



CEDAR LAKE PLAN COMMISSION WORK SESSION MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
June 1, 2022 at 7:00 pm

Call To Order:

Mr. Wilkening called the Plan Commission Work Session to order on Wednesday, June 1, 2022, at 7:23 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; Chris Salatas, Town Manager; and Ashley Abernathy, Recording Secretary. **Absent:** None.

1. CLBD South LLC – Final Plat for an 18 Lot Commercial/Light Industrial Subdivision

Owner: CLBD South LLC, P.O. Box 488, Dyer, IN 46303;

E3, LLC, 14967 West 145th Avenue, Cedar Lake, IN 46303

Petitioner: CLBD South LLC; P.O. Box 488, Dyer, IN 46303

Vicinity: 13805 Wicker Avenue, Cedar Lake, IN 46303

Mr. Wilkening stated the first order of business for the Work Session was for a Final Plat for an 18 Lot Commercial and Light Industrial Subdivision in the vicinity of 13805 Wicker Avenue by Petitioner CLBD South LLC.

Mr. Russ Pozen, DVG Team, present with the Owner Mr. Andrew Bultema, advised they are present to answer any questions of the Plan Commission.

Mr. Oliphant advised all the testing inspections have passed for water sanitary and the sewers. An as-built letter has been issued. They are reviewing the plat and evaluating Letter of Credit values.

Mr. Pozen advised they have already recalculated some of the as-builts. They are waiting on the review letter from Mr. Oliphant and would like to work through the Letter of Credit. Mr. Oliphant noted he discussed this and infrastructure completed with Jack Huls on Friday.

Mr. Pozen stated they have been working through the remaining items diligently.

Mr. Austgen advised the Plan Commission there are some water utility matters that are being worked on. His expectation is those items will be final or near finalized at the Public Meeting. They are waiting to receive data from Neil Simstad for the utilities and their relation to the Town. Mr. Wilkening inquired if this portion would be complete by the Public Meeting. Mr. Austgen responded he was not certain as he

was waiting on documents from Mr. Simstad. Discussion ensued regarding the importance of the water utility and tying it into the Final Plat of the property.

2. Dykstra's 1st Addition – Preliminary Plat for a One Lot Subdivision and Rezone

Owner: R&R Properties/Rich Dykstra

Petitioner: Rich Dykstra

**Vicinity: Located approximately 200 feet west of Morse Street, on the north side of 136th Place
- Woodland Shores Add Pt. of Outlots I & J**

Mr. Wilkening stated the next order of business was for a Preliminary Plat for a One Lot Subdivision and Rezone from B-2 to R-2 by Petitioner Rick Dykstra located approximately 200 feet west of Morse Street, on the north side of 136th Place - Woodland Shores Add Pt. of Outlots I & J.

The Petitioner was not present for this item. Mr. Salatas advised he had met with Ken Peach and had advised for them to be present at the June 1, 2022, Work Session.

Mr. Oliphant advised they are reviewing the One Lot Subdivision submitted, and he anticipates it being a typical One Lot Subdivision. The Right of Way has already been dedicated and is similar to a One Lot Subdivision that had been before the Plan Commission in this neighborhood. The primary reason for the platting process is due to the lots being Outlots. What is presented by the Petitioner tonight is what had been discussed at the April Work Session.

Mr. Wilkening asked the Plan Commission if they would be okay with the Petition being presented at the Public Meeting. Ms. Dessauer expressed her thoughts regarding a lack of communication from the Petitioner and not allowing them on the Public Agenda if they cannot attend the Work Session. Discussion ensued about removing the item from the agenda.

Mr. Austgen asked if there had been Public Hearing notices completed. Mr. Salatas advised due to the One Lot Subdivision and Rezone of the property, there would have been Public Hearing notices published. Ms. Abernathy advised the Petitioner has provided Proof of Publication for the Newspaper. The Certified Mailing receipts had not been provided at this time. Mr. Austgen advised waiting until the Public Meeting to act on this item. Further discussion ensued regarding having this item on the Public Meeting Agenda and the request of the Petitioner.

