



CEDAR LAKE PLAN COMMISSION PUBLIC MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
June 15, 2022 at 7:00 pm

Call To Order:

Mr. Wilkening called the Plan Commission Public Meeting to order on Wednesday, June 15, 2022, at 7:07 pm with its members attending on-site and electronically. The Pledge of Allegiance was recited by all.

Roll Call:

Members Present via Zoom: None. **Members Present On-Site:** Robert Carnahan; John Foreman; 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:** Heather Dessauer.

1. Minutes – May 4, 2022, Work Session, May 18, 2022, Public Meeting, June 1, 2022, Special Public Meeting and Work Session

Mr. Wilkening entertained a motion for the May 4, 2022, Work Session, May 18, 2022, Public Meeting, June 1, 2022, Special Public Meeting and Work Session. A motion was made by Mr. Kiepora and seconded by Mr. Sharpe for the same. Motion passed unanimously by roll-call vote:

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

2. 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 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.

Jack Huls, DVG Team, present on behalf of the Petitioner, stated they are requesting Final Plat approval for the Lakeview Business Park. Approximately a year ago, they conducted a PUD Rezone and Preliminary

Plat approval. Since that approval, they have constructed the subdivision. With the exception of the light poles, most of the work is done. NIPSCO will be completing the installation of the light poles this week.

Mr. Huls stated they are requesting the Plan Commission approves the Final Plat, with the understanding the Town will be withholding the Final Plat until the Town Council approves the Ordinance and the final PUD Documents. They request approval of the surety amount and it is their intent to finalize the surety after the Plan Commission meeting, in order for the Town Council to act upon the surety at their next meeting.

Mr. Austgen advised at the upcoming Utility Board meeting there will be consideration of the water transfer agreement, which ties into the PUD Ordinance. His understanding is that all the work has been complete and identified in the Town Engineer's letter, which includes the surety amount.

Mr. Wilkening asked if the property is completed with the excavating and as designed. Mr. Oliphant responded in the affirmative and stated the surety amounts would be the maximum reduction of 25%, which would be \$518,795.46 with the 3% inspection fee totaling \$71,801.66.

Mr. Huls advised he would like to discuss the Letter of Credit amount and requests the Plan Commission consider the remaining item is the NIPSCO lighting, who has already been paid for the infrastructure. They have provided receipts as proof of the payment. They are requesting to allow a 10% reduction, which would match a Maintenance Letter of Credit. However, they would be conducting a Performance Letter of Credit at the 10% reduction amount.

Mr. Wilkening asked what NIPSCO has provided as a contractual deadline. Mr. Huls responded NIPSCO is telling them that they will install the infrastructure when they receive delivery of their product. Mr. Wilkening asked Mr. Huls to clarify if they did not have a date for the lighting. Mr. Huls commented they did not. However, the light poles will be going up this week. Discussion ensued regarding reducing the Performance Letter of Credit from 25% to 10%, the hardware of the light poles being installed, and the supply chain problem for NIPSCO receiving conduit.

Mr. Wilkening asked Mr. Oliphant if there were any issues in having the Performance Letter of Credit being reduced to 10% from the 25%. Mr. Oliphant responded in the negative and commented even with the reduction in the Performance Letter of Credit, Letter of Credit will more than sufficiently cover the remaining items.

Mr. Wilkening asked what the amount for the Performance Letter of Credit would be at the 10%. Mr. Foreman responded the amount would be \$207,518.19.

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 for an 18-Lot Commercial and Light Industrial Subdivision and to authorize the Performance Letter of Credit to be at the 10% rate for an amount of \$207,518.19, a 3% inspection fee of \$71,801.66, and to withhold signatures on the Mylars pending the public meeting action at the upcoming Town Council meeting. Motion passed unanimously by roll-call vote:

Mr. Carnahan Aye
Mr. Foreman Aye
Mr. Becker Aye

Mr. Sharpe Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

3. 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.

Ken Peach, Coldwell Banker, representing the Petitioner, apologized for missing the Plan Commission Work Session. They are amenable to the waivers and the additional language added to the Plat as suggested in Mr. Oliphant's letter.

Mr. Wilkening inquired if all information provided to the Commission was submitted by the submission deadline. Mr. Salatas advised the Petitioner had submitted their information by all required deadlines. The only item turned in by Mr. Peach today had been the original hard copies of the white mailing receipts. Discussion ensued.

