

LOWELL PLAN COMMISSION MEETING FEBRUARY 09TH, 2023

Vice President Shane Tucker called the meeting to order at 7:00pm. 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 Greg White, Shane Tucker, John Gruszka and Shane Lawrence. Manny Fausto, Jim Konradi and John Alessia were absent. Also, present was Rich Oman, Director of Planning and Development, and Town Attorney Nicole Bennett.

APPROVAL OF MINUTES:

Mr. Lawrence made a motion to approve the meeting minutes from January 12th, 2023, seconded by Mr. White and carried with a voice vote of all ayes.

OLD BUSINESS:

PUBLIC HEARING CONUNTIED FROM 01/12/23

PC #23-002 (originally advertised as docket #22-017) - PRELIMINARY PUD PLAT - Approx. MOHAWK DR (PARCEL A) & WESTMEADOW (PARCEL B)

MOHAWK Dr. – PARCEL A – legal description (currently zoned PUD)

274 - WESTMEADOW PL - PARCEL B - legal description (currently zoned LI)

1. Rezone from LI to PUD of parcel B;
2. Preliminary PUD plan, preliminary plat (replat of parcel B) and PUD ordinance of the combined parcel A and parcel B.

Mr. Oman stated staff and the Attorneys have discussed the revisions. The chart should be updated with the special, permitted uses and standards. Attorney Bennett stated the indoor kennel was added to the vet and grooming as permitted. Other kennels indoor only with overnight are a special use. Auto sales is under industrial uses as a special use. Mr. Oman stated last month we discussed a lot off the proposed cul-de-sac on Cheyenne. This lot will be included as residential and will follow all the R2 requirements. The existing building the petitioners own on Westmeadow was added in as its own building as will be part of this PUD.

Mr. Oman stated there are some conditions on the plat being approved. The first one being that the plans will have to be submitted Indiana American Water for the water line approval. Mr. Austgen asked if there will also be a site plan approval needed. Mr. Oman stated yes. Mr. Oman stated the ordinance and plat is being considered for approval here tonight. Mr. Oman stated there will also needs to be a stormwater easement to the north. Mr. Austgen stated he has no problem with the easement however he did not want to give it away. Mr. Oman stated the pond is designed to overflow on Mr. Austgen's property. He continued from an engineering perspective to have the ditch built across it would carry the stormwater across the pond from Sierra Ridge to Bruce Ditch. This would be a condition of plat approval. Mr. Austgen stated why does Sierra Ridge not have to pay for it. Mr. Oman stated currently it is designed to release onto your property. His overflow is already going across your property into Lowell Concrete and into the pond. Staff did ask Sierra Ridge to reroute it, however, his design was approved previously, and he does not have to change it. As of right now he is not willing to change it. The plat would have to be conditioned on a future easement for it to be approved tonight. Mr. Austgen stated he is not sure he is ok with that.

Mr. Lawrence asked if there were access points to get to the property from the cul-de-sacs. Mr. Austgen stated no. Discussion on buffer zone that is required from the residential to industrial area.

Attorney Bennett stated there are significant changes to this PUD from the LI code. She stated the accessory structure, uses and temporary structures have the most noteworthy changes.

Attorney Bennett discussed the sign standards. She stated this ordinance would allow for one sign entering the lot (there are 3 lots), and one building sign. Site plan is required since it is nonresidential. The number of buildings is TBD. Discussion.

Attorney Greg Bouwer stated his petitioners would like to discuss Temporary Structure (13) specifically; 13d. They are not comfortable with the language. His client is concerned about this provision based on it allowing the discretion of a Planning Director to remove a temporary use or structure. He stated it is limited to temporary uses or structures. Attorney Bouwer asked if the town would consider this being determined by the Plan Commission. He stated obviously, current planning director not included; but they feel concerned with a single person having that kind of judgment. His client is asking for this section to be revised to Plan Commission. Mr. Lawrence asked what are considered temporary structures. Attorney Bennett stated legally the distinction is how it is placed, it is on a concrete platform it is permanent, sitting on the property would fall in the category of temporary. Vice President stated he does not have an issue if the petitioner wants the Plan Commission to review these items instead of it being just the Planning Director. Attorney Bennett stated statutorily if there is a review of a decision it would be directed to the Board of Zoning Appeals. This body cannot usurp the authority of the BZA. She stated it would be inherent in the process of the planning and zoning if there was decision that was challenged the recourse would be the BZA. This provision is built into the statute. Attorney Bouwer stated that is correct, but this is just a PUD and they are requesting that since other sections of this PUD was revised to not match the town ordinance that 13b be altered to state Plan Commission. Discussion on how it gets to the Plan Commission. Attorney Bouwer stated can the language be added that the decision is stayed until the appeal is filed and heard before the BZA. Attorney Bouwer stated that would happen automatically. If the Planning Director gave you an opinion your appeal would be with the BZA that is the process. Attorney Bennett stated it is the requirement of the petitioner to start that appeal process. Discussion on the appeal process. Mr. Oman stated does it hurt to put in some language in the PUD ordinance stating the petitioner has the right to appeal the BZA. Discussion. Mr. Gruszka stated he does not see a point in changing it. There is a process in place. Mr. White stated the same. Attorney Bennett stated all appeals require the petitioner to file a petition with the BZA. This process is the same for all appeals. Attorney Bouwer stated his client is okay with filing a petition to the BZA but they want the fines stayed pending an appeal. Attorney Bennett stated for the record you want the action and the penalty stayed. Attorney Bouwer stated they would like the enforcement of it stayed once they file an appeal. Discussion. Attorney Bouwer stated can we add the language subject to the right of the owner to file an appeal. Attorney Bennett stated she does not see an issue with it. She continued, but it would have to be for everyone not just 13 b. Mr. Oman stated can it be a general provision. Attorney Bennett stated yes. Mr. Austgen stated he is ok with that.

