

## **LOWELL PLAN COMMISSION MEETING**

**MAY 14, 2015**

President Kelly called the meeting to order at 7:05P.M. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were Elias Carras, Rick Kelly, Craig Earley, Jim Konradi, Matt Felder and Don Parker. Chris Salatas was absent. Also present were Planning Consultant Jim Mandon, Town Attorney Nicole Bennett, Building Official Tom Trulley, Department of Public Works Director Greg Shook and five citizens.

### **APPROVAL OF MINUTUES**

Mr. Konradi made a motion to approve the March 12th, 2015 regular meeting minutes, seconded by Mr. Early and carried with six ayes.

### **PUBLIC HEARING:**

PC #15-006, Clarence Harding – 112 W. Oakley requesting zone change from R1 to LI (light industry).

The petitioner, Mr. Clarence Harding approached the podium and stated his address is 4580 W. 173<sup>rd</sup> Avenue, Lowell, IN. Mr. Harding stated that he is going to purchase some property behind his existing business and there is a large back lot and he would like to use that to park some of his large equipment. Mr. Harding stated that his intentions were to leave the house on the property and just use the backyard and rent the home out. Mr. Earley asked if it included the property directly east of the home. Mr. Harding stated that he would leave that as is and the home intact, (Mr. Harding referred to a map that was provided to the Board) and would fence off the one lot in the back. Mr. Earley asked the petitioner if he was requesting a zoning change for the entire piece of property. Mr. Harding stated that is correct.

Mr. Kelley opened the public hearing with no one to speak for or against the petitioner, the public hearing was closed.

Mr. Felder referred to the map and asked for clarification on what areas were to be fenced off. Discussion followed. Mr. Felder asked what the proposed right of way vacation was. Mr. Trulley stated that Mr. Harding does not own the property yet, and that is why we did not come in for the right of way vacation yet. Discussion followed.

Mr. Felder asked what kind of fence would be installed. Mr. Harding stated that it would be a chain link fence. Discussion followed.

**Mr. Parker made a motion to forward a favorable recommendation to the Town Council granting the zone change at 112 W. Oakley, Lowell, IN from R1 to LI (light industry) seconded by seconded by Mr. Konradi and carried with a roll call vote with six ayes.**

## NEW BUSINESS

Mr. Kelley stated that Mr. Frank Morin, developer of Freedom Springs was here to discuss options on sidewalks along Nicholas St. that were approved by the Planning Commission.

Mr. Morin approached the podium and stated his address as 2036 W. 81<sup>st</sup> Ave., Merrillville, IN. Mr. Morin stated that when phase one (1) of Freedom Springs was developed just subsequent to the development of Heritage Falls his staff was working with the developers of Heritage Falls and the previous Town administrator, and in Heritage Falls they worked out with the Town to install a landscape berm which made the area much more attractive instead of sidewalks. Mr. Morin stated that the sidewalks were not going to be used around that perimeter anyway. Mr. Morin stated that he was not sure how it came about but, they proceeded to develop the front of Freedom Springs the same way. Mr. Morin stated that there was discussion to get it approved that way, but it was never followed thru at that time. Mr. Morin stated that the landscape berm got put in pretty much the same as the one did for Heritage Falls although not quite as dominant. Mr. Morin stated the way that he understood it, in that location the probability was that those sidewalks that were called for were put in the plat because it was part of the ordinance. Discussion followed.

Mr. Morin stated that the discussions as he understood it is that there would be trade offs either in compensation or other considerations done for the vacation of the sidewalks. Mr. Morin stated that the landscape berm was installed and he brought along pictures to present to the board. Mr. Morin stated that the berm works, the drainage works well and it adds appeal. Mr. Morin stated that the removal of the berm would make it an eyesore with sidewalks and no landscaping. Mr. Morin stated that since access to the park was the goal his proposal is that they install a sidewalk along lot 116 in the edge of the reserve that is behind the wet lands area. Discussion followed. Mr. Morin stated that we would want to have a trade off to do about two hundred (200) feet of sidewalk along there and make an entrance into the park from the north edge of Freedom Springs as a trade off to having the sidewalks on Nichols and whatever other considerations that we could come up with to satisfy everybody. Mr. Morin stated that we think taking out the landscape berm would reduce the attractiveness of the front entrance. Mr. Morin stated that they hoped to come up with a proposal, including new drawings that also include an entrance monument on the south side of 174<sup>th</sup>.

