



**CEDAR LAKE PLAN COMMISSION PUBLIC MEETING MINUTES**  
**CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA**  
**June 21, 2023 at 7:00 pm**

**Call To Order:**

Mr. Kiepura called the Plan Commission Public Meeting to order on Wednesday, June 21, 2023, at 7:03 pm with its members attending on-site. The Pledge of Allegiance was said by all.

**Roll Call:**

**Members Present via Zoom:** None. **Members Present On-Site:** Robert Carnahan; James Hunley; Richard Sharpe, Secretary; Greg Parker, Vice President; and John Kiepura, President. A quorum was attained. **Also present:** Don Oliphant, Town Engineer; Ryan Deutmeyer, Town Attorney; Ashley Abernathy, Planning Director; and Cheryl Hajduk, Recording Secretary.

**Absent:** Heather Dessauer

**Minutes**

Mr. Kiepura entertained a motion for the April 19, 2023 Public Meeting minutes and May 3, 2023 Work Session Meeting minutes; and May 17, 2023 Public Meeting minutes, a motion was made by Mr. Hunley and seconded by Mr. Sharpe to approve the same. Motion passed unanimously by roll-call vote:

Mr. Carnahan	Aye
Mr. Foreman	Aye
Mr. Hunley	Aye
Mr. Sharpe	Aye
Mr. Parker	Aye
Mr. Kiepura	Aye

**Agenda:**

**1. 2023-07 Yonk's Way Resub – Two Lot Subdivision**

Owner/Petitioner: L & L Capital Assets LLC, P.O. Box 2010, Cedar Lake, IN 46303

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

Mr. Kiepura stated the first order of business is for a Petition requesting a two-lot subdivision. Mr. Deutmeyer stated all the legals are in order.

Mr. Jack Huls, DVG, stated we are requesting a re-subdivision on this one-lot subdivision known as Yonk's Way into a two-lot subdivision. We discussed the conditions in the last work study and there were various Board of Zoning Appeals items that needed attention. We were at the Board of Zoning Appeals the following day after the work study and received favorable motions on those petitions.

Mr. Oliphant commented they issued a letter on June 18, 2023 recommending approval based upon a couple of contingencies. Two waivers were for storm water detention and park dedication and we removed the waiver for tree placement. The other three are Preliminary Plat approvals contingent on the various Variances and there will be a Letter of Credit required at final plat.

Mr. Huls commented we fixed a few things and we received review comments from staff and the Fire Department regarding addressing and street names and those corrections were made. Discussion ensued.

Ms. Abernathy commented they received all of the Variances needed for both lots from the Board of Zoning Appeals Meeting on June 8, 2023. There was a meeting with Chief Bill and we discussed the addressing and the layout of the road to make it best for public safety. Mr. Huls has put that on the Plat.

Mr. Kiepura asked if there were any remonstrators for or against this Petition. Seeing none; public comment is closed.

Mr. Foreman asked is the Performance Letter of Credit needed because they are not living in it. Mr. Oliphant stated they agreed to install curb and gutter around the entire frontage, as well as sidewalk. We aren't sure if the sidewalk will be in the Letter of Credit, because typically sidewalks are part of the building permit and Site Plan process. The curb, gutter and drainage would be included.

Mr. Carnahan commented originally it was going to be four units and it's now down to two separate lots.

A motion was made by Mr. Foreman and seconded by Mr. Sharpe to approve the Yonk's Way Resub – two lot subdivision for Preliminary Plat and contingent upon the June 18, 2023 letter from Chistopher Burke Engineering. Motion passed unanimously by roll-call vote:

Mr. Carnahan    Aye  
Mr. Foreman    Aye  
Mr. Hunley      Aye  
Mr. Sharpe      Aye  
Mr. Parker      Aye  
Mr. Kiepura     Aye

**2. NYBY Development Corp – Preliminary Plat for a One (1) Lot Subdivision & Site Plan – Continued Public Hearing**

Owner/Petitioner: NYBY Development Corp; 1370 Dune Meadows Dr., Porter, IN 46304  
Vicinity: 9710 W. 133rd Ave., Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is for a Petition requesting a Preliminary Plat for a One Lot Subdivision and Site Plan.

