



CEDAR LAKE PLAN COMMISSION PUBLIC MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
August 16, 2023 at 7:00 pm

Call To Order:

Mr. Kiepura called the Plan Commission Public Meeting to order on Wednesday, August 16, 2023, at 7:00 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; David Austgen, Town Attorney; Ashley Abernathy, Planning Director; and Cheryl Hajduk, Recording Secretary.

Absent: Heather Dessauer

Minutes

Mr. Kiepura entertained a motion for the July 5, 2023 Work Session minutes and July 19, 2023 Public Session Meeting minutes, a motion was made by Mr. Carnahan and seconded by Mr. Hunley 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. 2023-10 – Birchwood Phase 5 – Final Plat

Owner/Petitioner: Hanover Development LLC, 8051 Wicker Avenue, St. John, IN 46373

Vicinity: Approx. 12400 Wicker Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the first order of business is a Petitioner requesting the Final Plat for Birchwood Farms Phase 5.

Mr. Jeff Yatsko, Olthof Homes, stated we are seeking approval for Birchwood Phase 5. This is the final phase made of four lots. All of the infrastructure is in and the Letter of Credit is following the next agenda item.

Mr. Oliphant commented we issued a letter on August 10, 2023 and there are no comments on the Final Plat. We set the Letter of Credit values which will follow at the next agenda item. We set the 3% inspection fee of \$2,289.30 and the MS4 inspection fee of \$1,500 and this will rotate into maintenance with the following item. The 110% Performance Letter of Credit would have been \$83,941 and the next item will be 10% of the estimate, which it is \$7,600 and will be rolled over into the Phases 1 through 3 and Phase 5 Letter of Credit which is the next agenda item.

Mr. Austgen asked will the Letter of Credit for the surety be attached to the letters. Mr. Oliphant stated there is a second letter that includes phases 1 through 3 and 5 and it is an estimate of Letter of Credits and Phase 5 is broken out individually.

A motion was made by Mr. Foreman and seconded by Mr. Sharpe to approve the Final Plat for Birchwood Farms Phase 5 with the Engineering letter dated August 10, 2023. 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. Birchwood Farms – Conversion of Performance Letter of Credit to Maintenance Letter of Credit for Phases 1 – 3, and 5

Mr. Kiepura stated the next order of business is for a conversion of Performance Letter of Credit to Maintenance Letter of Credit for Phase 1-3 and 5.

Mr. Oliphant stated there is a separate letter dated August 10, 2023 that sums up the estimates for Phases 1 through 3 and 5. The value for the Maintenance Letter of Credit is for three years in the amount of \$395,168.95.

A motion was made by Mr. Sharpe and seconded by Mr. Parker to approve the conversion of Performance Letter of Credit to Maintenance Letter of Credit for Phases 1 through 3 and 5 for Birchwood Farms in the amount of \$395,168.95 and contingent on the letter dated August 10, 2023. 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

3. Birchwood Farms – Replacement to Birchwood Phase 4 Performance Letter of Credit

Mr. Kiepura stated the next order of business is for a replacement to Birchwood Phase 4 Performance Letter of Credit.

Ms. Abernathy commented they are changing their letter credit holder from Centier to First Source. The amount remains the same \$217,722.79.

A motion was made by Mr. Parker and seconded by Mr. Foreman to approve the replacement of Centier to First Source in the amount \$217,722.79. 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

4. 2023-13 – Lakeside – Preliminary Plat Extension

Owner: Cedar Lake 133, LLC, PO Box 677, St. John, IN 46373

Petitioner: Schilling Development, PO Box 677, St. John, IN 46373

Vicinity: 5711 West 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is for a one-year extension for the Preliminary Plat for Lakeside, Unit 2 from September 18, 2023 to September 18, 2024.

Mr. Kevin Hunt, on behalf of Schilling Development, representing Cedar Lake 133 stated we are seeking an extension for a Preliminary Plat for the original Lakeside.

A motion was made by Mr. Parker and seconded by Mr. Hunley to grant a one-year extension for the Preliminary Plat for Lakeside, Unit 2. 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

5. Beacon Pointe – Preliminary Plat Extension

Owner: Beacon Pointe of Cedar Lake, LLC, PO Box 677, St. John, IN 46373

Petitioner: Schilling Development, PO Box 677, St. John, IN 46373

Mr. Kiepura stated the next order of business is Petitioner is requesting a one-year extension for the Preliminary Plat for Beacon Pointe Units 6, 7 and 8 (West) from September 21, 2023 to September 21, 2024.

