

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, MARCH 08, 2021 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 Bruce Barker.

Present: Commissioners Tony Ellis, Michael Gadula, Marty Chambers, Amanda Schrauben, Chair Bruce Barker, and Dave Cadwallader attended via zoom in Lowell, Michigan.

Absent: Commissioner Collin Plank.

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

2. **EXCUSE THE ABSENCE OF COMMISSIONER(S).**

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

YES: 6. NO: None. ABSENT: 1. MOTION CARRIED.

3. **APPROVAL OF AGENDA.**

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

YES: 6. NO: None. ABSENT: 1. MOTION CARRIED.

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

IT WAS MOVED BY ELLIS and seconded by CADWALLADER to approve the minutes of the February 8, 2021 Planning Commission regular meeting as written.

YES: 6. NO: 1. ABSENT: None. MOTION CARRIED.

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

There were no comments.

6. **OLD BUSINESS.**

There was none.

7. **NEW BUSINESS.**

- a. **Public Hearing – Text Amendment to Light Industrial District – and Site Plan Review/Special Land Use Review for 211 S. Washington – Vehicle Towing Service.**

Chair Barker opened the Public Hearing.

Andy Moore with Williams & Works updated the Commissioners on the Light Industrial District and the text amendment to the district in Section 12A.03 “Special Land Use” of Chapter 12A to include vehicle towing service.

Brian McLane who resides at 420 Kent lives nearby and expressed his concern of the noise if the towing business operates 24/7.

IT WAS MOVED BY ELLIS and seconded by CHAMBERS that the Planning Commissioners recommend to City Council the text amendment to the Light Industrial District – Section 12A.03 “Special Land Use” of Chapter 12 A adding towing service to the end of that list.

YES: Commissioners’ Cadwallader, Ellis, Chambers, Gadula, Schrauben and Chair Barker.
NO: None. ABSENT: Commissioner Plank. MOTION CARRIED.

Moore then reviewed the Special Land Use Application for 211 S Washington stating the subject property is approximately 0.6 acres in the I-L Light Industrial district. The site contains two existing buildings totaling about 6,680 square feet. There are also existing gravel parking areas and asphalt drives. This is a corner lot surrounded by residential properties in the R-3 Multiple Family Residential district. Across Washington Street is the General Business District. The approval of this application would be contingent upon the above text amendment to the Light Industrial District becoming effective following City Council approval.

Moore then reviewed the site plan standards with the Commissioner and the Commissioners found that all standards A-F are met.

Several discussions ensued between the commissioners, Moore and Mr. Nelson on the type of fence to be used, the height of the fence on the different sides of the property, the hours of operation, the lighting and noise. Moore stated all these can be conditions subject to approval.

IT WAS MOVED BY BARKER and seconded by ELLIS to accept that the site plan review standards A-F have been met.

YES: Commissioners’ Cadwallader, Ellis, Chambers, Gadula, Schrauben and Chair Barker.
No: None. Absent: Commissioner Plank. MOTION CARRIED.

Moore then reviewed the Special Land Use Review Standards.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that the special land use review standards have been met.

YES: Commissioners’ Cadwallader, Ellis, Chambers, Gadula, Schrauben and Chair Barker.
No: None. Absent: Commissioner Plank. MOTION CARRIED.

Moore then reviewed the Vehicle Towing Service Standards A-F.

IT WAS MOVED BY BARKER and seconded by CHAMBERS that the Vehicle Towing Service Standards A-F have been met.

Based on the foregoing review and finding of facts, the proposed special land use and site plan is 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 comply with any requirements from the City Engineer, Lowell Area Fire Department, or other approving agencies.
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 maintain continual compliance with other applicable ordinances, codes, and requirements of the City of Lowell.

5. The special land use shall not become effective unless a Zoning Ordinance text amendment to allow vehicle towing services in the I-L Light Industrial district is approved by the Planning Commission, City Council, and becomes effective.
6. The applicant shall submit the minimum missing site plan items of Sections 18.04 B as identified under Completeness of Submission above, unless specifically waived by the Zoning Enforcement Officer. A dumpster and wall pack lighting shall be illustrated on the site plan.
7. Any signage shall comply with Chapter 20 of the Zoning Ordinance.
8. Require a privacy fence as tall as the ordinance allows. Arbor vitae planted as shown on the site plan.
9. No parking area shall be located within twenty-five (25) feet to any rear lot line. The paved area shall also be set back at least seven (7) feet from the northerly lot line.
10. Landscaping, buffers, and/or greenbelts shall be continuously maintained to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
11. The vehicle towing service shall not engage in salvage operations, sale of parts, or dismantling of motor vehicles.
12. The vehicle towing service shall not engage in motor vehicle repair activities unless it is also approved as a vehicle repair facility.
13. Motor vehicles stored at the vehicle towing service site shall not be stored outdoors for more than 30 days.
14. All surfaces for maneuvering and storage of motor vehicles shall be paved with asphalt or concrete and shall be graded to conduct stormwater to a collection system approved by the city.
15. Motor vehicles stored on a vehicle towing service site shall be stored within or upon containment equipment intended to capture any fluids which may leak from the motor vehicles.
16. All hazardous or toxic wastes accumulated on a vehicle towing service site shall be stored and disposed of in accordance with applicable state and federal requirements. No hazardous or toxic substances shall be discharged to the public sanitary sewer or stormwater systems or to groundwater or surface water features.
17. Any outdoor storage area shall be illuminated and comply with the standards of section 4.24.
18. No strobe, siren, or flashing lights after sunset nor before sunrise. Regular hours of operation shall be 7am to 9pm. Towing services outside of those hours must enter off Washington Street and keep services inside the building insofar as practical to minimize impacts on the neighborhood.
19. An oil separator shall be installed with the stormwater infrastructure.
20. Idling trucks shall not be permitted other than the minimum required to conduct the business.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to approve the special land use for 211 S. Washington – Vehicle Towing Service with the conditions listed above.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None.

