

**OFFICIAL PROCEEDINGS
OF THE
PLANNING COMMISSION-CITIZEN ADVISORY COMMITTEE
CITY OF LOWELL, MICHIGAN
FOR THE REGULAR MEETING OF
MONDAY, SEPTEMBER 13, 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, Dave Cadwallader, Marty Chambers, Collin Plank, Michael Gadula and Chair Bruce Barker

Absent: Commissioner Amanda Schrauben.

Also Present: City Attorney Thomas Forshee with Dickenson Wright, Andy Moore with William & Works, Lowell City Clerk Sue Ullery.

2. **EXCUSE OF ABSENCES.**

IT WAS MOVED BY CADWALLADER and seconded by CHAMBERS to excuse the absence of Commissioner Amanda Schrauben.

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

3. **APPROVAL OF AGENDA.**

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

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

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

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to approve minutes of the August 09, 2021 Regular Meeting as corrected.

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

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

Mike DeVore who resides at 424 Elm Street wanted to thank the commissioners for the work that they are doing and let them know that they are appreciated.

6. **OLD BUSINESS.**

a.) **Public Hearing – 805 East Main Street– Hive Wellness LLC-Site Plan Review/Special Land Use.**

Chair Barker opened Public Hearing.

Conner Baker who is the owner of Hive Wellness LLC spoke explaining his plan to renovate and section off a portion of the first floor of the building at 805 E. Main Street, to accommodate an adult use marihuana establishment. Also to beautify the outside of the building.

Andy Moore with Williams & Works then provided background info stating the marihuana establishment is proposed on two lots, which have a combined area of approximately 0.84 acres. For the purpose of this

review, both lots, will be considered as a single property, as they are both proposed as an integral part of the marihuana use. The subject property is located in the C3 General Business zoning district and is surrounded by the R2 Single or Two Family Residential district and the R3 Multiple Family Residential district. The property contains an existing building that was previously used as the Rollaway Family Fun Center. The applicant is proposing to renovate the building and operate an adult use marihuana retail establishment in it. No on-site cultivation or consumption of the product is proposed. By definition, “marihuana retailer” is a type of adult use marihuana establishment. Adult use marihuana establishments are permitted in the C3 district only with a special land use approval by the Planning Commission. It is worth noting that until recently, marihuana establishments were not permitted at this location due to the presence of a preschool at the Lowell United Methodist Church. The zoning ordinance prohibits the operation of a marihuana establishment within 1,000 feet of a daycare center. However, with the preschool recently closed, this property is now outside the isolation radius required for marihuana establishments in the City. This was discussed with the Planning Commission at the June meeting. At that time, the Planning Commission held a public hearing and ultimately recommended approval of an amendment to the Zoning Ordinance that would prohibit all adult use marihuana establishments on any property east of the Flat River. However, this proposed amendment was not accepted by the City Council. Thus, this and other properties east of the Flat River remain available as potential locations for adult use marihuana establishments, subject to the terms of the Zoning Ordinance.

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

In reference to standard A, Commissioner Chambers said green space has to be there and concerned how to shield neighbors from lights, noise, etc. coming from building. There will need to be a 10’ green setback along M-21, which will take up the parking spaces.

Commissioner Plank is concerned that this use affects public health, safety & welfare. He feels like we need additional information for this establishment and questioned whether welfare was being impacted. Important to think about this as we move forward because this property is mostly surrounded by residents.

Chair Barker opened it up for comments from the Public.

John Sterly who resides at 711 Avery spoke regarding the “survey”. He knows he and Ann were not surveyed, nor was the owner of the residence across the street, 123 Division. Also, questioning a parking lot there on Horatio and whether they would still be able to keep Horatio as an actual street. Lastly, the Methodist Church does not currently have a preschool but they are gearing up right now to have a “before and after work” daycare. He does not believe this is a good fit.

Ann Charles who resides at 711 Avery spoke regarding her concern for children and this community and gave nine good reasons why this establishment should not be allowed. She does not feel that this is a good fit.

Craig Fonger who resides at 827 N Washington St stated he doesn’t think the amount of traffic from this becoming a marihuana establishment would be any worse than when it was as a bowling alley/skating rank, and he feels they should be allowed to develop the property.

