



301 East Main Street
Lowell, Michigan 49331
Phone (616) 897-8457
Fax (616) 897-4085

PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
AGENDA
FOR THE REGULAR MEETING OF
MONDAY, SEPTEMBER 11, 2017 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 14, 2017 – Special Meeting
 - b. August 14, 2017 – Regular Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
6. NEW BUSINESS
 - a. City of Lowell Demographic and Housing Data
 - b. Short Term Rentals
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE SPECIAL MEETING OF
MONDAY, AUGUST 14, 2017, AT 6:30 P.M.**

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

The Meeting was called to order at 6:30 p.m. by Chair Barker and the Pledge of Allegiance was recited.

Present: Commissioners Marty Chambers, Jim Salzwedel, James Zandstra, and Chair Barker.

Absent: Commissioners David Cadwallader, John Gerard, and Alan Teelander.

Also Present: City Clerk Susan Ullery, City Manager Mike Burns and Williams and Works Planner Andy Moore.

2. EXCUSE OF ABSENCES.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to excuse the absences of Commissioners Cadwallader, Gerard and Teelander.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

3. APPROVAL OF AGENDA.

IT WAS MOVED BY CHAMBERS and seconded by ZANDSTRA to approve the agenda as written.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.

No public comments.

5. OLD BUSINESS.

a. None.

6. NEW BUSINESS.

a. Master Plan Review.

Chair Barker advised they are required to review the Master Plan, but not necessarily make any changes. Public input is welcomed.

Williams and Works Planner Andy Moore explained the process of updating the Master Plan. He explained the existing City of Lowell Master Plan was adopted in late 2007. It was developed over the course of several months and required significant work by City staff, Planning Commission and elected officials. Since this was done in 2007, there is an opportunity to at least update it to reflect the 2010

Census report. Moore went on to explain the memorandum prepared for the Commission is not intended to criticize existing policies or to find possible shortcomings in the document; rather, it highlights areas where changes could be appropriate to guide the Planning Commission's review.

7. **COMMISSIONERS REMARKS.**

There were no comments received.

8. **ADJOURNMENT.**

IT WAS MOVED BY CHAIR BARKER to suspend the Special meeting and go into the regular meeting at 7:02 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan S. Ullery, City Clerk

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, AUGUST 14, 2017, AT 7:00 P.M.**

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

The Meeting was called to order at 7:03 p.m. by Chair Barker.

Present: Commissioners Marty Chambers, Jim Salzwedel, James Zandstra, and Chair Barker.

Absent: Commissioners David Cadwallader, John Gerard, and Alan Teclander.

Also Present: City Clerk Susan Ullery, City Manager Mike Burns and Williams and Works Planner Nathaniel Mehmed.

2. APPROVAL OF AGENDA.

It was suggested by Zandstra to move "New Business" (a) Site Plan Review- Michigan Soft Water of Western Michigan in front of "Old Business".

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

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

3. APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING.

IT WAS MOVED BY ZANDSTRA and seconded by SALZWEDEL that the minutes of the June 12, 2017 regular meeting be approved as written.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.

No public comments.

5. NEW BUSINESS.

a. Site Plan Review - Michigan Soft Water of Western Michigan.

Mike Schuchaskie, on behalf of Michigan Soft Water of Western Michigan, submitted an application for site plan review for an addition to the existing building on the subject property located at 1301 Bowes Road.

IT WAS MOVED BY CHAMBERS and seconded by SALZWEDEL to approve the site plan with the following recommendations.

1. No demolition or earthwork shall be undertaken on the site until a building permit has been issued consistent with this site plan approval.

2. Prior to issuance of any City permits, the applicant shall have paid all application, permit, and reimbursement escrow and other fees related to the request.
3. The applicant shall maintain all required stated, federal and local permits and approvals.
4. The applicant shall submit additional information detailing site drainage for both existing and proposed impervious surfaces to ensure that stormwater is not flowing on to adjacent properties.
5. The applicant shall comply with the stipulations of the City Fire Department and any other applicable emergency personnel regarding emergency access to the site.
6. The applicant shall submit details related to the type of light fixture for review by the City Zoning Enforcement Officer.
7. The applicant shall provide a sidewalk connection to the main entrance of the building.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

6. **OLD BUSINESS.**

a. Public Hearing - Zoning Ordinance Revisions – Chapter 4 and Chapter 17.

Chair Barker opened the Public Hearing for Zoning Ordinance Revisions of Chapter 4 and Chapter 17. He explained the Commission is attempting to upgrade the Zoning Ordinance, several Chapters at a time and to upgrade it so it meets the State standards and laws.

Williams and Works Planner Andy Moore advised the Ordinance will be updated and passed onto the City Attorney for review.

IT WAS MOVED BY SALZWEDEL and seconded by CHAMBERS to recommend to the City Council that the revisions in Chapters 4 and 17 be approved.

YES: 4. NO: 0. ABSENT: 3. MOTION CARRIED.

7. **NEW BUSINESS**

a. Master Plan Review - Further Discussion.

Williams and Works Planner Andy Moore and the Commission continued further review of the Master Plan. Ideas in reference to river transportation, buses and bike trails and entrance signs were discussed.

Jim Hodges of 422 North Jefferson stated the Parks and Recreation Commission have been brainstorming what to do with the fairground property when the fair moves to their new property. He also advised that the City participates with Hope Network who supplies transportation for those in need.

