



301 East Main Street  
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PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN  
AGENDA  
MONDAY, JULY 12, 2021 AT 7:00 P.M.  
UPSTAIRS – COUNCIL CHAMBERS

1. CALL TO ORDER: PLEDGE OF ALLEGIANCE, ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF THE MINUTES OF PREVIOUS MEETINGS
  - a. June 14 and June 28, 2021 – Regular and Special Meetings
4. PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA
5. OLD BUSINESS
  - a. Special Land Use Review – 1279 Gee Drive – John Baar
6. NEW BUSINESS
  - a. Site Plan Review – 400 W. Main
  - b. Public Hearing – 2384 W. Main – Site Plan Review/Special Land Use
  - c. Public Hearing – 126 S. West – Site Plan Review/Special Land Use
7. STAFF REPORT
8. COMMISSIONERS REMARKS
9. ADJOURNMENT

OFFICIAL PROCEEDINGS  
OF THE  
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN  
FOR THE REGULAR MEETING OF  
MONDAY, JUNE 14, 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, Marty Chambers, Amanda Schrauben, Collin Plank, Michael Gadula, Dave Cadwallader and Chair Bruce Barker.

Absent: None.

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

2. **APPROVAL OF AGENDA.**

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

YES: 7. NO: None. ABSENT: None MOTION CARRIED.

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

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to approve the minutes of the April 12, 2021 Planning Commission regular meeting as written.

YES: 7. NO: None. ABSENT: None. MOTION CARRIED.

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

There were no comments.

5. **OLD BUSINESS.**

There was none.

6. **NEW BUSINESS.**

a.) **Public Hearing – 746 & 728 W. Main – Betten Baker – Rezoning Request.**

Chair Barker asked individuals representing Betten Baker to introduce themselves and tell us what you would like to do.

Kyle Visger who is the architect for the Betten Baker project explained their intent and explained the project, including clean up the zoning, and a special land use to take the building that is there down and construct a new 15,000 square foot building for a new car dealership with some landscaping.

General Manager Charlie Jeffrey, dealership explained the project and stated they wish to stay in Lowell, as Lowell has been very supportive of the dealership for over 30 years, replace the old building with a nicer facility. Goal is to have current body shop and used cars on the North side of the street and new cars on the South side.

Andy Moore with Williams & Works then reviewed his memo stating Bryan Betten, on behalf of Betten Baker, has applied for rezoning, site plan review, and special land use approval to redevelop and expand the car dealership located at 746 and 728 W. Main Street (PPN 41-20-02-376-017 & 41-20-02-376-018). Together, these properties comprise 3.2 acres. A car dealership with repair facilities is currently located at 746 W. Main Street, while 728 W. Main Street is a vacant parcel. The applicant is proposing to develop the site while retaining the same use. A car dealership with accessory repair facilities is proposed on both properties, including a 15,700 square foot building and new parking/display lot. Currently there are three zoning districts split between the two parcels. The parcel at 746 w Main Street contains the C3 General Business district and R2 Single or Two Family Residential District. The parcel at 728 W. Main Street is located in the I General Industrial district. The applicant is requesting that both properties be rezoned so that they are all completely within the C3 General Business district because this is the only district in which open air businesses (e.g. car dealerships) are permitted by special land use (Section 12.03 G).

Moore reviewed the zoning standards 22.05 A (6).

Chair Barker opened the public hearing.

Bobby Yeary, who resides at 204 Brook Street, stated he is concerned with the light pollution coming across the properties and questioned the run-off plan.

Commissioner Chambers stated these concerns were addressed during the first project Betten Baker completed and they did a great job. This project will have the same concerns addressed as well.

All the Commissioners and Moore found that all three zoning standards are met.

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to approve both properties to be rezoned within the C3 General Business district with the standards 22.05 A (6) being met.

YES: Commissioner Ellis, Commissioner Chambers, Commissioner Schrauben, Commissioner Plank, Commissioner Gadula, Commissioner Cadwalladeer and Chair Barker.

NO: None.

ABSENT: None.

MOTION CARRIED.

b.) Public Hearing – 746 & 728 W. Main – Betten Baker – Site Plan and Special Land Use.

Chair Barker opened the public hearing.

Moore then reviewed memo and the Site Plan Review Standards A- F.

Chris Miller who resides at 210 Maple and is President at Grand Rapids Amateur Astronomical Association, stated he is concerned about the bright lighting and asked if it can be similar to that of their 930 W. Main dealership.

Commissioners discussed fencing, lighting and keeping as many trees as possible, also maybe adding some more trees in certain areas.

Moore and the Commissioners found that all the Site Plan Review Standards A- F have been met.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that the Site Plan Review Standards have been met.

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

NO: None. ABSENT: None. MOTION CARRIED.

Moore then went through the Special Land Use Review Standards A- F.

Moore and the Commissioners found that all the Special Land Use Review Standards A- F have been met.

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to accept that the Special Land Use Review Standard have been met.

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

NO: None. ABSENT: None. MOTION CARRIED.

Moore then reviewed the Open Air Business Special Land Use Standards A-I.

Moore and the Commissioners found that all the Open Air Business Special Land Use Standards A-I have been met.

Chair Barker commented on dumpster enclosure, 6-foot fence on 3 sides.

IT WAS MOVED BY ELLIS and seconded by SCHRAUBEN to accept that all the Open Air Business Special Land Use Standards A-I have been met.

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

NO: None. ABSENT: None. MOTION CARRIED.

Moore then went through the conditions.

Based on the foregoing review and finding of fact, 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 Lowell Area Fire Department, City's Department of Public Works, City Engineer, Kent County Drain Commissioner, or other approving agencies.
3. The applicant shall continually comply with applicable ordinances, codes, and requirements of the City of Lowell.
4. 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.
5. The applicant shall submit all missing site plan items of Section 18.04 B and identified under completeness of Submission, above, unless specially waived by the zoning enforcement officer.
6. The applicant shall submit building elevations depicting building materials and confirming that the building shall be less than 40 feet in height, in accordance with Section 12.04 of the Zoning Ordinance.
7. The applicant shall receive approval from and comply with any stipulations from MDOT regarding curb

cut closures on Main Street. A copy of any permits shall be submitted to the City.

8. The applicant shall comply with the landscape requirements of Section 4.26, including front yard landscaping and interior landscape islands, unless specifically modified by the Planning Commission.
9. Exterior lighting shall not exceed 0.5 foot candles on adjacent private property, in accordance with Section 4.24 of the Zoning Ordinance.
10. All parking spaces shall comply with the dimensional standards of Section 19.06 of the Zoning Ordinance and ADA standards. A loading/unloading space shall be shown on the site plan and comply with the requirements of Section 19.08 of the Zoning Ordinance.
11. Any signage shall comply with Chapter 20 of the Zoning Ordinance.
12. The applicant shall provide screening around the dumpster in accordance with Section 17.04 W (3).
13. The open air business shall comply with all applicable city and county regulations regarding sanitation and general health conditions.
14. 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.
15. The applicant shall install a 6' privacy fence along the southern property line starting at a point 30' east of the pleasant street ROW, along the northerly side lot line of 131 Pleasant and continuing along the southern boundary of the property. Every effort will be made to maintain existing trees along the southern and eastern boundary of the property.
16. Add a 6' enclosure with a lockable gate around the dumpster.
17. The site plan and SLU approval is contingent upon the rezoning of the subject property to C3 becoming effective.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to approve the Special Land Use for Betten Baker at 746 and 728 West Main Street with the above conditions as listed.

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

NO: None. ABSENT: None. MOTION CARRIED.

c.) Public Hearing – Amendment to Section 17.04 FF(5)(b) of the City's Zoning Ordinance - Ordinance 21-04.

Moore provided a brief overview stating this is an amendment that would amend Section 17.03 (FF) of the City's Zoning Ordinance related to adult use marihuana establishments. If adopted, the proposed amendment would prohibit the establishment of any adult use marihuana establishment on property located east of the Flat River. The impetus behind this change is the closure of a child care facility at the Lowell United Methodist Church. When this facility was in operation, the 1,000' isolation radius required for day care facilities served to prohibit adult use marihuana establishments on two of the three commercial properties located on East Main Street, east of downtown. The closure of the day care means that these parcels would be eligible for adult use marihuana establishments. Given that these commercially zoned parcels are completely surrounded by single-family residential homes, it is the opinion of staff that these areas would not be suitable locations for adult use marihuana facilities and their associated traffic, parking, and similar concerns. Thus an amendment is proposed that would prohibit the establishment of any adult use marihuana establishment on any property east of the Flat River.

Chair Barker opened the public hearing.

Chair Barker closed the public hearing.

IT WAS MOVED BY PLANK and seconded by CHAMBERS to recommend to City Council the approval of Amendment to Section 17.04 FF (5)(b) of the City's Zoning Ordinance – Ordinance 21-04.

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

NO: None.

ABSENT: None.

MOTION CARRIED.

7. **STAFF REPORT.**

City Manager Michael Burns stated he received another application for an adult use marihuana facility.

8. **COMMISSIONERS REMARKS.**

Commissioner Gadula stated it was good to be back in person.

Commissioner Chambers was happy to review Betten Bakers new facilities.

Commissioner Ellis asked about the aquatic area near the river and how do we go about getting it cleaned up.

City Manager Michael Burns stated that would be EGLE who would be in charge of the water-ways. He will talk to the DPW Director Dan Czarnecki.

Chair Barker also stated it was nice to have everyone back and please have a good summer. We have a special meeting, June 28, 2021 at 7:00 p.m. for Culver's.

9. **ADJOURNMENT.**

IT WAS MOVED BY GADULA and seconded by CHAMBERS to adjourn at 8:35 p.m.

