



CEDAR LAKE PLAN COMMISSION PUBLIC MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
February 16, 2022 at 7:00 pm

CALL TO ORDER:

Mr. Wilkening called the Plan Commission Public Meeting to order on Wednesday, February 16, 2022, at 7:01 pm with its members attending on-site -. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present: Robert Carnahan; John Foreman; Richard Sharpe, Secretary; Chuck Becker; John Kiepura, Vice President; and Jerry Wilkening, President. A quorum was attained. **Also present:** Don Oliphant, Town Engineer; David Austgen, Town Attorney; Jill Murr, Planning Director; Chris Salatas, Town Manager; and Ashley Abernathy, Recording Secretary. **Absent:** Heather Dessauer.

1. Minutes

Mr. Wilkening stated the first order of business was for the approval of the Minutes for the Special Work Session, Special Public Meeting, and Work Session from February 7, 2022, and the Public Meeting from January 19, 2022. A motion was made by Mr. Kiepura and seconded by Mr. Foreman to approve all the Minutes for the Special Work Session, Special Public Meeting, and Work Session from February 7, 2022, and January 19, 2022, Public Meeting. 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. Perez – 13901 Laque Drive – Preliminary Plat

Petitioner: Ricardo Perez

Vicinity: 13901 Laque Drive, Cedar Lake, IN 46303

Mr. Wilkening advised the next order of business would be for the Preliminary Plat for a Two (2) Lot Subdivision in the vicinity of 13901 Laque Drive by Petitioner Mr. Ricardo Perez that was deferred from January 19, 2022 and February 7, 2022.

Mr. Wilkening believed there had been some issues with engineering and asked Mr. Oliphant if that was correct. Mr. Oliphant responded in the affirmative.

Mr. Perez stated he is not sure where his representative is from DVG Teams. Mr. Oliphant advised he has joined the meeting via Zoom and is working on getting connected.

Mr. Wilkening asked Mr. Austgen if everything is in order for this item. Mr. Austgen responded in the affirmative and stated the legals are in order for this item and all of the requested items have been provided.

Mr. Oliphant noted that he wanted to make aware to the Plan Commission is the biggest thing that changed from the last plat they saw was the rear yard setback. This plat is going to be based on the new Zoning Ordinance, which has a consistent 30-foot rear yard setback versus a percentage. The percentage that was shown put the building line inside of Laque Drive. However, the building line is now outside of Laque Drive. At previous meetings, it has been mentioned by the Plan Commission that their preference was to keep the development on the inside of Laque Drive and not on the frontage of the lake. If they want to have any form of restrictions there, now would be the time to implement that restriction. Discussion ensued regarding the location of the building line and that the petition presented is not likely to be replicated.

Mr. Wilkening asked Mr. Oliphant if they could hypothetically build a boathouse on the other side of Laque Drive. Mr. Oliphant responded in the negative and stated that should fall under accessory structure. Mr. Wilkening asked Mr. Oliphant for some clarification on if he is talking about someone building down the hill. Mr. Oliphant responded in the affirmative and stated the Petitioner could technically build their house on the other side of Laque Drive if they preferred. Further discussion ensued on the location of the building line and probability of building in the area discussed being minimal.

Mr. Wilkening asked Mr. Huls if he had any comments about the discussion. Mr. Huls stated he and Mr. Oliphant discussed this item and they showed it because it was what was in the new Zoning Ordinance.

Mr. Wilkening asked Mr. Perez if there was anything presented that he was not okay with. Mr. Perez responded in the negative.

Mr. Wilkening asked Ms. Murr if she had any further comments from the Building Department. Ms. Murr stated she has nothing additional. There has been a lot of discussion between Mr. Austgen, Mr. Oliphant and Mr. Huls regarding the legal aspect of this item to ensure the access would remain for Laque Drive.

Mr. Oliphant advised there would be some public improvement that will be summarized with Final Plat. There was going to be a requirement of a sidewalk since Orchard Hills has sidewalk up to this area.

Mr. Austgen asked if there had been a reason it was not included on Preliminary Plat. Mr. Oliphant stated it is on the plat, but it is small. This is a unique situation where it is not a common sidewalk. They don't even really do Letter of Credit for non-common sidewalks. The only thing they needed for the public improvement that would be part of the Letter of Credit would be curb, which will be quantified at Final Plat and they would then issue a Letter of Credit.

Mr. Wilkening asked where the sidewalk would stop. Mr. Oliphant responded it would need to be evaluated in the field. Mr. Huls and himself will determine it at the building stage, due to it getting narrower in that area with the road, the weir, the control structure, and the like. It will likely require field adjustments to place the sidewalk. Discussion ensued on placing the sidewalk in that area due to the Orchard Hill subdivision and the location of the offset.

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Mr. Austgen asked Mr. Oliphant with the plans to build a second house on this property, would that change his review or analysis in any way. Mr. Oliphant responded in the negative and stated the mylars will not be signed until the house is demolished. Mr. Wilkening clarified if all the design work was done based on two homes being on this property. Mr. Oliphant responded the plat had been designed that way and the housing will be taken care of at the building level.