Mr. Oliphant advised since the proposed Preliminary Plat were already platted Outlots, the dedication of the Right of Way already exists. The recommended waivers are similar to One-Lot-Subdivision residential subdivisions throughout the Town. The comments are ministerial in regards to setbacks, easement locations, and the like.

Mr. Wilkening confirmed with Mr. Peach they were amenable to the waivers listed on Mr. Oliphant's letter. Mr. Peach responded in the affirmative and stated they will have their surveyor include them on the Plat.

Mr. Wilkening briefly discussed the former property that had gone through the platting process in Woodland Subdivision and asked Mr. Oliphant if similar language could be included for this One Lot Subdivision. Mr. Oliphant advised the previous property would have drainage reviewed at Building Permit level, once a Site Plan was submitted.

Mr. Wilkening asked if any motion was made to include the June 10, 2022, letter and language to have the Site Plan reviewed by the Town Engineer at time of permit.

Mr. Becker stated the property at the bottom of the hill had flooding problems this past week, and expressed concern about adding additional buildings and infrastructure until there is a bigger outlet to go out to the lake.

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Mr. Becker asked who would be legally responsible if this was approved and the flooding increases. Mr. Oliphant stated it is their opinion that the addition of one house would be insignificant or the Plan Commission could not opt to waive option 1a on the letter and have detention be provided. Discussion ensued.

Mr. Foreman asked if the reason the Petitioner was requesting the Rezone and Preliminary Plat was for residential purposes and not commercial. Mr. Peach advised they were looking just to have a house built on the property.

Mr. Wilkening discussed the potential of having an additional stormwater review included in any motion made.

Mr. Foreman asked the Petitioner if they would have no issues with the inclusion of additional stormwater review, as it was not included in Mr. Oliphant's letter. Mr. Peach responded in the affirmative.

Mr. Oliphant advised the previous property had a greater impact on the stormwater of the neighborhood. The property for this petition drains to a different low area that will eventually flow to the bottom of the hill. There is also an 8-inch drain tile that restricts the water from this property, which creates a built-in restriction that is upstream of the existing stormwater problem, as such the impact of this property is less than the previous property. For Lake County, they require a rain garden with One Lot Subdivisions, and that could be considered by the Commission. Discussion ensued.

Mr. Salatas advised one of the waivers listed that has not been discussed is the waiver of sidewalks and if it would be granted by the Plan Commission. Mr. Oliphant commented the property will abut a commercially-zoned property, and there is a plan to have a sidewalk along there in the future.

Mr. Foreman asked the Petitioner if their preference was to include a rain garden or to have storm review at time of permit. Mr. Peach responded they would prefer the latter. Mr. Wilkening advised the storm water review could potentially lead to the requirement of a small detention or rain garden. Discussion ensued regarding rain gardens.

Mr. Wilkening commented there would need to be language included to advise the future owner that stormwater would need to be reviewed. Mr. Oliphant advised the language will be incorporated into the minutes that stormwater detention will not be waived and the Stormwater Ordinance will need to be followed.

Mr. Wilkening asked if there was any public comment for or against this petition; seeing none, Mr. Wilkening closed the public hearing for this petition.

A motion was made by Mr. Foreman and seconded by Mr. Kiepura to send a Favorable Recommendation to the Town Council for the Rezone from B-2 to R-2. Motion passed unanimously by roll-call vote:

Mr. Carnahan Aye
Mr. Foreman Aye

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Mr. Becker Aye
Mr. Sharpe Aye
Mr. Kiepura Aye
Mr. Wilkening Aye

Mr. Wilkening asked if there was any public comment for or against this petition; seeing none, Mr. Wilkening closed the public hearing for the Preliminary Plat.

A motion was made by Mr. Foreman and seconded by Mr. Sharpe to approve the Preliminary Plat for the One Lot Subdivision based on the Christopher Burke Engineering Letter dated June 10, 2022, with the denial of the waivers for the Stormwater Detention Basin to be addressed prior to permitting, and Fronting Sidewalk Requirements. Motion passed by 5-Ayes to 1-Nay by roll-call vote:

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

4. 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.

Tony Peuquet, Chester Incorporated, representing the Petitioner, stated they are wanting to combine the two lots they own into a One Lot Subdivision and obtain the Preliminary Plat and Site Plan approval for a property on which they intend to construct an automotive repair center.