Mr. Nathan Vis, Vis Law, stated we are seeking a Preliminary Plat for a One Lot Subdivision and approval for a Site Plan. Mr. Oliphant has approved everything from Engineering and everything has passed at the Board of Zoning Appeals. There was a comment from Mr. Greg Parker if the client would commit to a Use Commitment and that was for the overnight use of the space. We have prepared a Use Commitment stating they would not store vehicles outside overnight but there may be an instance that if a vehicle is towed there after hours that it would stay there that evening. Another instance would be if a vehicle is

dropped off on a Saturday evening, then the vehicle would be in the lot until Monday since the business is closed on Sundays.

Mr. Kiepura asked if any vehicles would be brought in by a flatbed. Mr. Lee commented periodically, but not on the street.

Ms. Abernathy commented she reviewed the Use Commitment and received comments from Mr. Austgen and what isn't listed out is what Variances were received, so there is some language that needs to be added. From the Building standpoint, and they have gotten all Variances, their extensions at the June Board of Zoning Appeals Meeting for both Board of Zoning Appeals approvals that they received last year. At this point, the Town Attorney and Mr. Vis can work on the Use Commitment.

Mr. Foreman asked if this is for the Site Plan or the Preliminary. Ms. Abernathy commented the use of the property. Mr. Deutmeyer commented this would be more for the platting of it than it is for the Site Plan. They are contingent upon one of another. If there were an approval, the motion would be contingent upon the final Use Commitment or can be deferred until everything is taken care of.

Mr. Vis asked what hurdles are we looking at. If we are adding language to what the Variances are that has already been approved and that is simple addition. Do we have a copy of what the comments were? Ms. Abernathy stated she did not as she just received them that afternoon in an email.

Mr. Foreman asked if they would be ok with contingencies. Mr. Vis responded in the affirmative. Discussion ensued regarding the Use Commitment.

Mr. Deutmeyer commented the email that he received was from Mr. Vis to Ms. Abernathy, Mr. Salatas and Mr. Austgen on Monday at 9:47 a.m. of the attached proposed Use Commitment and it only gave a few days to get things turned around.

Mr. Kiepura stated Public Hearing is still open. Are there any remonstrators for or against this request. Seeing none; Public Hearing portion will remain open.

Mr. Foreman commented if we defer this, it is administerial because we have already given the Variances at the Board of Zoning Appeals and it wastes a month of opportunity for people to break ground and make the Corridor what it is destined to be. A lot of the paperwork being contingent shouldn't be a big issue.

Ms. Abernathy stated if the Preliminary Plat gets approved, they can begin conducting the ground work, but nothing could go vertical or any building permits pulled until the Final Plat is done. At the earliest, the Final Plat would not be looked at until August.

Mr. Deutmeyer stated the approvals are a policy decision, it is how you want to approach these things. Do you want to catch the paperwork up on the backend or do everything on the frontend. It is a reasonable condition attached to this and this is something they agreed to commit to and a matter of getting that commitment in favor and hashing out the language. Discussion ensued.

Ms. Abernathy commented August would be the earliest that the Final Plat can appear before the Board because the filing deadline for the August meeting is July 7, 2023. Mr. Kiepura asked if this regardless of being deferred or not. Ms. Abernathy commented if it is deferred, and the Final Plat isn't acted upon until

the July meeting, then the August 4, 2023 is the filing deadline for the September 6, 2023 and September 20, 2023. We have accepted Final Plat in the past prior to Preliminary Plat, it is not common.

Mr. Vis commented the time to apply a Use Commitment would have been at the time the Variances were granted. That would have been the appropriate time and it is in response to questions that are raised after the fact. My client is voluntarily addressing a Use issue. The Use issue has been addressed a year ago with the Variances that were granted. To tie this Use Covenant that my client is voluntarily entering into at this stage, to the Engineering for Preliminary Plat, it is a voluntary effort on behalf of my client. Discussion ensued.

Mr. Parker commented this project does not meet the minimum requirements that is the Law of the Town, by the Zoning Ordinance. He isn't sure a hardship was proven if anything was granted at the Board of Zoning Appeals. We have told other citizens in this Town that own similar properties what they have to do to develop those properties. This one is being developed against what was told to those other citizens.

Mr. Deutmeyer stated everything is contingent on one another in this case. The Variance approvals are contingent upon the Plan Commission check off and the Board will check off as long as everything else is in order. All of these things need to fall in a row in order for the approvals to be given.

Mr. Vis stated he is looking at Mr. Austgen's redlines of the Use Commitment and there are changes of words, a request to add in the four Variances that were granted, which nothing changes, but in terms of the overnight use of space, there isn't a significant change.