Moore then discussed Chapter 4, "Future Land Use" and possible changes. He went on to discuss the "Implementations" chapter and listed things that the City has accomplished through the Master Plan.

Chair Barker suggested updating the new census numbers.

Moore explained Master Plan does not have to be approved by any higher power. The requirement is there so that communities are consistently reviewing and consulting the Plan. He went on to state if

there are no changes to the Master Plan, the Commission should implement a resolution to demonstrate you are continuing to review.

8. **STAFF REPORT**

City Clerk Susan Ullery stated a joint Planning Commission meeting with Vergennes and Lowell Townships will be held October 23rd at Lowell Township Hall.

9. **COMMISSIONERS REMARKS**

James Zandstra stated this was his last meeting because he is moving out of the Lowell area.

Chair Barker thanked Zandstra for all his work and congratulated him on his new home.

Commissioner Chambers thanked Zandstra for being on the board. He has enjoyed working with him.

IT WAS MOVED BY CHAMBERS and seconded by ZANDSTRA to adjourn at 8:28 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan S. Ullery, City Clerk

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MEMORANDUM

To: City of Lowell Planning Commission
Date: September 6, 2017
From: Andy Moore, AICP
RE: City of Lowell Demographic and Housing Data

As requested, we have reviewed and updated data from the 2007 Master Plan for your consideration. The purpose of this review was to analyze the change that may have occurred within the City's population, which will aid in determining if an adjustment to the City's long range planning policies is warranted. This memorandum presents an update of the data and analysis of Chapters 2 and 3 of the Master Plan.

Total Population

Growth of a community's population is a primary force driving new development and redevelopment, while a decline in a community's population can lead to abandoned buildings and blight. Therefore, population trends are an important component of any demographic analysis. The total population and percentage of change in Lowell is presented in Table 1.1.

Table 1.1 compares the population growth trends for the City against adjacent and comparable communities. Over the 25-year period from 1990 to 2015, the City of Lowell experienced an decrease in population whereas the adjacent two townships saw a dramatic increase. The City's is mostly built-out and it is expected that the population will remain relatively steady. The slight decrease can most likely be attribute falling household sizes, children reaching adulthood and moving out, among other factors.

Table 1.1
Total Population and Population Growth Rate, City of Lowell and Surrounding and Comparable Communities, 1990 to 2015

	1990	2000	2010	2015	% Change 2000 to 2015
City of Lowell	3,983	4,013	3,783	3,859	-3.8%
Lowell Township	4,774	5,219	5,949	6,235	19.5%
Vergennes Township	2,492	3,611	4,189	4,404	22.0%
Kent County	500,631	574,335	602,622	622,590	8.4%
State of Michigan	9,295,297	9,938,444	9,883,640	9,900,571	-0.4%

Source: U.S. Census Bureau & American Community Survey

Age

The age of a community's population has very real implications for planning and development, whether it is an increased or decreased need for schools to serve the population under the age of 18, or a need for housing alternatives for empty nesters and elderly residents. This section analyzes the age of the City's population – based on age structure, median age, and percentage of population under 20 and over 65 – and assesses the implications of age on land use and development.

Common Measures of Age

The age analysis begins with three common measures of the age of the population. The first measure is the median age, which is the age at which one-half of the population is older and one-half of the population is younger. Median age is the most often used measure of age because it can be used to compare populations of different sizes. The second measure is the percentage of the total population under the age of 20. Individuals under the age of 18 are usually recently graduated, enrolled in the school system, or preparing to enter school, and thus require services not required for the general population. The third measure is the percentage of the total population that is aged 65 and over. Many individuals approaching retirement age seek alternative housing. As individuals age, they may lose their ability to drive (or drive less frequently) and means of transportation and other community services can become a new but important issue. These measures of community age are presented in Table 1.2.

Table 1.2
Median Age, Percentage of Population Under 18 and Over 65 City of Lowell and Surrounding Communities, 2010

	Median Age	18 or under	65 or older
City of Lowell	37.1	25.7%	15%
Lowell Township	38.4	26.3%	9.8%
Vergennes Township	39.2	29.1%	8.9%
Kent County	34.4	26.6%	11.1%
State of Michigan	38.9	23.7%	13.8%

