

PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
AGENDA
FOR THE REGULAR MEETING OF
MONDAY, MAY 11, 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. March 9, 2015 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
 - a.
6. NEW BUSINESS
 - a. Site Plan Review Revisions – Administrative Review
 - b. Commercial Wireless Communication Towers
 - c. Presentation regarding Gravel Mining
 - d.
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, MARCH 9, 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 Deputy City Clerk Susan Ullery and the Pledge of Allegiance was recited.

Present: Commissioners Dave Cadwallader, Kelly Carney, John Gerard, Jim Hall, Shannon Hanley, and Jim Salzwedel.

Absent: Commissioner Zandstra.

Also Present: City Manager Mark Howe, Deputy City Clerk Susan Ullery, Mayor Jim Hodges and Williams and Works Planner Andy Moore.

2. EXCUSE OF ABSENSE.

IT WAS MOVED BY CADWALLER and seconded by SALZWEDEL to excuse the absence of Commissioner Zandstra.

YES: 6. NO: 0. ABSENT: 1. MOTION CARRIED.

3. APPROVAL OF AGENDA.

IT WAS MOVED BY GERARD and seconded by CADWALLADER to approve the agenda as presented.

YES: 6. NO: 0. ABSENT: 1. MOTION CARRIED.

4. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF JANUARY 12, 2015.

IT WAS MOVED BY CADWALLADER seconded by CARNEY that the minutes of the January 12, 2015 meeting be approved as written.

YES: 6. NO: 0. ABSENT: 1. MOTION CARRIED.

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

6. OLD BUSINESS

A. Review Summary of Dimensional Regulations. City Manager Howe wanted the Planning Commission to continue to review and provide possible recommendations.

7. NEW BUSINESS

- a. Site Plan Review – 835 West Main Street. Pete Ricards requested a site plan review at 835 West Main Street.

IT WAS MOVED BY CADWALLADER and seconded by GERARD to approve the site plan at 835 West Main Street with the following conditions:

1. Prior to issuance of any City permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.
2. No grading, preliminary or final earthwork shall be undertaken on the site until a building permit has been issued consistent with this site plan approval.
3. The applicant shall install four additional trees and twelve additional shrubs on the site. The location and types of plantings can be submitted to the Zoning Administrator for approval.
4. If changes to the sign are proposed, such changes shall be disclosed to the Zoning Enforcement Officer for review prior to installation. All signage on the site shall only pertain to the establishment located on the same property.
5. The applicant and the site shall at all times comply with local standards and ordinances.
6. Any other conditions deemed necessary by the Planning Commission.

YES: 6. NO: 0. ABSENT: 1. MOTION CARRIED.

- b. 210 East Main Street. Greg Canfield requested a site plan review at 210 E. Main Street.

IT WAS MOVED BY CADWALLADER and seconded by CARNEY to approve the site plan at 210 E. Main Street with the following conditions:

1. Prior to issuance of any City permits, the applicant shall have paid all application, permit, reimbursable escrow, and other fees related to the request.
2. If new or additional signs are proposed, such signs shall be disclosed to the Zoning Enforcement Officer for review prior to installation.
3. The applicant and the site shall at all times comply with local standards and ordinances.
4. Any other conditions deemed necessary by the Planning Commission.

YES: 6. NO: 0. ABSENT: 1. MOTION CARRIED.

- c. Site Plan Review Revisions – Administrative Review. Andy Moore with Williams and Works provided a memo regarding potential changes to the site plan review zoning language in Chapter 18 of the City of Lowell Zoning Ordinance. These potential changes were brought to the City's attention by several recent site plan review requests where the only change to the building or property that affects zoning is that the use is changing.

It is recommended that the Planning Commission authorize, in the Zoning Ordinance, the Zoning Enforcement Officer to be the reviewing body for site plans where (1) the proposed use is permitted by right in the subject zoning district, and (2) where no additions, alterations or exterior changes are proposed to any part of the site. This would be accomplished with an amendment to Section 18.03 of the Zoning Ordinance.

By general consensus, the Commissioner agreed to move forward with the suggested change. Suggested language will be brought back at the next meeting.

8. **STAFF REPORT.** No comments were received.
9. **COMMISSIONERS COMMENTS.** No comments were received.

IT WAS MOVED BY CADWALLADER to adjourn at 7:24 p.m.

DATE:

APPROVED:

Shannon Hanley, Chair

Susan S. Ullery, Deputy City Clerk

MEMORANDUM

TO: City of Lowell Planning Commission

FROM: Andy Moore, AICP
Nathan Mehmed

DATE: May 5, 2015

RE: **Site Plan Review Revisions – Administrative Review**

The purpose of this memorandum is to discuss our recommendation for a text amendment to the site plan review zoning language in Chapter 18 of the City of Lowell Zoning Ordinance. These potential changes were brought to our attention by several recent site plan review requests where the only change to the building or property that affects zoning is that the use is changing.

