# Agenda
# Regular Meeting of the City Commission

City of Kalamazoo

**Monday, August 7, 2017 7:00 PM**

**City Commission Chambers - 241 W. South Street**

**A. CALL TO ORDER/ROLL CALL**

**B. OPENING CEREMONY**

1. Invocation: Pastor Matt Munson, Valley Family Church
2. Pledge of Allegiance
3. Introduction of Guests
   a. Group Violence Intervention Update
4. Proclamations

**C. ADOPTION OF FORMAL AGENDA**

**D. COMMUNICATIONS**

1. Calendar of Upcoming Meetings

**E. PUBLIC HEARINGS**

1. Public hearing to receive comments on an ORDINANCE to rezone 621 W. Kalamazoo Avenue from Zone M-1 (Manufacturing, Limited District) to Zone RD-19 (Residential, Duplex District). **(Action: Motion to adopt the ordinance)**

**F. CONSENT AGENDA**

**(Action: Motion to approve Items "1-5" and authorize the City Manager to sign all documents on behalf of the City)**

1. Approval of a agreement with JWC Environmental for the overhaul of three fine screening units at the Wastewater Treatment Plant in the amount of $105,000.

2. Approval of a contract with L.D. Docsa Associates, Inc. for Davis Street Park Improvements in the amount of $159,900.00.

3. Approval of a change order in the amount of $163,888.17 to the contract with Hoffman Brothers Inc. for the Farmers Alley Project .

4. Approval of a one-year contract extension for the purchase of 16% sodium hypochlorite, by volume, from Alexander Chemical Corporation in the amount of $241,400.

5. Adoption of Resolutions #1, 2, and 3 for the purpose of approving the 2016 Kalamazoo Mall Sidewalk Maintenance Assessment at a per front foot cost of $14.779. Resolution #3 schedules a public hearing for September 18, 2017.

**G. REGULAR AGENDA**

**H. REPORTS AND LEGISLATION**

1. City Manager's Report

**I. UNFINISHED BUSINESS**

1. Foundation for Excellence Discussion

**J. POLICY ITEMS**

**K. NEW BUSINESS**

**L. CITIZEN COMMENTS**

**M. MISCELLANEOUS COMMENTS AND CONCERNS BY COMMISSIONERS**

**N. CLOSED SESSION**

**O. ADJOURNMENT**

## ADDITIONAL INFORMATION

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Agendas for the regular meetings of the Kalamazoo City Commission are available on the Internet at: www.kalamazoocity.org

The Kalamazoo City Commission business meetings are held on the first and third Mondays at 7:00 p.m. and are shown live on the Public Media Network (channel 190 for Charter customers, channel 99 for U-Verse customers). Business meetings are also web streamed live on the City's YouTube channel at https://goo.gl/Q6DW37. Public Media Network rebroadcasts these meetings on Tuesdays at 8:00 a.m., Wednesdays, at 1:00 a.m., and Thursdays at 3:00 p.m. Recorded meetings are also available on-demand on the YouTube channel.

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** Scott A. Borling, City Clerk

**PREPARED BY:** Shelby Moss, Deputy City Clerk

**DATE:** 7/19/2017

**SUBJECT:** Calendar of Upcoming Meetings

**INFORMATIONAL ITEMS**

Attached is the calendar of upcoming meetings of the City Commission's advisory boards, commissions, and committees.

**ATTACHMENTS:**

| | Type | Description |
|---|---|---|
| 🗋 | Meeting Schedule | Calendar of Upcoming Meetings |

# Calendar of Upcoming Meetings

City of Kalamazoo

## City Commission (next 30 days)

***Regular Business Meetings – 7:00 p.m. in the City Commission Chambers***

August 21st and September 5th

***Regular Neighborhood Meetings – 6:00 p.m. in the Community Room at City Hall***

August 21st

## Advisory Boards, Commissions and Committees (next two weeks)

The **Parks and Recreation Advisory Board** will meet on Tuesday, August 8, 2017 at 5:30 p.m., at Emerald Drive Park, located at 3200 Emerald Drive.

The **Kalamazoo Historic Preservation Commission** will meet on Tuesday, August 8, 2017 at 7:00 p.m., in the Community Room at City Hall.

The **Traffic Board** will meet on Thursday, August 10, 2017 at 2:00 p.m., in the Public Services Conference Room, located at 415 Stockbridge Avenue.

The **Zoning Board of Appeals** will meet on Thursday, August 10, 2017 at 7:00 p.m., in the Commission Chambers at City Hall.

The **Historic District Commission** will meet Tuesday, August 15, 2017 at 5:00 p.m., in the Community Room at City Hall.

The **Environmental Concerns Committee** will meet on Wednesday, August 16, 2017 at 4:30 p.m., in the Community Room at City Hall.

The **Economic Development Corporation** will meet on Thursday, August 17, 2017 at 7:30 a.m., in the Community Room at City Hall. The **Brownfield Redevelopment Authority** will meet immediately following.

The **Building Board of Appeals** will meet on Thursday, August 17, 2017 at 2:00 p.m., in the City Commission Chambers at City Hall.

The **Kalamazoo Municipal Golf Association** will meet on Thursday, August 17, 2017 at 12:00 p.m., in the Clubhouse at Milham Park Golf Course, located at 4200 Lovers Lane.

The **Downtown Development Authority** will meet on Monday, August 21, 2017 at 3:00 p.m., in the Community Room at City Hall.

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

**REVIEWED BY:** Rebekah Kik, Director

**PREPARED BY:** Robert H. Bauckham, Senior Development Planner

**DATE:** 6/26/2017

**SUBJECT:** Rezone 621 W. Kalamazoo Avenue

## RECOMMENDATION

It is recommended that the City Commission adopt an ordinance to rezone 621 W. Kalamazoo Avenue from Zone M-1 (Manufacturing, Limited District) to Zone RD-19 (Residential, Duplex District).

## BACKGROUND

The property for the rezoning request is located in the Stuart neighborhood and it contains an approximately 1,700-square-foot, two-story house with four units that was constructed in 1900. A parking lot is located on the western portion of the site for the use of the occupants of the house. The house was utilized as a traditional rental facility in the past and was registered through the city housing rental program. More recently, it has been used as a bed and breakfast business.

The subject parcel is currently in the M-1 zoning district. New residential uses and bed and breakfast facilities are not permitted in this zone. The former residential rental use was grandfathered in for the house, but the bed and breakfast use represents a recent change that needs to be approved. In order for the applicant to be allowed to continue the bed and breakfast use, the parcel needs to be rezoned to a district in which it is permitted.

This area of the city is primarily residentially-developed. The Planning Division supports changing the industrial zoning of the subject parcel so that it is compatible with the adjacent zoning and uses. The future land use plan identifies the parcel to be in the Core 1 Residential category along with all of the other parcels in the block. The proposed rezoning would be compatible with the future land use category. In the current M-1 zone, an industrial use could locate on the property by right. Staff does not support such new industrial uses in this area.

The parcels to the west and north of the subject property are in the RD-19 zone. The proposed rezoning of the subject parcel to RD-19 would make it the same as the zoning of these adjacent parcels. Rezoning it to any other zoning district would be considered “spot” zoning," which is not allowed.

The applicant desires to continue operating the bed and breakfast facility on the property. Such a use is allowed in the RD-19 zone, with a special use permit. Therefore, the applicant also applied for a special use permit from

the Planning Commission for the bed and breakfast use. The Planning Commission approved the special use permit at the June 1, 2017 meeting with the condition that the rezoning to RD-19 needs to be approved by the City Commission. If the rezoning is not approved, the special use permit approval would automatically be cancelled.

The applicant also applied for a variance to allow both long and short-term (bed and breakfast) rental use of the house. The Zoning Board of Appeals approved the variance at its meeting on June 8, 2017. The variance is also contingent upon the rezoning approval. A request to not have an on-site operator of the bed and breakfast was denied.

The Stuart neighborhood association was notified of the request. The applicant also contacted the association to explain the request, answer questions, and address any concerns.

It is noted that the request was first initiated in April 2017, but it was postponed to the June 1 Planning Commission meeting to allow the applicant an additional opportunity to speak with the neighbors and the neighborhood association about the bed and breakfast use.

**COMMUNITY RESOURCES CONSULTED**

The applicant for this request has spoken with many of the Stuart neighbors about this request. She has also spoken with the director of the neighborhood association on several occasions. The neighborhood association supported the request, but expressed interest in having short-term rental regulations created to address similar situations in the future. A notification of the public hearing on the request held by the Planning Commission was mailed to all property owners and occupants within 300 feet of the subject parcel prior to the meeting. A notification was also published in the Kalamazoo Gazette prior to the meeting. The same process was conducted for the public hearing to be held by the City Commission.

**FISCAL IMPACT**

This request will not have a fiscal impact on the city administration. The use of the house for regular residential rental purposes is grandfathered in and could continue. If the rezoning is approved, the applicant would be able to use the house for a bed and breakfast facility. No additions are planned for the house or significant modifications. The property taxes generated from the house would not appreciably change for the proposed use.

**ALTERNATIVES**

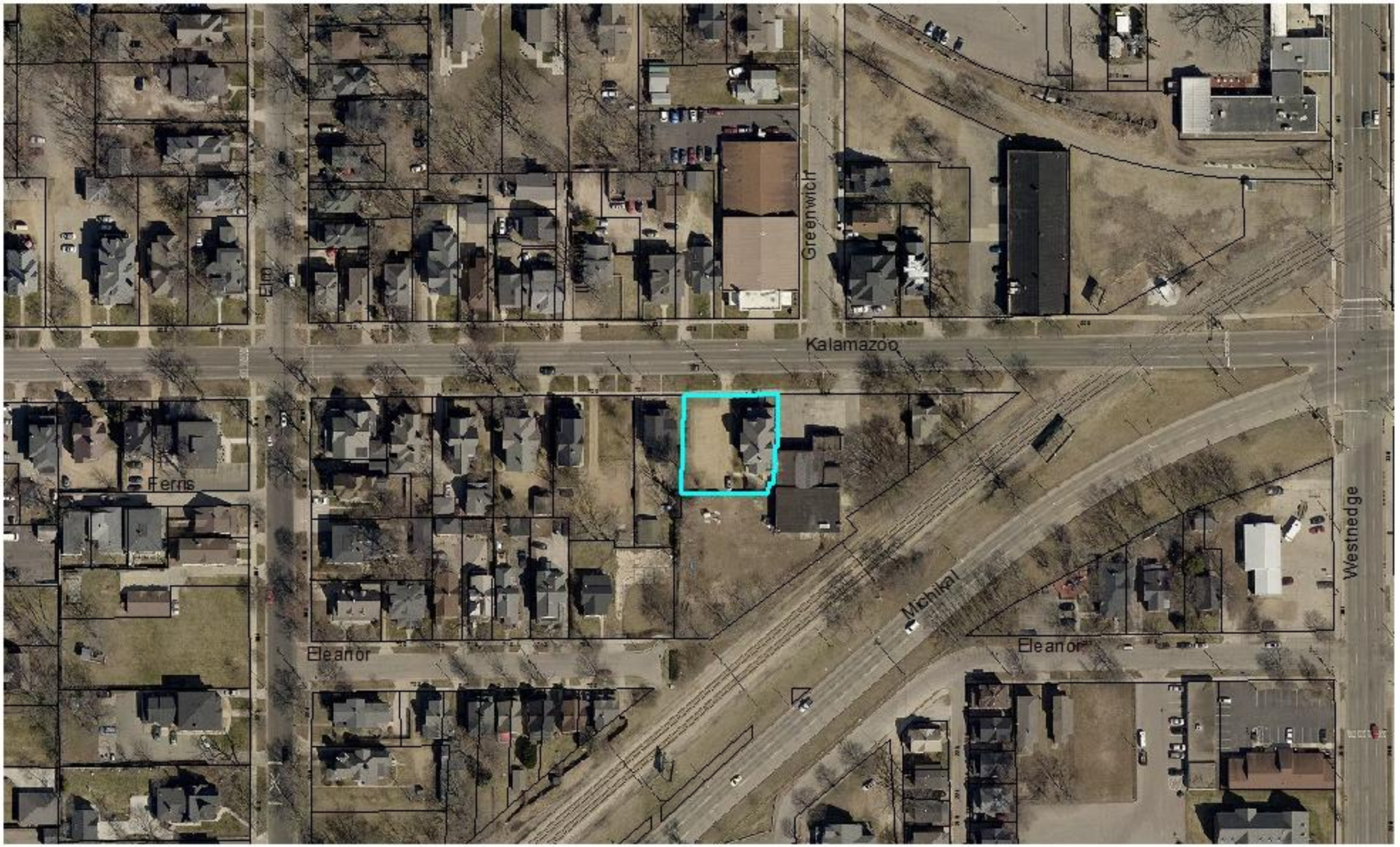
The City Commission has the option of not approving the rezoning request. If the parcel is not rezoned, the bed and breakfast use would be required to cease. An industrial use could locate on the subject parcel by right in the current M-1 zone. Such a use is not supported by city staff. It is recommended that the City Commission approve the rezoning request.

**ATTACHMENTS:**

| | Type | Description |
|---|---|---|
| 🗋 | Aerial Photo | Aerial photo |
| 🗋 | Map – Existing Zoning | Existing zoning |
| 🗋 | Map – Proposed Zoning | Proposed zoning |
| | Map - | |

- Existing Land Use — Existing land use
- Future Land Use Map — Future land use
- Map — Ordinance map
- Ordinances — Ordinance
- Minutes — PC meeting minutes

P. C. #2017.02 - 621 W. Kalamazoo Avenue
Rezone from Zone M-1 (Manufacturing, Limited District) to
Zone RD-19 (Residential, Duplex District).
P. C. #2017.03 - 621 W. Kalamazoo Avenue
Special use permit to allow a bed and breakfast use.

