

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, NOVEMBER 12, 2018 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 Commissioner Chair Bruce Barker.

Present: Commissioners David Cadwallader, Tony Ellis, Amanda Schrauben, Colin Plank, Marty Chambers and Chair Bruce Barker.

Absent: Commissioner Kelly Breimayer.

Also Present: Andy Moore with William & Works.

2. **APPROVAL OF ABSENCES.**

IT WAS MOVED BY BARKER and seconded by CHAMBERS to excuse the absence of Commissioner Kelly Breimayer.

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

3. **APPROVAL OF AGENDA.**

IT WAS MOVED BY ELLIS and seconded by CADWALLADER to approve the agenda as amended moving all new business before old business.

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

4. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING.**

IT WAS MOVED BY CADWALLADER and seconded by ELLIS to approve the minutes of the October 8, 2018 regular meeting as written.

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

5. **PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA.**

There was none.

6. **NEW BUSINESS.**

a. Public Hearing – Burger King Special Land Use and Site Plan Review- 1400 W. Main Street.

Chair Barker opened the public hearing and asked if there was a representative to give a brief summary of the Burger King special land use request.

Rick Rohlfig with BFA Engineering gave a brief summary of the Special Land Use application for the redevelopment of Burger King at 1400 W. Main Street SE.

Andy Moore with William & Works explained his memorandum reviewing the application pursuant to Chapter 17 of the City's Zoning Ordinance as follows:

Dimensional Requirements. The proposed lot and building meet the dimensional requirements of the C-3 district.

Lighting. A photometric plan was submitted with the application. The Zoning Ordinance requires that not more than .05 foot candles of light can be cast onto adjoining properties. The photometric plan shows that lighting will exceed these levels along the southerly property line (adjacent to Curtis Cleaners front entrance). On the west side of the property, light levels also slightly exceed .05 foot-candles. The light fixture height is 20', which is consistent with Zoning Ordinance requirements. The applicant has not submitted information regarding the type of fixtures, as the Zoning Ordinance requires fully cut-off fixtures. This can be addressed as a condition of approval.

Parking. The applicant is proposing 45 parking spaces on the subject property. Section 19.07 of the Zoning Ordinance requires one space per 100 square feet of gross floor area, which equates to 31 spaces. Thus, the applicant has proposed 14 more spaces than is required by the ordinance.

Parking lots that contain more than twelve parking spaces are required to provide planting islands at a minimum ratio of one island per twenty parking spaces. The applicant has not submitted a landscaping plan, so this will need to be addressed.

There exists on the southern and western portion of the property, an easement that provides nineteen parking spaces to Curtis Cleaners, located directly to the south of the subject property. Curtis Cleaners has received approval to construct a parking lot addition to the south of their building, which, once completed, will likely eliminate the need for the easement. However, some of the proposed Burger King parking lot is directly adjacent to Curtis Cleaner's property and it is likely that Curtis Cleaner patrons will use spaces on the Burger King property. Additionally, the driveway to Valley Vista will likely be utilized by both Burger King and Curtis Cleaners patrons. Therefore, some type of easement should remain in place along with an agreement related to the driveway located on Valley Vista and use of parking spaces between the two property owners.

Landscaping. Section 4.26(2) of the Zoning Ordinance requires a minimum of one (1) canopy tree and three (3) deciduous shrubs for each 30 feet of lot width, in addition to parking lot landscaping. The site has approximately 200 feet of frontage each along Main Street and Valley Vista, so approximately 13 trees and 40 shrubs are required. The applicant has proposed 8 trees and 27 shrubs along Main Street, plus 27 evergreen trees along Valley Vista (which will function as a screen), and four additional trees are located on the southern and eastern sides of the building. Additionally, two existing trees are located within the Main street right of way, which are proposed to remain. The proposed landscaping satisfies the standards of the Zoning Ordinance related to both parking lot and frontage landscaping.

Signage. The applicant is proposing one pole sign along Main Street in addition to wall signs located on the north, south and east sides of the building. Dimensions are not given for the pylon sign. However, the building signs are proposed to be circular "Burger King" logos with an area of 36 square feet. Further, the north side of the building facing Main Street would have additional signage "Flame Grilling since 1954" that measures an additional 34 square feet, bringing the total area of signage for the north elevation to about 72 square feet. Section 20.08 (D) allows one sign per building wall facing a parking lot or public street, and the maximum sign area is 50 square feet. The signage on the south and east elevations are acceptable, but the

signage on the north side of the building needs to be reduced to meet the 50 square foot requirement. Sign permits from the City are required before installing any signage at the site. The Planning Commission may address this as a condition of approval.