Mr. Austgen advised the motion include the language about the Preliminary Plat being designed for two homes.

Mr. Wilkening asked if there was any public comment for or against this item. None was had. Mr. Wilkening closed the public hearing.

Mr. Becker asked with Laque Drive being a private road, was it determined who would maintain the road. Mr. Austgen commented the private road belongs to the private property owners.

Mr. Wilkening asked the Commissioners if it was their understanding that the Town would not be plowing Laque Drive any more. Ms. Murr commented with the upcoming winter storm the next day, she did not think it would be fair for the residents located there, when the Town has traditionally plowed the road.

Mr. Wilkening asked Ms. Murr when would be the final deadline. Ms. Murr stated with Final Plat and that the residents of Laque Drive should be given proper notice of the Town no longer maintaining Laque Drive. Mr. Wilkening advised Ms. Murr to notify the residents of Laque Drive regarding this matter, depending on the vote that happens. Mr. Wilkening asked when the Final Plat would be ready for consideration. Mr. Oliphant stated it would be dependent upon approval of the Zoning Ordinance being adopted.

Mr. Austgen suggested to Mr. Salatas to direct the plows to continue maintaining the road until the end of winter. Mr. Salatas stated he would work on a letter to send to the property owners located on Laque Drive of what will take place and it would become their responsibility thereafter. Discussion ensued regarding private roads located in the Town.

Mr. Perez asked how garbage and mail would be handled for the residents on Laque Drive. Mr. Huls stated the ingress, egress is still maintained for all individuals who need to utilize Laque Drive, for the purposes mentioned. They could work with Mr. Austgen regarding anything that would need to be addressed. The Final Plat will most likely occur in March or April, dependent upon the Perez's relocating to a new house, in order for the current home to be demolished. As well, to allow for the timing with the Zoning Ordinance. The winter season should be completed by the time the Final Plat is recorded.

Mr. Wilkening entertained a motion for this item. A motion was made by Mr. Foreman and seconded by Mr. Sharpe to approve the Preliminary Plat for a Two (2) Lot subdivision with the contingencies made by Engineering comments that the lots are set up for two homes, with the existing home to be demolished prior to the Final Plat and Mylars being signed. 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. Resolution No. 2021-04 – Zoning Ordinance & Zoning Map
Deferred from December 15, 2021, and January 19, 2022

Mr. Wilkening stated the next order of business was for Resolution No. 2021-04 Zoning Ordinance and Zoning Map, that was deferred from December 15, 2021, January 19, 2022, and February 7, 2022.

Mr. Wilkening commented he believes what they had left off with was the Legacy Lot criteria. However, before they begin that discussion, he wanted to advise the Commission the Watercourse and Wetlands that they had discussed removing from the Ordinance, cannot be removed. Ms. Murr, Mr. Oliphant and Mr. Austgen had discussed this item and concurred it helps tie other items together for the Zoning Ordinance.

Mr. Austgen commented they could get rid of it. However, it would make things difficult. The Commissioners agreed to leave the Watercourse and Wetlands in the Zoning Ordinance.

Ms. Murr advised the Plan Commission similar to the Business Zoning districts, Wetlands and Watercourse is listed in different Zoning Districts as being allowed in. This would allow for parks, playgrounds, and various open space activities of the like. Otherwise, there would need to be a special use exception needed to put in a park, or it would need to be listed under each Zoning District.

Mr. Wilkening stated the Legacy Lot criteria was going to be 2,500 minimum square foot lot. Ms. Murr commented the minimum lot size for a Residential Legacy lot is 2,400 square feet, and this only applies to occupied residential lots. They cannot be vacant legacy lots, for example an individual cannot tear a house down and come in years later wanting to rebuild. Legacy Lots only applies to lots that are less than 5,000 square feet. Criteria is listed in the Ordinance to help define a Legacy Lot.

Mr. Wilkening stated a hypothetical example of a house that would be on the Unsafe list, if someone could purchase the property from the owner and fix the property up if they fit the Legacy Lot criteria. However, if the six-month marker passes, it changes the use of the lot. Ms. Murr stated it potentially could and advised the Board the height is restricted to 25 feet for Legacy Lots.

Mr. Wilkening commented that they have removed Commercial Legacy Lots. Ms. Murr stated the Plan Commission made the determination at their Work Session to remove Commercial Legacy Lots. Mr. Austgen commented he removed Commercial Legacy Lots from the draft.

Ms. Murr advised there is still a reference of the title for Commercial Legacy Lots listed in the draft of the Ordinance that will need to be removed.

Mr. Wilkening asked if there were any further questions from the Commissioners regarding Legacy Lots. None were had.

Mr. Wilkening asked if there was anything else they needed to review for the Zoning Ordinance.