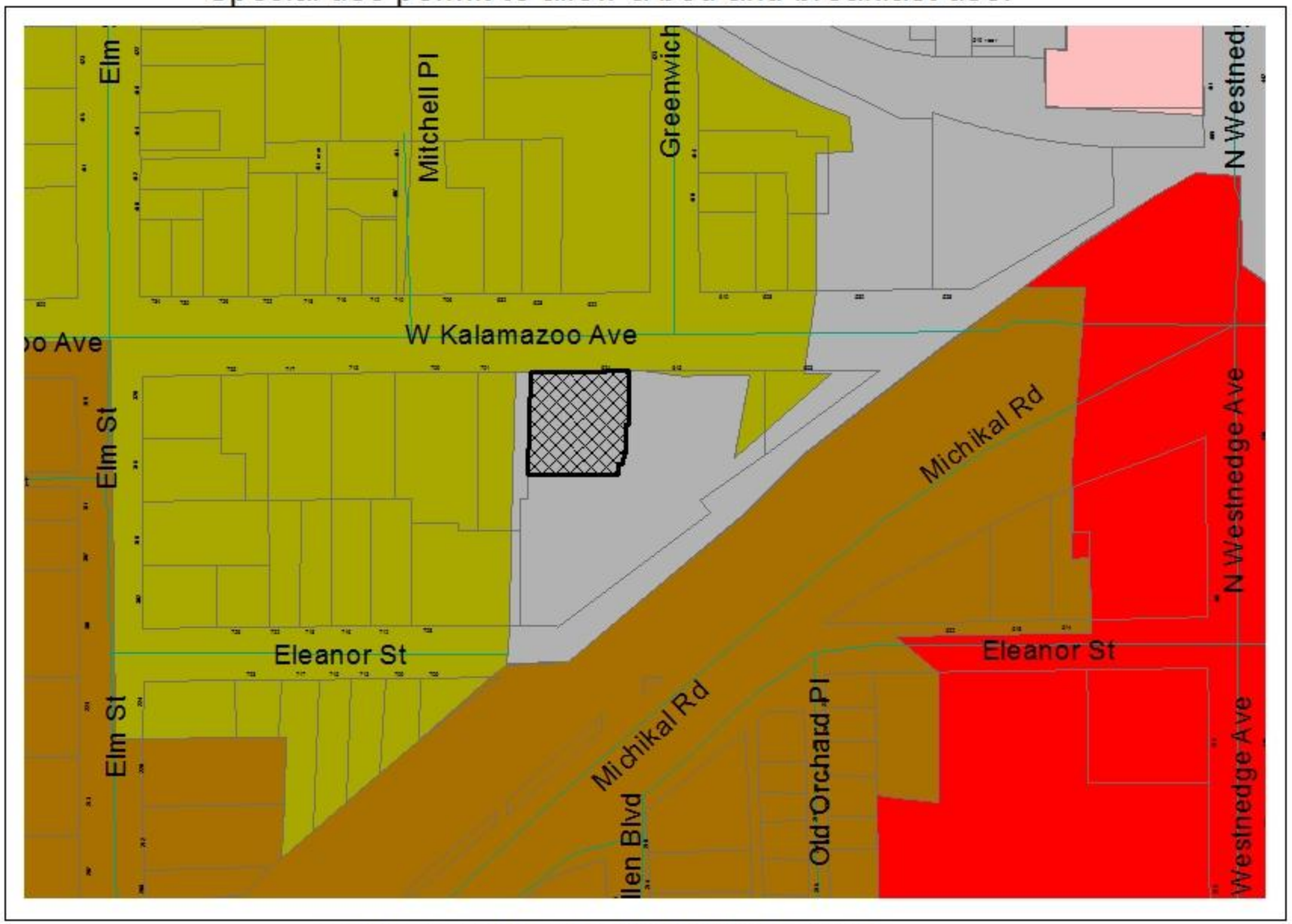



REZONE FROM ZONE M-1 TO ZONE RD-19
AND APPROVE A SPECIAL USE PERMIT TO
ALLOW A BED & BREAKFAST USE.

0 95 190 380 Feet

N

P. C. #2017.02 - 621 W. Kalamazoo Avenue
Rezone from Zone M-1 (Manufacturing, Limited District) to
Zone RD-19 (Residential, Duplex District).
P. C. #2017.03 - 621 W. Kalamazoo Avenue
Special use permit to allow a bed and breakfast use.




**CURRENT ZONING**

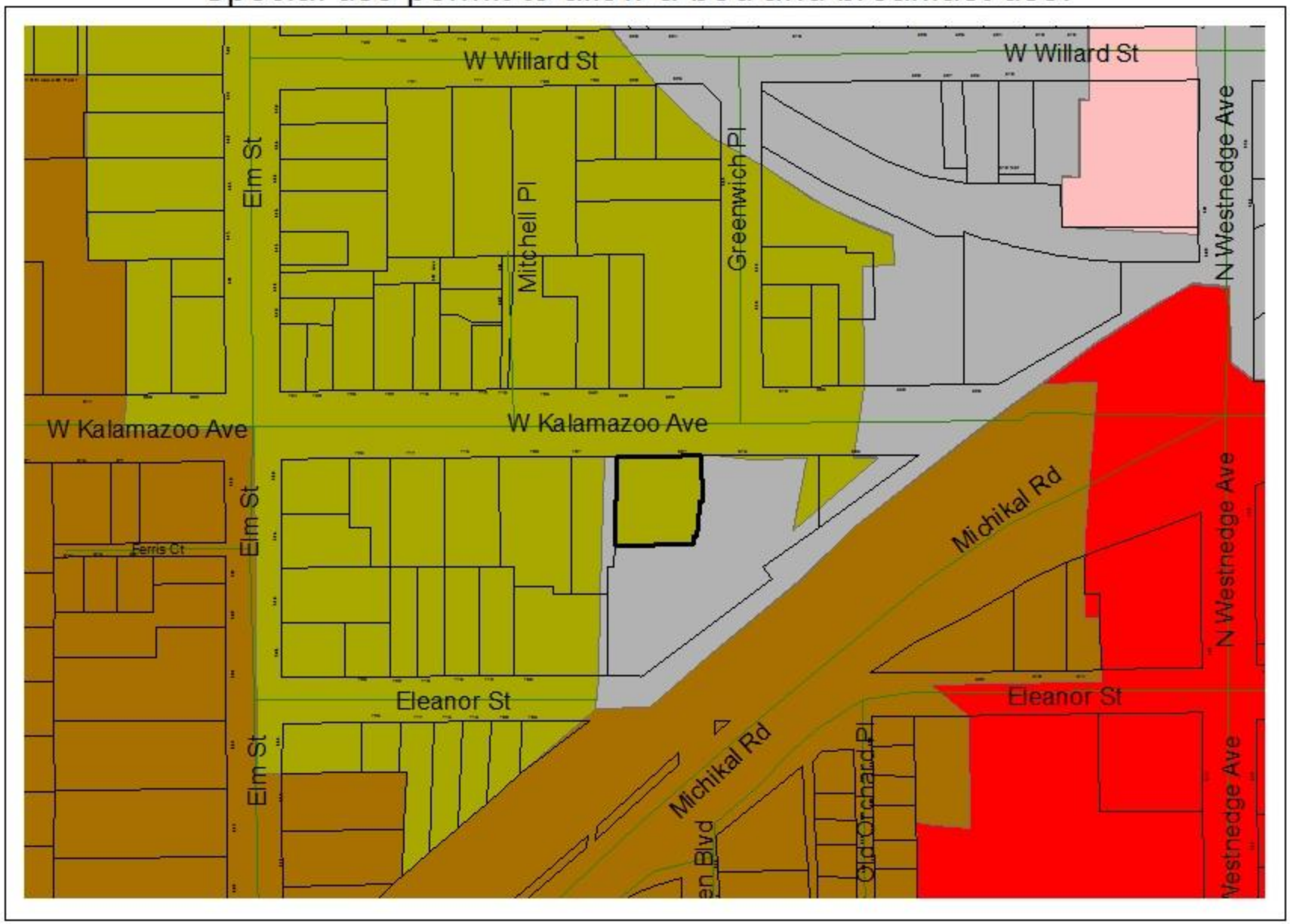
- CBTR
- CC
- CCBD
- CMU
- CN-1
- CO
- M-1
- M-2
- PUD
- RD-19
- RM-15
- RM-15C
- RM-36
- RMU
- RS-5
- RS-7

REZONE FROM ZONE M-1 TO ZONE RD-19
AND APPROVE A SPECIAL USE PERMIT TO
ALLOW A BED & BREAKFAST USE.

0 90 180 360 Feet

N

P. C. #2017.02 - 621 W. Kalamazoo Avenue
Rezone from Zone M-1 (Manufacturing, Limited District) to
Zone RD-19 (Residential, Duplex District).
P. C. #2017.03 - 621 W. Kalamazoo Avenue
Special use permit to allow a bed and breakfast use.




**PROPOSED ZONING**

- CBTR
- CC
- CCBD
- CMU
- CN-1
- CO
- M-1
- M-2
- PUD
- RD-19
- RM-15
- RM-15C
- RM-36
- RMU
- RS-5
- RS-7

REZONE FROM ZONE M-1 TO ZONE RD-19
AND APPROVE A SPECIAL USE PERMIT TO
ALLOW A BED & BREAKFAST USE.

0 100 200 400 Feet

N

P. C. #2017.02 - 621 W. Kalamazoo Avenue
Rezone from Zone M-1 (Manufacturing, Limited District) to
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Special use permit to allow a bed and breakfast use.

REZONE FROM ZONE M-1 TO ZONE RD-19
& APPROVE A SPECIAL USE PERMIT TO ALLOW A BED
& BREAKFAST USE.

0 120 240 480 Feet

P. C. #2017.02 - 621 W. Kalamazoo Avenue
Rezone from Zone M-1 (Manufacturing, Limited District) to Zone RD-19
(Residential, Duplex District).
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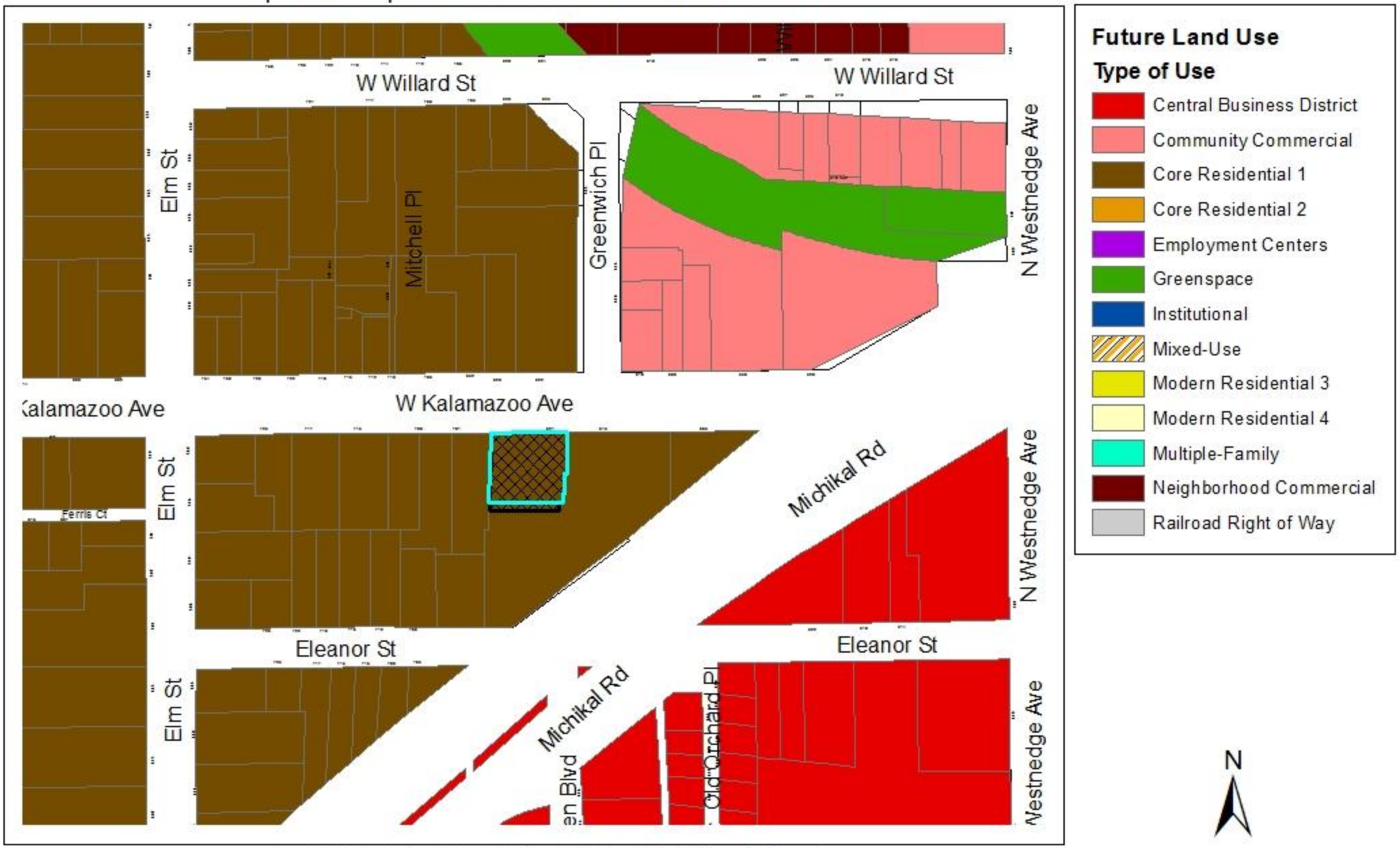