Special Land Use Review Standards. To approve a special land use, the Planning Commission must find that the use satisfies the general standards of Section 17.03 applying to all special land uses, the standards of Section 17.04 (I) pertaining to this specific special land use, and the standards of Section 18.06 for site plan reviews. Following are the standards and our remarks on each:

1. The proposed special land use shall be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

Remarks: The proposed development is consistent with other structures in the vicinity. All neighboring properties are located within the C-3 General Business district. McDonald's fast food restaurant is located on a neighboring property to the east and also has a drive-through window with a building square footage of approximately 4,500 square feet. Additionally, the proposed building would enhance the character of the area by redeveloping a site that is currently vacant.

The Planning Commission conceded that this standard is met.

2. The proposed special land use shall be generally consistent with the City of Lowell Master Plan;

Remarks: The City of Lowell Master Plan was updated in 2007 and identifies the West Main Street Commercial Corridor as the primary location of contemporary suburban strip development in the City. The subject parcel is located within this corridor, which extends from railroad tracks on the west side of downtown Main Street to the City boundary. The Master Plan articulates that land uses in this area should include retail, office, and service uses that are oriented towards automobile traffic. Therefore, the development of a drive-through restaurant in this area appears to be consistent with the Master Plan. Additionally, the future land use map identifies the subject parcel as mixed use, which would encourage different pedestrian-oriented uses that are desirable to neighborhoods and the central business district. The proposed use could provide services to both business and neighborhood traffic. The sidewalks would remain along Main Street and Valley Vista, and the applicant has proposed to connect the main entrance of the building to the Main Street sidewalks with additional sidewalk and pavement markings, as has been done in previous projects recently.

The Planning Commission conceded that this standard is met.

3. The proposed special land use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structure, refuse disposal, water and sewage facilities;

Remarks: The applicant proposes to keep the access drives that currently exist from W. Main Street (M-21) and Valley Vista Drive and reduce the overall impervious area from the previous development. Because the applicant has proposed to use existing access drives, it is expected that public facilities and services will not be adversely impacted by the special land use development. Because this parcel was previously developed, there are existing drainage structures that will be

used for stormwater drainage off of the site. There are also water and sanitary sewer facilities on or adjacent to the subject property, and connections to these utilities will need to be approved by the City DPW.

The Planning Commission conceded these standards are met with the Fire Departments approval of the proposed site plan to ensure fire lanes are acceptable.

4. The proposed special land use shall not create excessive additional requirements at public cost for public facilities and services;

Remarks: It is not expected that the proposed special land use would create any additional requirements at public cost for public facilities and services, as it does not require extensive utility connections.

The Planning Commission conceded that this standard is met.

5. The proposed special land use shall not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;

Remarks: The proposed use is not expected to cause detrimental impacts on the surrounding area, as it is consistent with neighboring land uses and located in the Main Street Commercial Corridor where this type of development is expected.

The Planning Commission conceded that these standards are met.

6. The proposed special land use shall comply with all applicable federal, state, and local requirements, and copies of all applicable permits shall be submitted to the City.

Remarks: This will be addressed as a condition of approval.

Section 17.04, T – Site Design Standards for Restaurants with Drive-Through Facilities.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.

Remarks: The applicant has shown seven stacking spaces on the site plan, and it appears that there would be available room for ten stacking spaces without interfering with traffic patterns on Main Street.

Ken Burg who resides at 1570 Hawthorne Hills and owns the Lowell McDonalds Restaurant, stated he is not in favor of the redevelopment of Burger King at this location and is concerned for the safety of pedestrians and motorist in regards to the Main Street entrance.

The Planning Commission conceded that this standard is met.

2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

Remarks: The applicant has indicated three “hot and fresh” parking spaces near the exit of the drive-through intended for customers to wait for the delivery of orders.

The Planning Commission conceded that this standard is met.

3. Public access to the site shall be located at least fifty (50) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.

Remarks: Both access drives on the subject property are at least 50 feet from the intersection of W. Main Street and Valley Vista Drive.

