

LOWELL PLAN COMMISSION MEETING

June 18th, 2020

Member John Alessia called the meeting to order at 7:10pm. The Pledge of Allegiance was recited and a moment of silence was held. Recording Secretary Dianna Cade called the roll. Members answering the roll call were, John Alessia, Shane Lawrence, Greg White and Eric Newell. Chris Salatas, LeAnn Angerman and Jim Konradi, were absent Also, present was Rich Oman, Director of Planning and Development, Town Manager, Craig Hendrix and Town Attorney Nicole Bennett.

Mr. Alessia read the rules for participation:

GUIDELINES FOR PARTICIPATION:

Town of Lowell – Plan Commission

Meeting participants, staff and Commission members shall practice social distancing guidelines including hand washing, wearing face masks, cough and sneeze etiquette and distancing.

1. The meeting room will be limited to 25 occupants at any time including Commission members, staff, petitioners and audience.
2. The petitioner shall be limited to two persons. One shall be the owner or the owner's representative.
3. Because of the meeting room limitation, audience members wishing to witness a petitioner's presentation or comment about the petition may be required to take turns listening/speaking then leaving the meeting room to allow others to listen/speak. All those wishing to comment will be heard.
4. To conserve space in the meeting room, the Commissioners suggest that audience members limit their participation to the petition they are interested in to allow others to occupy the meeting room.
5. Audience members wishing to comment publicly should address Commission members only and keep their comments concise, courteous and constructive.

Mr. Alessia started that in the absence of the President and the Secretary a motion was needed for him to run the meeting. Mr. Lawrence made a motion for Mr. Alessia to run the meeting, seconded by Mr. White and carried with a roll call vote of all ayes.

APPROVAL OF MINUTES:

Mr. Newel made a motion to approve the regular meeting minutes of March 12th, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

NEW BUSINESS:

Appoint a Plan Commission member to the the TRC for the remainder of 2020: Discussion followed. Mr. Newel made a motion to table the appointment of a Plan Commission member to the TRC, seconded by Mr. Lawrence and carried with a voice vote of all ayes

PC #20-011 PRELIMINARY PLAT

PC #20-012 FINAL PLAT - 790 W. COMMERCIAL AVE. - An application for a preliminary and final plat approval in accordance with §155.193 for a parcel within the Town boundaries of Lowell, IN has been filed by Perfection Bakeries, AKA: Aunt Millie's, 350 Pearl St. Fort Wayne, IN 46802, for property located at 790 W. Commercial, Parcel #45-19-22-451-002.000-038.

Attorney Greg Bouwer stated he was here on behalf of Perfection Bakeries. They are requesting preliminary plat and final plat tonight.

Mr. Bouwer stated the Plan Commission members should have a copy of the preliminary plat if not he brought copies with him. He stated it is currently 2 existing lots, they are requesting to file a preliminary plat that will create 4 lots. This would allow for the expansion of Aunt Millies and to secure adequate drainage. He stated they have worked with the staff and TRC to address all of their concerns and requests.

Mr. Dalton, Senior VP of Manufacturing for Aunt Millies, at 350 Pearl St., Fort Wayne, IN. He stated Pefection Bakeries would like to put more production facilities in this factory to faciliate growth of the company. This would result in more volume and also more jobs in this facility. Mr. Alessia asked how many more job this expansion would add. Mr. Dalton stated approximately 100-125.

Mr. Alessia opened the public hearing, Attorney Bennett asked due to the limited number of people allowed in if there were any remonstrators waiting in the lobby. Mr. Hendrix stated no. One remonstrator letter was included in the packet provided to the Commission members.

Mr. White made a motion to approve the preliminary plat, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Mr. White made a motion to approve the staff report as the Findings of Fact, seconded by Mr. Lawrence and carried with a roll call vote of all ayes. (Motion was missed and made at the end of the meeting)

PC #20-012 FINAL PLAT - 790 W. COMMERCIAL AVE. - An application for a preliminary and final plat approval in accordance with §155.193 for a parcel within the Town boundaries of Lowell, IN has been filed by Perfection Bakeries, AKA: Aunt Millie's, 350 Pearl St. Fort Wayne, IN 46802, for property located at 790 W. Commercial, Parcel #45-19-22-451-002.000-038.