REZONE FROM ZONE M-1 TO ZONE RD-19
AND APPROVE A SPECIAL USE PERMIT TO
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P. C. #2017.02 - 621 W. Kalamazoo Avenue
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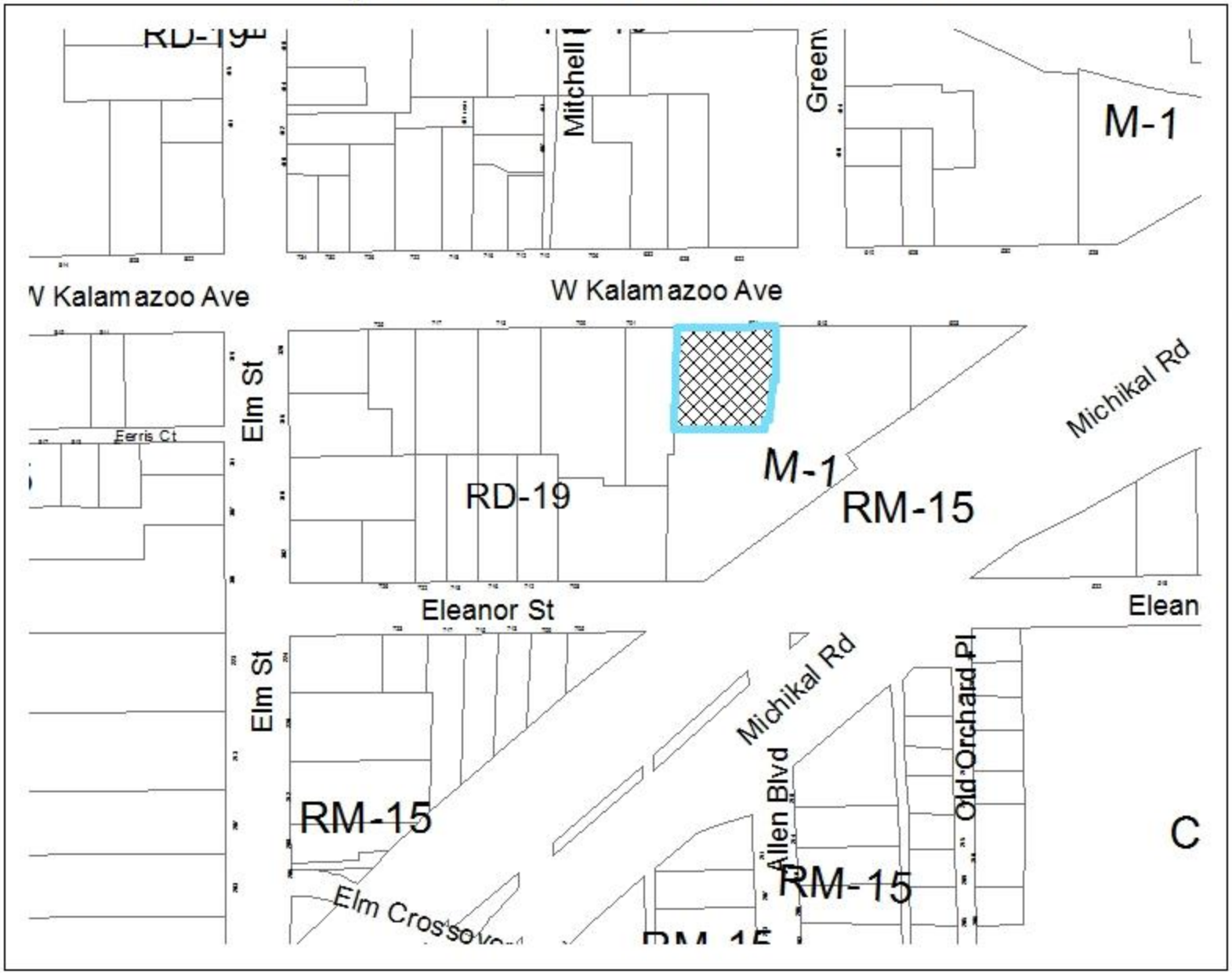


ZONING

M2 - MANUFACTURING, GENERAL
M1 - MANUFACTURING, LIMITED
CCBD - COMMERCIAL, CENTRAL BUSINESS
CBTR - COMMERCIAL, BUSINESS TECHNOLOGY AND RESEARCH
CC - COMMERCIAL, COMMUNITY
CNO-COMMERCIAL, NEIGHBORHOOD OFFICE
CN-1 - COMMERCIAL (LOCAL) NEIGHBORHOOD
CO - COMMERCIAL, OFFICE
RM-36 - RESIDENTIAL, MULTI-DWELLING
RM-15 - RESIDENTIAL, MULTI-DWELLING
RM-15C - RESIDENTIAL, MULTI-DWELLING CAMPUS AREA
RD-19 - RESIDENTIAL, DUPLEX
RS-7 - RESIDENTIAL, SINGLE-DWELLING
RS-5 - RESIDENTIAL, SINGLE-DWELLING

N

REZONE FROM ZONE M-1 TO ZONE RD-19
AND APPROVE A SPECIAL USE PERMIT TO
ALLOW A BED & BREAKFAST USE.

0 95 190 380 Feet

**CITY OF KALAMAZOO, MICHIGAN**
**ORDINANCE NO._____**

**AN ORDINANCE TO AMEND SECTION 1.8.A. ZONE DISTRICT MAP OF THE ZONING ORDINANCE, BEING APPENDIX A OF THE KALAMAZOO CODE**

**THE CITY OF KALAMAZOO ORDAINS**:

**Section 1.** Under Section 1.8.E. the Zone District Map described in Section 1.8.A. is amended as follows:

The land area rezoned from Zone M-1 (Manufacturing, Limited District) to Zone RD-19 (Residential, Duplex District) is located in Section 16 of the City of Kalamazoo, County of Kalamazoo, State of Michigan, commonly referred to as 621 West Kalamazoo Avenue and described as the following:

> Portions of Lots 3 and 4 of the Stone and Phillips' Addition; commencing at the northwest corner of Lot 4; thence North 90 degrees, 00 minutes, 00 seconds East along the north line of Lot 4, 10.32 feet to the point of beginning for the following: thence North 90 degrees, 00 minutes, 00 seconds East along the north lines of Lot 3 and 4, 103.15 feet; thence South 00 degrees, 06 minutes, 49 seconds East 56.93 feet; thence North 89 degrees, 23 minutes, 32 seconds West 3.50 feet; thence South 00 degrees, 36 minutes, 28 seconds West 28.91 feet; thence North 89 degrees, 23 minutes, 32 seconds West 1.77 feet; thence South 00 degrees, 36 minutes, 28 seconds West 11.86 feet; thence South 89 degrees, 58 minutes, 27 seconds West 5.09 feet; thence South 00 degrees, 36 minutes, 28 seconds West 10 feet; thence North 89 degrees, 40 minutes, 03 seconds West 96.54 feet; thence North 02 degrees, 13 minutes, 55 seconds East 107.6 feet to the point of beginning. Containing approximately 11,030.34 square feet. Together with a 5 foot easement for ingress and egress commencing at the northwest corner of Lot 4; thence North 90 degrees, 00 minutes, 00 seconds East 113.47 feet to the point of beginning for the easement; thence North 90 degrees, 00 minutes, 00 seconds East 5 feet; thence South 00 degrees, 06 minutes, 49 seconds East 41.5 feet; thence South 90 degrees, 00 minutes, 00 seconds West 5 feet; thence North 00 degrees, 06 minutes, 49 seconds West 41.5 feet to the point of beginning.

A map identifying the land area is also attached.

**Section 2**. **Repealer.** All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

**CERTIFICATE**

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2017, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been available as required by said Act, and furthermore, said ordinance was duly recorded, posted, and authenticated by the Mayor and City Clerk as provided by the Charter of said City.

Bobby J. Hopewell, Mayor

Scott A. Borling, City Clerk

City of Kalamazoo
PLANNING COMMISSION
Minutes
June 1, 2017
*DRAFT*

Second Floor, City Hall
Commission Chambers
241W. South Street, Kalamazoo, MI 49007

| | |
|---|---|
| Members Present: | Rachel Hughes-Nilsson, Chair; Josh Cook; Emily Greenman Wright; Gregory Milliken; James Pitts; Sakhi Vyas; Derek Wissner, Secretary; Alfonso Espinosa |
| Members Excused: | Charley Coss, Vice Chair |
| City Staff: | Rebekah Kik, City Planner/ Community Planning & Development Director; John Kneas, Assistant City Attorney; Amanda Coeur, Recording Secretary |
| Guests: | Dana Underwood, Max Tibbetts, Jeff Siuda, Wendi Hafer, Steve Springdorf, Jim Ferner, Jack Urban |

## A. CALL TO ORDER

Commissioner Hughes-Nilsson called the meeting to order at 7:01 p.m.

## B. ROLL CALL

Director Kik proceeded with roll call and determined that the aforementioned members were present.

## C. ADOPTION OF FORMAL AGENDA

**Commissioner Wissner, supported by Commissioner Milliken, moved approval of the June 1, 2017 Planning Commission agenda, as amended. With a voice vote, the motion carried unanimously.**

## D. APPROVAL OF MINUTES

**Commissioner Vyas, supported by Commissioner Espinosa, moved approval of the May 4, 2017 Planning Commission minutes as presented. With a voice vote, the motion carried.**

## E. COMMUNICATIONS AND ANNOUNCEMENTS

None

## F. PUBLIC HEARINGS

**P.C. #2017.02: Request to rezone 621 W. Kalamazoo Avenue from Zone M-1 (Manufacturing, Limited District) to Zone RD-19 (Residential, Duplex District). [Recommended action: recommend to the City Commission to approve the rezoning request.] Continued from the May 4 meeting.**

Director Kik presented the staff report. This first public hearing to to request a rezoning of the parcel from M-1 to RD-19. City Staff recommends the Planning Commission recommend approval of the rezoning request to the City Commission. If approved, a site plan review will be submitted to the city for review. Currently this property contains a house being used for a bed and breakfast facility with a

parking lot. Surrounding the property are other single and multiple-family homes that are zoned RD-19, as well as a vacant car repair business that is zoned M-1. The property contains four separate units, and in the past has been a traditional long-term rental facility. Under the current zoning ordinance, bed and breakfast use is not allowed in the M-1 zoning district. The former rental use was grandfathered in for the house, but the requested use represents a new change that will need approval. The property is currently a non-conforming use within the current zone. If the zoning is changed to a RD-19 zone, the property would then become a conforming use. There are no expansions planned for this building and no site modifications would need to be made. The applicant has had contact with the neighborhood association and neighbors to discuss the project and answer questions.

Commissioner Milliken asked Director Kik to speak as to why Air B&B properties are now being brought forth to the Planning Commission, and stated the zoning seemed strange for this property. Planner Kik stated there was concern from other property owners who want to start Air B&B's. Planner Kik shared that this property is industrially zoned, so it is out of compliance. If it were solely owner occupied, this would not be a concern. She also stated that if the property provides long-term rentals, it would need to be registered and inspected by the City.

Jeff Swenerton, attorney for the owner of the property, spoke and gave a history of the property. He stated this was a city directed initiative and the owner just wants to run her business in compliance with City ordinances.

The owner of the property, Krystin Martens, spoke about her conversations with Mr. Tibbetts and the neighborhood association. She also explained that she lived in the property during the week and rented it out on the weekend. This has been going on since 2014. The 4 units are comprised of one studio apartment, which she lives in, and three one bedroom units. The owner feels like her current operation works and she would just like to be compliant.

Dana Underwood spoke. She stated that she has no problem with the proposed use of this business. She does have issue with the zoning ordinance and how it reads. She feels like the zoning ordinance classifies this as a hotel and not a B&B. She would like to see a written statement from the owner that they meet the special use criteria if the Special Use Permit is passed. If the use isn't passed, she would like to see the zoning ordiance updated to better reflect this type of business.

Max Tibbets spoke in support of the owner. He stated the owner did her due diligence, and the neighborhood association supports the use of this building. He stated the city failed to create a zoning ordinance for this type of situation. He stated that Kara's Kottages was run the same way as this proposed B&B, and did not have these issues with the city.

Jeff Siuda spoke and said the neighborhood association never received any coorespondence from the city regarding this project.

Wendi Hafer shared that she received two notices about this property. She has no problem with this project going forward, but did question why it was currently zoned M-1.

The public hearing was closed and Commissioners discussed the request.

Commissioner Wissner requested clarification regarding the differences between rentals and Air B&B's. Director Kik stated that Air B&B's are an advertising method. Short term rentals are classified as anything less than 28 days, long term rentals are anything over 29 days. When the zoning ordinance was created, the Air B&B concept did not exist. The applicant can always request a variance with the Zoning Board of Appeals.

Commissioner Greenman Wright stated it makes sense for the zoning to change from an industrial use. A home should not be zoned M-1. Commissioner Milliken agrees and stated that if a Bed & Breakfast was not an appropriate use than the Planning Commission needs to change that.

Commissioner Espinosa asked if the City had heard anything from the car repair business next door to the applicant's property. Director Kik stated the City hasn't but staff can ask the question of what they would like.

Commissioner Milliken asked why the property could not have the Bed & Breakfast designation. Director Kik stated this requires both a Special Use Permit and rezoning. If this was just a long term rental property they would be in compliance, but because the applicant is offering both long and short term rentals, the Special Use Permit is required.

Commissioner Wissner stated that there are a lot of property owners in Kalamazoo who are not in compliance with this type of use. Director Kik stated the Zoning Board of Appeals has been dealing with this as well, and letters have been sent to property owners who are advertising on Air B&B.

Attorney Kneas read the potential Zoning Board of Appeals use variance, which will be going in front of the board next week. It would allow the house to be used for both short and long tern rentals.

Commissioner Greenman Wright pointed out to the Commission that if they do not grant the rezoning, the applicant could still apply for a Special Use Permit, but the Special Use Permit could not move forward because the use is not allowed in the current zoning.

Commissioner Hughes-Nilsson asked Director Kik if the applicant was the only one offering both short and long term rentals. Director Kik stated at this time the applicant is the only one in the M-1 zone that is asking for this approval. Commissioner Hughes-Nilsson asked how the Planning Commission would move forward on this type of issue if they do not approve this request. Attorney Kneas stated the Commission could postpone the request and have staff work on a zoning ordinance change, but it may be the end of the year before the Commission would see this request again. In the meantime if the house was to become less than 50% functional through a fire or storm event, it could not be-rebuilt for the same use in the current M-1 zone. Also, the owner is technically in violation of the ordinance for the current use and the Commission could not order staff to withhold enforcement on her. If the request is postponed again, a zoning ordinance amendment would have to be drafted, reviewed by the attorney's office, and then approval by the Planning and City Commissions.

**Commissioner Milliken, supported by Commissioner Wissner, move to recommend to the City Commission to approve the rezoning of the subject property from Zone M-1 to Zone RD-19. With a roll call vote, the motion carried.**

**P.C. #2017.03: Request from Clark House, LLC for a special use permit to allow a bed and breakfast use at 621 W. Kalamazoo Avenue. [Recommended action: approve the special use permit with one condition.] Continued from the May 4 meeting.**

Director Kik presented the staff report and stated that it is the same as she presented above, and all of the review criteria for the property has been met. She stated that there is one condition that will have to be met if approved. The applicant will have to submit a site plan for City Staff approval.

Commissioner Wissner stated he wanted the Special Use Permit to be contingent on the approval of the Zoning Board of Appeals variance as well as the City Commission's approval of the zoning changes.

The Commissioners stated they do not believe the special use permit is the best way to remedy this issue. Director Kik agreed with this and thinks this is something City Staff can look into but that will not help the current situation.

