

**LOWELL PLAN COMMISSION MEETING
MARCH 10, 2016**

President Don Parker called the meeting to order at 7:05 P.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, Mike Gruszka, Matt Felder and Don Parker. Edgar Corns was absent. Also present were Planning Consultant Jim Mandon, Town Attorney Nicole Bennett, Department of Public Works Director Greg Shook, Town Engineer Craig Hendrix, Town Councilman Will Farrellbegg, and four citizens.

APPROVAL OF MINUTES

Mr. Salatas made a motion to approve the February 11th, 2016 regular meeting minutes, seconded by Mr. Konradi and carried with six ayes.

PUBLIC HEARING

PC #16-008, Flood Hazard Areas, amend the Town of Lowell Land Usage Ordinance, Chapter 151. Forward Recommendation to Town Council – Craig Hendrix, SEH of Indiana, stated this is a modification to your existing development and flood hazard areas. Every four years or so when the flood maps are redone, the DNR provides this model ordinance that allows some changes. We have already made the changes and have received the approval of the DNR for the modifications we have made. Mr. Mandon stated the staff met in January to discuss this, and these are changes that strengthen the ordinance. The main recommendation is in Article 5 Section A (11), which imposes a two to one ratio for compensatory storage. This is meant to discourage development in areas that are floodway fringe areas. The floodway fringe area itself is within the jurisdiction of the Town, while the floodway itself is within DNR's jurisdiction. The staff recommends that the Plan Commission send a favorable recommendation to the Town Council. Mr. Parker opened the public hearing. With no one to speak for or against the amendments, Mr. Parker closed the public hearing. Mr. Konradi made a motion to forward a favorable recommendation to the Town Council in the case of PC #16-008, seconded by Mr. Felder and carried by roll call vote with six ayes. Mr. Parker stated he would like to encourage Mr. Hendrix to set something up with Laura Kanopal and FEMA in order to set up some sort of instruction, which we need to include Cedar Lake in. This was on the Town Council agenda last December for first and second reading without any review or recommendations. We need to establish a procedure so people know how to handle this because it is pretty serious stuff that is impacting us heavily. He asked Mr. Hendrix and Mr. Mandon to come up with a procedure for the staff and Commission so they know what they need to do. Mr. Hendrix stated they had discussed meeting in the late spring and recommended including the Council, Plan Commission, and the public. Discussion followed regarding the need for training and understanding of the flood hazard areas and how development in certain areas could impact the Town.

NEW BUSINESS

Discussion – Journey Church of God – Scott Weinkauff, 5927 Debra Lane, and Steve DeBold, Chester Inc. 455 E. Port Center, Valparaiso, IN introduced themselves to the Commission. Mr. DeBold stated the church is looking to build a facility on a piece of property located on the north side of Belshaw Road, directly across from Ralston Court, that they purchased about three years

ago. We have been working on the approvals with the Town for some time now, getting them involved in the early stages with the purchase of the property and the conceptual layout and design. We are at a point where we felt it necessary to meet and give you a timeline of our process and also to introduce the project to you because there are some waivers that have come up during the process. We thought it would be important to meet with the Commission to discuss the waivers and get your feedback as well as possibly set a special meeting because right now we are on the April 14th agenda, but during the process we have lost quite a bit of time and we are on a strict timeframe in getting this project completed. Mr. DeBold gave the Commission a background of the project stating that the first meeting with the department heads was on November 19th. At this point we had a full set of drawings and in discussion there were some changes they wanted to see, and we were told to make a formal submittal by email, which we did on December 8th. After this, we were told the drawings would be distributed to the engineer, planner, and department heads for an internal review. During this process there was a lapse of time before we heard anything back from the town. We followed up the whole month of December, but never received any phone calls back. By January, Chester decided to make more of a formal submittal in hopes of getting the town to move forward with this project. We received an email on January 29th, which stated there would be a TAC Meeting on February 8th, which we did attend. The bad part about this meeting was that it had almost been three months since the first time we had met with the town, putting us behind in the deadlines we are faced with. At this meeting there were quite a bit of changes for the site including the widening of Belshaw Road, the addition of curb and gutter on that road, sidewalks along the frontage of the property, and to provide excel/decel lanes at our entrance drive. In our opinion Belshaw is a county road that is not highly traveled and the stretch of roadway still largely relies on roadside ditches and there are telephone poles, and overhead and underground utilities along that road. The church mainly functions at large capacity on Wednesday nights and Sunday morning, which are not peak travel times. We do not feel that those conditions really warrant an upgrade of the infrastructure on Belshaw. Those considerations for the project were completely unexpected since we did not hear any of this during the initial meeting. As we discussed it, we decided that we would need to seek some waivers in order for the project to move forward. We did make all of the changes discussed in the meeting and were advised that we needed to have a TAC meeting again on March 4th. That day we made application to get on the agenda for the meeting on April 14th. We would really like to see a special meeting set so that we could gain some of that time back. The church has went in to a contract to sell their current location and since closed. They need to be out of their office portion by the end of August, and the sanctuary by the end of October.

