



CEDAR LAKE PLAN COMMISSION SPECIAL PUBLIC MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
May 4, 2022 at 7:00 pm

Call To Order:

Mr. Wilkening called the Plan Commission Special Work Session to order on Wednesday, May 4, 2022, at 7:05 pm with its members attending on-site and electronically. The Pledge of Allegiance was recited by all.

Roll Call:

Members Present via Zoom: John Foreman. **Members Present On-Site:** Robert Carnahan; Heather Dessauer; Richard Sharpe, Secretary; Chuck Becker; John Kiepora, Vice President; and Jerry Wilkening, President. A quorum was attained. **Also present:** Don Oliphant, Town Engineer; David Austgen, Town Attorney; Ryan Deutmeyer, Town Attorney; Chris Salatas, Town Manager; and Ashley Abernathy, Recording Secretary. **Absent:** None.

1. Douglas MacArthur Elementary School – Preliminary Plat – One (1) Lot Subdivision
Petitioner: Crown Point Community School Corporation
Vicinity: 12900 Fairbanks Street, Cedar Lake, IN 46303

Mr. Wilkening stated the first order of business for the Special Work Session was for Douglas MacArthur Elementary School Preliminary Plat for a One (1) Lot Subdivision by Petitioner Crown Point Community School Corporation located at 12900 Fairbanks Street.

Mr. Jim Thompson, Gibraltar Design, advised he was present representing the Petitioner.

Mr. Wilkening asked Mr. Thompson if the school was still requesting for all waivers to be granted for the water main, widening of Fairbanks, and installation of the curb and gutters along Fairbanks. Mr. Thompson responded in the affirmative.

Mr. Wilkening asked Mr. Oliphant about the recommendation from Public Works regarding the extension of the water main. Mr. Oliphant advised the Commissioners it is recommended by the Public Works Department that the water main be extended. Mr. Wilkening asked if the Utility Engineer had the same recommendation. Mr. Oliphant advised he had not received a recommendation from the Utility Engineer at this time.

Mr. Wilkening asked if there was any information received from the Fire Department. Mr. Salatas advised there had not been a recommendation received from the Fire Department at this time.

Mr. Thompson discussed that they had received a release from the State for their construction plan, meeting all standards set by the State. Regarding the extension of the water main there are technical aspects which restrict the extension of the water main along 129th Avenue, which is the location of other utilities. In particular, there is a state code requiring the water lines and the sanitary sewer lines running parallel to have a 10-foot separation between each line. In lieu of putting in the water line, they are offering to provide an easement along the school's property for a future water line to be installed.

Mr. Wilkening asked Mr. Thompson to clarify if instead of installing a water main, they are offering to provide an easement. Mr. Thompson responded in the affirmative and stated by providing the easement, the potential benefactor of the water main could pay for its installation, as the school does not require a water line.

Mr. Wilkening commented in accordance with the Town's Developmental Standards, the water line is required to go to the far end of the property line. Mr. Thompson stated that the cost to the school to put in the water main would be around \$400,000, and they are asking the Plan Commission consider the waiver and acceptance of the easement.

Mr. Becker asked Mr. Thompson to clarify if it would cost approximately \$400,000 to place the water main in the easement the Petitioner is proposing on giving to the Town. Mr. Thompson responded in the affirmative. Mr. Becker asked what the cost would be to go down 129th Avenue. Mr. Thompson responded in order to take the water main down 129th Avenue, they would need to acquire land to install the water main due to code requirements for distance between the water main and the sanitary sewer line and discussed where they would have to place the water main to follow code.

Mr. Foreman asked if an easement would be provided off of Fairbanks and an easement to allow the water main to go to 129th Avenue. Multiple individuals responded in the affirmative. Mr. Foreman discussed having some money provided to the Town to cover any costs of water main improvements if there is an acceptance of the easement in lieu of a water main.

Mr. Becker asked Mr. Oliphant his thoughts regarding the water main along 129th Avenue. Mr. Oliphant responded they have been honest regarding the corridor along 129th Avenue being a tight corridor for a water main, especially in consideration of the separation requirements and discussed the spacing requirements. The Town has sanitary sewer and stormwater lines located within 129th Avenue, so the water main could not be placed in the road. The only way there could be a water main included on 129th Avenue would be if the water main is located closer to the building or along the north Right of Way.

Mr. Becker asked Mr. Oliphant for his recommendation. Mr. Oliphant advised he cannot make that recommendation. The Town's Water Utility Department prefers the extension of the water main to 129th Avenue. The water main does not necessarily have to be put in along 129th Avenue to reach the northwest corner of the lot. Ms. Dessauer asked what the other way would be for the water main to be extended to 129th Avenue. Mr. Oliphant advised they could put the water main in the proposed easement.

