



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, FEBRUARY 11, 2019 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. November 12, 2018 – Regular Meeting
  - b. January 22, 2019 – City Council/Planning Commission Meeting
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
  - a. None
6. NEW BUSINESS
  - a. Election of Officers and Review and adoption of Planning Commission Rules of Procedure
  - b. 2019 Meeting Dates
  - c. 2560 Bowes Road
  - d. Recreational Marijuana - Ordinance Discussion
  - e. Set Public Hearing to Remove a Portion of Property in Riverside Park from Master Plan. – Map Provided at Meeting.
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

**PROCEEDINGS  
OF THE MEETING BETWEEN THE CITY COUNCIL  
& THE PLANNING COMMISSION OF THE CITY OF LOWELL  
MONDAY, JANUARY 22, 2019, 5:30 P.M.**

**1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL.**

The Meeting was called to order at 5:30 p.m. by Mayor DeVore and City Clerk Susan Ullery called roll.

Present: Councilmembers Marty Chambers, Jim Salzwedel, Greg Canfield, Cliff Yankovich and Mayor DeVore.

Absent: None.

Also Present: City Manager Mike Burns, City Clerk Susan Ullery, Police Chief Steve Bukala, Andy Moore, Dick Wendt and Jessica Wood.

Present for the Planning Commission: Chair Barker, Commissioner Breimayer, Commissioner Cadwallader, Commissioner Chambers, Commissioner Plank, and Commissioner Schrauben.

Absent: Commissioner Ellis.

**2. APPROVAL OF THE AGENDA.**

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

YES: Councilmember Canfield, Councilmember Chambers, Councilmember Salzwedel, Councilmember Yankovich and Mayor DeVore.

NO: None.

ABSENT: None.

MOTION CARRIED

**3. CITIZEN COMMENTS FOR ITEMS NOT ON THE AGENDA.**

There was none.

**4. REGULATION OF RECREATIONAL MARIHUANA.**

City Manager Michael Burns stated we are at the starting point now that the City of Lowell voted to opt in for recreational marihuana. We now know more what we can and cannot do, what the law allows and does not allow. We need to start thinking of zoning requirements, areas where we want to allow the marihuana facilities and how many we want to allow. There are some areas we are thinking about and want to share those with you. Burns then turned it over to Attorney Dick Wendt.

City Attorney Dick Wendt stated there doesn't need to be any decisions made tonight, there is a fair amount of time. LARA State agency has a year as of last November to come up with their own rules and regulations, many of which will have an impact on this community since the City of Lowell opted in. There is a lot to this, so it might be helpful to think of this in two categories. First, Zoning regulations as there are a whole variety of zoning considerations. Second, Regulatory requirements, which may not have anything to do directly with zoning although they do intersect. Defining what a public place is in the regulatory requirements is important.

The Board members and Commissioners had a lengthy discussion and referenced Andy Moore with William & Work's memorandum on Recreational Marihuana Planning/Zoning Considerations. Moore presented the Zoning Map and explained what are eligible properties for marihuana facilities. It was a general consensus by the City Council and the Commissioners to adopt both a Zoning Ordinance and a Regulatory Ordinance that the Attorney will draft and bring back along with a more detailed map of where Recreational Facilities will be restricted. Andy Moore with Williams & Works will draft the map.

5. ADJOURNMENT.

IT WAS MOVED BY SALZWEDEL and seconded by YANKOVICH to adjourn the meeting at 6:54 p.m.

YES: 5

NO: None

Absent: None.

MOTION CARRIED.

DATE:

APPROVED:

---

Mike DeVore, Mayor

---

Susan Ullery, City Clerk

**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 (T) 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 lands 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 motorists 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 existing 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 (T) 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

## RULES OF PROCEDURE

### 1. AUTHORITY

These rules of procedures are adopted by the Planning Commission of the City of Lowell, Michigan (hereinafter referred to as the Commission) pursuant to Public Act 33 of Michigan Public Acts of 2008, as amended, and Public Act 267 of 1976, as amended, the Open Meetings Act.

### 2. OFFICERS

- 2.1 **Selection.** At the January meeting, the Commission shall select from its membership a Chairperson and Vice-Chairperson who shall serve for a twelve month period and who shall be eligible for re-election. The City Clerk, or his/her designee, shall be appointed as the Commission's recording secretary.
- 2.2 **Duties.** The Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office, in which case the Commission shall select a successor to the office of Vice-Chairperson at the earliest practicable time. The recording secretary shall be responsible for the preparation of minutes, keeping of pertinent public records, delivering communications, petitions, reports, and related items of business of the Commission, issuing notices of public hearing, and performing related administrative duties to assure efficient and informed Commission operations. In the event the recording secretary is absent, the Chairperson or acting chairpersons shall appoint a temporary recording secretary for such meeting.
- 2.3 **Tenure.** The officers shall take office immediately following their election. They shall hold their office for a term of one year, or until their successors are elected and assume office.

### 3. MEETINGS

- 3.1 **Meeting Notices.** All meetings shall be posted at the Lowell City Hall according to the Open Meetings Act. The notice shall include the date and time of the meeting.
- 3.2 **Regular Meeting.** Regular meetings of the Commission shall be held in the Lowell City Hall or other designated facility on the second Monday of each month. All meetings, unless otherwise specified, shall convene at 7:00 p.m. The dates and times shall be posted at the Lowell City Hall and a notice should be published in accordance with the Open Meetings Act. Any changes in the date or time of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Commission shall select suitable alternate dates in the same month, in accordance with the Open Meetings Act.
- 3.3 **Special Meetings.** A special meeting may be called by two members of the Planning Commission upon written request to the recording secretary or by the

Chairperson. The business which the Planning Commission may perform shall be conducted at a public meeting of the Planning Commission held in compliance with the Open Meetings Act. Public Notice of the time, date, and place of the special meeting shall be given in a manner as required by the Open Meetings Act, and the recording secretary shall deliver written notice of a special meeting to commission members not less than 48 hours in advance of the meeting.

