

Agenda

Planning Commission

City of Kalamazoo



Thursday, August 4, 2022

7:00 PM

City Commission Chambers – 241 West South Street

A. CALL TO ORDER/ROLL CALL

B. ADOPTION OF FORMAL AGENDA

C. APPROVAL OF MINUTES

1. Approval of Minutes from the Planning Commission meeting on July 7, 2022

D. COMMUNICATIONS AND ANNOUNCEMENTS

E. PUBLIC HEARINGS

1. PC #2022.07: Vacate Cooley Street. Vacation of Cooley Street between Eleanor Street & W. Water Street
2. PC #2022.08: Amendment to Appendix A, Zoning Ordinance. Text amendment to remove the Wellhead Protection Overlay from Chapter 3 of Appendix A: Zoning Ordinance.

F. DISCUSSION/ACTION ITEMS

G. REPORTS

1. City Planner's Report
2. 2022 Site Plan Review Spreadsheet

H. PUBLIC COMMENTS

I. CITY COMMISSION LIASON COMMENTS

J. PLANNING COMMISSIONER COMMENTS

K. ADJOURNMENT

City of Kalamazoo
PLANNING COMMISSION
Meeting Minutes
July 7, 2022
DRAFT

Members Present: Gregory Milliken, Chair; David Burgess; Brian Pittelko; Michael Harrison;
*Shardae Chambers; Sakhi Vyas, Vice Chair; Mariah Phelps

Members Excused: James Pitts; Jennifer Swan

City Staff: Christina Anderson, City Planner; Beth Cheeseman, Executive Administrative
Assistant; Chris Praedel, City Commissioner; Zach DuMont, AmeriCorps Service
Member; Charlie Bear, Assistant City Attorney

A. CALL TO ORDER/ROLL CALL

Commissioner Milliken called the meeting to order at 7:00 p.m.

Planner Anderson proceeded with roll call and determined that the aforementioned members were present.

B. ADOPTION OF FORMAL AGENDA

Commissioner Vyas, seconded by Commissioner Harrison, moved approval of the July 7, 2022, Planning Commission agenda as presented. With a voice vote, the motion carried unanimously.

C. APPROVAL OF MINUTES

Commissioner Burgess, seconded by Commissioner Pittelko, moved approval of the June 2, 2022, minutes as presented. With a voice vote, the motion carried unanimously.

D. COMMUNICATIONS AND ANNOUNCEMENTS

None.

E. PUBLIC HEARINGS

PC #2022.06: 2001 Cameron St. / 1510 and 1518 Bryant Street. Tree of Life School is requesting a special use permit to expand school facilities onto 1510 and 1518 Bryant Street.

*Commissioner Chambers entered the meeting during Commissioner Milliken's explanation of how the public can comment during the meeting.

Planner Anderson said the Tree of Life school has requested a Special Use Permit for the expansion of school facilities onto the Bryant Street lots. They have proposed recreational facilities and a garden on these parcels. She showed pictures and maps of the parcels/area. Planner Anderson noted that the school and parcels are in the Edison neighborhood. The school is located in zone district M-1 with the remainder of the neighborhood in the RS-5 district. She noted that schools are commonly found in the RS-5 district. Planner Anderson reviewed the rationale for staff recommendation. She stated that the garden plots will be

closer to street with the recreation area in the back. Staff found no environmental impacts and the streets have adequate capacity to handle the school expansion. It is anticipated that students will walk across the street when using the site, so no additional parking is required. Planner Anderson stated that the expansion would have to go through the site plan process.

The applicant, Mr. Adam Sterenberg, came forward to speak to the request. He said they are excited to have the opportunity to expand outdoor recreational activities for students and the Edison community. Mr. Sterenberg said they purchased the lot across Cameron a few years ago and wanted to develop something that would benefit the community. They are proposing a basketball court and two tetherball courts. Mr. Sterenberg shared that they have also raised money to replace their playground equipment. He said they learned that the lot to the east is owned by the Kalamazoo Land Bank. If the Tree of Life school is awarded the Special Use Permit, the Land Bank will sell them the adjacent lot. Mr. Sterenberg said they would love to put community gardens on that lot.

Commissioner Chambers asked if there would be any additional parking needs or additional traffic in the area. Mr. Sterenberg didn't think there would be an increased need for parking. After hours, the public can use the school parking lots. When the school has fund raisers, people generally park in the street. Otherwise, he believes that people in the neighborhood would be walking or biking.

Commissioner Pittelko asked if they anticipated issues with kids crossing the street. Mr. Sterenberg said he couldn't speak to the issue regarding neighborhood kids, but students at the school would be supervised during playtime.

Commissioner Vyas asked if they plan to fence in the areas, or would the area be open for use by community members. Mr. Sterenberg explained the fencing at their location and confirmed that it will be open for use by the community.

Commissioner Phelps asked if they would need additional staff to monitor play areas and students crossing the street. Applicant said there would never be just one staff member. They would get whatever staffing was needed for both areas.

Commissioner Milliken opened the public comment portion of the hearing.

Mr. Joe Hohler shared that since the school has come in the neighborhood, they've cleaned and maintained their lot well. He believed they would take good care of the additional parcels. Mr. Hohler was happy to see the land be of use to the community.

Mr. James Potter said he loves having the playground area nearby for his grandchildren. He believed that recreational facilities in urban setting usually benefit the neighborhood. Mr. Potter was in support of the request calling it a win win.

There were no phone comments.

Commissioner Milliken closed the public comment portion of the public hearing.

Commissioner Milliken asked the City Planner if there was any other feedback from neighbors or others. Planner Anderson said there were no additional comments.

Commissioner Phelps moved to approve a special use permit for 1518 Bryant Street; seconded by Commissioner Chambers.

Planner Anderson clarified that the motion should include both addresses – 1510 and 1518 Bryant Street.

Commissioner Phelps amended her motion to include 1510 and 1518 Bryant Street; seconded by Commissioner Chambers.

Commissioner Phelps said that staff had done a good job of vetting the applicant. The applicant seems passionate about bringing much needed recreational use to the neighborhood and community and she would support the request.

Commissioner Harrison was excited about bringing another park to the community. He believed that parks bring residents together. He was glad to support this initiative.

Commissioner Chambers agreed that it was nice to have a park open to the community, especially in that neighborhood. She believed it will bring more students to their school in years to come. Commissioner Chambers noted that the request falls in line with their neighborhood plan, and she is excited about what they will bring.

Commissioner Milliken stated that, per the staff report, this request meets requirements of the zoning ordinance. He mentioned that one of the speakers talked about the railroad right away. There is a unique configuration of the lots there and seeing them put to good use is valuable beyond the recreational elements.

A roll call vote was taken, and the motion passed unanimously.

F. DISCUSSION/ACTION ITEMS

PC #2022.07: Update to the Public Participation Policy

Planner Anderson shared that the Public Participation Policy (PPP) is the City's commitment to outreach and engagement. It is meant to be a part of everyday work and not just big projects. The document includes an understanding of who should be at the discussion table and why. She said that it highlights the importance of engagement at all stages of a plan (before, during and after) to make sure they are understanding the impacts and to answer questions. Planner Anderson stated that three major areas were updated. They added specific developer/applicant outreach (formalizing what is done currently). They also created a Community of Practice. This is an internal working group made up of representatives of staff across departments. They will collaborate on events and taking information to neighborhoods. In the longer term, they hope to have the Community of Practice group lead communication audits to make sure information is clearly written and transparent. Planner Anderson said this group will be important as they move toward IK 2035. The final update to the document was the Engagement Guide and Toolkit. She said she used this process for the two-way conversion project for Kalamazoo Avenue. It was helpful to think through who is impacted, stakeholders, level of impact, who needs to be at table and why and then figure out engagement activities. Planner Anderson noted that they have included virtual/digital means of outreach as well. She noted that they did receive some feedback and made those changes to the document.

Commissioner Harrison asked how they will measure goals and evaluate success. Planner Anderson said they could measure by number of participants or if they reached all the groups they needed to reach, and if there were questions. She said the Toolkit has an exercise for coming up with goals for each individual project so they can be measured at the end. It also gives space to think about what was heard and what that means for the outcome. Planner Anderson thought the first activity of the Community of Practice group would be to set those goals. She noted that they tend to gravitate towards numbers, but public participation is measured in trust, level of comfortability, open lines of communication, and people coming back for next process after participating previously. Those are harder to measure. That group will have to figure out how to measure those things.

Commissioner Chambers asked if there were common issues heard from the community. Planner Anderson said feedback was regarding specific details that needed to be clarified. She thinks this policy will set a clear and transparent process no matter who is driving the project.

Commissioner Milliken clarified that this is above and beyond required notices that gets mailed for a public hearing. Planner Anderson agreed that this is above the State's requirements for public hearings. Commissioner Milliken noted that for special use permits, the policy wouldn't change things, but the policy would really give strength to the larger projects (for ex: rezonings, street vacations, PUD, or big NFP projects). Planner Anderson shared that later in the toolkit, it talks about high impact, low impact, high geography, low geography. A street vacation has potential for a larger impact on a larger area than a side yard setback. That is why it is scaled the way it is. Commissioner Milliken and Planner Anderson talked about some examples of low impact vs. high impact street vacations.

Commissioner Milliken asked to clarify the action needed on the PPP. Planner Anderson said it is a recommendation of approval to the City Commission. She noted this is part of the RRC which is why they need the formal approval process.

Commissioner Vyas, seconded by Commissioner Pittelko, moved to recommend approval of the Public Participation Policy to the City Commission.

A roll call vote was taken, and the motion passed unanimously.

G. REPORTS:

Planner Anderson shared that staff gave a presentation to the City Commission on the Streets for All project. They introduced the work on converting Kalamazoo. She noted that they are in the process of organizing a lot of meetings. They will have an Art Hop and will be at Lunchtime Live. She said they are seeking input on are best areas for north/south pedestrian crossing improvements. Another element for discussion will be for the section downtown, east of Westnedge to Harrison, and what that street section should include. They are trying to think about what's needed for Kalamazoo Avenue and what will happen on Michigan Avenue in the future.

Commissioner Vyas asked the date of the Art Hop and Lunchtime Live. Planner Anderson said they will be at the August 5th Art Hop. Lunchtime Live will probably be starting the last week in July, but definitely in August. She added that the City is partnering with SW Michigan First to hold a Business Townhall. They plan to have another downtown meeting with the Stuart Neighborhood and two discussions in the Stuart/Douglass/Kalamazoo area. There will also be opportunities for participation online.

H. PUBLIC COMMENTS:

No comments.

