

PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
AGENDA
FOR THE REGULAR MEETING OF
MONDAY, SEPTEMBER 14, 2015 AT 7:00 P.M.
AT THE
LOWELL CITY HALL
CITY COUNCIL CHAMBERS
SECOND FLOOR
301 EAST MAIN STREET

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
 - a. August 10, 2015 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
 - a. Cell Tower Ordinance
6. NEW BUSINESS
 - a. South Monroe Parking Lot – Informational Review – Approved Administratively
 - b.
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, AUGUST 10, 2015, AT 7:00 P.M.**

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL

The Meeting was called to order at 7:00 p.m. by City Clerk Susan Ullery and the Pledge of Allegiance was recited.

Present: Commissioners Dave Cadwallader, Kelli Carney, Jim Hall, Jim Salzwedel, and Chair Shannon Hanley.
Absent: Commissioners Gerard and Zandstra.
Also Present: City Manager Mark Howe, City Clerk Susan Ullery and Williams and Works Planner Andy Moore.

2. EXCUSE OF ABSENSE.

IT WAS MOVED BY CADWALLADER and seconded by CARNEY to excuse the absences of Commissioners Gerard and Zandstra.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

3. APPROVAL OF AGENDA.

IT WAS MOVED BY SALZWEDEL and seconded by CADWALLADER to approve the agenda as written.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

4. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JUNE 8, 2015.

IT WAS MOVED BY CADWALLADER seconded by CARNEY that the minutes of the June 8, 2015 meeting be approved as written.

YES: 5. NO: 0. ABSENT: 2. MOTION CARRIED.

5. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA. No comments were received.

6. OLD BUSINESS

- a. Cell Tower Ordinance – City Manager Howe stated the Commission reviewed this ordinance in May and recommended some changes to the City Council. Howe sensed there were some unanswered questions and that the Commission should continue further review. The City Council agreed this would be appropriate.

Howe also noted the City is in the process of removing the downtown tower. Currently, the ordinance states the removal of that tower would create an open space. Therefore, a moratorium

would be placed on towers for a period of time in order to give the Planning Commission an opportunity to go through the process.

Williams and Works Planner Andy Moore reviewed the amendment to the zoning ordinance with the Commissioners. He noted it has been modernized to the City's zoning regulations.

The Commissioners discussed several concerns and possible changes to the ordinance including visual pollution.

Howe noted there are less and less local phones being used. He questioned if 35 feet in height is the requirement for towers to determine if it needs to be submitted to MDOT. Moore suggested all towers to be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by the City.

It was noted the service building or fence surrounding the service building and tower may contain no more than two signs not more than two square feet.

Howe stated it is the City's intent to explore the idea of a second tower on Shepard Drive.

Moore stated he would provide a draft with the highlighted changes for the next meeting.

7. NEW BUSINESS

a. Lowell Arts! – Informational Review – Approved Administratively.

Williams and Works Planner Andy Moore provided a memo regarding Lowell Arts! at 221 and 223 W. Main Street. They wish to establish an art gallery, performance space, classrooms and office space in an existing building. At this time, the applicant has only proposed to utilize the main floor of the building.

The City recently approved an amendment to Section 18.03 pertaining to site plan review. The amendment requires that the Zoning Enforcement Officer be the reviewing body in instances where (1) the proposed use is permitted by right and (2) where no exterior changes are proposed to the building. Since the LowellArts! site plan meets both of these conditions, this site plan was approved administratively.

8. STAFF REPORT. City Clerk Susan Ullery provided the Commission with a list of updated building permits since the last meeting.

City Manager Howe provided a review packet regarding the ordinance amendments that have been discussed in terms of seasonal merchandise sales, construction real estate offices, peddlers, solicitors and transient merchants. Howe explained that when the Commission discusses zoning ordinance changes, they need to be mindful of the fact that there may be other areas of the code that also refers to peddlers, solicitors and transient merchants. Howe stated there is much that needs to be reviewed within Chapter 15 of the Code of Ordinances that is over and above some of the changes within the zoning ordinance.

9. COMMISSIONERS COMMENTS. No comments were received.

IT WAS MOVED BY CADWALLADER and seconded by CARNEY to adjourn at 7:53 p.m.

DATE:

APPROVED:

Shannon Hanley, Chair

Susan S. Ullery, City Clerk

CITY OF LOWELL

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CITY OF LOWELL ZONING ORDINANCE; TO AMEND SECTION 17.04(BB) PERTAINING TO COMMERCIAL WIRELESS COMMUNICATION FACILITIES

THE CITY OF LOWELL, MICHIGAN, ORDAINS:

Section 1. Amendment of Section 17.04 (BB). Section 17.04 (BB) is amended to read as follows:

SECTION 17.04 BB. Commercial Wireless Communication Towers.