Ms. Murr stated one of the discussions had at the Work Session had been discussion about the Lighting Ordinance and having the document refer back to the Lighting Ordinance by itself. It is her understanding from reviewing the Resolution that was drafted by Mr. Austgen and the information included in the Zoning Ordinance, is to repeal and replace Zoning Ordinance 496 in its entirety. Ordinance 1301 is the Town's Lighting Ordinance which was adopted in 2018. Her recommendation would be to leave the Lighting

Ordinance in its entirety into the Zoning Ordinance, as it is shown in the draft. Discussion ensued regarding the contents of the Lighting Ordinance and the entire Lighting Ordinance being in the Zoning Ordinance.

Mr. Wilkening asked Mr. Austgen if he had any problems with including the Lighting Ordinance in the Zoning Ordinance. Mr. Austgen stated he did not have any objections to it and commented of moving forward with the Zoning Ordinance. Having the Lighting Ordinance being a stand-alone within the Zoning Ordinance. This year, the Town is looking at reviewing the Subdivision Control Ordinance, the Stormwater Management Regulations Ordinance, and portions of the Town Code will include these items. He was just considering the modernization of items. He does not disagree with having the content in one location, either by reference or specification.

Mr. Oliphant asked if the Lighting Ordinance is in the Zoning Ordinance in totality, and an update occurs to the Lighting Ordinance, would they not need to update the Zoning Ordinance. Mr. Austgen responded in the negative and advised only that portion would need to be updated. Further discussion ensued regarding having the Lighting Ordinance included in the Zoning Ordinance and the Lighting Ordinance being referenced throughout the Zoning Ordinance.

It was the determination of the Plan Commission to leave the Lighting Ordinance in its entirety in the Zoning Ordinance.

Mr. Foreman asked if the version of the Zoning Ordinance the Plan Commission was viewing was the final document, or not yet. Mr. Austgen stated it is not final, due to the discussion the Plan Commission is having tonight is not included in the Ordinance.

Mr. Wilkening asked if there were any further discussions needed to have regarding the Zoning Ordinance. Ms. Murr advised she was not aware of any other outstanding items the Commissioners were wanting to discuss.

Mr. Wilkening asked if there was any public comment for or against this item. None was had. Mr. Wilkening closed the public hearing.

Mr. Wilkening advised the Commissioners they should give instructions to Mr. Austgen to complete and finalize the Zoning Ordinance and create the final draft. Mr. Foreman asked if they were wanting to close the public portion and defer this to the next public meeting. Mr. Austgen advised the public portion is now closed. It can be moved to the next agenda for consideration.

Ms. Murr asked the Commissioners if they would consider having a Special Public Meeting on March 2, before their work session, or if the Town Council and Mr. Austgen are amenable to this suggestion, having a Special Public Meeting March 1, 2022, prior to the Town Council Meeting. Mr. Wilkening asked what time they would have the meeting, if it would be approximately 6:00 pm? Ms. Murr stated it would be around 7:00 pm.

Mr. Wilkening asked the Commissioners if anyone would be against having a Special Public Meeting on March 1, regarding the Zoning Ordinance and Zone Map. The Commissioners were agreeable to holding a Special Public Meeting on March 1, 2022.

Mr. Wilkening stated there was a tentative agreement to hold a Special Public Meeting on Tuesday, March 1, 2022, with agreement from the Town Council and stated he would entertain a motion regarding such. A motion was made by Mr. Foreman and seconded by Mr. Sharpe to defer Resolution No. 2021-04 Zoning

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Ordinance and Zoning Map to a Special Public Meeting to be held Tuesday, March 1, 2022. 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

Public Comment: Mr. Wilkening opened the floor for public comment.

Mr. Wilkening asked Mr. Austgen if the Plan Commission or BZA could direct legal to proceed with legal actions or violations of items that have been approved by either Board. Mr. Foreman commented he believed once they approve setbacks, secondary buildings, and other items as such, it would need to go through the proper channel of ordinances and the Building Department. Mr. Salatas stated Code Enforcement would be the first step, with violations cited by Code Enforcement due to not complying. Ultimately, it could end up that the Town Attorney would need to become involved. Discussion ensued regarding the proper channels and having Town staff taking care of violations.

Mr. Wilkening asked for clarification on what individual was taking care of which code violations. Mr. Foreman stated the previous Town Manager had insisted on re-establishing a Code Enforcement Officer. Mr. Kiepura asked if there was a Code Enforcement Officer on staff currently. Ms. Murr responded in the affirmative.

Mr. Wilkening asked who gives the Code Enforcement Officer direction, are they under the Police Department. Mr. Austgen responded they are under the Police Department.

Mr. Wilkening restated his question to Mr. Austgen and asked him if the Commissions could proceed with requesting for him to handle an item that they feel is not being taken care of, would that be legal. Mr. Austgen advised the Commission has statutory authority as the Commission and the Board of Zoning Appeals has the same authority, for enforcement of Town Ordinances within their jurisdiction.

Mr. Wilkening asked if there was any further comment at this time. None was had.

Adjournment: Mr. Wilkening adjourned the meeting at 7:47 pm.

TOWN OF CEDAR LAKE PLAN COMMISSION

Jerry Wilkening, President

John Kiepura, Vice President

Richard Sharpe, Secretary

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 Public 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: February 16, 2022, Minutes of the Public Meeting