I. CITY COMMISSION LIAISON COMMENTS

Commissioner Praedel announced that the City Attorney is retiring. He reports directly to the City Commission. Mayor Anderson, and Commissioners Decker and Praedel are on a subcommittee. They have elected to use the Michigan Municipal League to help with search. Commissioner Praedel said they hope to garner feedback from the City Commission, senior City staff and the public. He hopes to have someone announced in early fall. The Community Sustainability Plan was adopted at the City Commission's June 21st meeting. Commissioner Praedel noted that it is a 10 year plan. He shared that Streets for All presentation mentioned by Planner Anderson was fantastic. Commissioner Praedel was proud of the last month's work. He said they used \$2.1 million to support youth initiatives. There were 31 organizations supporting youth this summer along with KIDnet, Parks & Recreation and the Police Athletic League. Rocket football funding will support 650 youth in community. Commissioner Praedel said they were finally able to get consensus to support \$550,000 gun violence intervention strategies. They will be working with the United Way and five non-profits have been chosen to do the work. He said they are working together with county to double the impact. In June they allocated \$1.1 million to support approximately 70 new housing units. Commissioner Praedel said they had a first reading to amend Chapter 22. This will decriminalized things like spitting on sidewalk or public urination. Taking them from misdemeanors to civil infractions.

J. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioner Chambers thanked City staff for their work with community engagement and updates for the two-way conversion. She believed it will be an excellent enhancement for Kalamazoo. Commissioner Chambers encouraged them to vote in the Aug 2nd election.

Commissioners Milliken and Pittelko will not be available for the next Planning Commission meeting.

Commissioner Milliken promoted using Kik Pool. He said he was a part of a big swim meet there and the facility really showed well. Commissioner Vyas said that memberships are available at Kik pool or the Parks & Recreation Offices on Mills Street. She also encouraged use of the splash pads.

K. ADJOURNMENT

Commissioner Milliken adjourned the meeting at 7:53 pm.



Planning Commission Staff Report

Date: **8/4/2022**

Item: **E.1.**

City of Kalamazoo

TO: City of Kalamazoo Planning Commission

FROM: Christina Anderson, AICP, City Planner
Reviewed by: Pete Eldridge, AICP, Assistant City Planner
Prepared by: Bobby Durkee, AICP, Planner I

DATE: August 4, 2022

SUBJECT: PC #2022.07: Vacate Cooley Street. Vacation of Cooley Street between Eleanor Street & W. Water Street

BACKGROUND:

This stretch of Cooley Street under consideration for vacation (abandoning) is a north / south street in the northwestern portion of downtown. PlazaCorp is seeking to vacate this one block of Cooley Street to support their proposed development of two multi-story mixed-use buildings. Cooley Street currently runs between the two proposed buildings. If vacated, the current right-of-way would be absorbed into the adjacent parcels. The developer has proposed to keep a surface roadway in the current location of Cooley Street extending north to south linking Eleanor Street and W. Water Street. The Downtown Development Authority (DDA) would obtain a narrow piece of the right-of-way to connect their two parcels, which are mostly the Arcadia Creek channel, into one parcel along the block. The DDA board is supportive of the request to vacate this stretch and will work with ACW 2s, LLC and ACW1s, LLC to finalize easements for the pedestrian pathway.

Cooley Street currently runs from Kalamazoo Avenue to W Water Street and is a local neighborhood street according to the Street Design Manual. This stretch under consideration currently has mostly surface parking lots adjacent to it. If vacated, the adjacent parcel to this stretch of Cooley Street will continue to access to a public right-of-way. Vacating Cooley in this section does not impact the access easement for the public walkway along the Creek.

The vacation of this right-of-way provides additional land area for the developer to redesign and build a through route to serve the buildings, including a private street, parking, outdoor dining and gathering space, and pedestrian access. This access through the proposed vacated portion of Cooley Street will be maintained due to the need to retain easements for both public and private utilities which will remain within the

former right of way.

The staff is supportive of the street vacation request due to the additional flexibility of design, the maintaining of a surface street and the establishment of an easement for the existing utilities in this right-of-way.

STRATEGIC VISION ALIGNMENT:



Economic Vitality - A supportive infrastructure for growing businesses and stabilizing the local economy for the benefit of all.



Complete Neighborhoods - residential areas that support the full range of people's daily needs

Strategic Vision and Master Plan 2025 Alignment:

The proposed street vacation touches on the Strategic Vision goal of Economic Vitality as this supports the vision for the downtown to increase development density, make it more pedestrian-oriented, and increase customer traffic for local businesses. This also touches on the goal of Complete Neighborhoods by creating additional house units within the downtown.

The Future Land Use Map shows this area as 'Downtown', which promotes high-density residential uses and compact combinations of pedestrian-oriented retail, office and entertainment.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Appropriate Depth of Engagement:

The developer sent letters and emails to surrounding properties notifying them of the intent to vacate the stretch of Cooley Street on May 27, 2022. The developer also reached out to known public and private utility holders in the right-of-way. No objections were received to the proposal to recreate an easement across this portion of Cooley Street to allow future utility access.

The city sent notices to all property owners within three-hundred (300) feet of the subject property on July 20, 2022.

Engagement/Communication Tools:

A notice in the Kalamazoo Gazette, mailing of letters, and emails.

FINDINGS:

This stretch of Cooley Street is a more minor adjacent street and only runs for two blocks. The minor nature of this short stretch of Cooley is supported by its designation in the Street Design Manual as a Local Neighborhood Street. PlazaCorp has proposed to utilize the land

area for the proposed development and has agreed to provide easements for existing and new utilities and will leave a private street in the same area.

The City of Kalamazoo Street Vacation Policy outlines the following minimum criteria required to request a street vacation:

A The right-of-way is unimproved.

Not applicable

B. The right-of-way is improved but is not publicly used or sees limited use by the public and, if there is limited use by the public, a parallel route in close proximity exists.

This stretch of Cooley Street is one block of a two-block stretch south of Kalamazoo; the block of Cooley north of Kalamazoo Avenue was vacated several years ago. To the east and west of Cooley are Park and Westnedge Streets, which can serve the traffic needs if Cooley is vacated.

C. Vacation of the right-of-way would not impede the access of any adjacent property owner to their property.

The developer owns four of the adjacent parcels, all of which have access from other streets. The two DDA owner parcels (creek and trail) will be converted to one parcel after the street is vacated. The public walkway along the Creek will not have its access impacted.

D. All adjacent property owners to the ROW must indicate their support of the vacation request in writing.

There are two owners of properties adjacent. The applicant is one and the DDA is the other owner. The DDA Board provided their support of the request at their June 2022 Board Meeting.

E. Vacation will not impede the City in meeting its transportation goals.

Cooley Street is not a primary route and is classified as a local neighborhood street in the City Street Design Manual. Pedestrian and vehicular access will be maintained after the property is redeveloped and the existing pathway along the creek will be maintained. The street vacation would not impede the city's transportation goals.

F. Vacation will not impact existing and planned utilities in right-of-way.

The development will maintain an easement across the former right-of-way for public and private utility access. All utility contractors known in the right of way have offered their support for this street vacation based on the proposed easement.

G. Vacation will not impede the work of the Kalamazoo Department of Public Safety or Public Services Department.

The Public Safety Department has reviewed the proposal and is supportive of the request to vacate this portion of street with the understanding that access will be maintained as part of the redevelopment plan.

RECOMMENDATION:

Staff recommends the Planning Commission recommend approval of this street vacation to the City Commission with the conditions that a utility easement be established.



COMMUNITY PLANNING & ECONOMIC DEVELOPMENT

Planning Division

245 N Rose, Suite 100

Kalamazoo, MI 49007

(269) 337-8044

www.kalamazoocity.org

**NOTICE OF PUBLIC HEARING FOR STREET VACATION REQUEST
COOLEY STREET BETWEEN W. WATER STREET AND ELEANOR STREET**

Dear Property Owner/Occupant:

You are receiving this notice because you either own or occupy property near the subject property of this request. This notice is to inform you that the Kalamazoo City Planning Commission will hold a public hearing to consider a request from ACW 2S, LLC & ACW 1S, LLC **to vacate (abandon) a segment of Cooley Street in the downtown neighborhood.**

This segment of Cooley Street is approximately 285 feet in length and is the portion of roadway between Eleanor Street and W Water Street. If vacated, the street section will be combined with the adjacent parcels. Please see the attached map for the location of the property for the proposed vacation.

A public hearing will be held by the **Planning Commission** on August 4, 2022, at 7 p.m. in the City Commission Chambers of City Hall at 241 W South Street. At this meeting, the Planning Commission will hold a public hearing on the street vacation request and will make a recommendation to the Kalamazoo City Commission. The City Commission has the final authority on approval of all street vacation requests.

To examine documents related to this request or provide written comments, please contact Bobby Durkee at durkeer@kalamazoocity.org or call (269) 337-8172. The agenda will be posted at <https://www.kalamazoocity.org/boards>

Sincerely,

Bobby Durkee, AICP
Planner I



Community Planning & Economic Development

245 N. Rose Street, Suite 100 • Kalamazoo, MI 49007

(269) 337-8026 • www.kalamazoo-city.org

PLANNING COMMISSION APPLICATION

APPLICANT INFORMATION			
Name: ACW 2S, LLC (A) & ACW 1S, LLC (B)		Mailing Address: 200 W. Michigan Ave., Ste 201	
City: Kalamazoo		State: MI	ZIP Code: 49007
Phone: 269-383-5775	Email: andy@plazacorp.net	Preferred Contact: ☒ Email ☐ Phone	
PROPERTY OWNER INFORMATION			
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>			
Name: same as above		Mailing Address:	
City:		State:	ZIP Code:
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone	
PROPERTY INFORMATION			
Property Address(s): See attached Exhibit A.			
Parcel Identification Number(s): See Exhibit A.		Zone District (kalamazoo-city.org/maps): D2	
TYPE OF REQUEST			
☐ Rezoning ☐ Text Amendment (Chapter(s) _____, Section(s) _____) ☐ Special Use Permit		☐ Planned Unit Development (PUD) ☐ Preliminary Subdivision ☒ Right of Way Vacation	
Description: The vacated area will be used for parking by customers and clients of the future commercial tenants who will be located on the first floors of the proposed mixed-use project. Also included will be landscaping, storm water management and a potential area designated for food truck(s).			
ATTACHMENTS			
☒ \$ 450.00 Fee		☒ Completed Review Sheet	
☐ Other documents or engagement information <i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>			
SIGNATURE			
Signature of Applicant: <i>Andrew C. Wenzel</i>			Date: 4/8/22
Signature of Owner (if different than applicant):			Date:



4-8-2022

PLANNING COMMISSION

VACATING OF A PUBLIC RIGHT OF WAY REVIEW SHEET

Please reach out to staff if you have any questions.