In addition to the standards of Section 17.03, the Planning Commission shall find that a proposed Commercial Wireless Communication Tower meets the following specific Special Land Use standards.

1. **Purpose and Intent.** The Telecommunications Act of 1996, as amended, sets forth provisions concerning placement, location and construction of towers and related facilities for communication. The purpose of this section is to establish general guidelines for the siting of Commercial Wireless Communication Towers, which include antenna structures. In order that such towers not cause visual pollution or create a safety hazard on adjacent properties, reasonable regulations for the location, use of existing structures, and design of new structures and towers, are appropriate. Commercial Wireless Communication Towers are specifically determined to NOT be essential services as defined in this Ordinance. The intent of these provisions is to encourage users of towers to:
 - a. Protect land uses from potential adverse impacts of towers.
 - b. Place the location of new towers in appropriately-zoned areas.
 - c. Minimize the total number of towers throughout the community.
 - d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 - e. Locate and configure towers in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
 - f. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 - g. Consider the public health and safety of personal wireless service facilities.
 - h. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

- i. It is not the intent to regulate ham radio antennae under this section.
2. Administratively Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:
 - a. Antennas on Existing Structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a new Commercial Wireless Communication Tower may be approved by the Zoning Administrator as a co-location or as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure, provided:
 - (1) The antenna does not extend more than ten (10) feet above the highest point of the structure;
 - (2) The antenna complies with all applicable FCC and FAA regulations;
 - (3) The equipment building for such co-located equipment can be incorporated into an existing structure or cabinet, and
 - (4) The antenna complies with all applicable building codes.
 - b. Microcell Networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
3. Additional Information Required for Review. In addition to the requirements of Chapter 17 and Section 17.03, Commercial Wireless Communication Tower applications shall include:
 - a. Name and address of the proposed operator of the site.
 - b. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
 - c. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.
 - d. A statement by a registered professional engineer licensed to practice in Michigan that the proposed commercial wireless communications tower will be installed in accordance with the manufacturer's specifications and all applicable City codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided. Such statement shall set forth the fall zone area for the proposed tower. If the fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such statement shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination.
 - e. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - f. A notarized statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.

- g. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the City of Lowell or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure.
 - h. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
4. Once all required materials are submitted, the Planning Commission shall review the application in accordance with the standards of Chapter 17 and shall either approve, approve with conditions, or deny the application within 90 days of receipt of all required information, as determined by the Zoning Enforcement Officer. If the Planning Commission does not approve, approve with conditions, or deny the application within 90 days, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.
 5. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.
 6. General Provisions. Commercial Wireless Communication Towers, including their accessory equipment may be permitted, subject to the following provisions:
 - a. A Commercial Wireless Communication Towers is permitted in the PF and I zoning districts only. Such towers shall be placed on parcels (whether the land is owned or leased by the tower owner) which have an area no less than the minimum parcel area and width for the district.
 - b. All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer to any property line than the radius of the certified fall zone as provided in Section 17.04 BB, 3, d, hereof, and in no case less than 200 feet from any residence or 200 feet from a zoning district which does not permit Commercial Wireless Communication Towers as a Special Use.
 - c. All proposed towers of a height greater than the maximum height permitted in the zone district in which it is located shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by the City. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations

shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- d. The service building shall be aesthetically and architecturally compatible with buildings within three hundred feet of the property on which it is located.
 - e. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
 - f. Monopole tower design shall be required. Guyed towers are prohibited.
 - g. The Planning Commission may require landscape screening of the service building and fencing.
 - h. Strobe lights shall not be allowed except as required by FAA or other applicable agency.
 - i. No signs shall be allowed on an antenna or tower. The service building or fence surrounding the service building and tower may contain not more than two signs of not more than two (2) square feet, listing the name, address and contact telephone number of the operator. Additionally, not more than two (2) signs not to exceed two (2) square feet signaling "danger" or "no trespassing" may also be placed on the fence or service building.
 - j. Towers shall be enclosed by a locked gate and security fencing 6 feet in height, and shall be equipped with an appropriate anti-climbing device.
 - k. The Applicant shall certify its intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.
 - l. Notwithstanding the provisions of this section, the maximum height for a Commercial Wireless Communication Towers in the City of Lowell shall be 199 feet.
 - m. Proposed towers shall be at least one-half mile from existing towers except for towers dedicated to essential municipal services.
7. Removal of Abandoned Antennas and Towers. A Telecommunication Tower that is unused for a period of twelve (12) months shall be removed. The applicant or owner is responsible for the removal of an unused tower. Failure to do so shall be sufficient cause for the City to cause the removal of the Tower at the owner's expense.
8. Bonds. The owner of a Telecommunications Tower; including equipment/accessory buildings, shall post an unconditional and irrevocable letter of credit or bond acceptable to the City Attorney with the City of Lowell to cover the reasonable estimated costs and expenses of dismantling and removing the communication tower. The amount of the bond shall be established by the Planning Commission, and may be adjusted from time to time to reflect changing costs and expenses of dismantling and removing the facility.
9. Nonconforming Uses.
- a. Pre-existing towers that do not meet the requirements of this section shall be allowed