Mr. Foreman asked what this parcel is currently zoned. Mr. Wilkening responded it is zoned B-3.

Mr. Foreman asked if they have received approval from the BZA for their required variances. Mr. Wilkening responded they have received their first three variances through the BZA. There is still one item that will need to go through the BZA. Mr. Salatas commented they will be in front of the BZA in July for a Developmental Variance for the lot size. Discussion ensued.

Mr. Salatas advised the Petitioner has provided a business plan.

Mr. Austgen advised the Commission the legals will need to be reviewed and any action would need to be contingent upon legal review.

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Mr. Becker asked if they could act on the Preliminary Plat and Site Plan without the approval of the fourth variance, and if any approval would need to be contingent. Mr. Oliphant responded any approval would need the contingency of the fourth BZA variance approval.

Mr. Becker asked with the needing the fourth BZA approval and the legals needing further review, would it be best to defer this item to the next meeting. Mr. Austgen responded they could, if that was the pleasure of the Commission. Mr. Oliphant noted the May 27th letter is still outstanding and received a resubmittal today.

Mr. Peuquet asked if they could conduct the public hearing before moving on a deferral. Mr. Wilkening stated he would ask for public comment. However, the public hearing will be left open for the next public meeting.

Mr. Wilkening asked if there was any public comment for or against this item.

Elizabeth Paluzzi, 9714 West 133rd Avenue, asked if there would be a visual barrier wall built between their residential property and the proposed business at the property line, instead of a natural barrier due to difficulties in maintenance. Mr. Wilkening advised he understood her concerns. There have been discussions on creating standards for the amount and spacing of arborvitae trees required for screening.

Mr. Oliphant advised the Plan Commission the Petitioner is requesting a waiver for the screening along the north side of the building for two reasons. The first is there is already an existing berm with some foliage. The second is due to the number of utilities in the area. Mr. Wilkening noted the utilities located on the north side of the property is why he had not been in favor of the waivers. He is not certain on allowing for the waiving along the north side of the property. Mr. Lee advised if the screening is required along the north side of the property, they will have it installed. Discussion ensued.

Mr. Foreman asked if the easement was an appropriate size for potential work. Mr. Oliphant advised the Petitioner is expanding the easement, as the existing easement is only 7.5 feet. There should be enough room to work within that easement.

Mr. Oliphant stated any screening would need to be an opaque fence. Mr. Lee advised they were willing to work with the Town and the property owner behind them in the creation of their screening.

Mr. Oliphant advised the water main is located around their property and goes up the west border along 133rd Avenue.

A motion was made by Mr. Becker and seconded by Mr. Sharpe to defer this item to the July Work Session with a continuation of the Public Hearing on July 20, 2022. Motion passed unanimously by roll-call vote:

Mr. Carnahan	Aye
Mr. Foreman	Aye
Mr. Becker	Aye
Mr. Sharpe	Aye

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Mr. Kiepura Aye

Mr. Wilkening Aye

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 legal's are in order.

Mr. Salatas stated Council woman Julie Rivera is in support of this Ordinance. This Ordinance is to prevent animal mills and businesses that would sell animals from animal mills from operating in Town.

Mr. Austgen advised the Town Council requested a public hearing be conducted by the Plan Commission for an amendment to the Zoning Ordinance and for the Plan Commission to review the content to include it into the Zoning Ordinance, with a recommendation sent to the Town Council. The final approval will be from the Town Council after a recommendation is sent by the Commission.

Mr. Wilkening communicated about this being different than is typically handled at the Plan Commission level. However, Council woman Julie Rivera has seen a need for this. Mr. Austgen informed the Commissioners the Town Council had lengthy discussions at meetings from advocates for this legislation to be created and established within the Town. Discussion ensued.

Mr. Wilkening asked if there was any public comment for or against this petition; seeing none, Mr. Wilkening closed the public hearing for this item.

A motion was made by Mr. Kiepura and seconded by Mr. Becker to send a Favorable Recommendation to the Town Council for the Amendment to the Zoning Ordinance for the Human Pet Store Ordinance. Motion passed unanimously by roll-call vote:

Mr. Carnahan Aye

Mr. Foreman Aye

Mr. Becker Aye

Mr. Sharpe Aye

Mr. Kiepura Aye

Mr. Wilkening Aye

6. Beacon Pointe, Unit 4 – Acceptance of the Extension of the Performance Letter of Credit

Mr. Wilkening stated the next order of business was for the acceptance of an Extension for the Performance Letter of Credit for Beacon Pointe, Unit 4.