Mr. Becker expressed his concern for the flooding problems in the Woodland Shores Subdivision and the storm sewer being undersized in the subdivision. He is concerned with an additional house being added to the neighborhood causing further flooding issues. Until the flooding is fixed, he does not feel they should not allow for more houses to be built in the neighborhood.

Mr. Wilkening asked Mr. Oliphant if this property would be similar to the One Lot Subdivision approved by the Plan Commission previously, and would need nomenclatures to need extra review. Mr. Oliphant commented the other property being discussed was located closer to the flooding issues of the neighborhood. The property for the petition is farther east and drains to a small, low area before going to the area where flooding is an issue. Discussion ensued regarding the flooding of Woodland Shores.

Mr. Becker inquired if there is a known flooding problem and they approve this item, who would be legally responsible for the expounding upon the flooding. Mr. Wilkening commented whomever develops the property will have to take measures to ensure their stormwater will not create an adverse effect to subdivisions. Mr. Oliphant discussed the typical recommendation for One Lot Subdivisions waiving stormwater detention requirements. This requirement does not have to be waived. Discussion ensued regarding the One Lot Subdivision granted in Woodland Subdivision and the potential impact that property could have on the stormwater and the stormwater drainage for the Petitioner's property.

3. NYBY Development Corp – Preliminary Plat for a One (1) Lot Subdivision & Site Plan
Owner/Petitioner: NYBY Development Corp; 1370 Dune Meadows Dr., Porter, IN 46304
Vicinity: 9710 West 133rd Ave., Cedar Lake, IN 46303

Mr. Wilkening stated the next order of business was for the Preliminary Plat for a One Lot Subdivision and a Site Plan for a property located at 9710 West 133rd Avenue by Petitioner NYBY Development Corporation.

Mr. Doug Homeier, McMahon Engineering, representing the Petitioner, present with Mr. David Lee, Owner of the property and Mr. Marty Thacker, Operating Manager for the company, stated they are present for the One Lot Subdivision and Site Plan. He received a review letter from Mr. Oliphant and has a meeting to discuss the project. They have not made any changes to the Site Plan from the presentation of the Concept Plan. The original application for the Preliminary Plat and Site Plan were submitted in February before the new Zoning Ordinance. Since that original application, they are going in front of the BZA on June 9, 2022, to request variances and discussed the variances needed.

Mr. Homeier advised the Plan Commission their impression by being under the old Zoning Ordinance they met requirements for the lot size. With the new Zoning Ordinance, the lot size does not meet the current Zoning Ordinance requirements. Their impression had been they would not need to request a variance for the lot size. Mr. Lee commented on the same and stated he reviewed the April Work Session where there had been discussions since the application was turned in before the new Zoning Ordinance, it would follow the old Zoning Ordinance requirements. Discussion ensued.

Mr. Salatas advised the Plan Commission application was submitted on February 24, 2022, and the application for the BZA was submitted in April 2022. Mr. Lee discussed having submitted the BZA application after the variances discussed at the April Work Session.

Mr. Austgen discussed the applications being under two different Ordinances and the adopting date of the new Zoning Ordinance. Mr. Austgen recommended proceeding with the BZA variance requests and advised they are necessary for the project to proceed. Discussion ensued regarding the BZA variance requests and the Petitioner's impression of requests needed.

Mr. Salatas advised the BZA Variance Application was submitted on April 14, 2022. Mr. Oliphant commented the submittal date on that application was a problem. Mr. Austgen asked how many variance requests that would make for the Petitioner. Mr. Oliphant responded the Petitioner would then be requesting a total of 4 Developmental Variances and discussed the variances needed.

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Mr. Lee advised they have not changed their Site Plan and when they met with Town staff in February, they had not been advised of the need for any variances, which is why they had not submitted for variances. Mr. Oliphant discussed the only change between the old Zoning Ordinance and the new Zoning Ordinance was the lot size. Mr. Austgen commented even if the information provided to the Petitioner by former Town staff was incomplete or incorrect, it does not change the Ordinances and regulations that need to be followed. Further discussion ensued regarding the variances needed for the property.

