

**LOWELL PLAN COMMISSION MEETING
JANUARY 17, 2013**

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 Eli Carras, Matt Felder, Richard Kelley, James Konradi, Donald Parker, Robert Philpot, and Craig Earley. Also present were Planning Consultant Jim Mandon, Attorney Jack Kramer, and Building Official Tom Trulley.

APPROVAL OF MINUTES

Mr. Parker made a motion to approve the December 13, 2012 regular meeting minutes, seconded by Mr. Konradi and carried by voice vote.

OLD BUSINESS

None.

NEW BUSINESS

Election of Officers – Mr. Carras made a motion to keep the Officers the same as 2012 with Mr. Kelly being President, James Konradi as Vice President, and Eli Carras as Secretary, seconded by Mr. Parker and carried by voice vote.

Appointment of member from the Plan Commission to the Technical Review Committee- Mr. Kelley stated this person would meet with the Committee and have the authority to approve lot changes without going through the Plan Commission. Mr. Mandon stated when people are merging lots together or dividing a couple of lots where no infrastructure is necessary and no bonds are required, this Committee can approve that on its own. There is an area in the Subdivision Code that states what the Technical Review Committee has jurisdiction over. This way there is no public hearing and the changes can go through a little quicker. Mr. Carras asked who is on the Technical Review Committee. Mr. Mandon stated Tom Trulley, Greg Shook, himself, and then a member of the Plan Commission. Mr. Parker asked if they were looking for someone who would be available during the day for these meetings. Mr. Mandon stated the meetings would probably be sometime during the day or early evening. Mr. Parker made a motion to have Mr. Konradi serve on that Committee, seconded by Mr. Felder and carried by voice vote.

Jim Mandon will be presenting a letter from the Economic Development Committee – Mr. Mandon stated the EDC is putting the Plan Commission on notice that they will be involved in certain aspects of the development of the Town. This letter is a statement indicating that they are going to be investing in the St. Anthony's Medical Center that will be built on the East side of Town on Route 2. As these things come up and EDC money is used for development, they are required to formally give the Plan Commission notice of what they are involved in. Mr. Parker asked if any action needed to be taken on

the letter. Mr. Mandon stated there is no action that needs to be taken; this is just to inform the Commission.

Discuss changes in the new Land Use Ordinance – Mr. Mandon stated that this document is a living document, and there will be more changes that need to be made somewhere down the line. He stated tonight, we would like to come out of here with a draft so that we can schedule a public hearing for the next meeting. A public hearing is necessary to change the zoning ordinance or to adopt the changes of the zoning ordinance. Once we hold the public hearing and have public comment or comments from the board to change anything, we will make those changes, or leave it as is, and vote to recommend a certain draft to the Town Council for adoption. The Town Council will then do the first and second reading to pass the Ordinance. The Town Council can always send it back to the Plan Commission to make more changes, but that is rare.

The first change has to do with the definition of a farm. The County holds the definition at twenty acres, the old ordinance stated forty acres, and we have now reduced it to ten acres. Around municipalities farms are usually smaller than the forty acres or even twenty acres. This draft includes two zoning classifications that did not exist before. Previously we only had three zoning districts for Residential, but we have expanded it to four. R1 and R2 districts were both single family and R3 was everything else. There are some places in Town where duplexes or up to four unit town homes or condos serve a good purpose in providing a buffer between commercial facilities and single family. In these areas you don't want a big apartment building, you would rather have the duplexes or town homes. To have this distinction we needed the extra district. The R3 district will serve for those duplexes or town homes, and the R4 will serve for the larger apartment buildings. We have also added a Planned Business district. Before, offices were merged in with B1, but there are some places where offices would fit in well where even the smallest business would not due to the hours of operation and the traffic it would bring in. Usually office buildings are well landscaped and have a lot of brick or masonry work and are well maintained.

The next change is in the area of annexation. This section comes directly from the various meetings we have been having with the Agricultural Committee. We have come up with these five standards that we thought would make things easier for them to accept being annexed in to the Town. Mr. Mandon read the five standards. He stated that in the Indiana Right-To-Farm law, it explains that the type of operation that is currently being used on that property must continue to be the same and you cannot expand it. For example, if you have a piece of property that your are growing corn on, you cannot change it to a piece of property where you raise pigs. The use of property has to remain the same. If you do not expand or change your operation, you can continue to do what you are doing even if it violates certain Town Ordinances. Mr. Philpot asked if they could rotate crops. Mr. Mandon stated they could rotate crops; they just can't add additional area or change from corn to poultry. Mr. Philpot asked if they could go from corn to beans. Mr. Mandon stated they could do that. You also cannot hunt on the property or have large open burning operations because those do violate other codes. Mr. Kelley asked if someone could have just a couple of pigs. Mr. Mandon stated he was not