Source: U.S. Census Bureau

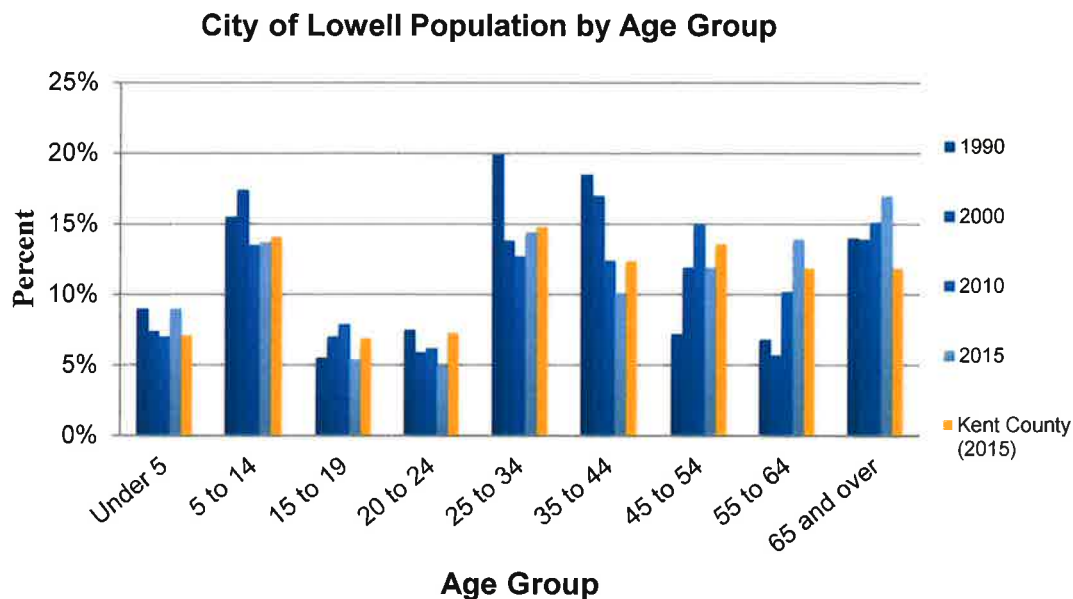
Age Structure

Age structure refers to the portion of the community's population in each age cohort. To compare the age structure of the City and County, the population is divided into several basic age groupings.

The data in table 1.3 and figure 1.1 indicate that the City of Lowell's population is somewhat older than the population of surrounding Townships, Kent County, and the State. However, the City of Lowell does have a comparable proportion of population aged 18 or younger, and the median age is consistent with that found in neighboring Townships or statewide. It is interesting

to note that the median age in Kent County (34.4) is particularly low, indicating high birth rates, high rates of in- migration by younger workers, the presence of a high percentage of college students, or some combination of the three.

Figure 1.1
Comparison of Age Groups by Percentage of Total Population City of Lowell & Kent County, 1990 to 2015



Source: U.S. Census Bureau & American Community Survey

HOUSEHOLD GROWTH AND COMPOSITION

This section of the demographic analysis assesses the composition and characteristics of households in the City. Households are an important unit of analysis because changes in the number of households are an indication of an increased or decreased demand for housing units. Households are also the basic purchasing unit that creates demand for retail services.

Number of Households

The number of households in the City decreased slightly from 1,492 in 2000 to 1,457 in 2010, a decrease of 35 households. That trend has seemed to continue given the 2015 estimate. Compared with neighboring townships, Kent County, and the State, Lowell's change in household size has mirrored the change in population. Household information for the City is presented in Tables 1.3 and 1.4. Lowell and most surrounding communities also experienced a decline in average household size. This observation is consistent with national trends towards fewer nuclear family households and more single person households as younger singles wait longer to get married and as life expectancies increase for the senior population.

Table 1.3
Households City of Lowell and Surrounding Communities, 1990-2015

	1990	2000	2010	2015	% Change 2000 to 2015
City of Lowell	1,456	1,492	1,457	1,428	-4.3%
Lowell Township	1,502	1,726	2,179	2,292	32.8%
Vergennes Township	788	1,142	1,408	1,431	25.3%
Kent County	181,740	212,890	237,239	232,961	9.4%
State of Michigan	3,419,331	3,419,631	3,872,503	3,841,148	12.3%

Source: U.S. Census Bureau & American Community Survey

Table 1.4
Household Size City of Lowell and Surrounding Communities, 1990-2010

	1990	2000	2010	% Change in Household Size
City of Lowell	2.73	2.69	2.5	-7.1%
Lowell Township	3.16	3.02	2.72	-9.9%
Vergennes Township	3.16	3.16	2.97	-6.0%
Kent County	2.75	2.7	2.6	-3.7%
State of Michigan	2.71	2.62	2.49	-5.0%

Source: U.S. Census Bureau

Education

Table 1.6 displays the highest level of educational attainment for persons aged 25 or older in 2010. The table indicates that the Lowell is similar to surrounding communities, the county, and the state in the percentage of persons without a high school diploma or some college. However, Lowell has a higher percentage of persons with a high school diploma and a lower percentage of persons with a bachelor's degree or higher. On the other hand, Vergennes Township displayed the highest levels of educational attainment, with the highest percentage of persons holding bachelor's degrees or higher.

Table 1.6

Educational Attainment of Persons 25 Years and Older, City of Lowell and Surrounding Communities, 2010

	Less Than High School Diploma	High School Diploma	Some College or Associate Degree	Bachelor's Degree or Higher
City of Lowell	10.4%	40.9%	30.7%	18.0%
Lowell Township	7.3%	28.8%	34.8%	29.2%
Vergennes Township	8.7%	28.0%	29.5%	33.7%
Kent County	11.7%	27.2%	31.1%	30.0%
State of Michigan	11.9%	31.5%	31.5%	25.1%

Source: U.S. Census Bureau

Household Income

The estimated median household income for City of Lowell residents in 2010 was \$47,037, which is \$2,495 less than the \$49,532 median household income for Kent County.

Table 1.7 shows the median household income levels for City of Lowell, Lowell Township, Vergennes Township, Kent County, and the State of Michigan in 2010 and 2015. The City of Lowell had the lowest median household income of any of the comparison communities.