The Planning Commission conceded that this standard is met.

4. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.

Remarks: There are no abutting residential properties, so this standard is not applicable.

5. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

Remarks: The outdoor speakers are located approximately 34 feet off of the west property line. this location allows any sound to be directed towards Valley Vista Drive and away from adjacent properties. Valley Vista Drive has a right-of-way width of 66 feet, so speakers will be approximately 100 feet from the nearest property in the direction of which they face.

The Planning Commission conceded that this standard is met.

Section 18.06 – Site Plan Review Standards.

1. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall be planned to take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.

Remarks: It is not expected that the proposed use would cause detrimental impacts on public health, safety, or welfare, as the development would be consistent with surrounding land uses. The topography and size of the site are also appropriate for the proposed development. Because this site was previously developed, existing drives and some utilities are already in place. Therefore, it does not appear that the proposed development would impede the normal and orderly development of other properties.

The Planning Commission conceded that this standard is met.

2. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.

Remarks: The applicant has indicated vehicular rights-of-way within the site to define the orderly flow of traffic. There are also pedestrian sidewalks and a cross walk to facilitate movement from parking spaces and other sidewalks to the proposed restaurant. There are two proposed ingress/egress points that already existed on the site. Traffic flow at these points appears to promote safe and efficient traffic operations within the site, although we have some concerns with the Main Street driveway (discussed later in this report).

There is a row of 15 parking spaces located on the north property line of the Curtis Cleaners site and there are five parking spaces on the south property line of the proposed development. There is not a defined property line between these two sites, so customers of each business may use the other's parking spaces unintentionally. This will be addressed with an easement between the two property owners.

John Curtis who owns Curtis Cleaners stated that himself and the Burger King property owners have agreed to have an easement for the parking lot between the two sites.

The Planning Commission conceded that this standard is met.

3. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the City of Lowell.

Remarks: The main entrance for the proposed Burger King would be approximately 60 feet from the McDonalds entrance. The presence of two fast food restaurants in close proximity may increase traffic and congestion near the intersection of Valley Vista Drive and W. Main Street. Generally speaking, fast-foot restaurants generate a considerable amount of traffic, often at rate of more than 100 trips per hour during peak times. The proximity of two fast food restaurants with drive-through windows, along with the location of the subject parcel near the intersection of W. Main Street and Valley Vista Drive, could result in circulation problems along W. Main Street.

The Main Street entrance to the site poses some traffic concerns relative to the intersection with Main Street and Valley Vista. Left turns entering the site (from WB Main Street) and exiting the site (onto WB Main Street) will be challenging from a traffic safety perspective. It may be prudent to require the driveway onto Main Street to allow for right turns only, and direct other traffic seeking to enter the site to the Valley Vista entrance.

An MDOT permit will be needed for the Main Street driveway, and the MDOT permitting process will also require a traffic impact analysis to be performed by the applicant.

The Planning Commission conceded that this standard is met with a right turn only exit out onto Main Street from the Burger King parking lot and a full MDOT study completed.

4. Removal or alteration of significant natural features shall be restricted to those areas, which are reasonably necessary to develop the site in accordance with the requirements of this ordinance.

The planning commission requires that approved landscaping, buffers, and/or greenbelts be continuously maintained to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

Remarks: There are few natural features currently on the property as this is a redevelopment site. The applicant has indicated two existing trees along Main Street are proposed to remain in place. In accordance with Section 4.26 (E)(2), C-3 zoning districts are required to have front yard landscaping with a minimum of one canopy tree and three deciduous shrubs for each thirty feet of lot width. The applicant's landscaping plan complies with the requirements of the Zoning Ordinance.

The Planning Commission all conceded that this standard is met.

5. Satisfactory assurance shall be provided that the requirements of all other applicable ordinances, codes, and requirements of the City of Lowell will be met.

Remarks: This is addressed as a condition of approval.

6. The general purposes and spirit of this ordinance and the Comprehensive Plan of the City of Lowell shall be maintained.

The Planning Commission conceded that this standard is met.

By consensus, all the Commission agreed that all the requirements have been met.

There were no public comments. Chair Barker closed the public hearing.