Commissioner Milliken stated that short term rentals have become an issue many communities are struggling with.

**Commissioner Wissner, supported by Commissioner Vyas, motioned approval of the special use permit with three conditions; submittal of a site plan for City Staff approval, approval of the Zoning Board of Appeals variance, and City Commission approval of the zoning changes. With a roll call vote, the motion carried.**

## G. CITIZENS' COMMENTS (Regarding non-agenda items)

None

## H. UNFINISHED BUSINESS

Planner Kik gave an Imagine Kalamazoo 2025 update. On June 1st, the draft strategic plan will be brought forth to the Planning Commission. No action will be required from the Commission. The plan will then go to City Commission on June 19th. In July, the draft Master Plan will be brought in front of the Planning Commission. The Master Plan will then go to the City Commission and the 63 day public comment period will start. On September 12th the comment period will close, and in October the Planning Commission will be asked to adopt the Master Plan.

## I. NEW BUSINESS

None

## J. CITIZENS' COMMENTS

None

## K. CITY COMMISSION LIAISON COMMENTS

None

## L. CITY PLANNER'S REPORT

None.

## M. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioner Wissner told Commissioners that Art Hop is this weekend, as well as the Borgess races.

Commissioner Vyas stated that the Farmers' Market opens this weekend and the Food Truck Rally is going on.

## M. ADJOURNMENT

The meeting adjourned at 7:51 p.m.

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

**REVIEWED BY:** James J. Baker, PE, Public Services Director and City Engineer

**PREPARED BY:** James H. Cornell, Wastewater Division Manager

**DATE:** 7/13/2017

**SUBJECT:** Overhaul of Wastewater Fine Screens

## RECOMMENDATION

It is recommended that the City Commission approve an agreement with JWC Environmental for the overhaul of three fine screening units at the Wastewater Treatment Plant in the amount of $105,000.

## BACKGROUND

The Kalamazoo Water Reclamation Plant (KWRP) has three fine screening units prior to primary settling following course screening and grit removal that remove fine plastics and debris from the wastewater flow. These units were manufactured by JWC Environmental and installed in 2006; each unit is in need of an overhaul to extend life cycle and continued reliability. The overhaul work will bring each unit back to “Like new” condition.

## COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

## FISCAL IMPACT

Funds have been budgeted for this expenditure in the Public Services 2017 CIP budget. Manufacturer direct overhaul costs were discounted by $50,757.

## ALTERNATIVES

An alternative would be to continue to by parts individually as the units break down. This is not recommended since all parts have significant wear and continued reliability would be at risk which could strain further downstream processes.

## ATTACHMENTS:

Type Description

- Proposal Proposal

JWC Environmental®

Customer Service Center
2600 S. Garnsey Street
Santa Ana, CA 92707 USA
Phone: 949 833-3888
Toll Free: 800 331-2277
Fax: 714 549-4007

**Customer:** 5012666
.
Kalamazoo, City of
Budget and Accounting Division
241 W. South Street
Kalamazoo, MI 490074707
US
269-337-8020

**Quote Number:** **38692**
**Quote Date:** **05/09/2017**
**Terms:** **NET 30 DAYS**
**Pricing:** **Valid 60 Days**
**FOB:** **Origin**
**Lead Time:** **4 WEEKS ARO**
**Grinder Serial #:** **102899**

**Project:** KALAMAZOO WWTP

**All orders will be billed the applicable sales tax, based on the "ship to address", unless a valid tax exemption certificate is provided prior to shipment.**

| Part Number | Description | Qty | Unit Price | Extended Price |
|---|---|---|---|---|
| TSE695122A05-01-10 2899 | SIDE SEAL PLATE, CHAIN | 228 | $94.74 | $21,600.72 |
| TSE695122A05-02-10 2899 | LINK, PACKING | 114 | $32.89 | $3,749.46 |
| 30534 | NUT, NYLOX HEX M12-1.75, SST | 480 | $2.93 | $1,406.16 |
| 30533 | HHCS M12 X 1.75 X 90MM 18-8SST P/T | 480 | $9.45 | $4,536.00 |
| 30535 | WASHER, FLAT M12, 18-8 SST | 480 | $0.53 | $252.00 |
| TSE695122A05-03-S0 06164 | SPACER CHAIN, INNER | 30 | $11.05 | $331.50 |
| TSE695122A05-04-S0 06164 | SPACER CHAIN, OUTER | 30 | $11.84 | $355.20 |
| TSE695122A06-01 | CHAIN GUIDE, FLAT, LOWER | 6 | $2,015.79 | $12,094.74 |
| TSE695122A06-06 | CHAIN GUIDE, FLAT, UPPER | 3 | $1,039.47 | $3,118.41 |

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| | | | | |
|---|---|---|---|---|
| TSE695122A06-07 | CHAIN GUIDE, FLAT, UPPER | 3 | $1,039.47 | $3,118.41 |
| SHIPPING & HANDLING | S&H CHARGES | 1 | $0.00 | $0.00 |
| MBA1001-102899 | PANEL FRAME FOR 6MM THICK PANELS | 10 | $1,369.22 | $13,692.20 |
| TSE695122A03-05-102899C | SEALING STRIP, PANEL | 228 | $20.09 | $4,580.52 |
| TSE695122A31-01-102899E | FLIP WIPE | 3 | $183.97 | $551.91 |
| MBC0133-102899C | SEAL, LABYRINTH, CURVED, MBS | 12 | $585.00 | $7,020.00 |
| MBC0135-102899C | SEAL, LABYRINTH, VERTICAL, MBS | 12 | $354.00 | $4,248.00 |
| 22253 | HWHS #14 X 1-1/2in | 300 | $1.25 | $375.00 |
| 21040 | NUT, NYLOC HEX M8-1.25, 18-8SST | 600 | $0.49 | $296.10 |
| 21024 | WASHER, FLAT M8 18-8SST | 600 | $0.47 | $283.50 |
| 21022-U | FHCS M8-1.25 X 30MM 316SST F/T | 600 | $2.80 | $1,682.10 |
| SD-0100 | DISPOSABLE GLOVES, LARGE | 6 | $0.00 | $0.00 |
| SD-0101 | ANTISEIZE LUBRICANT, 1LB CAN | 4 | $0.00 | $0.00 |

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| | | | | |
|---|---|---|---|---|
| MSS-REBUILD | MSS Rebuild Project | 1 | $0.00 | $0.00 |
| RL | Repair Labor | 1 | $10,000.00 | $10,000.00 |
| 30010-0400 | 2HP TEXP 460V 145TC 1.15SF S-E S120 | 3 | $2,171.27 | $6,513.82 |
| MSC0011-42125-695.50-60-140 | GEARBOX, HELICAL-W NORD 60MM 140TC | 3 | $4,891.49 | $14,674.46 |
| DISCOUNT | DISCOUNT 33% | 1 | ($50,757.82) | ($50,757.82) |
| MBC0140-MBS3-174 | CHAIN, 300MM PITCH LINK MBS<br>6 wide outer links | 6 | $176.40 | $1,058.40 |
| MBC0140-MBS3-174 | CHAIN, 300MM PITCH LINK MBS<br>18 STRANDS @ 10 LINKS<br>6 STRANDS @ 8 LINKS | 228 | $176.40 | $40,219.20 |

*Please verify serial number is correct.*

| | |
|---|---|
| **Sub Total** | **$105,000.00** |
| **Tax** | |
| **Total** | **$105,000.00** |

**Notes:**
1. Two Service Techs are needed to complete the rebuild.
2. Quote is based on the job, not time.
3. Lifting devices to be supplied by the customer.
4. Access to the channel is necessary.
5. One year warranty from time of rebuild on parts replaced and labor.
6. Any parts outside this quote will need to be purchased seperately.
7. Shipping is included in the package price.
8. Subject to attached JWC Environmental Standard Terms and Conditions of Sale.

**Thank-You for your Business!**

**JWC Environmental LLC**
**TOMMY GOINS**
**Customer Service**

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**Please provide the following information. Failure to do so may delay processing of order.** **Quote #: 38692**

**Bill To Name & Address:**

_____
_____
_____
_____

**Ship To Name & Address:**

_____
_____
_____
_____

**Email Address:** _____

**PO#** _____ **Payment terms: Net 30** **FOB: Origin**

**Please select a shipping method:**

__ **Prepay & Add to Invoice**

__ **Collect** **Account #:** _____ **Carrier:** _____

**JWCE will add shipping and handling charges to invoices unless otherwise specified.**

**Please fax or email your PO and most recent tax certificate to:**
**Fax (714) 549-4007**
**Email servicesales@jwce.com**

**Credit cards:**
__ **I authorize JWCE to process this order on my credit card and add shipping and handling charges.**
**Call Customer Service at (800) 331-2277 for credit card processing.**

**Signature:** _____ **Date:** _____

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# JWC ENVIRONMENTAL
# TERMS AND CONDITIONS OF SALE

Unless otherwise specifically agreed to in writing by the buyer ("Buyer") of the products and or related services purchased hereunder (the "Products") and JWC Environmental (the "Seller"), the sale of the Products is made only upon the following terms and conditions. Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Buyer's assent to these terms. Seller rejects all additional, conditional and different terms in Buyer's form or documents.

**PAYMENT TERMS**

Subject to any contrary terms set forth in our price quotation, order acceptance or invoice the full net amount of each invoice is due and payable in cash within 30 days from the date of the invoice. If any payment is not received within such 30-day period, Buyer shall pay Seller the lesser of 1 ½% per month or the maximum legal rate on all amounts not received by the due date of the invoice, from the 31st day after the date of invoice until said invoice and charges are paid in full. Unless Sellers documents provide otherwise, freight, storage, insurance and all taxes, duties or other governmental charges related to the Products shall be paid by the Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller for said charges. In all cases, regardless of partial payment, title to the Products shall remain the Sellers until payment for the Products has been made in full. All orders are subject to credit approval by Seller. All offers by Seller and/or acceptance of Buyer's order shall be nullified by any failure of Buyer to obtain credit approval. Furthermore, Buyer shall not assert any claim against Seller due to Buyer's inability to obtain credit approval. Irrevocable Letter of Credit from Buyer in form and term acceptable to Seller is required for Product orders delivered outside the United States of America

**DELIVERY**

Unless otherwise provided in our price quotation, delivery of the Products shall be made F.O.B. place of manufacture. Any shipment, delivery, installation or service dates quoted by the Seller are estimated and the Seller shall be obligated only to use reasonable efforts to meet such dates. The Seller shall in no event be liable for any delays in delivery or failure to give notice of delay or for any other failure to perform hereunder due to causes beyond the reasonable control of the Seller. Such causes shall include, but not be limited to, acts of God, the elements, acts or omissions of manufacturers or suppliers of the Products or parts thereof, acts or omissions of Buyer or civil and military authorities, fires, labor disputes or any other inability to obtain the Products, parts thereof, or necessary power, labor, materials or supplies. The Seller will be entitled to refuse to make, or to delay, any shipments of the Products if Buyer shall fail to pay when due any amount owed by it to the Seller, whether under this or any other contract between the Seller and Buyer. Any claims for shortages must be made to the Company in writing within five calendar days from the delivery date and disposition of the claim is solely subject to Sellers determination

**PRICES**

Prices of the Seller's Products are subject to change without notice. Quotations are conditioned upon acceptance within 30 days unless otherwise stated and are subject to correction for errors and/or omissions. Prices include charges for regular packaging but, unless expressly stated, do not include charges for special requirements of government or other purchaser. Prices are subject to adjustment should Buyer place an order past the validity period of the quotation or delay delivery of Products beyond the quoted lead time for any reason.

**RETURNS**

No Products may be returned for cash. No Product may be returned for credit after delivery to Buyer without Buyer first receiving written permission from the Seller. Buyer must make a request for return of Product in writing to Seller at its place of business in Costa Mesa, California. A return material authorization number must be issued by the Seller to the Buyer before a Product may be returned. Permission to return Product to Seller by Buyer is solely and exclusively the Sellers. Product must be returned to Seller at Buyers expense, including packaging, insurance, transportation and any governmental fees. Any credit for Product returned to Seller shall be subject to the inspection of and acceptance of the Product by the Seller and is at the sole discretion of the Seller.

**LIMITED WARRANTY**

Subject to the terms and conditions hereof, the Seller warrants until one year after commissioning (written notification to Seller by Buyer required) of the Product or until 18 months after delivery of such Product to Buyer, whichever is earlier, that each Product will be free of defects in material and workmanship. If (a) the Seller receives written notification of such defect during the warranty period and the defective Products use is discontinued promptly upon discovery of alleged defect, and (b) if the owner ("Owner") forwards the Product to the Seller's nearest service/repair facility, transportation and related insurance charges prepaid. The Seller will cause any Products whose defect is covered under this warranty to either be replaced or be repaired at no cost to the Owner. The foregoing warranty does not cover repairs required due to repair or alteration other than by the Seller's personnel, accident, neglect, misuse, transportation or causes other than ordinary use and maintenance in accordance with the Seller's instructions and specifications. In addition, the foregoing warranty does not cover any Products, or components thereof, which are not directly manufactured by the Seller. To the extent a warranty for repair or replacement of such Products or components not manufactured directly by the Seller is available to Buyer under agreements of the Seller with its vendors; the Seller will make such warranties available to Buyer. Costs of transportation of any covered defective item to and from the nearest service/repair center and related insurance will be paid or reimbursed by Buyer. Any replaced Products will become the property of the Seller. Any replacement Products will be warranted only for any remaining term of the original limited warranty period and not beyond that term.

**DISCLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITIES**

THE SELLER'S FOREGOING LIMITED WARRANTY IS THE EXCLUSIVE AND ONLY WARRANTY WITH RESPECT TO THE PRODUCTS AND SHALL BE IN LIEU OF ALL OTHER WARRANTIES (OTHER THAN THE WARRANTY OF TITLE), EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY STATEMENTS MADE BY EMPLOYEES, AGENTS OF THE SELLER OR OTHERS REGARDING THE PRODUCTS. THE OBLIGATIONS OF THE SELLER UNDER THE FOREGOING WARRANTY SHALL BE FULLY SATISFIED BY THE REPAIR OR THE REPLACEMENT OF THE DEFECTIVE PRODUCT OR PART, AS PROVIDED ABOVE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF THE SELLER TO BUYER AND OTHERS ARISING FROM ANY CAUSE WHATSOEVER IN CONNECTION WITH BUYER'S PURCHASE, USE AND DISPOSITION OF ANY PRODUCT COVERED HEREBY SHALL, UNDER NO CIRCUMSTANCES, EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT BY BUYER. NO ACTION, REGARDLESS OF FORM, ARISING FROM THIS AGREEMENT OR BASED UPON BUYER'S PURCHASE, USE OR DISPOSITION OF THE PRODUCTS MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES, EXCEPT THAT ANY CAUSE OF ACTION FOR THE NONPAYMENT OF THE PURCHASE PRICE MAY BE BROUGHT AT ANY TIME

The remedies provided to Buyer pursuant to the limited warranty, disclaimer of warranties and limitations of liabilities, described herein are the sole and exclusive remedies.