Mr. Oliphant advised this is for an extension for the Unit 4, which is one of the central portions of Beacon Pointe. Mr. Wilkening asked Mr. Austgen if he had any comments for this item. Mr. Austgen responded this item is ministerial in nature, as long as Mr. Oliphant is approving of the numbers.

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Jack Huls, DVG Team, asked how long the extension was for the Beacon Pointe, Unit 4 Letter of Credit. Mr. Salatas advised the extension request was to extend the Performance Letter of Credit to December 11, 2022.

Mr. Huls stated his understanding was when a Letter of Credit approaches expiration, it is added as an Update Item to the Plan Commission's agenda to increase awareness for the same.

Mr. Wilkening commented there had been a request in the year prior for an extension for this Letter of Credit. Mr. Huls stated his understanding was the extension was for a year and it was to expire in December 2022. Thus, there is no further action needed until they approach the expiration deadline. Ms. Abernathy advised there had been an extension request in December 2021 for six months. The current request is for another six-month extension, to set an expiration date for December 11, 2022. Discussion ensued.

Mr. Wilkening advised there had been a pull date set and the extension request came in before the pull date, thus alleviating the need to pull on the Letter of Credit. This item is present tonight due to the initial motion to set a pull date. Mr. Huls commented the Plan Commission had approved the amount and created a pull date. There had not been discussion of the extension being provided back to the Plan Commission. Mr. Austgen advised this is being discussed to allow for transparency, and the extension still needs approval from the Town Council. Discussion ensued.

Mr. Foreman noted Letters of Credit and extensions happen with the Plan Commission before going to the Town Council, where it is then approved.

Mr. Austgen advised any motion would need to be a recommendation to the Town Council.

A motion was made by Mr. Becker and seconded by Mr. Foreman to send a Favorable Recommendation to the Town Council for the acceptance of the Extension for the Performance Letter of Credit for Beacon Point Unit 4. Motion passed unanimously by roll-call vote:

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

Update Items:

6. KNR Lakeview 2-Lot Subdivision – Performance Letter of Credit

Mr. Wilkening stated the first order of Update Items to be discussed was for KNR Lakeview 2-Lot Subdivision and asked what was still needed. To his understanding, the Mylars have been provided to be signed.

Jack Huls, DVG Team, advised his understanding was they approved the Final Plat with two conditions. The first being the house will be demolished prior to the signing of the Mylars, which has been completed. The second portion was to include Mr. Oliphant's letter, which referenced a Letter of Credit.

Mr. Wilkening asked if there was anything else that needed to be completed to finish the project. Mr. Foreman commented he did not think there was anything left to be completed and Mr. Salatas noted the only remaining item was the acceptance of the Performance Letter of Credit in the amount of \$4,430.25. Ms. Abernathy advised Mr. Perez paid the 3% inspection fee earlier in the day.

Mr. Huls inquired if there was the intention to sign the Mylars at the end of the meeting. Mr. Wilkening responded in the affirmative.

Mr. Wilkening stated there was not a need to vote on the approval of the Performance Letter of Credit. Mr. Huls asked for clarification in regards to that point. When a recommendation letter from Mr. Oliphant is created and incorporated into the motion for Final Plat approval, the Performance Letter of Credit is then provided to the Town upon completion, would the Performance Letter of Credit need to come back in front of the Plan Commission for approval. Mr. Foreman responded in the negative. Discussion ensued.

Ms. Abernathy asked for clarification that when a Performance Letter of Credit is submitted, it should be sent to Mr. Oliphant and Mr. Austgen for review, and then to Mr. Salatas to be placed on the Town Council agenda and not on the Plan Commission agenda. Mr. Austgen responded in the affirmative.

1. Building Regulations & Fee Amendment

Mr. Salatas advised the Building Regulation and Fee Amendment was still being worked on.

2. Melody Hill Marina

Mr. Wilkening asked if there was anybody present to speak on this item. Ms. Natalie Sumara, present on behalf of the property, stated she and Ms. Caroline Sumara were co-owners of the property and discussed the history that created the name change.