Mr. Kevin Hunt, on behalf of Schilling Development, representing Cedar Lake 133 stated we are seeking an extension for a Preliminary Plat for Beacon Pointe, Units 6, 7 and 8 (West).

A motion was made by Mr. Sharpe and seconded by Mr. Parker to grant the request for a one-year extension for the Preliminary Plat for Beacon Pointe Units 6, 7, and 8 (West) from September 21, 2023 to September 21, 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

6. 2023-15 – Oak Brook – Preliminary Plat Extension

Owner: Cedar Lake Residential, PO Box 677, St. John, IN 46373

Petitioner: Schilling Development, PO Box 677, St. John, IN 46373

Vicinity: North side of 129th Avenue, approximately a quarter mile east of US 41

Mr. Kiepura stated the next order of business is Petitioner is requesting a one-year extension for the Preliminary Plat for Oak Brook, from September 7, 2023 to September 7, 2024.

A motion was made by Mr. Foreman and seconded by Mr. Sharpe to approve a one-year extension for the Preliminary Plat for Oak Brook, from September 7, 2023 to September 7, 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

7. 2023-17 – Yonk's Way – Final Plat

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

Vicinity: 13310 West 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is for Petitioner is requesting the Final Plat for a Two Lot Subdivision.

Mr. Jack Huls, DVG, stated we would like a 30-day deferral because we have some administrative items with the Building Department regarding assurity and installation of public infrastructure prior to seeking Final Plat.

Mr. Oliphant commented we issued a letter on August 11, 2023 and the plat is in order. We have two contingencies related to the building permit issuance. We have the Letter of Credit values and whatever the values turn out to be if they install some of the items and the 3% inspection fee.

Mr. Austgen asked if they are close to meeting the deadline. Mr. Huls responded in the affirmative.

A motion was made by Mr. Foreman and seconded by Mr. Parker to defer to the next work session. 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

8. 2023-21 – Nyby Development – Final Plat

Owner: Nyby Development Corp., 1370 Dune Meadows Drive, Porter, IN 46304

Petitioner: Nyby Development Corp., David Lee, 1370 Dune Meadows Drive, Porter, IN 46304

Vicinity: 9710 West 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is Petitioner is requesting the Final Plat for a One Lot Subdivision.

Mr. Nathan Vis, Vis Law, stated we are seeking Final Plat approval. We received final approval from Mr. Oliphant with one contingency on the August 11, 2023 letter stating Public Works or Christopher Burke should be notified prior to connection to the Town's storm water infrastructure.

A motion was made by Mr. Foreman and seconded by Mr. Hunley to approve the Final Plat for a One Lot Subdivision contingent on the August 11, 2023 letter from Christopher Burke with the contingency that a site representative should notify Cedar Lake Public Works or Christopher Burke personnel prior to the connection to the Town's storm water infrastructure. Motion passed by roll-call vote, 5-Ayes, 1-Nay:

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

9. 2023-02 – Monastery Woods – Reinstatement of Preliminary Plat

Owner: New Century Development, 2036 West 81st Avenue, Suite B, Merrillville, IN 46410

Petitioner: Olthof Homes, 8051 Wicker Avenue, Cedar Lake, IN 416303

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

Mr. Kiepura stated the next order of business is Petitioner is requesting the reinstatement of the Preliminary Plat for Monastery Woods North. Mr. Austgen advised the legals are in order.

Mr. Kevin Patsko, Olthof Homes, stated we are here for a Preliminary Plat renewal for Phase 3 of the Monastery Woods Subdivision. The property is zoned R-2 and is the remaining 88 lots of the original 322 lots which were previously platted in 2006. These are single family, detached lots with two outlots and a ravine in the center and is currently under the Monastery HOA. It will also be used for storm water detention. We received Mr. Oliphant's letter and we are updating our Engineering at this time.

Mr. Oliphant stated we issued a letter on August 9, 2023 and we updated it on August 15, 2023 to include lighting comments; it's extensive but there aren't any huge items on the letter. We have some updates from our Ordinances.

Ms. Abernathy commented she has gotten responses back from Public Works, Utility Engineer and they have been forwarded to Olthof for their review and to update with the plat.