ABSENT: Commissioner Plank.

MOTION CARRIED.

b.) Public Hearing – Site Plan Review/Special Land Use – 1250 W Main Street – Adult Use Marihuana Establishment.

Chair Barker opened the public hearing.

Chris Yermiana and Zaid Arabo were attending via zoom representing the applicants.

Zaid Arabo spoke stating their intent with the property.

Moore then reviewed his memo stating the subject property is approximately 5.1 acres in the C3 General Business district. The applicant is proposing to use the front 2,166 square feet of an existing building for an adult use marijuana establishment. The remaining portion of the building (approx. 11,000 sq. ft.) would remain vacant at this time. The applicant is proposing to retain the existing structure, only altering some of the exterior façade and interior layout. The subject property is surrounded by other properties in the C3 General Business zoning district, except across Bowes Road where the property is in the PF Public Facilities district. This property in the PF Public Facilities district is owned by the City of Lowell and used for the Stoney Lakeside Park. The applicant

is proposing an adult use marihuana retailer. By definition, a “marihuana retailer” is a type of adult use marihuana establishment. Adult use marihuana establishments are only permitted by special land use in the C3 General Business District.

Moore stated he would like the City Attorney and the City Manager to review the site plan because of the school location. Moore went through the review and added he would like a more detailed and complete site plan.

Planning Commissioners agreed that they would like to hear from the City Attorney before they make a decision.

Attorney Phillip Slot wrote a letter, that was given to each commissioner stating his concern with the school location in proximity to this site plan review and that he is not in favor of this site plan review.

City Clerk Sue Ullery read into record a letter written to the City Council (Ullery confirmed Janet Berry meant to address it to the Planning Commission) Janet J Berry who resides at 3602 Fulton St. stating she is not in favor of this site plan review.

City Clerk Sue Ullery read into record a letter written to the Planning Commissioners from Heather Sullivan who resides at 13370 Forest River Drive stating she is not in favor of this site plan review.

Debra Martin who lives on Oak Island Dr. stated she is not in favor of so many marihuana establishments in the City and would like the Planning Commission to reconsider adding any more.

Ryan Lamp who resides at 1295 Highland Hill and is the Pastor at the Calvary Christian Reformed Church stated he is not in favor of this site plan review and is concerned for the school and the children.

Chair Barker stated due to the site plan missing details and completion as well as the need to check with the City Attorney on the proximity of the school location to this site plan, we will table this until the April meeting.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to postpone the site plan review/special land use for 1250 W Main Street – Adult Use Marihuana Establishment until the April Planning Commission meeting.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None.

ABSENT: Commissioner Plank.

MOTION CARRIED.

c.) Site Plan Review – 413 E Main Street – Dollar General

Moore reviewed his memo stating Mr. Peter Oleszczuk, of Midwest V LLC, has submitted an application for site plan review to expand an existing Dollar General at 413 E. Main Street SE. The proposed changes are considered major and the site must therefore be reviewed in the same manner as the original application, in accordance with Section 18.09 Retail stores are permitted by right in the MU Mixed Use district. Because the Dollar General retail use was already approved; this review will focus primarily on the proposed improvements.

Moore and the Planning Commissioners reviewed the site development requirements. Chair Barker wanted the fence addressed even though it isn't their fence, it needs to be taken care of. Commissioners found that the site development requirements have been met.

Moore then reviewed the site plan review standards.

IT WAS MOVED BY BARKER and seconded by GADULA to accept that the site plan review standards as they have been met.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader,

Commissioner Schrauben and Chair Barker.

NO: None.

ABSENT: Commissioner Plank.

MOTION CARRIED.

Moore then reviewed the Floodplain Overlay District Standards.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that the Floodplain Overlay District Standards with the conditions as sited.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None.

ABSENT: Commissioner Plank.

MOTION CARRIED.

