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RECORDER

2021-072262

STATE OF INDIANA

LAKE COUNTY

10:12 AM

2021 Dec 20

FILED FOR RECORD

TOWN OF LOWELL PLAN COMMISSION

PETITIONER:

PC #21-035

LIFEHOUSE DEVELOPMENT, LLC
PO BOX 352, LOWELL, IN 46356

**FINDINGS OF FACT APPROVING PETITIONER'S APPLICATION TO VACATE
PART OF BEVERLY ESTATES UNIT I SUBDIVISION PLAT**

- Petitioner is the owner of the residential (R2) zoned real estate referred to as "Stormwater Detention Area Easement 0.894 Acres" located in Beverly Estates Unit I, in Lowell, Lake County, Indiana, and legally described as follows:

STORMWATER DETENTION AREA IN BEVERLY ESTATES, AN ADDITION TO THE TOWN OF LOWELL, IN, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 102 PAGE 82 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

Parcel No.: 45-19-25-255-009.000-008

Common Address: East side of Platinum Drive, Lowell, IN 46356

("Real Estate.")

- The Real Estate is part of the *Beverly Estates Unit I Final Plat, Town of Lowell, Lake County, Indiana*, which was recorded on May 23, 2008 with the Office of the Recorder of Lake County, Indiana, as Document #2008-038486 ("Beverly Estates Unit I Plat.")
- Prior to the approval and recording of the Beverly Estates Unit I Plat, the Real Estate was legally described in metes and bounds as follows:

PART OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 33 NORTH, RANGE 9 WEST OF THE SECOND PRINCIPAL MERIDIAN IN LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 98, IN BEVERLY ESTATES, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 102, PAGE 82 AS DOCUMENT NUMBER 2008-038486 IN THE OFFICE OF THE RECORDER, LAKE COUNTY, INDIANA; THENCE SOUTH 89 DEGREES 44 MINUTES 43 SECONDS WEST ALONG THE NORTH LINE OF SAID LOT 98, 130.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 98, THE CORNER BEING ON THE EAST RIGHT OF WAY LINE OF PLATINUM DRIVE; THENCE NORTH 00 DEGREES 07 MINUTES 30 SECONDS WEST ALONG THE EAST RIGHT OF WAY LINE OF PLATINUM DRIVE, 299.64 FEET TO THE SOUTHWEST CORNER OF LOT 99 IN SAID RECORDED PLAT; THENCE NORTH 89 DEGREES 52 MINUTES 30 SECONDS EAST ALONG THE SOUTH LINE OF LOT 99, 130.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 99; THENCE SOUTH 00 DEGREES 07 MINUTES 30 SECONDS EAST, 299.35 FEET TO THE PLACE OF BEGINNING, CONTAINING 0.894 ACRES, MORE OR LESS.

- Petitioner filed an application with the Town of Lowell Plan Commission to vacate the Beverly Estates Unit I Plat; specifically, the Real Estate identified herein.

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JOHN E. PETALAS
LAKE COUNTY AUDITOR

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5. Petitioner's application was scheduled for a public hearing on November 18, 2021. Publication and Notice of the hearing was made as required by law.
6. On November 18, 2021, Petitioner appeared before the Town of Lowell Plan Commission by Robert Fischer, its President, and Petitioner presented testimony and evidence regarding its application to vacate part of the Beverly Estates Unit I Plat. The Public Hearing was opened. Remonstrances were heard. The Public Hearing was closed.
7. Based upon the testimony and evidence presented, the Town of Lowell Plan Commission, having given due consideration and having paid reasonable regard to the requirements of the Subdivision Control Ordinance of the Town of Lowell as amended from time to time, by a vote of Six (6) in favor, zero (0) Opposed, zero (0) Abstaining, and one (1) Absent, upon motion duly made and seconded, approved Petitioner's application to vacate part of *Beverly Estates Phase 1 Final Plat, Town of Lowell, Lake County, Indiana*.
8. In making such determination, the Lowell Plan Commission made the following written Findings of Fact:
 - A. In accordance with I.C. 36-7-4-711, a municipal plan commission has exclusive control over the vacation of plats or parts of plats when not of all the owners of land in a plat are in agreement regarding a proposed vacation.
 - B. Petitioner has an interest in the Real Estate, as it is the owner of the property as a result of a quit claim deed dated October 7, 2020 and recorded with the Office of the Recorder of Lake County, Indiana on October 8, 2020 as Document # 2020-072191.
 - C. The conditions of the platted area have changed so as to defeat the original purpose of the plat; specifically:
 - i. When the stormwater facilities were approved and installed in Beverly Estates Unit I ("Unit I"), the Real Estate served as a stormwater detention pond. The Real Estate controlled the release of the stormwater via a drainage pipe and drainage easement that extended to the vacant parcel due east of the platted subdivision.
 - ii. The vacant parcel east of Unit I was later platted as Beverly Estates Unit II ("Unit II") and recorded October 29, 2021 with the Office of the Recorder of Lake County, Indiana, as Document #2021-065145.
 - iii. The approved stormwater facilities for Unit II required that the existing drainage pipe and drainage easement that serviced Unit I be relocated. Accordingly, the drainage facilities and drainage easement were reconfigured from the west boundary of Unit II, extended to the north and then east in Unit II, with the release of the stormwater into the large pond on the easternmost lots of Unit II, which was dedicated and platted as a drainage easement.

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- iv. Due to the stormwater facilities on Unit II, the Real Estate was no longer required as a stormwater detention pond to service Unit I. As a result, the drainage facilities on Unit I were rerouted so stormwater traveled directly from the detention pond on the west side of Platinum Drive to the new stormwater facilities on Unit II via the drainage easement between the developments.
- v. The rerouting of the stormwater from Unit I to Unit II regionalized stormwater storage for the benefit of the developments and the Town of Lowell.

D. It is in the public interest to vacate part of the plat.

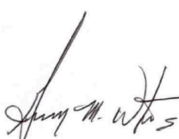
E. The value of the part of the land in the plat not owned by Petitioner will not be diminished by the vacation.

9. **WHEREFORE**, based upon the above Findings of Fact, the Lowell Plan Commission, by a vote of 9 (6) in favor, 2 (8) Opposed, 2 (0) Abstaining, and 0 (1) Absent, upon motion duly made and seconded, approves Petitioners' Petitioner's application to vacate part of *Beverly Estates Phase 1 Final Plat, Town of Lowell, Lake County, Indiana* (Document #2008-038486.)

Action taken November 18, 2021. Findings of Fact approved November 18, 2021.

TOWN OF LOWELL PLAN COMMISSION

By: 
JOHN ALESSIA, PRESIDENT
LOWELL PLAN COMMISSION

By: 
GREG WHITE, SECRETARY
LOWELL PLAN COMMISSION

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (Nicole A. Bennett, Esq.)

This instrument prepared by:

Nicole A. Bennett, Esq., Westland & Bennett, PC
2929 Carlson Drive, Suite 300, Hammond, IN 46323