Mr. Austgen asked if there had been any correspondence from the Utility Engineer on why there had not been a recommendation provided. Mr. Salatas responded the Utility Engineer had similar comments to Mr. Oliphant regarding the placement of a water main in that corridor and for the Water Utility Superintendent to provide the actual recommendation. Discussion ensued regarding a similar situation that occurred with Hanover Middle School and their extension of the water main.

Mr. Becker asked if they would need the Utility Engineer's recommendation before taking action for this item. Mr. Oliphant commented he did not believe it would be necessary, especially with the recommendation from the Water Utility Superintendent recommending the extension of the water main to the northwest corner of the property. Discussion ensued regarding the recommendation from the Water Utility Superintendent and following the Town's Developmental Standards.

Mr. Wilkening asked Mr. Oliphant what his estimate would be for placing a water main in the easement. Mr. Oliphant responded he felt some of the estimates provided are inflated, and assuming there is not any relocation of any public utilities, it would be around \$100,000. Further discussion ensued regarding how to extend the water main to the northwest corner of the property and the location of current utilities in 129th Avenue.

Mr. Foreman stated it was his current opinion that the Plan Commission would need to require the extension of the water main to the northwest corner, with allowing the Petitioner to determine the best way to extend the water main. Mr. Carnahan stated he agrees with Mr. Foreman's statement.

Mr. Wilkening discussed the waivers being requested and the proposed easement and asked Mr. Foreman if he was stating he was not in favor of waiving the water line. Mr. Foreman stated he is not in favor of waiving the water line and they have been consistent with other properties in extending the water main and they need to get water to the northwest corner. Mr. Kiepora advised he agrees with the statement Mr. Foreman made.

Mr. Sharpe asked Mr. Oliphant if there would be room next to the building to extend the water main down 129th Avenue. Mr. Oliphant advised it was possible, but some of the trees would likely need to be removed.

Mr. Thompson asked the Plan Commission if they would entertain the potential of when they make a motion for the water main if they would consider including a not to exceed amount. Mr. Wilkening advised the vote would only be to approve the waiver or to require the extension of the water main.

Mr. Wilkening stated there had been a brief discussion regarding the waiver of improvements on Fairbanks at the previous meeting, and there had not been many in favor of waiving the improvements for Fairbanks and asked Mr. Oliphant who would be required to move the ATT and NIPSCO utilities along Fairbanks Avenue. Mr. Oliphant advised there was no indication on the plat that those utilities are located in a utility easement. If those utilities are located in the Right of Way, it would be up to the company in charge of those utilities to move them.

Mr. Thompson advised when they have discussions with NIPSCO regarding utilities, they are asked why they need to be moved and when advised it would be due to the curb there would be discussion on who needs the curb and the school would be the entity that pays to move the utilities. Mr. Oliphant stated it would be for public improvement with the utilities located in the Public Right of Way and stated the Town has not paid to move any of the utilities in projects around the Town for public improvements.

Mr. Oliphant stated their recommendation was to allow for the waiving of widening Fairbanks, but still requiring curb and gutter. This could be done by monolithic pouring, and with approval from NIPSCO, can be placed over a gas utility line.

Mr. Don Torrenge, Torrenge Engineering, stated the property is currently a metes and bounds, and asked if there is actually a Right of Way along Fairbanks. Mr. Oliphant responded there is a prescribed Right of Way that is being formally dedicated with the platting process. Discussion ensued regarding the same.

Mr. Thompson discussed the information that they reviewed was the technical aspect of needing to add drainage requirements that would need to connect to the stormwater utility line. This would require utilities to be moved, and he is hearing that the Town has the capability to have the utilities moved with no cost to the school. Mr. Wilkening advised Mr. Thompson that what Mr. Oliphant had been discussing is what has occurred recently within the Town. Further discussion ensued regarding the Right of Way and allowing improvements to be done for the roadways.

Mr. Salatas advised the Plan Commission that staff would encourage the improvement of curb and gutter along the Fairbanks corridor and agrees with Mr. Oliphant with the waiver of the widening of Fairbanks.

Mr. Wilkening asked if there was any public comment for or against the Preliminary Plat for a One (1) Lot subdivision. There was none. Mr. Wilkening closed the public hearing for this item.

Mr. Wilkening entertained a motion. Mr. Austgen advised that a good descriptive motion will be needed for the ordinance.