Table 1.7

Annual Household Income City of Lowell and Surrounding Communities, 2010 & 2015

	2010	2015
City of Lowell	\$47,037	\$58,979
Lowell Township	\$61,497	\$65,379
Vergennes Township	\$69,201	\$79,105
Kent County	\$49,532	\$53,063
State of Michigan	\$48,432	\$49,576

Source: U.S. Census Bureau & American Community Survey

Occupation

Table 1.8 summarizes the occupation of employed workers for the City of Lowell and surrounding communities in 2010. The City of Lowell had a lower percentage of workers employed in the production and transportation fields, and a higher percentage of workers employed in the service field. The percentages employed in each type of occupation are consistent with the educational attainment figures summarized in Table 1.7.

Table 1.8
Occupation City of Lowell and Surrounding Communities, 2010

	Management	Service	Sales & Office	Farming, Fishing, & Forestry	Construction & Extraction	Production & Transportation
Lowell	27.2%	23.1%	26.2%	0.7%	5.0%	17.7%
Lowell Township	25.6%	21.0%	19.5%	0.4%	6.3%	27.3%
Vergennes Township	30.1%	20.0%	15.8%	4.2%	5.7%	24.1%
Kent County	31.4%	22.3%	16.2%	1.0%	5.3%	21.7%
State of Michigan	32.1%	21.4%	18.2%	1.3%	5.3%	21.8%

Source: U.S. Census Bureau

DEMOGRAPHICS: SUMMARY AND CONCLUSIONS

Summary

The foregoing analysis identifies demographic characteristics of the City that differ from those of the surrounding communities, and the region. The primary findings of the demographic analysis are:

1. Lowell experienced a decrease in both population or households during the 2000-2010 period. Most surrounding communities did experience steady growth in households and population, with Lowell Township experiencing the highest rate of growth in households and Vergennes seeing the highest growth in population. This general trend (cities losing population while the surrounding townships gain population) is common in Michigan and Lowell is no exception.
2. The City's age structure is comparable to surrounding communities and the State of Michigan, although Lowell does have a somewhat higher proportion of elderly residents.
3. The median household income is in line with the State of Michigan and Kent County although notably lower than the two surrounding townships.

Conclusions

The primary findings of the demographic analysis have several implications for the City's land use and development policies.

1. As evidenced by the stagnant household and population growth, the City is largely built out. Increases in population and household will have to come from increases in density on already-utilized parcels of land.
2. School enrollment is anticipated to be fairly stable given the age distribution of the population in 2010. If 2015 estimates are correct, the City may begin to see a slight increase in elementary enrollment.
3. As the mature families age group moves towards retirement, their housing choices may

have implications for the demand for new and different housing types on the South Side of the Township.

4. As the retirement age group increases in size, demand for services for senior citizens and elderly residents are likely to grow.

Number of Housing Units

Table 1.9 compares the change in housing units between the City and comparison communities. The change in housing units is similar to the growth in households presented in Table 1.3. The City experienced an increase of housing units between 2000 and 2010; however, 2015 estimates predicted that the number of units decreased slightly.

Table 1.9
Growth in Housing Units, City of Lowell and Surrounding Communities, 1990-2015

	1990	2000	2010	2015	% Change 2000 to 2015
City of Lowell	1,510	1,564	1,581	1,529	-2.2%
Lowell Township	1,543	1,764	2,260	2,386	35.3%
Vergennes Township	826	1,209	1,479	1,558	28.9%
Kent County	192,698	224,000	246,901	248,224	10.8%
State of Michigan	3,847,926	4,234,279	4,532,233	4,539,838	7.2%

Source: U.S. Census Bureau & American Community Survey

Housing Type

To understand the City's housing stock, the type of housing is analyzed. The available census data includes the following housing categories:

- One-family, detached (single-family homes)
- One-family, attached (attached condominiums)
- Two-family / Duplexes
- Multi-unit Structures
- Mobile homes
- Other units (includes boats, RVs, etc.)

Housing Type Comparison

The types of housing in the City are compared to housing types in the County as a whole in Table 1.10. Single-family detached housing constitutes 66.8 percent of the total housing in the City, compared to 65.3 percent in the County as a whole. The composition of the housing stock in the City of Lowell is comparable to the county. Compared with the state, there are more two-family and fewer multiple family households. The housing stock in the surrounding Townships is predictably dominated by detached single family dwelling units.

Table 1.10
Comparison of Housing Types as a Percentage of Total Housing Units City of Lowell and Surrounding Communities, 2010

	Single Family Detached	Single Family Attached	Two-Family	Multiple Family	Mobile Home	Other
City of Lowell	66.8%	4.8%	6.2%	15.2%	3.0%	0.0%
Lowell Township	81.1%	1.2%	1.9%	19.9%	11.9%	0.0%
Vergennes Township	96.0%	0.0%	0.0%	2.3%	1.7%	0.0%
Kent County	65.3%	6.5%	4.8%	19.6%	3.9%	0.0%
State of Michigan	71.7%	4.6%	2.8%	19.3%	5.6%	0.0%

Source: U.S. Census Bureau

Tenure

Tenure refers to the ownership status of occupied housing (housing units that are vacant were not included in the data). Tenure for the City is presented in Table 1.11. The City has a decent occupancy rate, with over 92.2% of all housing units being occupied. The percentage of owner occupied units, 57.7%, is consistent with state and national figures.