sure. He stated you would have to have someone raise the issue and file a lawsuit to find out, but the best thing to do is to keep the operation the same. The Agricultural Committee seemed to be okay with this. Mr. Earley asked if Mr. Mandon could explain the issue of not expanding. He asked if a farmer has land that is not being used for crops, but is pastured, could that eventually be used for crops. Mr. Mandon stated that would be okay, but you cannot go in and knock down trees to expand your property. Mr. Philpot asked if you have a piece of property that is completely surrounded by development or housing, where is it covered that the farmer can bring in the machinery to do work on that land. Mr. Mandon stated if he has farmed that land in the past, he is covered under the Right-To-Farm Act. Mr. Philpot asked if he could come down Route 2 with that machinery. Mr. Mandon stated as long as he has the proper signage and lights he can do that.

Mr. Mandon stated the next set of changes is in the permitted and special uses for the agriculture areas. We have taken out the confined animal feeding operation under permitted uses and moved it to special uses. The BZA would have to approve that and possibly place restrictions on the approval. Many of the residential uses were taken out because if you are going to use the property as residential, then it needs to be zoned as residential. Mr. Carras asked if there was a way to take out the group home under residential. Mr. Mandon stated you have to be careful with taking those out because group homes are protected under the State law. There are certain rights that they enjoy because of discriminations in the past. A discussion followed on what exactly group homes were. Mr. Mandon stated that many communities have tried to fight that and lost. Mr. Carras stated he thought they had it removed in the past. Mr. Konradi stated that he believed Mr. Carras was referring to a person in the past that wanted to open a business in her house for a mental health facility. Mr. Mandon stated that instance would be like having her home re-zoned to business. The next change is the percentage of lot coverage from 40% to only 20% on that property.

Mr. Mandon stated in the Residential Districts we have removed most agricultural uses since those should stay with the Agricultural District. In R1 the living area square footage has changed from 2,000 square feet to 1,800 square feet. In certain cases, larger does not always mean nicer. When you require a larger home to be the minimum, you could end up with houses that are of less quality. Throughout the districts, we have reduced the amount of accessory structures to two maximum and those can only be one story, sixteen feet high. We also got rid of the parking restrictions in all of these districts because it originally said that parking has to be behind the front setback, which eliminates people parking in their driveway. In R2 we have eliminated two-family units. In R3 it does not permit single-family anymore, but it does permit two to four-family units. Mr. Philpot asked if a person owns a piece of property in an R1 or R2 district, could he not build a duplex. Mr. Mandon stated that was correct. They would have to come in and have that property re-zoned to R3. If that piece of property was on the outside of an R2 district or close to an office, it could be a candidate for re-zoning. If it were right in the middle of an R1 or R2 zone, it would not fit well and should be denied the re-zoning. For the R3 district, we changed the living area to 1,150 square feet because we thought 960 square feet was too small. The R4 district is your apartment

buildings or row home areas. These properties would be located on arterial or secondary streets so that you are not dragging more traffic through a single-family area to get to those apartments. An R4 district would also do well near a railroad track to buffer the sound from single-family neighborhoods. Mr. Philpot asked if properties would be grandfathered in if their zone changes after this ordinance passes. Mr. Mandon stated in your code it states if you do not expand it and nothing happens to it, you can continue to use it the way that it is being used. This only applies to legal non-conforming uses. If you can trace back the use and you find out that there was an apartment installed on top of an accessory building and no one got permission for that and they are in an R1 district, you can force them to stop using it that way because it was never legal. It has to be legal first and if it is, they can continue with that use even though we have changed the rules. Mr. Philpot asked if this would be passed on to heirs. Mr. Mandon stated if it burns down and more than 50% is destroyed, then you can only build it to the zone district that it is in. Also, if you try to expand it, then you would be turned down or sent to the BZA for a variance. In R4 the minimum square footage is now 960 square feet. Also, the lot area has changed to 20,00 square feet because you do not want these on small lots. In the Mobile Home District, we have again gotten rid of the agricultural uses.