to continue in use as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction, other than routine maintenance on a pre-existing tower shall comply with the requirements of this ordinance. Modifications to height and type of construction of pre-existing towers shall not be permitted, except in conformance with this Section.

- b. Rebuilding Damaged or Destroyed Nonconforming Towers. Nonconforming towers that are damaged or destroyed may not be rebuilt except in conformance with the requirements of this Section.

Section 2. Severability and Captions. This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each Section are for convenience only and shall not be considered a part of this Ordinance.

Section 3. Administrative Liability. No officer, agent or member of the City Council shall render himself or herself personally liable for any damage which may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties pursuant to this Ordinance.

Section 4. Repeal. Any existing ordinance or resolution that is inconsistent or conflicts with this Ordinance is hereby repealed to the extent of any such conflict or inconsistency.

Section 5. Effective Date. This Ordinance is ordered to take effect seven (7) days following publication of adoption in The Lowell Ledger, a newspaper having general circulation in the City, under the provisions of the Zoning Enabling Act, Public Act 110 of 2006, as amended.

Jim Hodges, Mayor

Sue Ullery, Clerk

MEMORANDUM

TO: Mark Howe, Lowell City Manager

FROM: Andy Moore, AICP

DATE: August 24, 2015

RE: South Monroe Parking Lot

The purpose of this memorandum is to discuss the use of a temporary parking lot on the south side of Main Street, between Monroe Street and the Flat River. The subject parcels are located at 125 and 127 South Monroe Street. The City is seeking to continue the use of this area as a parking lot to serve downtown uses and businesses.

The subject parcel is currently used as a gravel parking area and the City desires to improve the parking surface temporarily over the fall and winter using milled asphalt before constructing a permanent parking lot in 2016. A permanent parking lot cannot be constructed currently because the City is also working to acquire a small parcel located at 121 South Monroe, which is adjacent to the two subject parcels. The acquisition of 121 South Monroe, when combined with the 125 and 127 South Monroe, would allow the City to assemble and develop the entire block as a parking lot in 2016. Thus, it is more efficient to design the site as a single cohesive project. In the meantime, however, the improvement of the temporary parking area would alleviate concerns regarding parking supply in this area, since a new restaurant opening in the area will likely increase demand. The improvement to the parking area will also be safer for the public as it will reduce dust, potholes, etc.

Before the City moves forward with the temporary improvements to the parking lots, it is important to review the Zoning Ordinance to ensure that the proposed improvement complies with applicable regulations.

The subject parcels are located with the C-2 zoning district, which permits off-street parking lots as a special land use. Since the parcels are already used for parking, we consider the existing parcels to be a legally nonconforming use. The Ordinance prohibits the expansion or enlargement of nonconforming uses, but it allows in Section 4.13, E, 1-2 allows for nonconforming buildings and structures to be maintained and/or repaired to maintain public safety. In the past, the City has interpreted the Ordinance such that parking lots are considered "structures", and have allowed for similar improvements to nonconforming parking lots to ensure that the surfaces are smooth and safe for patrons. Further, the past practice has also allowed nonconforming uses or structures to be changed so long as the degree of nonconformance is not increased. We believe that the temporary improvement using milled asphalt would make the lot more conforming. Thus, we

Mr. Mark Howe
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believe that the improvement of this parking area is consistent with past practice and the Zoning Ordinance.