DATE:

APPROVED:

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Bruce Barker, Chair

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Susan Ullery, Lowell City Clerk

**SPECIAL MEETING  
OF THE  
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE  
CITY OF LOWELL, MICHIGAN  
FOR THE REGULAR MEETING OF  
MONDAY, JUNE 28, 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, Amanda Schrauben, Collin Plank, Michael Gadula, Dave Cadwallader and Chair Bruce Barker.

Absent: Commissioner Marty Chambers.

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

2. **EXCUSE OF ABSENCES.**

IT WAS MOVED BY SCHRAUBEN and seconded by PLANK to excuse the absence of Commissioner Marty Chambers.

YES: 6. NO: Commissioner Chambers. ABSENT: None. MOTION CARRIED.

3. **APPROVAL OF AGENDA.**

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

YES: 6. NO: Commissioner Chambers. ABSENT: None. MOTION CARRIED.

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

There were no comments.

5. **OLD BUSINESS.**

There was none.

6. **NEW BUSINESS.**

a.) **Public Hearing – Culver’s -1279 W. Main Street – Special Land Use and Site Plan Review.**

Chair Barker asked person/persons representing Culver’s to introduce themselves and tell us what you would like to do.

Steve Steffen who resides at 1864 Conlin Avenue in Grand Rapids stated he is the owner/operator of the Culver’s Restaurant located on 28<sup>th</sup> Street in Cascade for 16 years. Tonight he is here with his business partner Gary Kuhlmann and they would like to ask for approval on their site plan for a Culver’s here in Lowell. Plan to hire 60 to 70 employees with a nice wage, once approved and open.

Chair Barker then opened the Public Hearing.

Andy Moore with Williams & Works then reviewed his memo stating the property is approximately 1.2 acres’ in the C3 General Business district. The applicant is proposing to construct a Culver’s restaurant with drive-through facilities. The site is currently vacant and the building comprise about 4,360 square feet. The site is part of a larger parent parcel that is about 2.6 acres. A Jimmy John’s was recently approved in the southwest

corner of this parcel. This approval included a condition that the Jimmy John's would be split from the parent parcel. Similarly, the Culver's is proposed on a portion of the same parent parcel and would also be split from the remaining parcel. Restaurants with drive in facilities are permitted by special land use in the C3 General Business district in Section 12.03 of the zoning ordinance.

Chair Barker discussed the parking and suggested a fence for additional parking to help cut down noise.

Matt Cole who is the engineer, this being his 9th Culver's restaurant, said that Culver's customers typically prefer inside than drive-through at Culvers.

Moore then went through the site plan review standards A-F.

There were no public comments.

Moore and the Commissioners found that all the site plan review standards A-F.

IT WAS MOVED BY CADWALLADER and seconded by ELLIS to accept that the Site Plan Standards A – F have been met.

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

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

Moore then went through the Special Land Use Review Standards A- F.

Moore and the Commissioners found that all the Special Land Use Review Standards A- F have been met.

IT WAS MOVED BY CADWALLADER and seconded by PLANK to accept that the Special Land Use Review Standard have been met.

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

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

Moore then reviewed the Restaurant with Drive-Through Facilities Special Land Use Standards A – E.

Moore and the Commissioners found that all the Restaurant with Drive-Through Facilities Special Land Use Standards A-E have been met.

IT WAS MOVED BY ELLIS and seconded by CADWALLADER to accept that all the Restaurants with Drive-Through Facilities Special Land Use Standards A-E have been met.

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

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

Moore then went through the conditions.

Based on the foregoing review and finding of fact, 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 Lowell Area Fire Department, City's Department of Public Works, City Engineer, Kent County Drain Commissioner, or other approving agencies.
3. The applicant shall continually comply with applicable ordinances, codes, and requirements of the City of Lowell.
4. 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.
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. Exterior lighting shall not exceed 0.5 foot candles on adjacent private property, in accordance with Section 4.24 of the Zoning Ordinance, with the exception of the westerly lot line adjacent to Jimmy Johns.
7. The applicant shall submit a copy of a shared access agreement with the adjacent property for a driveway connection and a copy of the easement agreement for parking on the northern portion of the property.
8. 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.

There were no public comments.

Chair Barker closed the public hearing.

IT WAS MOVED BY ELLIS and seconded by CADWALLADER to approve the Special Land Use for Culver's at 1279 W. Main Street with the above conditions as listed.

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

NO: None.

ABSENT: Commissioner Chambers.

MOTION CARRIED.

7. **STAFF REPORT.**

There were no comments.

8. **COMMISSIONERS REMARKS.**

Commissioner Ellis stated it was good to see a through plan.

9. **ADJOURNMENT.**

IT WAS MOVED BY CADWALLADER and seconded by GADULA to adjourn at 7:41 p.m.

DATE:

APPROVED:

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Bruce Barker, Chair

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Susan Ullery, Lowell City Clerk

Dear Planning Commission,

Item 15 on our Special Land Use approval was that my permit be reviewed annually and that I attend the May 2020 Planning commission meeting. I would like to address how the past year went with the rules set forth in our previous approval.

The year has gone great. I was home more and rented my house out less than years past. As per item 6 of the approval, I have emailed the fire department and the police department with any upcoming guest stays.

Also of note is that there have been no other incidents at my property all year.

I would like to request to increase the limit of cars allowed on my property to 8. The garage and driveway have more than enough room to accommodate 8 vehicles, and most would not be visible from the street or neighbors' homes due to the layout of my driveway.

I really appreciate the opportunity you have provided me to continue to rent out my home when I am out of town, and in turn support the economy of Lowell.

Sincerely,

John Baar

2179 Gee Drive,

Lowell, MI 49331

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: 400 W. MAIN ST, LOWELL MI 49331

2. Parcel Identification Number (Tax I.D. No.): #41-20- 02-346-002

3. Applicant's Name: UNION ESTATES LLC DBA - NEW UNION BREWERY  
Phone Number 616 485 9812

Address: 400 W. MAIN ST LOWELL MI 49331  
Street City State Zip

Fax Number \_\_\_\_\_ Email Address TYLER.VELTING@GMAIL.COM

4. Are You:  Property Owner  Owner's Agent  Contract Purchaser  Option Holder

5. Applicant is being represented by: \_\_\_\_\_ Phone Number \_\_\_\_\_

Address: \_\_\_\_\_

6. Present Zoning of Parcel COMMERCIAL Present Use of Parcel COMMERCIAL

7. Description of proposed development (attach additional materials if needed):  
SEE ATTACHED  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Signature:  \_\_\_\_\_ Date: 6/14/21

Type or Print Your Name Here: TYLER VELTING

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 \_\_\_\_\_ Date \_\_\_\_\_



## Site Plan Review – 400 W. Main St – New Union Brewery

Our original idea, that was approved by the city, was to add a covered roof extension from the current building to the West and expand the outdoor open area behind, but after receiving the engineered drawings for the extension we were a little underwhelmed and afraid the building would look like one long pole barn. We want to create something cool and unique because of our location on the main intersection of Lowell. We also want a place that draws people in from out of town into Lowell, a destination, not just another brewery.

Over the past year dealing with a lot of forced outdoor service we found out that our site is very loud, windy and exposed. To combat this we thought of creating a courtyard area with a perimeter of converted containers to provide not only shelter but a unique look and environment for guests to experience. The use of converted containers is becoming very popular for architectural building features. I have attached a few examples of local places that have already created some of these spaces.

- Sovengard - Downtown Grand Rapids
- John Ball Zoo - Grand Rapids
- The Deck - Muskegon

Included is a site plan with a conceptual layout along with some samples of renderings. We ended up using the same footprint as the previously approved plan (plus a few feet) and the footprint of the old Blue Ribbon mill building as you can see in the overlay. Most of the area is outdoor space and not actual buildings. The perimeter will be made up of converted containers that will tie into the existing building and provide sheltered walkways, sheltered seating, and storage. There will also be two covered low profile silo roofs for covered seating and a covered bar. Half of the area will be a concrete patio and the other half landscaped stone. There will be an entrance on the north side facing Main St and a pass through on the west side to be able to pull up food trucks for service. Green space areas would also be added around the site.

Not only will the courtyard concept protect from outside noise and wind but it will block off the east driveway behind the brewery. People have been using that back entrance to cut through either as a shortcut or to try and avoid the traffic light.

Aesthetically I believe the containers and silo roofs will fit in nicely with the surrounding area. The containers will be painted to flow with the existing brewery building and blend in with the feel of the rail cars behind. The silo roofs will mimic the look of the silos from King Milling across the street. We are also looking to replace the roof on the brewery with a metal roof to help pull the old and new features together. Altogether I think this will create cohesive elements that will blend well with the surroundings along with providing some needed natural green space on the corner.

