

**LOWELL PLAN COMMISSION MEETING  
DECEMBER 13, 2012  
7:00 P.M.**

President Kelley called the meeting to order at 7:00 P.M. The Pledge of Allegiance was recited. Recording Secretary Gena Knapp called the roll. Members answering the roll call were Richard Kelley, James Konradi, Elias Carras, Robert Philpot, Edgar Corns, Don Parker and Matt Felder. Also present were Planning Consultant Jim Mandon, Attorney Larry Steele, Building Official Tom Trulley, one press, and three citizens.

**APPROVAL OF MINUTUES**

Mr. Konradi made a motion to approve the October 11, 2012 regular meeting minutes and the October 29, 2012 special meeting minutes, seconded by Mr. Corns and carried by voice vote.

**OLD BUSINESS**

None.

**NEW BUSINESS**

Final Plat Approval – Ramsey Development, LLC – One lot parcel divided in half for the Lowell Nursing Home on the Northeast corner of Burr Street and Ann Beverly Drive – Jim Huber, Ramsey Development, LLC, stated they are proposing a 58,000 square foot nursing home facility. These models have been built throughout the states of Indiana, Ohio, and Kentucky. Jim Mandon, Planning Consultant, stated the preliminary approval, which the petitioner already has, is the engineering approval for the plans that were submitted. The final approval is actually creating the lot itself. Once the approval takes place, the mylar is signed and taken to the County to be recorded and a copy is brought back to the Town. After those steps, the developer can ask for the building permit. He stated there are some public improvements for this project that need to be taken care of such as the widening of the street, a water main that has to be taken across the street, and a fire hydrant needs to be put in place. The code requires if public improvements are not installed after the preliminary approval, there must be a bond or letter of credit from the developer that the Town accepts for 125% of the value of the improvements. The estimates of those improvements for this project are about \$75,000. He stated if for some reason the developer gets the permit, begins to build, and then decides to stop building, the Town can pull from that financial security to finish the public improvement portion of that property. Mr. Mandon stated we are asking for the Commission to establish the dollar amount tonight so that the developer can go get that bond or letter of credit. We are also asking the Commission agree to final approval, but not to sign the mylar until the bond or letter of credit is received from the Town. A discussion followed on how the motion should be made. Mr. Parker made a motion to approve the final plat on the condition of receiving a bond or letter of credit for \$75,000 that is in a form approved by

the Town attorney and authorizing the President to sign the mylar if and when those conditions are met. The motion was seconded by Mr. Philpot and carried by voice vote.

Final Plat Approval – HSA Commercial Real Estate – One lot subdivision for the Lowell Professional Center – Medical Health Care Facility – 18034 Brandywine Drive – Jeff Bann, DVG, INC, stated about thirty days ago he stood before the Plan Commission and indicated that he would not be back until the easement agreement between the doctors and Mr. Lotton was signed by both parties. He stated that the agreement has not been fully executed yet due to some conflicting schedules and minor disagreements between the two parties. There are two points that are concerning to Mr. Lotton, one being including utility easements to have cross access and ensuring that there will only be one pump station that services the development area between Spring Run and this proposed development. The second concern is the letter of credit that the doctors are asking for from Mr. Lotton for the improvements that would be required across the property. We are making modifications to the agreement based on those two concerns. What we are doing for this one lot is far away from the ditch and easement issue that we are having. We will continue to work on this issue and to get the signatures from both parties. This agreement is the only outstanding item that is left from the preliminary approval. We have also submitted our public improvement cost estimate for the bond, which has been reviewed and approved. We are asking for a conditional approval based on a fully executed copy of the easement agreement submitted to the Town attorney and the Town planning office prior to any signature on the mylar. If we cannot get that, then we need to come back to the Commission letting you know that.

Mr. Steele asked if the amount for the public improvements has been determined. Mr. Mandon stated the amount is \$390,415.31, but that needs to be multiplied by 1.25, which is \$488,019. That is the amount that the bond or letter of credit would need to be, however, Mr. Bann has indicated that the improvements will probably be installed prior to receiving a building permit. Mr. Bann stated HSA is in the process of closing on the property and after they acquire the property, they will get the financing for the project. At that time we will either secure the bond, or complete the public improvements prior to the building permit. He stated there are significant public improvements that need to be done before we can do anything. Mr. Parker stated he would like to see everything in writing, but he also wanted to make it clear that Mr. Bann is doing the Town's job. He stated the storm sewer should have been in place and the easement should have been recorded. He stated if Mr. Bann fails in getting the agreement signed, it will be on the Town to make sure that what was originally proposed be done in that subdivision. Mr. Parker stated that he believed the approval should be made without the condition of the document being signed because it is not HSA's responsibility. Mr. Steele stated that was the condition of the preliminary plat being approved. Mr. Parker asked if because we included it in the preliminary approval, we have to keep it in the final. Mr. Steele stated that was correct. Mr. Bann stated they were fully aware of that condition and if they are not successful, then they will come back and find a way to move forward without it. Mr. Parker asked if there is a remedy for this if they are not successful. Mr. Steele stated the original subdivision was vacated, so we would be back at square one. Mr. Felder asked if the process would start over again if that were the case. Mr. Steele stated they would

have to have a new approval on the preliminary plat. Mr. Trulley stated the easement was not the Town's mistake, but the County's. He stated that was originally approved through the County and then the Town took that parcel over.

Mr. Steele stated it would come back to getting the letter of credit or bond and the easement agreement being signed and recorded. Mr. Felder asked if they would need a bond if the improvements were done. Mr. Bann stated that is built in to the ordinance right now. In order to get the mylar signed, we either need to get a bond or letter of credit, or install the public improvements ourselves before we get the building permit. Mr. Mandon stated ideally you would like a picture of how the entire site will be developed, but as long as we are not closing doors on what we would like to see in the future to the North and the East of this property, then you should be fine. As long as the developer has a legal right to install the infrastructure that he needs for the one lot without the easement agreement, then you can go forward and approve the one lot. He stated it is always a good idea to have a plan of how a piece of land should be created before you develop just one lot. The idea of an individual detention pond is not ideal either. You would like to eventually have the developer fill in the detention pond if possible because these little ponds are a problem from a maintenance standpoint, and they are not attractive to look at. That is something that can be negotiated with the developer. You would like to have a few large ponds, not a whole bunch of small ones. Mr. Mandon stated that discussion would be when the rest of the property gets developed. Mr. Parker made a motion to approve the final plat for the development of this parcel contingent on one, either putting in the called for improvements and those being inspected and approved by the Town or posting a bond and/or letter of credit in the appropriate dollar amount that has been discussed here tonight in a form approved by the Town attorney, and second that the easement agreement related to the preliminary plat approval is approved by the Town officials and Town attorney, and that it is executed and recorded. After those conditions are met the mylar can be signed. The motion was seconded by Mr. Felder and carried by voice vote.

### **ADJOURNMENT**

Mr. Parker made a motion to adjourn the meeting at 7:23 P.M., seconded by Mr. Corns and carried by voice vote.

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Richard Kelley, President

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Elias Carras, Secretary

Note: The above-proposed minutes are submitted for review and approval as the official minutes by the Plan Commission.

Gena Knapp – Recording Secretary