



CEDAR LAKE PLAN COMMISSION WORK SESSION MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
August 3, 2022 at 7:00 pm

Call To Order:

Mr. Kiepura called the Plan Commission Work Session to order on Wednesday, August 3, 2022, at 7:10 pm, directly following the Special Public Meeting, with its members attending on-site.

Roll Call:

Members Present via Zoom: None. **Members Present On-Site:** Robert Carnahan; John Foreman; Heather Dessauer; Richard Sharpe, Secretary; Chuck Becker; and John Kiepura, Vice 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.

New Business:

1. Oak Brook – PUD Amendment

Owner/Petitioner: Cedar Lake Residential Inc., 8900 Wicker Avenue, St. John, IN 46373

Vicinity: 10918 West 129th Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the first order of business for the Work Session was for a PUD Amendment by Petitioner Cedar Lake Residential Inc. to amend the existing PUD Plan to allow the substitution of the development entity from Cedar Lake Residential LLC to Cedar Lake Residential Inc. for the property located in the vicinity of 10918 West 129th Avenue.

Mr. Jack Slager, Schilling Development, representing the Petitioner, stated their in-house counsel had communicated with Mr. Austgen and Mr. Salatas regarding this matter. When the original PUD was approved in 2019, there had been a stipulation included in the documents that the PUD Zoning designation would revert back to R-1 Zoning Classification if the legal title of the real estate is transferred from Cedar Lake Residential LLC before development of the first phase of the subdivision.

Mr. Slager discussed he believed the intent of including that language was to prevent them from obtaining the PUD Zoning Classification and selling the property to another developer. However, as they are approaching the Final Plat for the first phase, their accountant advised them the property needs to be in an S-Corporation versus an LLC. As such, they are transferring the title from the LLC to the S-Corporation, with the ownership remaining the same.

Mr. Slager stated they were wanting to ensure that with the transfer of the title from their LLC to the S-Corporation, they would not be violating the PUD Agreement.

Mr. Austgen advised the Plan Commission this has been discussed with Mr. Salatas and Attorney Hunt, and everything is order for this.

2. Oak Brook – Final Plat – Phase 1

Owner: Cedar Lake Residential, LLC, P.O. Box 677, St. John, IN 46373

Petitioner: Schilling Development, 8900 Wicker Avenue, St. John, IN 46373

Vicinity: US 41 Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business was for the Final Plat for Phase 1 of the Oak Brook Subdivision, which will be 28 Lots and 2 Outlots, by Petitioner Schilling Development for the property located in the vicinity of US 41.

Mr. Jack Slager, Schilling Development, representing the Petitioner, stated they will be requesting the Final Plat for the first section of Oak Brook. This will include the entrance off of 129th Avenue, and will contain cottage homes, duplexes, and the large single-family house off of 129th Avenue. They have installed most of the infrastructure, the lime for the streets was installed earlier in the day. They will complete installation of the roads in the next couple of weeks.

Mr. Foreman asked if they have has discussions with Mr. Goff. Mr. Slager responded in the affirmative. Mr. Foreman advised he has had some complaints about a lot of dust and equipment being dropped off late at night, and asked if they could discuss with their contractors about being mindful of the neighbors. Mr. Slager agreed to the same.

3. Beacon Pointe – Unit 6 – Final Plat

4. Beacon Pointe – Unit 7 – Final Plat

Owner/Petitioner: Beacon Pointe of Cedar Lake LLC, 8900 Wicker Avenue, St. John, IN 46373

Vicinity: 13830 Parrish Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business was for the Final Plat for Beacon Pointe Unit 6 by Petitioner Beacon Pointe of Cedar Lake LLC for the property in the vicinity of 13830 Parrish Avenue.

Mr. Jack Slager, Schilling Development, representing the Petitioner, advised he could discuss the Final Plat for both Beacon Pointe Unit 6 and Unit 7, simultaneously. The Plan Commission agreed.

Mr. Slager stated they began work on Beacon Pointe West approximately a year ago with Phase 5, which gave the entry to the neighborhood off of Parrish Avenue. Phase 6 will be 18 lots and Phase 7 will be 26 lots, for a total of 54 lots, all of which are single-family lots. These Phases will extend the road in and up.

Mr. Kiepura asked if this would be the last phase. Mr. Slager responded they will have one additional phase. The final phase will be by Utopia and they are anticipating doing Phase 8 the following year.