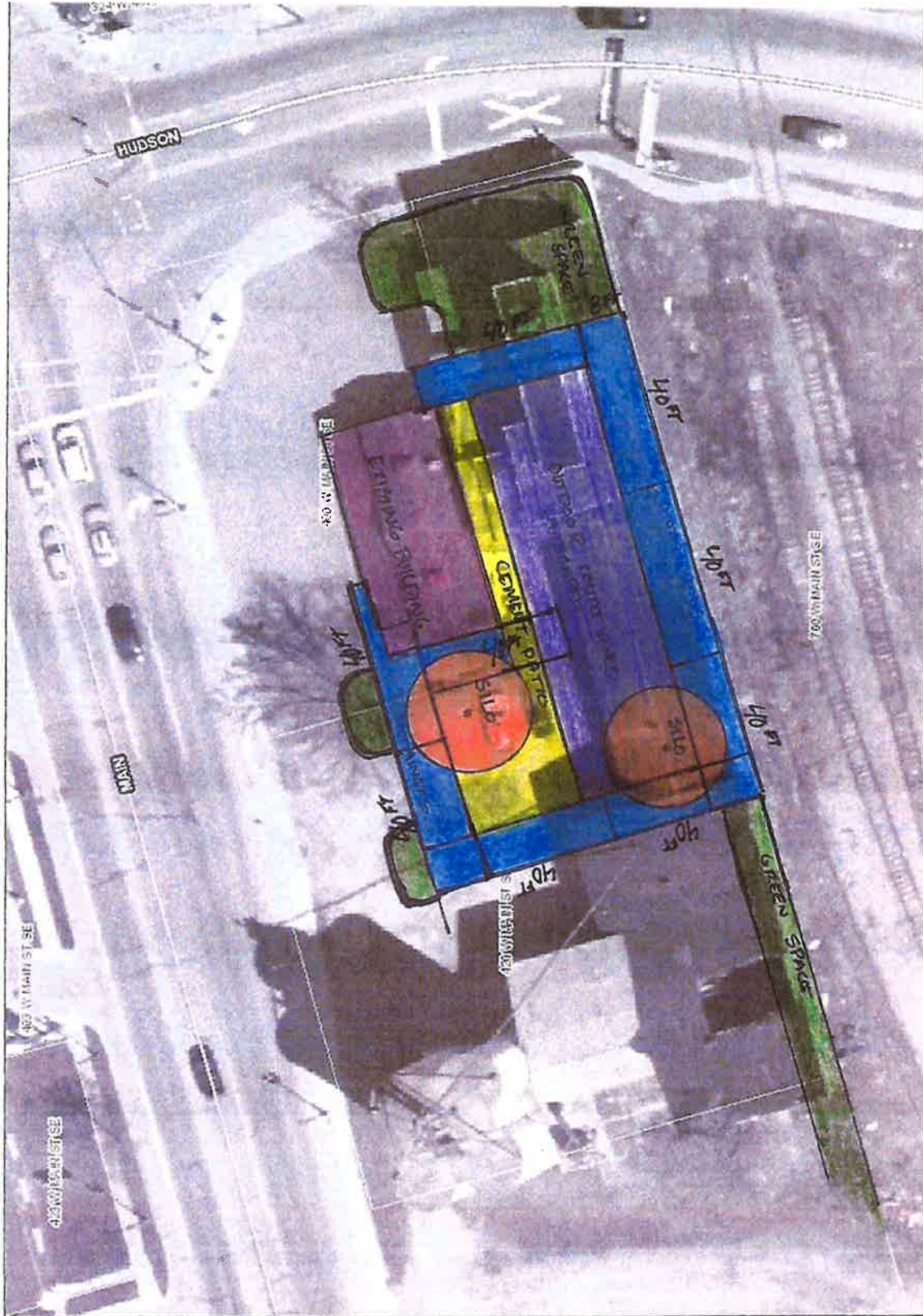


Parcel Number: 41-20-02-346-002  
Property Address: 400 W MAIN ST SE

Description: N 84 FT OF LOTS 1 & 2 BLK 19 \* RICHARDS & WICKHAM'S PLAT

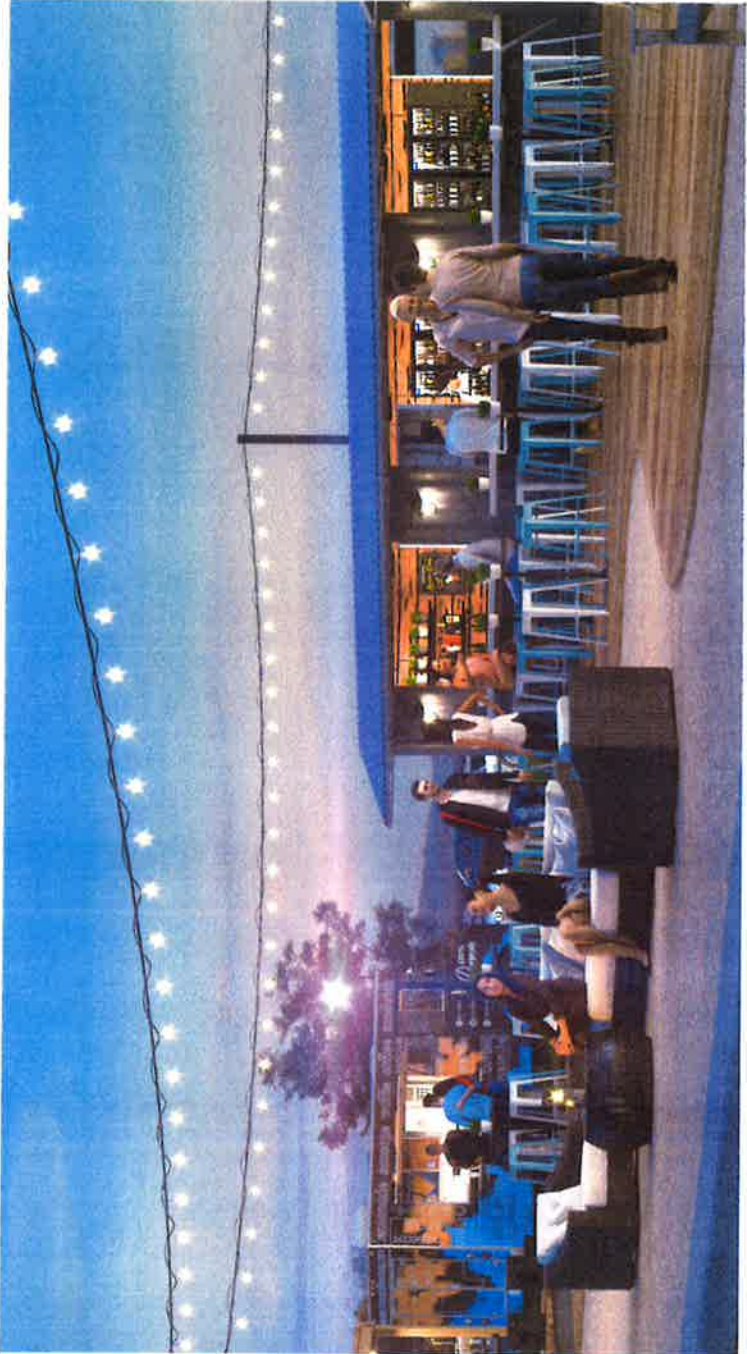
Kent County Web Map

May 07, 2022











Sovengard – Downtown Grand Rapids



John Ball Zoo – Grand Rapids



The Deck - Muskegon



# williams&works

engineers | surveyors | planners

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** July 8, 2021  
**From:** Andy Moore, AICP  
Whitney Newberry  
**RE:** New Union Brewery Site Plan Amendment

Union Estates LLC, represented by Tyler Velting has submitted an application for a site plan amendment to the New Union Brewery at 400 (PPN 41-20-02-346-002), at the southwest corner of Hudson and West Main. The purpose of this memorandum is to review the site plan amendment pursuant to applicable standards of the City of Lowell Zoning Ordinance.



**Background.** The original special land use approval considered the brewery use on the single parcel at 400 West Main Street. In November 2020, the applicant amended the site plan to expand the use with a concrete patio and roof, which was approved by the Planning Commission. However, upon receiving engineered drawings, the applicant noted the building looked too much like a pole barn and did not construct the new features proposed in the amendment. Therefore, the applicant has submitted a new application for amending the original site plan with a different design, which would create an outdoor courtyard with converted shipping containers and two covered low-profile silo roofs.

Major site plan amendments shall be reviewed by the Planning Commission in the same manner as the original application, per Section 18.09 C of the Zoning Ordinance. Because the applicant is not proposing any changes to the use, our review focuses only on the proposed site improvements.

**Site Plan Review.** Major site plan amendments require site plan review pursuant to Chapter 18 of the Zoning Ordinance. Our general site plan review comments are as follows:

Completeness of Submittal. The site plan does not contain most of the items required for site plan review in Section 18.04 B; however, many of these are likely unnecessary given the nature of the proposed site plan amendment. We find the submission complete for review; however, we recommend that if any changes to the number of parking spaces or outdoor lighting are proposed, that these be added to the site plan.

Setbacks and Dimensional Requirements. The applicant owns both 420 and 400 W. Main, so they are treated as a single property for the purposes of zoning. The site complies with all required setbacks, lot coverage, and lot width requirements for the C3 district.

Landscaping. Landscaping is required in coordination with all site plan reviews (Section 4.26 A). Although the applicant has submitted a site plan in accordance with a major site plan amendment, the amendment does not propose any expansion of parking areas or the main building. Therefore, the previous approval of landscape conditions on the site is expected to remain sufficient.

Nevertheless, the applicant has proposed additional landscaping on the site in coordination with the courtyard improvements. Primarily, a large green space is proposed along Hudson Street, blocking a driveway behind the brewery, which the applicant has noted as being used by people to avoid the traffic light at West Main and Hudson. The Planning Commission may inquire as to the types of vegetation proposed, although the additional landscaping is beyond what would have been otherwise required by the Ordinance.

Lighting. No additional lighting is proposed. This should be confirmed with the applicant. Any lighting that is proposed must be downward facing and fully cut-off in compliance with the Zoning Ordinance.

Parking/Circulation. The applicant is not proposing any change to parking areas on the site. The proposed courtyard area is proposed to the side (west) and rear (south) of the existing building. Since the applicant owns both properties at 400 and 420 W. Main Street and not proposing any changes to the existing parking area, circulation is expected to remain adequate on the site. Available parking may be considered further, as the courtyard will likely increase the brewery's capacity. The existing parking lot may be insufficient for increased customers, especially now that state and local COVID-19 restrictions have been lifted. The Planning Commission may discuss parking with the applicant and consider whether an arrangement for deferred or shared parking is necessary.