- 3.4 ***Quorum.*** In order for the Commission to conduct business or take any official action, a quorum consisting of the majority of the voting members of the Commission shall be present. When a quorum is not present, no official action, except for closing of the meeting may take place. The members of the Commission may discuss matters of interest, but can take no action until the next regular or special meeting. All public hearings without a quorum shall be rescheduled for the next regular or special meeting and no additional public notice is required provided the date, time and place is announced at the meeting.

- 3.5 ***Hearings.*** Hearings shall be scheduled and due notice given in accordance with the provisions of the acts and ordinances cited in Section 1.

Public hearings conducted by the Planning Commission shall be run in an orderly and timely fashion. Anyone wishing to address the Commission shall use a microphone connected to the recording system. The following procedure shall be used for all public hearings:

- (1) Explanation of request as received by community.
- (2) Review and recommendation by planner/professionals.
- (3) Comments and explanations by applicant.
- (4) Questions by Commission.
- (5) Responses by professionals and/or applicant.
- (6) Opening of hearing for public comments.
- (7) Close hearing to public comments.
- (8) Consideration of action by Commission.

All comments shall be addressed to the Chairperson. Each person will be given an opportunity to be heard; second comments will not be permitted until every person has had the chance to speak for the first time. In the interest of fairness to the public, statements shall be made as concise as possible. The Chairperson reserves the right to terminate a presentation or ask for a summation if comments become excessively repetitive or stray from the issues at hand. For large hearings, a time limit may be established.

- 3.6 ***Motions.*** Motions shall be stated by the Chairperson before a vote is taken. The name of the maker and seconders of the motions shall be recorded.
- 3.7 ***Voting.*** An affirmative vote of the majority of the Commission present shall be required for the approval of any requested action or motion placed before the Commission. Voting shall ordinarily be voice vote, provided however that a roll call vote shall be required if requested by any Commission member or directed by the Chairperson. All members of the Commission including the Chairperson shall vote on all matters, but the Chairperson shall vote last in a roll call vote. Any member



may abstain from voting only if that person has a bonafide conflict of interest as recognized by the majority of the remaining members of the Commission. Any members abstaining from a vote shall not participate in the discussion of that item.

- 3.8 ***Order of Business.*** A Written agenda for all regular meetings shall be prepared as follows. The order of business shall be:

1. Call to Order; Pledge of Allegiance; Roll call of Commissioners
2. Approval of Agenda
3. Approval of Minutes
4. Public Comment and Communications Concerning Items Not on the Agenda
5. Old Business
6. New Business
7. Staff Reports
8. Commissioners Remarks
9. Adjournment

A written agenda for special meetings shall be prepared and followed, however the form above shall not be necessary.

- 3.9 ***Rules of Order.*** All meetings of the Commission shall be conducted in accordance with generally accepted parliamentary procedure, as governed by the current edition of Robert's Rules of Order.

- 3.10 ***Notice of Decision.*** A written notice containing the decision of the Planning Commission will be sent to petitioners and originators of a request.

#### 4. MINUTES

- 4.1 Commission minutes shall be prepared by the recording secretary. The minutes shall contain a brief synopsis of the meeting including a complete restatement of all motions and recording of votes; complete statement of the conditions or recommendations made on any action and recording of attendance. All communications, actions and resolutions shall be attached to the minutes. The official records shall be annually deposited with the City Clerk.

#### 5. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS

- 5.1 All meetings of the Commission shall be opened to the public and held in a place available to the general public.
- 5.2 All deliberations and decisions of the Commission shall be made at a meeting open to the public except those permitted to be conducted in closed session by the Open Meetings Act.
- 5.3 A person shall be permitted to address a hearing of the Commission under the rules established in subsection 3.5, and to address the Commission concerning non-hearing matters under the rules established in Section 3.8 to the extent that they are applicable.

- 5.4 A person shall not be excluded from a meeting of the Commission except for breach of the peace committed at the meeting.
- 5.5 All records, files, publications, correspondence, and other materials are available to the public for reading, copying, and other purposes as governed by the Freedom of Information Act.

6. **AMENDMENTS**

These Rules of Procedure may be amended by the Commission by a concurring vote pursuant to subsection 3.7, during any regular meeting, provided that all members have received an advance copy of the proposed amendments at least seven (7) days prior to the meeting at which such amendments are to be considered.

Updated and Adopted: January 11, 2016  
Adopted: May 13, 1996



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

**2019 PLANNING-CITIZEN ADVISORY COMMISSION MEETING DATES**  
**7:00 P.M.**  
**CITY COUNCIL CHAMBERS – SECOND FLOOR**

January	14	July	8
February	11	August	12
March	11	September	19
April	8	October	14
May	13	November	11
June	10	December	9 (Work Session)



**LOWELL CITY COUNCIL**  
**MEMORANDUM**

**DATE: November 29, 2018**

**TO: Mayor Devore and the Lowell City Council**

**FROM: Michael T. Burns, City Manager** *MTB*

**RE: 2560 Bowes RFP**

---

On October 19, 2018, the City opened two bids for the purchase of the 2560 Bowes Rd. property. During the bidding process, we set a minimum price of \$20,000 for the land based on the valuation from the Assessor.

The two bids are from the following:

- Lowell Charter Township - \$20,550
- Vergennes Broadband - \$20,000

Last summer, Vergennes Broadband discussed what they liked to do with the property. At the time, the Council was supportive of the endeavor as it would make the property taxable and provide a small amount of new revenue to the City.

During this process, I was contacted by Lowell Township on their interest in the property as it is adjacent to the new park and would be a tremendous benefit to them.

I agree both entities have a great idea for the use of the .4 acre parcel and the community will benefit from either endeavor. The issue for the City is while the township is the high bidder, this will become tax-exempt property. Whereby Vergennes Broadband is a for profit company and will pay property tax. While I do not have an exact amount, I would anticipate anywhere between \$1,000 to \$2,000 per year. While this may not be a significant amount, any new revenue the City can generate must be considered regardless.

