

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, JULY 13, 2020 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 Chair Barker.

Present: Commissioners Michael Gadula, Tony Ellis, Dave Cadwallader, Amanda Schrauben and Chair Bruce Barker.

Absent: Commissioners Collin Plank and Marty Chambers.

Also Present: Andy Moore with William & Works and Lowell City Clerk Sue Ullery.

2. **EXCUSE OF ABSENCES.**

IT WAS MOVED BY ELLIS and seconded by CADWALLADER to excuse the absence of Commissioners Plank and Chambers.

YES: 5. NO: None. ABSENT: 2. MOTION CARRIED.

3. **APPROVAL OF AGENDA.**

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

YES: 5, NO: None. ABSENT: 2. MOTION CARRIED.

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

IT WAS MOVED BY ELLIS and seconded by GADULA to approve the minutes from the June 9th Regular Planning Commission meeting as written.

YES: 5. NO: None. ABSENT: 2. MOTION CARRIED.

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

There were no comments.

6. **OLD BUSINESS.**

a. **Mike Winick – Ada Lowell Self Storage – 2075 Bowes Road – Site Plan Re-Approval.**

Andrew Moore with Williams & Works went through the site plan and explained that the Planning Commission approved this on August 13, 2018 but because it has been over a year it just needs to be reapproved with the same conditions that applied originally. No changes are anticipated.

The Planning Commission reviewed the Site Plan Review Standards and agreed that all had been met.

Moore recommends the approval of the Special Land Use request with five special conditions which are as follows:

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 indicate the total area of each unit on the site plan. (1,100 sq. ft. for each unit).

IT WAS MOVED BY CADWALLADER and seconded by ELLIS to approve the special land use at 2075 Bowes RD as presented with the stated five special conditions.

ROLL CALL: COMMISSIONER CADWALLADER, COMMISSIONER ELLIS, COMMISSIONER GADULA, COMMISSIONER SCHRAUBEN, AND CHAIR BARKER.

YES: 5. NO: NONE. ABSENT: 2. MOTION CARRIED.

b. Riverview Flats Site Plan Amendment.

Todd Schaal who resides at 216 W. Main had Andy Moore with Williams & Works give a summary that reconfigures some parking, property adjacent and the landscaping plan that has been updated. This is just an amendment of an approved PUD. All conditions will still apply.

The Planning Commission reviewed the PUD Plan and Rezoning Standards and agreed all had been met.

The Planning Commission reviewed the Floodplain Overlay District Standards and agreed with the remarks noted by Moore.

Moore recommends the approval of the Site Plan amendment with the conditions which are as follows:

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 proposed PUD shall satisfy all applicable local, state, and federal laws, rules, and regulations.
4. The applicant shall comply with any requirements from the City's Department of Public Works, City Engineer, Fire Department, Board of Light and Power, and other City officials.
5. The applicant shall provide update photometric and landscaping plans for review by the Zoning Enforcement Officer.
6. All necessary permits shall have been issued by the appropriate local, state, and federal authorities, including a floodplain permit, or letter of no authority from the Michigan Department of Natural Resources under authority of Act 451, of the Public Acts of 1994, as amended. Where a permit cannot be issued prior to the issuance of zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
7. The most recent flood elevation data received from the Federal Insurance and Mitigation Administration (FIMA) shall take precedence over data from other sources.

IT WAS MOVED BY BARKER and seconded by CADWALLADER to recommend to be sent to City Council for approval of the Riverview Flats Site Plan Amendment along with the conditions stated above.

YES: 6. NO: None. ABSENT: 2. MOTION CARRIED.

Chair Barker then called for a two-minute break.

7. NEW BUSINESS.

a. Public Hearing – Joyology – Special Land Use – 2399 W. Main St.

Chair Barker opened the Public Hearing.

Andy Moore with William & Works reviewed the site plan and application. The subject property is approximately 0.32 acres in the I Industrial district. The property was previously used as a car dealership and there is an existing building located on the property. A purchase agreement for the property was included with the application. The applicant is proposing to use the existing building, which is approximately 1,945 square feet, for the adult use marihuana establishment. The building exterior would be updated and several new walls would be constructed inside the building, as indicated on the floor plan. The subject property is adjacent to the I industrial district along north, south, and east property boundaries. Across West Main Street to the south is the C3 General Business district, which is occupied by a credit union. The proposed use would be an adult use recreational marihuana retailer. By definition, 'marihuana retailer' is a type of adult use marihuana establishment.

Brian Toma representing Joyology stated he is a retailer who has been approved through the State of Michigan and hopes to open the facility here in Lowell, has two other locations that have been open for over a month now.

Moore went through each of the site plan review standards. He is concerned with the parking. Agreement with the property owner to the left would have to be made to share driveway. Driveway permit from M-DOT would then be required.

All the Commissioners agreed that all the site plan review standards have been met.

Moore then reviewed the Special Land Use Standards.

All the Commissioners agreed that all the Special Land Use Standards have been met.