**Site Plan Review Criteria.** Section 18.06 provides site plan review standards that must be considered by the Planning Commission when evaluating a site plan. Following are those standards, followed by our comments on each.

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: The subject property is in the C3 district and the applicant is proposing an outdoor expansion of the existing brewery use. The area is generally commercial, and surrounding properties are also in the C3 district, so the proposed amendment would allow outdoor seating in an area that is generally business-oriented. The applicant noted that during their outdoor service that was permitted when COVID-19 restrictions were in effect, they found the site to be loud, windy, and too exposed to the

surrounding area. Therefore, the proposed design is intended to mitigate some of these impacts from the surrounding environment and create a unique dining experience for customers. The applicant's narrative states that the containers would be painted to flow with the existing brewery building and blend with the area. The concept design elevation submitted with the application is expected to be compatible with the surrounding area. The Planning Commission may also include a condition of approval that includes a compatible design and color with the existing New Union Brewery.

Additionally, two low-profile silo roofs are proposed in the courtyard for outdoor seating. These are expected to align with the surrounding King Milling silos, as the applicant has stated that the design would blend with the surrounding buildings. The Planning Commission may include a condition of approval limiting the height of these silos, as required in Section 12.04 of the Zoning Ordinance.

Overall, the presence of outdoor seating and the proposed courtyard are not expected to impede the normal and orderly development or improvement of the surrounding property. Provided the containers are painted and designed to be compatible with the existing building and the silos do not exceed the maximum height for the C3 district, the Planning Commission may find this standard 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 primary areas for site circulation would remain unchanged, including both existing curb cuts and parking areas. Additional landscaping is proposed along Hudson Street to block the rear driveway behind the brewery; the applicant's narrative states that people have been using this rear driveway to cut through the site or as a shortcut to avoid the traffic light at Hudson and Main. Therefore, the additional landscaping and courtyard are expected to improve safety and circulation on the site. The Planning Commission may find this standard 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: Connections to Hudson and West Main Street would remain the same as previously approved, so this standard is not applicable.

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: The applicant is not proposing the removal of any natural features. Additional landscaping is proposed on the site. The Planning Commission may find this standard 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 may be included 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.

Remarks: The proposed amendment would not impact the brewery's previous compliance with the City of Lowell Master Plan and zoning ordinance, as the existing use would remain largely the same. The Planning Commission may find this standard met.

**Floodplain Overlay District.** Most of the subject property is located in the Floodplain Overlay District. Because the applicant is not proposing an expansion to the existing building, the proposed courtyard is not expected to alter the brewery's previous compliance with the standards of Chapter 14 of the Zoning Ordinance. However, the shipping containers around the perimeter of the site need to be either (1) one foot above base flood elevation, or (2) "be constructed such that at or below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards 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 as provided in this ordinance and shall indicate the elevation to which the structure is floodproofed."

Planning Commission may defer to the City Engineer and DPW for comments regarding impacts to drainage and flow of water in the floodplain to ensure continued compliance with this chapter.

**Recommendation.** At the July 12 meeting, the Planning Commission should carefully consider the comments from the applicant and the public regarding the proposed use. Subject to those comments, the Planning Commission may approve the proposed site plan amendment. If approved, we recommend the following conditions, along with any others deemed necessary:

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 and the site shall at all times comply with local standards and ordinances.

4. A brewery/winery shall obtain and maintain all applicable federal, state, and local permits and upon request, furnish copies of applicable permits to the City.
5. The applicant shall comply with any stipulations of the Fire Department regarding emergency vehicle access and the City Engineer regarding drainage on the site.
6. Any proposed lighting must be reviewed and approved by the Zoning Enforcement Officer prior to construction/placement of such lighting.
7. The applicant shall provide an updated site plan for staff review that shows a deferred parking area on the site.
8. The shipping containers shall be painted and designed to be compatible with the existing brewery building and the surrounding area.
9. Silo roofs shall not exceed 40 feet, in accordance with Section 12.04 of the Zoning Ordinance.

As always, please feel free to contact me with questions or comments.



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

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



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

### APPLICATION FOR SITE PLAN REVIEW / SPECIAL LAND USE

- 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 four weeks 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: 2384 W. MAIN ST.
2. Parcel Identification Number (Tax I.D. No.): #41-20- 03-370-031
3. Applicant's Name: NU GROUP LLC Phone Number 602-330-2093  
 Address: 24280 EMERWOOD AVE, CENTRALINE, MI 48015  
Street City State Zip  
 Fax Number \_\_\_\_\_ Email Address REMONSWEISS@  
MIRVANA CENTER LLC
4. Are You:  Property Owner  Owner's Agent  Contract Purchaser  Option Holder
5. Applicant is being represented by: JOHN GUMM Phone Number 248-865-5555  
 Address: 7419 MIDDLEBURY RD., SUITE 4, WEST BLOOMFIELD MI 48322
6. Present Zoning of Parcel \_\_\_\_\_ Present Use of Parcel \_\_\_\_\_
7. Description of proposed development (attach additional materials if needed):  
TENANT SPACE BUILD-OUT OF RETAIL

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

Signature: [Signature] Date: 5/20/2021

Type or Print Your Name Here: REMON SWEISS

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. [Signature]  
Owner Date





Section 17.03 of the City of Lowell Zoning Ordinance specifies that to approve a special land use, the Planning Commission must find that the request meets the following standards. Please describe how the proposed project would meet each standard.

A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the following standards and, in addition, that each use of the proposed site will:

- 1. 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;

*will comply*

- 2. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;

*will comply*

- 3. Not create excessive additional requirements at public cost for public facilities and services; and

*will comply*

- 4. 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.

*will comply*

Section 17.04 of the City of Lowell Zoning Ordinance lists specific standards pertaining to special land uses that must be met. Please respond to those standards below as it pertains to the proposed project, describing how the standards would be met by this proposal:

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## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** July 8, 2021  
**From:** Andy Moore, AICP  
Whitney Newberry  
**RE:** **NU Group LLC Special Land Use**

NU Group LLC, represented by John Gumma, has submitted an application for site plan review and special land use approval to open an adult use marijuana establishment at 2384 W. Main Street (PPN 41-20-03-370-031). The purpose of this memorandum is to review the request pursuant to Chapter 17 Special Land Uses and Chapter 18 Site Plan Review of the City of Lowell Zoning Ordinance.

### Background

The subject property has an area of approximately 1.4 acres. The property is split zoned between the C3 General Business district and the I Industrial district, with most of the property in the C3 district. All site improvements proposed are also in the C3 district. The property contains an existing building, in which the applicant is proposing to conduct an adult use marijuana establishment. No on-site cultivation or consumption of the product is proposed on site. By definition, "marihuana retailer" is a type of adult use marihuana establishment. Adult use marihuana establishments are permitted in the C3 and I districts only with special land use approval by the Planning Commission.



### Completeness of Submission

The applicant has submitted site plan documents for review. Section 18.04 B provides a list of information required for a detailed site plan review, unless deemed unnecessary by the zoning enforcement officer. The following items were not included:

- Radii of proposed drive
- Existing zoning and use of all properties abutting the subject property
- Size and location of existing/proposed utilities

- Size and location of all surface water drainage facilities

Although the applicant is proposing to utilize an existing building and some items identified above may remain unchanged, the Planning Commission may request their inclusion on the site plan to ensure compliance with applicable standards. In general, we find the application is sufficiently complete for review.

Section 17.04 FF (3) and (4) requires additional application and site plan materials to be submitted for adult use marihuana establishments. The applicant included some of the additional site plan materials; however, the following items were not received:

- Verification and Consent documents
- Narrative describing how the enclosed areas with marihuana have been secured and how permitted individuals will be given access
- The location of the off-site storage or network service provider for storage of the required copies of surveillance recordings
- The applicant's procedures for accepting delivery of marihuana at the establishment, including procedures for how and where it is received, where it is stored, and how the transaction is recorded

## **SITE PLAN REVIEW**

**Setbacks and Dimensional Requirements.** The applicant is proposing to use an existing building, which meets the setback, height, and lot requirements for the C3 district (Section 12.04). It would also meet the setback requirements for the I district in the rear yard (although these are not correctly identified on the site plan).

**Landscaping.** The applicant submitted a landscape plan, indicating additional site landscaping. A buffer is required between residential and non-residential uses with a fence or landscaping. A residential use is adjacent to the southeast corner of the subject property. While landscaping is not proposed at this location, there are existing trees that function as a buffer. The Planning Commission may find the existing vegetation sufficient in meeting the landscape buffer between uses, and may include a condition of approval which requires a buffer to be maintained at this location.

The proposed landscaping meets the front yard landscape requirements of Section 4.26 E(2). It does not appear there would be any major changes to the parking lot as defined in Section 4.26 E(3), as the applicant is proposing to use the existing parking lot. However, two new landscape islands are proposed in accordance with Section 4.26 E(3)(c).

**Lighting.** Currently, the site only contains building lighting. The applicant is proposing to retain the existing building lights and add five wall lights, which are distributed around the building. One new pole light is also proposed. New lights are all downward facing, 100% cutoff features. Section 4.24 E(1) requires that light shall not exceed 0.5 foot candle on adjoining private property. While a photometric plan wasn't submitted, the majority of lighting would be on the

building and is not expected to exceed this intensity at lot lines. However, if deemed necessary the Planning Commission may request a photometric plan.

**Parking/Circulation.** The applicant is not proposing any structural changes to the parking lot, but is proposing to re-stripe it. After striping the lot, 23 spaces are proposed, two of which are barrier free. Based on the building size (3,602 sq. ft.), 18 spaces are required for a retail establishment. Therefore, the applicant has exceeded this requirement. Yet, based on other marihuana establishment parking needs, this number of spaces may remain insufficient. The Planning Commission may discuss parking needs with the applicant and a plan for deferred parking if parking becomes insufficient. The Planning Commission may adjust the parking requirement standards when parking demand is expected to be higher or smaller than the requirements, in accordance with Section 19.03 M.