Location of request for public right of way to be vacated: (may also provide on a separate sheet):

Reasons for the request:

Provide a text description which includes the length and width of the right of way in linear feet (include map):

Please list property owners who have property directly next to the right of way (please include letters of support or petition of support from property owners):

Please identify any properties that have ingress/egress easements which may be connected to this right of way (or provide map):



Community Planning & Economic Development

245 N. Rose Street, Suite 100 • Kalamazoo, MI 49007
(269) 337-8026 • www.kalamazoo-city.org

Please include letter(s) of support from any easement holders within the right-of-way to be vacated, including easements for City utilities, electric, gas, and fiber. List entities you will obtain letters of support from here:

Estimate of the fair market value for the land from the City Assessor?

Please provide description of how the vacated ROW will be split and paid for by adjacent property owners (if applicable).

If the proposed vacation is for an improved right-of-way that has at least some public use beyond those requesting the vacation, the applicant(s) are required to use the City's Public Participation Plan for required outreach and engagement before the request is reviewed by the Planning Commission. Please describe elements of public outreach (if applicable).



LEGEND

- Parcel Boundary
- City Boundary

4-8-2022



City of Kalamazoo,
4/6/2022

EXHIBIT A
PROPERTY INFORMATION

Owner	Property Address	PIN	Parcel Location Adjacent to Cooley Street
ACW 2S, LLC	416 W. Water Street (Building A)	06-15-321-211	SE
ACW 1S, LLC	440 W. Water Street (Building B)	06-15-320-008	SW
ACW 2N, LLC	415 Eleanor Street (Parking A)	06-15-316-203	NE
ACW 1N, LLC	455 Eleanor Street (Parking B)	06-15-315-506	NW
ACW 1N, LLC	235 Cooley Street (Parking B)	06-15-315-505	NW

VACATION AREA:

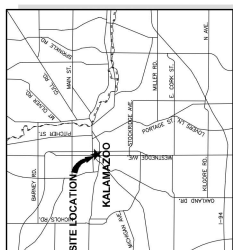
BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 2 OF THE ORIGINAL PLAT OF THE TOWN OF KALAMAZOO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 6, PAGE 8, KALAMAZOO COUNTY RECORDS; THENCE S00°31'20"E ALONG THE EAST LINE OF COOLEY STREET, 285.32 FEET TO THE SOUTHWEST CORNER OF LOT 8, BLOCK 2 OF THE ORIGINAL PLAT OF THE TOWN OF KALAMAZOO; THENCE S89°07'45"W ALONG THE NORTH LINE OF WATER STREET, 66.00 FEET TO THE SOUTHEAST CORNER OF LOT 4, BLOCK 1 OF THE ORIGINAL PLAT OF THE TOWN OF KALAMAZOO; THENCE N00°31'20"W ALONG THE WEST LINE OF COOLEY STREET, 285.28 FEET NORTHEAST CORNER OF LOT 3, BLOCK 1 OF THE ORIGINAL PLAT OF THE TOWN OF KALAMAZOO; THENCE N89°06'21"E, 66.00 FEET TO THE POINT OF BEGINNING.

VACATION EXHIBIT

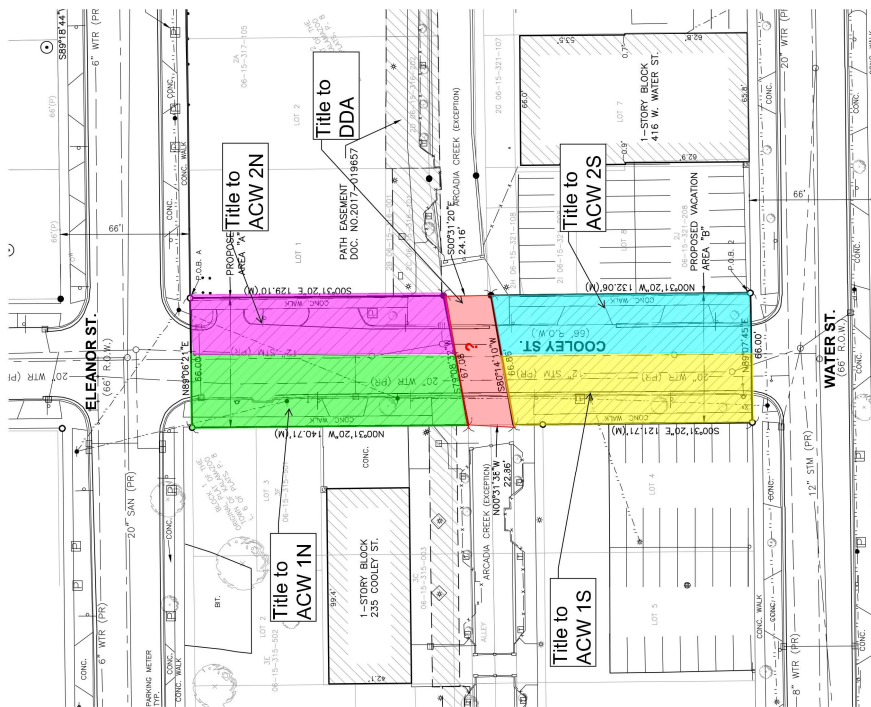
of part of

TOWN 2 NORTH, RANGE 1 WEST, SECTION 36, T4N, R1W, S36, Kalamazoo County, Michigan

KALAMAZOO COUNTY, MICHIGAN



VICINITY MAP
NOT TO SCALE



PROPOSED VACATION LEGAL DESCRIPTION

LOCATION AREA "A":

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 2 OF THE ORIGINAL PLAT OF THE TOWN OF KALAMAZOO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 6, PAGE 8, KALAMAZOO COUNTY RECORDS; THENCE S00°31'20"E ALONG THE EAST LINE OF COOLEY STREET, 128.10 FEET TO THE NORTH LINE OF ARCADIA CREEK; THENCE S79°08'32"W ALONG THE NORTH LINE OF ARCADIA CREEK, 67.08 FEET TO THE WEST LINE OF COOLEY STREET; THENCE W00°31'20"E ALONG THE WEST LINE OF COOLEY STREET, 140.71 FEET TO THE SOUTH LINE OF ELEANOR STREET; THENCE N80°02'1"E, 66.00 FEET TO THE POINT OF BEGINNING.

VACATION AREA "B":

BEGINNING AT THE SOUTHWEST CORNER OF LOT 8, BLOCK 2 OF THE ORIGINAL PLAT OF THE TOWN OF KALAMAZOO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 6, PAGE 8, KALAMAZOO COUNTY RECORDS; THENCE N03°31'20"W ALONG THE EAST LINE OF SAID LOT 8, 121.71 FEET TO THE NORTH LINE OF WATER STREET; THENCE S89°14'10"W ALONG THE SOUTH LINE OF COOLEY STREET, 132.06 FEET TO THE SOUTH LINE OF ARCADIA CREEK; THENCE S89°14'10"W ALONG THE SOUTH LINE OF ARCADIA CREEK, 68.86 FEET TO THE WEST LINE OF COOLEY STREET; THENCE S03°07'20"E ALONG THE WEST LINE OF COOLEY STREET, 121.71 FEET TO THE NORTH LINE OF WATER STREET; THENCE N89°07'45"E, 66.00 FEET TO THE POINT OF BEGINNING.

NOTES

1. UTILITIES SHOWN ARE FROM EITHER FIELD MEASUREMENTS OR AVAILABLE RECORDS. THIS INFORMATION SHOULD NOT BE CONSIDERED TO BE A GUARANTEE OF COMPLETENESS OR ACCURACY.
2. ALL DIMENSIONS ARE MEASURED UNLESS NOTED OTHERWISE.

ZONING CLASSIFICATION

ZONING CLASSIFICATION
CCBD - COMMERCIAL CENTRAL BUSINESS DISTRICT

BASIS OF BEARINGS

BASIS OF BEARINGS
SOUTH LINE OF KALAMAZOO AVENUE (N89°18'49"W)

FLOOD PLAIN INFORMATION

ADDITIONAL INFORMATION
 AVOID DESCRIBED PROPERTY IS LOCATED WITHIN AN AREA HAVING A DESIGNATION "X" BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, IN A FLOOD INSURANCE MAP NO. 26077C00187D, WITH A DATE OF 02/17/2010, FOR COMMUNITY NUMBER 060315, IN KALAMAZOO COUNTY, MICHIGAN, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITED.

PROPERTY INFORMATION

ACATION A:	8903 S.F.
ACATION B:	8374 S.F.

[illegible]

BY:
RODNEY L. BREDEWEG
LICENSED PROFESSIONAL SURVEYOR NO. 60788

ISSUED FOR	DATE
Owner Review	June, 2017
Proposed Vacation Addition	April 2022

Plaza Corp Realty Advisors
200 W. Michigan - Kalamazoo, Michigan
Coolley Street Vacation
City of Kalamazoo, Michigan

