town being founded in 1905. Mr. Tessarolo discussed Cedar Lake Ministries and the homes in the Ministry. Mr. Tessarolo stated the Ministry had been operating under a PUD for approximately 10 years and expressed that he felt that the Town took away their property rights until they got a new PUD. The Ministry got to work on creating a new PUD and spent a lot of time on it. Mr. Tessarolo discussed that they kept making changes that were being asked for and every time they came back were being asked to make more changes. They (the Petitioner) are asking for the Town to return their property rights.

Mr. Wilkening closed the public portion at this time. Mr. Terpstra stated that Mr. Tessarolo's view points were common among the homeowners within Cedar Lake Ministries. Mr. Wilkening stated that he

understood and he knew the history. However, he did not feel that this item was ready at this time upon review of the last rounds of correction from the Town's legal team.

Mr. Terpstra stated they want predictability on how the property was going to be maintained and developed. Mr. Terpstra explained the changes made to the documents, the additions from the Town Ordinances, and other aspects of the PUD contract that have been amended. Mr. Terpstra stated that they feel the contract is ready, that the Commissioners should vote upon it and approve it. Mr. Terpstra expressed that he felt that all the recommendations from the Commissioners, Mr. Austgen, Mr. Eberly, Ms. Murr and Mr. Oliphant have been incorporated and he does not know if there is much more discussion to have with the Commission. He asked that the Commission vote on the documents as they stand with a condition that it is subject to legal review.

Mr. Wilkening stated he understood what Mr. Terpstra was asking, which was for contingencies. That the Commissioners try to not do contingencies lightly. After his review of Mr. Austgen's review of the document, Mr. Wilkening did not think it was ready. Mr. Wilkening asked the Commissioners if they had any comments.

Mr. Foreman stated Mr. Terpstra's comments were interesting, as he was going to ask Mr. Austgen if they could move forward with some of the approvals, contingent upon legals being worked out. Discussion ensued about how the process for this petition started and the reason why some of this process started.

Mr. Austgen stated there was a lot legal to this item and rendered his legal advice. The legal advice was that he needed time to go over this document with the Commissioners. Mr. Foreman asked Mr. Austgen if his recommendation for this item is a deferral. Discussion ensued about deferring this item and what is further needed for this item.

Mr. Carnahan asked Mr. Wilkening if he got a red marked copy of the PUD agreement. Mr. Wilkening stated it was Mr. Austgen review from the last time. Mr. Carnahan stated he did not receive a copy of this. Discussion ensued about the document being shared and full transparency.

Mr. Foreman stated that he proposed to try to get this done for the first Work Session in September with a special public meeting. Mr. Wilkening asked if anyone would confer with Mr. Foreman for a special public meeting in 2 weeks. Multiple individuals stated they would.

Mr. Kiepora asked if the PUD is done, or if it was part of the legals being discussed. Mr. Austgen responded that it was part of the legals. Multiple conversations occurring simultaneously. Discussion ensued about the probability of a special public meeting.

Mr. Brett Knoll asked if he could speak. Mr. Wilkening invited him to come up and speak. Mr. Knoll stated that he has been coming for a while, had multiple conversations with the Town, the Commission, the Town's attorney, what more do they need to do. Mr. Terpstra is acting on the Petitioner's behalf for 8 months to 1 year. A PUD has been presented for months, and it is frustrating. Mr. Knoll asks how long does this take and that they have done everything that has been asked of them, and more in some cases. They are frustrated.

Mr. Wilkening stated he understands that it has been a long road. Mr. Knoll stated in 2019 at the end of the year, they came before the Plan Commission with the idea to do a high ropes course. That is when it was first brought up with the Northwoods area and that started the process. Mr. Knoll discussed the

process at length. Mr. Wilkening stated he understood the frustration, but the contract is close to being ready. Mr. Knoll asked how much longer it would take to get approval for the PUD agreement. Discussion ensued between the Commissioners about this item.

Mr. Terpstra discussed examining where they were, seeing what dates work, and setting deadlines to get this item finished. Mr. Foreman asked Mr. Eberly and Ms. Murr if they received the red-lined letter. Mr. Eberly responded in the affirmative. Mr. Foreman asked them both for their advice about scheduling a Special Public Meeting and/or approving things tonight contingent upon legals would be irresponsible on the Commissioner's behalf. Mr. Eberly stated his opinion is that the next opportunity to discuss this with Mr. Austgen will be at the September 15 Public Meeting. That is followed on September 21 by a Town Council Meeting. This could be wrapped up by September 21 if everything gets ironed out by then.