The current language requires that a site plan review be submitted to the Planning Commission prior to the “creation of a use”. For example, if a property owner buys a vacant building and wants to move his/her business to the City, a site plan is required to be submitted to the Planning Commission for review, even if no proposed physical, dimensional or façade changes to the outside of the building are proposed. This is a somewhat cumbersome and time-consuming approach, and it is likely that many businesses have been established in the City without contacting the City or receiving any site plan approval anyways.

As discussed previously, the best way to approach this amendment would be to authorize the Zoning Enforcement Officer to be the reviewing body for site plans where (1) the proposed use is permitted by right in the applicable zoning district, and (2) where no additions, alterations or exterior changes are proposed to any part of the site.

This would be best accomplished with an amendment to Section 18.03 of the Zoning Ordinance. We have attached a draft Ordinance that would accomplish this objective for your review. Prior to recommending adoption to the City Council, the Planning Commission must hold a public hearing. This can be scheduled for the June or July meeting, depending on the agenda.

As always, please feel free to contact me with questions or comments.

CITY OF LOWELL

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CITY OF LOWELL ZONING ORDINANCE; TO AMEND SECTION 18.03 PERTAINING TO EXCEPTIONS FROM SITE PLAN REVIEW

THE CITY OF LOWELL, MICHIGAN, ORDAINS:

Section 1. Amendment of Section 18.03. Section 18.03 is amended to read as follows:

Section 18.03. Exceptions

- A. A site plan shall not be required for a single- or two-family dwelling, state licensed residential family care facilities, family day care homes and home occupations.
- B. The Zoning Enforcement Officer shall be the reviewing body for site plans meeting both of the following conditions:
 - 1. Where the proposed use is permitted by right in the zoning district in which it is to be located
 - 2. No additions, alterations or exterior changes to the building.
- C. In cases where both of the criteria of subsection B above are met, the Zoning Enforcement Officer shall have the following authority:
 - 1. The Zoning Enforcement Officer may establish conditions of approval to ensure compliance with the Zoning Ordinance.
 - 2. The Zoning Enforcement Office may request from the applicant any additional information that will assist in determining if the site plan meets the requirements of this Ordinance.
 - 3. In cases where it is unclear whether or not a site plan meets the conditions set forth in this Section, the Zoning Enforcement Officer shall refer to the site plan to the Planning Commission for review and action pursuant to the requirements of this Chapter.
- D. The exceptions listed in this Section are not intended to exempt any particular use or site plan from the requirements of this Ordinance.

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

Betty Morlock, Clerk

MEMORANDUM

TO: City of Lowell Planning Commission

FROM: Andy Moore, AICP

DATE: May 5, 2015

RE: Commercial Wireless Communication Towers

Over the last few weeks we have been reviewing the City of Lowell's zoning standards regarding Commercial Wireless Communication towers. Generally, we found that the existing standards are somewhat brief and do not contain many of the provisions that are included in modern ordinances regulating commercial wireless communication towers.

Working with City staff, we reviewed and modernized the City's zoning regulations for your review. Significant changes to the Ordinance include the following:

1. We added a purpose and intent statement.
2. We allowed for administrative approval of colocations and small networks that would be installed on existing infrastructure.
3. We added language requiring additional information that must be submitted as part of an application prior to consideration by the Planning Commission.
4. We added language that permits a commercial wireless communication tower to meet minimum lot area standards for the district in which it is located.
5. We added language that requires the Planning Commission make a decision on a proposed tower within 90 days, else it is deemed approved. This is to comply with a recent Michigan amendment to the Michigan Zoning Enabling Act.
6. The maximum height has been limited to 199 feet. Anything 200 feet or taller requires FAA notification and lighting.
7. The fall zone area has been increased to be at least equivalence to the height of the tower, unless other justification is provided by a registered engineer.
8. We added language that requires a ½ mile isolation radius between towers, except for towers that are located on City property and used for municipal services.
9. Language has been added to allow for removal of towers, performance bonds, and nonconforming towers.

City of Lowell Planning Commission

May 5, 2015

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Please review the draft Ordinance in advance of our next meeting on May 11. Before making a recommendation of adoption to the City Council, the Planning Commission must hold a public hearing on the proposed amendments. At the May 11 meeting, the Planning Commission may schedule this hearing or make further revisions to be reviewed at the June meeting.

As always, please feel free to contact me with questions or comments.

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 (e.g., water towers, school and church steeples, tall buildings), and design of structures and towers, is 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. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of 85 miles per hour. Such certification shall set forth the fall zone area for the proposed tower. If such fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such certification shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination. Such certification shall be provided by an engineer licensed to practice in Michigan.
 - 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 60 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 60 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 more than thirty-five (35) feet in height 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, except for one sign of not more than two (2) square feet, listing the name, address and contact telephone number of the operator and not more than two (2) signs not to exceed two (2) square feet signaling "danger" or "no trespassing."
 - 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

Betty Morlock, Clerk

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
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		520 Spring	Cody Moore	Fence
05/04/2015		325 S. Division	David Crandall	Deck
05/06/2015		1320 E. Main St.	Moose Lodge	Fence