Cheryl Jahnke who resides at 905 E Main stated he has improved the area and she does not see what the problem would be. Bowling alley was busy. Property has been for sale for years. She is in favor of the establishment.

Clark Jahnke who resides at 905 E. Main feels it is the wrong application, he just feels something needs to happen to that property and maybe he is the guy to do it, but not a marihuana establishment. Pedestrian traffic has increased around there also.

Pam Rowley who lives at 804 E. Main stated she is not in favor of this marihuana establishment.

Jim Hodges who resides at 422 N. Jefferson stated this applicant, Connor Baker, came to the City Council to

propose medical marihuana approximately six years ago. Hodges suggested we observe the other marihuana establishments and how quiet and how well run they are and there are security guards. He feels these establishments are better for our community, better tax income and better site development. He is in favor of this establishment.

Patrick Bailey who resides at 823 Avery is not in favor of this establishment and feels that every family is a daycare. There is a bus stop right there as well. Does not feel this is the right place for this kind of an establishment.

Amy Kuble who resides at 919 E. Main is not in favor of a marihuana establishment at this location.

David Deaton who resides at 721 Avery stated he is also not in favor of a marihuana establishment on this end of town.

City Clerk Sue Ullery read an email from Maryalene LaPonsie who owns 717 E. Main Street and is not in favor of a marihuana dispensary in her neighborhood.

Chair Barker closed the Public Hearing.

City Attorney Tom Forshee with Dickinson Wright stated this is a special land use application, it is in the C3 district so it is not prohibited. He advised the Commission to go through the process to approve with conditions or deny. Support your decision with competent material and substantial evidence on the record. Review the special land use and site plan review standards to find that they either are met or they are not met and support that with evidence that may either dictate a denial or an approval with conditions that help out some of those areas that are defined so deleterious to the surrounding neighborhood.

IT WAS MOVED BY BARKER and seconded by ELLIS to deny the application of Hive Wellness LLC for the site plan review portion of the application as the site plan review fails to standards as outlined in Section 1806, specifically standards A, B, C, D and F, noting staff comments.

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

NO: None. ABSENT: Commissioners Schrauben.. MOTION CARRIED.

Moore then reviewed Special Land Use Standards A through F.

Commissioner Ellis spoke in regards to Standard E stating the loading dock area is not in a favorable location as it is open to the public.

Chair Barker then opened it up for public comments.

Clark Jahnke who resides at 905 E Main asked that the Commissioners carefully consider their decision as there would be a lot of things that would need to be modified.

Patrick Bailey who resides at 823 Avery Street spoke saying a sidewalk was promised but never followed through on, so he hopes that is a consideration with these changes.

Conner Baker, Hive Wellness LLC SLU applicant spoke stating this was a bar, that did operate late into the night, and when he did his survey, there was somebody that had discussed that with him and he assured them that this would not be open later than 9:00 pm. Also, it was not purchased until after it was discussed with the city manager that the property itself is in fact eligible and that there would not be

a problem with the property itself. Baker also discussed that 805 is technically the only property for the marihuana establishment. The property at 825 E. Main will be leased for the parking lot.

Kim Bailey at 824 E. Main inquired whether it is a cash only business and Baker responded credit cards are acceptable as well.

IT WAS MOVED BY BARKER and seconded by GADULA to deny the application for the Special Land Use for Hive Wellness LLC, specifically because of standards A, B, C and E not being met as well as the public discussion and Moore, with Williams & Works comments.

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

NO: None.

ABSENT: Commissioners Schrauben.

MOTION CARRIED.

City Attorney Tom Forshee with Dickinson and Wright stated commissioners should have some discussion stating the exact reasons that justify your decisions for each of the standards you believe are not met. Forshee also stated there was a lot of good discussion here tonight about the reasons why; so he suggests language that would allow the secretary of planning commission to develop some findings and conclusions with the help of the City Attorney and City Planner to bring back to you at the next meeting to whether you either adopt or not adopt, showing it is accurate or not so that you have a summary and consensus for the reasoning for your decision. It needs to be recorded on the record that it existed. So that they are clear on your decision to deny. Forshee stated what he heard was landscaping, parking, adjacent residential use, detrimental traffic circulation, noise, three or four sides being adjacent residential and the traffic impacts on that, and the impact of a marijuana use on particularly residential zones.