The PB District has been created from the original B1 District, taking out the retail aspects of it and putting in more office uses. Mr. Carras stated getting back to the Mobile Home District; we are trying to stay away from a mobile home park in the Town. With this being in here, could someone come and say that they want a mobile home park next to a single-family neighborhood. Mr. Mandon stated this district was already in the ordinance; we just removed the agricultural uses like in the rest of the residential areas. It has to be a good-sized piece of property in order to put a mobile home park in. Mr. Carras stated before we were all against having a mobile home park in Town. Mr. Mandon stated you have to provide for it. You do not have to approve it if it is in the wrong place, but you have to provide for it. In the PB District, we have a thirty-foot setback regardless of what road you are on, and also the same accessory structure restrictions. In B1 we have removed the agricultural uses and removed the large scale retail uses. The large scale really belongs in B2, which is Highway Oriented Business. In B2, again we removed the agriculture uses and residential uses, and also removed a church or place of worship since those do not mix with the big box stores. We have also removed truck stops because those belong more in a light industrial area. In B2 we have also reduced the minimum lot area to .5 acres. A lot of parcels in Town fit well with the B2 uses, but the lots are small.

Mr. Mandon stated the Town Center District had a five-foot minimum rear setback requirement, but it permitted 100% of the lot to be covered by the building. We have reduced the setback to zero to conform to that. If you are going to permit the downtown business buildings to consume the entire lot because parking will be elsewhere, you do not want a rear setback. Mr. Felder asked if building on the property line would put you too close to the right-of-way. If you let someone build on the property line, it could leave no room for traffic to come through. Mr. Mandon stated if you permit the redevelopment or remodeling of businesses in the downtown area, they would need to go in front of the BZA to get permission to do so if you want to incorporate a five-foot rear setback. If you

permit the businesses to develop how they are now, they can knock down a building and put the same size building back up without permission from the BZA with the same square footage. If they take part of the building down and you incorporate a new rear setback, they would not be able to develop the building how it is now because it would be non-conforming. Mr. Felder stated he is more worried about the rear of the building to make sure that there is room for traffic to go through. Mr. Mandon stated most of the utilities are in public right-of-ways that are separate from the property itself. Mr. Felder stated it is just tight in some areas behind the downtown buildings. Mr. Mandon stated it is not worth changing. You want to encourage that redevelopment downtown and if you limit the amount of square footage they can put back then you are cutting in to the viability of the business. Mr. Philpot asked if a property is grand fathered in, could that property be sold and still be grand fathered. Mr. Mandon stated that it would be.

Mr. Mandon stated in the Light Industrial District, truck stops have been added since that is where they belong. A question was raised about the adult oriented business being allowed. Mr. Mandon stated again, you have to allow for it. Mr. Felder asked if there was a way to allow for it, but to make it difficult for them to actually come in to Town. Mr. Mandon stated you would have more leeway if you would approach that through the Police powers. If you permit them, all that does is give them the ability to be located in a certain area. There are other regulations that you can place on them such as hours of operation, distances from a school or church, etc. Those belong in the general ordinances of the Town. Mr. Kramer agreed. Mr. Mandon stated if they still did come in, you would at least be minimizing the impact. Mr. Felder asked if the Council could look in to those ordinances. Mr. Parker stated when there were massage parlors going in Schererville, there were certain ordinances that we had to change. Mr. Mandon stated you could also license certain operations as well. Mr. Parker stated after that it becomes a police matter. Mr. Felder stated we might want to take a look at those ordinances then since we will be passing the new Zoning Ordinance within the next couple of months.

Mr. Mandon stated under Light Industry we reduced the front setback to thirty-five feet. You would not locate light industry on a local road so this only applies to arterial and collector roads. In the Heavy Industry District we removed the residential uses except for a private airstrip, we removed the institutional and public uses, and we removed the auto-oriented uses. We also moved the low impact industrial use to the permitted side instead of the special use side. We have also reduced the setback on an arterial road from one hundred and fifty feet to seventy-five feet, and on a collector road from one hundred feet to fifty feet. The original setbacks were too high. Under those setbacks you would be wasting a lot of property.

Mr. Mandon stated the next section that was added in its entirety is the PUD code. This district could be controversial, but it could work to the Town's benefit when done correctly. If you have a piece of property that could go one way and be great for the Town, but it also could go another way that is permitted that may not be what you would like to see there, this is where a PUD could work to our advantage. Mr. Kelley asked if Section 8 housing could go in a PUD. Mr. Mandon stated only if you sign a contract stating that. There may be a large piece of property, like the 80 acres West of Town, that

could be great for a mixed-use area. You cannot have a mixed-use area under the current zoning if you were to annex that property, but under a PUD you could have more than one zoning district mixed in. In a PUD you can approve an actual layout of the area like the lot sizes, the layout of the streets, and even the color of the brick on the buildings if you want to. Mr. Parker asked if Panera Bread on Calumet in Munster was a PUD. Mr. Mandon stated that is a Commercial PUD. A discussion followed about where the PUD's are in Town already.