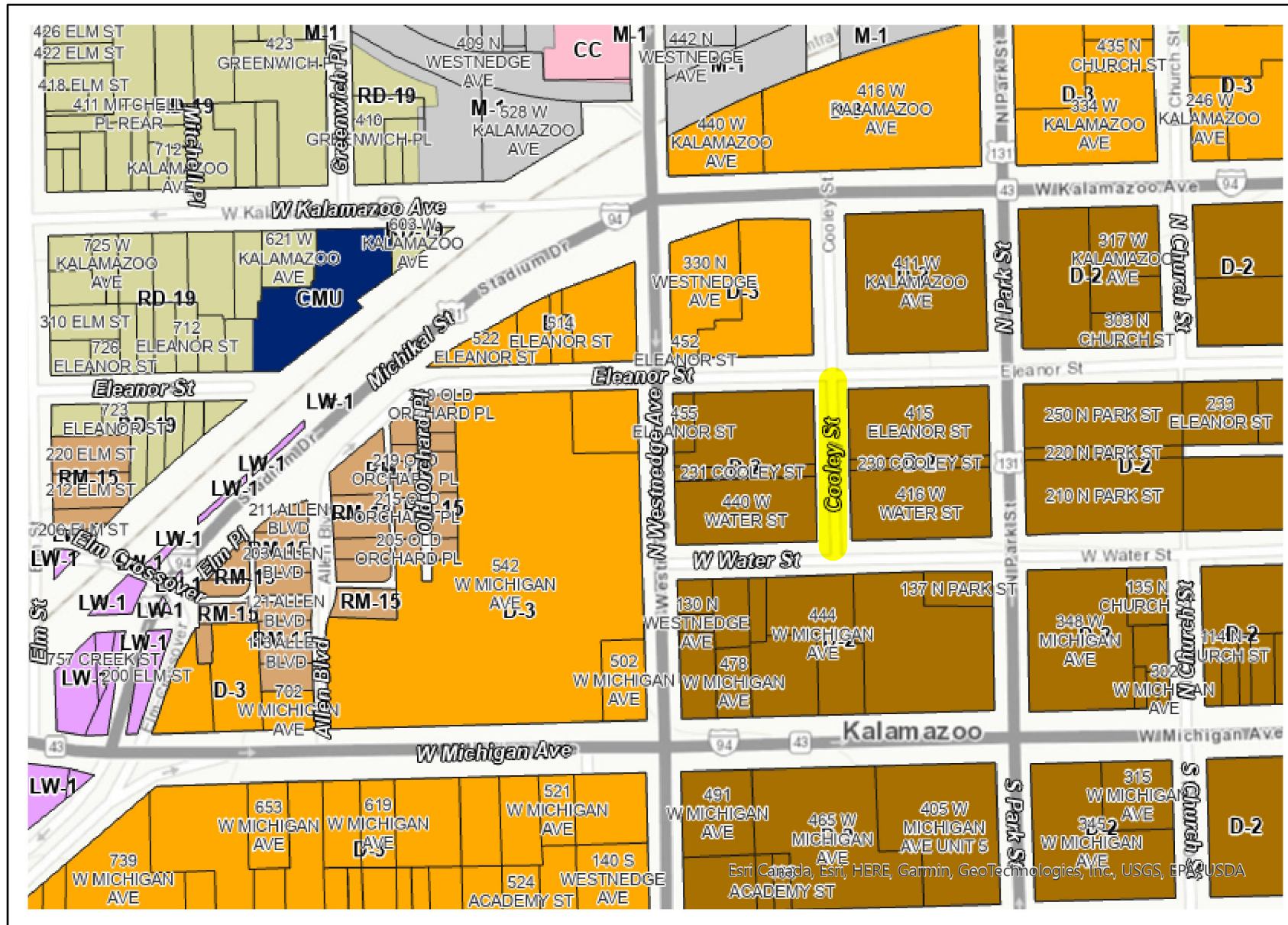
PROJECT NUMBER: 22-056-01	DATE
SURVEYED BY: RLB, CVP	May, 2022
DESIGNED BY:	
DRAFTED BY: LGG	April, 2022
QA/QC: NDJ	April, 2022

VACATION EXHIBIT

SWEET NING

DIFFICULTY REQUIRED

P.C. #2022.07 Vacation of Cooley Street (Between Eleanor Street and Water Street)



Current Zoning

Other Property

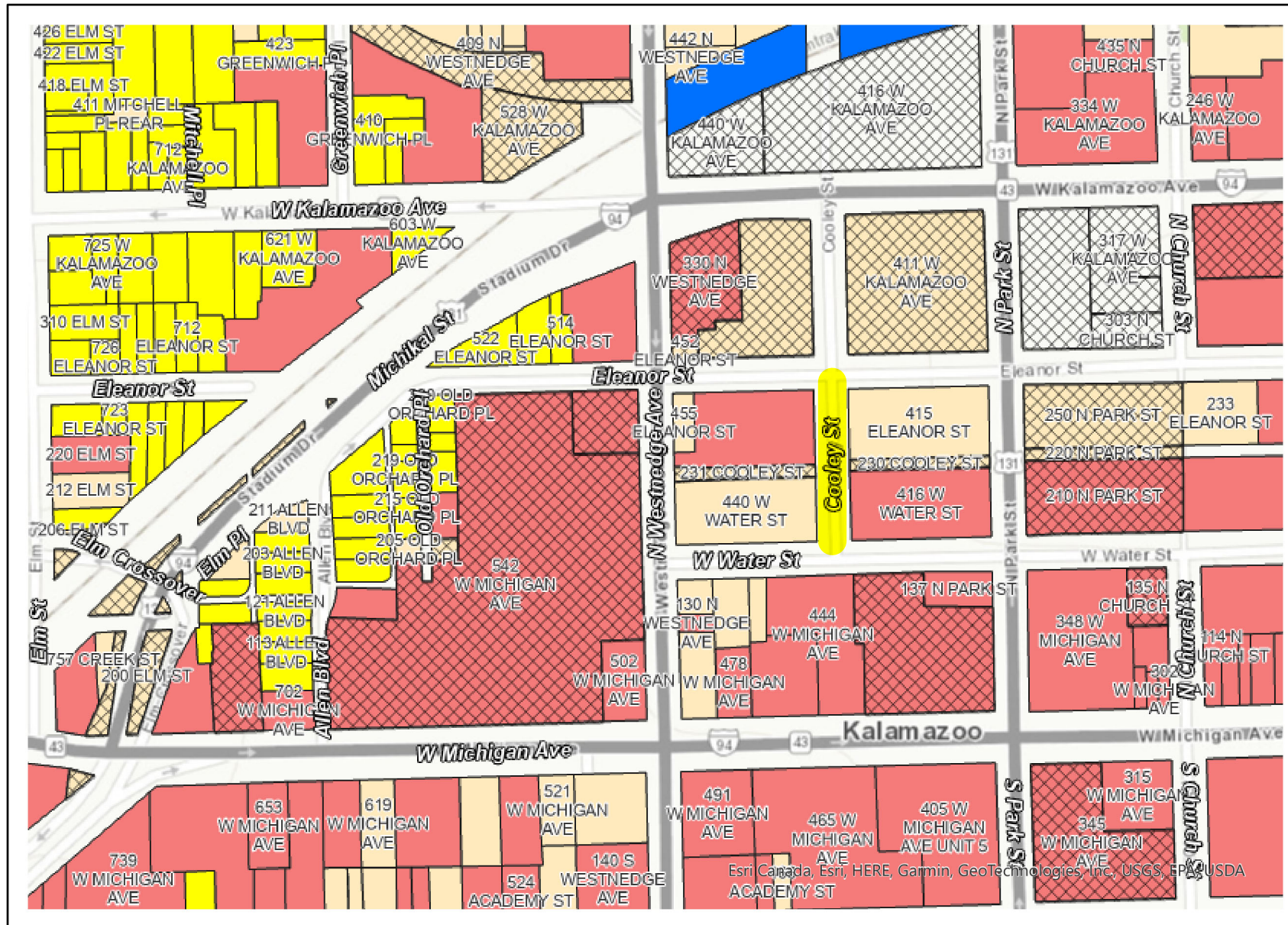
Zoning

- CC
- CMU
- D-2
- D-3
- LW-1
- M-1
- RD-19
- RM-15

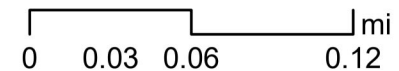
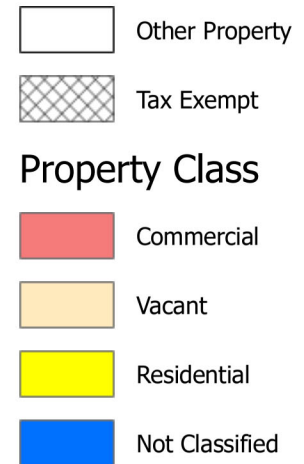
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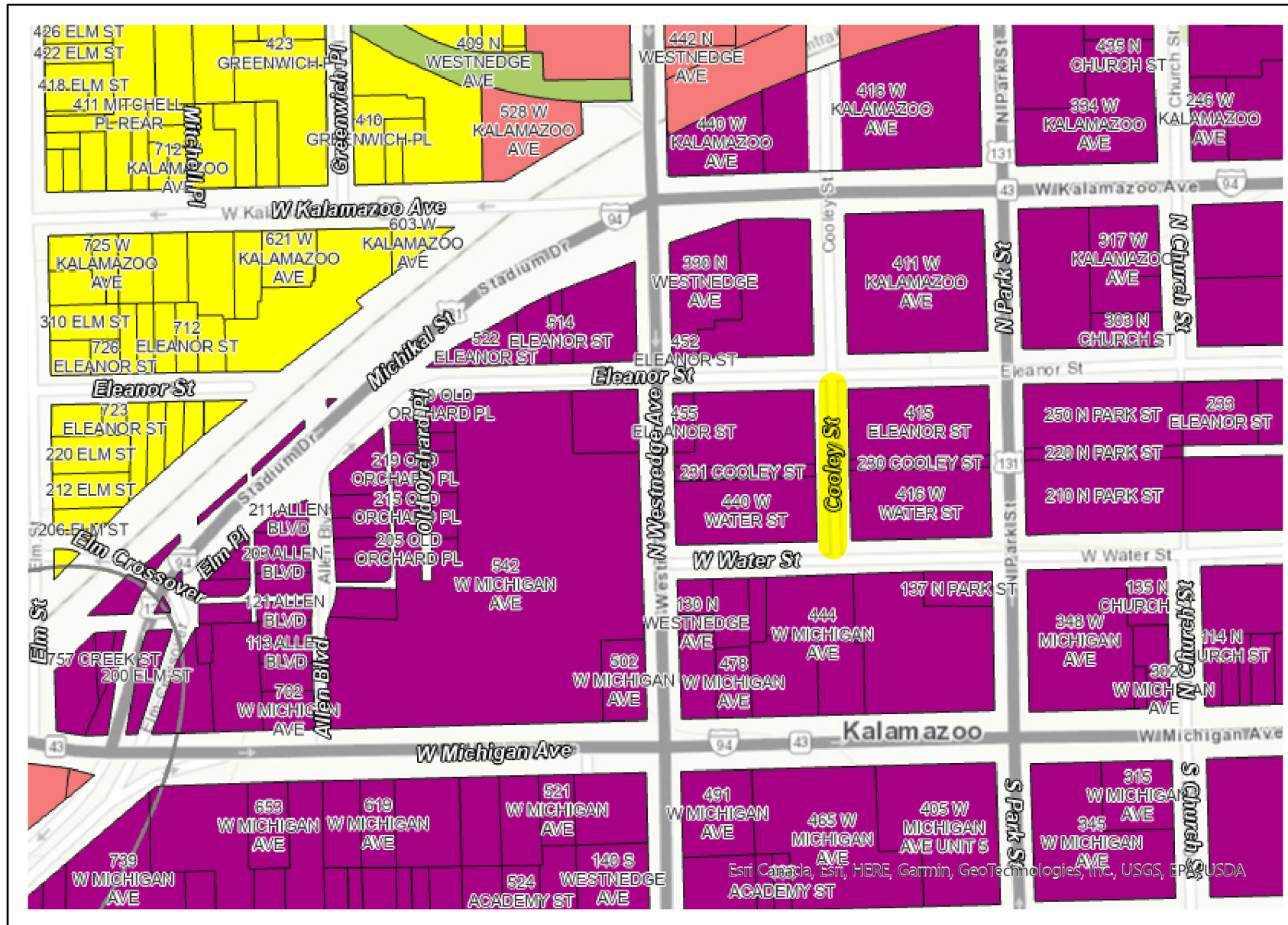
P.C. #2022.07 Vacation of Cooley Street (Between Eleanor Street and Water Street)