Table 1.11
Occupancy City of Lowell, 2010

	Number of Units	Percentage of Total
Owner Occupied	911	57.7%
Renter Occupied	546	34.5%
Vacant	124	7.8%
Total Dwelling Units	1581	100.0%

Source: U.S. Census Bureau

Age of Housing

The age of the City's housing stock is presented in Table 1.12. The largest percentage of housing in the City was constructed prior to 1939, while the surrounding Townships have seen most of their housing constructed in the past 30 years. This underscores Lowell's position as the established center of the area.

Table 1.12
Age of Housing City of Lowell and Surrounding Communities, 2010

	Prior to 1939	1940- 1959	1960- 1969	1970- 1979	1980- 1989	1990- 1999	2000- 2009
City of Lowell	22.5%	14.0%	13.5%	20.8%	6.8%	7.6%	3.7%
Lowell Township	12.0%	8.5%	6.7%	25.8%	15.2%	17%	14.8%
Vergennes Township	10.0%	3.5%	6.5%	13.0%	13.7%	23.2%	25.0%
Kent County	18.7%	18.8%	10.8%	13.5%	12.2%	15.2%	10.7%
State of Michigan	16.1%	24.2%	12.1%	15.7%	9.9%	12.8%	9.3%

Source: U.S. Census Bureau

Housing Value

The data for median housing value represent “specified owner occupied housing units”, which are defined by the Census Bureau as “owner occupied housing units described as either one family home detached from any other house or a one family home attached to one or more houses on less than 10 acres with no business on the property.” The median value of housing units in 1990, 2000 and 2015 are presented in Table 1.13 along with the 2015 estimates. All median housing values have been adjusted to 2017 equivalent dollars to permit a calculation of the real appreciation of housing during the 1990’s. The table indicates that the City of Lowell and the surrounding townships experienced greater home value appreciation than did Kent County as a whole, but less appreciation than did the State of Michigan.

Table 1.13
Value of Specified Owner Occupied Housing Units and Median Housing Value City of Lowell and Surrounding Communities, 1990-2015

	1990 Median Value	2000 Median Value	2010 Median Value	2015 Median Value	Percent change 2000 to 2010
City of Lowell	\$106,035	\$142,840	\$136,012	\$105,054	- 4.9%
Lowell Township	\$129,136	\$173,438	\$187,300	\$168,003	+7.7%
Vergennes Township	\$151,512	\$230,139	\$229,889	\$196,808	-0.1%
Kent County	\$130,296	\$166,912	\$166,740	\$145,904	-0.1%
State of Michigan	\$115,780	\$115,780	\$162,899	\$128,202	+33.8%

Source: U.S. Census Bureau & American Community Survey

Housing: Summary and Conclusions

1. The City of Lowell contains a similar housing stock to the county and the state as a whole.
2. Housing unit growth in the City was very low during the 1990's, again reflecting the largely built out nature of the City.
3. Median housing values in the City are lower than the comparison communities, although the growth in median home value is consistent with those communities. This indicates that home values in the City are a relative bargain when compared to the surrounding areas, particularly given the expectation that the home will continue to appreciate at a rate consistent with the surrounding areas.

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MEMORANDUM

To: City of Lowell Planning Commission
Date: September 8, 2017
From: Andy Moore, AICP
RE: Short Term Rentals

The purpose of this memo is to outline the various issues and concerns surrounding the short-term rental of residential properties located in the City of Lowell. This issue is viewed from the perspective of both the residents and the rental property owner. A range of proposed options to address the issue are offered for the consideration of the Planning Commission and City Council.

The Issue

Owners living in single-family residences in a neighborhood environment normally expect that the other homes in the area will be occupied by other long-term residents with similar standards of housekeeping, behavior, and a general good-neighbor's concern for the other residents. On the other hand, within the limits of the law and local ordinances, a property owner is entitled to capitalize on the value of his home and land. Where there is a market for short-term rentals, the high earnings potential of the property can be enticing, especially in communities that tend to attract a number of tourists. With the increasing popularity of companies like Airbnb and VRBO, this is a significant issue in numerous communities throughout the region.

As a result of this tension, many communities have implemented some form of regulation of short-term rental housing. The following summarizes the reasons most often cited for short-term rental regulation, although all may not apply to the City of Lowell.¹

1. **Protecting a Single-Family Environment.** As outlined in the quote above, a frequent basis for regulating short-term rentals is a perceived need to protect the character of existing residential neighborhoods. These efforts are often driven by complaints from permanent residents about the disturbances that may be caused by short-term tenants, including excessive noise, late night parties, trespassing, increased traffic and parking, too many strangers coming and going, and other disruptive activities. Generally speaking, the rationale is that vacationers and guests who do not have ties to the local community are more concerned with maximizing their fun than they are with being a good neighbor.

¹ Much of the discussion on the reasons for short-term rental regulation is drawn from an issue paper prepared for the National Association of Realtors, by Robinson & Cole, LLP, 2011, and made available on www.realtor.org along with previous research and experiences of Williams & Works staff planners.

