



CEDAR LAKE PLAN COMMISSION WORK SESSION MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
MARCH 1, 2023 at 6:00 pm

Call To Order:

Mr. Kiepura called the meeting of the Plan Commission Work Session to order on Wednesday, March 1, 2023 at 6:01pm, with its members attending on-site. The Pledge of Allegiance was said by all.

Roll Call:

Members Present: Robert Carnahan, Member; John Foreman, Member; Richard Sharpe, Secretary; Greg Parker, Vice President; John Kiepura, President. A quorum was attained.

Members Present Via Zoom: none

Also present: Don Oliphant, Town Engineer; Chris Salatas, Town Manager; David Austgen, Town Attorney; Ashley Abernathy, Planning Director; and Cheryl Hajduk, Recording Secretary.

Absent: Heather Dessauer, Member.

Work Session:

1. Railside – Rezone and Preliminary Plat

Owner: Henn Holdings, LLC, 10702 W 141st Avenue, Cedar Lake, IN 46303

Petitioner: Vis Law, PO Box 980, Cedar Lake, IN 46303

Vicinity: 10702 W. 141st Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the first order of business is for a Rezone from Agriculture (Ag) to a PUD and a Preliminary Plat for a 29-Lot Subdivision.

Mr. Nathan Vis, Vis Law, stated we are close to getting public notices out and having the hearing at the next public hearing. There is a rough draft of the Protective Covenants, Proposed Final Development Agreement and a Proposed Final Planned Unit Development. There are three outlots located on this proposed development which were going to be used for stormwater with these being taken over and maintained by the Development Association.

We have created a set of Covenants to protect the development as well as to protect the Town. These Covenants are to create an Association that is run by the Developer that will be turned over to the lot owners. The purpose of this Association is to be able to extract assessment fees from the 28 lot owners to pay for the maintenance of outlots A, B and C and related to stormwater infrastructure. The 28 lot owners must maintain these outlots and pay for it. We have included language in these proposed covenants that says “if ever the Town of Cedar believes that the Association is not maintaining these outlots to the standards that are required, they have the ability to put the Association on notice.” If that fails, then the Town can step in and take appropriate action and bill the land owners for any action taken. There is replicated language within the PUD about outside storage and it references landscaping and how the lot owners are supposed to

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maintain their ownership. In discussions with Mr. Oliphant and Mr. Austgen, we have written in the Covenant, the Association has the ability to go back after that lot owner to make sure when the Town receives the roadways, it is getting a proper roadway that is built pursuant to specs.

The Development Agreement, has a minor change showing 28 commercial lots within the Development. We have clarified the language as to the timing of when the bond and maintenance letter need to be posted, as well as, cleaning up the language Mr. Oliphant wanted as to when Henn Holdings can request a reduction upon all required inspections, test dates and as-builts. The last change had a reference for stormwater credits, but the section we had initially referenced required the stormwater be tied to a public waterway or drainage ditch of some form. We referenced a separate section of the code that still allows my client to seek credits for stormwater infrastructure.

Mr. Oliphant had items in the PUD that were identified and reviewed, it sought that we specifically enunciate what section the code was referenced for landscape plan, signage and lighting plan. This is now within the document. We anticipate on the B-3 lots or on the M-1 zoning, it may be where people want to put multiple uses on one lot, but in the PUD, they can engage in multiple uses on one lot so they do not need to come back to the Plan Commission or the Board of Zoning Appeals.

There have been discussions regarding maximum building area lot coverage. We would like to have a 65% building and structure lot coverage area. This is subject to Engineering review for stormwater drainage or any particular items affecting the properties. There will be an agreement on the language between Mr. Oliphant, our Engineer, and the Developer.

The map shows the proposed layout regarding Minimum Front Yard and on lots 1 and 2, those are the B-3 lots which abut at 141st Avenue and a business may want to put their parking lot close to that roadway, but we have proposed that the parking lot or building can be as close as allowed, but The Town of Cedar Lake Engineer would be involved with the configurations.

There has been clarification regarding side yards and how close parking lots and storage lot areas can be for the side yards as well as how close the building could be. For B-3 zones, a side yard may begin within 10 feet from the side lot edge and then for the parking lot as well. For the M-1 zone, a side yard can be 15 feet from the side yard edge.

Mr. Vis discussed potable water and easements throughout the development. We are proposing in the PUD there will be a hedge green row to separate their property and a residential property. Mr. Oliphant stated it would be allowed and can be resolved in the PUD.