After the bids came in, I exchanged communications with Jerry Hale from Lowell Township and Stephanie and Ryan Peel from Vergennes Broadband. They offered a cooperative option to move forward. The township would move forward with purchasing the land and carve out a portion of it for Vergennes Broadband's needs. Since they do not need the entire parcel of property, the Township can use it for their gateway along Bowes Road and place some utility items there, mainly for a sprinkler system. Since you cannot use public property for a private purpose, the portion of land Vergennes Broadband would use, would become taxable and they would be responsible for the taxes.

I believe this option is a win-win for everyone involved. One stipulation is the parcel remain in the City and cannot be detached. In my discussion with Jerry Hale, he was amenable to this request.

Upon sale of the property, I request the City Council allow me to set aside proceeds to cover payments so I may utilize these for funding retiree healthcare premiums in the 2020 fiscal year. This would allow me to utilize the money I would have budgeted to be set aside for an out year. I would like to set aside funding, as we are anticipating some future retirements.

At our November 5, 2018, City Council meeting, Resolution 33-18 was introduced to the City Council pertaining to the sale of 2560 Bowes. Per the Section 13-3 of the City Charter, this resolution needs to sit for public inspection for 20 days before the City Council can approve it. This stipulation has been met. This resolution would also require four affirmative votes of City Council members.

**I recommend the Lowell City Council approve Resolution 33-18 to enter into an agreement with the Lowell Township to sell 2560 Bowes at a cost not to exceed \$20,555 contingent upon them entering into a lease agreement with Vergennes Broadband and the agreement not to detach the property from the City.**

**CITY OF LOWELL  
KENT COUNTY, MICHIGAN**

**RESOLUTION NO. 33-18**

**RESOLUTION APPROVING THE SALE OF 2560 BOWES  
ROAD TO LOWELL CHARTER TOWNSHIP**

Councilmember \_\_\_\_\_, supported by Councilmember \_\_\_\_\_,

moved the adoption of the following resolution:

**WHEREAS**, the City advertised for bids for the purchase of City-owned property at 2560 Bowes Road (the "Property"); and

**WHEREAS**, the City received two bids, one from Lowell Charter Township (the "Township") in the amount of \$20,550 and the other from Vergennes Broadband in the amount of \$20,000; and

**WHEREAS**, as the City has determined that the Township's bid is the highest bid, and has determined to sell the Property to the Township for the bid amount, subject to the terms and conditions of this resolution.

**NOW, THEREFORE, BE IT RESOLVED:**

1. That the City shall sell Property through conveyance by quit claim deed to the Township for a purchase price of \$20,550.
2. That the quit claim deed conveying the Property shall contain a covenant that the Property shall always remain within the jurisdictional boundaries of the City.
3. That, as a condition of sale, the Township shall provide documentation, acceptable to the City, that the Township has leased a portion of the Property to Vergennes Broadband for location of some of its operating equipment.

4. That all resolutions or parts of resolutions in conflict herewith shall be, and the same are, hereby rescinded.

YEAS: Councilmembers \_\_\_\_\_

\_\_\_\_\_

NAYS: Councilmembers \_\_\_\_\_

ABSTAIN: Councilmembers \_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_

**RESOLUTION DECLARED ADOPTED.**

Dated: November 5, 2018

\_\_\_\_\_  
Susan Ullery, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Lowell, at a regular meeting held on November 5, 2018, and that public notice of said meeting was given pursuant to, and in compliance with, Act 267 of the Public Acts of Michigan of 1976, as amended.

Dated: November 5, 2018

\_\_\_\_\_  
Susan Ullery, City Clerk

**INVITATION TO BID**

**PURCHASE OF 2560 BOWES ROAD**

The City of Lowell, Michigan will receive sealed bids at the City Clerk's Office, 301 East Main Street, Lowell, Michigan 49331 to purchase the parcel owned by the City located at 2560 Bowes Road until Thursday October 18, 2018 at 11:00 AM.

Bids will be publicly opened and read at that time in the Flat River Conference Room of the Lowell City Office, 301 East Main St., Lowell Michigan. Bids should be submitted in sealed envelopes plainly marked "Purchase of 2560 Bowes – CITY OF LOWELL".

Bids are being solicited from those interested in owning the property. The Property is currently zoned Industrial. Minimum purchase price for the property is \$20,000. The City will convey the property by quit claim deed and will not provide either a survey, title insurance or an environmental representations with respect to the property.

Proposal forms and specifications are on file for the inspection of bidders at the Lowell City Offices, 301 East Main Street and copies may be obtained by qualified bidders. Bidders can also go to [www.ci.lowell.mi.us](http://www.ci.lowell.mi.us) to receive a copy of the bid.

The City Council reserves the right to reject any or all bids and to accept any bid, or portion thereof, which, in its opinion, is most advantageous to the City.



**BID SUBMITTED TO THE CITY OF LOWELL, MICHIGAN  
REGARDING PURCHASE OF 2560 BOWES ROAD**

City of Lowell  
301 East Main Street  
Lowell, Michigan 49331

The undersigned hereby declares that this bid is made in good faith without fraud or collusion with any person or persons bidding on the same; that he/she has carefully read and examined the invitation for bid and understands all of the same; that he/she has made such personal investigation of the property. Bidder proposes and agrees that if this Proposal is accepted, bidder will acquire the property by way of a quit claim deed from the City.

The City reserves the right to accept or reject any and/or all bids, to waive any irregularities and/or errors in the bids, negotiate with any bidder, or to select the bid the City determines is most advantageous to it.

The successful bidder agrees that its bid shall be good, may not be withdrawn and may be accepted by the City for a period of ninety (90) calendar days after the scheduled closing time for receiving bids.

Upon receipt of a written notice of award of the bid, the successful bidder shall purchase the property within 10 calendar days.

Pursuant to the City's invitation for bid for the purchase of property at 2560 Bowes Road dated \_\_\_\_\_, I submit the following bid.