Current Land Use



P.C. #2022.07 Vacation of Cooley Street (Between Eleanor Street and Water Street)



Future Land Use

- Other Property
- Node
- Commercial
- Downtown
- Open Space/
Parks
- R1-Residential

0 0.03 0.06 0.12 mi



P.C. #2022.07 Vacation of Cooley Street
(Between Eleanor Street and Water Street)



Aerial View

Other Property

2018

- Red: Band_1
- Green: Band_2
- Blue: Band_3

Esri, Canada, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA

0 0.01 0.03 0.06 mi





Planning Commission Staff Report

Date: **8/4/2022**

Item: **E.2.**

City of Kalamazoo

TO: City of Kalamazoo Planning Commission

FROM: Reviewed by: Christina Anderson, AICP, City Planner
Prepared by: Pete Eldridge, AICP, Assistant City Planner

DATE: August 4, 2022

SUBJECT: PC #2022.08: Amendment to Appendix A, Zoning Ordinance. Text amendment to remove the Wellhead Protection Overlay from Chapter 3 of Appendix A. Zoning Ordinance.

BACKGROUND:

The Public Services Department is working to update the Wellhead Protection Ordinance and the associated Wellhead Protection and Stormwater Performance Standards for the City of Kalamazoo. This process is being undertaken because of the following:

1. The Michigan Department of Environment, Great Lakes, and Energy (EGLE) - Source Water Protection Program requires the capture zone delineations around all wellfields to be updated when significant changes in conditions occur. The city has altered the number of active production wells and pumping rates, prompting new capture zone delineation maps which EGLE approved in 2021. The existing capture zone map ('WP-O, Wellhead Protection Overlay') in the wellhead ordinance is outdated and needs to be replaced with the 2021 approved map.
2. The city recently entered into a new water rate agreement with the surrounding townships/cities. As part of the agreement, any area outside of the City of Kalamazoo capture zone extend, is required to have a similar wellhead protection ordinance that includes the City of Kalamazoo's EGLE-approved capture zones map.
3. The enforcement of the new Ordinance and associated performance standards will be by the Public Services Department.

Part of this process will involve relocating the Wellhead Protection Ordinance to a new chapter in the Code of Ordinances which is currently housed within Appendix A, Zoning Ordinance. These standards are not being deleted, but their location within the Code of Ordinances is being moved. Chapter 3 will be amended to remove the Overlay Zone District text for the Wellhead Protection Overlay. As with any text amendments to the Zoning Ordinance, public notice must be given, and a public hearing held.

The text amendments requested will involve the following deletions from Chapter 3:

1. Removal of the Wellhead Protection Overlay from Table 3.1-1, 'Overlay Districts'
2. Removal of Section 3.5, 'WP-O, Wellhead Protection Overlay'

At the same time, these requested Zoning Ordinance text amendments are planned to move forward at the City Commission level, Public Services staff will bring forward to the City Commission amendments to Chapter 39 of the Code of Ordinances to create the new Wellhead Protection Ordinance.

STRATEGIC VISION ALIGNMENT:



Good Governance- Ensuring the City organization has the capacity and resources to effectively implement the community's Strategic Vision in a way that is sustainable over the long term.



Environmental Responsibility - A green and healthy City.

Strategic Vision Goal alignment:

These amendments touch on the Strategic Vision goal of Good Governance as the city is proactively working to update ordinance language and performance standards for protection of our well fields and associated capture zones. This also touches on the goal of Environmental Responsibility as the city works toward a new approach to the protection of the capture zones by requiring surrounding jurisdictions within the capture zones to adopt a Wellhead Protection Ordinance.

COMMUNITY ENGAGEMENT:

Inform (one-way conversation) – the community will be made aware of the project.

Engagement/Communication Tools:

A notice was placed in the Kalamazoo Gazette. All property owners and occupants within the Wellhead Protection Ordinance capture zones received notice of the public hearing. 14,176 public hearing notices were mailed out.

FINDINGS:

The Planning Commission's role is to make a recommendation to the City Commission regarding the proposed zoning changes. When considering the request, the following should be considered per Chapter 8 of the Zoning Ordinance:

1. The extent to which the amendment is consistent with the Master Plan 2025.

The amendments are consistent with the Master Plan 2025 objective under Environmental Responsibility to mitigate stormwater run off, erosion and contamination of water.

2. The extent to which there are changed conditions that require an amendment.

New capture zone delineation maps have been approved by EGLE which need to be adopted. New policies are being implemented that apply to Wellhead Protection capture zone beyond the city limits. The enforcement of the Wellhead Protection Ordinance and Performance Standards is by the Public Services Department and not the Zoning Inspector.

3. The extent to which the proposed amendment addresses a demonstrated community need.

These amendments are intended to bring the ordinance and capture zone delineation maps current and provide better protection to the city wellfields and drinking water supply.

4. The extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land, or the proposed amendment to the text of this Ordinance will maintain or improve compatibility among uses and will ensure efficient development within the City.

These proposed amendments and the new Chapter 39 being created will apply to both wellhead capture zones inside the city and outside.

5. The extent to which the proposed amendment would result in a logical and orderly development pattern.

Adjacent jurisdictions that have Wellhead Protection capture zones will be required to adopt a Wellhead Protection Ordinance. This will provide for uniformity of regulations both inside and outside the city limits.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval to the City Commission for the proposed text amendments to remove the Wellhead Protection Overlay from Chapter 3.



City of Kalamazoo
241 W South St
Kalamazoo, MI 49007

Dear Property Owner/Occupant:

You are receiving this notice because you either own or occupy property that is within the Wellhead Protection Capture Zones. The City of Kalamazoo is updating the Code of Ordinances and will be removing the Wellhead Protection Overlay standards from Chapter 3 of the Zoning Ordinance and establishing a separate chapter within the Code of Ordinances for the Wellhead Protection Ordinance. Please note that these amendments will not change the extent of the Wellhead Protection capture zones (as shown on the map).

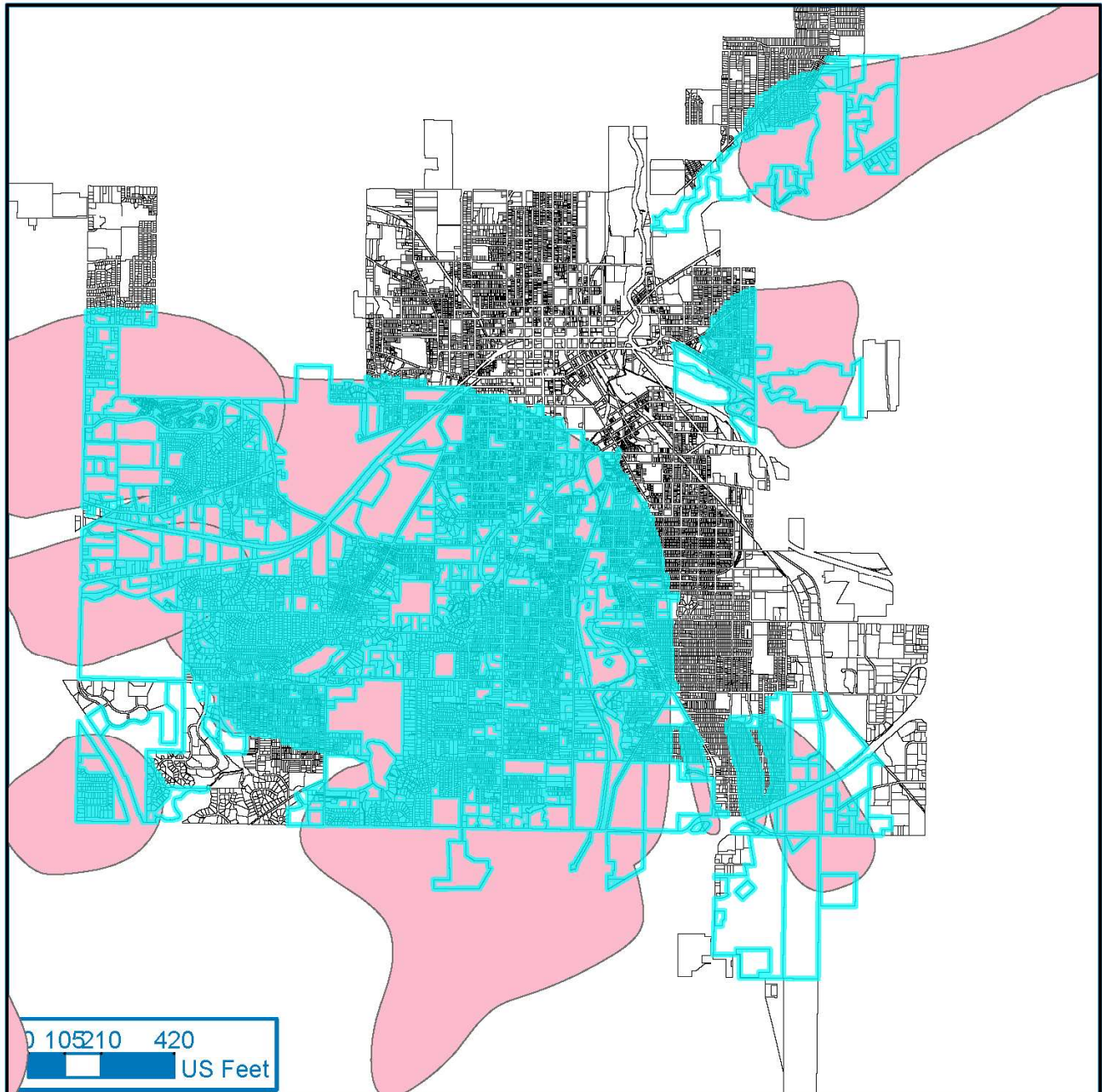
A public hearing will be held by the Planning Commission on Thursday, August 4, 2022, at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the City's Facebook page and YouTube Channel. Check www.kalamazoocity.org for details.