The site plan indicates one loading/unloading space, as required in Section 19.08.

**Signage.** A wall sign is indicated on the building elevations, with a note that a separate permit will be obtained for signage. The Planning Commission may include this as a condition of approval.

**Provisional License.** The Planning Commission shall require an operating license from the City of Lowell as a condition of special land use approval in accordance with Section 17.04 FF.

**Site Plan Review Standards.** In order to approve a special land use, the Planning Commission must find that each of the standards listed in Section 18.06 would be met. Following are those standards and our remarks on each:

- 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 applicant is proposing a marihuana retail establishment in an existing building. Few exterior changes are proposed; the applicant would primarily replace existing overhead doors with windows and increase landscaping on the site. Other uses in the area are generally business or industrial, with adjacent properties also in the C3 and I districts. Nearby uses include credit unions and automotive-related businesses. While a residential use is adjacent to the subject property in the I district, there are existing trees which appear to function as a buffer between uses and which the applicant is proposing to retain. Because the building and site infrastructure is already existing and the applicant is proposing to improve the site aesthetic through landscaping, it is not expected to impede the normal and orderly development or improvement or surrounding properties.

Yet, the Planning Commission should be cognizant of the growing number of marijuana establishments along W. Main Street (five have been approved between Ridgeview and Alden Nash alone). While the site development features appear appropriate for the district, the continually increasing number of marijuana establishments may impact the overall development and improvement of properties along W. Main Street.

- 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:** Traffic circulation in the site is expected to be efficient, allowing traffic to access parking areas on either side of the building. The applicant is proposing a new curb cut on Main Street to provide site access, which will require MDOT approval. Because the subject property currently uses curb cuts on adjacent properties for access, asphalt extends and allows for circulation between adjacent properties. We would prefer that the applicant continue to use adjacent properties for access through shared access agreements with The Garage of Lowell (west) and LMCU (east). The applicant has proposed concrete bumpers and landscaping to prevent traffic from moving on to the western property. However, the eastern property remains accessible due to the existing site designs. The Planning Commission may discuss parking arrangements with the applicant to ensure visitors do not park in adjacent credit union spaces should additional parking spaces be necessary, unless there is a written agreement for such shared parking.

The property also contains a gravel two-track access drive off Bowes Road. While this is largely unimproved, the Planning Commission may inquire whether this access point would be used for any business purposes. It is our preference that this be closed.

Lastly, pedestrian traffic is primarily accommodated through a concrete sidewalk along the front of the building and an existing sidewalk along the property frontage. Pedestrians parked along the eastern building exterior would have to walk into maneuvering lane and around the landscape island to reach the building front, as there is no sidewalk along this exterior. Yet, there is insufficient room for a sidewalk if the maneuvering aisle width is to be maintained. The Planning Commission may discuss this design with the applicant.

- 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 site currently shares curb cuts with adjacent properties. The applicant has proposed a new curb cut, which is generally located in line with the car dealership across Main Street. The Planning Commission may include MDOT approval of the curb cut as a condition of approval.

A cross access easement may also be provided between the subject property and LMCU and the Garage of Lowell to encourage connectivity between properties. The Planning Commission may address this with the applicant.

- 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 applicant is not proposing the removal or alteration of any natural features on the site. Existing trees are proposed to remain as a buffer between the building and an adjacent residence. Additional landscaping is proposed along the site frontage. The Planning Commission may include continual maintenance of landscaping as a condition of approval.

- 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:** The proposed development is the reuse of an existing building. A condition of approval can stipulate continual compliance with applicable codes and ordinances.

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

**Remarks:** The purpose of the C3 General Business district is to permit a mixture of residential, office, and commercial uses that do not necessarily adhere to the style of downtown buildings. This district offers more automobile-related uses that would not always be compatible with residential uses. The building form was previously approved for this site and the proposed site improvements are expected to remain compatible with this district. The proposed use is permitted by special land use in the C3 district and appears to align with this district's intent to accommodate automobile-related uses, including commercial goods.

The City of Lowell's Master Plan was adopted in 2007 and outlines a desired vision for land uses in the city. The subject property is in the Highway Business future land use category. This district is intended for "retail, office, and service uses that are oriented towards automobile traffic" and primarily corresponds with the C3 zoning district. The proposed use appears compatible with this future land use category. The Planning Commission may find that this standard is met.

**Special Land Use Review Standards.** In order to approve a special land use, the Planning Commission must find that the proposed special land use meets each of the following standards in accordance with Section 17.03. Following are these standards and our remarks on each:

- A. 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 applicant is proposing to use an existing building and parking lot, so the site design will remain largely the same. Increased landscaping and parking lot striping are expected to enhance vehicle circulation and aesthetics along the front of the site. The general character of the area is commercial, with uses primarily oriented towards automobile traffic along M-21. The proposed use is expected to remain compatible with the intent of the C3 district to serve more traffic than elsewhere in the City.

While the site design and the presence of a retail operation are expected to remain compatible, the operation may be further considered in relation to more specific operational impacts such as traffic. As noted above in Site Plan Review Standard B, parking should be carefully considered so traffic doesn't inadvertently spill over into the adjacent credit union parking lot unless permission is specifically given for overflow parking. The Planning Commission may discuss this with the applicant.

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

**Remarks:** See comments under Site Plan Review, F above. The Planning Commission may find this standard met.

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

**Remarks:** Because the applicant is proposing to use an existing building, essential public facilities and services are already established. The applicant is not proposing any marijuana growing areas, so additional public facilities are not expected to be necessary. The applicant is also proposing a new curb cut, which is subject to MDOT approval. The Planning Commission may include approval and compliance with any stipulations of MDOT as a condition of special use approval.

Additionally, the applicant is proposing to stripe the parking lot to better define traffic circulation. Emergency vehicle access is expected to be acceptable on the site; however, the Planning Commission may defer to the Fire Department for additional comments.

The proposed measures for security indicated on the floor plan and associated notes are expected to mitigate impacts that may impact the local police department, and the fee charged by the City for an operating license will help offset any costs incurred. Subject to any comments from the City Police Department, the Planning Commission may find this standard met.

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

**Remarks:** Public facilities and services, including water and sewer connections, are already present on the site. The proposed use does not involve any grow rooms that would require facilities or services beyond a typical retail operation. The Planning Commission may find this standard met.

- E. 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:** As a marihuana retailer, the proposed establishment would not be authorized to allow on-site consumption of products. Additionally, the applicant is not proposing any grow rooms associated with the business. Therefore, odor is expected to be relatively minimal on the site compared to other marihuana operations, since the applicant would be selling products from off-site growers and processors. However, odor may still be considered in relation to the types of products being offered for sale. While the applicant is proposing a filtration system, the details of this system were not provided. The Planning Commission may discuss this with the applicant.

Additionally, hours of operation were not indicated on the site plan. The Planning Commission may discuss hours of operation with the applicant to determine the extent to which noise and traffic may be present on the site.

- F. 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 standard will be addressed as a condition of approval.

**Adult Use Marihuana Establishment Special Land Use Standards.** In addition to the general standards for special land uses of section 17.03, the Planning Commission must also find that the proposed special land use would comply with specific standards established for adult use marihuana establishments as listed in Section 17.04 FF. Our remarks related to the security concerns plan pursuant to Section 17.04 FF(5)(a) are in a separate confidential memorandum. Following are the standards of 17.04 FF(5)(b-m), and our remarks on each:

- b. Separation distances. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana establishment. The following minimum-distancing regulations shall apply to all marihuana establishments. A marihuana establishment shall not be located within:
- i. 1,000 feet of a preschool or child care center, whether or not it is within the city of Lowell;
  - ii. 1,000 feet of a public or private K-12 school, whether or not it is within the city of Lowell;



- iii. 500 feet of a property within the C-2, Central Business District as illustrated on the City of Lowell Zoning Map.
- iv. Exception. The requirements above do not apply if the marijuana establishment was lawfully established prior to the location of an establishment or zoning district specified in items i - iii above.

**Remarks:** The applicant submitted a sensitive use map depicting a 1,000-foot radius around the subject property. There are no schools or childcare facilities within 1,000 feet of the proposed location and no new child care centers registered with the Michigan Department of Regulatory Affairs. The Planning Commission may find this standard met.

- c. Odors. The marijuana establishment shall be designed to provide sufficient odor-absorbing ventilation and exhaust systems so that any odor generated inside the establishment is not detected outside the building in which it operates, on adjacent public rights-of-way, private road easements, or within other units located within the same building as the establishment if it occupies only a portion of the building. Odors must be controlled and eliminated by the following methods:
  - i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all odors prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - ii. Air scrubbing and filtration systems must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - iii. Negative air pressure must be maintained inside the building.
    - 1. At a ratio of 1:4 between the air intake (CFM) and exhaust fan (CFM), or a similar ratio as approved by the planning commission.
    - 2. A minimum negative pressure of 0.01" water column relative to the building exterior and to adjacent spaces without product.
    - 3. A minimum exhaust rate of 0.2 CFM per square foot of floor area or greater.
  - iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
  - v. The planning commission may approve an alternative odor control system if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal or superior to the air scrubbing and carbon filtration system otherwise required above.

**Remarks:** Sheet A-1 of the submittal states that the existing air handling unit will be changed to maintain negative air pressure inside the building. Additionally, air scrubbers

and filters are proposed for installation in all rooms containing marihuana products. The type of air scrubbers or carbon filtration system is not indicated, nor the ratio of negative air pressure. The Planning Commission may discuss filtration system details with the applicant and include compliance with this standard as a condition of approval.