One of the items Mr. Oliphant referenced was the west side (lots 16 down to lot 2) and there is the easement running along the western edge which is about 15 to 20 feet and then on the eastern side along the railway, there are a variety of swales and other drainage easements. We would like to put a parking lot as far back as possible. Mr. Oliphant wanted language stating "any setbacks are subject to any easements located on any of these properties." This language has been put in the PUD.

There are a couple of lots that are adjacent to the outlots with no businesses next door and no residential; we are proposing that a parking lot or building areas can be close to the water areas for the owners to maximize their lot space.

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We have updated the stormwater collection system both referencing the ten year and the detention pond size for 100-year event.

Mr. Austgen asked if there was site plan coverage. We have one opportunity with careful review of the documents to make sure this is right. Mr. Austgen discussed the potential of seeing how a proposed building would be laid out. Especially, with the request for 65 percent lot coverage, which has not been asked for in the past. Additionally, there is an issue of assurity. Why is there a necessity for a change in that term needs to be this project as opposed to others. There was a position in the past to pursue assurity in the times of non-compliance or incompleteness. What is the justification and consideration that would warrant in this project.

Mr. Vis discussed the engineering document was submitted with all of the setbacks and were outlined. We will get it sent to the Commission for review. The Engineering submittals are the setbacks and swales that are shown. Some of the lots are significant on the east side.

Mr. Vis stated his clients want to break ground as soon as there is approval and to have public infrastructure done hopefully by this Fall.

Mr. Oliphant commented the assurity bond is not any different than what we require. The difference would be the final surfacing before the lots are constructed. All of the other requirements have been revised to be in accordance of what we require, 110% for Performance Letter of Credit and for maintenance at 25% for three years. Everything is contingent on satisfactory compliance with testing. We are not deviating from the requirements minus the 80% standard.

Mr. Kiepura asked if the roadway gets damaged, would the owner be notified it was damaged. Mr. Vis stated we will be allowed to put a final top coat on, realizing if someone damages the roadway before we transfer ownership of the roadway over to the municipality; we want it in good shape. We would want my client to go back to the involved construction owner and the person that damaged to pay for it. Mr. Oliphant commented that language needs to be reviewed because what leverage does the Town have to enforce it. Discussion ensued.

Mr. Foreman asked if this would be in the TIF District off of US 41 or would we have to incorporate this separately. Mr. Austgen stated that it is incorporated. Discussion ensued.

2. L & L Capital Assets, LLC – Concept Plan

Owner/Petitioner: L & L Capital Assets, LLC, 11125 Delaware Parkway, Crown Point, IN 46307

Vicinity: 13310 W. 133rd Drive, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is Petitioner is requesting a Concept Plan for a Rezone from R-1 to R-T.

Mr. Brad Lambert, L & L Capital Assets, 11125 Delaware Parkway, Crown Point, IN, and Mr. Eric Lindemulder, PO Box 2009, Cedar Lake, IN, stated we are no longer requesting a rezoning from R-1 to R-T. We are seeking to do two single family homes on the lot and a side yard variance on the corner lot and a front yard variance. Mr. Kiepura asked if they have to file new paperwork. Ms. Abernathy stated the Board invited them to come back this month with a Concept Plan.

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Mr. Foreman asked if the zoning would need to be changed based on the lot size. Discussion ensued and Mr. Salatas stated R-2 would fit better. Ms. Abernathy commented they would need a Developmental Variance if they want to keep it R-1. If they split this equally in half, it would be 12,490.5 square feet each and 15,000 square feet is the requirement for R-1. Discussion ensued regarding the lot sizes.

Mr. Parker asked if the R-1 to R-2 is on the same precedent with the zoning map. Mr. Austgen commented we are in the technical sense. We are finding a balance in the available land area to make this work. Discussion ensued.

Mr. Foreman asked should the zoning be changed. Ms. Abernathy stated there would need to be a Development Variance to allow for a reduction in lot size from a R-1 zoning classification which for the interior lot would be 15,000 square feet and for the corner lot 16,500 square feet is required if the zoning did not change. There would need to be a variance for the side yard setback off of 133rd Drive and the rear. Discussion ensued regarding setbacks.

Mr. Parker asked does this meet the definition of a hardship for a variance because they want to build two houses. Mr. Austgen commented this includes the lay of the land, the contours of the property of what they need to rely on.

Discussion ensued regarding rezoning and what the best choice would be. Mr. Lambert commented they will discuss R-2 with their Engineer and make our site plan; then plan to go in front of the Board of Zoning Appeals. Ms. Abernathy stated they need to apply for the BZA and Plan Commission at the same time, so that way it is running concurrently.