I will meet all of the requirements listed above and in the invitation for bid as outlined in this bid proposal

Purchase amount for property \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Phone \_\_\_\_\_

Authorized Agent \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

2560 BOWES ST SE LOWELL, MI 49331 (Property Address)

Parcel Number: 41-20-03-371-004



Property Owner: CITY OF LOWELL

## Summary Information

&gt; Assessed Value: \$0 | Taxable Value: \$0

&gt; Property Tax information found

Item 1 of 1 1 Image / 0 Sketches

## Parcel is Vacant

## Owner and Taxpayer Information

<b>Owner</b>	CITY OF LOWELL 301 E MAIN ST SE LOWELL, MI 49331	<b>Taxpayer</b>	SEE OWNER INFORMATION
--------------	--	-----------------	-----------------------

## General Information for Tax Year 2018

<b>Property Class</b>	EXEMPTCITY VILLAGE TWP	<b>Unit</b>	72 CITY OF LOWELL
<b>School District</b>	District 41170	<b>Assessed Value</b>	\$0
<b>MAP #</b>	No Data to Display	<b>Taxable Value</b>	\$0
<b>USER NUM IDX</b>	0	<b>State Equalized Value</b>	\$0
<b>USER ALPHA 1</b>	Not Available	<b>Date of Last Name Change</b>	05/09/2017
<b>USER ALPHA 3</b>	Not Available	<b>Notes</b>	Not Available
<b>Historical District</b>	No	<b>Census Block Group</b>	No Data to Display
<b>USER ALPHA 2</b>	Not Available	<b>Exemption</b>	No Data to Display

## Principal Residence Exemption Information

Homestead Date No Data to Display

Principal Residence Exemption	June 1st	Final
2017	0.0000 %	0.0000 %

## Previous Year Information

Year	MBOR Assessed	Final SEV	Final Taxable
2017	\$0	\$0	\$0
2016	\$0	\$0	\$0
2015	\$0	\$0	\$0

## Land Information

<b>Zoning Code</b>	Not Available	<b>Total Acres</b>	0.390
<b>Land Value</b>	\$21,235	<b>Land Improvements</b>	\$0
<b>Renaissance Zone</b>	No	<b>Renaissance Zone Expiration Date</b>	No Data to Display
<b>ECF Neighborhood</b>	LOWELL - EXEMPT	<b>Mortgage Code</b>	No Data to Display
<b>Lot Dimensions/Comments</b>	Not Available	<b>Neighborhood Enterprise Zone</b>	No

Lot(s)	Frontage	Depth
--------	----------	-------

No lots found.

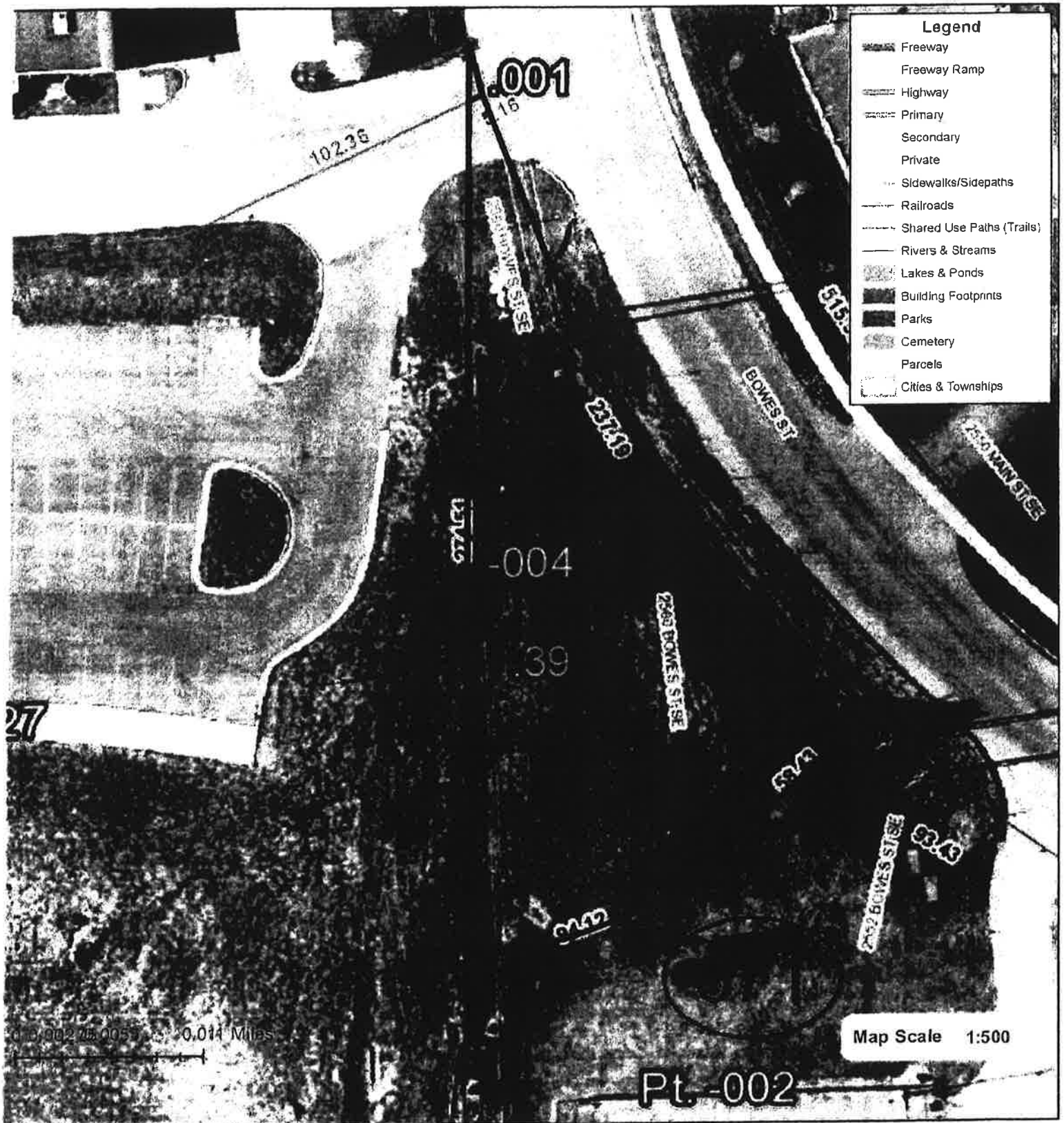
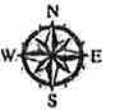
Total Frontage: 0.00 ft