Mr. Kiepura asked when the connectivity will be provided to Summer Winds. Mr. Slager advised the connectivity will occur with the final phase of Centennial Villas from Olthof which will provide the connecting road. Utilities and water main have already been connected and is looped. Discussion ensued.

Mr. Kiepura asked Mr. Oliphant if he had any comments at this time. Mr. Oliphant responded in the negative and advised he was working through the review.

4. Dykstra's 1st Addition – Final Plat for a One (1) Lot Subdivision

Owner: R&R Properties / Rich Dykstra; 11003 Lake Central Drive, St. John, IN 46373

Petitioner: Rich Dykstra; 11003 Lake Central Drive, St. John, IN 46373

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. Kiepura stated the next order of business was for a Final Plat for a One Lot Subdivision by Petitioner Mr. Rich Dykstra for a property located in the vicinity of approximately 200 feet west of Morse Street, on the north side of 136th Place - Woodland Shores Add Pt. of Outlots I & J.

Mr. Ken Peach, Coldwell Banker, representing the Petitioner, stated he believes they have everything in order and are ready to move forward with Final Plat. Mr. Oliphant agreed the Final Plat is in order and stated there had been approval of the waivers of Park Dedication and Tree Placement, they did not approve the waivers of Stormwater Detention and Sidewalk, which will be determined at Building Permit.

Mr. Becker asked who would control the rain garden. Mr. Oliphant stated it would be a private rain garden located on the lot. It would be the responsibility of the homeowner to keep the rain garden functioning.

Mr. Austgen inquired what would happen if the rain garden is not maintained. Mr. Oliphant discussed a typical detention basin is located within an easement. However, this case is different as there are not Outlots and the location of the rain garden is currently not determined. A note could potentially be added onto the plat. Discussion ensued.

Mr. Kiepura asked if the Final Plat would include language that the rain garden is to be maintained by the owner. Mr. Austgen responded in the affirmative. Mr. Oliphant commented the language would include for the owner to maintain the rain garden in perpetuity. Discussion ensued.

Mr. Parker asked if the house became foreclosed, and no one was maintaining the rain garden, is there a mechanism for the Town to maintain the rain garden at that point. Mr. Oliphant discussed that mechanism is in place for shared use detention basins. With a single use, it would be difficult.

Mr. Peach stated his impression had been they would examine the impact of the structure at the time a Building Permit was pulled. Mr. Oliphant advised the volume that would be required for a One Lot Subdivision would be minimal. Mr. Austgen discussed pro-forma calculations can determine what impact the size of a house could have on the lot. Discussion ensued.

Mr. Kiepura asked if they would need to specify what would be needed for a rain garden. Mr. Oliphant commented they could reference the current Stormwater Ordinance. There is not a rain garden section of that Ordinance; however, it does contain a section on stormwater detention.

Mr. Austgen advised there will need to be an identification of conditions to ensure that they are enforceable.

Mr. Kiepura asked if Mr. Oliphant would put together the identification of conditions for the plat. Mr. Austgen responded it is the Petitioner's responsibility. Mr. Peach stated he would like to have Mr. Oliphant's guidance on what to put on the Plat. Mr. Austgen discussed Mr. Oliphant's reviews are completed for the Town. As the Petitioner requesting the One Lot Subdivision, it is his responsibility to carry the burden. Mr. Oliphant is available to review, not design. Discussion ensued.

Update Items:

1. Building Regulations & Fee Amendment

No update was provided.

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

No further discussion at this time.

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

Mr. Oliphant advised the Plan Commission that Public Works has informed him that everything appears to be in good working order with the water main, and this letter should be able to lapse.

Mr. Austgen asked if Mr. Oliphant could provide that documentation in writing. Mr. Oliphant agreed to the same.

4. Birchwood, Phase 1 – Performance Letter of Credit Expires October 5, 2022

Mr. Oliphant stated this will likely rotate into a Maintenance Letter of Credit. His understanding is they will be paving Phase 1, and potentially Phases 2 and 3, by the end of the week. They will need to post final signage and will be coming in front of the Plan Commission for acceptance of the conversion from Performance Letter of Credit to Maintenance Letter of Credit.

5. Rose Garden Estates, Unit 1 – Performance Letter of Credit Expires October 14, 2022

Mr. Oliphant advised this Letter of Credit is still ongoing, and will require field inspections.

Mr. Kiepura inquired if the original list of work needing to be done is still being worked through. Mr. Oliphant responded in the affirmative. Currently, all three of their Letters of Credit are still posted in full, and Phase 3 has just been renewed.