Mr. Foreman asked if by September 1 if they should have a copy of the letter with the red line so it can be reviewed. Mr. Wilkening stated there should be a total correction. Mr. Kiepura stated he did not want to see a red line. Discussion ensued about having a final copy by the next meeting and how the red line letter came about.

Mr. Kiepura asked if September 15 was the deadline. Mr. Eberly stated he suggests that Mr. Wilkening as the President of the Plan Commission solicit a motion to defer the public hearing to the 15 of September and hopefully this should wrap up at that meeting.

Mr. Wilkening asked Ms. Murr if she had anything to add. Ms. Murr stated she wanted to ask with having a deadline of noon on the Friday before a meeting to have all documents in and the September 1 being a Work Session, would they accept documents up to the moment before the meeting. Mr. Wilkening responded in the negative. Ms. Murr stated she would need documents by August 27 at noon for the Work Session on September 1. She wanted to note that one of the items that went through staff review and was pointed out, is that the Unit Two item being discussed, that lot has an R1 zoning. Adding that R1 parcel would create mixed zoning there and to add this into the PUD zoning that the property currently has. Ms. Murr discussed the different lots and how they would work with the PUD agreement. Discussion ensued with concerns for the timeline and storm water issues.

Mr. Wilkening entertained a motion to defer this item. Mr. Eberly asked Mr. Austgen if this could be deferred in one motion versus three different deferrals. Mr. Austgen responded in the affirmative. Mr. Sharpe and seconded Mr. Kiepura to defer all three motions for the Cedar Lake Ministries PUD Amendment. The motion passed unanimously by roll-call vote:

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

9. Cedar Lake Storage LLC – Final Plat
Petitioner: Tim Porter, Cedar Lake Storage LLC,
Vicinity: 9011 - 9019 West 133rd Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated that the next order of business was a request for a Site Plan and Final Plat for Cedar Lake Storage, LLC in the vicinity of 9011 - 9019 W. 133rd Avenue, Cedar Lake, IN 46303. The Petitioner and Owner is Tim Porter, Cedar Lake Storage LLC, 9019 W. 133rd Avenue, Cedar Lake, IN 46303.

Mr. Marovich, DVG Team, was present on behalf of the Petitioner, and was requesting a deferral to allow for review comments to be completed, to allow a Letter of Credit to be established, and a few other outstanding items.

Mr. Wilkening asked Ms. Murr if she had any comments. Ms. Murr stated she agrees with the deferral and that moving this will have a cleaner product by moving this to the next Work Session and Public Meeting.

Mr. Kiepura asked if this was being deferred to the Work Session. Mr. Marovich stated that the Final Plat is substantially complete, but they will be on the Work Session for the Site Plan. Discussion ensued about the changes that have been made since the last meeting and if the Petitioners will be at the Work Session.

Mr. Wilkening clarified that they would be at the Work Session. Mr. Marovich responded in the affirmative. Mr. Marovich stated that the Porters would be at the Work Session to discuss the site plan, the Final Plat and the be requesting Final Plat and Site Plan Approval at the next Public Meeting.

Mr. Wilkening asked if there were any questions for Mr. Marovich. None were had.

Mr. Wilkening asked if there was any public comment for this item. None was had.

Ms. Murr asked Mr. Oliphant if he agreed with the timeline given. Mr. Oliphant responded in the affirmative. That with the BZA defining what needs to happen, it is being displayed on the Site Plan. Discussion ensued about what had occurred at the BZA meeting, including a discussion of a timeline for asphaltting. Discussion also ensued on who would have approval to approve a timeline for asphaltting, the Plan Commission or the BZA.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Sharpe to defer this item to the Work Session in September. The motion passed unanimously by roll-call vote:

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

10. Fee in Lieu of Sidewalk Ordinance

Mr. Wilkening stated that the next new order of business was for the Fee in Lieu of Sidewalk Ordinance. Mr. Eberly thanked Mr. Austgen and Mr. Oliphant for their work on this item. This is largely Mr. Oliphant's work. Mr. Eberly stated he just put it into the structure of an ordinance and Mr. Austgen refined it to what is presented in the Plan Commissioner's packet.