Unless specifically agreed to in writing by the Seller, no charges may be made to the Seller by Buyer or any third party employed by buyer for removing, installing or modifying any Product.

The Seller and its representatives may furnish, at no additional expense, data and engineering services relating to the application, installation, maintenance or use of the Products by Buyer. The Seller will not be responsible for, and does not assume any liability whatsoever for, damages of any kind sustained either directly or indirectly by any person through the adoption or use of such data or engineering services in whole or in part.

**CONFIDENTAIL INFORMATION**

Except with the Seller's prior written consent, Buyer shall not use, duplicate or disclose any confidential proprietary information delivered or disclosed by the Seller to Buyer for any purpose other than for operation or maintenance of the Products.

**CANCELLATION AND DEFAULT**

Absolutely no credit will be allowed for any change or cancellation of an order for Products by Buyer after fabrication of the Products to fill Buyer's order has been commenced. If Buyer shall default in paying for any Products purchased hereunder, Buyer shall be responsible for all reasonable costs and expenses, including (without limitation) attorney's fees incurred by the Seller in collecting any sums owed by Buyer. All rights and remedies to the Seller hereunder or under applicable laws are cumulative and none of them shall be exclusive of any other right to remedy. No failure by the Seller to enforce any right or remedy hereunder shall be deemed to be a waiver of such right or remedy, unless a written waiver is signed by an authorized management employee of the Seller and the Seller's waiver of a breach of this agreement by Buyer shall not be deemed to be a waiver of any other breach of the same or any other provision.

**CHANGES IN PRODUCTS**

Changes may be made in materials, designs and specifications of the Products without notice. The Seller shall not incur any obligation to furnish or install any such changes or modifications on Products previously ordered by, or sold to, Buyer.

**APPLICABLE LAW, RESOLUTION OF DISPUTES AND SEVERABILITY**

This agreement is entered into in Costa Mesa, California. This agreement and performance by the parties hereunder shall be construed in accordance with, and governed by, the laws of the State of California. Any claim or dispute arising from or based upon this agreement or the Products which form its subject matter shall be resolved by binding arbitration before the American Arbitration Association in Los Angeles, California, pursuant to the Commercial Arbitration Rules, excepting only that each of the parties shall be entitled to take no more than two depositions, and serve no more than 30 interrogatories, 10 requests for admissions and 20 individual requests for production of documents, such discovery to be served pursuant to the California Code of Civil Procedure. Any award made by the arbitrator may be entered as a final judgment, in any court having jurisdiction to do so. If any provision of this agreement shall be held by a court of competent jurisdiction or an arbitrator to be unenforceable to any extent, that provision shall be enforced to the full extent permitted by law and the remaining provisions shall remain in full force and effect.

**ASSIGNMENT**

This agreement shall be binding upon the parties and their respective successors and assigns. However, except for rights expressly provided to subsequent Owners of the Products under "Limited Warranty" above, any assignment of this agreement or any rights hereunder by Buyer shall be void without the Company's written consent first obtained. Any exercise of rights by an Owner other than Buyer shall be subject to all of the limitations on liability and other related terms and conditions set forth in this agreement.

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Toll Free: 800 331-2277
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**EXCLUSIVE TERMS AND CONDITIONS**

The terms and conditions of this agreement may be changed or modified only by an instrument in writing signed by an authorized management employee of the Seller. This instrument, together with any amendment or supplement hereto specifically agreed to in writing by an authorized management employee of the Seller, contains the entire and the only agreement between the parties with respect to the sale of the Products covered hereby and supersedes any alleged related representation, promise or condition not specifically incorporated herein.

SELLER'S PRODUCTS ARE OFFERED FOR SALE AND SOLD ONLY ON THE TERMS AND CONDITIONS CONTAINED HEREIN. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS CONTAINED IN BUYER'S SEPARATE PURCHASE ORDERS OR OTHER ORAL OR WRITTEN COMMUNICATION, BUYER'S ORDER IS OR SHALL BE ACCEPTED BY THE COMPANY ONLY ON THE CONDITION THAT BUYER ACCEPTS AND CONSENTS TO THE TERMS AND CONDITIONS CONTAINED HEREIN. IN THE ABSENCE OF BUYER'S ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED HEREIN THE SELLER'S COMMENCEMENT OF PERFORMANCE AND/OR DELIVERY OF THE PRODUCTS, OR THE SELLER'S STATEMENT OF ACKNOWLEDGMENT OF THE RECEIPT OF BUYER'S PURCHASE ORDER, SHALL BE FOR BUYER'S CONVENIENCE ONLY AND SHALL NOT BE DEEMED OR CONSTRUED TO BE ACCEPTANCE OF BUYER'S DIFFERING TERMS OR CONDITIONS, OR ANY OF THEM. ANY DIFFERENT OR ADDITIONAL TERMS ARE HEREBY REJECTED UNLESS SPECIFICALLY AGREED UPON IN WRITING BY AN AUTHORIZED MANAGEMENT EMPLOYEE OF THE SELLER. IF A CONTRACT IS NOT EARLIER FORMED BY MUTUAL AGREEMENT IN WRITING, BUYER'S ACCEPTANCE OF ANY PRODUCTS COVERED HEREBY SHALL BE DEEMED ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS STATED HEREIN. THE SELLER'S FAILURE TO OBJECT TO PROVISIONS INCONSISTENT HEREWITH CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE PROVISIONS CONTAINED HEREIN.

F360JWCE0107

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

**REVIEWED BY:** Sean R Fletcher

**PREPARED BY:** Patrick McVerry

**DATE:** 7/12/2017

**SUBJECT:** Davis Street Park Improvement Project Bid Ref # 988-52-040.0

## RECOMMENDATION

It is recommended that the City Commission approve a contract with the low responsive bidder, L. D. Docsa Associates, Inc. for Davis Street Park Improvements in the amount of $159,900.00.

## BACKGROUND

The process to make improvements to Davis Street Park began in the fall of 2015 when the Parks & Recreation Department staff met with Vine Neighborhood residents to determine what improvements were desired. Through a series of meetings, concept drawings were developed and final plans were confirmed.

Improvements to the park include new accessible cement pathways, pavilion, gaga pit, and site improvements.

Bids were solicited for the project in June 2017. A total of five bids were received, with L. D. Docsa Associates providing the low qualified bid. Purchasing Department and Parks & Recreation Department staff met with representatives from L. D. Docsa in a post-bid review meeting to confirm bid pricing.

## COMMUNITY RESOURCES CONSULTED

The Vine Neighborhood Association and a number of City residents passionate about skateboarding were consulted during the process to develop the improvement plan.

## FISCAL IMPACT

The total budget for the project is $215,907 with $25,907.00 in CDBG funding, $10,000.00 from the Sally Appleyard Foundation, $10,000.00 from the Irving S. Gilmore Foundation, and $170,000.00 in CIP Funding.

Since the bid came in lower than expected, it's possible that additional improvements that were desired by residents could be incorporated into the project.

**ALTERNATIVES**

There is the alternative to not award this contract, but that is not being recommended.

**ATTACHMENTS:**

| | Type | Description |
|---|---|---|
| 🗋 | Aerial Photo | Bid Results Summary |

# BID RESULTS SUMMARY

**PROJECT:** Davis Street Park Improvements

**DATE:** July 24, 2017

**BIDDERS SOLICITED:** 104

**BIDDERS RESPONDED:** 5

**MBE/WBE BIDS SOLICITED:** 22

**MBE/WBE BIDDERS RESPONDED:** 0

**BID REFERENCE NO:** 988-52-040.0

**MBE/WBE AWARDED:** No

**ISSUE DATE:** May 25, 2017

**BID OPENING:** June 30, 2017

**APPROVAL REQUIRED:** City Commission

**FUNDED BY:** City

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| BIDDERS | AMOUNT BID | LOCATION |
|---|---|---|
| LD Docsa Associates, Inc. | $159,900.00 | City |
| TJM Services | $235,400.00 | Allegan, MI |
| Kalamazoo Contractors, Inc. | $242,848.00 | County |
| Balkema Construction Inc. | $243,000.00 | County |
| James E Fulton & Sons | $268,000.00 | City |

Purchasing procedures have been followed and City Attorney has reviewed as to form.

Melissa Fuller

Melissa Fuller
*Deputy Director of Mgmt Services/*
*Purchasing Agent*

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

**REVIEWED BY:** James J. Baker, PE, Public Services Director and City Engineer

**PREPARED BY:** James J. Baker, PE, Public Services Director and City Engineer

**DATE:** 7/26/2017

**SUBJECT:** Hoffman Brothers Change Order #3 for Farmers Alley

## RECOMMENDATION

It is recommended that City Commission approve a change order to Hoffman Brothers Inc. for the Farmers Alley Project in the amount of $163,888.17.

## BACKGROUND

The City of Kalamazoo bid the utility work and corresponding street improvements in the late season of 2016. The construction market was unfavorable to the late season bidding and only one bid was received which was more than $1.5 million over budget. City staff delayed the project for 2016 due to the unfavorable construction market.

The new, value engineered, design was presented to prospective bidders and awarded in February 2017 under budget.

This project was bid using unit cost line items and engineer estimated quantities, subsequently there has been several changes in quantities as the project uncovered over a century of abandoned infrastructure. Several field directives were issued to facilitate alignment and grade changes while accommodating both known and unknown lateral sewer requirements and all other existing power, telecommunications and municipal infrastructure.

This project has a significant impact to the residents, businesses and property owners along Farmers Alley. The project schedule and access present the greatest impacts during construction. Any further delay in construction would have a negative impact on the those stakeholders.

## COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

## FISCAL IMPACT

Funds for this change order have been anticipated and are available in the 2017 Wastewater Budget.

**ALTERNATIVES**

The alternative of not approving the change order is not recommended as the City would be unable to meet the contract requirements.

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

**REVIEWED BY:** James J. Baker, PE, Public Services Director and City Engineer

**PREPARED BY:** James C. Cornell, Wastewater Operations Division Manager

**DATE:** 7/18/2017

**SUBJECT:** Sodium Hypochlorite Contract Extension Bid Ref # 190-43-021.4

## RECOMMENDATION

It is recommended that the City Commission approve a one-year contract extension for the purchase of 16% sodium hypochlorite, by volume, from Alexander Chemical Corporation of Peru, Illinois. This Contract request is for 355,000 gallons/year at $0.68 per gallon for the amount of $241,400.

## BACKGROUND

Sodium Hypochlorite is a strong version of liquid household bleach and is an alternative to chlorine gas. It is used for the disinfection of the Kalamazoo Water Reclamation Plant (KWRP) effluent prior to discharging to the Kalamazoo River. Sodium Hypochlorite is currently being used to successfully disinfect the plant's effluent which is required by the State of Michigan. Sodium Hypochlorite is also used to do chemical cleans of the tertiary sand filters and to pre-chlorinate the tertiary influent flow to inhibit algae growth in the sand filters.

## COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

## FISCAL IMPACT

This contract extension represents no unit price increase over last year. The 2017 portion from October 1st to December 31st is $60,350 which is already included in the 2017 Wastewater budget. Funds will be budgeted in the 2018 Wastewater budget in the amount of $181,050 for the 2018 portion of the contract.

## ALTERNATIVES

Chlorine gas had been used exclusively at the KWRP since the mid 1950's. It has historically been a cheaper chemical for disinfection but possesses many inherent health and safety concerns. The advantages of hypochlorite are the ease of application and decreased risk to human health and safety through accidental release of gaseous chlorine to the atmosphere. If chlorine gas was used, there would be at least 6 one-ton

cylinders in service, plus as many as 7 to 10 cylinders in reserve and on site at any given time. Sodium Hypochlorite is much easier and safer to transport and handle. Using hypochlorite liquid eliminates the hazards associated with gaseous chlorine. The KWRP has been using hypochlorite effectively in place of chlorine gas since June of 2006.

The KWRP could commission a study to investigate the feasibility of using ultraviolet (UV) light for disinfection to reduce the usage of sodium hypochlorite for disinfection. Installing an ultraviolet (UV) disinfection system would require a capital improvement project and would result in an increased amount of electricity used in the tertiary process.

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** James K. Ritsema, ICMA-CM, City Manager

**REVIEWED BY:** James J. Baker, PE, Public Services Director and City Engineer

**PREPARED BY:** Brianna Clawson, Support Services Division Manager

**DATE:** 7/25/2017

**SUBJECT:** 2016 Kalamazoo Mall Maintenance Assessment

## RECOMMENDATION

It is recommended that the City Commission adopt Resolutions #1, 2, and 3 for the purpose of approving the 2016 Kalamazoo Mall Sidewalk Maintenance Assessment at a per front foot cost of $14.779. Adoption of Resolution 3 schedules a public hearing for September 18, 2017.

## BACKGROUND

Historically, property owners on the Kalamazoo Mall have been assessed a per front foot cost to cover expenses associated with annual sidewalk maintenance activities performed by the City of Kalamazoo. This cost varies from year to year mainly due to snow removal activities associated with the snow melt system on the Mall. The 2016 assessment reflects natural gas costs associated with the Mall's snow melt system.

This assessment was originally designed to cover expenses for general sidewalk maintenance which also includes sweeping and cleaning, litter control, and brick repair. Please note that this assessment does not cover expenses for turf maintenance, lighting, flower plantings, crosswalk area maintenance or holiday decorations.

## COMMUNITY RESOURCES CONSULTED

In 1999, the City of Kalamazoo, property owners and Downtown Kalamazoo Incorporated, (DKI), reached an agreement designed to protect property owners from significant increases due to weather conditions as well as to ensure that the City of Kalamazoo recovers the true cost of performing this work. The agreement included the following:

1. There will be one rate for mall maintenance, rather than one rate for those properties fronting on the snow melt system and those without snow melt.
2. The assessed rate will be an average of the last three years of actual costs to perform this work or the actual cost for the year being assessed, should it be lower than the three year average.