Mr. Deutmeyer commented there is a box on the Use Commitment stating "needs all details of restrictions." This is more significant and the whole point is a Use Restriction. If the idea is to outline what the restriction is that they are committing to, those items are important. Discussion ensued regarding Mr. Austgen's changes.

A motion was made by Mr. Foreman to approve the Preliminary Plat for a One Lot Subdivision approval contingent on Use Commitments worked between Legal, as well as, the Building Department approval and seconded by Mr. Carnahan. Motion passed 4-Ayes to 2 Nays by roll-call vote:

Mr. Carnahan	Aye
Mr. Foreman	Aye
Mr. Hunley	Aye
Mr. Sharpe	Aye
Mr. Parker	Nay
Mr. Kiepura	Nay

A motion was made by Mr. Foreman for approval of the Site Plan for NYBY contingent on the Use Commitments between Legal and the Building Department and the letter dated August 15, 2022 by Christopher Burke Engineering and seconded by Mr. Hunley. Motion passed 4-Ayes to 2 Nays by roll-call vote:

Mr. Carnahan	Aye
Mr. Foreman	Aye
Mr. Hunley	Aye
Mr. Sharpe	Aye
Mr. Parker	Nay
Mr. Kiepura	Nay

### **3. Cedar Lake Storage Extension of Performance Letter of Credit**

Ms. Abernathy commented the Cedar Lake Storage submitted a Letter of Credit Extension Request for the public and improvement for the sidewalks in the amount of \$7,700 and was approved by the Town Council because of how the expiration date fell on July 1, 2023. We are looking for an extension to July 1, 2024.

A motion was made by Mr. Carnahan and seconded by Mr. Hunley to approve the extension Letter of Credit to August 4, 2023 in the amount of \$7,700 to July 1, 2024. Motion passed unanimously by roll-call vote:

Mr. Carnahan	Aye
Mr. Foreman	Aye
Mr. Hunley	Aye
Mr. Sharpe	Aye
Mr. Parker	Aye
Mr. Kiepura	Aye

#### **Update Items:**

1. Ord 1458 – 133rd Commercial Corridor Overlay District

Ms. Abernathy commented in conjunction with the discussion at the work session, I have researched different architectural form basis to look at and at the work session I will have something for you to look at to determine which one you would prefer looking at potentially going after in that area. Once you decide which one, I will research that specific one further and work with Mr. Austgen to create the language needed for any Ordinance in that Overlay. Heated discussion ensued.

Ms. Abernathy commented she has been looking at the 133<sup>rd</sup> Corridor to make sure she is incorporating or looking at elements that already existing, including what is being proposed to being built.

2. Building Regulations & Fee Amendment

Ms. Abernathy stated it is being reviewed.

3. Beacon Point East, Unit 2 – Performance Letter of Credit expires July 28, 2023
4. Beacon Pointe East, Unit 1 – Performance Letter of Credit expires August 4, 2023

Mr. Oliphant stated they are working on it. Mr. Slager called to address a hydrant issue.

5. Beacon Pointe Unit 1A – Maintenance Letter of Credit expires August 5, 2023
6. Beacon Pointe Unit 2 – Maintenance Letter of Credit expires August 6, 2023

Mr. Oliphant stated they have our punch list item, our letter, as well as, Public Works items. They are working on it and we are monitoring it.

7. Rose Garden Estates Unit 3 – Performance Letter of Credit expires August 22, 2023

Mr. Oliphant commented this will have to get extended. We have our punch list done but we have not received any as-builts for that phase. They haven't requested Public Works inspections.

**Public Comment:**

Ms. Cheryl Parker, 7227 W. 136<sup>th</sup> Court, stated we live South of a home that is in construction and was red tagged. They never received a Variance for the height. They are still working on the house and the owner is the General Contractor. What is the status on this and how is this being enforced.

Ms. Abernathy commented the red tag that was placed on there was not in any type of correlation with the height. It is a separate matter that the homeowner has addressed. They were advised they need a Variance and have applied for it, and they will be at the next Board of Zoning Appeals meeting for the height. They were told to proceed with caution.

**Adjournment:** Mr. Kiepora adjourned the meeting at 7:44 pm.

## TOWN OF CEDAR LAKE PLAN COMMISSION

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John Kiepora, President

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Greg Parker, Vice-President

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Richard Sharpe, Secretary

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John Foreman, Member

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Robert Carnahan, Member

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Heather Dessauer, Member

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Jim Hunley, Member

ATTEST:

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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 Public Meeting June 21, 2023.*