Mr. Carnahan commented the re-zone goes to the Plan Commission with a recommendation to the Town Council.

Mr. Austgen advised another option is having a R-2 Planned Unit Development. Ms. Abernathy commented we took out the ten-acre requirement and any size property can be a PUD. Mr. Parker commented we have not had enough discussion on whether the Commission wants to be inviting PUDs anymore. Discussion ensued regarding PUDs.

3. 2023-01 Culver's - Site Plan

Owner/Petitioner: Cedar Lake RE LLC, John Ryan Terpstra, 11131 Fairbanks Ct.,
Crown Point, IN 46307
Vicinity: 9717 W. 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepora stated the next order of business is Petitioner is requesting Site Plan approval for a new restaurant.

Mr. John Terpstra, 11131 Fairbanks Ct., stated that Mr. Oliphant sent over his comments and these comments will be addressed and we will get revised plans done. We do have a concurrent application for certain variances from Developmental Standards and those are parking in the front yard setback, outdoor dining, electronic message board sign, total signage area, and a pylon sign within 10-feet of front yard setback. Those are the five variances from the Developmental Standards we are applying for.

The detention easement was noted over the underground storage area for stormwater run off because we have a large impervious area on this lot. We will implement storage underground for the stormwater runoff.

Mr. Carnahan asked where this is and what the plans are. Mr. Terpstra commented the Culver's will be located at 9717 W. 133rd Avenue. We are going to demolish the building that is there now and develop a new restaurant. There will be two points of ingress and egress and the recommendation is that the eastern most ingress and egress that will go onto 133rd be exit only. Discussion ensued regarding the driving lanes and flow of traffic. There is a recommendation in Mr. Oliphant's comments that have diagonal parking on the east side of the parcel, just outside the drive thru window, the recommendation is the northern most parking spot be deleted and there would be more free flow of traffic for pass through and emergency vehicles. There is a recommendation for the signage at the ingress and egress points if it's placed in the easement to have black powdered coated pylons and a black surround. Culver's franchising system has specific brand coloring and marks. There is a mention of an increase from .93 to .98 impervious surface and if the impervious surface is increased, there are some added requirements. Discussion ensued regarding impervious surfaces.

Mr. Parker asked what the issue is with the signs; is it because of the Zoning Ordinance. Mr. Oliphant stated over the last couple of years they have been replacing signs in the right of way that have a black powdered decorative post. Discussion ensued regarding signage.

Mr. Austgen asked is there enough time for this to be on the Public Agenda in two weeks. Mr. Terpstra responded in the affirmative and enough time to get notices out. We would be also fine with a deferral without having to come in, but we plan on going in front of the Board of Zoning Appeals for the variances. Ms. Abernathy commented the site plan does not go through public hearings; they are just on the public agenda for consideration. There is no opening to the public hearing for remonstrance. The public hearing will be at the Board of Zoning Appeals.

4. 2023-02 – Monestary Woods North – Concept Plan

Owner: Frank Morin, New Century Development, 2036 W 81st Ave Ste B., Merrillville, IN 46410

Petitioner: Chip Krusemark, Olthof Homes, 8051 Wicker Ave, St. John, IN 46373

Vicinity: 9727 W 138th Ave, Cedar Lake, IN 46303

Mr. Kiepora stated the next order of business is Petitioner is requesting a Concept Plan to re-instate the Preliminary Plat for the Monestary Woods Subdivision.

Mr. Chip Krusemark, Olthof Homes, 8051 Wicker Ave., St. John, IN, stated the property we are talking about is 32 acres of land and approximately 90 lots on the North side of 129th Avenue. We would like to re-instate the preliminary plat and develop this plat of how it was originally laid out, with some update to engineering.

Mr. Carnahan asked who is the Homeowner's Association. Mr. Krusemark responded Monestary Woods Association. Mr. Foreman commented the North side of 129th Avenue is a separate HOA than the South side.

There was a request by the city to start with the east side off of Carey, because to the East there are sewer issues. There was a request made that when Mr. Morin developed this the utility easement would be placed down some of the lot lines so that the utility feed can be made to that

property to the east. We would like to start this project this summer. Discussion ensued regarding the lots in this subdivision.

Mr. Kiepura asked if there would be a problem re-doing the old plat. Mr. Austgen commented it is discretionary with the Plan Commission on the proper presentation and satisfaction of technical engineering. Mr. Oliphant stated we need to look at all of the ordinances because they have been updated.

