



CEDAR LAKE PLAN COMMISSION SPECIAL PUBLIC MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
October 2, 2024 at 6:00 pm
(directly followed Plan Commission Work Session)

Call To Order:

Mr. Kiepura called the Plan Commission Public Meeting to order on Wednesday, October 2, 2024, at 7:17 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: Chuck Becker; Robert Carnahan; James Hunley; Jerry Wilkening, Vice President; John Kiepura, President. A quorum was attained. **Also present:** David Austgen, Town Attorney; Jeff Bunge, Town Manager; Tim Kubiak, Director of Operations; and Cheryl Hajduk, Recording Secretary.

Absent: Greg Parker; Heather Dessauer, Secretary; Don Oliphant, Town Engineer

Agenda:

1. 2024-05 StorSafe – Final Plat (make it legal lot of record) (Preliminary previously approved)/ Site Plan approval

Owner/Petitioner: StorSafe of Cedar Lake LLC, 5301 Dempster St. Suite 300, Skokie, IL 60077

Vicinity: 13649 Wicker Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the first order of business is for a Petition requesting Site Plan approval with a development commitment contract and Final Plat approval.

Mr. Jim Sayegh, 5301 Dempster St., Suite 300, Skokie, IL 60077, commented despite all of our efforts, IDEM has come up and we would still like to try to proceed and gather the Notice of Intent. We would like the Town Attorney to be directed to help find a way to have a signed agreement and build this IDEM issue into it. We think there is less liability for the Town and the State to turn us down. If this doesn't go through, we will attempt to pull two building permits on two buildings on the back. If the State turns it down and we do not get through a design release on the basis that there is not water, that informs this process.

Mr. Wilkening commented fire suppression is not the term for "only in the building." It is on the outside of the building. How do we keep the liability of not being able to fight a fire the best way we can out of the hands of the residents. Mr. Sayegh commented he deals with building code and with pre-fabricated, metal buildings, we have the model codes to protect us and these buildings are not required to be built fire suppressed as long as you build them a certain size and a certain way. Discussion ensued regarding fire walls.

Mr. Sayegh commented the whole process of entering into this Development Agreement goes away and if we pull the permits or we do not pull the permits. We have an obligation to the stakeholders, investors,

the bank and partners and we have to try and do something. There is less liability on the Town to go ahead and let the State deny us. We did not waste our time and we do not want to start over again.

Mr. Kiepura commented we do not want to open this up to a lawsuit, because we let you do something. There were some documents that were redlined and have those redlines been taken care of. Mr. Austgen responded in the negative, we are close. We have not received anything from Dave Westland.

Mr. Kiepura asked have we come up with a number for liquidated damages. Mr. Austgen stated that wasn't the focus, the NOI, the water intervenes. Mr. Kiepura commented he does not want to see this go to the wayside while we wait for IDEM to do something. We should take care of these items now.

Mr. Austgen asked how do we get past the Notice of Intent and who in this Town is going to sign the NOI. Mr. Carnahan asked does it have to be signed first before going to Indianapolis. Mr. Austgen commented it has to have a Town signature before going to Indianapolis.

Mr. Wilkening asked would we be causing problems with IDEM and the relationship that exists right now. Mr. Austgen commented the communications were quality, they were open-handed, they were without ranker or adversarial, you know demeanor performance, and they independently showed us what they had. We got that NOI's are permits in the planning process and they are important to us and they give us guidance, as well as, practical application of use and implementation of the planning instruments, as well as, review instruments.

Mr. Wilkening asked can they ask if a NOI can be submitted without a signature from anyone in the Town. Mr. Austgen commented the form is set up for a local unit check. Mr. Recupito and Mr. Lisek declined to sign the permit. Mr. Kubiak commented they will be a construction permit. Mr. Austgen stated they are changing their policies.

Mr. Sayegh commented there is support to say let's take the agreement as far as we can to where we can all put a signature on it, if and when, the other issue is resolved.

Mr. Wilkening asked is the fine of \$5,000 a day doable. Mr. Sayegh responded in the affirmative.

Mr. Carnahan commented it will be done in ten years instead of 15 years.

Mr. Sayegh commented that is not in redline form and that is from Mr. Westland and it is finished and is with Attorney Austgen. Any additional language regarding IDEM, we did not send anything over because we don't know. Mr. Austgen stated he wanted to make clear that, he did not receive anything in the last two weeks from Mr. Westland. Mr. Sayegh commented there is a clean version. Mr. Austgen commented he did not get it.

Mr. Wilkening asked is there such a thing as concept to IDEM. Mr. Austgen commented we need to figure out what the problem is before we conceptualize.

Discussion ensued regarding when to have the next meeting.

A motion was made by Mr. Wilkening and seconded by Mr. Carnahan to continue the Public Meeting on October 16, 2024. Motion unanimously passed by roll-call vote.