Attorney Bouwer stated that the final plat has been tendered to the town and he believes that all the requests from staff have been addressed. He stated they are requesting final approval of the plat.

Mr. Hendrix addressed the Commission members and stated that the town is a party on the plat. The town owns a parcel on the plat. The intent is to redesign the detention pond and swap some lots on the plat. Discussion followed on which lots the town would own. He stated the towns detention pond needs a lot of work and Aunt Millies is going to fix a lot of our problems while they are out there. Discussion on the buffers in the area.

Attorney Bouwer stated they are working on the site plan for the expansion project and that should be on the agenda for the next Plan Commission meeting in July.

Mr. White stated the overall affect of the improvements on the pond are going to tremendously help with the drainage and flooding issues we have had in Indian Heights over the last few years. He discussed the restructure of the ponds. He stated he is not sure this is the cure all but it is a much needed improvement that will help the entire surrounding area.

Mr. Lawrence made a motion to approve PC -20-012, final plat for 790 W. Commerical Ave., seconded by Mr. Newell and carried with a voice vote of all ayes.

Mr. White made a motion to approve the staff report as the Findings of Fact, seconded by Mr. Lawrence and carried with a roll call vote of all ayes. (Motion was missed and made at the end of the meeting)

Mr. Newell made a motion to move PC 20-016 and PC 20-017 to be the next agenda items addressed, seconded by Mr. White and carried with a voice vote of all ayes.

PC #20-016 797 W. COMMERCIAL AVE - to consider an application to request a Planned Unit Development – Business establishing additional uses on a parcel within the Town boundaries of Lowell. Petition has been filed by MCA MP 797 LLC 801 E. Main St., Griffith, IN for property located at 797 W. Commercial parcel # 45-19-27-201-018.000-038.

Attorney Bouwer stated he is here to represent his client MCA MP LLC the owner of the lot. He stated his client is seeking PUD approval for lot 1. He stated his client is looking to expand the uses beyond what is presently allowed in the current B2 zoning. This petition would ask the town to rezone the parcel to a PUD. He stated it would allow the current uses in B2 and the ones his client has requested to be added, which would establish the PUD. He stated the initial petition requested uses that have since been deleted by his client, he named some of those deletions. He stated based on feedback from the staff late in the day his office forwarded a spread sheet with those revised uses. He stated they do not want to cause any conflicts in uses as the next item on the agenda tonight is for a residential townhome PUD that is the same owner and it backs up to this lot. The owners would like to be able to expand the uses for potential clients. Attorney Bouwer suggested they go over the uses with the Commission. Mr. Oman stated the Commission was not provided the spread sheet. His staff report was based on the initial petition. Mr. Bouwer stated they could go item by item on that report. He stated the representatives from MCA MP, Mike and Carrie Austgen were here tonight and available to answer any questions from the Commission.

Attorney Bennett stated she understands the request of uses to be all B2 approved and special uses. Attorney Bouwer stated only the permitted uses in B2. Attorney Bouwer stated the B2 permitted uses and the additional uses that were highlighted on the petition. Attorney Bennett stated the uses the Commission received were printed in black and white. Mr. Alessia asked what are the additional uses that are requested. Mr. Oman discussed the uses that he recommended. Discussion followed. Mr. Oman stated in making his recommendation he referred to parking standards and how the lot is laid out. He discussed what he indicated on his staff report as recommendation for permitted uses and special uses.

