

**LOWELL PLAN COMMISSION MEETING
JANUARY 16, 2016**

Vice President Jim Konradi 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, Jim Konradi, Chris Salatas, Matt Felder, Mike Gruszka, Edgar Corns and Don Parker. Also present were Planning Consultant Jim Mandon, Town Attorney Nicole Bennett, Building Official Carl Ferro, Department of Public Works Director Greg Shook, Town Engineer Craig Hendrix, and six citizens.

ELECTION OF OFFICERS:

Edgar Corns made a motion to nominate Don Parker as President, seconded by Elias Carras and carried with a voice vote of all ayes.

Elias Carras made a motion to nominate Jim Konardi as Vice President, seconded by Christopher Salatas, and carried with a voice vote of all ayes.

Mike Gruszka made a motion to nominate Elias Carras as Secretary, seconded by Jim Konradi and carried with a voice vote of all ayes.

APPROVAL OF MINUTES

Edgar Corns made a motion to approve the December 10th, 2015 regular meeting minutes and the December 17th, special meeting minutes seconded by Mr. Gruszka and carried with seven ayes.

PUBLIC HEARING:

PC #16-003 – Paul Rossi, 617 E. Commercial, Lowell IN, Zoning Change, 1601 Northview, Lowell, IN, from R1 to B1.

Mr. Paul Rossi, of 11095 Whitcomb, Crown Point, IN, and Mr. Paul Banter, of 14731 Clark Rd. Crown Point, IN approached the podium. Mr. Rossi stated that Mr. Banter would be joining him in this venture. Mr. Banter stated that Mr. Rossi would like to put his office in there. Mr. Banter stated we have also talked to a chiropractor and a dentist, and we are looking to make it a professional center. Discussion followed on other possible renters in the building including possibly a day care center.

Mr. Mandon stated that the staff met and discussed the facility the way it is currently laid out and also the request by the petitioner, and staff favors the change in the zoning. Mr. Mandon stated that most of the activity that will be on the site will continue to be on the west and northwest corner. Mr. Mandon stated that there is already a fence between this particular building and the residential property to the east. Mr. Mandon stated that the access is good for this property and there is plenty of parking. Mr. Mandon stated, as a result, the staff favors the Plan Commission recommending to the Town Council, a change in zoning.

Mr. Corns stated that he drove by the property and the house was not listed as 1601 Northview it was listed as 1611. Mr. Rossi stated that the house was not part of the zone change, just the church. Pastor Scott Weinkauff, 5927 Debra Lane, Lowell, IN stated that originally, the house was part of the property, but it was sold years ago and it is not attached to the property. Mr. Rossi stated that it is not owned by the church. Mr. Corns asked what is the number on the house? Pastor Weinkauff stated that he was not sure, it does not belong to us, the church is 1601 Northview. Mr. Corns stated because on the front of the house the address is 1611. Mr. Parker stated the petition is to rezone the church building only not the house. Mr. Corns said just the church? Mr. Parker stated yes.

Mr. Parker opened the public hearing. Mrs. Patricia Carlin of 1600 Northview Dr., said they purchased the property about two years ago. Mrs. Carlin stated our biggest concern is what would possibly happen, or what are the zoning laws of what could go in there if this man decides to sell in a few years, because we live right across the street. Mrs. Carlin stated that's our biggest concern. Mrs. Carlin asked could it be a bar or a 7 Eleven? Mr. Mandon stated that there are a long list of B1 uses, most of them are either office type uses or small retail. Mr. Mandon stated that B2 permits the larger retail stores, located on larger lots, with more traffic going in and out. Mrs. Carlin asked about an alcohol license and if that was a provision that could be put in there, that is our biggest concern. Mr. Mandon stated that the town does not control the sale of alcohol by zoning, I think that is done at the county level. Mrs. Carlin stated how are we to know what could go in there down the road? Mr. Mandon stated we do not know exactly what will, but what can go in is listed specifically in the zoning ordinance under B1 district. Discussion followed.

Mr. Salatas asked Mr. Rossi how long he had been in business. Discussion followed.

Mr. Felder stated he could see a potential problem with parking along Northview St. Discussion followed.

Mr. Mandon stated that when you are making a recommendation to rezone, you are not rezoning it as an office building, you are rezoning it as any use under B1. Discussion followed.