IT WAS MOVED BY MARTY CHAMBERS and seconded by CADWALLADER to approve the Burger King Special Land Use at 1400 W. Main subject to the following conditions:

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, reimbursable escrow, and other fees related to the request.
3. The applicant shall maintain all required state, federal, and local permits and approvals.
4. The applicant shall comply with the stipulations of the City Fire Department and any other applicable emergency personnel regarding emergency access to the new structure.
5. The applicant shall comply with the requirements of the City's DPW regarding water and sewer service connections and related matters.
6. The applicant shall obtain City approval for both the water and wastewater connection locations.
7. The applicant shall revise the existing easement, or create a new easement, between the subject property and the property to the south (Curtis Cleaners) to the satisfaction of the City Attorney to address parking and circulation.
8. The applicant shall obtain MDOT approval of the access drive to Main Street.
9. The applicant shall revise the exit onto Main Street as a right turn only.

YES: Commissioner Chamber, Commissioner Ellis, Commissioner Schrauben, Commissioner Plank, Commissioner Cadwallader and Chair Barker.

NO: None.

ABSENT: Commissioner Breimayer.

MOTION CARRIED.

b. Public hearing – Michael and Lindsay Bryan Special Land Use and Site Plan Review – 216 E. Main Street.

Chair Barker opened the public hearing and asked the Bryans to give a brief summary of their request. Michael Bryan who owns the property located at 216 E. Main Street stated the purpose for the Special Land Use is to use the two apartments at this location for short-term rental purposes.

Andy Moore with William & Works explained the Zoning Ordinance requires that special use applications be accompanied by a site plan. The applicant did not submit a site plan for review since the building already exists and the exterior components and overall site configuration would not be altered under this request, however a plan of the interior of the building should be submitted.

Special Land Use Review Standards. To approve a special land use, the Planning Commission must find that the use satisfies the general standards of Section 17.03 applying to all special land uses, the standards of Section 17.04 (I) pertaining to this specific special land use, and the standards of Section 18.06 for site plan reviews. Following are the standards and remarks on each:

1. The proposed special land use shall be designed, constructed, operated and maintained to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed;

Remarks: The Planning Commission conceded that this standard is met.

2. The proposed special land use shall be generally consistent with the City of Lowell Master Plan;

Remarks: The is in the Downtown land use designation and is also identified as Downtown land use designation and is also identified as Downtown land use in the future land use map. The proposed special land use is consistent with the Downtown land use designation described in the Master Plan, which encourages mixed use development.

The Planning Commission conceded that this standard is met.

3. The proposed special land use shall be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structure, refuse disposal, water and sewage facilities;

Remarks: The property is located downtown along Main Street and appears to have adequate access to emergency services. However, the Fire Department should review the site to ensure that the home is accessible.

The Planning Commission conceded that this standard is met.

4. The proposed special land use shall not create excessive additional requirements at public cost for public facilities and services; and

Remarks: The Planning Commission conceded that this standard is met.

5. The proposed special land use shall not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;

Remarks: The Planning Commission conceded that this standard is met.

6. The proposed special land use shall comply with all applicable federal, state, and local requirements and copies of all applicable permits shall be submitted to the City.

Remarks: This is addressed as a condition of approval.

Section 17.07, EE – Site Design Standards for Short-term Rentals. Section 17.04, EE of the Zoning Ordinance contains the requirements for short-term rentals in Lowell. Most of these standards are included as conditions of approval. However, we offer the following comments:

- Section 17.04, EE, 4 requires that the short-term rental be located on a parcel that meets all required dimensional standards of the SR District. The subject property satisfies this standard.
- Section 17.04, EE, 5 restricts occupancy to two persons per bedroom. The applicant has indicated that the property contains two bedrooms, so the home may not be occupied by more than four guests
- Section 17.04, EE, 6 requires one parking space per bedroom. Parking spaces are not clearly delineated in a site plan, though the applicant has indicated that there is free parking behind the building. The Zoning Ordinance permits uses downtown to count public parking within 400' of the property toward the required minimum, so the Planning Commission may consider the parking requirement to be satisfied.

By consensus, all the Commission agreed that all the standards have been met.

There were no public comments. Chair Barker closed the public hearing.