Mr. Wilkening commented about creating a hardship on a vacant parcel of property due to the size of the lot and to come to the BZA meeting to discuss the three variances being requested. Discussion ensued regarding the filing deadline.

Mr. Homeier asked with needing to request for a reduction in lot size and not being on until the July BZA Agenda for that variance, will the Preliminary Plat and Site Plan be heard in two weeks by the Plan Commission. Mr. Oliphant commented the timeline to be at the Public Meeting in two weeks would be tight, and any consideration of the Plan Commission would need to be contingent upon the July BZA Developmental Variance requests. Discussion ensued regarding potentially obtaining approval in two weeks with a contingency on the fourth Developmental Variance. Further discussion ensued regarding the Developmental Variances currently being requested and the easement along the north side of the property.

Mr. Wilkening requested the Petitioner be provided the standards needing to be met for Developmental Variance requests.

4. Monastery Woods North Subdivision

Owner/Petitioner: Accent Homes, Inc., 2036 West 81st Avenue, Merrillville, IN 46410

Vicinity: 9727 West 129th Avenue, Cedar Lake, Indiana, 46303

Mr. Wilkening stated the next order of business was for the Monastery Woods North Subdivision in the vicinity of 9727 West 129th Avenue by Petitioner Accent Homes.

Mr. Salatas advised no one was present for this item. They were requested to come back to the Plan Commission to discuss the Concept Plan because their development of the subdivision could potentially have some benefits for the Town. Discussion ensued.

Mr. Wilkening asked if they were intending on using the same size lots as the original proposal and the size of the lots in Monastery Woods. Mr. Oliphant advised they are 80 feet by 115 feet. Discussion ensued regarding the discussion with the representative from Accent Homes at the April Work Session.

Mr. Wilkening inquired if the potential sanitary sewer system will go to the existing lift station. Mr. Oliphant advised that is the proposed plan. They would need to see the revised engineering plan first.

Ms. Dessauer asked if they were scheduled to appear at another meeting. Mr. Salatas responded he could follow up with Accent Homes and request they come to the July Work Session. Mr. Wilkening agreed to the same.

Mr. Oliphant discussed that Accent Homes has a decent amount of work to move forward. Mr. Wilkening asked if Mr. Oliphant had something on paper regarding this property. Mr. Oliphant stated they had an internal memo highlighting the differences between the Ordinances. There is a concept level plan based off of the original developer's plans.

Ms. Dessauer asked if they could be provided a copy of the original plans. Mr. Salatas responded in the affirmative.

5. Ordinance No. 1418 – Amendment to the Zoning Ordinance – Humane Pet Store Ordinance

Mr. Wilkening stated the next order of business was for Ordinance No. 1418, an amendment to the Zoning Ordinance to include a Humane Pet Store Ordinance.

Mr. Austgen advised the Town Council has requested the Plan Commission's consideration of conducting a public hearing on an amendment to the Zoning Ordinance, concerning animal control regulations. The proposed amendment to the Zoning Ordinance will prohibit the sale of animals from animal mills, and adding definitions describing the same.

Ms. Dessauer asked if this Ordinance proposal was to prevent someone from opening a pet store business. Mr. Salatas responded in the affirmative and further clarified it was to prevent pet stores that purchase animals from animal mills. Ms. Dessauer asked if this would allow for a pet store that does adoptions to be able to open in Town. Mr. Austgen responded in the affirmative.

Ms. Dessauer asked if this was being presented due to a request for the same. Mr. Austgen responded in the negative and discussed it was brought forth due to public comment at Town Council meetings. They were representing the Indiana Humane Society, and were requesting this consideration from the Town. Mr. Salatas commented on the same and advised this started being advocated for when Illinois passed a Humane Pet Store Ordinance for the entire state. Since then, the Humane Society has been campaigning municipalities in Indiana in an effort to prevent those stores from Illinois coming to Indiana.