Moore recommended the proposed site plan be approved 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 comply with any requirements from the City Engineer, Lowell Area Fire Department, Department of Public Works, or other approving agencies.
3. The applicant shall maintain continual compliance with other applicable ordinances, codes, and requirements of the City of Lowell.
4. Light intensity shall not exceed one-half foot candle at all adjoining private property boundaries, as required in Section 4.24 E(1) of the Zoning Ordinance.
5. The applicant shall receive approval from the Department of Public Works and MDOT for curb cut reconstructions on E. Main Street and Avery Street, and submit copies of such approval to the City.
6. Landscaping, buffers, and/or greenbelts shall be continuously maintained to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
7. 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 the authority of Act 451, of the Public Acts of 1994, as amended. Where a permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
8. The most recent flood elevation data received from the Federal Insurance and Mitigation Administration (FIMA) shall take precedence over data from other sources.
9. A registered professional engineer or architect shall certify that the standards of Section 14.04 B(2) are met and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the structure. Such certification shall be submitted to the City and shall indicate the elevation to which the structure is floodproofed.
10. The applicant shall work cooperatively with neighboring property owners to maintain adjacent fencing (owned by the neighbors) at Dollar General's expense for that portion of the fence adjacent to Dollar General's property.
11. Loading trucks exiting the site shall exit via Avery turning right on Jefferson Street, Jefferson south to Main Street.

IT WAS MOVED BY BARKER and seconded by GADULA to approve the site plan for 413 E Main Street with the above conditions.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None.

ABSENT: Commissioner Plank.

MOTION CARRIED.

d.) Public Hearing – Site Plan Review/Special Land Use – 1279 W. Main Street – Jimmy Johns Restaurant – Drive-through facility.

Chair Barker opened the Public Hearing.

Paul Hansen with Roosien & Associates representing Jimmy Johns explained their intent with the proposed site making a restaurant with a drive through window. Also decided on a property split.

Moore reviewed his memo stating Westwind Construction has submitted an application for site plan review and special land use approval to operate a restaurant with a drive-through facility at 1279 W. Main Street SE. The subject property is approximately 0.92 acres of vacant land in the C3 General Business District. The applicant is proposing to construct a Jimmy John's in this area, which is a portion of a larger parent parcel. The parcel devoted to Jimmy John's would be split from the parent parcel. The applicant is proposing to construct a restaurant with a drive-through facility, which is permitted as a special land use in the C3 General Business district. The parcel will be split.

The Planning Commissioners reviewed the site plan review standards A-F.

IT WAS MOVED BY BARKER and seconded by ELLIS to accept that the site plan review standards A-F are met.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None. ABSENT: Commissioner Plank. MOTION CARRIED.

Moore then reviewed the Special Land Use Standards A-F.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that the special land use standards A-F are met.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None. ABSENT: Commissioner Plank. MOTION CARRIED.

Moore then went through the Restaurant with Drive-through Facilities Standards A-E along with any conditions associated with it.

City Clerk Sue Ullery read a letter into record from Martha Roskamp who resides at 1270 Sibley concerned about the alley way behind the parcel and her fence.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that all the Restaurant with Drive-through facility Standards are met.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None. ABSENT: Commissioner Plank. MOTION CARRIED.

Moore recommended the proposed site plan be approved 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 comply with any requirements from the City Engineer, Department of Public Works, Lowell Area Fire Department, or other approving agencies.
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 maintain continual compliance with other applicable ordinances, codes, and requirements of the City of Lowell.

5. If the subject property is proposed to be split from the parent parcel, proof of this split shall be submitted to the City.
6. The applicant shall submit the types and sizes of all proposed landscaping. Landscaping shall be continuously maintained to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
7. All exterior lighting shall comply with Section 4.24 of the Zoning Ordinance.
8. The applicant shall receive a permit for signage in accordance with Chapter 20 of the Zoning Ordinance.
9. The applicant shall submit to the City proof of an easement agreement for ingress/egress and off-site waiting spaces on the adjacent western property.

IT WAS MOVED BY BARKER and seconded by GADULA to approve the special land use for 1279 W Main Street with the above conditions.

YES: Commissioner Ellis, Commissioner Chambers, Commissioners Gaduala, Commissioner Cadwallader, Commissioner Schrauben and Chair Barker.

NO: None.

ABSENT: Commissioner Plank.

MOTION CARRIED.

8. **STAFF REPORT.**

Andy Moore with William & Works encouraged the commissioners to think of topic they would like training on.

Chair Barker suggested an explanation of the budget.

Commissioner Chambers stated he is happy to work these late meetings if new business is coming to town.

9. **COMMISSIONERS last REMARKS.**

Commissioner Gadula hopes this is the last zoom meeting and we will be in person next month.

Commissioner Ellis asked what is the protocol in the City for feathered flags, are they allowed or not.

Andy Moore will look at the Ordinance and the circumstances where they are being used.

10. **ADJOURNMENT.**

IT WAS MOVED BY CADWALLADER and seconded by CHAMBERS to adjourn at 9:48 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan Ullery, Lowell City Clerk