Average Depth: 0.00 ft

## Legal Description

412003371004 PART OF SW 1/4 COR 106.96 FT N 00 46M 165 E ALONG W SEC LINE FROM SW COR OF SEC TH NELY 94 12 FT ON A 127 0 FT RAD CURVE TO LT /LONG CHORD BEARS N 67D 53M 37S E 91.98 FT/ TH N 46D 39M 45S E 58 43 FT TO SWLY LINE OF BOWES ST /56 FT WIDE/ TH NWLY 237 19 FT ALONG SD

# 2560 Bowes



© 2013 REGIS All Rights Reserved



This map does not represent a legal document. It is intended to serve as an aid in graphic representation only. Information shown on this map is not warranted for accuracy and should be verified through other means. Any duplication is restricted under copyright laws and the Enhanced Access to Public Records Act, PA 462 of 1996, as amended.

Printed 9/13/2018 9:22:49 AM

# williams&works

engineers | surveyors | planners

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** February 8, 2019  
**From:** Andy Moore, AICP  
Whitney Newberry  
**RE:** **Recreational Marihuana Planning/Zoning Considerations**

During the January 22, 2019 meeting, the background and provisions of the Michigan Regulation and Taxation of Marihuana Act were reviewed along with its municipal implications. To begin the process of effectively regulating recreational marihuana at the municipal level, it is helpful to consider several planning and zoning options in greater detail. The purpose of this memorandum is to review how the Zoning Ordinance may be structured to adopt regulations for recreational marihuana and consider different options for zoning and related regulations for marihuana establishments within the City. This memorandum is not intended to provide legal advice to the City, nor should it be construed as such. Development of an ordinance(s) related to recreational marihuana should be thoroughly reviewed by the City's legal counsel prior to adoption.

### **Zoning Ordinance Structure**

The City may regulate recreational marihuana establishments either as a permitted or as a Special Land Use. Special land uses require a higher level of scrutiny, and public hearing, and most are subject to additional regulation intended to address "land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole." Due to the nature of the use, we believe that City should permit marihuana establishments as a special land use and adopt practical regulations for the applicant while also maintaining protection for the "health, safety, convenience, and general welfare of the city." This would allow the City to provide applicable regulations as guided by the Special Land Use site design standards and restrict the establishments to the desired Zoning District(s). Underpinning the City's discussion about the level of regulation that is deemed appropriate for the City is a provision in the Act which states that regulations cannot be "unreasonably impractical;" in other words, the regulation(s) cannot be so restrictive that marihuana establishments would not be able to realistically locate in Lowell.

It is our understanding that the City Council is considering a licensing ordinance for marihuana establishments. With such an ordinance in place, an applicant would have to obtain both a license and special land use approval prior to constructing a marihuana establishment in the City.

If the Commission opts to permit marihuana establishments as a special land use, we anticipate that the following chapters would be amended:

- Chapter 2, (Definitions) – This chapter would be amended to include definitions related to marihuana establishments that are consistent with the Act.
- Chapters 12 (C-3), 12A (I-L), and 13 (I) – If the City permits marihuana establishments in these three districts, each district will need to be amended to include them as a permitted or special land use.
- Chapter 17 (Special Land Uses) – Assuming that the City opts to permit marihuana establishments as a special land use, Chapter 17 will need to be amended to include a new section that will contain regulations for marihuana establishments.

## **Regulation Considerations**

### Zoning Districts

The City should discuss which zoning districts are most appropriate for marihuana establishments in light of the limitations present in the Act. Map 1 shows the areas that would qualify under the Act because they are (1) not zoned exclusively for residential use, and (2) are not within 1,000 feet of a school. Realistically, properties within the C-2, C-3, LI, and I districts are the most feasible locations, and regulations drafted by the City may further limit the number of available properties if minimum lot size, lot width, or other locational regulations are enacted. (We do not believe that the River's Edge district is a viable location for marihuana establishments as they are generally undevelopable due to the floodplain/floodway).

We suggest that the City permit marihuana establishments as a special land use in the C-3, LI, and I districts only, as these are the only feasible locations for such establishments once the standards of the Act are considered.

### Security

Building and site security is an important consideration for marihuana establishments and a requirement of the Act. The City may consider several security measures while developing regulations. The Act requires that marihuana and marihuana accessories shall be located within an enclosed area and that every entrance to the establishment is secure so that access to areas with marihuana is only allowed by employees and other people who are permitted to access the area, such as agents of LARA, law enforcement officers, emergency personnel, and other authorized individuals. It may be beneficial to require a narrative with the site plan describing how the enclosed areas with marihuana have been secured and permitted individuals have been given access.

The City of Grand Rapids requires a Crime Prevention Through Environmental Design (CPTED) Plan. This plan addresses "surveillance methods, access control strategies, territorial reinforcement, maintenance, and target hardening; including the experience of customers, employees, and neighbors (residents, offices, businesses, etc.)." Although all of these requirements may not be necessary for a smaller city such as Lowell, we believe that the City

should require applicants to submit a detailed security plan that requires marihuana establishments to address several methods of security at their establishment.

Section 4.24 in the Ordinance specifies standards for exterior lighting, which contribute to security. This section is primarily intended to ensure that site lighting not spill onto adjacent properties, require "dark sky" fixtures, etc. The City may also include additional standards if lighting for marihuana establishments should differ from those of this Section; however, the current standards likely allow for adequate site lighting while also satisfying the intent of this Section of the Ordinance.