Moore then went through the Adult Use Marihuana Special Land Use Standards B through M.

Commissioner Chambers asked Moore to clarify the C2 district 1000-foot rule of a preschool or child care center or a public or private K-12 school. Last, they can't be within 500 feet of any property in the central business district so there is a big 500-foot isolation radius around the main downtown core. They are also outside the four blocks to the east of downtown where we have that mixed use designation, and they are outside of that 500-foot isolation radius as well.

Commissioner Plank wanted to note what Patrick Bailey had stated earlier that a nuclear family has as much value as a daycare and there are already a lot of families living here and these parents and kids are not choosing to have their kids exposed to those facilities are forced to do so.

Chair Barker commented on Standard J, that the Planning Commission may require additional landscape or screening.

Commissioner Ellis also commented on Standard J and would like to see the applicant's creative thoughts on what he would do with the landscaping.

Chair Barker then opened it up for public comments.

Denise Barker who resides at 901 N Jefferson inquired whether the applicant was only planning to use a quarter of the building.

Connor Baker, Hive Wellness LLC applicant, commented saying 3,400 square foot will be used for marihuana retail space and the entire upstairs would be used for commercial units available to be leased. Two other units would be used for leasing out as well. A lot of options to consider.

Chair Barker then closed the public comments and the public hearing.

IT WAS MOVED BY BARKER and seconded by CHAMBERS to accept that the adult use marijuana establishment special land use standards for Hive Wellness LLC at 805 E. Main be approved based on the other standards being met.

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

NO: None.

ABSENT: Commissioner Schrauben.

MOTION CARRIED.

Moore then reviewed conclusions stating as we went through this we identified several issues that kept coming up to us such as the completeness of the application, the landscaping issue which we talked about quite a bit tonight, the lighting, parking and finally safety and circulation. Those were kind of the site plan/SLU related issues that were areas of concern. What we struggled with, with this application in particular, was frankly the location of it in the City is not ideal and this site is so difficult and there are 3 of the 4 sides surrounding this site that are all residential properties. Moore continued, if the Planning Commission feels that there are things that you can do to make this acceptable, then you can accept them, without a bunch of conditions, but if not then you would be looking towards a denial of the site plan/special land use. It is up to the Planning Commission; I think that at this point our conclusion here speaks for itself in terms of what our concerns are and what's unique about this property. So at this point, we should also have one last motion that addresses the site plan and the special land use and make it clear what the final decision is and its findings.

City Attorney Tom Forshee agreed with Moore and suggested language regarding preparation of findings and conclusions to be done in writing; come back next meeting to either approve this or deny this.

IT WAS MOVED BY BARKER and seconded by ELLIS that the Planning Commission deny Hive Wellness LLC's Site Plan and Special Land Use Application for reasons that they failed to meet the standards as cited with the additions of Andy Moore with Williams & Works findings, the Planning Commissioners findings, the general public's findings and the applicant's findings further result in this motion of the planning commission secretary, with the assistance of the City Attorney and City Planners is hereby directed to prepare findings of backing up conclusions based on the discussion tonight, this motion and the record evidence you brought back at our next meeting for adoption.

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

NO: None.

ABSENT: Commissioner Schrauben.

MOTION CARRIED.

8. **STAFF REPORT.**

There was none.

9. **COMMISSIONERS REMARKS.**

Chair Barker thanked all the participants tonight, it was a lot of hard work and tough decisions.

City Clerk Sue Ullery stated we do have our combined Planning Commission meeting with Vergennes Township and Lowell Township set up for October 25, 2021 here at City Hall at 7:00 p.m.

10. **ADJOURNMENT.**

IT WAS MOVED BY CHAMBERS and seconded by CADWALLADER to adjourn at 8:58 p.m.

DATE:

APPROVED:

Bruce Barker, Chair

Susan Ullery, Lowell City Clerk