Mr. Eberly continues that there are a few items in the ordinance that he has not been able to review with Mr. Austgen. After reading the final draft provided by Mr. Austgen, there are a few things that Mr. Eberly would like to discuss as changes to the document.

Mr. Austgen advised that this is a public hearing and it has been duly noted and advertised.

Mr. Wilkening asked if there was anything about this item to be discussed. Mr. Eberly stated he did not have the actual document to review. Ms. Murr stated that the document in the packet was provided on Friday. There had been changes made and a new draft circulated Monday or Tuesday, adding additional verbiage. One of the things to discuss was Section 2 having a delineation on the mylar on who is paying the fee. For Section 3, have the funds go into separate, special non-reverting fund accounts for each development. One recommended change is to just have the funds go to a special, non-reverting fund revenue. This would allow for the construction of sidewalks anywhere. Removing the entirety of Section 4 if legally allowed. Discussion ensued about removing or not removing Section 4.

Mr. Foreman asked if the perk of this fund is to let the Town decide where to put the money to interconnect different areas of the community, why have it expire. Mr. Austgen used the Fee in Lieu of Park dedication as an example and gave his legal advice. Discussion ensued regarding the difference between the fee in lieu of sidewalk or putting a sidewalk in. Discussion also ensued regarding getting sidewalk in the Hanover area.

Mr. Eberly stated the language from Section 3 is predicated from the language in Section 4. The language in Section 3 is not needed if they are not going to have the language in Section 4 that requires them to spend the money in a set amount of time, and if the money is not spent to give it back to the original payor. This was included for 2 reasons, the first was because of the thought it had to be there legally. The second is the original intent of the fee in lieu of was misunderstood. Mr. Eberly stated if the timing was not correct to put in a sidewalk but there should be one in the future. So, the money would be collected now, so the sidewalk could be put in on that piece of property in the future. Discussion ensued about removing the language in Section 4 and revising Section 3 and if it can be legally removed. Discussion also ensued on how this ordinance would be different from Fee in Lieu of Park.

Mr. Wilkening asked if there were any public comment for this item. None was had.

Mr. Wilkening asked the Building Department if they are suggesting a continued discussion in review. Ms. Murr responded in the affirmative. So they may discuss this item with Mr. Austgen.

Mr. Wilkening entertained a motion to defer this item. A motion was made by Mr. Foreman and seconded by Mr. Kiepura to defer this item for additional continued discussion and review.

Mr. Carnahan – Aye
Mr. Foreman – Aye
Mr. Sharpe – Aye
Mr. Becker – Aye
Mr. Kiepura – Aye
Mr. Wilkening – Aye

Lengthy discussion ensued at this time in regards to various items, such as formulas for the fees in lieu of, Mr. Carnahan talking about a sidewalk being placed in front of the MacArthur School, and Mr. Wilkening asking for a recommended example.

Update Items:

1. Resolution No. 2021-01 – Plan Commission Rules & Regulations

Nothing was discussed.

Public Comment:

Mr. Jonathan Janiec stated he was not sure if he was at the proper meeting. He was under the impression the Commission would be addressing the Domino's on Cline and Lake Shore. Mr. Wilkening stated they were at the BZA meeting. Mr. Kiepusa stated they will be reviewed at both the BZA and Plan Commission. Ms. Murr stated they are anticipating them coming back September 1, 2021. Mr. Janiec asked if this would be similar to where the public can address any concerns they may have. Mr. Eberly stated that the September 1, 2021, meeting is a Work Session, so there is no public comment. The September 15, 2021, is the regular meeting if they are scheduled.

Mr. Wilkening advised Mr. Janiec that he could voice his concerns. Mr. Janiec stated they had 2 issues that they want to address. The first is drainage, but they are working with the Storm Board on this. The current issue is that their property deals with significant flooding due to adjacent properties due to their higher elevation. This leaves their property swampy for a majority of the year. Mr. Janiec would like to know how the developer plans to handle the increased flooding risk to their property after the site is paved.