A motion was made by Mr. Foreman to approve the Preliminary Plat contingent upon getting water to the northwest corner of the property that MacArthur School sits on, waiving the Fairbanks improvements, but with adding the curbs and gutters as discussed. Mr. Wilkening asked Mr. Foreman to clarify if the motion is to approve the Preliminary Plat with no waivers except for the extra roadway width. Mr. Foreman responded in the affirmative. Discussion ensued. Mr. Carnahan seconded the motion. Roll-call vote commenced and was interrupted by further discussion after the following votes: Mr. Carnahan, yes; Mr. Foreman, yes; Mr. Sharpe, yes; and Ms. Dessauer, no. When Mr. Becker's name was called for vote due to confusion about the motion on the floor, further discussion resumed wherein Mr. Wilkening advised that Mr. Foreman was making a different motion than the criteria that was submitted.

Mr. Foreman asked Mr. Oliphant if he had stated the proper curbs can be put onto Fairbanks without needing to move any of the utilities. Mr. Oliphant responded in the negative and stated it was his opinion the school would not be responsible for the relocation if it would be required.

Mr. Wilkening advised Mr. Foreman what Mr. Oliphant had discussed is what had occurred in the past with public improvements done within the Town and that there are not any guarantees that would occur moving forward and asked Mr. Foreman to clarify his motion. Mr. Foreman stated his motion was to approve for everything but the widening of Fairbanks. Further discussion ensued at length regarding clarification for Mr. Foreman's motion.

Mr. Wilkening advised the request from the Petitioner was to waive all requirements for water main and roadway improvements and asked Mr. Foreman which items he was agreeable to waive or not waive. Mr. Foreman responded he is in favor of not widening Fairbanks. He is not in favor of waiving the installation of the water main or curb and gutter along Fairbanks. Discussion ensued regarding the waivers, the motion that was stated by Mr. Foreman, and completion of the vote.

Plan Commission Special Public Meeting
May 4, 2022

Mr. Austgen advised withdrawing the motion and the voting that occurred and allow for the motion to be clear and his legal recommendation is for the waivers be considered in a separate motion than the Preliminary Plat.

Mr. Foreman withdrew his motion, Mr. Carnahan withdrew his second to the motion, and all votes for the motion were withdrawn.

Mr. Austgen discussed there are other waivers listed in the Development agreement and having those be considered with the waivers currently being considered.

Mr. Wilkening asked Mr. Austgen if his recommendation was to consider the waivers as a separate motion. Mr. Austgen responded in the affirmative.

Ms. Dessauer asked Mr. Austgen which waivers were being referred to. Mr. Austgen responded it was his hope that the Plan Commission would allow for the Petitioner to discuss those waivers. Discussion ensued regarding the waivers being discussed and making any approval contingent upon engineering review. Discussion also ensued regarding how the PUD Agreement allows for the developer to not require waivers, due to the language included in the PUD Agreement.

Mr. Thompson stated it was his understanding that the Commissioners were discussing the partial approval of the waiver for the widening of the road, while not waiving the other two waiver requests for the water main and the curb and gutter, which will then be followed by the potential approval of the Preliminary Plat.

Mr. Foreman asked if they were currently discussing the Preliminary Plat. Mr. Wilkening responded in the affirmative.

Mr. Wilkening asked the Petitioner their thoughts for the improvements on Fairbanks. Mr. Thompson responded it is their understanding that the curb and gutter would be required, and they are willing to put those in, and he would like to change the waiver request to just the widening of Fairbanks.

Mr. Dion Katsouros, Skillman Corporation, asked Mr. Oliphant if his opinion was that the utility company would need to move the utilities at no cost to the school. Mr. Oliphant stated he would not guarantee it, and reiterated he had discussed recent projects in Town that the utility company moved the utilities at no cost to the Town.

Mr. Wilkening asked Mr. Thompson if the Petitioner was still only wanting to provide the easement for the water line to the Town. Mr. Thompson responded it was his understanding the easement for the water line is acceptable, and the water line should be provided. It is his hope that the fire hydrants could be waived, and they will work with the Fire Department regarding those. Discussion ensued regarding what would be needed for a motion regarding the waiver and having any motion be contingent upon engineering review.

Mr. Wilkening entertained a motion for the waivers for the Preliminary Plat.