If the actual cost for the year being assessed is greater than the three year average, DKI will cover the

“shortfall”, up to $15,000. The 2016 assessment will not require a subsidy from DKI.

**FISCAL IMPACT**

Per front foot costs and averages for Kalamazoo Mall sidewalk maintenance for the last three years are as follows:

| | Actual Cost | Three Year Average |
|---|---|---|
| 2014 | $19.892 | $15.164 |
| 2015 | $15.848 | $16.205 |
| 2016 | $14.779 | $16.839 |

Following the public hearing, assessment notices will be distributed in the amount of $14.779 per front foot for a total of $42,861.29.

This assessment will reimburse the General Fund for Mall maintenance activities performed during the 2016 season. It should be noted that this assessment roll represents only 25% of the 2016 Kalamazoo Mall Maintenance budget of $171,410.14.

**ATTACHMENTS:**

| Type | Description |
|---|---|
| Resolution | Resolution #1 |
| Resolution | Resolution #2 |
| Resolution | Resolution #3 |
| Report | Roll |

**CITY OF KALAMAZOO, MICHIGAN** **#1**

**RESOLUTION NO. _____**

**RESOLUTION NO. 1 RE: 2016 KALAMAZOO MALL MAINTENANCE PROGRAM IMPROVEMENT PROJECT**

Minutes of a regular meeting of the City Commission of the City held on August 7, 2017, at or after 7:00 o'clock p.m., local time, at Kalamazoo City Hall, 241 W. South Street, Kalamazoo, Michigan.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

The following preamble and resolution was offered by _____ and supported by _____.

WHEREAS, the City Commission deems it advisable and necessary to undertake the following improvement in the City:

Maintenance services on the Kalamazoo Mall from Lovell Street to Eleanor Street (North End and South End) Maintenance Roll No. 46.

WHEREAS, part or all of the cost of said improvement may be defrayed by special assessment upon the properties specifically benefited thereby;

BE IT RESOLVED that the City Manager is directed to prepare such maps, diagrams or plans as will indicate the scope and estimated cost of the project and file the same with the City Clerk, together with his recommendations as to what portion of the cost thereof should be paid by special assessment and what part, if any, should be a general obligation of the City, the number of installments in which the special assessments may be paid, and the land which should be included in the special assessment district.

The above resolution was offered by _____ and supported by _____.

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

## CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on August 7, 2017. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by said Act.

_____

Scott A. Borling, City Clerk

CITY OF KALAMAZOO, MICHIGAN

REPORT OF CITY MANAGER RE: IMPROVEMENT PROJECT

2016 KALAMAZOO MALL MAINTENANCE PROGRAM

Frontage on East and West Sides of the Kalamazoo Mall from Lovell Street to Eleanor Street. (North End and South End) Maintenance Roll. No. 43.

TO THE CITY COMMISSION:

I respectfully report the following regarding the 2016 Kalamazoo Mall Maintenance Program:

1. The total cost of the project is $42,861.29.

2. It is recommended that the special assessment be paid in one (1) annual installment.

3. It is recommended that the premises to be assessed and to constitute the special assessment district consist of all those lots and parcels of land abutting and fronting upon the improvement unless otherwise hereinafter indicated.

Respectfully submitted,

Date: _____, 2017

_____
James K. Ritsema, City Manager

**CITY OF KALAMAZOO, MICHIGAN** **#2**

**RESOLUTION NO. _____**

**RESOLUTION NO. 2 RE: 2016 KALAMAZOO MALL MAINTENANCE PROGRAM IMPROVEMENT PROJECT**

Minutes of a regular meeting of the City Commission of the City held on August 7, 2017, at or after 7:00 p.m., local time, at Kalamazoo City Hall, 241 W. South Street, Kalamazoo, Michigan.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

The following preamble and resolution was offered by _____ and supported by _____.

WHEREAS, the City Commission has directed the City Manager to prepare such maps, diagrams or plans as will indicate the scope and cost of the project, and the same have been prepared and filed with the City Clerk pursuant to said direction and the ordinances of the City, and the City Clerk has presented the same to this Commission; and

WHEREAS, the City Commission tentatively determines that it is necessary to proceed with and make said improvement;

BE IT RESOLVED:

(1) The report of the City Manager, with the maps, diagrams or plans, if any, shall be filed with the City Clerk and be available for public inspection.

(2) The City Commission tentatively determines to make the following improvement:

Maintenance services on the Kalamazoo Mall from Lovell Street to Eleanor Street (North End and South End). Maintenance Roll No. 46.

(3) The report, with maps, diagrams or plans, if any, and cost are hereby accepted and filed.

(4) The total cost of the project, hereby determined to be $4,861.29 has been expended from appropriate city funds for the purpose of this project. The estimated life of said improvement is determined to be one (1) year.

(5) The special assessment to be imposed shall be paid on November 1, 2017, and there shall be charged from such date a penalty of one-half (1/2) of one percent (1%) per month or major fraction thereof upon any sums not paid within thirty (30) days after the same shall become due and payable.

(6) The following described lots and parcels of land are hereby determined to be the properties specifically benefited by said improvement and are hereby designated as the special assessment district upon which that portion of the total cost to be assessed shall be assessed:

From Lovell Street to Eleanor Street - Frontage on
East Side: Maps 15-62; 15-51; 15-46 South End to North End.
West Side: Maps 15-62; 15-51; 15-46 South End to North End.

(7) The City Assessor is hereby directed to prepare a special assessment roll in accordance with the provisions of this resolution and include thereon all lots and parcels of land within the special assessment district herein designated and shall assess to each such lot or parcel of land such relative portion of the whole sum to be specially assessed as the benefit to such lot or parcel of land bears to total benefit to all lands in such district.

(8) When the City Assessor has completed the special assessment roll, he shall endorse thereon his certificate to the effect that said roll was prepared by him pursuant to a resolution of the City Commission adopted on this date and that in making the assessments therein, he has, as nearly as may be and according to his best judgment, conformed in all respects to the directions contained in said resolution and to the Charter and ordinances of the City, and he shall file said special assessment roll with such certificate with the City Clerk in whose office it shall be available for public inspection.

The above resolution was offered by _____ and supported by _____.

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

## CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on August 7, 2017. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by said Act.

_____

Scott A. Borling, City Clerk

**CITY OF KALAMAZOO, MICHIGAN** **#3**

**RESOLUTION NO. _____**

**RESOLUTION NO. 3 RE: 2016 KALAMAZOO MALL MAINTENANCE PROGRAM IMPROVEMENT PROJECT**

Minutes of a regular meeting of the City Commission of the City held on August 7, 2017, at or after 7:00 p.m., local time, at Kalamazoo City Hall, 241 W. South Street, Kalamazoo, Michigan.

**PRESENT**, Commissioners:

**ABSENT**, Commissioners:

The following preamble and resolution was offered by _____ and supported by _____.

WHEREAS, the City Commission by resolution heretofore adopted did direct the City Assessor to prepare a special assessment roll for the purpose of defraying the special assessment district's share of the cost of the improvement hereinafter more particularly described; and

WHEREAS, said special assessment roll has been prepared and certified as required by said resolution and the Charter and ordinances of the City, has been filed in the Office of the City Clerk, and has been presented to the City Commission;

BE IT RESOLVED:

(1) Said special assessment roll shall remain on file in the Office of the City Clerk and be available for public inspection.

(2) The City Commission shall meet at the City Hall in this City on September 18, 2017, at or after 7:00 p.m., local time, to review said special assessment roll.

(3) The City Clerk shall give notice of said hearing by first-class mail, posted at least ten (10) days prior to said hearing to each person or owner having an interest in property assessed in the special assessment district as shown on said roll, and said notice shall also be given by publication when required by general law.

(4) The notice of hearing shall be in substantially the following form:

**CITY OF KALAMAZOO, MICHIGAN**
**NOTICE OF SPECIAL ASSESSMENT HEARING**

PLEASE TAKE NOTICE that the City Commission has tentatively determined to make the following improvement and to defray part or all of the cost by special assessment upon the following described benefited lands:

> 2016 Kalamazoo Mall Maintenance Program - Frontage on each side of the Kalamazoo Mall from Lovell Street to Eleanor Street, east and west sides, Maps 15-62, 15-51, & 15-46. (North End and South End) Maintenance Roll No. 46.

TAKE FURTHER NOTICE that the report of the City Manager describing the proposed improvement and the special assessment roll are on file in the Office of the City Clerk and available for public inspection.

TAKE FURTHER NOTICE that the City Commission will meet at the Kalamazoo City Hall, 241 W. South Street in Kalamazoo on September 18, 2017, at or after 7:00 p.m., local time, for the purpose of reviewing said special assessment roll and hearing all persons interested therein and consider all written objections thereto, regarding the expense, necessity, and assessment thereof.

TAKE FURTHER NOTICE that if you object to or protest this special assessment, in order to appeal the amount of the special assessment to the State Tax Tribunal, you are first required to appear and protest at the above-described hearing the amount of the special assessment. You may appear in person at the hearing to protest the special assessment, or you are permitted to file your appearance or protest by letter, in which case your personal appearance shall not be required. The owner or any person having an interest in the real property upon which the special assessment is made may file a written appeal of the special assessment with the State Tax Tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll.

SCOTT A. BORLING, CITY CLERK

The above resolution was offered by _____ and supported by _____ .

**AYES**, Commissioners:

**NAYS**, Commissioners:

**ABSTAIN**, Commissioners:

**RESOLUTION DECLARED ADOPTED.**

## CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on August 7, 2017. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by said Act.

_____

Scott A. Borling, City Clerk

**CITY OF KALAMAZOO, MICHIGAN**

**CERTIFICATE OF CITY ASSESSOR - IMPROVEMENT PROJECT**

**2016 KALAMAZOO MALL MAINTENANCE PROGRAM**
**MAINTENANCE ROLL #46**

I hereby certify that this assessment roll was prepared pursuant to a resolution of the City Commission, and that in making the assessments herein, I have, according to my best judgment, conformed in all respects to the directions contained in said resolution and to the Charter and ordinances of the City of Kalamazoo.

_____

Andrew Falkenberg, City Assessor

**2016 MALL MAINTENANCE ROLL #46**
**NORTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-340-201<br>225 N. Kalamazoo Mall | Downtown Development Authority<br>141 E. Michigan Avenue, Suite 501<br>Kalamazoo, MI 49007-3943 | | 23.00 | $ | 339.91 |
| 06-15-341-002<br>228 N. Kalamazoo Mall | Downtown Development Authority<br>141 E. Michigan Avenue, Suite 501<br>Kalamazoo, MI 49007-3943 | | 20.00 | $ | 295.57 |
| 06-15-341-004<br>251 N. Kalamazoo Mall | Kalamazoo Valley Community College<br>6767 West O Avenue<br>Kalamazoo, MI 49009 | Kalamazoo Valley Community College<br>PO Box 4070<br>Kalamazoo, MI 49003-4070 | 130.79 | $ | 1,932.90 |
| 06-15-341-291<br>252 N. Kalamazoo Mall | City of Kalamazoo Public Services<br>241 W. South Street<br>Kalamazoo, MI 49007 | | 9.86 | $ | 145.72 |
| 06-15-341-292<br>250 N. Kalamazoo Mall | S & K Properties of Kalamazoo, LLC<br>5108 North 36th Street<br>Richland, MI 49083 | | 44.72 | $ | 660.90 |
| 06-15-341-301<br>230 N. Kalamazoo Mall, #101<br>Unit 1 - 230 N Kalamazoo Mall Condos | CenturyTel Fiber Company II<br>931 14th Street, Suite 103<br>Denver, CO 80202 | | 14.54 | $ | 214.88 |
| 06-15-341-302<br>230 N. Kalamazoo Mall, #201<br>Unit 2 - 230 N Kalamazoo Mall Condos | Valda I. Karlsons & Robert J. Brown<br>2646 Springbrook Drive<br>Kalamazoo, MI 49004 | | 4.15 | $ | 61.33 |
| 06-15-341-303<br>230 N. Kalamazoo Mall, #202<br>Unit 3 - 230 N Kalamazoo Mall Condos | Alanta Lary<br>230 N. Kalamazoo Mall, #202<br>Kalamazoo, MI 49007 | | 4.85 | $ | 71.68 |
| 06-15-341-304<br>230 N. Kalamazoo Mall, #203<br>Unit 4 - 230 N Kalamazoo Mall Condos | Michael & Mary Saxton<br>1150 Long Road<br>Kalamazoo, MI 49008 | | 4.15 | $ | 61.33 |
| 06-15-341-305<br>230 N. Kalamazoo Mall, #204<br>Unit 5 - 230 N Kalamazoo Mall Condos | Michael L. Willis<br>230 N. Kalamazoo Mall, #204<br>Kalamazoo, MI 49007 | | 4.85 | $ | 71.68 |
| 06-15-341-306<br>230 N. Kalamazoo Mall, #301<br>Unit 6 - 230 N Kalamazoo Mall Condos | Michael L. & Deborah M. Killarney<br>230 N. Kalamazoo Mall, #301<br>Kalamazoo, MI 49007 | | 4.15 | $ | 61.33 |
| 06-15-341-307<br>230 N. Kalamazoo Mall, #302<br>Unit 7 - 230 N Kalamazoo Mall Condos | Tom O'Brien<br>Lisa Stech<br>230 N. Kalamazoo Mall, #302<br>Kalamazoo, MI 49007 | | 4.85 | $ | 71.68 |
| 06-15-341-308<br>230 N. Kalamazoo Mall, #303<br>Unit 8 - 230 N Kalamazoo Mall Condos | Jonathan Paul<br>230 N. Kalamazoo Mall, #303<br>Kalamazoo, MI 49007 | | 3.46 | $ | 51.13 |
| 06-15-341-309<br>230 N. Kalamazoo Mall, #304<br>Unit 9 - 230 N Kalamazoo Mall Condos | Darek L. Hoffman<br>230 N. Kalamazoo Mall, #304<br>Kalamazoo, MI 49007 | Darek L. Hoffman<br>38 Commerce Avenue SW, Apt 601<br>Grand Rapids, MI 49503-4143 | 4.85 | $ | 71.68 |