Attorney Bennett stated what the petitioner is requesting is all the permitted B2 uses and discussed the additional uses that they are requesting that are listed on the petiton. Discussion

followed on permitted uses and special uses being requested. Attorney Bennett discussed the process for special use and variance of use. She discussed Mr. Oman's staff report and how he applies the standards for the PUD as B2 zoning district standards such as the buffer zones, parking and lighting. Attorney Bennett stated by creating a PUD you are wiping the slate clean in regards to zoning, there is not a single rule for this property and it does not fit into any zoning district. It is getting created by the PUD, you have to put the criteria in the ordinance or there will be no rules. Attorney Bennett stated under the law with a PUD if the criteria is not in the ordinance, the less restrictive rules apply. If something is not precluded it is considered allowed.

Attorney Bouwer stated the petitioner is willing to live with the uses that the staff is recommending. Attorney Bouwer stated the petitioner is also agreeable to the B2 standards.

Mr. Lawrence asked about any other PUD properties in the town. Discussion followed.

Mr. Alessia read the staff recommended permitted uses: liquor store, billboard/pool/ arcade room, video/DVD store, photography studio, dance studio, martial arts studio, barber, beauty salon, tanning salon, fitness center, tailor/pressing shop, shoe repair, veterinary hospital (no kennels), radio/TV station, print shop/copy center, medical/dental clinic, business/financial services office, general services offices, design services, insurance office, law offices, real estate office, title company, travel agency, accounting office, ice cream shop, restaurant (no drive thru service) delicatessen, bakery (retail) art gallery, craft/fabric store, flower shop, gift shop, convenience store (no gas pumps), news dealers/book store, music/instruments shop, record/CD store, coffee shop, butcher/meat store, pharmacy, jewelry store, apparel/footwear store, auto parts sales, auto repair, garden store, sporting goods, pet store, building finished store, whole sale facility, engineering, research lab, data processing center, printing/publishing facility, contractor offices, tool/die shop, welding shop machine shop.

Mr. Austgen asked about a coffee roaster. Mr. Oman stated it would be categorized as wholesale facility. The Commission agreed.

Mr. Oman stated his recommendation is that all other uses that the petitioner requested would be special uses and require recommendation thru the BZA and final approval from the town council.

Mr. Oman stated he is recommending the B2 district standards. For, buffer zones, lighting, and signage. Mr. Austgen stated he would like the signage added to the PUD, it was left out by his Attorney. He stated the request would be for more square footage. Discussion followed on ordinance and approval process. Discussion followed on the amount of total square footage of signage the petitioner would like to see added to the PUD. Attorney Bennett stated the ordinance for signage is based on front facade of building, she stated the back 3 units of this building, as the signage ordinance stands would require a petition to the BZA since there is no front facade on those units. Mr. Austgen feels the back units type of tenant would not require signage. Mr. Austgen stated they can come back next month with the revised PUD. Mr. Hendrix stated that he would like to see an accepted list of uses that are agreed on by the petitioner and the Commission, he would also like to include the signage if that is what the petitioner wants. Discussion followed.

Attorney Bennett stated for the record this property was platted last year and there was weigh in from the police and fire in regards to a access point between the properties. She stated the next petition tonight is for a residential PUD that backs up to this property. She continued, any uses

should be considered with that in mind. Discussion followed on process to modify a PUD ordinance. Discussion followed on motions that could be made tonight.

Mr. Alessia opened the public hearing. Mr. Newell made a motion to keep the public hearing open until the next scheduled meeting on July 9th, 2020, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

PC #20-017 - 788 W. OAKLEY - consider an application to request a Planned Unit Development – residential establishing conditions, covenants and development standards on a parcel within the Town boundaries of Lowell. Petition has been filed by MCA MP 797 LLC, 801 E. Main St., Griffith, IN

Attorney Greg Bouwer stated he is here on behalf of MCA MP LLC, they are requesting a PUD for lot 2 which is immediately south of lot 1. It is currently zoned R4. He stated the PUD approval is only being sought for approval of a narrower width of a lot and front setback which is a variance of 20'. He stated they are townhomes with a party wall. He stated the staff has the proposed declaration and plans. He stated the staff has forwarded the proposed ordinance and the petitioner are agreeable with it. He stated the townhomes are rear loaded. He stated Mike and Carrie Austgen from MCA MP LLC are here tonight to answer any questions the Commission may have.

