

**LOWELL PLAN COMMISSION MEETING
JULY 9, 2015**

Vice President Konradi called the meeting to order at 7:00P.M. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were Elias Carras, Craig Earley, Jim Konradi, Matt Felder, Don Parker and Chris Salatas. Rick Kelly was absent. Also present were Planning Consultant Jim Mandon, Town Attorney Nicole Bennett, Building Official Tom Trulley, and eight citizens.

APPROVAL OF MINUTES

Mr. Carras made a motion to approve the May 14, 2015 regular meeting minutes, seconded by Mr. Earley and carried with six ayes.

PUBLIC HEARING:

PC #15-009, Ken Carey – Vacation of Frontage road that abuts:

7305 McConnel Ave., Lowell, In
Parcel #45-19-23-182-008.000-008
17644 Morse St., Lowell, IN
Parcel #45-19-23-182-006.000.008
Parcel #45-19-23-182-007.000-008

The petitioner, Mr. Ken Carey approached the podium and stated his address is 17379 Jansen Ct., Lowell, IN. Mr. Carey stated that he is asking the Town to vacate the frontage road that is in front of his u-lock storage units.

Mr. Konradi opened the public hearing. Mr. Ken Travis approached the podium and stated his address as 7010 W. 176th Ave., Lowell, IN he asked if this petition was for the vacating of the road and for the zone changing also. Mr. Carey stated this petition is for the vacate of the road only and the next petition is on the zone change. Mr. Travis asked if the vacation of the road was to expand the u-lock. Mr. Carey stated he is asking for the vacation in order to fence in his u-locks. Discussion followed. Mr. Travis stated that he had no issues with this petition.

Mr. Early asked the petitioner, Ken Carey, to explain for the rest of the audience and the Commission what his intentions were for the vacation of the frontage road. Mr. Carey stated he would like to put in a fence across the frontage road. Discussion followed.

Mr. Chad Evenhouse approached the podium and stated his address is 17319 Oak Valley Drive, he stated he owns property at 17646 Morse and asked if the vacation request would end at McConnel and not include the frontage road that is in front of his property. Mr. Carey stated that it was the frontage road in front of his u-locks only.

The public hearing was closed.

Mr. Trulley stated that he, Jim Mandon and Greg Shook, did examine the parcels and found that where the fence would be located on the east side of the road would not interfere with any public utilities. Mr. Mandon stated that the purpose of the frontage road when it was developed was to provide access to three commercial lots; however, that was not how the property ended up being developed. Discussion followed.

Mr. Mandon stated that the staff supports the vacation request of the roadway.

Mr. Konradi asked if the fence would surround the entire property. Mr. Carey stated yes and discussion followed on how the entrance/exit would work at the u-lock facility.

Mr. Early made a motion to forward a favorable recommendation to the Town Council for the vacation of frontage road that abuts:

7305 McConnel, Lowell, IN Parcel #45-19-23-182.-008.000-008

17644 McConnel, Lowell, IN Parcel #45-19-23-182-006.000-008

Parcel #45-19-23-182-007.000-008

seconded by Mr. Parker and carried with a roll call vote of six ayes.

Motion will be forwarded to Town Council

PC #15-010, Petitioner is Town of Lowell – Re-Zone from B2 to LI (light industry)

LOTS:

#1 McConnel Plaza Parcel #45-19-23-182-008.000-008

#2 McConnel Plaza Parcel #45-19-23-182-007.000-008

#3 McConnel Plaza Parcel #45-19-23-182-006.000-008

#5 McConnel Plaza Parcel #45-19-23-181-009.000-008

#6 McConnel Plaza Parcel #45-19-23-181-008.000-008

Mr. Mandon stated that when the subdivision was initially proposed the lots on the front facing East were supposed to be commercial lots and that was how they were zoned, the property in the back was light industry. Mr. Mandon stated that when the properties were actually developed they were developed with uses that did not fit into the business district, they fit into the light industrial uses. Mr. Mandon stated in order to not have five lots that are basically not legally conforming from a zoning standpoint, it makes sense for us to rezone the property to conform to the uses that are already there. Mr. Mandon stated to straighten out the situation that should have never occurred in the first place, it happened because the Town permitted uses on these properties that basically would fit into a light industry in a business zone. Mr. Mandon stated that the only use that would fit into a business zone is the parcel located on the north corner that is an office building and we are keeping that as a business zone. Discussion followed.

Mr. Parker asked if the lots to the rear were in compliance. Mr. Mandon stated yes. Mr. Felder asked if that was done to create a buffer from the light industry in the back. Mr. Mandon stated it may have been, but that is not the way it was developed.