Mr. Wilkening commented there had been discussion at the last Plan Commission meeting regarding the future business plan, developmental standards, and the like. There are two businesses located on one property, and nothing has been provided for the proposed plans. It had been the recommendation from Mr. Austgen that the plans be shared to allow for discussions to be had.

Ms. Sumara stated how the property is being currently run was how the property had been being run since her parents purchased the property. Mr. Wilkening discussed a diminishing in the property in the 1990s, with removal of sewer taps and demolition of houses. Ms. Sumara noted they had removed 8 houses.

Mr. Wilkening noted the property appears to be residential in use, with a bar, and a marina operating off of the property. It is probable that the property is in violation of developmental standards in regard to there being two businesses on one property with no improvements. The DNR Permit has language that does not exclude the property from the local government's requirements.

Mr. Foreman advised he inquired about the zoning of the property, and it is currently zoned MZ, with the zonings for the property being zoned B-2 and RS. As such, their zoning has not changed from the original zoning. Mr. Foreman expressed his thoughts were once the decisions had been made to build the new business, then the property can be discussed by the Commissioners. Discussion ensued.

Mr. Becker asked if there was a public bathroom for the marina. Ms. Sumara responded in the negative.

Ms. Sumara explained they had extended the pier. The current pier is 350 feet, which is the same size as the pier was when the property was purchased by her property. There had been discussions from the DNR about removing the pier, and she had submitted a letter and photographs on behalf of her father showing the pier being in existence, which allowed for the pier to remain. They requested to add fingers off of the pier, and when they submitted that request, the State had reclassified the property as a marina. They have not made any changes to the business operation.

Mr. Wilkening asked Mr. Austgen if there was just cause to discuss Melody Hill Marina at the Plan Commission based on the information discovered. Mr. Austgen advised from his review of the Town Records, it is his impression there has been a change in use and there is the potential of the increase of in the use of the property. Discussion ensued.

Mr. Wilkening commented there had been a reduction in the use of property, which to him made it lose its classification as a resort. Ms. Sumara invited Mr. Wilkening to come to the property and she would give him a tour.

Mr. Kiepura asked if the property was zoned correctly for their operations. Mr. Austgen advised it would not just be the current zoning that would need to be examined, there would need to be a review of the zoning in place when the business began operations, and the maintenance of the usage. If there has been a continuity of use, the continuity of use allows for continuation of the use from a legal perspective.

Mr. Kiepura stated his impression from the last meeting was for a list to be provided of items that are not in compliance with the Zoning Ordinance. They should not pursue this any further, until said list is provided and determination made on which Board or Commission the property owners should appear at.

Mr. Carnahan agreed with Mr. Foreman and expressed concerns the discussion would then cause other businesses to be evaluated that have expanded and who do not have current developmental standards. Discussion ensued.

3. Larson Danielson/Peoples Bank – Performance Letter of Credit Expires August 9, 2022

Mr. Oliphant advised there should be no issues with the Performance Letter of Credit for Larson Danielson/Peoples Bank. They are currently finishing the concrete.

4. Rose Garden Estates, Unit 3 – Performance Letter of Credit Expires August 22, 2022

Mr. Oliphant advised this is similar to Unit 1 and 2.

Mr. Foreman commented he has received phone calls from individuals in this neighborhood with complaints about the builders. He had advised one homeowner he would talk to Mr. Salatas. Mr. Salatas advised he would need to know the nature of the complaint to determine if it is a civil matter or not.

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Mr. Wilkening stated he had commented previously on, ensuring all the amenities the builder stated they would provide are completed before this subdivision is built out. Mr. Oliphant advised they have started some of the amenities. They reviewed the plans for it last year. He is unsure on the building status of the projects.

Mr. Oliphant advised currently all three Performance Letters of Credit are still active and at their original amount. The amount for all three Letters of Credit is close to \$9 million.

Mr. Austgen advised he is working with Attorney Wieser in regards to the water reimbursement agreement.

5. Great Oaks Storage Lot 1 – Maintenance Letter of Credit Expires September 4, 2022

Mr. Oliphant stated this is related the water improvements, and Public Works has been advised to complete their final inspections.

Public Comment: None was had.

Adjournment: Mr. Wilkening adjourned the meeting at 9:04 pm.

TOWN OF CEDAR LAKE PLAN COMMISSION

John Kiepora, Vice-President

Richard Sharpe, Secretary

Greg Parker, 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 Public Meeting June 15, 2022.