**2016 MALL MAINTENANCE ROLL #46**
**NORTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-341-310<br>230 N. Kalamazoo Mall, #401<br>Unit 10 - 230 N Kalamazoo Mall Condos | Richard & Joanne Stewart<br>230 N. Kalamazoo Mall, #401<br>Kalamazoo, MI 49007 | | 8.99 | $ | 132.86 |
| 06-15-341-311<br>230 N. Kalamazoo Mall, #402<br>Unit 11 - 230 N Kalamazoo Mall Condos | Beth A. McLaren, Trustee<br>230 N. Kalamazoo Mall, #402<br>Kalamazoo, MI 49007 | | 10.38 | $ | 153.40 |
| 06-15-346-001<br>224 N. Kalamazoo Mall | Downtown Development Authority<br>141 E. Michigan Avenue, Suite 501<br>Kalamazoo, MI 49007-3943 | | 20.00 | $ | 295.57 |
| 06-15-346-242<br>201 N. Kalamazoo Mall | Kalamazoo Valley Community College<br>6767 West O Avenue<br>Kalamazoo, MI 49009 | Kalamazoo Valley Community College<br>PO Box 4070<br>Kalamazoo, MI 49003-4070 | 131.64 | $ | 1,945.46 |
| 06-15-346-301<br>222 N. Kalamazoo Mall, #300<br>Unit 1 - Arcadia Condominiums | Matthew Mark Ross<br>222 N. Kalamazoo Mall, #300<br>Kalamazoo, MI 49007 | | 3.91 | $ | 57.78 |
| 06-15-346-302<br>222 N. Kalamazoo Mall, #310<br>Unit 2 - Arcadia Condominiums | Ronald A. Cleveland<br>222 N. Kalamazoo Mall, #310<br>Kalamazoo, MI 49007 | | 2.95 | $ | 43.60 |
| 06-15-346-303<br>222 N. Kalamazoo Mall, #320<br>Unit 3 - Arcadia Condominiums | Carol L. Hodges<br>222 N. Kalamazoo Mall, #320<br>Kalamazoo, MI 49007 | | 4.31 | $ | 63.69 |
| 06-15-346-304<br>222 N. Kalamazoo Mall, #330<br>Unit 4 - Arcadia Condominiums | David S. & Virginia H. Antoniotti<br>386 Summit Drive<br>Kalamazoo, MI 49001 | | 2.89 | $ | 42.71 |
| 06-15-346-305<br>222 N. Kalamazoo Mall, #340<br>Unit 5 - Arcadia Condominiums | Nabil & Hessen Ghazal<br>222 N. Kalamazoo Mall, #340<br>Kalamazoo, MI 49007 | | 3.66 | $ | 54.09 |
| 06-15-346-306<br>222 N. Kalamazoo Mall, #350<br>Unit 6 - Arcadia Condominiums | Theodore Baird & Gianna Service<br>222 N. Kalamazoo Mall, #350<br>Kalamazoo, MI 49007 | | 4.19 | $ | 61.92 |
| 06-15-346-307<br>222 N. Kalamazoo Mall, #360<br>Unit 7 - Arcadia Condominiums | Scott R & Kimmie J Swope<br>222 N. Kalamazoo Mall, #360<br>Kalamazoo, MI 49007 | | 2.91 | $ | 43.00 |
| 06-15-346-308<br>222 N. Kalamazoo Mall, #370<br>Unit 8 - Arcadia Condominiums | James M Teeter<br>222 N. Kalamazoo Mall, #370<br>Kalamazoo, MI 49007 | | 3.58 | $ | 52.91 |
| 06-15-346-309<br>222 N. Kalamazoo Mall, #380<br>Unit 9 - Arcadia Condominiums | Rachel Hall<br>222 N. Kalamazoo Mall, #380<br>Kalamazoo, MI 49007 | | 2.84 | $ | 41.97 |
| 06-15-346-310<br>222 N. Kalamazoo Mall, #390<br>Unit 10 - Arcadia Condominiums | Whitney A. Kemerling<br>222 N. Kalamazoo Mall, #390<br>Kalamazoo, MI 49007 | | 3.01 | $ | 44.48 |

**2016 MALL MAINTENANCE ROLL #46**
**NORTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-346-311<br>222 N. Kalamazoo Mall, #200<br>Unit 11 - Arcadia Condominiums | Patricia E Villalobos<br>Nayda Collazo-Llorens<br>222 N. Kalamazoo Mall, #200<br>Kalamazoo, MI 49007 | | 3.89 | $ | 57.49 |
| 06-15-346-312<br>222 N. Kalamazoo Mall, #210<br>Unit 12 - Arcadia Condominiums | William Service<br>222 N. Kalamazoo Mall, #210<br>Kalamazoo, MI 49007 | | 2.95 | $ | 43.60 |
| 06-15-346-313<br>222 N. Kalamazoo Mall, #220<br>Unit 13 - Arcadia Condominiums | Marianne Amerine<br>3790 Via Dela Valle #201<br>Delmar, CA 92014 | | 4.30 | $ | 63.55 |
| 06-15-346-314<br>222 N. Kalamazoo Mall, #230<br>Unit 14 - Arcadia Condominiums | Martha R. Cohen<br>222 N. Kalamazoo Mall, #230<br>Kalamazoo, MI 49007 | | 3.03 | $ | 44.78 |
| 06-15-346-315<br>222 N. Kalamazoo Mall, #240<br>Unit 15 - Arcadia Condominiums | Roger & Ada Sutton<br>7338 E. Maritime Drive<br>Tucson, AZ 85756-9040 | | 2.89 | $ | 42.71 |
| 06-15-346-316<br>222 N. Kalamazoo Mall, #250<br>Unit 16 - Arcadia Condominiums | Mark A. Kraai & Linda M. Lesniak<br>222 N. Kalamazoo Mall, #250<br>Kalamazoo, MI 49007 | | 4.95 | $ | 73.15 |
| 06-15-346-317<br>222 N. Kalamazoo Mall, #260<br>Unit 17 - Arcadia Condominiums | Key Lime Properties, LLC<br>5207 Portage Road<br>Portage, MI 49002 | | 2.81 | $ | 41.53 |
| 06-15-346-318<br>222 N. Kalamazoo Mall, #270<br>Unit 18 - Arcadia Condominiums | Brendan P Von Koss<br>Olivia Fournier<br>222 N. Kalamazoo Mall, #270<br>Kalamazoo, MI 49007 | | 3.54 | $ | 52.32 |
| 06-15-346-319<br>222 N. Kalamazoo Mall, #280<br>Unit 19 - Arcadia Condominiums | Daniel F & Ann M Kinsella<br>725 N West Street<br>Wheaton, IL 60187 | | 2.90 | $ | 42.86 |
| 06-15-346-320<br>222 N. Kalamazoo Mall, #290<br>Unit 20 - Arcadia Condominiums | Roland Yarbrough<br>222 N. Kalamazoo Mall, #290<br>Kalamazoo, MI 49007 | | 3.11 | $ | 45.96 |
| 06-15-346-321<br>222 N. Kalamazoo Mall, #100<br>Unit 21 - Arcadia Condominiums | Hospice Care of Southwest Michigan<br>222 N. Kalamazoo Mall, #100<br>Kalamazoo, MI 49007 | | 51.38 | $ | 759.33 |
| 06-15-375-004<br>100 W. Michigan Avenue | Catalyst Development Co., L.L.C.<br>100 West Michigan Avenue, Suite 300<br>Kalamazoo, MI 49007 | | 269.94 | $ | 3,989.34 |
| 06-15-376-005<br>132 N. Kalamazoo Mall | Kalamazoo Valley Community College<br>6767 West O Avenue<br>Kalamazoo, MI 49009 | Kalamazoo Valley Community College<br>PO Box 4070<br>Kalamazoo, MI 49003-4070 | 264.00 | $ | 3,901.56 |
| | **TOTAL NORTH END** | | **1103.17** | **$** | **16,303.34** |

**2016 MALL MAINTENANCE ROLL #46**
**SOUTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-381-001<br>107 W. Michigan Avenue, Unit 1<br>Unit 1 - Kalamazoo Building Condos | Keystone Communty Bank<br>107 W. Michigan Avenue, Ste 100<br>Kalamazoo, MI 49007-3974 | | 10.09 | $ | 149.12 |
| 06-15-381-002<br>107 W. Michigan Avenue, Unit 2<br>Unit 2 - Kalamazoo Building Condos | Del S Eldridge<br>4022 Broken Ridge<br>Galesburg, MI 49053 | | 10.46 | $ | 154.58 |
| 06-15-381-003<br>107 W. Michigan Avenue, Unit 3<br>Unit 3 - Kalamazoo Building Condos | Keystone Communty Bank<br>107 W. Michigan Avenue, Ste 100<br>Kalamazoo, MI 49007-3974 | | 10.55 | $ | 155.92 |
| 06-15-381-004<br>107 W. Michigan Avenue, Unit 4<br>Unit 4 - Kalamazoo Building Condos | Davis-Reed, LLC<br>107 W. Michigan Avenue, Ste 400<br>Kalamazoo, MI 49008 | | 10.55 | $ | 155.92 |
| 06-15-381-005<br>107 W. Michigan Avenue, Unit 5<br>Unit 5 - Kalamazoo Building Condos | Kal Building 6, LLC<br>107 W. Michigan Avenue, 6th Floor<br>Kalamazoo, MI 49007 | | 10.55 | $ | 155.92 |
| 06-15-381-006<br>107 W. Michigan Avenue, Unit 6<br>Unit 6 - Kalamazoo Building Condos | Kal Building 6, LLC<br>107 W. Michigan Avenue, 6th Floor<br>Kalamazoo, MI 49007 | | 10.50 | $ | 155.18 |
| 06-15-381-007<br>107 W. Michigan Avenue, Unit 7<br>Unit 7 - Kalamazoo Building Condos | GPS Acquisitions, LLC<br>905 Inkster Avenue<br>Kalamazoo, MI 49008 | | 10.50 | $ | 155.18 |
| 06-15-381-008<br>107 W. Michigan Avenue, Unit 8<br>Unit 8 - Kalamazoo Building Condos | GPS Acquisitions, LLC<br>905 Inkster Avenue<br>Kalamazoo, MI 49008 | | 9.55 | $ | 141.14 |
| 06-15-381-009<br>107 W. Michigan Avenue, Unit 9<br>Unit 9 - Kalamazoo Building Condos | Condominium Associates<br>Penthouse - Kalamazoo Bldg<br>4415 Duke Street, Suite 1E<br>Kalamazoo, MI 49008-3224 | | 4.65 | $ | 68.72 |
| 06-15-381-010<br>107 W. Michigan Avenue, Unit 10<br>Unit 10 - Kalamazoo Building Condos | Keystone Communty Bank<br>107 W. Michigan Avenue, Ste 100<br>Kalamazoo, MI 49007-3974 | | 10.91 | $ | 161.23 |
| 06-15-381-011<br>107 W. Michigan Avenue, Unit 11<br>Unit 11 - Kalamazoo Building Condos | Condominium Associates<br>Penthouse - Kalamazoo Bldg<br>4415 Duke Street, Suite 1E<br>Kalamazoo, MI 49008-3224 | | 1.69 | $ | 24.98 |
| 06-15-381-015<br>108 E. Michigan Avenue | Peregrine - 1st National, LLC<br>336 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Peregrine - 1st National, LLC<br>3930 Lakeside Drive<br>Kalamazoo, MI 49008 | 100.00 | $ | 1,477.86 |
| 06-15-381-124<br>124 S. Kalamazoo Mall | Gilmore Real Estate, LLC<br>162 E. Michigan Avenue<br>Kalamazoo, MI 49007 | | 21.75 | $ | 321.44 |
| 06-15-381-128<br>126 S. Kalamazoo Mall | Peregrine-128, LLC<br>336 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Peregrine-128, LLC<br>3930 Lakeside Drive<br>Kalamazoo, MI 49008 | 21.75 | $ | 321.44 |

**2016 MALL MAINTENANCE ROLL #46**
**SOUTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-381-132<br>132 S. Kalamazoo Mall | AZ Venture, LLC<br>132 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 22.50 | $ | 332.52 |
| 06-15-381-222<br>136 S. Kalamazoo Mall | Lerner Building, LLC<br>146 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 66.00 | $ | 975.39 |
| 06-15-382-103<br>125 S. Kalamazoo Mall | Kalamahajan KCC, LLC<br>Callander Commercial<br>628 W. Milham Avenue<br>Portage, MI 49024 | | 143.41 | $ | 2,119.40 |
| 06-15-386-002<br>210 S. Kalamazoo Mall | James & Laura Endres<br>8880 West G Avenue<br>Kalamazoo, MI 49009 | | 23.00 | $ | 339.91 |
| 06-15-386-005<br>230 S. Kalamazoo Mall<br>Unit 1 - Burdick South Condominium | Rustica Property, LLC<br>6907 Hickory Point Drive East<br>Portage, MI 49024 | | 10.25 | $ | 151.48 |
| 06-15-386-006<br>230 S. Kalamazoo Mall<br>Unit 2 - Burdick South Condominium | 230 South Burdick Street, LLC<br>230 S. Kalamazoo Mall, Ste 200<br>Kalamazoo, MI 49007 | 230 South Burdick Street, LLC<br>7156 Inverness Drive<br>Kalamazoo, MI 49009 | 10.25 | $ | 151.48 |
| 06-15-386-007<br>230 S. Kalamazoo Mall<br>Unit 3 - Burdick South Condominium | Annie Waring Todd<br>44 Lang Road<br>Centennial Park, NSW 2021 Australia | | 10.25 | $ | 151.48 |
| 06-15-386-008<br>230 S. Kalamazoo Mall<br>Unit 4 - Burdick South Condominium | Annie Waring Todd<br>44 Lang Road<br>Centennial Park, NSW 2021 Australia | | 10.25 | $ | 151.48 |
| 06-15-386-011<br>217 S. Kalamazoo Mall<br>Unit 1 - Style Shop Bldg Condominium | Shannibear Properties, LLC<br>1035 Northampton Road<br>Kalamazoo, MI 49006 | | 8.12 | $ | 120.00 |
| 06-15-386-012<br>219 S. Kalamazoo Mall<br>Unit 2 - Style Shop Bldg Condominium | Paul Stanley Lightle<br>219 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 7.42 | $ | 109.66 |
| 06-15-386-013<br>221 S. Kalamazoo Mall<br>Unit 3 - Style Shop Bldg Condominium | Craig A LaPine<br>9418 East Shore Drive<br>Portage, MI 49002 | | 7.66 | $ | 113.20 |
| 06-15-386-101<br>214 S. Kalamazoo Mall | Catalyst Development Co. 4, LLC<br>100 W. Michigan Avenue, Suite 300<br>Kalamazoo, MI 49007 | | 72.00 | $ | 1,064.06 |
| 06-15-386-223<br>154 S. Kalamazoo Mall | Catalyst Development Co. 7, LLC<br>100 W. Michigan Avenue, Suite 300<br>Kalamazoo, MI 49007 | | 66.00 | $ | 975.39 |
| 06-15-386-226<br>236 S. Kalamazoo Mall | Rustica Properties, LLC<br>6907 Hickory Point East<br>Portage, MI 49024 | | 21.31 | $ | 314.93 |