Mr. Carnahan advised this project is being headed by Councilwoman Julie Rivera.

Mr. Kiepura asked if there would need to be a creation for the Ordinance. Mr. Austgen stated the Ordinance has already been created and provided in the packet. Discussion ensued regarding the Ordinance and the Public Hearing occurring at the June 15, 2022, meeting.

Mr. Austgen advised this was in front of the Plan Commission because it needs a recommendation to the Town Council to provide a text amendment to the Zoning Ordinance.

Update Items:

1. Building Regulations & Fee Amendment

Mr. Austgen advised they are working on the Building Regulation and Fee Amendment, there needs to be some clarification done with the previous draft provided to the Plan Commission and an evaluation of the justification for the change in the Ordinance.

2. Melody Hills Marina

Mr. Wilkening asked Mr. Austgen if he had any information to provide regarding Melody Hill Marina. Mr. Austgen provided the Plan Commission a memorandum of documents provided to him. There had been a request for Mr. Austgen to review the Town's record related to Melody Hills Marina. Mr. Austgen discussed the documents and the records request for the documents, including permits, land use, activities, approvals and the like.

Mr. Wilkening commented this has been an Update Item for a long time and asked if there was anyone present representing the property that would like to speak. Ms. Marie Sumara was present for the meeting.

Mr. Wilkening advised Ms. Sumara this property has been discussed at length regarding compliance issues with the property. Ms. Sumara stated she has not received any notification regarding compliances. Mr. Wilkening clarified it has been discussed at the Plan Commission. They had been advised by Jill Murr that there was correspondence with Ms. Sumara or a family member, regarding any upgrades or plans for the property.

Mr. Wilkening asked what their plans were to bring the business into compliance. Ms. Sumara asked for information regarding what they are not in compliance with and could she be provided with a list of infractions. Mr. Wilkening provided Ms. Sumara the memorandum provided to the Plan Commission. Discussion ensued regarding the same and documents included in the memorandum.

Mr. Wilkening requested for the property owners to be provided a list of compliance issues. Mr. Salatas stated that to his knowledge, a comprehensive list of such did not exist.

Mr. Wilkening requested a list of items be provided to the property owners and requested consistent updates. Ms. Sumara asked who she could meet with to discuss what needs to be reviewed. Mr. Salatas advised it would be himself. However, it needs to be determined what needs to be addressed.

Mr. Foreman stated that he had spoken about this at the last meeting. He discussed when a person or entity follows the requirements for a specific zoning, such as an allowable use in a B-3 Zoning District that meets all the setback requirements and building requirements, the Plan Commission's hands are tied, and there is nothing that they can do. He believes this is a resort parcel, and if it is zoned as such and the business has been there before Cedar Lake was incorporated, then it is a slippery slope because there are other establishments like this that have had marinas. He asked what the goal is and stated that we need to know what we want to do first. Mr. Wilkening stated that Mr. Foreman's advocacy for this is known, but he doesn't think he is comparing apples to apples and discussed the lack of developmental standards, such as black top parking and all the little things. He doesn't think this was ever a marina. Mr. Foreman advised it will open up a can of worms with the Town Club and for the marinas. Mr. Wilkening responded that the can of worms are the lakefront property owners who are renting boat slips.

Mr. Wilkening noted it is a large property of substantial income and that he doesn't think it is too much to ask that it be brought into some kind of compliance with improvements. If the Officials do not choose to do that, it is fine; however, he feels clarity is needed on the matter.

Mr. Foreman stated that Mr. Wilkening is the Plan Commission President and represents all of the Members as Commissioners, who are all equal. They appoint the president to run the meetings, which comes with the ability to put something on the agenda; however, he feels Mr. Wilkening is running around town picking on things quite often because of being the President. It is not Commissioners' duties to become a Code Enforcement Officer. Mr. Foreman apologized if Mr. Wilkening has not been doing that.