IT WAS MOVED BY BARKER and seconded by PLANK that the Planning Commission approve the special land use request for 216 E. Main subject to 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. The applicant shall maintain all required state, federal, and local permits and approvals.
3. The applicant shall comply with the stipulations of the City Fire Department and any other applicable emergency personnel regarding emergency access to the structure.
4. The applicant shall submit a basic site or floor plan to ensure compliance with applicable Zoning Ordinance standards for review by the Zoning Enforcement Officer.
5. The site shall not accommodate more than 4 guests at a time.
6. The applicant shall notify, in writing, the Lowell Area Fire Department and Lowell Police Department of the dates and number of guests for each unique stay.
7. The applicant shall provide the City with a 24-hour telephone number with which the host or host's agent can be reached in case of emergency and/or enforcement matters.
8. The applicant shall provide an in-unit notice in a conspicuous place that includes the property address, a 24-hour telephone number with which the host or host's agent can be reached, all applicable rules and ordinances related to the short-term rental, and the maximum occupancy of

- the dwelling unit as permitted by this subsection.
9. The short-term rental shall be conducted in a manner that is consistent with the customary use of a dwelling. The unit shall provide safe, reasonable, and adequate sleeping arrangements in traditional bedrooms with proper egress or as consistent with law. The use of any other arrangement to provide additional occupancy on the premises is prohibited.
 10. Occupants shall not encroach on neighboring properties.
 11. The applicant shall provide sufficient waste receptacles substantially screened from view; and the premises shall be maintained free of debris and unwholesome substances. Garbage must be kept in a closed container and disposed of on a regular weekly schedule.
 12. The appearance of the short-term rental shall not conflict with the residential character of the neighborhood. The dwelling shall be properly maintained per all applicable local and state codes, and kept in good repair so that the use in no way detracts from the general appearance of downtown Lowell.
 13. The applicant or his agent shall be available to accept telephone calls at all times that the short-term rental is rented. The host or host's agent must have a key to the unit and be capable of being physically present at the unit within 60 minutes to address issues, unless arrangements are made for a substitute person to address issues within the same timeframe.

YES: Commissioner Chamber, Commissioner Ellis, Commissioner Schrauben, Commissioner Plank, Commissioner Cadwallader and Chair Barker.

NO: None.

ABSENT: Commissioner Breimayer.

MOTION CARRIED.

c. Schneider Manor – Extension of the Site Plan Approval

Bob Pfaller who represents Schneider Manor stated they would like a 6 month extension on the Schneider Manor Site Plan approval.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to approve a 6 month extension on the Schneider Manor Site Plan.

YES: Commissioner Chamber, Commissioner Ellis, Commissioner Schrauben, Commissioner Plank, Commissioner Cadwallader and Chair Barker.

NO: None.

ABSENT: Commissioner Breimayer.

MOTION CARRIED.

7. **OLD BUSINESS.**

a. Public Hearing – Planned Unit Developments – Proposed Amendments.

Chair Barker opened the public hearing and Andy Moore with William & Works gave a brief summary of the proposed amendments.

Chair Barker closed the public hearing.

IT WAS MOVED BY PLANK and seconded by ELLIS to accept and move forward to the City Council Chapter 15 Planned Unit Development Ordinance for their approval.

YES: Commissioner Chamber, Commissioner Ellis, Commissioner Schrauben, Commissioner Plank, Commissioner Cadwallader and Chair Barker.

NO: None.

ABSENT: Commissioner Breimayer.

MOTION CARRIED.

b. Public Hearing – Residential Zoning Districts.

IT WAS MOVED BY CADWALLADER and seconded by CHAMBERS to accept and move forward to the City Council the Residential Zoning District Ordinance for their approval.

YES: Commissioner Chamber, Commissioner Ellis, Commissioner Schrauben, Commissioner Plank, Commissioner Cadwallader and Chair Barker.

NO: None.

ABSENT: Commissioner Breimayer.

MOTION CARRIED.

8. **STAFF REPORT.**

Andy Moore with Williams & Works said the wayfinding signs will be going up soon.

9. **COMMISSIONERS REMARKS.**

Commissioner Chambers reminded everyone about Christmas through Lowell.

Commissioner Schrauben asked if we are going to have the joint Planning Commission meeting with the Townships and Andy Moore stated he would look into it.

Chair Barker thanked all the Commissioners and Andy Moore for their dedication and time spent on the Zoning Ordinance audit.

10. **ADJOURNMENT.**

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to adjourn at 8:55 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan S. Ullery, City Clerk