The Act also prohibits marihuana establishments from allowing marihuana or marihuana accessories to be visible from a public place. In order to ensure compliance with this requirement of the Act, the City may discuss adding additional site plan requirements that include detailed building elevations, renderings, or photographs depicting the buildings facades and a narrative describing how this standard will be met. It may be challenging for applicants, depending on the type of establishment, to develop an attractive site and building that is consistent with other buildings in the City, while also preventing marihuana accessories from being visible from a public place.

#### Odors

The control and elimination of odors should be discussed by the City. It may be beneficial to require recreational marihuana establishments to install an air scrubbing and carbon filtration system to eliminate odors. This type of air purifying system has previously been used at medical marihuana facilities and is considered an effective filter for volatile organic compounds (VOCs), such as some of the components in cigarette smoke. Additionally, another option for air purification is a new technology called Photo Electrochemical Oxidation (PECO). Instead of trapping the VOCs like a carbon filter, this option destroys the gases so that they cannot be released back into the air upon saturation of the filter. However, the newness of this technology may result in a higher price that may be "reasonably impracticable" as a requirement.

Another odor mitigation option may include a requirement that all doors and windows remain closed, except for the time needed for people to enter/exit the building. This would help prevent the odor from traveling onto neighboring properties. Additionally, some medical marihuana establishments have been required to maintain a negative air pressure inside the building. This causes air from outside to be drawn into the building when a door is opened.

Finally, odor issues could be further mitigated through minimum lot size, minimum lot width, or maximum lot coverage standards for marihuana establishments. These could be used individually or in combination with each other. All of these options could provide measures of control to ensure that there is enough land available to mitigate odors from the recreational marihuana establishment. These values may be adjusted by Zoning District to provide reasonable protection within each Zoning District. It should be noted that other special land uses, such as theaters, concert halls, and certain education facilities, require a buffer from

residentially zoned properties due to the nature of the use, so this is not an untested or unusual practice.

#### Isolation Radius/Buffers

The City may consider whether there should be some minimum distance between certain land uses and recreational marihuana establishments. Sensitive uses may include a church or place of worship, a licensed substance use disorder program, a park or playground, or a preschool. This may be particularly important to consider for locations where children may congregate, such as a playground or preschool. Although the Act prohibits a recreational marihuana establishment from being within 1,000 feet of a public or private K-12 school, it does not address preschools. The consensus at the combined Planning Commission/City Council meeting in January was that a 1,000-foot buffer should also apply to preschools. The result of a 1,000-foot buffer around both preschools and K-12 schools is shown on Map 2.

The City should also discuss whether recreational marihuana establishments should be buffered from residential districts, other marihuana establishments, or certain public places, such as government-owned facilities, or parks. A buffer around residential districts may provide an increased sense of security and mitigate odor impacts in residential areas. Distances of 50, 100, and 150 feet are depicted in Maps 3, 4, and 5, respectively. Additionally, an isolation radius may be established between marihuana establishments to reduce clustering of establishments in one area. However, there may be instances in which one entity desires to operate multiple establishments in one building.

As noted earlier, when considering different buffers from various uses, the City should be careful to ensure that any regulations adopted are not "unreasonable impracticable" as defined in the Act.

#### Signs

The City has the ability to impose further regulations on signage for marihuana establishments. Chapter 20 of the Ordinance is devoted to regulating signs and provides comprehensive standards that appear to be sufficient for regulating marihuana establishment signs. It is unclear whether the Act allows regulation of sign content (but it is unlikely).

The City's sign regulations (Chapter 20 of the Zoning Ordinance) already contain comprehensive and detailed sign requirements, and we do not believe that marihuana establishments would require further restriction in this regard.

#### Hours of Operation

In accordance with the Act, the City may decide to limit hours of operation on marihuana establishments; however, it does not specify if these hours can be changed based on the type of facility. Nonetheless, there are likely different business needs for different types of establishments, hours of operation will vary depending on market conditions.



It may be most appropriate for the City to establish hours of operation on a case by case basis during the special land use review process, in order to properly consider the location of the proposed establishment, its surrounding uses, and the type of establishments and its business needs.

#### Parking and Landscaping

Chapter 19 of the Zoning Ordinance addresses parking, and section 4.26 addresses landscaping. Parking is generally regulated by land use, although it contains provisions for uses that are not specifically contemplated in the chapter. It is unclear how many parking spaces would be needed for a marijuana establishment, and it is likely that parking needs will vary by establishment type. Therefore, it may be most appropriate leave Chapter 19 as-is and work cooperatively with applicants during the site plan and special land use review process to ensure that appropriate parking and loading areas are provided consistent with uses that generate similar parking and loading needs.

Landscaping is generally regulated by zoning district without regard to specific land uses, so marijuana establishments will need to provide landscaping as required by Section 4.26. Additional landscaping requirements for marijuana establishments are not recommended at this time, although the Commission could impose additional standards, if desired.

#### **Next Steps**

At the February 11 meeting, please be prepared to discuss this memorandum and some of the important issues that should be addressed through the regulation of marijuana establishments. We anticipate drafting an ordinance for the Commission's review in March and April. The Planning Commission will also need to conduct a public hearing prior to making a recommendation on to City Council later this spring.

As always, please feel free to contact me if there are any questions.

c:     Mike Burns, City Manager  
       Dick Wendt, City Attorney  
       Jessica Wood, City Attorney

# williams&works

engineers | surveyors | planners

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** February 8, 2019  
**From:** Andy Moore, AICP  
Whitney Newberry  
**RE:** **Builder's Fireplace Expansion – Site Plan Review**

Mr. Peter Klaver, on behalf of Builder's Fireplace Company, has submitted an application for site plan review for a 20' x 20' addition on an existing storage building, a 16'-6" x 20'-0" foot addition on an existing retail building, and an outdoor deck on property located at 521 W. Main Street SE. The purpose of this memorandum is to review the request pursuant to the City of Lowell Zoning Ordinance.