- d. The marihuana establishment shall be operated and maintained at all times so that any by-products or waste of any kind shall be properly and lawfully kept and disposed of so as to preclude any risk of harm to the public health, safety, or welfare.

**Remarks:** The applicant has not indicated the method by which unused product will be disposed. For products that must be disposed, a procedure should be in effect that involves its destruction and waste management so that it is not recognizable in its original form in accordance with LARA regulations. Once the waste is incorporated into the regular trash, it must also be disposed of in a secured waste receptacle. Currently, the site plan indicates an outdoor dumpster enclosure, although it does not appear to be secured. The Planning Commission may address waste disposal with the applicant. Compliance with this standard and LARA regulations for waste disposal may be included as a condition of approval.

- e. The marihuana establishment shall not be operated out of a residence or any building used wholly or partially for residential purposes.

**Remarks:** There would not be a residence associated with the marihuana establishment. The Planning Commission may find this standard met.

- f. Any portion of the structure where energy usage and heat exceed typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes. 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.

**Remarks:** The proposed use will not involve the processing or growing of marihuana or the storage of any chemicals. The Planning Commission may find this standard met.

- g. A marihuana establishment shall not be operated from a business that also sells alcoholic beverages or tobacco products.

**Remarks:** The site plan indicates that there will be no sale of alcoholic beverages or tobacco products. The Planning Commission may find this standard met.

- h. No drive-through facilities shall be permitted.

**Remarks:** No drive-through facilities are proposed. The Planning Commission may find this standard met.

- i. The marihuana establishment shall comply at all times and in all circumstances with the MRTMA and the Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.

**Remarks:** This may be addressed as a condition of approval.

- j. The Planning Commission may require additional landscape buffers or screening beyond what is required in Section 4.26 of the Zoning Ordinance.

**Remarks:** The applicant has met or exceeded all landscape requirements in Section 4.26, provided the existing trees are found to be a sufficient buffer between the proposed use and adjacent residential use. While additional landscaping is not expected to be necessary, the Planning Commission may require additional landscape buffers or screening if finding a circumstance that warrants such increase.

- k. 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.

**Remarks:** The applicant has not proposed a third-party inventory control and tracking system in the site plan submittal or any method of maintaining records and documentation of cannabis products. The Planning Commission may address this with the applicant.

- l. 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 marihuana.

**Remarks:** The applicant will not be growing or harvesting marihuana on the site, so this standard is not applicable.

- m. 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 Marihuana Establishments, as amended, promulgated by LARA.

**Remarks:** This standard may be addressed as a condition of approval.

### **Recommendation**

At the July 12 public hearing, the Planning Commission should discuss the site plan, application, and carefully consider any comments from the public and the applicant. Subject to those comments, the Planning Commission may approve the application. If the Planning Commission approves the special land use and site plan, we suggest the following conditions be included, along with any others deemed necessary:

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, Lowell Area Fire Department, City Police 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 continually comply with applicable ordinances, codes, and requirements of the City of Lowell.
5. The applicant shall all submit missing site plan items of Section 18.04 B and 17.04 FF, and identified above under Completeness of Submission, unless specifically waived by the Planning Commission.
6. The applicant shall receive a sign permit for any signage on the site in accordance with Chapter 20 of the Zoning Ordinance.
7. 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.
8. The applicant shall receive approval from MDOT for a new curb cut. A copy of an approved driveway permit shall be submitted to the City.
9. The applicant shall maintain a buffer between the subject property and adjacent residential use through existing vegetation or an equivalent buffer that meets the standards of Section 4.26 E(1) of the Zoning Ordinance.
10. All 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 applicant shall install an activated air scrubbing and carbon filtration system in the building and maintain negative air pressure in the building, in accordance with Section 17.04 FF (5)(c) of the Zoning Ordinance.
12. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
13. All waste receptacles containing marihuana products and the trash enclosure shall be secure and locked at all times.
14. Disposal of marihuana by-products or waste shall be in accordance with the rules promulgated by LARA.
15. The marihuana establishment shall comply at all times and in all circumstances with the MRTMA and applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.

16. 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.
17. The security plan shall address the items outlined in our confidential memo dated July 8, 2021, and any other items identified by the City's law enforcement personnel.
18. In the event of any conflict, the terms of this approval are preempted and the controlling authority shall be the statutory regulations set forth by the MTRMA or the adopted Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.

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

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



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

### APPLICATION FOR SITE PLAN REVIEW / SPECIAL LAND USE

- 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 four weeks 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: 126 West Ave SE, Lowell MI 49331
2. Parcel Identification Number (Tax I.D. No.): #41-20-02-353-002
3. Applicant's Name: BTD Holdings, LLC Phone Number 9175090252  
 Address: 1129 N Washington Avenue Lansing MI 48906  
Street City State Zip  
 Fax Number 3139890228 Email Address kevin@iconic-wellness.com
4. Are You:  Property Owner  Owner's Agent  Contract Purchaser  Option Holder
5. Applicant is being represented by: The Covert Law Firm, PLLC Phone Number (517) 512-8364  
 Address: James R. McGillie - 1129 N Washington Avenue, Lansing MI  
48906
6. Present Zoning of Parcel C3 Present Use of Parcel Phase build commercial
7. Description of proposed development (attach additional materials if needed):  
Adult Use cannabis retailer Establishment under MRTMA and local permit/license.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

Signature: KBeebee Date: 06/07/2021

Type or Print Your Name Here: Kevin Beebee

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. [Signature] 6-7-21  
Owner Date

The following 16 points make up the **CHECKLIST** of required information needed on the drawing for final plan approval (unless specifically waived by the Planning Commission). Please go over this **CHECKLIST** with the City Manager and Zoning Administrator before presenting to the Planning Commission.

- |  | <b>INITIAL</b>   |
|--|------------------|
| 1. Date, north arrow and scale (not more than 1" = 100', supplementary site plans at a 1" = 50' or larger scale are encouraged)  | X _____          |
| 2. A city locational sketch  | X _____          |
| 3. Legal description and City address of the subject property  | X _____          |
| 4. The size in acres or square feet of the subject property  | X _____          |
| 5. All lot and/or property lines with dimensions, including building setback lines   | X _____          |
| 6. The location of all existing structures within one hundred (100) feet of the subject property's boundary  | X _____          |
| 7. The location and dimensions of all existing and proposed structures on the subject property   | X _____          |
| 8. The location and dimensions of all existing and proposed:   |                  |
| ▪ Drives   | X _____          |
| ▪ curb openings (NOTE: all new openings onto M-21 (Main Street) must receive State Transportation Department approval)   | X _____          |
| ▪ sidewalks  | X _____          |
| ▪ exterior lighting  | X _____          |
| ▪ curbing  | X _____          |
| ▪ parking areas (include and delineate the total number of parking spaces showing dimensions of a typical space)   | X _____          |
| ▪ unloading areas  | X _____          |
| ▪ recreation areas   | X _____          |
| ▪ common use areas   | X _____          |
| ▪ areas to be conveyed for public use and purpose  | X _____          |
| 9. The location, pavement width and right-of-way width of abutting roads, alleys or easements  | X _____          |
| 10. The existing zoning of all properties abutting the subject project   | X _____          |
| 11. The location of all existing and proposed:   |                  |
| ▪ landscaping and vegetation   | X _____          |
| ▪ location, height and type of existing and proposed fences and walls  | X _____          |
| 12. Proposed cost estimates of all site improvements   |                  |
| 13. Size and location of existing and proposed hydrants and utilities including proposed connections to public sewer or water supply systems   | X _____          |
| 14. The location and size of septic and drain fields   | X _____          |
| 15. Contour intervals shown at five (5) foot intervals   | X _____          |
| 16. <del>FOR RESIDENTIAL DEVELOPMENT, the following information is required (affixed to the drawing):</del>  |                  |
| ▪ <del>Net developable area, in acres or in square feet, defined as all areas that could be developed subtracted by lands used or dedicated for existing easements and rights of way</del> | <del>_____</del> |
| ▪ <del>the number of dwelling units proposed (by type); including typical floor plans for each type of dwelling</del>  | <del>_____</del> |
| ▪ <del>the number and location of efficiency and one or more bedroom units</del>   | <del>_____</del> |
| ▪ <del>typical elevation views of the front, side and rear of each type of building</del>  | <del>_____</del> |
| ▪ <del>Dwelling unit density of the site (total number of dwellings / net developable area)</del>  | <del>_____</del> |

Section 17.03 of the City of Lowell Zoning Ordinance specifies that to approve a special land use, the Planning Commission must find that the request meets the following standards. Please describe how the proposed project would meet each standard.

- A. Each application shall be reviewed for the purpose of determining that the proposed special land use meets the following standards and, in addition, that each use of the proposed site will:
1. 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;  
THE PROPOSED MARIHUANA ESTABLISHMENT IS GOING TO REMAIN AS IS MEETING THE INTENDED CHARACTER OF THE GENERAL VICINITY.
  2. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;  
THE PROPOSED MARIHUANA ESTABLISHMENT DOES NOT HAVE A NEGATIVE EFFECT ON ANY UTILITIES. ALL EXISTING UTILITIES TO THE BUILDING ARE TO REMAIN.
  3. Not create excessive additional requirements at public cost for public facilities and services; and  
THE PROPOSED MARIHUANA ESTABLISHMENT IS UNDER 24/7/365 SURVEILLANCE AND THEREFORE WILL NOT HAVE ANY NEGATIVE IMPACTS TO THE PUBLIC FOR SERVICES OR PUBLIC FACILITIES.
  4. 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.  
THE PROPOSED MARIHUANA ESTABLISHMENT WILL NOT HAVE A NEGATIVE IMPACT ON THE OVERALL WELFARE OF THE NEIGHBORHOOD BY ANY OF THE MENTIONED ITEMS ABOVE.