Mr. Parker asked if there was a list of exemptions they were going to be asking for. Mr. DeBold stated the widening of Belshaw, curb and gutter along that road, sidewalks along the frontage of the property, and excel/decel lanes along the entrance drive. Pastor Weinkauff stated he appreciated the Commission allowing them to be there as well as the jobs of the staff and that they did not want to go outside of what they needed to do, but they needed some direction. We started our process early because we knew the deadlines we were going to be facing, and in that process we went ahead and sold our building because the meetings were going so well. One of the changes that came up recently was an asphalt drive that went around the backside of the building, particularly for the Fire Department. In phase two, we are going to be building right through that area. Those were things that were never asked of us and never talked about. He stated the last meeting was sort of frustrating because there was no one there to make decisions for what we needed. In good faith, we stepped forward with a lot of this process because of the meetings that we had early on, but now we cannot find anyone to talk to that can give us answers

or direction. Mr. Parker stated at this meeting we cannot decide specific things, but we did want an overview of what is going on. Mr. Parker went on to explain the situation that has happened in the Building Department which included the retirement of the Building Administrator in December, and now the new Building Administrator has fallen ill and will be absent for an undetermined amount of time. Before this meeting tonight there was a letter drafted that spoke of the April 14th meeting. Mr. Parker asked if anything has been advertised for that meeting. Pastor Weinkauff stated they were waiting to see if there was an earlier meeting they could have. Mr. Parker stated there are several things that this Commission can consider and need to do. He stated he would like to consider having a special meeting. Mr. DeBold stated they have handed in the application and received the list to do certified mailings, but have not received a letter from the town stating the meeting date. Mr. Parker stated you need ten days, if we told you today that we could give you a special meeting and you submitted everything to the paper by Monday, we could go ten days from Tuesday. Mr. Mandon stated the issue is that you need to use the local paper, which is only a weekly paper. Mr. Parker stated you send them certified letters and you get something stamped immediately showing that you sent it. We do not have to wait ten days from when they publish it, but from when you send it in. Attorney Bennett stated that was incorrect. For this purpose, the public has to have published notice ten days prior to the hearing. Pastor Weinkauff asked if it was stated which newspaper was considered local. Attorney Bennett stated it is the Lowell paper. Pastor Weinkauff stated so we cannot advertise in The Times. Attorney Bennett stated we wish you could, but it is State statute if there is a paper within the town, that is the paper that must be used. Discussion followed regarding the possibility of publishing the hearing in next Tuesday's paper, giving a meeting date of March 25th at the earliest. Mr. Parker called for a three-minute recess in order for Mr. Gruszka to call the newspaper owner to see if the ad could be published in next Tuesday's paper.

Mr. Parker reconvened the meeting. Mr. Gruszka stated we are confirmed that we can publish the ad in next Tuesday's paper. Mr. Parker stated if something goes wrong, this would all change, but if this works, we will get the letter published Tuesday putting the earliest date at March 25th. He asked the Commission members if everyone could attend a meeting Monday, March 28th at 5:00 P.M. Discussion followed. It was decided that the special meeting would be held Monday, March 28th at 8:00 P.M. Mr. Parker advised Pastor Weinkauff to reach out to either Mr. Mandon or Mr. Hendrix for further questions, or Mr. Salatas or himself. Pastor Weinkauff asked what the process for permits would be if Mr. Ferro cannot do permits. Mr. Parker stated that would be discussed tonight.

Discussion – Easement with Lowell Medical Office Building – Mr. Parker stated back in 2012 when he was first on the Council, there was discussion regarding the requirement of running stormwater sewers through Spring Run Subdivision to the creek on the west side of the doctor's property. For whatever reason, the developer and the doctors got in a dispute and it was never completed. The developer took the storm sewers to the east end of his property so when it rains all of the water goes down and bubbles up out of the storm sewer. After some back and forth with the Building Administrator and the attorney, we drafted an easement agreement that came before the Council in August of 2013. At that time no one had seen it, so we tabled it until September. In September the Town Council entered in to an easement agreement to allow that storm sewer to be completed, which should have been done when the subdivision was done. He stated after he did some housekeeping when he was leaving the Town Council, he came across this agreement that still has not been completed. There is a clause in here that states after one year this contract is null and void if it is not completed, so here we are again with a subdivision that did what they wanted and have not completed the storm sewers. We had an agreement that

did not get enforced and now we are stuck. Mr. Parker stated he would like to see the Plan Commission make a recommendation to the Town Council that they have the attorney look at the easement agreement and enter in to whatever legal action is needed, including an easement condemnation if that is what it takes. That storm sewer needs to be put in as proposed when the developer came in and got permission to build that subdivision. He stated it is his understanding that the developer is not interested in doing this, so in turn, he should not be getting permits for new housing or anything else. Mr. Gruszka made a motion to recommend that the Town Council have the attorney look at the easement agreement and enter in to whatever legal action is needed, seconded by Mr. Carras and carried by roll call vote with six ayes.