Mr. Earley asked Mr. Mandon to explain the differences between light industry and B2. Discussion followed on the differences.

Mr. Konradi opened the public hearing.

Mr. Ken Travis, 7010 W. 176th Ave., Lowell, IN approached the podium and he stated that he owns property adjacent to this petition. Mr. Travis stated that when the area was developed it was all zoned B2 & B3, and that he realizes that Leep's is a commercial store so they are in compliance and the professional building you have stated is already in compliance I am confused if you are not talking about changing the zoning for all these other business why would you have to change it for this business, is something actually going in there? Mr. Mandon stated what we are talking about is five lots that are already developed, there are already buildings on them. Mr. Mandon stated the only lot we are not recommending rezoning is the use that fits within the business district. Mr. Mandon stated that the rest of them do not fit in the current business district in the new code. Mr. Travis asked when the new code was instituted. Mr. Mandon stated that they did not fit into the old code either. Discussion followed.

Mr. Travis asked if C&S and Bore-It are complaint. Mr. Trulley stated they are, they are zoned light industrial. Mr Travis stated when that area was developed it was zoned B3, when did the zoning change? Mr. Mandon stated before I was associated with the Town and they have not been changed since I have been here. Mr. Mandon stated so five of the six properties in the front do not comply and that is why we are doing this.

Mr. Konradi closed the public hearing.

Mr. Parker made a motion to forward a favorable recommendation to the Town Council on PC #15-010 Re-zone from B2 to LI (light industry) the following lots:

#1 McConnel Plaza Parcel #45-19-23-182-008.000-008

#2 McConnel Plaza Parcel #45-19-23-182-007.000-008

#3 McConnel Plaza Parcel #45-19-23-182-006.000-008

#5 McConnel Plaza Parcel #45-19-23-181-009.000-008

#6 McConnel Plaza Parcel #45-19-23-181-008.000-008

seconded by Mr. Felder and carried with a roll call vote of six ayes.

Motion will be forwarded to Town Council.

PC #15-011 Petitioner is Town of Lowell – amend Ordinance §155.090 Fence and Wall Standards

Petition filed to change the wording as follows

(A) These fence and wall standards apply to the following districts: AG, R1, R2, R3, R4, MN, PB, B1, B2, TC, LI and HI.

(1) Fences and walls shall be permitted in all zoning districts without a permit subject to conformance with the following requirements:

Mr. Mandon stated that Ball State put the zoning ordinance together a couple of years ago, we then reviewed the zoning ordinance and made significant changes to localize the code and make it more direct to what the Town's requirements are and one of the things that we missed correcting, and we found a couple of weeks ago, was a section in the fencing ordinance that permitted fences to go up without permits. Mr. Mandon stated we would like to change it to "with" permit.

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

Mr. Parker made a motion to make a favorable recommendation to the Town Council amending Ordinance §155.090 Fence and Wall Standards as follows:

**(1) Fences and walls shall be permitted in all zoning districts without a permit subject to conformance with the following requirements:
seconded by Matt Felder, carried with a roll call vote of six ayes.**

NEW BUSINESS

- Discuss Standards

Mr. Mandon stated that he wanted to bring the Commission up to date on what has happened to this point. Mr. Mandon stated that earlier this week, Craig Hendricks, Tom Trulley, Greg Shook, and himself met and went thru the entire subdivision ordinance. Mr. Mandon stated there are sections of the subdivision code that conflict with the other parts of the infrastructure code and the Town standards. Discussion followed on the revisions that they would like to recommend to the Commission, and an engineering document the staff would like to institute.

Mr. Mandon stated that before the next meeting they will have a proposal for you and if you agree with our suggestions we will set up the public hearing. Discussion followed on making the ordinances more broad and putting things in the standards which will be easier to change.

Mr. Parker stated that he would like to see in the standards that developers are to put green space aside, or in lieu of, they contribute to a park fund.

Mr. Mandon stated that the area that needs most clarification is the storm water section, this area will have the most changes to it.

Mr. Mandon stated that he would like to discuss Findings of Fact and your meeting schedule.

Mr. Mandon stated that on petitions you have two conditions, you either approve or deny. Mr. Mandon stated that if you approve the petition, the petitioner will have to wait thirty days for the Findings to be read in a public hearing before they can get a building permit,

or in the case of a subdivision, to get started on infrastructure. Mr. Mandon stated something you agree with, and approved the petitioner still has to wait thirty days to get a building permit and I think that thirty days is unnecessary for them to have to wait. Mr. Mandon stated that we have a process that we can use to try to shorten the procedure. Mr. Mandon stated that you also turn petitions down and those Findings of Fact are not pressing. Mr. Mandon stated because we turned it down those cases are the ones that potentially could be challenged legally. Mr. Mandon stated I think the process should stay the way that it is for petitions that are denied and approve those Findings at the next month's meeting.