Mr. Morin stated that there was some mention that the landscape berm and the trees that are in the berm might obstruct the view of traffic as you exit 174<sup>th</sup> onto Cline Ave. Mr. Morin stated that he took some pictures of the landscape berm and the traffic as it was exiting and he believes that the obstruction is minimal as compared to some subdivisions, including Heritage Falls. Discussion followed.

Mr. Morin stated that they would like to propose that they present to us a petition to amend the primary plat to remove the sidewalks and he will bring in a survey indicating the proposed sidewalks along lot 116. We think this is a better idea than having bare sidewalks along Nichols street. Mr. Earley asked Mr. Morin for clarification on the lot number where the proposed sidewalk was to be put in. Discussion followed.

Mr. Trulley stated he reviewed the plan commission minutes starting from 2004 to current and this subdivision was approved with the sidewalks along Nichols. Mr. Trully stated that Heritage Falls made a monetary agreement with the Town by not putting in the berms they would give them the money for the sidewalks to go south along with his sidewalks to Main St. Mr. Trulley stated that the council approved the new water tower project and extending the water main down. Mr. Trulley stated that he has not seen the engineers drawings, but he is assuming they will include these sidewalks. Mr. Trulley stated if he eliminates his sidewalks the people from Deere Acres would have to cross the street and walk down the street to get to a sidewalk. Discussion followed.

Mr. Mandon stated that it was his understanding that the berm is in the public right-of-way. Mr. Morin stated yes it is, just like Heritage Falls. Mr. Mandon stated that we are not discussing Heritage Falls tonight we are discussing this subdivision. Mr. Mandon stated that the issue is the public right-of-way is for public use, not for personal landscape. Mr. Mandon stated that the purpose of having the parkway is for utilities or expand the road if necessary and do what the Town deems use for. Mr. Mandon stated that the berm looks great and it is very nice for the people along those lots but it should be on private property in the back yards and not in the public right-of-way.

Mr. Mandon stated we would not be debating on having something moved to put in a sidewalk if the berm was not in the public right-of-way. Mr. Earley asked if we were sure that the berm was in the public right-of-way. Mr. Trulley stated yes. Mr. Morin stated that if the sidewalks are necessary you could put them on the inside edge of the berm. Mr. Morin stated that all he is asking for and in fairness is the same consideration as Heritage Falls, they made a monetary consideration they put their berm in the right-of-way as did we, we think that it made it a much more attractive community and we are asking for equal consideration of the same good idea.

Mr. Konradi stated that he has been a board member for a long time and he does not think that in any public portions of the meetings that the Town has ever backed down on the idea of connecting the Freedom Park to the downtown area. Mr. Konradi stated "Freedom Springs might be the first segment but I do not think that this is the time to back down on this goal". Discussion followed.

Mr. Morin stated that it was his understanding that Heritage Falls was allowed to substitute for a landscape berm. Mr. Morin stated that we are asking for the same consideration. Mr. Earley stated that he believes that Heritage Falls had it approved that

way; you had your plat approved with the sidewalks. Mr. Morin stated he was not sure. Mr. Trully stated that the reason the Town accepted that arrangement from Heritage Falls is because the property to the south of them is not in Town and there was no way of connecting them and that was the Town's reasoning at that time. Mr. Earley stated the Heritage Falls subdivision was approved that way. Mr. Trulley stated that is correct, Freedom Springs was approved and it is on record for the installation of sidewalks. Mr. Parker stated that he has only been on this board for three years and he has watched the Board address some of the issues that were done incorrectly and he agrees with Mr. Mandon. Mr. Parker stated it is in an easement. Mr. Parker stated that he has concerns regarding Heritage Falls and their agreements with the Town. Discussion followed. Mr. Parker stated that nothing should have been allowed to be put in the easement. Mr. Parker stated that he would be willing to look at some of Mr. Morin's proposals but ultimately if those berms are in the easements they need to be moved.