2. **Protection of Physical Characteristics and Property Values.** The need to protect the physical characteristics of their residential neighborhoods is often cited. The underlying rationale here is that short-term rentals are generally are not owner-occupied and therefore are less likely to be cared for to the same degree as permanent residences. The presumption is that absentee property owners are less diligent about the types of regular and routine maintenance tasks that owner occupants would provide. The result, would be a deteriorating community and declining property values, especially as more owners opt to make their properties available as short-term rentals and the perceived stability of permanent residents diminishes.
3. **Fairer Competition with Licensed Lodging.** Restrictions on short-term rentals can also be intended as a means of leveling the playing field between the short-term rental industry and conventional overnight lodging facilities, such as hotels and bed and breakfasts, which may be specifically regulated under state or local law. It is not uncommon for the hospitality industry to urge passage of regulations governing short-term rentals on the grounds that they are functionally the same as hotel units. The argument is that successful hotel operators devote large sums to maintenance and to comply with state and local requirements that should also apply to competing short-term rentals.
4. **Protection of Renter and Tourist Safety.** Occasionally, another reason for the adoption of short-term rental regulations is the protection of renter safety. The rationale is that operational restrictions (e.g., occupancy limits based on septic system capacity or fire code compliance) and inspection requirements are necessary to ensure the safety of occupants of short-term rental units who may not be aware if these limitations.
5. **Revenue.** Many resort communities around the country levy some form of Hotel Occupancy Tax, which may apply to short-term rentals. In Michigan, an occupancy tax of up to 5% of the room fee is allowed in properties that have 10 or more units. This tax requires local approval to implement and the funds raised must be largely used for tourism marketing, not basic municipal services. An alternative approach to revenue generation might be licensing and inspection fees, although typically such revenues must be limited to the amount needed to offset operating costs. And, of course, any such regulatory structure will also necessitate an administrative structure to implement it.

Alternative Approaches

There are a number of responses to these issues or challenges that the City may consider, ranging from doing nothing to an outright ban on short-term rentals. Several of those alternatives are discussed below. In many cases, these alternatives are not mutually exclusive and aspects of one approach may be combined with another in devising an approach that is appropriate to the City.

1. **Do Nothing.** Currently the City's Zoning Ordinance defines the terms "single-family dwelling" and "family" quite broadly and an argument may be made that the use of one's home as a short-term rental is included as a permitted use anywhere single-family

dwellings are permitted, although we would disagree with such an interpretation. (Note: there has been legislation proposed in the Michigan Legislature that would do make consider a short term rental a residential use.) This is especially true where the practice has been a part of the local environment for a long time. In essence, this can be interpreted as an acknowledgement that a short-term rental has been considered a legitimate use of a residence and the Zoning Ordinance is written accordingly. Certainly, a property owner ought to be able to capitalize on a legitimate use of his/her property, so long as it does not unreasonably impact the neighbors. Such a perspective does not mean neighboring residents must tolerate unruly, messy or dangerous behavior by guests staying in the short-term rentals. When such behavior borders on criminal activity, Lowell's Police Department is empowered to evaluate the situation intervene by taking whatever action is needed.

Pros and Cons. The advantage of the "do-nothing" response is that no additional regulatory structure is needed and property owners are free to continue this use of their homes without additional oversight. To the extent particular guests or property owners create problems in the neighborhood, existing criminal statutes may be used to address those problems. The disadvantage of taking no action is the perceived problems associated with short-term rentals may get worse as the practice of renting out homes becomes more prevalent. Furthermore, has been the approach thusfar taken by the City, and with one complaint having arisen from a short-term rental, the City is justified in feeling compelled to take action.

2. **Public Information and Peer Pressure.** The City might take action either independently or in conjunction with other local or regional organizations to mount a public information effort to encourage "good neighbor" property maintenance and visitor behavior. This could take the form of brochures sent to known short-term rental owners and asking them to post a few house rules intended to protect the neighborhood. Local volunteers could approach owners of problem properties to seek their cooperation to assure that a short-term rental in an otherwise single-family neighborhood is not disruptive. In most cases, people want to get along and will cooperate. Where such an approach is resisted or met with hostility, the Police Department can always be called in to address specific cases.

Pros and Cons. This response has most of the same advantages and disadvantages of the "do-nothing" response in that it requires no additional regulatory structure and may be only marginally effective. However, it does have the added advantage of proactively enlisting the involvement of neighborhoods to inform their leadership to the need to keep tabs of short-term rental activity and it provides some simple tools to use in response to emerging problems. Of course, the major disadvantage of this approach is the "lack of teeth" should someone simply flaunt the agreed-upon "good neighbor" standards.

3. **Limits on Rental Duration.** One of the objections often expressed concerning short-term rentals in residential neighborhoods is the frequent influx of strangers into the area. Some communities adopt standards that prohibit very short-term rental leases, such as

nightly or only two or three nights. On the other end, some communities require that short-term rentals be rented for at least 7 days at a time. Then there are communities requiring minimum stays of two weeks or more, even up to 30 days. The rationale for this approach is the longer the term of the lease, the greater the likelihood that the guests will respect the rights of neighbors.

Pros and Cons. This approach is relatively simple to implement, although it may be difficult to police, as discussed below. Nevertheless, assuming that the majority of guests staying for several days are better behaved, many of the problems associated with short-term rentals could be addressed by this approach. Furthermore, visitors that want to come to the area for shorter periods would be directed toward conventional hotels and bed & breakfasts so that this approach works more cooperatively with those uses. Implementing this approach would require an amendment of the Zoning Ordinance and/or a new general law ordinance governing short-term rentals. In discussing this with other communities, it seems that the vast majority of the property owners either cooperate, or they advise their guests to not “make waves” in the neighborhood that would call attention to a rapid turnover or other problems with their occupancy.