Attorney Bouwer stated the plans submitted identify a party wall and there will be a standard subdivision covenant. There will be an association for the townhomes. Mr. Hendrix stated these townhomes will be single family. The R4 zoning district allows them to have apartments which was not desired by the staff or the petitioner. He continued these homes will be sold. Mr. White asked what the square footage of the units would be. Attorney Bennett referred the Commission to view the exhibit attached to the proposed ordinance, the developmental standards are listed there. She stated with a PUD the ordinance creates the rules. She discussed the primary and final plat approvals last year, and she discussed the need for the lot to get resubdivided. Mr. Lawrence asked how wide the lots were. Mr. Austgen stated 22'. Attorney Bennett discussed the parameters of the ordinance and covenants. She stated if the standards are not addressed in the ordinance then it would default to the R4 standards. Mr. White asked if they were 2 story units. Mr. Austgen stated yes.

Mr. Alessia opened the public hearing. Attorney Bennett requested that to make sure there were no remonstrators in the lobby. No remonstrances were heard.

Attorney Bennett reviewed the staff report with the Commission. She discussed the motions available to the Commission. Discussion followed.

Mr. White made a motion to send a favorable recommendation to the Town Council, approving the PUD of Lot 2 of Meadowdale Lowell Unit 3, seconded by Mr. Newell and carried with a voice vote of all ayes.

Mr. Newell made a motion to send a favorable recommendation to the Town Council, approving the resubdivision of the plat, contingent on the Council approval of the PUD, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Mr. Newell made a motion to accept the staff report as the written Findings of Fact, seconded by Mr. White and carried with a voice vote of all ayes.

PC PETITION #20-013 – Town of Lowell -AMEND ORDINANCE NO. 2015-033 CODIFIED AS §155.195 OF THE LOWELL LAND USE AND DEVELOPMENT CODE; SUBDIVISION CONTROL CODE A petition to amend Ordinance No. 2015-33 which is codified as
§155.195(E)(8): *Improvement of Existing Streets*
§155.195(H) *Curb and gutter standards*
§155.195(I) *sidewalk standards*
has been filed by the Director of Building and Planning, Town of Lowell

Mr. Hendrix stated according to our ordinance, developers are to install curbs and sidewalks within their developments. He continued there are occasions where a sidewalk or a curb is not feasible or not wanted. Currently the process is set up so they could ask for a waiver from the Plan Commission. Mr. Hendrix stated this ordinance would create a payment in lieu of. He stated these payments would go into a sidewalk/curb fund that the Town could use to put in sidewalks or curbs in other places that they are needed this would be only curb and sidewalks. He stated he believes in sidewalks and curbs but sometimes they do not make sense. The planning director would have the authority/discretion to utilize this ordinance. He stated the fee that the developer would pay is 80% of the cost of installation. The installation cost would be reviewed by staff. Discussion followed on instances when this might apply. Attorney Bennett discussed the initial determination that would inact this ordinance. She stated this ordinance does not take away the option by state statute that allows for a developer to petition for a waiver. She continued there is no obligation at any point for the town to have to put the sidewalks in at the location or any future landowner be required to put the sidewalks in if the money was paid at the time of development. She stated if this is utilized by the developer the staff has discussed this being indicated on the plat to ensure there are no future questions as is the case with a waiver.

Mr. Alessia opened the public hearing. Attorney Bennett requested that we make sure there was no remonstrators in the lobby. No remonstrances were heard.

Mr. Newell made a motion to send a favorable recommendation to the Town Council, to amend ordinance 2015-033, of the Lowell Land Use and Development Code, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Mr. Newell made a motion to accept the staff report as the Finding of Fact, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

PC #20-014 - WAIVER - An application to request a waiver from Subdivision Control Ordinance §155.191 (C), §155.195 (H)(1) curb, (F)(7) street design and (I)(1) sidewalks, for a parcel within the Town boundaries of Lowell, IN has been filed by Divi Development, and/or Richard Zunica, PO Box 302, Lowell, IN 46356. Parcel #45-19-22-126-001.000-038, 45-19-22-176-006.000-038 and 45-19-22-176-008.000-038.