Mr. Morin stated that he believes it would be cost in prohibitive to put sidewalks up and down Nichols, "I do not understand how it could happen". Mr. Konradi stated that we have had those discussions, but that it still has not deterred the goal. Mr. Earley stated that Freedom Park is one of our focal points in Town and it has been a discussion with several committees and boards in Town to try and get pedestrian access to the park. Mr. Morin stated that we realize that is a goal and that is why we are proposing putting the sidewalk along lot 116. Discussion followed.

Mr. Morin stated that in his opinion the landscape berms make the area more attractive and if he had to put the sidewalks in he would rather just leave the berm there and put the sidewalks along the berm. Mr. Konradi stated that they really need to be on the property line. Discussion followed. Mr. Felder stated that the berm is in the easement, who gave you permission to put it in the easement where the sidewalks where platted. Mr. Felder stated "I know to you are asking for relief from the original plan but the Town did not put the berm and the nice trees in the easement you guys did". Mr. Morin stated and neither did Heritage Falls; it was done under the supervision of the Town's administrators. Mr. Felder stated that we are not talking about Heritage Falls we are talking about Freedom Springs. Mr. Morin stated that he is against removing the berm. Discussion followed. Mr. Felder stated that if there is a plan in place we should stick to it. Mr. Felder stated that if you have a better solution on where your sidewalk can go we will look at your proposal. Discussion followed.

Mr. Morin stated that perhaps the berm could be left there until the Town needs to make improvements utilizing the easement. Mr. Konradi asked if we are entertaining that they take the berm out, "I have not heard that". Mr. Trulley stated that this is just a discussion tonight. Mr. Morin stated that he has been told that the Town wants him to take the berm out. Mr. Trulley stated he had told him that he needs to get the sidewalks in and Mr. Morin asked to discuss it with the Plan Commission. Mr. Trulley stated that without a survey we are not sure if the berm is in the easement. Mr. Morin stated that he was going to have the survey done, but if it is a mute point he is not going to have it done. Mr.

Morin stated that if you look at the pictures that were supplied, you can see the berm is in the right of way as is Heritage Falls. Discussion followed.

Mr. Morin stated that at this point if we are not going to be able to change the sidewalks and leave the berm in and deal with that later. Mr. Mandon suggested that Mr. Morin come in with a plan and show that it is feasible, and we can discuss it at the next meeting. Mr. Morin stated that the sidewalks are on the plat and we are being told that they have to be put in unless we get an amendment to change the fact that they have to go in, so privacy in the back yard evidently is not an issue because that is the way it was approved, and it is being demanded that they be put in, so the only real issue is if it will work, drainage is not an issue because the catch basins are on the inside on the lots rather than on the right of way. Mr. Kelley stated you should come up with a plan and present it at the next meeting and we will discuss. Mr. Morin stated that he will take it in to consideration. Mr. Morin stated that he was not sure if there is anything to present if we are not going to change anything. Mr. Mandon stated the whole idea is that you have changed something; you have a berm where it was not on the original plat. Mr. Mandon stated what you are asking for is the Plan Commission to accommodate you to keep it there. Mr. Mandon stated that the Plan Commission is saying that they want to have the original sidewalk installed and if you can do both, if you can keep the berm without having to move it and have the sidewalk functional the same as the original plan indicates then they are willing to look at that. Mr. Mandon stated what you are going to have approved is to have the berm remaining more so than the sidewalk because it is already here and you are going to put it in, you are getting permission to keep the berm in the right of way with stipulations. Mr. Morin stated thank you for your time.

**FINDINGS OF FACTS:**

**Mr. Kelley read the Finding of Facts for PC #15-006, 112 W. Oakley, to forward a favorable recommendation to the Town Council for a rezoning from R1 to LI (light industry). Mr. Parker made a motion to approve the Findings of Fact, seconded by Mr. Earley and carried by a roll call vote with six ayes.**

**ANNOUNCEMENTS:**

**ADJOURNMENT**

With no further comments or questions Mr. Konradi, made a motion to adjourn the meeting at 7:50pm, seconded by Mr. Earle y and carried by a voice vote.

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Richard Kelley, President

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Elias Carras, Secretary