Discussion ensued. Mr. Wilkening exemplified a time when he helped carry someone off the lake in a stretcher and stated that varying from our codes and ordinances in any benefit to individuals other than the taxpayers is unethical. Mr. Wilkening noted that he believes meeting with developers offsite is unethical. Mr. Foreman responded he is not doing any of that and advised that Melody Hill is zoned Resort, and they are zoned for what they are doing. The restaurant has been there. He commented he is neither for nor against Melody Hill. He feels that they will open cans of worms at other places that are similar.

Mr. Wilkening discussed wanting this to be discussed openly and publicly. It opens the door for anarchy. When the lake is done being dredged, it will be twice as bad. If nobody wants to do anything with it, that's fine.

Mr. Kiepura asked for clarification what a business has to do to open and sell their goods when they come into town. Mr. Salatas advised if they are not doing any modifications to the building and do not need to come before the Plan Commission or BZA, they must come in to get the utilities in their name and get a Certificate of Occupancy.

Mr. Kiepura stated his understanding was the marina had been closed for several years. Ms. Sumara responded in the negative and commented they have always had piers for boat ties. Mr. Kiepura asked if they have been operating it as a marina. Ms. Sumara advised she would need to ask Natalie.

Mr. Kiepura asked if the property had not been operating as a marina for a span of time, would they need to notify the Town they would be reopening and will comply with Town Ordinance. Mr. Salatas advised he did not believe there would documentation from when they did or did not operate as a marina. The Town's documentation would be in reference to buildings tied into utilities, the length of the utility bill and the Occupancy Permit.

Mr. Kiepura discussed the need for the Town to have a business license to be able to provide information of businesses operating in Town, who is running the business, and the like. It would allow for some income to the Town as well, which could help fund the Code Enforcement Officer, and discussed at length his view of a benefit of a business license to help the Town understand how long the business is open and if it closes down for any length of time.

Mr. Kiepura asked who handles the enforcement of Town Codes. Mr. Salatas responded there is enforcement done by both the Code Enforcement Officers and Building Inspectors. Discussion ensued regarding the same.

Mr. Ralph Miller, 13338 Fulton Street, Ward 4 Councilman, stated the Sumara family reached out to him a few years ago to help rebuild the property. They advised him they wanted to improve the property and

asked him how. He advised them to meet with Ms. Murr. They have been having meetings with Ms. Murr, and Ms. Murr had no complaints. He has received little to no complaints regarding the property. The property owners want to work with the town.

Mr. Miller stated the property owners are discussing the potential of a new restaurant, allowing for a new business in Town. His belief is that the Sumara family wants better for the Town. He hopes these problems can be worked through. Mr. Wilkening discussed he wishes for the same and wanting to get the details for this worked out for when another Petitioner comes forward, they have the information needed to proceed.

Mr. Miller asked Ms. Sumara for the length of time she had known there were any issues. Ms. Sumara responded she had not been aware of any problems with the property. Mr. Miller thanked Ms. Sumara and stated his point was the Sumara family had not been contacted.

Mr. Austgen commented in his professional experience, most problems occur when there is a breakdown in communication. There is currently a breakdown in communication. There had been requests made for information and documentation that took over six months to obtain. It had been difficult to receive any information from the individual who was in possession of what was being requested, and left the information before the end of her employment with the Town. Discussion ensued regarding the property.

Ms. Sumara advised the restaurant is currently still in concept. She noticed on the Zoning Map it is not shown zoned as Resort and inquired as to why. Mr. Oliphant advised it is shown as a multizone property, and has several different zonings. Resort is still one of the zonings.

3. Beacon Pointe, Unit 4 – Performance Letter of Credit Expires June 11, 2022
4. Larson Danielson/Peoples Bank – Performance Letter of Credit Expires August 9, 2022
5. Rose Garden Estates, Unit 3 – Performance Letter of Credit Expires August 22, 2022
6. Great Oaks Storage Lot 1 – Maintenance Letter of Credit Expires September 4, 2022

Mr. Oliphant advised he received an e-mail regarding the Performance Letter of Credit for Beacon Pointe, Unit 4, and they will be requesting a six-month extension. He will advise him regarding the pull date.