However, this should not be seen as a permanent solution. While the current proposal certainly improves the parking lot and enhances public safety, it will still be inconsistent with the Zoning Ordinance as it does not meet the parking lot construction standards of the Ordinance, nor has a special land use been granted. We suggest that this area be designed and paved permanently as soon as practical following the transfer of 121 South Monroe to the City. This improvement would be treated as a special land use, so a public hearing and Planning Commission approval would be required.

To summarize, we believe the improvement to the parking lots located at 125 and 127 South Monroe can be approved administratively. We also suggest that such approval contain a condition that requires the lot to be improved such that it conforms to Chapter 19 of the Zoning Ordinance in one year, or when the property transfer of 121 South Monroe is complete, whichever occurs first.

Please let me know if you have any questions or concerns.

2015 Staff Reports

<u>Open Date</u>	<u>Close Date</u>	<u>Address</u>	<u>Name/Business</u>	<u>Subject</u>
02/11/2015	03/13/2015	835 W. Main	Pete Ricards	Store
02/24/2015	03/13/2015	2475 Gee Drive	Scott Barriger	Inground pool
03/23/2015	03/30/2015	1030 Hunt	John Ingersoll	Accessory Building
03/24/2015	03/24/2015	820 N. Jefferson	Karrie Scudder	Fence
03/30/2015	03/30/2015	115 S. Broadway	King Milling	Upgrade/Cell Tower
03/31/2015	03/31/2015	1405 Laurie Gail	Kaitlin Shive	Fence
04/01/2015	04/01/2015	806 N. Jefferson	Ron Stanford	Fence
04/08/2015	04/15/2015	741 Grindle	Thomas Read	Demo
04/28/2015	05/08/2015	520 Spring	Cody Moore	Fence
05/04/2015	05/08/2015	325 S. Division	David Crandall	Deck
05/06/2015	05/08/2015	1320 E. Main St.	Moose Lodge	Fence
05/11/2015	5/11/2015	257 Donna	Elizabeth Sparks	Fence
05/11/2015	05/12/2015	316 North	Charles May	Addition
05/12/2015	05/12/2015	1320 Highland Hills	Allen Edwin Homes	New Home
05/13/2015	05/14/2015	168 S. Center	Eric Bouwhuis	Fence
05/14/2015	05/14/2015	2204 Gee Drive	Herb VanderBilt	Shed
05/19/2015	05/26/2015	815 N. Hudson	Anthony Hall	Unattached garage
05/19/2015	07/06/2015	1300 Highland Hill	Allen Edwin Homes	New Home
05/20/2015	07/06/2015	1281 Highland Hill	Allen Edwin Homes	New Home
05/27/2015	05/29/2015	315 Alden Nash	Tim Jankowski	Accessory Building
05/12/2015	05/28/2015	2255 Gee Drive	Tim Bruce	New Home
06/01/2015	06/24/2015	2212 Gee Drive	Brian Koetje	New Home
06/12/2015	06/12/2015	812 Grindle	Josh Peterman	Shed
06/17/2015	07/07/2015	741 Grindle	Thomas Read	Lot Split
06/18/2015	06/23/2015	612 N. Monroe	Ronald Steffens	Repair
06/11/2015	06/23/2015	750 Hillside Ct.	Alan Hovinga	Sun Porch
06/30/2015	07/08/2015	1580 Carol Lynne	Brian Darling	Garage
07/07/2015	07/07/2015	800 Bowes	Mark Mundt	Inground Pool
07/10/2015	07/10/2015	1105 Bowes	Scott Macpherson	Shed
07/10/2015	07/10/2015	1105 Bowes	Scott Macpherson	Fence

07/13/2015	07/14/2015	925 S. Hudson	Todd Wood	Deck
07/13/2015	07/14/2015	925 S. Hudson	Todd Wood	Roof/Siding
07/20/2015	07/22/2015	2401 Bowes	William Sanborn	Shed
07/21/2015	07/22/2015	1695 Gee Drive	Kurt Holzhueter	Accessory Building
07/16/2015	08/04/2015	12142 Bowes	GR Gravel Co.	Demo
08/07/2015	08/07/2015	429 N. Washington	Tim Van Laan	Remodel
08/11/2015	08/13/2015	1462 Sibley	Dennis Walsh	Fence
08/17/2015	08/25/2015	2212 Gee Drive	Bernie Dellever	Pool
08/24/2015	08/31/2015	726 Lafayette	Ron Wells	Porch
08/27/2015	08/31/2015	609 Lafayette	Rachel DeVries	Shed
09/01/2015	09/01/2015	1015 Beech	Tina Collins	Roof
09/02/2015	09/02/2015	1301 Sibley	Luis Luna	Shed