To examine documents related to this request or provide written comments, please contact Pete Eldridge at eldridgep@kalamazoocity.org or call (269) 337-8806. The agenda will be posted at <https://kalamazoomi.civicclerk.com/web/home.aspx>

Peter C. Eldridge, AICP
Assistant City Planner

Wellhead Protection Public Hearing Notice

Extent of Wellhead Protection Capture Zones



LEGEND

-  Parcel
-  Ten Year Capture Zone



City of Kalamazoo,
7/13/2022

CHAPTER 3 Overlay Zoning Districts

§ 3.1. The Districts.

- A. The overlay districts of this chapter are intended to apply in combination with the underlying base district to impose regulations and standards that address special geographic areas or land use issues.
- B. In the event of conflict between overlay district regulations and the regulations of the underlying (base) district, the overlay district regulations govern. In all other cases, both the overlay district and base district regulations apply.
- C. Overlay districts are established in accordance with the Zoning Map Amendment procedures of § 8.3B, Amendments to Text of Ordinance or District Map.
- D. The following overlay districts are included in this Ordinance:

Table 3.1-1 Overlay Districts	
NC-O	Neighborhood Conservation Overlay
PUD-O	Planned Unit Development Overlay
THD-O	Traditional Housing Density
WP-O	Wellhead Protection Overlay
HP-O	Historic Preservation Overlay
RF-O	Riverfront Overlay

Delete

§ 3.2. NC-O, Neighborhood Conservation Overlay.

- A. Purpose. The NC-O, Neighborhood Conservation Overlay district is intended to:
 - 1. Encourage development that conforms to the type, scale, orientation and physical design of existing development in the neighborhood;
 - 2. Foster development and redevelopment that is compatible with the type, scale, orientation and physical design of original buildings in the neighborhood through the use of development standards, design standards and guidelines; and
 - 3. Conserve cultural, historic and property values within identified neighborhood areas.
- B. Selection Standards. An NC-O district must be a geographically defined area that has a significant concentration, linkage or continuity of sites that are united by physical development, architecture or history. To be eligible for an NC-O district designation, the area must comply with the following standards.
 - 1. The general pattern of development, including streets, lots and buildings, must have been established at least 25 years prior to creation of the district.

2. The area must possess built environmental characteristics that create an identifiable setting, character and association.
 3. The designated area must be a contiguous area of at least five acres in area. Areas of less than five acres may be designated in accordance with the procedures of this section if they abut an existing NC-O district.
- C. Uses. The NC-O may not allow additional uses other than allowed by the underlying zoning district(s). The NC-O may exclude or limit uses allowed by the underlying zoning district(s).
- D. Development/Design Standards. In establishing an NC-O district, the Historic District Commission, the Planning Commission, and staff are authorized to propose, and the City Commission is authorized to adopt district-specific development and design standards to guide development and redevelopment within NC-O districts. When development and design standards are approved, each application for alteration within the designated NC-O must comply with those standards. When there are conflicts between the standards of the underlying base district and adopted NC-O district design/development standards, the NC-O design/development standards govern.
- E. Establishment of District. NC-O Districts are established in accordance with the Zoning Map Amendment procedures of § 8.3.B: Amendments to Text of Ordinance or District Map, except as modified by the following provisions:
1. An application to establish an NC-O district may be initiated by City staff, the Historic District Commission, the Planning Commission, or the City Commission.
 2. Applications may also be initiated by petition when signed either by the owners of 51% of the area within the proposed NC-O district or by at least 51% of the property owners within the proposed district.
 3. The Historic District Commission and the Planning Commission must submit written recommendations to the City Commission regarding the creation of NC-O districts.
 4. The Historic District Commission is responsible for reviewing NC-O zoning applications for compliance with the Selection Criteria of § 3.2B: Selection Standards, and for recommending development/design standards and guidelines for the district.
 5. The Planning Commission is responsible for reviewing the application for its planning and zoning implications.
 6. The City Commission is responsible for making a final decision to approve or deny NC-O zoning.
- F. Procedures.
1. Unless otherwise expressly stated, the Zoning Map amendment procedures of

§ 8.3B: Amendments to Text of Ordinance or District Map apply.

2. Public hearings on NC-O district designation applications must be held by the Historic District Commission, Planning Commission and City Commission in accordance with the hearing procedures of § 8.2: Public Hearing Procedures.
3. Following its hearing, the Historic District Commission must adopt, by resolution, a recommendation that NC-O district designation be approved, approved with conditions, or denied. The Historic District Commission's recommendation must be in the form of a resolution and be submitted to the Planning Commission and City Commission. The resolution must be accompanied by a report containing the following information:
 - a) An explanation of whether and how the area complies with § 3.2B: Selection Standards,
 - b) Proposed uses, Development/Design Standards, including a description of the general pattern of development, including streets, lots and buildings in the area; district-specific development and design standards pertaining to elements such as building scale, massing, and height; building elements and projections (e.g., front porches, bay windows, detached garages), setbacks, and open space to guide redevelopment and development within the district;
 - c) A map showing the recommended boundaries of the NC-O district; and
 - d) A record of the proceedings before the Historic District Commission.
4. Following the public hearing and recommendation of the Historic District Commission, the Planning Commission must hold a public hearing and adopt, by resolution, a recommendation that the NC-O district designation be approved, approved with modifications, or denied. The Planning Commission's recommendation must be in the form of a resolution and be submitted to the City Commission. The resolution must be accompanied by a report containing the following information:
 - a) An explanation of the planning and zoning implications related to the designation of the proposed area and district-specific development and design standards recommended by the Historic District Commission;
 - b) Recommendations for changes to the district-specific development and design standards to guide redevelopment and development within the district recommended by the Historic District Commission;
 - c) A map showing the recommended boundaries of the NC-O district; and
 - d) A record of the proceedings before the Planning Commission.
5. Following the public hearings by the Historic District Commission and the Planning Commission, the City Commission must hold a public hearing and act to approve, approve with modifications, or deny the application for NC-O

district designation.

G. NC-O Districts Established. The following NC-O districts are established:

Table 3.1-2 NC-O Districts Established	
Conservation Overlay District Name	Boundaries

§ 3.3. Standards for Traditional Housing Density Overlay (THD-O).

- A. Description. The THD-O Traditional Housing Density Overlay district is intended to stabilize and preserve the character of the neighborhoods without downzoning and without creating widespread nonconformities.
- B. Use Regulations. The uses allowed in the underlying district are allowed in the THD-O district.
- C. Density/Intensity/Dimensional Standards. The Density/Intensity and Development standards of the underlying zoning district apply to development within the THD-O district.
- D. Existing Uses.
 - 1. All legally conforming established residential uses in existence on October 18, 2005, will be considered conforming under this Ordinance. Any residential building (legally conforming or legally nonconforming) may be rebuilt with the same number of dwelling units, but it may not be rebuilt to contain a greater number of dwelling units than (a) the number of dwelling units that existed at the time of its demolition, or (b) the number of dwelling units allowed by the density and dimensional standards of the underlying zoning district, whichever is greater.
 - 2. If a structure in the THD-O district contains more residential dwelling unit than are permitted by the density/intensity standards of Secs. 5.1 or 5.2 (as applicable), and one or more of such dwelling units are later removed from the structure through remodeling, renovation, or any other means, then such dwelling units may not subsequently be re-constructed or otherwise made available for occupancy as a separate dwelling unit unless the residential structure would still comply with the standards of § 5.1 or 5.2 (as applicable) after such re-construction, remodeling, or occupancy. Once a dwelling unit that would not be permitted under the density/intensity standards of § 5.1 or 5.2 is removed from a structure by any means, it may not be re-constructed or made available for occupancy through any means.
 - 3. Any conforming building containing a conforming use that has been destroyed or damaged by fire, explosion, or Act of God may be rebuilt to its pre-damage state, notwithstanding the requirements of § 9.2: Nonconforming Uses.

§ 3.4. PUD-O, Planned Unit Development Overlay District.

A Planned Unit Development Overlay district may be approved for residential, commercial, public, or industrial development, or for a mix of such uses, pursuant to the following standards and requirements.

- A. Purpose. The PUD-O, Planned Unit Development Overlay District regulations are intended to:
 - 1. Promote consistency with the Comprehensive Plan;
 - 2. Promote development that can be conveniently, efficiently and economically served by existing and planned utilities and services;
 - 3. Promote design flexibility that results in greater public benefits than could be achieved using conventional district regulations;
 - 4. Encourage the preservation of environmental and historic resources;
 - 5. Promote a mix of attractive and functional residential and nonresidential developments that are compatible with surrounding development.
- B. Development Review and Approval. A PUD-O district may be approved only when the City Commission determines that a proposed Planned Unit Development complies with all the relevant and appropriate standards of § 3.4H: Standards, the procedures of § 8.3C: Planned Unit Development Overlay (PUD-O) District, and would result in a greater benefit to the City than would development under conventional district regulations.
- C. Developer's Statement. Each PUD-O application must include a comparison of the proposed development with the standards of underlying district and the otherwise applicable standards of this Ordinance. Applications must also include a statement by the applicant describing how the proposed development provides greater benefits to the City than would a development carried out in accordance with otherwise applicable district and development standards.
- D. Effect of other District Standards. Except as expressly authorized by the regulations of this section and approved as part of a PUD Plan (in accordance with the procedures of § 8.3C: Planned Unit Development Overlay (PUD-O) District), all of the standards of this Ordinance apply to development within a PUD-O district.
- E. Minimum Land Area. A PUD-O district classification containing only residential and related land uses may only be applied to lands that comprise a minimum of five contiguous acres in area, or a contiguous city block, whichever is less. A PUD O district classification containing commercial uses or a mix of commercial and residential uses may be applied without a minimum area requirement.
- F. Location. A PUD-O zoning classification may be established on any land located in the City that complies with all of the applicable standards of this section.
- G. Unified Ownership or Control. The title to all land that is part of a PUD-O district

classification containing only residential and related land uses must be owned or controlled by one person at the time of application and approval. A person will be considered to control all lands in the PUD-O district either through ownership or by written consent of all owners of land within the proposed PUD-O district boundary that is subject to the conditions and standards of the adopting ordinance, the PUD Plan and PUD-O District Agreement. A PUD-O district classification containing commercial uses or a mix of commercial and residential uses need not be owned or controlled by one person at the time of application and approval.

- H. Standards. All development in a PUD-O district shall comply with (1) all provisions of this Code applicable to the underlying zone district unless such provisions are expressly varied by the terms of the PUD Plan. In addition, before approving a PUD-O district classification, the City Commission must find that the PUD Plan and district classification complies with those standards identified in § 8.3C.7: Planned Unit Development Overlay (PUD-O) Zone District. The City may require additional building design standards, landscaping standards and site development standards to ensure that a PUD-O classification containing commercial uses or a mix of commercial and residential uses are compatible with and enhance the appearance of surrounding areas.