Section 17.04 of the City of Lowell Zoning Ordinance lists specific standards pertaining to special land uses that must be met. Please respond to those standards below as it pertains to the proposed project, describing how the standards would be met by this proposal:

THE PROPOSED MARIHUANA ESTABLISHMENT IS THE SECOND BY ICONIC WELLNESS. THEIR GOAL IS TO BE A COMMUNITY PLAYER AND WORK TOGETHER TO ENSURE THEY HAVE A CLEAN, SMELL FREE, SAFE, ESTABLISHMENT THAT WORKS TO BE A POSITIVE NEIGHBOR TO THE NEIGHBORHOOD.

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# williams&works

engineers | surveyors | planners

## MEMORANDUM

**To:** City of Lowell Planning Commission  
**Date:** July 8, 2021  
**From:** Andy Moore, AICP  
Whitney Newberry  
**RE:** **Iconic Wellness & Provisioning Center Special Land Use**

BTD Holdings LLC, represented by James McGillie of The Covert Law Firm PLLC, has submitted an application for site plan review and special land use approval to open an adult use marijuana establishment (“Iconic Wellness & Provisioning Center”) at 126 S West Avenue (PPN 41-20-02-353-002). The purpose of this memorandum is to review the request pursuant to Chapter 17 Special Land Uses and Chapter 18 Site Plan Review of the City of Lowell Zoning Ordinance.

### Background

The subject property has an area of approximately 0.3 acres and is within the C3 General Business district. A site plan for the building was previously approved at the October 12, 2020, Planning Commission meeting. This previous review considered the merits of the building in relation to the site and surrounding area, resulting in approval of the building, provided that it was occupied by a permitted by right in the C3 district. At the time of the original approval, the applicant was anticipating using the building for adult use marijuana purposes but did not apply for that specific special land use, indicating they may pursue it at a later time. Now the applicant has in fact proposed to use this building as a recreational marijuana retail facility with no on-site cultivation of the product. Therefore, this review is intended to evaluate the proposed marijuana special land use in the building at this location. By definition, “marijuana retailer” is a type of adult use marijuana establishment. All adult use marijuana establishments are permitted only as a special land use in the C3 District.



### **Completeness of Submission**

The applicant has submitted site plan documents for review. Section 18.04 B provides a list of information required for a detailed site plan review, unless deemed unnecessary by the zoning enforcement officer. We find that the site plan is generally complete for review; however, the following items were not included:

- Location of existing and proposed exterior lighting
- Pavement width and right-of-way width of all streets within 100 feet of the subject property
- The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls
- Size and location of existing utilities
- The location and size of all surface water drainage facilities
- Existing and proposed topographic contours at a minimum of two (2) foot intervals

The building was previously approved in October 2020, so some of the items identified above will likely remain unchanged. However, the Planning Commission may still request their inclusion on the site plan to ensure compliance with applicable standards. In general, we find the application is sufficiently complete for review.

Section 17.04 FF (3) and (4) requires additional application and site plan materials to be submitted for adult use marijuana establishments. The applicant included some of the additional site plan materials; however, the following items were not received:

- Verification
- Isolation radius
- A lighting plan showing the lighting outside of the marijuana establishment for security purposes and compliance with section 4.24 and any other applicable city requirements
- Building materials, descriptions of glass to be used, and other pertinent information that describes construction or structural alterations to accommodate marijuana facilities.

### **SITE PLAN REVIEW**

**Setbacks and Dimensional Requirements.** The building meets all setback requirements for the C3 district (Section 12.04). The lot is legally nonconforming in terms of lot area and width; however, the City permits nonconforming lots to be developed in accordance with the underlying zoning district, provided the applicable setbacks are met.

**Landscaping.** Landscaping is not indicated on the site plan. The lot width is 66 feet, so two canopy trees and six deciduous shrubs are required (Section 4.26 E, 2). Additionally, because parking spaces face a public street, a strip of land at least five feet wide with a solid screen of hedge, fence, or decorative wall at least three feet tall, or a strip of land at least 10 feet wide

containing two canopy trees is required (Section 4.26 E, 3, b). The Planning Commission included as a condition of approval on October 12, 2020, that "Landscaping shall include including 6 box elders and a fence meeting the standards of Section 4.26(3)(b)." Assuming that this has been installed and properly maintained, further landscaping may not be necessary.

**Lighting.** Exterior lighting is not indicated on the site plan. A typical parking lot light detail is provided on C010 of the site plan; however, the location of parking lot lighting is not shown. Exterior lighting should comply with Sections 4.24 of the Zoning Ordinance. The Planning Commission may include this as a condition of approval.

**Parking/Circulation.** The site contains 12 parking spaces, one of which is ADA accessible. Based on the total building size of 2,400 square feet, 12 retail spaces are required (Section 19.07). Therefore, the applicant has met the parking requirement. Yet, considering the parking needs of other retail establishments in the area, this number of spaces may remain insufficient. The Planning Commission may discuss parking needs with the applicant and plan for deferred or shared parking if the existing number of spaces becomes. The Planning Commission may adjust the parking requirement standards when parking demand is expected to be higher or smaller than the requirements, in accordance with Section 19.03 M.

One ADA van accessible parking space is required. While one ADA space is depicted, it does not appear to meet the dimensional requirements for a van accessible space. The Planning Commission may include compliance with ADA standards as a condition of approval.

One loading/unloading space is depicted on the site plan; however, it does not meet the length requirement of 40 feet as required in Section 19.08. The Planning Commission may discuss loading/unloading with the applicant.

**Signage.** A wall sign is proposed on the building frontage and the site plan indicates that this will be in compliance with local ordinances. As a condition of approval, the Planning Commission should require any signage to comply with Chapter 20 of the Zoning Ordinance.

**Provisional License.** The Planning Commission shall require an operating license from the City of Lowell as a condition of special land use approval in accordance with Section 17.04 FF.

**Site Plan Review Standards.** In order to approve a special land use, the Planning Commission must find that each of the standards listed in Section 18.06 would be met. Because the Planning Commission reviewed and approved these standards in October 2020 and no changes are proposed, we will not evaluate them again here. This evaluation only relates to the special land use request.

**Special Land Use Review Standards.** In order to approve a special land use, the Planning Commission must find that the proposed special land use meets each of the following standards in accordance with Section 17.03. Following are these standards and our remarks on each:

- A. 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 marijuana retail use is proposed in a previously-approved building, which has been considered appropriate in design and appearance with the surrounding area.

While the site appearance is considered appropriate, traffic impacts may be further evaluated. On-site parking may not be sufficient for anticipated customer traffic. Traffic circulation should be considered for safety, efficiency, and ability to avoid conflicts with neighboring uses, and the Planning Commission may require additional parking, deferred parking, or a shared parking arrangement in the case that on-site facilities prove inadequate.

It should also be noted that this is the only adult use marijuana facility proposed in Lowell thusfar that does not have any frontage on Main Street, so there may be some concern that this site is too close to the neighborhood to the south. Of course, other facilities, particularly Lume and Premier Botancs, were also approved despite their relative close proximity to the multi-family dwellings on Deborah Drive and the Valley Vista Village Mobile Home Park, respectively. Nevertheless, this location off Main Street may generate objections from neighbors that should be carefully considered by the Planning Commission during its evaluation of the special land use.

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

**Remarks:** The City of Lowell's Master Plan was adopted in 2007 and outlines a desired vision for land uses in the City. The subject property is located in the Mixed Use future land use category. The Mixed Use designation is "intended to permit a mixture of residential, office, and commercial land uses but not necessarily in a downtown style building." Although not in a downtown style building, the Plan notes that these areas should still be pedestrian-oriented. The proposed building and subject property appear to maintain the general purposes and spirit of the Ordinance and Master Plan. The Planning Commission may find that this standard is met.

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

**Remarks:** The building was previously approved with utility connections, which are expected to remain adequate for the proposed use. Stormwater drainage is not included in the site plan and was not addressed during the building approval. The Planning Commission should discuss this with the applicant and may also defer to the City Engineer or DPW Director for comments regarding drainage on the site.

As noted above, the dumpster is located behind the building and may be difficult for a waste hauler to access due to the parking lot and driveway design. Other public facilities

and services are expected to remain adequate from the previous building approval, subject to any additional concerns from the City Engineer, Department of Public Works, City Police Department, or Lowell Area Fire Department.

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

**Remarks:** The proposed use is not expected to use facilities and services beyond a normal retail operation, as the applicant is not proposing to grow or process marihuana on the site. Public water and sanitary sewer connections are already established, so additional hook-ups are not required. The Planning Commission may find this standard met.

- E. 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 would not involve any growing, processing, or consumption of marihuana on the site. The applicant has submitted an odor control and response plan to ensure odors are not perceptible outside the building, including an improved HVAC system, carbon filters, negative building air pressure, a maintenance schedule, and weekly staff monitoring of odors.

Traffic circulation should be considered for the site due to the limited number of parking spaces available. Provided parking is found to be sufficient, other conditions of operation are expected to be appropriate on the site and the Planning Commission may find this standard met.

- F. 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 standard will be addressed as a condition of approval.