Moore reviewed the Adult Use Marihuana Establishment Special Land Use Standards.

All the Commissioners agreed that all the Adult Use Marihuana Establishment Special Land Use Standards have been met.

Chair Barker closed the public hearing.

IT WAS MOVED BY BARKER and seconded by CADAWALLADER that they accept the Site Plan for the Joyology Special Land Use at 2399 W. Main Street (PPN 41-20-03-301-022) with all the conditions below met.

ROLL CALL: COMMISSIONER CADWALLADER, COMMISSIONER ELLIS, COMMISSIONER GADULA, COMMISSIONER SCHRAUBEN, AND CHAIR BARKER.

YES: 5. NO: NONE. ABSENT: 2. MOTION CARRIED.

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 comply with any requirements from the City's Department of Public Works, City Engineer, City Fire Department, City Police Department, or other City officials.
3. 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.

4. The applicant shall continually comply with applicable ordinances, codes, and requirements of the City of Lowell.
5. The applicant shall include all missing items as required in Section 18.04 B, 17.04 IF (3) and 17.04 IF (4) and noted above in "Completeness of Submission" on the site plan, unless deemed unnecessary by the Zoning Enforcement officer.
6. The applicant shall submit a copy of a provisional license issued by the City of Lowell pursuant to Chapter 28 of the City of Lowell code of ordinances. The facility shall not open until appropriate operating licenses have been obtained from the City of Lowell and the State of Michigan.
7. The applicant shall submit a copy of the state license to operate the marijuana facility to the City.
8. Exterior lighting shall comply with Section 4.24 of the Zoning Ordinance.
9. Signage shall comply with Chapter 20 of the Zoning Ordinance and a sign permit shall be obtained prior to the erection of any signage on the site.
10. The security plan shall address the items outlined in our confidential memo dated July 8, 2020.
11. The applicant shall comply with the landscape standards of Section 4.26 of the Zoning Ordinance, unless specifically waived by the Planning Commission.
12. Plant materials and lawn areas shall be maintained in a healthy condition and be neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, it shall be replaced.
13. An MDOT driveway permit shall be obtained prior to occupancy.
14. The planning commission may require a cross access easement between the subject property and neighboring properties to the east and west.
15. The trash enclosure shall be depicted on the site plan and shall be secure and locked at all times.
16. The marijuana establishment shall not also sell alcoholic beverages or tobacco products.
17. Parking areas shall be designed so that vehicles do not trespass onto adjacent property. The ADA parking spaces shall be designed to meet ADA minimum standards for parking space dimensions. The Planning Commission may require the applicant seek a shared parking arrangement with a neighboring property to ensure that sufficient parking is provided.
18. The applicant shall submit a copy of a shared access agreement to the City indicating permission to share the existing curb cut on the adjacent property.
19. The marijuana establishment shall comply at all times and in all circumstances with the MTRMA and applicable Rules for Adult Use Marijuana Establishments, as amended, promulgated by LARA.
20. The applicant shall include a carbon filtration system and maintain negative air pressure in the building to mitigate any odors that may result from the establishment. Doors and windows shall remain closed except for the time needed to allow people to ingress or egress the building.
21. Any chemicals used on the property shall be stored in a secured and locked area.
22. The owner and/or licensee shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The city shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the city upon request.
23. In the event of any conflict, the terms of this ordinance are preempted and the controlling authority shall be the statutory regulations set forth by the MTRMA or the adopted Rules for Adult Use Marijuana Establishments, as amended, promulgated by LARA.
24. The northernmost parking space on the site plan shall be removed to allow for improved vehicular circulation
25. Handicap spaces shall be constructed to ADA standards
26. The applicant shall provide a method to clearly delineate the property line separating the subject parcel with the parcel directly to the west.

b. Public Hearing – Five Lakes Farm, LLC – Special Land Use – 2335 W. Main.

Chair Barker opened the public hearing.

Andrea Hendricks representing 2335 W. Main spoke stating their intentions as grow processors.

Andy Moore with Williams & Works reviewed the site plan and application. Five Lakes Farm, LLC, has submitted an application to construct an adult use marijuana establishment at 2335 W. Main Street. The subject property is located in the I Industrial district and has an area of approximately 3.1 acres in the I industrial district. The I Industrial district is also adjacent to the west, the R3 Multiple Family Residential district is adjacent to the north, the PF Public Facilities district is adjacent to the east, and the C3 General Business district is across Main Street to the south. Currently, the subject property contains four existing buildings, one of which is proposed for the grow and processor facility. This main building is approximately 25,923 square feet. The applicant is proposing to keep the site largely unaltered, but has proposed the following exterior modifications:

- Removal of a nonconforming storage building (approx. 1,400 sq. ft.) along the western property boundary;
- Removal of the east curb cut, in accordance with MDOT requirements;
- A privacy fence along the east property line; and
- Minor landscaping.