4. **Special Land Use.** Short-term rentals could be treated as special land uses under the Zoning Ordinance subject to a set of review and approval standards and a public hearing prior to receiving a zoning permit. Short-term rentals might be allowed as special land uses in some residential districts-but not necessarily in all. The standards could also include an established maximum occupancy, property maintenance and management standards and even isolation between short-term rentals to prevent a concentration of them in a particular neighborhood.

Pros and Cons. A primary advantage of this approach, once it is implemented, is that all the surrounding property owners would be advised that a short-term rental was being considered in their area. The input at a public hearing often influences the conditions that are applied to special land uses and can be a useful governor on otherwise objectionable features of a proposed use. The fees and escrow requirements for special land uses should support the cost of administering this approach. A special land use regulatory approach has “teeth” in that failure to operate a short-term rental in compliance with the special land use approval can result in suspension or revocation of the approval. Of course, the steps necessary to rescind a special land use can be cumbersome and could result in expensive litigation. A structural weakness in regulating short-term rentals as special land uses through the Zoning Ordinance is that all short-term rentals previously in existence are “grandfathered” as legal nonconforming uses. Applicants for new special land uses may see themselves as unfairly singled out if their “grandfathered” neighbor is able to conduct his business in an unregulated manner.

A further difficulty with this (and other) approaches is finding the illegal short-term rentals in the City to bring them into compliance. Many advertise on VRBO.com, or Airbnb.com or other sites and could be identified with some diligent research. Others may be

identified by neighbor complaint, but still others could exist illegally without the knowledge of the neighborhood or the City. Critics of this approach might argue that if the use has not made itself known by its operation or the guests' behavior, there is no purpose in regulating it.

5. **Licensing and Inspection.** Through a general law ordinance, the City could establish licensing standards for short-term rentals. Those standards could regulate the entire spectrum of short-term rental operations from number of occupants, duration of stays, property maintenance and management procedures (even including a required minimum operating reserve fund to assure property maintenance), among others. The ordinance could also establish a maximum number of licenses that might be issued at any time. It would also require periodic inspections of the units to assure continued compliance. Licenses would be of limited duration and would only be renewed with continued compliance with all requirements. For greatest effect, a licensing and inspection approach would be coupled with special land use permitting under the Zoning Ordinance. In this way, only licensed units would be eligible for consideration as a special land use and in order to be licensed, a unit must be an approved special land use. This overcomes the "grandfathering" issue outlined above.

Pros and Cons. With a properly prepared and administered licensing approach, the City should be well-equipped to address virtually all of the perceived problems surrounding short-term rentals. Clearly, this approach is far more extensive than most other land use techniques currently employed in the City. In addition, as the City of Lowell is one of dozens of communities in the area where there is some demand for short-term rentals, implementing such an approach while other communities do not will likely be seen as unfair to local property owners.

Most frequently, a licensing approach is undertaken in larger, urban jurisdictions that encompass most of the local marketplace. It should also be apparent that this approach would necessitate a fairly robust administrative structure to implement. Licensing fees could help to offset administrative expense, but if fees are too excessive, City property owners will certainly object to the inequity if other communities do not implement a similar approach.

6. **Prohibit short-term rentals.** As indicated above, under the current Zoning Ordinance there is an argument that a short-term rental use is allowed as part of owning a single-family dwelling, particularly if there are short-term rentals being utilized currently. Whether the City is (or could be) susceptible to an exclusionary zoning claim remains to be seen, but if the City were inclined to permit short-term rentals in some capacity the Ordinance could be coupled with a short-term rental definition as either a permitted or special land use (see #4 above), to avoid such a claim. For example, it might be that short-term rentals would be permitted only in one particular zoning district. Alternatively, a short term rental of less than 30 days could be prohibited in residential districts.

Pros and Cons. If the use were effectively eliminated from the City, the perceived problems associated with short-term rentals would be eliminated as well. If they were

not eliminated, but were confined to a certain area or zoning district, any problems associated with them would be contained. However, as outlined above, any existing short-term rental must be treated as a legal nonconforming use and might continue for years despite an outright ban. Furthermore, enforcing a ban will could be difficult, costly, and may open the City to an exclusionary zoning claim.

Most communities find that enforcement of its restrictions is only feasible in response to complaints. Finally, a ban or stringent restrictions will certainly be seen as an intrusion onto the rights of property owners who might need to generate some income from their properties and take advantage of the emerging draw to the City as a destination, or see the ability to use the property as a short-term rental as a selling feature which enhances its value.

Recommendation. There is no obvious correct approach to this issue. First, the City must determine whether short-term rentals represent a problem in the community today or whether they may become a problem in the future as the nature of residential development in the community evolves. If the problem is seen as relatively isolated and generally a matter of guest behavior rather than land use, then alternatives 1 or 2 may be appropriate. On the other hand, if there is a sense that short-term rentals and the behavior of guests are threatening the character of the City in a fundamental way, then a more extensive approach should be considered.

Regardless of the approach taken, there should be a solid community consensus to support it. Our experience suggests that implementing a comprehensive and effective approach to short-term rentals will require a broad effort to form a community consensus and involve interested and/or affected property owners and community stakeholders on the scope and nature of the issue and the most appropriate response to deal with it.