Mr. Krusemark commented we want to keep the layout, dimensions, and the lot sizes the same so we don't have to re-engineer.

5. 2023-03 – Obadiah Taylor – Vacation of Subdivision

Owners/Petitioners: Michael & Nanci Shander, 3452 Sally Dr., Steger, IL 60475 & Batz Enterprises, LLC, 7329 McConnell Ave., Lowell, IN 46356
Vicinity: 13221 Colfax Street, 13131 Colfax Street, 13137 Colfax Street, & 13177 Colfax Street, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is Petitioner is requesting a vacation of the Obadiah Taylor Subdivision.

Mr. Eric Neff, Law Offices of D. Eric Neff, P.C., stated we have filed a petition to vacate the subdivision pursuant to Indiana Code, Section 36-7-3-10 and in accordance with your form. My clients bought Lots 2, 3, and 4, and their intention was to build a house there. The Town will not issue a building permit unless they pay to have a sidewalk and a road put in. Batz Enterprises, LLC is in Lot 1 of this subdivision and they signed the petition, as well. They are asking for relief to vacate the subdivision so they have the ability to make improvements and build their house.

Mr. Foreman stated he thought the solution was they put their driveway in beginning of Lot 2 and they would have an address. They wanted Lots 2, 3, and 4 all one subdivision.

Mr. Parker asked if they vacate the subdivision, does it go back to a metes-and-bounds parcel. Mr. Austgen responded in the affirmative. Mr. Oliphant stated there are waivers.

Mr. Parker asked do they need a one-lot subdivision for a building permit. Mr. Austgen responded in the affirmative. The road can be handled with a private drive. Mr. Oliphant stated it is a public roadway and there are other parcels on the other side. Discussion ensued regarding the road at Lot 2.

Ms. Abernathy stated we have required if the road is not extended all the way to the end of their lot and they build a new home, then they are required to follow the Subdivision Control Ordinance and extend the utility and road to the end of the buildable lot and in their case would be Lot 4. Discussion ensued.

Mr. Oliphant stated we changed the zoning code to take away the width of a road because a lot of the right-a-ways were narrow and cannot fit a full roadway width, but we never varied against the actual construction of the road. Discussion ensued.

Mr. Foreman asked if they would need to go through the BZA process. Mr. Oliphant stated they would need Engineering waivers, subdivision waivers. Ms. Abernathy commented their contractor was in front of the Plan Commission last April and the direction provided at that time had been to

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go for a one lot subdivision, get a list of all the waivers they would be requesting from Engineering and come back in front of the Plan Commission to request the waivers and talk about where they were extending the building and putting language on the plat that if they ever sold to whoever would purchase in the future would have to extend. If there is a vacation, there are two owners and they are vacating it and now there is a metes-and-bounds, then there are three owners for one metes-and-bounds lot. Then it would have to be re-subdivided and then they lose all the waivers that were given in October, 2016 for sidewalk, curb and gutter, access point, road width, right-of-way width, existing roadway, not just town standard, lot frontage, stormwater detention, rear yard drainage. They will have to request all that again and it would have to be granted again. The Board has not been lenient granting sidewalk, curb and gutter.

Mr. Parker asked if it goes back to metes-and-bounds, then it goes back to a pre-platted subdivision. Ms. Abernathy responded in the affirmative. Discussion ensued.

Mr. Parker asked if the legal was corrected, the metes-and-bounds lot had frontage in front of it in a pre-platted subdivision would it be buildable. Mr. Austgen responded it can retract like before. The reason for the subdivision had to do with creating a lot of record with our code so we can have uniformity with our emerging community.

Mr. Parker asked do we go back to a metes and bounds and they start over with getting a lot of record recorded on that large parcel and build one house with the frontage that is there on the pre-platted subdivision. Mr. Austgen commented they have a pre-platted subdivision which is divided into four lots. They could do a re-plat into one lot. Mr. Oliphant stated it would have to be two lots.

Mr. Neff stated they would take lots 1 and 2 and then lot 2 would be consisting of re-platting lots 3 and 4. They would leave lot 1 and lot 2 would become lots 2, 3 and 4. Ms. Abernathy stated this was discussed with the Plan Commission in 2022, and it was to take lot 2, 3 and 4, re-plat them as a one lot subdivision and put in language that it cannot ever be re-subdivided again and intentions of putting in language for only allowing to extend but if they sold in the future that whomever purchased in the future would have to know. The final direction was for them to get together with their engineer and get a one lot subdivision together, all the waivers they would be requesting and then come back for the one lot subdivision. The vacation of subdivision would require a new subdivision.