Two phases are proposed for the project. The first phase would involve the office renovation, northern growing area, and processing area. The second phase would increase grow space into the southeast arm of the building. The applicant is proposing to establish an adult use recreational marijuana establishment that contains four Class C adult-use grow facilities and a processor operation. By definition, “marijuana grower” and “marijuana processor” are types of adult use marijuana establishments.

Moore went through each of the site plan review standards.

All the Commissioners agreed that all the site plan review standards have been met.

Moore then reviewed the Special Land Use Standards.

All the Commissioners agreed that all the Special Land Use Standards have been met.

Moore then reviewed all the Adult Use Marijuana Establishment Special Land Use Standards.

All the Commissioners agreed that all the Adult Use Marijuana Establishment Special Land Use Standards have been met.

Chair Barker then closed the Public Hearing.

IT WAS MOVED BY BARKER and seconded by GADULA to accept the Site Plan for Five Lakes Farm, LLC at 2335 W. Main-Special Land Use (PPN 41-20-03-301-033) with all the conditions below met:

ROLL CALL: COMMISSIONER CADWALLADER, COMMISSIONER ELLIS, COMMISSIONER GADULA, COMMISSIONER SCHRAUBEN, AND CHAIR BARKER.

YES: 5. NO: NONE. ABSENT: 2. MOTION CARRIED.

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 comply with any requirements from the City’s Department of Public Works, City Engineer, City Fire Department, City Police Department, or other City officials.
3. 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.
4. The applicant shall continually comply with applicable ordinances, codes, and requirements of the City of Lowell.

5. The applicant shall include all missing items as required in Section 18.04 B, 17.04 FF (3) and 17.04 FF (4) and noted above in "Completeness of Submission" on the site plan, unless deemed unnecessary by the Zoning Enforcement officer.
6. The applicant shall submit a copy of a provisional license issued by the City of Lowell pursuant to Chapter 28 of the City of Lowell code of ordinances. The facility shall not open until appropriate operating licenses have been obtained from the City of Lowell and the State of Michigan.
7. The applicant shall submit a copy of the state license to operate the marijuana facility to the City.
8. The applicant shall continually comply with all site development requirements of Section 4.26, unless specifically waived by the Planning Commission.
9. The applicant shall comply with all landscape and screening requirements of Section 4.26, unless specifically waived by the Planning Commission.
10. Plant materials and lawn areas shall be maintained in a healthy condition and be neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, it shall be replaced.
11. The applicant shall provide two ADA barrier free parking spaces, one of which is van accessible, on the site.
12. Signage shall comply with Chapter 20 of the Zoning Ordinance and a sign permit shall be obtained prior to the erection of any signage on the site.
13. The security plan shall address the items outlined in our confidential memo dated June 24, 2020.
14. The applicant shall submit a signed and notarized copy of the statement of consent to the City.
15. The applicant shall receive approval from and comply with any requirements of MDOT and Lowell Light and Power.
16. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
17. An MDOT driveway permit shall be obtained prior to occupancy.
18. The planning commission may require a cross access easement between the subject property and neighboring properties to the east and west.
19. A trash enclosure, if provided, shall be secure and locked at all times and shown on the site plan.
20. Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide, or other substance toxic to wildlife, children, or pets shall be stored in a secured and locked area and be in compliance with State pesticide laws and regulations and be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes.
21. The marijuana establishment shall not also sell alcoholic beverages or tobacco products.
22. The marijuana establishment shall comply at all times and in all circumstances with the MTRMA and applicable Rules for Adult Use Marijuana Establishments, as amended, promulgated by LARA.
23. The owner and/or licensee shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The city shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the city upon request.
24. All necessary building, electrical, plumbing, and mechanical permits shall be obtained for any portion of the structure which contains electrical wiring, lighting, and/or watering devices that support the cultivation growing or harvesting of marijuana.
25. In the event of any conflict, the terms of this ordinance are preempted and the controlling authority shall be the statutory regulations set forth by the MRTMA or the adopted Rules for Adult Use Marijuana Establishments, as amended, promulgated by LARA.

26. The proposed fence along the eastern property line shall also be extended along the northerly property line.
27. Loading areas shall be illustrated on the site plan.

8. **STAFF REPORT.**

No reports at this time.

9. **COMMISSIONERS REMARKS.**

Commissioner Schrauben asked if City Council ever put a limit on the number of establishments in the City.

City Manager Michael Burns answered with an explanation.

Chair Barker thanked all the commissioners for getting through a long night.

10. **ADJOURNMENT.**

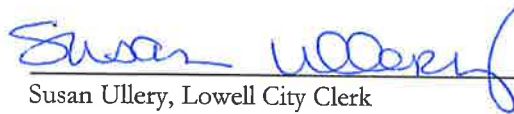
IT WAS MOVED BY CADWALLADER and seconded by GADULA to adjourn at 9:10 p.m.

DATE:



Bruce Barker, Chair

APPROVED:



Susan Ullery, Lowell City Clerk