Discussion – Freedom Springs – Mr. Parker stated several months ago we had the owner of Accent Homes come in and discuss the development of Freedom Springs. There were supposed to be sidewalks down Cline Avenue that go to Freedom Park, which has not been done. Instead a decorative berm was put in, which is partial in the easement and the right-of-way. The developer gave a solution of running sidewalks somewhere else, but the Council said no, he needed to do what was originally planned. The issue is that when the town releases a bond, we accept the subdivision as is. We accepted his subdivision, and once we did that, we could not tell him that he has to go back and install the sidewalks. Attorney Bennett stated if it is not part of the original and the bond is release, there is nothing that holds the developer at that point. Unless they come back to modify the subdivision, we are stuck with it as is. Mr. Parker stated he would like to have Mrs. Cade reach out to the owner of Accent Homes and ask him to come in to a Plan Commission work session to discuss this further. We are at the point where we may need to talk to him and if he is willing to run sidewalks through the subdivision to get to the park, we are better off doing that than nothing. Mr. Mandon agreed. Mr. Parker stated he would like to have a work session with that developer before the next regular meeting, which is April 14th. Discussion followed regarding sending a letter to the developer that would be signed by the Plan Commission President asking him to attend. The Commission decided to invite the developer to the next regular meeting rather than a special meeting.

Mr. Parker stated he would like to have the Commission recommend to the Town Council that they direct the Town Attorney to establish a procedure that talks about releasing bonds and how they should be released. We need to establish the policy and identify the responsibility whether it goes through the Building Administrator or Town Manager. Mr. Parker reviewed some examples of bonds that are about to be released or have been released and the process that has happened. He stated he believed everything should be inspected before the bond rolls in to a maintenance bond, and any changes that have been made to the subdivision should have been done with the staff's approval. Mr. Parker stated there is a letter that is in the Commission's packet that was sent to the staff asking them to send recommendations to the Plan Commission on the issue of bonds. Attorney Bennett took it even further and said they need to look back in the file to see if there was something a developer was told to do, and to make sure that they did it. Mr. Carras asked who makes the approvals. Mr. Parker stated those are the procedures that need to be put in place to determine the responsibility. Discussion followed. Mr. Salatas stated he would recommend that the Chairman of the Plan Commission come to the Council meeting to explain his ideas. Mr. Mandon stated many communities at the Plan Commission level have a system where they have more than one meeting. Many times when you show up at a meeting for a petition, you only have had a few days to review the petition. In this system, a preliminary meeting could be set not long after someone files a petition. This way the petition is before you and you have the chance to ask questions of the developer, physically go look at the site, and think about the petition before the public hearing. The staff also has more time to have TAC

meetings to discuss some things that may need to be recommended for changes. Mr. Mandon recommended that the Plan Commission hold two meetings and not have the public hearing until they are satisfied that they have enough information. Mr. Parker agreed. He stated he would like someone to make a recommendation to the Town Council that they work on a procedure of how to release bonds and identify who is responsible for what, and how we get the information and how we review it. Mr. Parker asked that Mr. Mandon get with Attorney Bennett to discuss his ideas of how the Plan Commission receives the information. Discussion followed. Mr. Salatas made a motion to recommend that the Town Council create policy and procedure for development in the Town of Lowell from application to completion and release of bond, seconded by Mr. Gruszka and carried by roll call vote with six ayes.

Mr. Parker stated he would like to see a recommendation made to the Town Council that since our Building Administrator is not available right now, we allow the town engineer to handle and review all matters related to the building and development of the town, excluding any inspections, until further notice. Mr. Parker asked who Mr. Mandon believed should review permits. Mr. Mandon stated you should really have it all in one person's hands. He stated he could answer questions about the Zoning Ordinance and variances, but it would be better if the engineer handled all of it. Mr. Guszka made a motion to recommend to the Town Council that the town engineer handle and review all matters related to the building and development of the town including building permits, but excluding any inspections, until further notice, seconded by Mr. Konradi and carried by roll call vote with six ayes.

Mr. Parker asked if at the next meeting the Zoning Ordinance could be reviewed, particularly the multi-family portion of it. Mr. Mandon stated that would be fine.

Review the Findings of Fact:

PC #16-008 – Town of Lowell, Flood Hazard Areas, amend the Town of Lowell Land Usage Ordinance, Chapter 151 - Mr. Parker read the Findings of Fact regarding PC #16-008 and referenced “exhibit A”, which is on file with the Town. Mr. Salatas made a motion to approve the Findings of Fact regarding PC #16-008, seconded by Mr. Carras and carried by roll call vote with six ayes.

ANNOUNCEMENTS:

Mr. Parker stated tentatively there would be a special meeting to discuss the church development on Monday, March 28th at 8:00 P.M. The next regular meeting will be Thursday, April 14th at 7:00 P.M.

ADJOURNMENT

With no further comments or questions Mr. Salatas made a motion to adjourn the meeting at 8:10pm, seconded by Mr. Gruszka and carried by a voice vote.

Jim Konradi, Vice President

Elias Carras, Secretary