### Background

The subject property (PPN 41-20-02-341-006) has an area of approximately 0.41 acres and has property boundaries adjacent to Main Street, Amity Street, and Chatham Street. There is an existing storage building and a retail building currently located on the property. The applicant is seeking to expand the business so that there are two small additions for storage on each building and an outdoor deck with roof attached to the retail building. The property is zoned in the C-3, General Business District. Retail stores are permitted by right in the C-3, General Business District. The proposed project would be a minor expansion of the existing use, the Builder's Fireplace Company.

### Site Plan Review

Dimensional Requirements. While the existing building does not meet the required setbacks for the C-3 district, the Zoning Ordinance allows for expansions of nonconforming buildings so long as the degree of nonconformance is not increased. Therefore we consider the proposed expansion to be allowable.

Lighting. The site plan proposes two (2) wall pack lights with cutoff, downward-facing fixtures on the proposed addition to the retail building. The applicant has not provided additional lighting details. It appears that these lights will comply with Section 4.24; however, the Planning Commission may request additional information to ensure that standard is met.

Parking. The applicant is not proposing any additional parking spaces. Because the applicant is proposing two small additions for the purpose of storage, we do not consider this to be usable floor area. Parking requirements are based on usable floor area for retail businesses in Section 19.07, additional storage space will not contribute to the current usable floor area. Therefore, additional parking spaces are not required and the Planning Commission may find this standard met.

Landscaping. The proposed storage additions and deck will not impact the current landscaping requirements. The subject property has already complied with front yard and parking lot landscaping. The Planning Commission may find this standard met.

Signage. The applicant is not proposing any additional signage at the site with the additional storage buildings and outdoor deck. The Planning Commission may find this standard met.

### **Site Plan Review Standards**

Section 18.09 of the Zoning Ordinance sets forth six standards that must be utilized by the Planning Commission in reviewing site plans. Those standards, along with our remarks, are below:

- A. 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: The proposed additions and outdoor deck are generally compatible with the surrounding area. C-3, General Business District properties are adjacent to the subject property on the east, south, and western property boundaries. R-2, Single or Two Family Residential properties are located to the north of the subject property. The proposed additions would not significantly alter the existing character of the property or adversely affect the public health, safety, or welfare. The Planning Commission may find this standard met.

- B. 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 proposed additions would be located on the sides of the existing buildings that are facing the interior of the subject property. It does not appear that these will significantly alter the current traffic circulation within the subject property. The applicant is not proposing any additional points of vehicular ingress or egress or changes to vehicular interior circulation patterns. An existing sidewalk crosses the frontage of the property on both Main Street and Amity Street. The Planning Commission may find this standard met.

- C. 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 applicant is not proposing any additional points of ingress and egress or significant changes to adjacent connections or streets. An existing sidewalk crosses the

frontage of the property on both Main Street and Amity Street. The site plan indicates that the proposed outdoor deck with roof will be accessible from the existing sidewalk along Amity Street. The Planning Commission may find this standard met.

- D. 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:** The subject property is developed, and the proposed additions would be built upon an area that is currently covered by asphalt pavement. The Planning Commission may find this standard met.

- E. 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 may be addressed as a condition of approval.

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

**Remarks:** The current Master Plan was approved in 2007 and serves as a guiding document for future land use plans in the City. The future land use map indicates that the subject property is located within the Downtown future land use designation. This designation is intended to permit a mixture of residential, office, and commercial land use types. This includes a wide range of retail uses scaled towards pedestrians. The current building is oriented toward Main Street and contains sidewalks along Center Street and Main Street, and is well-landscaped. The site and additions are consistent with the description of the Downtown future land use designation of the City's Master Plan. The Planning Commission may find that this standard is met.

### **Recommendation**

At the February 11, 2019 meeting, the Planning Commission should discuss the site and consider any comments from the applicant and public. It is our recommendation that the Planning Commission approve the request, subject to the following conditions, and any others deemed necessary by the Planning Commission:

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 provides additional lighting details to confirm compliance with Section 4.24 of the Zoning Ordinance.

5. The applicant shall maintain all required state, federal, and local permits and approvals.

As always, please feel free to contact us if there are additional questions or comments.

CK # J239 pd. - 1/30/19

Request Number: \_\_\_\_\_

Filing Fee: \_\_\_\_\_



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

### APPLICATION FOR SITE PLAN REVIEW

- All drawings must be sealed by an architect, engineer or surveyor unless waived by the Zoning Administrator.
- 15 copies of the site plan must be submitted to the City Manager's office no later than three weeks before the Planning Commission meeting to allow adequate staff review.
- The Planning Commission meets the second Monday of the month at 7:00 p.m. where plans are approved, rejected or modified.
- Preliminary plans may be presented for Planning Commission comment, but no final approval is given until all required conditions are met.
- After approval, public works and building permits must be secured before construction may commence.

1. Street Address and/or Location of Request: 521 West Main St.
2. Parcel Identification Number (Tax I.D. No.): #41-20-02-341-006
3. Applicant's Name: Peter Klaver Phone Number 616-897-0848  
Address: 521 W. Main St. Lowell MI 49331  
Street City State Zip  
Fax Number \_\_\_\_\_ Email Address office@buildersfireplace.com
4. Are You: ☒ Property Owner ☐ Owner's Agent ☐ Contract Purchaser ☐ Option Holder
5. Applicant is being represented by: Peter Klaver Phone Number 616-813-4492  
Address: 521 W. Main, Lowell, MI 49331
6. Present Zoning of Parcel Commercial Present Use of Parcel Commercial
7. Description of proposed development (attach additional materials if needed):  
attached

The facts presented above are true and correct to the best of my knowledge.

Signature: Peter Klaver Date: 1-28-19

Type or Print Your Name Here: Peter Klaver

Property Owner Approval: As owner I hereby authorize the submittal of this application and agree to abide by any decision made in response to it.