Mr. Doug Rettig, Project Engineer from DVG stated he was here tonight with, Jack Huls from

DVG and Chris Adams who is part of the development team. He discussed the break off of Village Green into Sierra Ridge. He stated they are here to seek primary approval for the balance of the property of approximately 75 acres. He stated Sierra Ridge unit 1 is platted, they are here to petition for unit 2. He stated they are seeking some waivers for this unit. He referred to the plat and discussed the area that was getting platted, wetland areas and the new modified retention basin. He stated they are petitioning for a wavier of curb and gutter and sidewalk along 173rd. He discussed the landscaping and berming along 173rd. He stated they are also seeking wavier from the current ordinance for a 30' wide street in new subdivisons. They are asking for some consideration on smaller streets that are not collectors to be sized at 28' back to back and curb. He referred to the plat on which particular streets they were asking for a waiver on street width.

Mr. Alessia asked if the reduced width will accommodate the school buses. Mr. Hendrix explained the formula for lane widths. He finished by saying that the buses and fire trucks could make it through. He stated the developer benefits from shrinking the streets but the town does also, by having less stormwater, less resurfacing in the future, less to snow plow. He stated staff was okay with it. He discussed the curb and sidewalk fund and by granting a waiver that would allow them to not pay into that fund. Mr. Hendrix stated he is asking the Commission to not grant the waiver. Attorney Bennett stated because the petition was filed before the passing of the ordinance it is not in effect. Discussion followed on this topic with DVG, and Chris Adams.

Mr. Hendrix stated to the Commission if you grant the waiver they will not have to pay into the fund. Attorney Bennett stated the modification of ordinance is irrelavant at this stage, it has no affect on this petition. By law it goes by the date the petition was filed. The ordinance is not an enacted ordinance. She stated that the Plan Commission has the authority to grant the waiver conditioned on a payment but the petitioner would have to be in agreement with that. The Plan Commission does not have the authority to do it otherwise. Attorney Bennett stated if the waiver is denied tonight and this is a phased development in a later phase it could happen in the final plat stage. She stated if you went that route the preliminary plat would have to show the curb, gutter and sidewalks. Mr. Huls stated, Mr. Adams is in agreement of the fee in lieu of for the sidewalks, curbs and gutters along 173rd. Discussion followed.

Mr. Alessia opened the public hearing Attorney Bennett requested that we make sure there was no remonstrators in the lobby. No remonstrances were heard.

Mr. Newell made a motion to approve the waiver of the sidewalk,curb and gutter, contingent on a 80% cost of installation from the petition to the town at final plat approval, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Mr. Newell made a motion to approve the waiver to build the streets at 28' in lieu of 30' on the highlighted streets on the plat that was discussed at this meeting tonight, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

Mr. Newell made a motion to approve the staff report as the Findings of Fact, seconded by Mr. Lawrence and carried with a voice vote of all ayes.

PC #20-015 PRELIMINARY PLAT SIERRA RIDGE UNIT 2 - An application for a primary plat approval in accordance with §155.193 for a parcel within the Town boundaries of Lowell, IN has been filed by Divi Development, PO Box 302, Lowell, IN., for property located at approx. 173rd, Village Parkway, Brookvale, Village Glenn, Parcel # 45-19-22-126-001.000-038, #45-19-

22-176-006.000-038, 45-19-22-176-008.000-038.