Mr. Wilkening stated that to the north and to the east of the Domino's site. The property runs at an angle, there is a detention pond in the back. Mr. Wilkening asked if this answered his question. Mr. Janiec stated he was aware of the pond, that it sits behind one of their structures that they have on the property. The other concern is the structural integrity of the pond. Their concern is that if the detention pond overflows or fall apart due to the softness of the soil that endangers 2 out of 3 structures on their property. Mr. Wilkening responded that if the soil is not good for the pond, then the correct soil will need to be brought in. Mr. Oliphant discussed the developers creating a firm line. With overflows, if the pond did ever overflow it would overflow to Mr. Janiec's parcel. They are legal allowed to maintain their drainage path. For the majority of everything, their drainage outlet will be to the structure system under Lake Shore Drive. Some of the flooding from the north should be routed into their pond.

Mr. Carnahan stated there used to be a swamp on Mr. Janiec's property and discussed the property from when he was younger. Mr. Janiec stated there is a pond still there. Since the residence behind their property developed that are on a higher elevation, they have seen an increase level of water overflowing onto the property, which is making it turn back into a marsh.

Mr. Janiec stated the other concern was in regards to traffic. The thoroughfare with Cline and North Shore, that there has been a major infrastructure with the round-a-bout. Looking at the project their concern is the ingress and egress of the Domino's development. Mr. Janiec discussed the ordinance passed by the Town Council regarding golf carts on Lake Shore Drive. The entrance for the Domino's creates a potential blockage for the round-a-bout and further explained his concerns with the traffic in this area. Mr. Wilkening stated that the traffic will be discussed and prior discussions of the entrance and exit of the Domino's.

Plan Commission
August 18, 2021

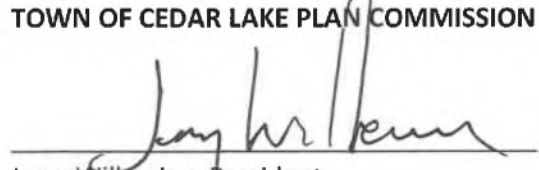
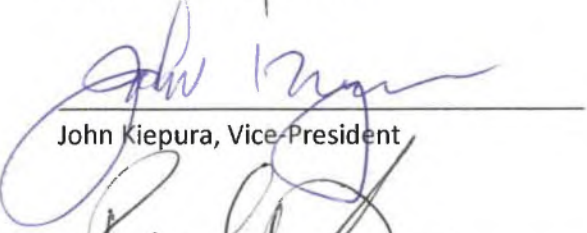
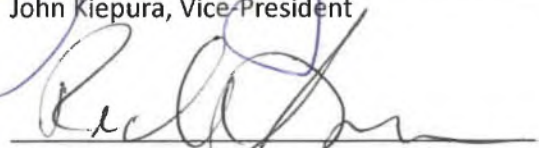

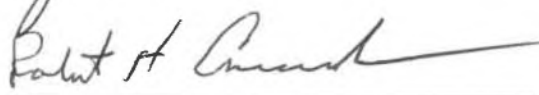

Ms. Murr discussed the change to only 1 drive-thru on the Domino's and that Domino's was not going to be the business with the drive-thru. The parking they are proposing in their parking lot will allow for stacking. Which means getting cars in line and off of the roadway. Discussion was had about the cutting of the apron and the change in elevation.

Mr. Wilkening asked if there was any more public comment. No more comments were had.

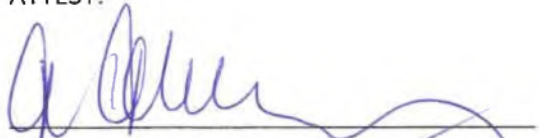
ADJOURNMENT: Mr. Wilkening adjourned the meeting at 9:31 PM.

Plan Commission
August 18, 2021

TOWN OF CEDAR LAKE PLAN COMMISSION


Jerry Wilkening, President
John Kiepura, Vice-President
Richard Sharpe, Member
John Foreman, Member
Robert Carnahan, Member
Heather Dessauer, Member
Chuck Becker, Member

ATTEST:


Ashley Abernathy, Recording Secretary

The Minutes of the Cedar Lake Plan Commission Meeting are transcribed pursuant to IC 5-14-15-4(b) which states:

(b) As the meeting progresses, the following memoranda shall be kept:

(1) The date, time, and place of the meeting.

(2) The members of the governing body recorded as either present or absent.

(3) The general substance of all matters proposed, discussed, or decided.

(4) A record of all votes taken by individual members if there is a roll call.

(5) Any additional information required under section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

Cedar Lake Plan Commission: Minutes of the Public Session August 18, 2021