Mario Auguano, 837 Seminole Dr. Lowell. He stated last month at the Plan Commission meeting he was given a list of potential uses for this property. He stated he has 3 concerns. One of the permitted uses was Fire, police, rescue station. He stated the town already has this. Why would there be another one. The town previously owned this property if they wanted one before they would have built it. Mr. White stated the town is divided in half by a railroad track. This parcel would not be a likely place but there have been ongoing discussions with the town administration about a possible emergency service location on the west side. Mr. Augusano saw there was permitted use for non-hazardous chemical manufacturing. He is worried about odors. He stated when the town was storing leaves on this property, and they plowed them in the soil the smell was awful. He stated the last one was a sewage treatment plant. Mr. White stated the regulations from IDEM would probably curtail this type of plant on this parcel. Discussion. It will be moved to the special use column. Discussion on motion.

Mr. White stated Mohawk Dr will be dedicated to the town. He asked Mr. Austgen if he planned on developing it into a public use driveway. Mr. Austgen stated it is developed by the town it will have to be. Mr. White discussed snow plowing. Mr. Austgen stated he envisions the end of the road going through the southern parcel. This would entail going on private property to turn around or go through it and come out on Westmeadow if you are okay with that. Discussion on the phasing of the project.

Mr. White made a motion to send a favorable recommendation for PC #23-003, proposed PUD Ordinance and Preliminary plat for Mohawk Light Industrial PUD with the following conditions:

1. general provision language for the owner to have a right to appeal is added.
2. moving fire, police, rescue, sewage treatment plant, and non-hazardous chemical manufacturing to special use.

Seconded by Mr. Lawrence and carried with a roll call vote of all ayes.

Mr. Lawrence made a motion to send a favorable recommendation to the Town Council for preliminary plat with the following conditions:

1. Stormwater management easement is added along the north property line to convey stormwater to Bruce Ditch.
2. Receiving the official review of the water mains from Indiana American Water.

Seconded by Mr. Gruszka and carried with a roll call vote of all ayes.

Mr. White made a motion to accept the amended staff report with the conditions that were added tonight as the findings of fact, seconded by Mr. Lawrence, and carried with a roll call vote of all ayes.

NEW BUSINESS: NONE

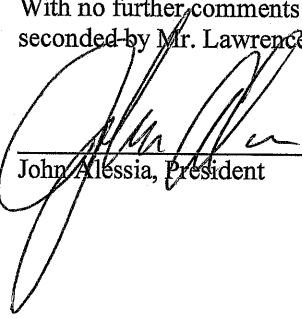
DISCUSSION: NONE

PUBLIC COMMENT: None is heard in person or on-line.

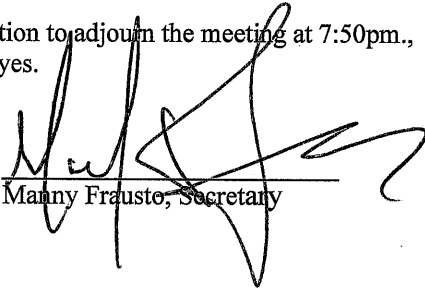
ANNOUNCEMENTS: Next regularly scheduled meeting will be held on March 9th, 2023

ADJOURNMENT

With no further comments or questions, Mr. White made a motion to adjourn the meeting at 7:50pm., seconded by Mr. Lawrence and carried by a voice vote of all ayes.



John Alessia, President



Manny Frausto, Secretary