Mr. Mandon stated for things that you approve, what I would like to propose to you, is that when the petitioner files the application and Findings will be required based on the petition, the staff will ask the petitioner to fill out a draft Findings. Mr. Mandon stated we can give them instructions. Mr. Mandon stated you would receive them when you receive your agenda packet. Mr. Mandon stated we can write this up as a procedure change, assuming you agree. Mr. Parker stated we directed the attorney to get this procedure in place; his initial recommendation is a little different from yours. Mr. Parker stated that he understands that you and the attorney have met. Mr. Mandon stated that we met and discussed this and both came to the same conclusion that if enough guidance was given to the petitioner, it should work. Mr. Mandon stated that Mr. Westland feels comfortable with this as long as we do not suffer the quality of what is in the Findings. Mr. Parker asked if the attorney's office would get the Findings ahead of time just like the Commission will. Mr. Mandon stated yes. Mr. Felder stated he is all for speeding up the process, but he also knows of people who mimic the Findings and will then sue if there request is denied. Discussion followed.

Attorney Bennett stated that she was not present at the meeting with Mr. Westland and Mr. Mandon but her understanding is not exactly the same of the position of Mr. Westland on this procedure. Attorney Bennett stated it was her understanding that it is still a work in progress and an ongoing discussion and you were going to meet again. Attorney Bennett stated that she wanted the Commission to know that we are not supporting this from a legal position, I believe it is an ongoing determination and I was able to confirm that with Mr. Westland a few moments ago. Mr. Parker stated that however we wanted to streamline it he would go along with it as long as it has the blessing of the attorney. Mr. Mandon stated that there are only a couple of ways to do this and it was my understanding that Dave agreed we would try this. Mr. Mandon stated that if that is not the understanding that Dave has, then that is a problem. Mr. Parker stated that you and Mr. Westland need to meet and discuss this and I am sure that it can be resolved. Discussion followed.

Mr. Earley asked when the Findings would be received by Commission and discussion followed on the time-line for the application and the Findings. Attorney Bennett explained the legal side of the Findings of Facts and discussed several of her concerns with the Commission on streamlining the Findings, but also complying with the law.

Discussion followed. Mr. Trulley, using the petitions from tonight as example, explained the time-line on when Mr. Carey would be able to start building. Mr. Trulley also stated that Mr. Cripe will be starting the subdivision process next month and he will not be able to start until next year and it is July. Mr. Parker stated that we are willing to listen to whatever recommendation you have, just work with the Attorney and come up with a procedure. Mr. Earley stated that your discussion tonight was to update us on what you have been working on right? Mr. Mandon stated apparently we are not going to agree, you have two opinions you can pick between them. Mr. Earley stated that he would like for you to go back and talk to Mr. Westland. Mr. Trulley stated that we have a meeting Monday with Mr. Westland. Attorney Bennett stated there may be an agreement reached, I am not suggesting there will not be. Mr. Mandon stated I thought we had reached an agreement. Attorney Bennett stated you did not from what I confirmed with him tonight, that this was an ongoing discussion and you would meet again.

Mr. Mandon stated that he would like to discuss the Commissions meeting schedule. Discussion followed on preliminary and final meeting on all petitions. Mr. Mandon stated that instead of requiring thirty days before the meeting to get on the agenda, you could require seven days or ten days because you are going to have two meetings. Mr. Mandon stated that is a change I would like to see you make. Discussion followed. Mr. Felder asked what our filing deadline is. Mr. Trulley stated the deadline is the first of the month prior to the month of the meeting.

Mr. Konradi stated that we are just discussing this tonight, what is the next step? Discussion followed. Mr. Mandon asked if the Commission thought enough of the idea for him to pursue it. Several Commission members stated yes.

Mr. Don Cripe, 17430 McKinnely Place, Lowell, IN approached the podium. Mr. Cripe stated that he has recently purchased the Reel Farm on Clark Road to the East of Beverly Estates. Mr. Cripe stated that he has a re-zone petition filed with the Plan Commission for the August meeting to start the process of developing this property. Mr. Cripe stated that he hopes this process will not be delayed, he is hoping to start developing in October or November, 1 at the latest. Mr. Cripe stated that anything the Board needs he will try and cooperate to the fullest to reach those deadlines. Mr. Cripe stated I just wanted to let the Commission know what was going on and I will see you next month.

ANNOUNCEMENTS:

ADJOURNMENT

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

Jim Konradi, Vice President

Elias Carras, Secretary