Mr. Mandon stated the next three pages are the Land Use Matrixes. These matrixes show the same information as what the other graphs do, just in an easier form. This is done by subject matter and it is easy to see what things are permitted, a special use, and not permitted in each district. Mr. Felder asked if there is a reason that group homes are a special use in each district. Mr. Mandon stated it is because sometimes they are single-family all the way up to a four-unit building.

Mr. Mandon stated the Corridor Development Overlay District was removed because it put extra restrictions on landscaping, parking, and setbacks that would use up most of the lots available in Town. This came up when Dollar General came in because they could not fit the building on the property after all of the setbacks were accounted for. The Accessory Uses section permits accessory buildings to be five-feet away from the property line instead of the fifteen feet. Number two under the accessory structures shows that you have the ability to put two accessory structures up either totaling nine hundred square feet, or one that is nine hundred square feet. Mr. Kelley asked if that includes an attached garage. Mr. Trulley stated it did not. Mr. Mandon stated in the area of buffer yards we reduced the amount of instances where you would need to use this. If, for an example, you have an industrial use next to a single-family, you would want that extra space and landscaping in between. We also changed the language as far as some of the requirements for the buffer yards. We have added "and" and "or" when you are talking about the requirements for the deciduous trees. Under the parking standards we have changed the size of the parking spot to ten feet by twenty feet instead of using the square footage. We have removed some language about the buffer yards as well under "D". In Entrances and Driveways under "B", we have changed them to two standards as far as the size; thirty feet and twenty-four feet wide. Before there were multiple sizes depending on the categories, which was too hard to keep track of. Under number 3, we have added that entire section to say that it is decided by the Plan Commission if an entrance drive includes more than one lane. The next section was changed as far as the distances of entrances from intersections. We went with two hundred feet for parcels having frontage of three hundred feet or more, one hundred and fifty for frontage of two hundred or more, and fifty feet for parcels having frontage of one hundred feet or more. We have also added an area for cul-de-sacs because they are popular in many single-family areas. We have made it so that they cannot exceed three hundred feet in length.

Mr. Mandon stated the way the code was written before, use variances were not allowed, but the State allows use variances. The Plan Commission should approve those sparingly, if at all. A variance is saying that we will not make you re-zone, we will just let you do what you want to do without changing the zoning. There are five different

conditions that need to be met according to the State code before the BZA can grant a variance, and several of them have to do with property values of the area and having a negative impact on the area. It also says that a use variance has to be granted on a property only where there is something peculiar about the property and you cannot use it for the intended zoning reasons. He stated if for some reason an old corner grocery store gets zoned accidentally as an R1 district and it would be difficult to use that building as a single-family home, you would be able to grant a use variance to whoever wants to develop it so he can put two or three units in there. You can't deny the ability to get a use variance because the State code permits them. Mr. Kramer stated that is true, the ordinance has to be in line with the State code. Even without that in there, you can still grant use variances, but it is a good idea to have that in there. Mr. Felder asked if it was the Commission's intentions to make a motion to move this to a public hearing. Mr. Mandon stated that was correct unless anyone had changes they would like to make. Mr. Felder made a motion to set a public hearing for February on the changes to the zoning ordinance, seconded by Mr. Carras and carried by voice vote.

Mr. Mandon stated the document would be available at the Town Hall for anyone to review the changes before the public meeting. Mr. Earley asked if we could put the document online for people to view. Mr. Mandon stated we could. Mr. Parker asked for an idea of a timeline. Mr. Mandon stated next month will be the public hearing and a motion can be passed to make a recommendation to the Council to pass the ordinances as long as there are no changes, and then there will be a first and second reading from the Council. Mr. Parker asked when that is done would we go to using this ordinance. Mr. Mandon stated there might be a period of time that we have to wait because of publication. Mr. Kramer stated there is, but he could not think of what the length was. Mr. Parker asked if we were thinking maybe sometime in March or April. Mr. Mandon stated yes. Mr. Carras asked if they should throw away their old books. Mr. Mandon stated yes, that one would be out of date. Mr. Kramer stated if it is the intent to pass the ordinance on to the Town Council at the next public hearing, the findings could be prepared ahead of time. Typically you would approve the ordinance at meeting one next month, the findings would be prepared and the following month you would approve those, then the following month it would go to the Town Council. He stated that he would prepare the findings before next month so that we can move this forward a little quicker. Mr. Earley asked if it would matter if there were changes made next month. Mr. Kramer stated he would bring his laptop and a small printer so that he could make the changes necessary, if any, and still print it out that night to forward to the Council.

ADJOURNMENT

With no further questions or comments, Mr. Parker made a motion to adjourn the meeting at 8:17 PM, seconded by Mr. Philpot and carried by voice vote.

Richard Kelley, President

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