**Adult Use Marihuana Establishment Special Land Use Standards.** In addition to the general standards for special land uses of section 17.03, the Planning Commission must also find that the proposed special land use would comply with specific standards established for adult use marihuana establishments as listed in Section 17.04 FF. Our remarks related to the security concerns plan pursuant to Section 17.04 FF(5)(a) are in a separate confidential memorandum. Following are the standards of 17.04 FF(5)(b-m), and our remarks on each:

- b. Separation distances. The distances described in this subsection shall be computed by measuring a straight line from the nearest property line of the land used for the purposes stated in this subsection to the nearest property line of the parcel used as a marihuana establishment. The following minimum-distancing regulations shall apply to all marihuana establishments. A marihuana establishment shall not be located within:

- i. 1,000 feet of a preschool or child care center, whether or not it is within the city of Lowell;
- ii. 1,000 feet of a public or private K-12 school, whether or not it is within the city of Lowell;
- iii. 500 feet of a property within the C-2, Central Business District as illustrated on the City of Lowell Zoning Map.
- iv. Exception. The requirements above do not apply if the marihuana establishment was lawfully established prior to the location of an establishment or zoning district specified in items i - iii above.

**Remarks:** The applicant did not submit a map depicting a 1,000-foot isolation radius from the property. This is a required application material; however, the subject property is more than 1,000 feet from preschools, child care centers, schools, and the C-2 Central Business District. The Planning Commission may find this standard met.

- c. Odors. The marihuana establishment shall be designed to provide sufficient odor-absorbing ventilation and exhaust systems so that any odor generated inside the establishment is not detected outside the building in which it operates, on adjacent public rights-of-way, private road easements, or within other units located within the same building as the establishment if it occupies only a portion of the building. Odors must be controlled and eliminated by the following methods:
  - i. The building must be equipped with an activated air scrubbing and carbon filtration system that eliminates all odors prior to leaving the building. Fan(s) must be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.
  - ii. Air scrubbing and filtration systems must be maintained in working order and must be in use at all times. Filters must be changed per manufacturers' recommendation to ensure optimal performance.
  - iii. Negative air pressure must be maintained inside the building.
    1. At a ratio of 1:4 between the air intake (CFM) and exhaust fan (CFM), or a similar ratio as approved by the planning commission.
    2. A minimum negative pressure of 0.01" water column relative to the building exterior and to adjacent spaces without product.
    3. A minimum exhaust rate of 0.2 CFM per square foot of floor area or greater.
  - iv. Doors and windows must remain closed, except for the minimum time length needed to allow people to ingress or egress the building.

- v. The planning commission may approve an alternative odor control system if a mechanical engineer licensed in the State of Michigan submits a report that sufficiently demonstrates the alternative system will be equal or superior to the air scrubbing and carbon filtration system otherwise required above.

**Remarks:** The applicant submitted an odor control and response plan, which includes measures for sealing rooms with marihuana, an appropriately sized and maintained HVAC system, maintenance of negative air pressure, installation of activated carbon filters, and staff training to evaluate odor outside the building. These measures appear sufficient to control odors at the establishment. The Planning Commission may find this standard met.

- d. The marihuana establishment shall be operated and maintained at all times so that any by-products or waste of any kind shall be properly and lawfully kept and disposed of so as to preclude any risk of harm to the public health, safety, or welfare.

**Remarks:** The applicant provided a Facility Sanitation and Waste Disposal Plan, detailing the measures for disposal of marihuana waste. This includes procedures in accordance with LARA regulations, including rendering waste unusable and unrecognizable prior to being transported from the facility. Additionally, the applicant has proposed for all waste disposal activities to be performed in full view of a surveillance camera and tracked. The narrative states that both indoor and outdoor dumpsters would be locked. The Planning Commission may find this standard met.

- e. The marihuana establishment shall not be operated out of a residence or any building used wholly or partially for residential purposes.

**Remarks:** There would not be a residence associated with the marihuana establishment. The Planning Commission may find this standard met.

- f. Any portion of the structure where energy usage and heat exceed typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to ensure compliance with applicable fire codes. 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.

**Remarks:** The proposed use will not involve the processing or growing of marihuana. The Facility Sanitation and Waste Disposal Plan addresses chemical and hazardous waste, listing any substances that are anticipated for use on the site. These are limited to household type cleaners and products. The Planning Commission may find this standard met.

- g. A marihuana establishment shall not be operated from a business that also sells alcoholic beverages or tobacco products.

**Remarks:** The applicant has not proposed the sale of alcoholic beverages or tobacco products. This may be addressed as a condition of approval.

- h. No drive-through facilities shall be permitted.

**Remarks:** No drive-through facilities are proposed. The Planning Commission may find this standard met.

- i. The marihuana establishment shall comply at all times and in all circumstances with the MRTMA and the Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.

**Remarks:** This may be addressed as a condition of approval.

- j. The Planning Commission may require additional landscape buffers or screening beyond what is required in Section 4.26 of the Zoning Ordinance.

**Remarks:** Landscaping is currently not indicated on the site plan. Due to the site's nonconforming lot size and width, additional landscaping would be difficult to accommodate. Because the C3 zoning district is adjacent to all property boundaries, additional landscaping does not appear necessary. However, original landscape standards should be addressed, as noted above under Landscaping.

- k. 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.

**Remarks:** The applicant has provided an Inventory and Recordkeeping Plan with narrative regarding product inventory control. The applicant is proposing to use the statewide monitoring system METRC to maintain inventory. The inventory plan implements several steps to ensuring accurate inventory tracking, including training, product tagging, random audits, and compliance with LARA regulations. The Planning Commission may include the right for the City to examine, monitor, and audit such records and documentation as a condition of approval.

- l. 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 marihuana.

**Remarks:** The applicant is not proposing to grow or harvest marihuana on the site, so this standard is not applicable.

- m. 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 Marihuana Establishments, as amended, promulgated by LARA.

**Remarks:** This standard may be addressed as a condition of approval.



## **Recommendation**

At the July 12 public hearing, the Planning Commission should discuss the site plan, application, and carefully consider any comments from the public and the applicant. Subject to those comments, we recommend the Planning Commission resolve the following issues before making a decision on the application:

1. **Lighting.** Exterior lighting is not indicated on the site plan. All exterior lighting should be identified for security purposes and to ensure light intensity does not exceed 0.5 foot candles at private property boundaries. The Planning Commission may request a photometric plan if determined necessary.
2. **Parking.** Parking spaces meet the minimum requirement of the Ordinance, but half of the spaces are allocated to employees, barrier free, and electric vehicle parking. While these spaces are appropriate in themselves, we are concerned that the remaining six regular parking spaces will not be sufficient to accommodate customer traffic based on the trends of other marijuana retail establishments in the area. The Planning Commission should discuss alternative parking arrangements with the applicant. Additionally, the ADA space should meet the dimensions for a van accessible space, which may impact the number of parking spaces.
3. **Traffic Circulation.** The lot width limits the ability for vehicles to travel around the building, so two-way traffic is proposed in a 12-foot aisle. While only allowing employees behind the building may limit conflicts in this area, it should be clearly designated for employees only so customers do not try to park behind the building. Additionally, there may be conflicts with the waste hauler maneuvering behind the building when parking spaces are full, as this leaves little area for turning.

If the Planning Commission finds these concerns adequately addressed, the Planning Commission may approve the application. If the Planning Commission approves the special land use and site plan, we suggest the following conditions be included, along with any others deemed necessary:

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, Lowell Area Fire Department, City Police 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 continually comply with applicable ordinances, codes, and requirements of the City of Lowell.

5. The applicant shall all submit missing site plan items of Section 18.04 B and 17.04 FF, and identified above under Completeness of Submission, unless specifically waived by the Planning Commission.
6. The applicant shall comply with the landscape requirements of Section 4.26 of the Zoning Ordinance, unless specifically modified by the Planning Commission.
7. Any outdoor lighting shall be added to the site plan and comply with Section 4.24 of the Zoning Ordinance.
8. The applicant shall provide one ADA van accessible space on the site.
9. The loading/unloading space shall meet the requirements of Section 19.08 of the Zoning Ordinance, including a 40-foot length, unless specifically modified by the Planning Commission.
10. The applicant shall receive a sign permit for any signage on the site in accordance with Chapter 20 of the Zoning Ordinance.
11. 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.
12. All 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.
13. Doors and windows shall remain closed, except for the minimum time length needed to allow people to ingress or egress the building.
14. The marihuana establishment shall not be operated from a business that also sells alcoholic beverages or tobacco products.
15. The marihuana establishment shall comply at all times and in all circumstances with the MRTMA and applicable Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.
16. The security plan shall address the items outlined in our confidential memo dated July 8, 2021, and any other items identified by the City's law enforcement personnel.
17. In the event of any conflict, the terms of this approval are preempted and the controlling authority shall be the statutory regulations set forth by the MRTMA or the adopted Rules for Adult Use Marihuana Establishments, as amended, promulgated by LARA.

**2021**

<b>Open Date</b>	<b>Close Date</b>	<b>Address</b>	<b>Name/Business</b>	<b>Subject</b>
02/04/2021	02/04/2021	514 N. Monroe	Home Specialists	Remodel
03/30/2021	03/30/2021	1490 Sibley	Christian Hattis	Re-Roof
03/16/2021	07/01/2021	510 Kent	Matt Garrison	New Home
04/08/2021	04/13/2021	318 E. Main	BGR Investments	Fence
04/21/2021	04/27/2021	226 S. Jefferson	Donald Lasby	Addition
04/22/2021	04/28/2021	418 N. Jefferson	Patty Story	Fence
05/04/2021	05/04/2021	1401 W. Main	Rite Aid	Updated Signs
06/03/2021	06/03/2021	781 Foreman	Mark Batchelor	Fence
06/04/2021	06/09/2021	151 N. Center	Paula Rittersdorf	Deck
06/08/2021	06/08/2021	2420 Gee Drive	Lori Gerard	Deck
06/09/2021	06/10/2021	804 Riverside	Taylor Bonga	Fence
06/01/2021	06/11/2021	206 S. Division	Noah Trulock	Fence
06/29/2021	06/29/2021	257 Donna	Elizabeth Sparks	Re-Roof
07/08/2021	07/08/2021	2601 W. Main	Mercantile Bank	Interior Remodel