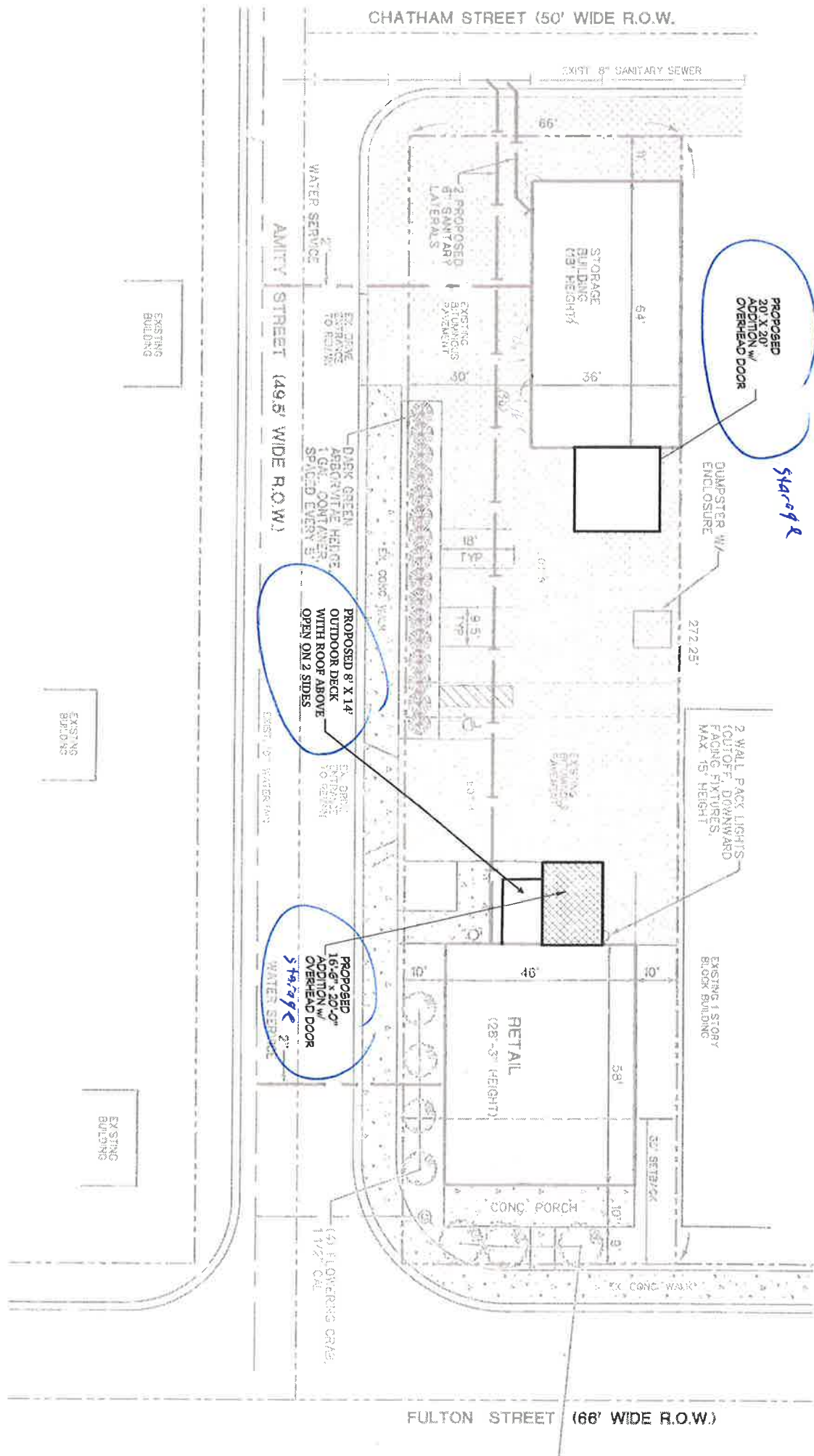
Owner

Peter Klaver

Date

# BUILDER'S FIREPLACE SITE PLAN

Scale: 1" = 20' ft





2018

<u>Open Date</u>	<u>Close Date</u>	<u>Address</u>	<u>Name/Business</u>	<u>Subject</u>
01/09/2018	01/09/2018	2535 Gee Drive	Howard Barriger	Finish Basement
01/30/2018	02/12/2018	219 E. Main	National Park Service	Sign Permit
02/07/2018	02/13/2018	621 E. Main	Lowell Methodist Church	Playground Equip.
02/23/2018	02/23/2018	1001 Heffron	Joe Runstrom	Addition
03/15/2018	03/19/2018	2535 Gee Drive	Howard Barriger	Detached garage
3/28/2018		804 Riverside Dr	Gail VanStee	Fence
04/09/2018	08/13/2018	930 W. Main	Betten Baker/Pioneer	New Building
04/11/2018	04/11/2018	517 N. Hudson	Philip Hansen	Renovation
04/23/2018	04/23/2018	624 Lafayette	Anne Dimmick	Deck
04/27/2018	06/15/2018	610 E Main	Brianna & Jacob Furlong	Fence
05/03/2018		722 N Hudson St	Brent & Hannah Sutterfield	Privacy Fence
05/14/18		152 S. Pleasant	Jasmin Bajric (call him Yas)	New bathroom, windows and siding
05/14/18		724 Riverside Dr	John Hruska	Privacy Fence
06/01/18	06/01/2018	1359 Highland Hill	Chris Gonzalez	Deck
06/04/2018	06/05/2018	201 N. Washington	Lowell Church of the Nazarene	Front Steps
06/06/2018	06/07/2018	814 Grindle	Jason Winn	Above ground pool
06/04/2018	06/11/2018	721 E. Main	Roman Tapia	Deck
06/01/2018	06/11/2018	350 N. Center	Laurels of Kent	Awning
06/27/2018	09/26/2018	609 Lafayette	Rachel Devries	Fence
06/28/2018	08/13/2018	104 W. Main	Holly Cooper	Sign
07/02/2018		1301 Sibley St	Luis Luna	Fence
07/09/2018	11/08/2018	511 Avery	Doris Bishop	Fence
07/03/2018	07/30/2018	512 E. Main	FROM	Demo