Ms. Dessauer asked if they had any additional phases to plat. Mr. Oliphant responded in the negative and stated they are working in the last phase, presently. Discussion ensued.

Mr. Kiepura stated he did not feel that they should grant any reductions in the Letters of Credit until they complete the punch list provided for Phase One. Multiple members of the Plan Commission agreed with this statement.

Mr. Parker asked Mr. Oliphant to advise the developer the Plan Commission is not currently inclined to grant any reductions.

6. Off Shore Estates – Performance Letter of Credit Expires October 30, 2022

Mr. Oliphant stated at their last meeting, the Plan Commission approved the waiver for the 80% buildout requirement for the hot mix asphalt. He does not believe that work has been completed yet. If the top layer of asphalt, street lights, and signage is completed by October 30, 2022, the Performance Letter of Credit will be able to be converted into a Maintenance Letter of Credit.

7. Nyby Development Corp. – Preliminary Plat for One Lot Subdivision & Site Plan

Mr. Salatas stated this is still an Update Item, and they will appear in front of the BZA at their next meeting for the final variance required for the project to move forward. Mr. Kiepura noted the final variance item they need is lot size. Mr. Salatas confirmed the same.

Mr. Kiepura discussed the application being turned in prior to the change of the Ordinance. Mr. Becker commented it was submitted afterwards. Mr. Kiepura stated the first application had been received on February 24, 2022 in the literature provided to the Commissioners. It had been after the Ordinance change, they had been advised they needed to comply with the current Zoning Ordinance, requiring the need for a Developmental Variance for lot size.

Mr. Salatas stated while one of the outstanding issues is the lot size, they submitted their BZA application in April. Town standards require that submittals are complete, not attempting to get in before the change in Ordinances, with applications submitted after the change in Ordinance. The Petitioner should have been aware of what Variances would need to be required under the previous Zoning Ordinance, and submitted it with the Plan Commission application in February.

Mr. Foreman asked if they submitted the Plan Commission application in February due to knowing the Zoning Ordinance was going to change. Mr. Parker stated that is how it appears. Mr. Salatas commented on the same and discussed his assumptions.

Mr. Austgen stated this is an important item on the next BZA agenda, and a determination will be made at that time. The Commissioners discussed the Developmental Variance in front of the BZA and the Petitioners complying with all other request and approval of first Developmental Variances dependent upon the final Developmental Variance.

Ms. Dessauer inquired what the three original Developmental Variances the Petitioner has received were. Ms. Abernathy stated they received a variance for parking in the front yard setback, reduction of rear yard setback and side yard setback on the west side of the property.

Mr. Kiepura commented some confusion is due to with the timeline, with the Petitioner beginning in February. If there is a clearer understanding of the timeline, it would be beneficial. Mr. Salatas advised a timeline of events can be drafted for the item.

Mr. Parker stated he is unaware of the hold up at the BZA. His assumption is that lot size is not a hardship. Mr. Kiepura stated the thoughts of some members of the BZA were if the lot size was changed in the Zoning Ordinance, why should a Developmental Variance be granted for a lot size smaller than the allowable lot size. Discussion ensued at length.

Discussion occurred regarding the process of updating the Zoning Ordinance.

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Ms. Dessauer inquired about what occurred with the Gard Building. Mr. Oliphant advised they have received an updated as-built, and it is being reviewed.

Ms. Dessauer asked if the building still does not have occupancy. Mr. Oliphant commented he was unsure if he had received occupancy or not. There had been discussion of a surety being provided; however, he is uncertain if one was provided. Discussion ensued.

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

Mr. David Lee, Nyby Development, discussed when he began initial discussions with Town Staff and discussed at length his version of the timeline related to his property, including when he filed his initial Plan Commission application, the first BZA application, and when he had been advised about needing a variance for the lot size.

Mr. Austgen advised Mr. Lee the Plan Commission cannot assist him, and they will need to await determination at the BZA.

Mr. Parker stated he appreciated the work and time they've done and commented his view of the project. Mr. Parker advised his thoughts were not likely to change due to having been a member of the Plan Commission and Town Council when the revitalization process was occurring with the Town. Discussion ensued at length.

Mr. Lee discussed the style of building they plan on constructing.

Mr. Foreman asked if they had any discussions with former Town Manager Rick Eberly. Mr. Lee responded they only had conversations with Ms. Jill Murr.

Further discussion ensued regarding the 133rd Corridor and the timeline of the Nyby Development Petition.

Adjournment: Mr. Kiepura adjourned the meeting at 8:01 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 Work Session August 3, 2022.