Attorney Bennett stated, for clarification, and to addresses your question specifically Mr. President, Ordinance §155.037 addresses B1 the general business district and just in summary this is the intent and permitted uses and special uses by Ordinance. Attorney Bennett read the permitted uses and special uses. Discussion followed. Mr. Rossi stated that it sounds like alcohol would be a special use. Attorney Bennett stated it is a permitted special use by statute, anything beyond that would need to be petitioned for. Discussion followed.

Mr. Parker asked when is the entrance ways and the parking addressed? Mr. Mandon stated when there is a site plan brought in as part of the building permit. Discussion followed.

Mr. James Carlin, 1600 Northview Dr., approached the podium and stated that his concern was the kids. Mr. Carlin stated that I go to this church, I do not want to stop the sale of this church. Mr. Carlin stated that the kids hang out there. Mr. Carlin stated that people run thru the stop sign there and somebody is going to get killed. Mr. Carlin stated that it is a safe zone for the kids and they hang out there. Mr. Carlin stated that the kids need to be informed that they can not hang around at night anymore. Mr. Ferro stated that the business will be open during the day and the parking lot will be lit, there should be no problem with the kids.

Mr. Parker closed the public hearing.

Mr. Salatas made a motion to forward a favorable recommendation to the Town Council granting the zone change at 1601 Northview, Lowell, IN from R1 to B1 seconded by Mr. Corns and carried with a roll call vote with seven ayes.

NEW BUSINESS

Discussion on amendment to Ordinance #2015-0043 Flood Hazard Areas.

Craig Hendrix, Town Engineer with SEH, stated every four years the DNR sends what they call their model ordinance to the Town and it addresses your flood hazard area. Mr. Hendrix stated that this year it went to the Council for adoption and the Council had some questions and I suggested that it go to the Plan Commission, because I believe it is a planning document. Mr. Hendrix stated it tells you what you can and cannot do in there. Mr. Hendrix stated that you have the opportunity to make some changes to it, and a lot of them you can not. Mr. Hendrix stated that the DNR states if you want to participate in the flood insurance program you need to adopt this ordinance. Discussion followed.

Mr. Hendrix stated that he made some comments on the ordinance and he also had SEH's flood specialists look at it and they made some comments on it. Mr. Hendrix stated that he did not want the Commission to send any recommendations to the Council, what I am actually trying to do is get the DNR to come up and present the ordinance to you with a joint session with the Council and maybe invite the public. Mr. Hendrix stated it is great training and it is really helpful for the public as well you to understand what this ordinance says and what you can do in a flood hazard area and what you cannot do in a flood hazard area.

Mr. Hendrix stated that the Town has some jurisdiction, there is something called a flood way and something called a flood fringe which is the edges of the flood plane. Mr.

Hendrix stated that you have some jurisdiction, it depends on how much you want to allow to develop in there. Mr. Hendrix stated the ordinance tells you what to do if a house is damaged by a flood, if you can rebuild it, how much you can rebuild etc. Mr. Hendrix stated it also tells you if you want to build a new house in the flood plane, how to do it. Discussion followed.

Mr. Hendrix referred to the copy of the model ordinance and stated to the Commission that you can not change anything that is in the black type, the red type is what the DNR has put in, the gray type are areas you are allowed to make changes to as long as the DNR approves it.

Mr. Hendrix stated to Mr. Parker that he did check the flood maps and they are the correct ones that are currently in force. Mr. Hendrix stated he brought them here, do you want to look at them or do you want to wait until the presentation? Mr. Parker stated we would wait until the presentation. Discussion followed on the 2012 maps and the data that was used to compile them. Discussion also followed on the gap in the map due to 171st not being incorporated. Mr. Mandon stated that the best thing about the 2012 maps is that they are seamless. Discussion followed.