Mr. Austgen asked is this a reinstatement and is this a previously approved plat and development or is this as amended or as updated. Mr. Oliphant responded updated. The lot line extents are almost identical and we added easements based on new stormwater structure.

Mr. Austgen asked are the requirements for R-2 enhanced from when this project was first approved. Ms. Abernathy commented the change from 2007 to today is we changed it from the 25% rear yard setback line of 30 feet and everything else is the same and the setbacks will remain the same between the 8-feet and the 30-feet off of the other road. Mr. Oliphant commented this is why we need more easements in the rear. Mr. Austgen asked is there density reduction because of the consequence of this. Mr. Oliphant commented it is identical.

Mr. Carnahan asked what are the size of the lots. Mr. Pasko stated 80-foot-wide lots.

Mr. Kiepura asked if there were any remonstrators for or against this Petition.

Mr. Brian Mola, 10010 West 128th Place, Cedar Lake, commented we want to block anything New Century wants to do. They control the HOA and we have been before the Town Council. With the current plan, we are concerned about the amount of traffic that we currently have on Hess and Carey Street and adding more homes to those areas. We are concerned about the density of the neighborhood and we only have two entrances off of 129th and we are concerned about traffic also. We believe 125th Avenue comes in off the northeast side. Would there be a possibility of increasing the entrances by putting in another entrance that way to ease traffic. Originally this was supposed to be Accent Homes that was developing it and what is Olthof's role in this and what is Accent Homes going to continue to do with our HOA.

Ms. Bonnie Triezenberg, 12657 Alexandria Street, commented her concern is the property adjacent to the property that was just talked about and there is a rise behind her property. How is this going to be addressed for drainage. Mr. Oliphant stated they will be installing rear yard storm inlets along their property line and that should pick it up before going onto your property. It will go down and come back up to meet her property. There will be a small swale to catch it all.

Mr. Kiepura closed the public portion of this hearing.

Mr. Oliphant asked how are the covenants for this part of the subdivision being tied into the current HOA or will it be a separate HOA. Mr. Pasko stated we will be creating a separate HOA for this new section.

Mr. Patsko commented for traffic consideration, it is the exact same plat as was originally done and there isn't an increase that would not have previously been there had this gone through in 2007. The density was always intended to be single-family lots.

Mr. Foreman asked is the 125th Avenue a Town road. Mr. Oliphant stated it is a Town road and only a 20-foot right-of-way, but it is not close to Town code.

Mr. Foreman asked where does the water run-off from the northside go. Mr. Oliphant commented into West Creek.

Mr. Foreman commented since there is some land to the East that is vacant, and maybe take Lots 119, 120, 121, 122 up against the empty woods to the East and make it a separate exit. Discussion ensued.

Mr. Hunley asked when a developer files a Letter of Intent, does this include the new lots going in. Mr. Oliphant commented they will have to do a water main extension permit through IDEM and the Town will have to sign-off. They cannot file until there is plat approval and they will need to re-file. Discussion ensued.

Mr. Parker asked should this be a motion to defer or a motion to continue the public hearing. Mr. Austgen commented to continue the public hearing based on our engineers' comments and sewer items to talk about are substantive, as well as, storm water. We need to see the HOA for covenants of the conditions they are in and how they compare them to what was talked about.

A motion was made by Mr. Parker and seconded by Mr. Sharpe to continue the public hearing to the next public meeting on September 20, 2023. 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

10. 2023-16 – Centennial Villas – Phase 3 Final Plat

Owner/Petitioner: Cedar Lake Development LLC, 8051 Wicker Avenue, Suite A, St. John, IN 46373

Vicinity: Approx. 13800 Freedom Way, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is Petitioner is requesting Final Plat for Centennial Villas, Phase 3 for a total of 13 Lots.

Mr. Jeff Yatsko, Olthof Homes, commented we are seeking Final Plat approval for Centennial Villas, Phase 3. This is 13 lots and are paired to make it 26 units and this is the last phase.

Mr. Oliphant stated we issued a letter on August 1, 2023 and the Final Plat is in order. We have some minor comments in regard to the as-builts with the inspections remaining. They are at their maximum reduction amount with the Letter of Credit. The 3% inspection fee for this phase will be \$20,987.53. The Letter of Credit value is \$174,896.05 and this will include \$2,000 inspection fee for the development.