Mr. Rettig stated they have been working with staff to address all of their concerns. He stated they are proposing 159 R2 single family homes. The property is currently zoned R2 with the exception of a small portion that was zoned B2 and forwarded to the Town Council a favorable recommendation to rezone to R2. This will be on the Town Council agenda on Monday 6/23/20. He stated there is a large area of wetlands on the site, they have had a wetland delineation done. They are working with IDEM and Army Core. He directed the Commission to the plat and indicated the wetlands they would be working with. He indicated the other small ones that they are confident they will be able to fill in. He stated they have significant drainage issues. He discussed the current ponds and off site water that is coming to the property. He discussed the original design and the problems they saw with it. He discussed the storm water modeling they did and expressed their desire to help with the drainage issues. He discussed the pump station location. He stated there will be a small phase with 12 lots that can be put in before they need to put in the pump station.

Mr. Hendrix stated the phasing locations were at the request of the town staff. He discussed this would clear up some connectivity issues. He discussed the ponds and a future easement from the county for a drainage ditch. Mr. White discussed his discussion with the Lake County Highway dept on the old drain tile that goes under 173rd. Discussion continued including a possible partnership with the county, Sierra Ridge and Town of Lowell about Bruce Ditch. Mr. Hendrix stated they have discussed with the developer the outlots which are the ponds. He stated in most cases these ponds in the future end up on tax sale and the town acquires the pond and the maintenance of them. He continued that all of the wetlands in this subdivision will become part of the lot. They will not be an outlot anymore. If they are not maintained the Town can pursue action through code enforcement. Mr. Rettig stated they will be platted as conservation easements so the homeowners cannot fill them in or put structures in them including fences. Discussion followed. Mr. Hendrix discussed the double frontage lots and the homeowners owing to the right of way. Mr. Hendrix stated as of right now, the ponds will be owned by the developer until near the end of home construction. Mr. Hendrix discussed pond ownership by the town or developer, he stated this is a discussion for the Town Council to have. Discussion followed on a HOA for the subdivision which has not been decided. Attorney Bennett stated pond ownership is something that be decided prior to final plat. Mr. Huls stated in some other communities the plat has conveyance language that requires the HOA to hand the pond over the Town at their request for no fee. Discussion followed regarding maintenance of ponds and HOA's.

Mr. Alessia opened the public hearing.

Mr. Jack Michaels, 523 Ivy Lane, Lowell, IN. He indicated on the map to the Commission his house. He stated he has a walk out basement. He stated he has no objection to any of this. His concern is the proposed high level water mark for the new retention pond is only 2' lower than top of his foundation. He stated he is not comfortable with that. He stated he has seen the Village Green and Heritage Falls pond overflow. He stated the water has been close to his lot.

Mr. Huls stated when they looked at the countour they could see what this resident is referring to. He discussed when they were looking at the countours, the high level of the water at the existing pond was 699 the countour line comes up to the back of these lots (he indicated on the plat) which indicates that they probably have flooding in their backyard. He stated they are lowering the top of bank on the pond down a foot and the whole south side of the pond will be an overflow

weir. He stated that should lower the water level in the pond that is consistent with the town ordinance. He discussed the pond designs further.

Mr. Michaels ,stated but the water level is higher than my backyard. Mr. Huls explained to the resident the countour of the pond and stated they are making sure that his property is not affected and the water will flow South. Mr. Rettig gave Mr. Michaels the countour numbers and further discussed. Mr. Huls stated these pond improvements will be made as part of phase 2. Discussion followed on the pond.

Mr. Alessia closed the public hearing.

Mr. Newell made a motion to approve the preliminary plat for Sierra Ridge Unit 2, with the terms of the waivers for sidewalk, curb and gutter approved under PC 20-014 and conditional upon zone change pending the Town Council approval, seconded by Mr. Lawrence and carried with a roll call vote.

Mr. Newell made a motion to accept the staff report as the Findings of Fact, seconded by Mr. Lawrence and carried with a roll call vote of all ayes.

DISCUSSION: NONE

ANNOUNCEMENTS: Next regularly scheduled meeting is on July 9th, 2020

PUBLIC COMMENTS: NONE

ADJOURNMENT:

With no further comments or questions, Mrs. Lawrence made a motion to adjourn the meeting at 9:40pm, seconded by Mr. White and carried with a voice vote of all ayes.

Jim Konradi, President

LeAnn Angerman, Secretary