Delete § 3.5. WP-O, Wellhead Protection Overlay. [Added 5-21-2007 by Ord. No. 1825]

- A. Intent/Purpose. The intent of the City of Kalamazoo Wellhead Protection Overlay Ordinance is to safeguard the health, safety, and welfare of persons served by the City of Kalamazoo Public Water Supply System by protecting groundwater that serves as drinking water, thus providing a safe potable water supply now and for future generations.
- B. Definitions. The following definitions apply to this ordinance:
- BEST MANAGEMENT PRACTICES (BMP) — The best available methods, activities, maintenance procedures, technologies, operating methods or management practices for preventing or reducing the quantity of regulated substances entering groundwater and surface water from a particular land use activity.
- CAPTURE ZONE — That area through which water travels below the surface and reaches a City well or wellfield within a specified period of time (under specified conditions set by the MDEQ). This ordinance addresses both a one-year and ten-year time-of-travel capture zone.
- CITY — The City of Kalamazoo.
- GROUNDWATER — The water below the land surface in a zone of saturation, excluding those waters in underground piping for water, wastewater, or stormwater distribution/collection systems.
- MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY (MDEQ) — Shall include its predecessors and successors.
- PERFORMANCE STANDARDS — Those BMPs and engineering controls

Delete

contained within the document "City of Kalamazoo Performance Standards for Groundwater Protection within Wellhead Protection Capture Zones and Stormwater Quality Management."

RCRA — Means the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580; 42 U.S.C. 6901 et seq.), as amended.

REGULATED SUBSTANCES —

1. Shall include:

- a) Substances for which there is a material safety data sheet (MSDS), as established by the United States Occupational Safety and Health Administration, and the MSDS cites possible health hazards for said substance;
- b) Hazardous waste, as defined by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended;
- c) Hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) when the hazardous substance is the focus of remedial or removal action being conducted under CERCLA in accordance with the U.S. EPA regulations;
- d) Radiological materials; and
- e) Biohazards.

2. Regulated substances shall not, however, include:

- a) Substances in an amount equal or less than 2,200 pounds that are in an area capable of fully containing a total release of said substance or an area that would drain the substance to a wastewater treatment system, excluding septic tanks systems, capable of treating the released substance(s);
- b) Substances in a parked or stopped vehicle in transit, provided the vehicle is stopped or parked for less than 72 hours;
- c) Substances, such as gasoline or oil, in operable motor vehicles or boats so long as used solely for the operation of the vehicle, but not the tanker portion of a tank truck;
- d) Pressurized gases such as chlorine, propane, hydrogen, and nitrogen when in a chemical storage tank;
- e) Refrigerants contained within equipment and used for on-site air cooling or in household appliances;
- f) Substances contained within electrical utility transformers/switches; or

- g) Substances used in construction for which all necessary permits have been obtained, and in accordance with the "Performance Standards."

Delete

RELEASE — The spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of one or more regulated substances upon or into any land or water within a capture zone. Release includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin, or landfill. The term "release" when used and applied herein does not include:

1. Disposal in accordance with all applicable legal requirements, including those in RCRA and CERCLA, of hazardous wastes in a facility that has received and maintained all necessary legal approvals for that purpose;
2. Disposal of any substance in compliance with applicable legal requirements, including, without limitation, the terms and provisions of a valid municipal, state, or federal permit;
3. Disposal, in accordance with all legal requirements, of any substance to a sanitary sewer system that has received and maintained all necessary legal approvals for that purpose;
4. Disposal, in accordance with all legal requirements, of "sanitary sewage" to subsurface sewage disposal systems as defined and permitted by the State of Michigan or Kalamazoo County Environmental Health;
5. A release for which there is no obligation to report under federal, state, or other local regulations that occurs on an impervious ground surface (e.g., building floor or concrete driveway) that is effectively cleaned up before reaching permeable ground (e.g., unpaved), a dry well, a storm sewer, or surface water body; or
6. The application of agricultural chemicals, fertilizers, mineral acids, organic sulfur compounds, etc. as used in routine agricultural operations and applied under the "Generally Accepted Agricultural Management Practices," and consistent with label directions approved by the United States Environmental Protection Agency or the Michigan Department of Agriculture.

SPILL CONTINGENCY PLAN — A written site-specific plan conforming to the specifications contained in the "Performance Standards," including the documentation of general site operations; regulated substance storage areas; potential for releases of regulated substances and an analysis of the potential destination of such releases; and procedures to be followed in the event of a release.

WELLHEAD — Any individual well used for supplying water.

C. Responsibility for Administration. The City's Department of Public Services ("Department") shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the Department may be delegated in writing by the Department Director to third parties as said Director

deems appropriate.

Delete

- D. Prohibitions within Ten-Year Time-of-Travel (TOT) Capture Zone. Within a ten-year time-of-travel capture zone, no person shall, nor cause or allow another over whom he/she or she has control to:
1. Release or allow the release of a regulated substance, alone or in combination with other materials (such as fill) in such a manner that the substance gains access to the ground, to a storm sewer or surface water or in any other way such that the substance might enter the groundwater if doing so creates a reasonable likelihood of an adverse impact upon the groundwater;
 2. Possess a regulated substance, including fuels (e.g., gasoline, diesel, kerosene, etc.) exceeding 55 gallons aggregate for liquid materials, or 440 pounds aggregate for dry weights, unless prepackaged and intended for retail sale or for commercial or household use (such as salt used in water softeners, fertilizers, pesticides, herbicides, etc.), or unless engineering controls are designed and implemented consistent with the City's "Performance Standards," BMPs, the City's Fire Code, and applicable State of Michigan laws and regulations. The following, however, shall not be considered prohibited activities:
 - a) The use of underground oil and water separators and stormwater treatment structures which meet the conditions of the "Performance Standards";
 - b) The use of current hazardous waste storage areas at RCRA permitted facilities;
 - c) Laboratory activities, consistent with all Federal, state, and local regulations.
 3. Operate a scrap and recycling yard;
 4. Operate a sanitary/solid waste landfill;
 5. Use oil, waste oil or similar liquid petroleum-type products for dust suppression;
 6. Install a private water well for the purpose of drinking water or irrigation if, in the determination of the Department, public water service is reasonably available;
 7. Install or use a private water well not installed for the purpose of drinking water or irrigation unless it is determined by the Department that the well owner (or representative) has scientifically demonstrated that the well will not cause an adverse impact to the public water supply;
 8. Use any private well if said use is likely to cause an adverse impact to the public water supply;

Delete

9. Excavate, extract, or mine sand, gravel, bedrock or any other type of earth if a permit or site plan review is required unless the property owner has established, to the Department's satisfaction, that the activity will not cause an adverse impact to the public water supply;
 10. Allow the presence of an abandoned well, which is defined as any well which has either been discontinued for more than one year, is in such disrepair that its continued use for obtaining groundwater is impractical, has been left uncompleted, is a threat to groundwater resources, or is a health or safety hazard. A well shall not be considered abandoned if it has been properly plugged pursuant to The Groundwater Quality Control Act, Part 127, 1978 PA 368; or
 11. Drill for natural gas or petroleum, whether for exploration, production or otherwise.
- E. Prohibitions Within One-Year Time-of-Travel (TOT) Capture Zone. Within a one-year time-of-travel capture zone, no person shall, nor cause or allow another over whom he/she or she has control to:
1. Engage in any activity prohibited in the ten-Year TOT Capture Zone;
 2. Possess regulated substances, including fuels (e.g., gasoline, diesel, kerosene, etc.), exceeding 55 gallons aggregate for liquid materials or 440 pounds aggregate for dry weights, such as sometimes occurs with activities such as fueling service establishments, motor vehicle repair, body repair; trucking or bus terminals; primary metal product industries; metal plating, polishing, etching, engraving, anodizing or similar processes; lawn, garden, pesticide and agricultural services with on-site bulk mixing or blending of fertilizers, pesticides and other industry-related chemicals for commercial application; and dry-cleaning facilities with on-site cleaning service; or
 3. Construct or replace any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of domestic or non-domestic wastewater.
- F. Well Isolation Distance Restrictions. Within either capture zone, no person shall cause or allow uses or activities that would violate the terms and conditions set forth in the document "Minimum Well Isolation Distances (From Contamination Sources and Buildings), Part 127, Act 368, P.A. 1978 and Act 399, PA 1976" as prepared by the MDEQ, Water Division, as it may be amended, which, for the purpose of this section, shall be deemed to apply to all persons, unless approved in writing by the Department Director or his or her designee.
- G. Determination of Capture Zone Boundaries. In determining whether a property is within a capture zone, the following shall apply:
1. Where a capture zone line that delineates the boundary of one or more zones passes through a property, the entire parcel shall be subject to the restrictions that apply to the more restrictive zone.

Delete

2. The Environmental Services Superintendent, or his or her designee, shall have the authority to interpret the capture zone and determine where the boundaries of the different zones fall, if in dispute. Said interpretation may be appealed to the Director.

H. Continuation of Existing Nonconforming Facilities and Land Uses.

1. Existing nonconformities for land uses/activities will be allowed within a capture zone only if in accordance with Chapter 9, "Nonconformities," of Appendix A (Zoning Ordinance) of the City of Kalamazoo Code of Ordinances.
2. In addition, the facility must meet the requirements of the "Performance Standards" and/or shall prepare a Spill Contingency Plan within two years from the adoption date of this ordinance or one year from the date of contact from the City regarding recognition of nonconforming status, whichever is sooner. The City reserves the right to approve/determine which option(s) is to be implemented for the specific circumstance.