As always, please let me know if there are further questions. When the City agrees upon a recommended approach, we would be happy to work with its legal counsel in drafting regulatory language, if desired.

2017

<u>Open Date</u>	<u>Close Date</u>	<u>Address</u>	<u>Name/Business</u>	<u>Subject</u>
08/22/2016	02/07/2017	128 S. Monroe	Granite Company	Addition
02/16/2016	01/13/2017	318 E. Main	Big Boiler	Brewery
01/12/2017	01/16/2017	2179 Gee Drive	John Baar	Finish Basement
01/19/2017	01/23/2017	1410 W. Main	John Curtis	Addition
01/26/2017	02/02/2017	1375 Highland Hill	Allen Edwin	New Home
01/26/2017	02/02/2017	1353 Highland Hill	Allen Edwin	New Home
01/24/2017	02/02/2017	315 Sherman	Adam Bassett	Fence
01/18/2017	02/02/2017	200 N. Monroe	Library	Deck
03/10/2017	03/10/2017	1224 Highland Hill	Allen Edwin	New Home
03/10/2017	03/10/2017	1268 Highland Hill	Allen Edwin	New Home
03/23/2017	03/23/2017	140 S. Broadway/149 S. Hudson	King Milling/Phase 1	MCC Building/ Dryer Foundation
04/20/2017	04/21/2017	12080 Gee Drive	Matt and Laura Garrison	Porch Addition
04/21/2017	04/25/2017	312 E. Main	Main St. Dev.	Demo - Garage
04/24/2017	04/24/2017	1376 Highland Hill	Allen Edwin	New Home
04/24/2017	04/24/2017	1365 Highland Hill	Allen Edwin	New Home
04/24/2017	04/24/2017	137 S. West	GH Improvements	Decks (2)/Fence
05/05/2017	05/08/2017	273 Donna	Donald Mullins	Shed
05/05/2017	05/08/2017	186 S. Pleasant	Melood Abugasea	Fence
04/26/2017	05/09/2017	305 High	Kelly St. John	Fence
05/10/2017	05/10/2017	2535 Gee Drive	Howard Barriger	Roof/Siding/Windows
05/10/2017	05/12/2017	925 N. Monroe	Joseph VandenBerg	Fence
05/11/2017	05/16/2017	937 Lincoln Lake	Don Kelly	Fence
05/03/2017	05/22/2017	2350 W. Main	Lake Mi Credit Union	New Construction
05/22/2017	05/23/2017	1335 W. Main Suite B	H&H Management	Remodel
06/08/2017	06/08/2017	109 Riverside	Jeff Altoft	Reroof

04/28/2017	06/12/2017	269 S. Broadway	LYFL	New Scoreboard
05/18/2017	06/13/2017	1347 Highland Hill	Allen Edwin	New Home
06/01/2017	06/13/2017	1370 Highland Hill	Allen Edwin	New Home
06/06/2017	06/19/2017	1238 Highland Hill	Keven Krieger	Deck
06/12/2017	06/20/2017	149 S. Hudson	King Milling	Restroom Renovation
06/16/2017	06/20/2017	704 Lafayette	George Watson	Reroof
06/26/2017	06/26/2017	618 Lincoln Lake	Bob & Elly Bassinger	Remodel
06/20/2017	06/30/2017	1359 Highland Hill	Allen Edwin	New Home
06/20/2017	06/30/2017	1346 Highland Hill	Allen Edwin	New Home
06/30/2017	06/30/2017	318 Lincoln Lake	Casmir Delnick	Fence
06/30/2017	06/30/2017	318 Lincoln Lake	Casmir Delnick	Deck Stairs
06/30/2017	06/30/2017	1364 Highland Hill	Allen Edwin	New Home
06/29/2017	07/17/2017	1218 Highland Hill	Allen Edwin	New Home
07/11/2017	07/18/2017	1352 Highland Hill	Allen Edwin	New Home
07/18/2017	07/18/2017	431 James	Pat Murphy	Reroof
07/18/2017	07/18/2017	516 Howard	Marlene & Tracy Kroft	Shed
07/26/2017	07/26/2017	2535 Gee Drive	Howard Barriger	Remodel
07/19/2017	07/26/2017	1353 Highland Hill	Mark Elve	Deck
07/27/2017	07/27/2017	2186 W. Main	Todd Gillan	Reroof
08/02/2017	08/04/2017	505 W. Main	Mary Harrison	Remodel
07/31/2017	08/04/2017	John Steffens	John Steffens	Reroof
07/24/2017	08/04/2017	125 James	Sable Homes	New Home
07/24/2017	08/04/2017	113 James	Sable Homes	New Home
07/24/2017	08/04/2017	920 High	Sable Homes	New Home
07/18/2017	08/09/2017	1371 Highland Hill	Allen Edwin	New Home
08/16/2017	08/28/2017	1349 Jane Ellen	Jonathan Holmes	Demo/Garage
08/16/2017	08/28/2017	1349 Jane Ellen	Jonathan Holmes	Demo/Garage
07/31/2017	08/29/2017	209 North	Annette Belanger	Fence
09/01/2017	09/07/2017	340 Donna	Vivian Reid	Window expansion

08/30/2017	09/08/2017	1800 W. Main	Key Vista MHP	Fence
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