**2016 MALL MAINTENANCE ROLL #46**
**SOUTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-386-230<br>202 S. Kalamazoo Mall | William & Susan Van Dis<br>202 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 43.00 | $ | 635.48 |
| 06-15-387-104<br>214 Farmers Alley<br>Unit 4 - Milliner Center Condominium | Droppers Kalamazoo, LLC<br>1401 Lama Road<br>Kalamazoo, MI 49008 | | 0.86 | $ | 12.71 |
| 06-15-387-106<br>213 S. Kalamazoo Mall<br>Unit 6 - Milliner Center Condominium | Hassan R & Malda Ayad<br>213 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 5.25 | $ | 77.59 |
| 06-15-387-107<br>209 S. Kalamazoo Mall<br>Unit 7 - Milliner Center Condominium | Milliner Center Properties, LLC<br>9763 Springwood Drive<br>Kalamazoo, MI 49009 | | 10.24 | $ | 151.33 |
| 06-15-387-108<br>207 S. Kalamazoo Mall<br>Unit 8 - Milliner Center Condominium | Joseph Cekola<br>207 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 5.74 | $ | 84.83 |
| 06-15-387-109<br>215 S. Kalamazoo Mall<br>Unit 9 - Milliner Center Condominium | Deborah Brown, Trustee<br>206 Farmers Alley<br>Kalamazoo, MI 49007 | | 18.73 | $ | 276.80 |
| 06-15-387-112<br>209 S. Kalamazoo Mall Rear<br>Unit 12 - Milliner Center Condominium | Milliner Center Properties, LLC<br>9763 Springwood Drive<br>Kalamazoo, MI 49009 | | 4.15 | $ | 61.33 |
| 06-15-387-113<br>206 Farmers Alley<br>Unit 13 - Milliner Center Condominium | Deborah Brown, Trustee<br>206 Farmers Alley<br>Kalamazoo, MI 49007 | | 6.82 | $ | 100.79 |
| 06-15-387-114<br>208 Farmers Alley<br>Unit 14 - Milliner Center Condominium | Ryan S. Williams<br>208 Farmers Alley<br>Kalamazoo, MI 49007 | | 4.99 | $ | 73.75 |
| 06-15-387-115<br>212 Farmers Alley<br>Unit 15 - Milliner Center Condominium | Dacoba, LLC<br>9763 Springwood Drive<br>Kalamazoo, MI 49009 | | 1.33 | $ | 19.66 |
| 06-15-387-116<br>210 Farmers Alley<br>Unit 16 - Milliner Center Condominium | Droppers Kalamazoo, LLC<br>1401 Lama Road<br>Kalamazoo, MI 49008 | | 7.20 | $ | 106.41 |
| 06-15-387-214<br>223 S. Kalamazoo Mall | Fuller Building, LLC<br>223 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Patricia Hirsch<br>610 W. South Street<br>Kalamazoo, MI 49007 | 44.93 | $ | 664.00 |
| 06-15-387-216<br>157 S. Kalamazoo Mall | Vernon Group MP, LLC<br>5937 W. Main Street<br>Kalamazoo, MI 49009 | | 86.50 | $ | 1,278.35 |
| 06-15-390-210<br>316 S. Kalamazoo Mall | Peregrine Towers, LLC<br>336 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Peregrine Towers, LLC<br>3930 Lakeside Drive<br>Kalamazoo, MI 49008 | 165.00 | $ | 2,438.47 |

**2016 MALL MAINTENANCE ROLL #46**
**SOUTH END**
**RATE PER FRONT FOOT $14.779**

| *Parcel Number & Address* | *Taxpayer* | *Send Bill to (if applicable)* | *Front Feet* | | *Cost* |
|---|---|---|---|---|---|
| 06-15-391-204<br>315 S. Kalamazoo Mall | SAJO 315, LLC<br>315 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 114.00 | $ | 1,684.76 |
| 06-15-391-227<br>250 S. Kalamazoo Mall | South Street Kalamazoo, LLC<br>250 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | | 67.11 | $ | 991.79 |
| 06-15-391-230<br>241 S. Kalamazoo Mall | Peregrine-International, LLC<br>336 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Peregrine-International, LLC<br>3930 Lakeside Drive<br>Kalamazoo, MI 49008 | 115.50 | $ | 1,706.93 |
| 06-15-396-001<br>336 S. Kalamazoo Mall | Peregrine Towers LLC<br>336 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Peregrine Towers LLC<br>3930 Lakeside Drive<br>Kalamazoo, MI 49008 | 65.64 | $ | 970.07 |
| 06-15-396-204<br>321 S. Kalamazoo Mall | Joy Rentals, LLC<br>Matt Vernon<br>5937 W. Main Street<br>Kalamazoo, MI 49009 | | 53.63 | $ | 792.58 |
| 06-15-396-206<br>359 S. Kalamazoo Mall | Kalamazoo Cultural Center<br>359 S. Kalamazoo Mall, Suite 203<br>Kalamazoo, MI 49007 | Kalamazoo Cultural Center<br>c/o Phoenix Properties<br>2725 Airview Boulevard, Suite 302<br>Portage, MI 49002 | 160.70 | $ | 2,374.93 |
| 06-15-396-207<br>346 S. Kalamazoo Mall | Peregrine-McNair, LLC<br>336 S. Kalamazoo Mall<br>Kalamazoo, MI 49007 | Peregrine-McNair, LLC<br>3930 Lakeside Drive<br>Kalamazoo, MI 49008 | 93.81 | $ | 1,386.38 |
| | **TOTAL SOUTH END** | | **1797.05** | **$** | **26,557.95** |
| | **TOTAL ROLL** | | **2900.22** | **$** | **42,861.29** |

# Commission Agenda Report

City of Kalamazoo

**TO:** Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

**FROM:** Clyde J. Robinson, City Attorney

**DATE:** 8/3/2017

**SUBJECT:** Kalamazoo Foundation for Excellence

**INFORMATIONAL ITEMS**

Attached for your information are responses to the issues raised at the City Commission work session on July 24th regarding the Kalamazoo Foundation for Excellence.

**ATTACHMENTS:**

| Type | Description |
| --- | --- |
| Correspondence | Responses to Issues Raised re: the Foundation for Excellence |

**City of Kalamazoo - Office of the City Attorney**

# INTER-OFFICEMEMO

**To: Honorable Mayor Hopewell, Vice Mayor Cooney and City Commissioners**

**From: Clyde J. Robinson, City Attorney**

**Date: August 3, 2017**

**Re: Kalamazoo Foundation for Excellence Issues**

At its July 24, 2017 work session meeting regarding the proposed Kalamazoo Foundation for Excellence ("FFE"), City Commissioners raised several issues and concerns. This memo catalogs those matters and provides a response to each.

**1. Board of Directors Representation**

As initially proposed, the Articles of Incorporation ("Articles") and Bylaws of the FFE contemplate a 13 member Board of whom a majority, or 7 members, must be City residents. The suggestion was advanced by several Commissioners that perhaps the number of directors should be increased, and that in any case the number of City residents on the board should be increased beyond a bare majority. Concern was also expressed that only one of the 8 Stakeholder Directors must be a resident from an organized neighborhood association of the City.

It is suggested that the Articles and Bylaws be changed to provide for a 15 member Board, of which 9 members must be City residents, and that the number of Neighborhood Stakeholder representatives be increased from 1 to 3 Directors. Although this would increase the size of the Board, it keeps it to a manageable and efficient level, while at the same time increasing neighborhood/citizen participation and representation, but not at the expense of other stakeholder interests. Additionally, it would provide a clear majority of City residents on the Board.

**2. Imagine Kalamazoo 2025 Recognition as a Core Value**

The Imagine Kalamazoo 2025 community visioning process is clearly and repeatedly (4 times) referenced in the Statement of Donor Intent. It is also specifically mentioned within the Articles at page 2, ¶ C.3. to serve as the basis for evaluation of aspirational projects, *viz:* "To provide for aspirational projects . . . after receiving resident and stakeholder input, including the input derived from current and future visioning processes such as Imagine Kalamazoo 2025 . . . ".

**3. Political Activity Restriction**

The language found at page 4, ¶ H. of the Articles that prohibits a substantial part of activities of the FFE attempt to influence legislation or ballot proposals is consistent with Internal Revenue Service (IRS) standards. Using this language permits the FFE to rely upon the body of regulatory law which has developed over this well-used and understood phrase. I do not recommend that an effort be made to make changes to it.

**4. City Director Appointees**

The rules governing how the City Commission conducts its business properly belongs in the City Charter, City ordinances, and Commission-adopted policy resolutions, not in a document whose intent and purpose is the governance of a separate body. How the City Commission decides who it chooses to nominate to the FFE Board, be they Commissioners or the citizen at-large, is something best left to an agreed upon policy or process defined by the City Commission. To provide that any limitation on the authority of City Commission should be inserted into the Articles or Bylaws of the FFE, and thereby ceding the ability to alter how that authority is exercised, would be, in my opinion, an unlawful delegation of municipal power. As observed by the Michigan Supreme Court in *Osius v. City of St. Clair Shores*, 344 Mich 693, 698; 75 NW2d 25 (1956), "There is no doubt that a legislative body may not delegate to another its lawmaking powers." The method of how the City Commission selects it nominees to the FFE is solely an issue for the City Commission itself, not the FFE Board.

**5. Private Foundation**

Under IRS rules, every organization that qualifies for a tax exemption is deemed to be a private foundation, unless it falls into one of the statutorily-provided exclusions at §509(a) of the Internal Revenue Code. One of those exclusions is a Type I supporting organization, which is the intent of the FFE Articles. Recognition as a supporting organization, rather than a private foundation, avoids a 2% excise tax on the net investment income of the organization.

A supporting organization may be deemed a private foundation should it be viewed by the IRS as controlled by "disqualified persons". A disqualified person includes a substantial contributor or a family member of a disqualified person. A substantial contributor is a person who provides more than $5000 in total contributions AND which is more than 2% of the total lifetime contribution received by a foundation from all contributors. So as to avoid being deemed a private foundation, the Articles and Bylaws specifically preclude disqualified persons from appointment to the FFE Board of Directors.

**6. Restricted Gifts**

The language found at §4.18 B on page 11 of the Bylaws reflects a reporting requirement of the Financial Accounting Standards Board for nonprofit entities. The

current standard is that a nonprofit must report net assets as unrestricted, temporarily restricted, or permanently restricted. However this will soon change. For fiscal years beginning after December 15, 2017, net assets will be reported as either "donor restricted" or "without donor restrictions". In the case of the FFE, any donation it receives is by definition restricted since it may only be spent in support of the City of Kalamazoo.

Theoretically, the receipt of large amounts of funds received by the FFE which seek to further restrict how they may be spent could create a shortage of otherwise "unrestricted" money to support other actions or obligations of the FFE. However, the FFE Board is not obligated to receive a gift with conditions and it is possible to negotiate with a potential donor so as to create flexibility in the manner in which donor-restricted funds are spent so as not to impair the ability of the FFE to fund its obligations as a supporting organization to the City. Because of its purpose as a supporting organization to the City, it may only receive "restricted" funds which are directly related to the lowering the millage, budget stabilization, and City Commission-approved aspirational projects which are consistent with the community visioning process.

Rather than tie the hands of the FFE Board with language in the Articles or Bylaws precluding the acceptance of restricted gifts, some of which may be acceptable and consistent with the FFE purposes, this issue is best left to the FFE Board to craft a gift acceptance policy that can be reviewed and modified as circumstances dictate.

**7. Required Disbursement**

The goal of the 3.5% minimum disbursement requirement is to maintain some degree of the benefits intended to be funded by the FFE, even in years when the economy is weak. While a string of years of poor market performance would be a matter of concern, the investment strategy of seeking a 7% annual return, which has been often exceeded, should provide the ability to grow or, at least maintain, the FFE fund while still making the necessary disbursements available to the City.

**8. Freedom of Information**

This is another policy issue best addressed by the adoption of a policy by the FFE Board. Such a policy might reflect the balance between the often conflicting goals of public transparency and personal privacy. In particular, the FOIA is subject to legislative amendment and judicial interpretation. Leaving this issue to a Board-adopted policy permits flexibility in response to any change in the law.

**9. Kalamazoo Community Foundation**

Since the City Commission meeting of July 28, 2017, the Kalamazoo Community Foundation ("KCF") has raised questions about named in the Articles and Bylaws as being required to perform certain tasks, without being a signatory to the documents. In lieu of specifically naming the KCF, the documents will make reference to a generic

third-party that will be under contract to the FFE to perform various functions. Again, while it is anticipated that a cooperative relationship will develop between the FFE and KCF, the suggested change in the Article and Bylaws permits greater flexibility and the ability to use another provider, if the FFE Board deems such is advisable.

**Conclusion**

In conclusion, other than addressing the Board size and composition to reflect greater City resident involvement, and removing the specific references to the Kalamazoo Community Foundation, it is not recommended that further changes be made to the proposed Articles of Incorporation and Bylaws of the proposed Kalamazoo Foundation for Excellence. While the other concerns voiced are certainly valid, they are either adequately addressed in the Articles and Bylaws, or their resolution is best left to the Board of Directors in its role as the policy-maker for the FFE or the City Commission as a legislative body in the governance of its own affairs.

It is anticipated that these issues will be discussed at the August 7, 2017 City Commission meeting and the Articles and Bylaws approval formally considered at the August 21, 2017 meeting.

Cc: James K. Ritsema, City Manager
Laura Lam, Assistant City Manager