Mr. Parker asked if this went back to a metes-and-bounds parcel makes it even hard to market. Mr. Austgen responded in the affirmative.

Mr. Neff commented they tried to get their money back from the person that sold it to them and they were unable to do that. The statute we filed under the vacation of subdivision states we can vacate all or part of it. We can reconfigure and comply with the statute.

Mr. Kiepora asked what happens with the road if they make that into a one lot subdivision. How far does the road have to go. Mr. Austgen stated the Subdivision Control Ordinance states the road has to go to the end of the property.

Mr. Oliphant asked does a re-plat re-trigger them having to ask for all of the waivers and variances again. Mr. Austgen stated the petition would be needed based upon those. Mr. Oliphant commented we will have to work out those items because what we are discussing now is different than what the subdivision requires now. Discussion ensued.

Mr. Kiepura asked does the road have to extend to lot 2. Mr. Austgen stated legally yes unless the Board waives the requirement. If you waive the requirement, which is in your jurisdiction, they do not need to go to the end of the property. Mr. Austgen commented they can ask for a waiver with all of the detail that explains this. Discussion ensued.

6. Ordinance 1452 – Floodplain Management Regulations Amendatory Ordinance

Mr. Oliphant commented this is an update to your Floodplain Ordinance which was adopted in 2017. DNR recommended certain changes for coastal communities. There were some definitions that were removed, some were added.

Mr. Austgen stated this has not been noticed yet. My recommendation is to advertise first and act upon and then right behind it in companion fashion the Floodplain Regulations. The reason is the Floodplain Regulations are referenced within the body of the Subdivision Ordinance and that Ordinance is a Technical Ordinance for technical details and modernization. There will be discussion after it is reviewed.

Mr. Oliphant commented the Technical Standards Manual is being updated. Discussion ensued regarding the draft.

Update Items:

1. Building Regulations & Fee Amendment

Mr. Salatas stated the Building Fee Proposal is being reevaluated for consideration from the Town Council regarding a road impact fee.

2. 133rd Commercial Corridor Moratorium

Working on it. Drafting text will be done in two weeks.

3. Beacon Pointe East, Unit 1 – Performance Letter of Credit Expires May 4, 2023

Still working on it and probably will get extended.

4. Beacon Pointe West, Unit 5 – Performance Letter of Credit Expires May 19, 2023

Still working on it and probably will get extended.

5. Hanover Community School Corp – Performance Letter of Credit Expires May 24, 2023

Public Works staff met with Hanover and there is still a water issue. Will get extended.

6. Perez – Performance Letter of Credit Expires June 14, 2023

Will get extended.

Public Comment: Mr. Parker asked if a house is demolished with street frontage, is the lot not buildable because of the street frontage. Mr. Austgen stated it is legal, it's on a plat, it's described and called out even if it is unimproved. That is old Cedar Lake. Mr. Parker commented what

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differentiates Colfax Street to Old Cedar Lake is because of Taylor's Subdivision that he did. Does this not make it pre-platted anymore. Mr. Austgen commented this brings us to the modern era and coming before us and getting the plat and setting up the lots of record. Discussion ensued regarding other roads within the Town.

Mr. Foreman stated we need definition, clarity and what is needed when.

Ms. Abernathy commented in older platted subdivisions, the roadway has to be extended to the end of the property and discussed examples. Further discussion ensued.

Mr. Kiepura commented the new ordinance states that a house can be built on a private or public road regardless of the condition. Ms. Abernathy commented as long as its up to current Town standards or waivers would be needed from the Plan Commission.

Mr. Parker asked should this be void since Mr. Taylor did not develop the land. Mr. Austgen advised vacate Colfax Street and let them do their private driveway connection. Mr. Foreman commented there are multiple owners needing their approval for this.

Mr. Carnahan commented if the owners do not do something, in two years, then it reverts back. Mr. Austgen stated the final plat was approved and recorded.

Mr. Parker commented about the PUD topic and he would like to wait until Ms. Dessauer is here to have the discussion.

Adjournment: Mr. Kiepura adjourned the meeting at 8:04 p.m.

TOWN OF CEDAR LAKE PLAN COMMISSION

John Kiepora, President

Greg Parker, Vice-President

Richard Sharpe, Secretary

John Foreman, Member

Robert Carnahan, Member

Heather Dessauer, Member

TBD

ATTEST:

Cheryl Hajduk, 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 March 1, 2023