Mr. Wilkening asked if the Larson Danielson and Peoples Bank Performance Letter of Credit is only for the public improvement. Mr. Oliphant responded in the affirmative and stated it was extended for six months due an issue obtaining concrete. He thinks the project should be complete.

Mr. Wilkening asked Mr. Oliphant if he had information for the Performance Letter of Credit for Rose Garden Estates, Unit 3. Mr. Oliphant advised they have requested inspections for Unit 1, but have not requested any inspections for Unit 3.

Mr. Wilkening asked if all the amenities and/or assurances for those amenities are being taken care of. Mr. Oliphant commented the PUD Agreement stated they needed to start construction of the swimming pool and community building by the 100th lot obtaining occupancy, if he recalled correctly. He believes they are building the property, but he is not certain. Discussion ensued.

Mr. Wilkening asked if the Maintenance Letter of Credit for Great Oaks Storage Lot would need to be extended. Mr. Oliphant responded it was not likely, and this Maintenance Letter of Credit was for the water main extension.

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

Ms. Dessauer stated she agrees with Mr. Kiepura regarding having a business license for the Town. Mr. Oliphant commented the Plan Commission has discussed having a business license before. Mr. Wilkening stated the license was not going to be for collecting money. It would be for keeping track of businesses in Town.

Ms. Dessauer stated her suggestion is a small registration fee, and as a business owner, has no problems paying for the same. To her it helps keep a business owner accountable, provides the Town the knowledge of the business, and helps provide additional funds.

Ms. Dessauer commented she appreciated the new layout presentation of the packet for the Plan Commission. Ms. Abernathy advised there had been issues with the previous program to display the packets was not functioning properly. Mr. Cliff Wroe had helped provide a new way to display the packets. Ms. Dessauer expressed her thanks for the new layout and commented on the benefits of the new layout.

Mr. Wilkening asked if the layout was going to be the same for the upcoming BZA meeting. Ms. Abernathy responded in the affirmative.

Mr. Richard Thiel, 13212 Wicker Avenue, stated he understood he could not obtain occupancy until the retention pond is complete and asked what needs to be done and if he could provide anything as far as an assurance or surety.

Mr. Oliphant stated the pond needs a new as-built complete and Robb Henn had been advised of this. Withholding occupancy is the remaining leverage the Town has to ensure the property is built as approved.

Mr. Wilkening discussed he believes Mr. Thiel is wanting to provide an assurance or complete the remaining items in order to obtain occupancy. Mr. Oliphant asked Mr. Wilkening to define assurance. Discussion ensued regarding the work left to be completed on the property and the potential of an assurance provided for the cost of the remaining work.

Mr. Austgen advised the owner is required to complete the work due to owning the property. The contractual or post-contractual will need to be handled with the former property owner. Mr. Wilkening commented the property was bought without occupancy being granted.

Ms. Dessauer commented that Mr. Thiel is offering to correct the issue and asking the Commission what to do to make the property right. Mr. Thiel agreed and commented he is relying on someone else to complete something that needed to have already been completed. Ms. Dessauer asked how he could obtain the information he needs. Mr. Oliphant responded he could provide a surety that if it is not complete within a time period, the Town can pull on the surety and complete the project. Mr. Austgen commented that leads back to the cost estimate. Discussion ensued. Mr. Oliphant advised all the remaining items are related to the detention basin; all other requirements have been completed.

Mr. Becker commented on previous discussions had regarding a trailer park that had been closed and what was required of them when they wanted to reopen, and maintaining consistency regarding properties in Town.

Adjournment: Mr. Wilkening adjourned the meeting at 8:53 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 Work Session are transcribed pursuant to IC 5-14-1.5-4(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 Work Session June 1, 2022.