I. Requirements Regarding Release of Regulated Substance.

1. Upon discovery of a release within a capture zone, the owner and person in control of the property on which a release occurred, as well as the person responsible for the release, shall take appropriate reasonable actions to mitigate the potential impact of the release on groundwater and remediate the release. Remediation must be conducted in a timely manner and in accordance with applicable law. Wastes generated during remediation of a regulated substance release must be handled in accordance with all applicable legal requirements. Storage of these materials for a period of greater than 90 days must be reported to, and approval obtained from, the Environmental Services Superintendent or designee by said persons.
2. All releases shall be documented in writing and mailed to the Department within 10 business days of said incident. Initial release notification shall include, at a minimum, the following:
 - a) Location of the release (name, address, and phone);
 - b) Reporting party's name, address, and phone (if different from above);
 - c) Emergency contact and phone;
 - d) Description of the nature of the incident, including date, time, location, and cause of the incident; type, concentration, and volume of substance(s) released;
 - e) Map showing exact release location, and relevant site features (i.e., paved area, storm sewer catch basins/inlets, water features, etc.), scale, and North arrow;
 - f) All measures taken to clean up the release; and

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- g) All measures proposed to be taken to reduce and prevent any future release.
- 3. The Environmental Services Superintendent or his/her designee shall use the Regulated Substance Release Report to determine if and where any additional investigative work needs to be completed to assess the potential impact of the release. The owner or operator shall retain a copy of the written notice for at least three years.
- J. Inactive Operations. This section applies to any business or other operation ("operation") that is inactive, is within a capture zone, and at which there are regulated substances. For purposes of this section, "inactive" is defined to include those businesses/operations that are unoccupied and have no activity for at least 30 days. Those who own or control such an inactive operation shall do the following:
 - 1. Within seven days of the operation becoming inactive, take such steps as necessary to secure the site such that vandals and all other persons cannot gain access to the regulated substances;
 - 2. Within 30 days of the operation becoming inactive, provide to the Superintendent a document that identifies the site, the date of inactivity, the regulated substances that exist on site, and the name, address and telephone number of both the owner and the person in control of the site; and
 - 3. Within six months of the operation becoming inactive, remove all regulated substances from the site; this does not include those substances used for heating, cooling, or electrical lighting.
- K. Enforcement.
 - 1. Whenever the Department determines that a person has violated a provision of this Ordinance, the Department may order compliance by issuing a written Notice of Violation to the responsible person/facility.
 - 2. If the Department requires abatement of a violation and/or restoration of affected property, the notice shall set forth a deadline by which such action must be completed. Said notice may further advise that, should the violator fail to remediate or restore within the established deadline, the work will be performed by the Department, with the resulting expense thereof charged to the violator.
- L. Variance/Appeal Rights.
 - 1. If an owner of property within a capture zone believes the requirements of this ordinance impose an unreasonable burden on the use of the owner's property, the owner may seek a variance from the Department Director (or his or her designee). Such a request must be in writing with enough detail to allow the Director to understand the situation and proposed variance. If the Director determines that additional information is needed, the request for additional information shall be made within 30 days of the owner's request. Within 30

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days of the receipt of such additional information, or, if no such request is made, within 30 days of the owner's request, the Director shall issue a written response to the owner. The response shall grant, deny, or partially grant the request. A grant, partial or complete, may relieve the property owner from strict compliance with this ordinance. Reasonable conditions may be imposed as part of such a grant. The Director shall be guided by the primary goal of protecting the City's wellfields without creating undue hardship upon the property owners affected.

2. Any person receiving a Notice of Violation may appeal the determination set forth within the notice to the Department Director by submitting a written notice of appeal to the Department. The notice of appeal must be received by the Director within 30 days from the date of the Notice of Violation, with enough detail to allow the Director to understand the situation. Within 30 days of the receipt of such an appeal the Director shall issue a written response to the appeal unless additional information is requested by the Director, in which case the response shall issue within 30 days of receipt of the information. The Director's response shall affirm, reverse, or modify the Notice of Violation being appealed.
3. If the person who has made a variance request or an appeal of a Notice of Violation does not agree with the Director's decision, said person may appeal the matter by filing an action in the Kalamazoo Circuit Court, which may affirm, reverse or modify the decision being appealed. Such an appeal must be filed within 30 days of the Director's final decision.

M. Abatement/Remedial Activities by the Department.

1. The Department is authorized to take or contract with others to take reasonable and necessary abatement or remedial activities whenever the Department determines a violation of this Ordinance has occurred and that the responsible party cannot or will not timely correct the violation, or when no known responsible party exists. The responsible party shall reimburse the City for all reasonable expenses thus incurred by the City.
2. If the City desires the responsible party to reimburse it for reasonable abatement activity expenses, the City shall, within 90 days of the completion of said activities, mail to that person a Notice of Claim outlining the expenses incurred, including reasonable administrative costs, and the amounts thereof. The person billed shall pay said sum in full within 30 days of receipt of the claim. If the person billed desires to object to all or some of the amount sought by the Department, said person may file, within the same thirty-day period, a written objection so stating. The Department shall, within 30 days of its receipt of the objection, provide an opportunity for the objecting party to present facts or arguments supporting said objection. If the Department determines that some or the entire amount originally billed is appropriate, the person shall pay said sum within 30 days of receipt of that determination. If the amount due is not timely paid, the City may cause the charges to become a special assessment

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against the property and shall constitute a lien on the property. In the alternative, the City may attempt collection of the sum due by filing a civil lawsuit.

- N. **Injunctive Relief.** If a person has violated or continues to violate the provisions of this Ordinance, the Department may petition the appropriate court for injunctive relief restraining the person from activities that would create further violations, or compelling the person to perform necessary abatement or remediation.
- O. **Violations Deemed a Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.
- P. **Criminal Prosecution.** Any violation of this Ordinance shall be considered a misdemeanor, punishable by a fine of not more than \$500 or imprisonment of not more than 90 days. Each day a violation exists shall be deemed a separate violation. A citation charging such a misdemeanor may be issued by the Director, his or her designee, or a member of Public Safety.
- Q. **Remedies Not Exclusive.** The remedies listed in this Ordinance are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the Department to seek cumulative remedies.

§ 3.6. HP-O, Historic Preservation Overlay.

The HP-O, Historic Preservation Overlay is intended to be applied to areas that are subject to the City's historic preservation ordinance. The regulations that apply within the HP-O are those contained within Chapter 16, Historic Districts, of the Kalamazoo Code of Ordinances. The local historic districts within the City of Kalamazoo are listed below:

1. Haymarket Historic District.
2. Rose Place Historic District.
3. South Burdick Historic District.
4. South Street/Vine Area Historic District.
5. Stuart Area Historic District.

§ 3.7. RF-O, Riverfront Overlay. [Amended 7-31-2006 by Ord. No. 1809]

- A. **Purpose.** The RF-O district is intended to implement The Kalamazoo Riverfront Redevelopment Plan (Riverfront Plan) adopted by the City on April 14, 2003. The RF-O district has specific purposes including:
 1. To protect and preserve the Kalamazoo River and its frontage for public use,

**CITY OF KALAMAZOO
SITE PLAN REVIEW PROJECT LIST**

Year 2022	Project Address	Project Description	Applicant	Property Owner	Pre-App. Received	Pre-App. Meeting	Pre-App. Approval Date	Date Site Plan Rec.	Fee	Committee Meet. Date	Design Review	Site Plan Review Status	Final Site Plan Approval Date	Final Inspect.	Process Issues
PSP22-001	719 N Burdick	New Mixed Use Building	Young Kings & Queens	Young Kings & Queens	10/29/2021	11/17/2021	11/17/2021	1/5/2022	\$500	2/2/2022	NA	Site Plan Approved	2/17/2022		Easements
PSP22-002	2839 Millcork	Cell Antenna Colocation	Crown Castle USA, INC	Sprint Spectrum, LLC	11/7/2021	NA	12/22/2021	1/7/2022	\$250	2/2/2022	NA	Site Plan Approved	2/4/2022		
PSP22-003	4401 Siesta St	Cell Antenna Colocation	Tara Jones / SBA Communications	City of Kalamazoo	11/18/2021	12/15/2021	12/15/2021	1/10/2022	\$250	2/9/2022	NA	Site Plan Approved	2/11/2022		
PSP22-004	519 W Willard St	Cell Antenna Colocation	Haley Law Firm, LLC	Cellco Northside Association for Community Development	12/13/2021	1/5/2022	1/5/2022	1/17/2021	\$250	2/9/2022	NA	Site Plan Approved	2/11/2022		
PSP22-005	1505 N Burdick St	Change of Use to add retail auto parts store	Nelson Nave, AIA		1/13/2022	1/26/2022	1/26/2021	2/11/2022	\$250	3/9/2022	NA	Project Under Review	5/17/2022		
PSP22-006	4221 S Westnedge Ave	Change of Use to cat café (Kennel)	Kzoo Cat Café	Kzoo Cate Café	1/24/2022	2/9/2022	2/9/2022	2/22/2022	\$250	3/16/2022	NA	Site Plan Approved	3/29/2022		
PSP22-007	4305 Portage St	Change of Use To Marihuana Retailer	JEK Properties, LLC	JEK Properties, LLC	10/14/2021	10/27/2021	10/27/2021	3/17/2022	\$250	4/6/2022	NA	Site Plan Approved	5/4/2022		
PSP22-008	530 S Rose St	New Senior Housing	Hurley & Stewart	PGJ Development, LLC	11/16/2021	12/16/2021	12/16/2021	3/22/2022	\$500	4/20/2022	NA	Project Under Review			
PSP22-009	2605 E Kilgore Rd	Building Addition to Zoetis Facility	Zoetis	Zoetis	12/2/2021	2/2/2022	2/2/2022	3/29/2022	\$500	4/27/2022	NA	Site Plan Approved	6/29/2022		
PSP22-010	855 S Drake Rd	New Modular Building	Jed Dingsens	Calvary Baptist Church	1/5/2022	2/9/2022	2/9/2022	3/30/2022	\$500	5/4/2022	NA	Site Plan Approved	6/17/2022		
PSP22-011	105 E Walnut	Cell Antenna Colocation	LCC Telecom Services	South Mall Limited Dividend	NA	NA	NA	5/11/2022	\$250	6/1/2022	NA	Site Plan Approved	6/3/2022		
PSP22-012	2001 Fulford	Cell Antenna Colocation	LCC Telecom Services	The Trinity Group, LLC	NA	NA	NA	5/11/2022	\$250	6/1/2022	NA	Site Plan Approved	6/3/2022		
PSP22-013	440 W Kalamazoo Ave	New Building for ISK	AR Engineering	Integrated Services of Kalamazoo	3/7/2022	3/23/2022	3/23/2022	4/29/2022	\$500	6/1/2022	DDRC	Project Under Review			
PSP-014	1827 Reed	Cell Antenna Colocation	Haley Law Firm	Reed 1827, LLC	12/30/2021	1/19/2022	1/19/2022	5/8/2022	\$250	6/1/2022	NA	Site Plan Approved	6/10/2022		
PSP22-015	813 W Kilgore	Cell Antenna Colocation	American Tower	City of Kalamazoo	NA	NA	Na	5/12/2022	\$250	6/8/2022	NA	Site Plan Approved	6/15/2022		
PSP22-016	519 W Willard St	Cell Antenna Colocation	American Tower	Cellco	3/29/2022	4/13/2022	4/13/2-22	5/12/2022	\$250.00	6/8/2022	NA	Site Plan Approved	6/15/2022		

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