A motion was made by Mr. Kiepura and seconded by Mr. Becker to approve the extension of the water main to the northwest corner of the property, to install curb and gutter along Fairbanks, and to waive the widening of Fairbanks, to be contingent upon review by the Town Engineer and Town Staff. Motion passed unanimously by roll-call vote:

Plan Commission Special Public Meeting
May 4, 2022

Mr. Carnahan Aye
Mr. Foreman Aye
Mr. Sharpe Aye
Ms. Dessauer Aye
Mr. Becker Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

Mr. Wilkening asked Mr. Austgen if everything was in order for the public hearing for the One (1) Lot subdivision. Mr. Austgen responded in the affirmative.

Mr. Oliphant advised the Preliminary Plat is in order and similar to the previous motion, have any approval contingent upon Town Engineer and staff review.

Mr. Wilkening opened the floor for the public hearing for this item; hearing none, Mr. Wilkening closed the public hearing for this item.

Mr. Wilkening entertained a motion for the Preliminary Plat.

A motion was made by Mr. Sharpe and seconded by Mr. Becker to approve the Preliminary Plat for a One (1) Lot subdivision to be contingent upon review by the Town Engineer and Town Staff. Motion passed unanimously by roll-call vote:

Mr. Carnahan Aye
Mr. Foreman Aye
Mr. Sharpe Aye
Ms. Dessauer Aye
Mr. Becker Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

2. Douglas MacArthur Elementary School – Rezone from R-2 to PUD
Petitioner: Crown Point Community School Corporation
Vicinity: 12900 Fairbanks Street, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for Douglas MacArthur Elementary School Preliminary Plat for a Rezone from R-2 to PUD in the vicinity of 12900 Fairbanks Street by Petitioner Crown Point Community School Corporation. Mr. Wilkening asked Mr. Austgen if everything is in order for the public meeting. Mr. Austgen responded in the affirmative.

Mr. Oliphant advised anything for the PUD would require a similar contingency of being reviewed by himself and Town staff.

Mr. Austgen advised the Plan Commission to review the PUD Agreement to ensure that the Developmental Standards are correct to the discussions that have occurred. Mr. Wilkening asked if the PUD could be approved if it was contingent upon legal review and corrections. Mr. Austgen responded it could; however, the agreement for the PUD is the agreement between the developer, the Plan Commission, and the Town Council. He would recommend not leaving the PUD Agreement contingent upon legal review and corrections.

Mr. Wilkening asked if the motion should be contingent upon both legal review and approval by the Town Council. Mr. Austgen advised the rezone is required to be passed by the Town Council by way of Ordinance and discussed the exhibits and exhibit conditions that should be included with the Ordinance.

Mr. Austgen asked the Commissioners if they had any comments they would like to be included within the development agreement for the PUD. Mr. Foreman asked Mr. Austgen if what he was discussing was if they made a motion with the proceedings that have occurred within this meeting, his legal opinion was that they could move forward with the PUD. Mr. Austgen responded in the negative and clarified the Plan Commission's review of the document will allow for the Development Agreement of the PUD to be completed in its final edit so the PUD can be appended to the proposed Ordinance.

Mr. Wilkening asked if the PUD is not passed and approved, it would change the timeline the school would like to follow. Mr. Austgen responded in the negative and advised with the passing of the Preliminary Plat, they are allowed to start the process of site grading.

Mr. Becker asked Mr. Austgen if his advice was to defer this item. Mr. Austgen responded in the affirmative. Discussion ensued regarding the timeline for the school's expansion if the rezone is deferred to the May 18, 2022, meeting. Further discussion ensued regarding allowing for the PUD document to be reviewed and changes made by the Town Attorney and the attorney for the school.

Mr. Wilkening asked if there was any public comment for or against the Rezone from R-2 to PUD; hearing none, Mr. Wilkening closed the public hearing for the same.

Mr. Thompson requested a deferral for the rezoning of the property from the current R-2 Zoning District to PUD until the May 18, 2022, Public Meeting.

Mr. Wilkening entertained a motion for the deferral.

A motion was made by Mr. Becker and seconded by Ms. Dessauer to defer this item to the May 18, 2022, Public Meeting. The motion passed unanimously by roll-call vote:

Mr. Carnahan Aye
Mr. Foreman Aye
Mr. Sharpe Aye
Ms. Dessauer Aye
Mr. Becker Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

3. Douglas MacArthur Elementary School – Site Plan Approval
Petitioner: Crown Point Community School Corporation
Vicinity: 12900 Fairbanks Street, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for Douglas MacArthur Elementary School Preliminary Plat for a One (1) Lot Subdivision by Petitioner Crown Point Community School Corporation in the vicinity of 12900 Fairbanks Street.

Mr. Austgen advised the Site Plan would include having the actions taken tonight by the Plan Commission imposed onto the plat.