Mr. Becker Aye
Mr. Carnahan Aye
Mr. Hunley Aye
Mr. Wilkening Aye
Mr. Kiepura Aye

2. Request for extension for Rosegarden, Unit 1 Performance Letter of Credit in the amount of \$6,067,696.25 due to expire on October 10, 2024

Mr. Tom McSharry, Lennar Homes, 1700 Gulf Road, Schaumburg, IL, commented we have had some turnover and not using this as an excuse, but we have done sidewalk extensions, building in gaps in the sidewalks. We have had contractors to pre-punch work and we are trying to do the final turnover with Public Works. We have items that are outstanding and we have given them to our Customer Care Department, as well as, the HOA Management Company. All the items that need to be completed will be done by December 1, 2024. We will also have a discussion with Mr. Oliphant regarding as-builts.

Mr. McSharry commented the existing surety expires on October 10, 2024 and we have a new surety in place that will extend out to October 10, 2025. This is for Phase 1 and we have Performance Letters of Credit for Units 2 and 3.

Mr. Wilkening asked how many items are there. Mr. McSharry commented our obligation is to get it done, and this has gone on for a while. Discussion ensued.

Mr. Kiepura commented he wants Phase 1 done and as-builts done by December 31, 2024. Mr. McSharry commented Phase 2 and Phase 3 has not been generated by Public Works yet and we have gone through with our contractor of the pre-punch list, and can be corrected. This is in conjunction with Mr. Oliphant for the as-builts for Units 2 and 3. Discussion ensued regarding punch list items.

Mr. Kubiak asked is the new Letter of Credit in place to get the original copy to expire in October for a one-year time frame. Discussion ensued regarding the Letter of Credit dates or doing a pull date and also having Mr. McSharry to give a status up-date monthly.

A motion was made by Mr. Wilkening and seconded by Mr. Hunley to have a new Letter of Credit for Rose Garden, Unit 1 in the amount of \$6,067,696.25 extended to October 10, 2025 and if not in place by October 7, 2024, the Letter of Credit will have a pull date of October 7, 2024. A representative from Lennar to give a status update every 30 days. Motion unanimously passed by roll-call vote.

Mr. Becker Aye
Mr. Carnahan Aye
Mr. Hunley Aye
Mr. Wilkening Aye
Mr. Kiepura Aye

Tabled:
2023-18 Bay Bridge
2023-19 Founders Creek
2023-20 Red Cedars

Public Comment:

Mr. Terry Broadhurst, 14513 Morse Street, commented he is concerned that Remonstrators are not being called and things are changing on the fly and we make it up as we go. On August 7, 2024, a Developmental Commitment Contract and Final Plat approval was never used before. Was this the first time this title was used before with a Petitioner. This is taking place in place of public hearing, pulling Variances, applying for Variances, and letting the public speak. The staff and the two lawyers are putting together the Developmental Commitment Contract and the public does not know anything about it. We need to follow our rules. Storsafe wants to build the front building first, no fire hydrants in the vicinity, and the public doesn't know anything about the Storsafe property.

Mr. Wilkening commented Railside is a Planned Unit Development and there are terms that are overlapping each other. It is also a Developmental Agreement. Mr. Austgen commented it is and there is a separate agreement that is appended to the Zoning Ordinance for that project. It also applies to Pinecrest and a couple of others.

Mr. Wilkening commented the Development Agreement phrase is similar to a Planned Unit Development and why is Storsafe called a Developmental Agreement and not a Planned Unit Development. Mr. Austgen stated that is what the developer proposed.

Mr. Kubiak commented the Domino's put the retaining wall in on the east side of the property and the 8-foot proposed fence on top of that is going to look odd.

Mr. Wilkening asked is there going to be any more of a retaining wall. Mr. Kubiak commented there will be a raised curb also. The curb will connect the two walls together and keep the water on that side. Discussion ensued regarding the screening and the height of a fence.

Mr. Wilkening commented if there is going to be a change for the fence, the owner needs to sign off on it.

Mr. Carnahan commented we will put this on the agenda in two weeks.

Ms. Angie Mikolajczak, 12806 Lee Court, asked about the roof on Domino's and the height is high. Is there a height restriction. Mr. Kubiak commented 25-feet. Ms. Mikolajczak commented it covers the lake from the area and the lights reflect off the back of the building from the round-about.

Mr. Wilkening asked Mr. Austgen to pull together the definition of a Developmental Agreement and the difference between that and a Planned Unit Development. Mr. Austgen commented there is no difference.

Adjournment: Mr. Kiepura adjourned the meeting at 7:15 pm

TOWN OF CEDAR LAKE PLAN COMMISSION

John Kiepura, President

Jerry Wilkening, Vice-President

Heather Dessauer, Secretary

James Hunley, Member

Robert Carnahan, Member

Greg Parker, Member

Chuck Becker, 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 October 2, 2024