Mr. Parker asked when you allow structures to go into a flood area that impacts your insurance rating to some degree correct? Mr. Mandon stated not if you follow the ordinance. Mr. Mandon stated if you do not follow the ordinance you can lose the program all together. Mr. Parker stated that when the Town allows a developer to go in and build in there you are at risk of losing your flood insurance. Mr. Mandon stated yes. Mr. Parker stated that has happened in this Town already. Mr. Parker stated we have some residents who are now in a flood way, they can not afford flood insurance, they have \$200,000 to \$300,000 homes and they are in a flood way, when they bought the house prior to 2012 they were not and there was not an issue. Mr. Parker stated this is not a rubber stamp, we cannot let residents buy property that is in a flood way and build houses and then can not get flood insurance because it is a liability to the Town and it is a disservice to the people moving into our Town. Mr. Parker stated I am glad that you are bringing these people forward, we need to understand as a Plan Commission and as a Town Council. Mr. Parker stated we have an obligation to take this seriously. Mr. Parker stated that it is my understanding as I read this, that Carl is going to be the guy that is going to sign off on this, he will never understand this, we talked today, but when people say it is a rubber stamp, that is not the case. Mr. Gruszka stated we are dealt this now, we have homes that are residential in a flood plane, what steps can we take to help those people out. Mr. Hendrix stated we can verify the model and the topography can be updated and show the DNR that the topography has changed since then. Mr. Hendrix stated that right now each individual house is doing it by itself, the Town can take on the project and re-survey the area and submit to DNR to make a change or re-model it. Mr. Hendrix stated if both of those fail, I am not sure if there is any other way. Mr. Hendrix stated that the two alternatives that I suggested are not cheap. Mr. Parker stated in this particular subdivision, there were twenty one (21) or twenty two (22) homes impacted,

nine of us have paid out of our pocket and had done what Craig is talking about. Mr. Parker stated that there is one person I feel bad for, there is nothing he can do, his house is what it is, and he knows he is stuck, he had to borrow money to pay off his house so that he did not need flood insurance. Mr. Parker stated there are additional lots in the subdivision that have some infrastructure in them and I think that we have taken some steps to make sure that nobody builds on them. Mr. Parker stated that the developer is not obligated to disclose to the potential buyer that the property is in a flood zone and you can not build on it. Mr. Parker stated the potential buyer has to investigate on their own, we have taken steps in the county and put a note on the deed.

Mr. Hendrix stated if you do not adopt the ordinance, the DNR does do audits, they will find out and they will ask questions. Mr. Hendrix stated there is a hardship variance administered through the BZA. Discussion followed. Mr. Hendrix stated it is very important that we understand these maps. Discussion followed. Mr. Parker stated in 2005 the developer received a letter from the DNR saying he could not develop that part of the subdivision and the Town did not do anything about it and let him do it.

Mr. Hendrix stated that Carl will have the option to contact either Jim or I for any questions he may have on this ordinance. Mr. Hendrix stated that I want the DNR to present the ordinance. Mr. Hendrix stated this is what they do, they are flood plane specialists and I have left a message for Laura Kannapel, and certainly the public would be invited to ask questions. Attorney Bennett stated that this special joint meeting could be the public hearing for the ordinance as long as the ordinance is in "clean form" and the public hearing notice is advertised. Discussion followed on a joint meeting with the DNR. Mr. Hendrix stated it needs to be approved by the Council and published so there is a deadline on this thing. Mr. Hendrix stated what I am going to do is mark up an ordinance in track changes and get it to the attorneys or send it to the DNR for review and approval, and then you guys can send in your recommendations as well and if you choose to change the recommendation from us then we will make the changes and send it to the DNR. Attorney Bennett stated that is where your time frame will come in. Discussion followed. Mr. Parker told Mr. Hendrix you need to get a few dates from the DNR and get with Carl and we will set up the meeting, and if we need to do a special meeting before our next meeting we will arrange it. Mr. Parker asked this has to been done by March? Mr. Hendrix stated yes. Discussion followed on what date in March it was due by. Mr. Hendrix stated I would think that the DNR will understand what we are trying to do and I think they would be a little more flexible on that March date, I will find out. Mr. Hendrix stated that any of the Commission can look at the maps, they are on line. Discussion followed. Mr. Parker stated that I am going to make you cut this off, we have other stuff to do, you three (3) will work it out with the DNR and schedule the meeting, and Dianna will let us know.

FINDINGS OF FACTS:

Mr. Parker read the Finding of Facts for- Providence – Phase 7 (Briarwood)Meadowbrook – determination of insignificant modification to PUD and site plan approval into the record.

Mr. Salatas made a motion to approve the Findings of Fact, seconded by Mr. Gruszka and carried by a roll call vote with seven ayes.

ANNOUNCEMENTS:

ADJOURNMENT

With no further comments or questions Mr. Salatas made a motion to adjourn the meeting at 8:05pm, seconded by Mr. Gruszka and carried by a voice vote.

Don Parker, President

Elias Carras, Secretary