Ms. Abernathy commented we have the Letter of Credit and they paid their 3% inspection fee.

A motion was made by Mr. Foreman and seconded by Mr. Sharpe to approve Centennial Villas, Phase 3 Final Plat contingent on Engineer's comments from the letter dated August 1, 2023. 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

11. Rose Garden Estates Unit 3 – Extension of Performance Letter of Credit

Mr. Kiepura stated the next order of business is for Rose Garden Estates, Unit 3 extension of Performance Letter of Credit.

Ms. Abernathy stated they sent in a request for a one-year extension with no reduction and the total amount of the Letter of Credit is \$1,913,079.85.

Mr. Oliphant commented they are addressing punch list items. We will do a re-inspection of entire subdivision at some point. Phases 2 and 3 punch lists were done in January and Phase 1 is two years old.

A motion was made by Mr. Foreman and seconded by Mr. Sharpe to extend the Performance Letter of Credit in the amount of \$1,913,079.85. 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

12. MacArthur Elementary – Extension of Performance Letter of Credit

Mr. Kiepura stated the next order of business is for MacArthur Elementary extension of Performance Letter of Credit.

Ms. Abernathy stated they are requesting an extension of their Performance Letter of Credit with no reductions in the amount of \$312,389.00 to August 19, 2024.

A motion was made by Mr. Parker and seconded by Mr. Carnahan to extend the Performance Letter of Credit in the amount of \$312,389.00 to August 19, 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. Building Regulations & Fee Amendment

Ms. Abernathy stated there was a handout about the proposed updates for building permits. We are still working on the application fees and once they are ready, it will go out to the Plan Commission.

2. Birchwood Phase 1 – Performance Letter of Credit expires October 5, 2023

Mr. Oliphant commented this was addressed with agenda item #2.

3. Centennial Phase 12 – Maintenance Letter of Credit expires October 13, 2023

Mr. Oliphant commented we are working through the punch list.

4. Rose Garden Estates Unit 1 – Performance Letter of Credit expires October 14, 2023

Mr. Oliphant commented it is with Lennar.

5. Beacon Pointe East Unit 3 – Performance Letter of Credit expires November 5, 2023

Mr. Oliphant commented they need to check with Schilling to see where they are at.

Public Comment:

Mr. Brian Mola, 10010 W. 128th Place, stated he lives in the Monestary Woods Subdivision. Accent Homes aka Heritage Realtor and New Century Planned Development in Merrillville, IN control our HOA.

There is an objection to a Variance that they had and trying to break free of them or the HOA and we would like to know what options we have. We talked with the Board in 2019 and when they were going to expand into the North lot, we could come before the Board and try to get something done.

Mr. Foreman commented they were going to do a separate HOA. Mr. Mola asked what does that mean for us. We have not been able to get control of our HOA and we do not govern and the way the covenants were set up, we were under V-3 and Coldwell Banker's y took over when V-3 filed bankruptcy then Accent Homes took over the entire HOA and bought the rest of the lots. When the covenants were set up, we could not get control back until all of the lots were developed and under developed lots have five votes and developed lots have one vote. We thought we needed 88% of the homes built which is beyond that at this point. We do not know where the money goes, a fictitious budget. We are supposed to get 30 mowing's a year, but that does not happen.

Mr. Austgen stated we are going to learn what those restricted covenants are from Olthof and they indicated and we need to talk about that in the work study. This is one of the reasons for continuing public hearing tonight. We need to look at them for purposes of how they will work in the new portion and whether they are compatible with what is in the existing developed parcels.

Mr. Carnahan commented we are dealing with two different developers. Mr. Mola commented the owners are New Century and are still Accent Homes. Our phase is from 129th to 127th and we are not part of Monestary South which south of 129th.

Mr. Parker asked should we make this a contingency of any approval if this is resolved. Mr. Austgen responded in the affirmative and it depends on how it is presented and based on what the developer presents and what gets approved. Mr. Hala commented it will not be let go until all the lots are sold.

Mr. Austgen commented Title Work will show how covenants overlap into developed and undeveloped. Mr. Mola commented there are ten lots left.

Adjournment: Mr. Kiepora adjourned the meeting at 7:54 pm.

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

Jim Hunley, Member

ATTEST:

Cheryl Hajduk, Recording Secretary

These Minutes 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.

Minutes of August 16, 2023