Plan Commission Special Public Meeting
May 4, 2022

Mr. Oliphant recommended deferring this item until the next meeting due to the withdrawal of the waivers, to allow for the proper engineering documents to be provided to support the Site Plan.

Mr. Thompson requested a continuance for this item to the May 18, 2022, Public Meeting

A motion was made by Mr. Becker and seconded by Ms. Dessauer to continue this item to the May 18, 2022, Public Meeting. The motion passed unanimously by roll-call vote:

Mr. Carnahan Aye
Mr. Foreman Aye
Mr. Sharpe Aye
Ms. Dessauer Aye
Mr. Becker Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

4. Cedar Lake United Methodist Church – Final Plat – One (1) Lot Subdivision

Owner: Cedar Lake United Methodist Church

Petitioner: Richard Henry

Vicinity: 7124 West 137th Place, Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for a Final Plat for a One (1) Lot Subdivision for Cedar Lake United Methodist Church in the vicinity of 7124 West 137th Place.

Mr. Ken Puent, representing Cedar Lake United Methodist Church, advised the Plan Commission they were going to be requesting a deferral to the May 18, 2022, Public Meeting due to not having all of the necessary documents submitted on time.

Mr. Oliphant advised this item will be ready by the May 18, 2022, Public Meeting.

A motion made by Mr. Becker and seconded by Ms. Dessauer to defer this item to the May 18, 2022, Public Meeting. The motion passed unanimously by roll-call vote:

Mr. Carnahan Aye
Mr. Foreman Aye
Mr. Sharpe Aye
Ms. Dessauer Aye
Mr. Becker Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

5. Henn – 13212 Wicker Avenue – Performance Letter of Credit Expires May 21, 2022

Mr. Wilkening stated the next order of business was for the Henn Performance Letter of Credit that expires on May 21, 2022. Mr. Salatas advised he had this included on the Special Public Meeting agenda in the event action needed to be taken. He believes there has been progress made on the list of outstanding work.

Mr. Oliphant stated the public infrastructure that is included in the Performance Letter of Credit has been completed. There remaining items are related to the ability of obtaining the Occupancy Permit, such as

Plan Commission Special Public Meeting
May 4, 2022

the detention basin. Regarding the Performance Letter of Credit, the items are in order, and at the next meeting, they will recommend a reduction to a Maintenance Letter of Credit. The remaining items can be handled at the Building Department level.

Mr. Wilkening asked for clarification on what is left and would need to be handled at the Building Department level. Mr. Oliphant responded they would withhold the issuance of an Occupancy Permit as the detention basin is deficient, and a new as-built survey needs to be submitted.

Mr. Becker asked who would be responsible for the Maintenance Letter of Credit if the property has been sold. Mr. Oliphant advised the Performance Letter of Credit is not being held for what is remaining. Mr. Wilkening asked for clarification on Mr. Oliphant's statement. Mr. Oliphant clarified the Letter of Credit is only for the public infrastructure improvements in the Right of Way.

Mr. Austgen asked if the public infrastructure improvements were completed. Mr. Oliphant responded in the affirmative. Discussion ensued regarding the remaining items left to be complete are private improvement and the original developer being responsible for the improvements to the property.

Mr. Austgen advised with the site improvements being a part of the approval process, all improvements still fall under the purview of the Plan Commission.

Mr. Wilkening asked Mr. Richard Thiel if it was his understanding the improvements fall on the original developer. Mr. Thiel responded that was his understanding.

Ms. Dessauer asked if this item would remain on the agenda. Mr. Wilkening advised he would like for this item to remain as an Update Item. Further discussion ensued regarding the Performance Letter of Credit being able to convert to Maintenance Letter of Credit and if a pull date needed to be set.

Mr. Wilkening advised the Plan Commission that he has requested for Mr. Oliphant and his team to create a required standard for the use of arborvitae trees as a barrier.

Mr. Salatas asked Mr. Austgen if he had a chance to review the Hanover Extension Letter of Credit due to their letter expiring on May 24, 2022. Mr. Austgen responded in the negative. Mr. Salatas asked if the Town Council could accept the Extension of the Letter of Credit contingent upon recommendation from the Plan Commission. Mr. Austgen responded in the negative.

Public Comment: None was had.

Adjournment: Mr. Wilkening adjourned the Special Public Meeting at 8:36 pm.

TOWN OF CEDAR LAKE PLAN COMMISSION

Jerry Wilkening, President

John Kiepora, 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 Special 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: May 4, 2022, Minutes of the Special Public Meeting