

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, August 11, 2022

7:00 PM

City Commission Chambers – 241 West South Street

A. CALL TO ORDER/ROLL CALL

B. APPROVAL OF MINUTES

1. Approval of minutes from the Zoning Board of Appeals meeting on July 14, 2022.

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #22-08-25: 235 Cooley Street and 455 Eleanor Street. ACW 1N, LLC is requesting a use variance from Chapter 50-4.4 C(10)(b), to temporarily allow a parking lot on a corner lot in the D-2 District, where a stand-alone parking lot is not permitted on corner lots.
2. ZBA #22-08-26: 4114 Stadium Drive. LE Battle Creek Inc. is requesting a dimensional variance from Chapter 50-4.4 E(1)(b), of seven feet to allow a marihuana retailer to locate 943 feet from another nearby marihuana retailer after the required separation distance was established at 950 feet.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
July 14, 2022 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Matt Lager, Jerrid Burdue, Jeff Carroll, Beth van den Hombergh, Remi Harrington, Jeremy Terpening

Members Absent: Christina Doane

City Staff: Pete Eldridge, Assistant City Planner; Charles Bear, Assistant City Attorney; Shelby Donaldson, Recording Secretary

Chair Carroll called the meeting to order at 7:00 p.m.

Mr. Eldridge performed a roll call of board members present for the meeting.

Chair Carroll asked if there were any announcements or changes to the agenda and Mr. Eldridge noted there were none.

APPROVAL OF MINUTES:

Ms. van den Hombergh moved to approve the minutes of June 9, 2022 as submitted, seconded by Mr. Terpening. The motion was approved by voice vote unanimously.

PUBLIC HEARINGS: Chair Carroll summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures. For each request, the secretary will read the application into the public record. The applicant or their representative will have 10 minutes to present their comments, followed by public comments in favor of the application where they will state their name and address and speak for three minutes. Following that those in opposition will be invited to speak for four minutes and afterward. The public can call in to 888-382-9556 to enter a queue to comment live for any property on the agenda and will no longer be able to leave a recorded message, then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members

and four affirmative votes are required to grant a motion for a non-use or use variance. Vice Chair Lager volunteered to secretary this month's meeting.

Mr. Lager read the application for 1014 Mills Street

ZBA#22-05-15: 1014 Mills Street: An application for a use variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Bennett Bellinger for 1014 Mills Street in the Commercial Neighborhood District (CN-1). The applicant is requesting a use variance from Appendix A, Chapter 4, Section 4.1 to allow the property to be used for "Light Equipment Repair" (which is defined as repair of automobiles and the sale, installation, and servicing of automobile equipment and parts but excluding body repairs and painting.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above.

Mr. Bellinger, the property owner, requested approval of a use variance for light equipment repair for the commercial building on the property, which is addressed 1029 Lake Street. The building is roughly 1000 square feet and zoned in the CN-1 district, which doesn't allow for automotive business or light equipment repair, but he states the building is built for an automotive focused business. Mr. Bellinger described the building as having two bay doors and a small waiting room. He stated it would be difficult and costly to repurpose the building for anything other than that.

He said he has letters of support and petitions from neighbors and other businesses on the other corners.

Chair Carroll asked for questions from the board and Mr. Lager asked how long he has owned the property and Mr. Bellinger said 2 years. Mr. Lager asked what business is operating out of there now and Mr. Bellinger said he was notified by the city that the current business operating in there is not in compliance with the ordinance and he has been working with Mr. Eldridge to get the variance. Mr. Lager stated that there seems to be other automotive businesses nearby and Mr. Bellinger described the nature of the other businesses, an auto repair shop and a car wash. Mr. Lager wanted to know if his business would be more or less intensive than the other auto business and Mr. Bellinger replied less.

Ms. Harrington asked if the business is next to Mills Street Market and Mr. Bellinger said diagonal, she also asked what color the building is and Mr. Bellinger it's white, but the carwash is also white, but his building has an awning. Ms. Harrington asked if he owned the business and he said he owns the property and is there because the business that is operating out of the building is out of compliance.

Chair Carroll asked for comments/questions for and against from the public and there were none. He then asked if there were any phone calls and there were none.

Staff comments are as follows: Mr. Eldridge stated that Mr. Bellinger contacted the zoning inspector after being notified the use isn't permitted in that district and offered the option of getting a use variance. Mr. Eldridge stated he walked through the build and there have been a number of

businesses, over the past five years, operating out of the building but they haven't been legal in the city. Staff recommendations is to approve the variance. The building has ample parking, but the site and bathroom have to be renovated to be ADA compliant, and Mr. Bellinger has reached out to city staff for help with that. Mr. Eldridge pointed out there is another auto related business in the area but for this building the focus would be on car audio but the variance also allows for light equipment repair so if this business leaves, there would be more options for businesses. He also stated there was another use variance granted for that area for a grocery store café that will be opening up soon.

Mr. Eldridge stated that looking at the strategic vision, this property would touch on the neighborhood vitality, and this would provide a service to the neighborhood as well as provide an opportunity for a business owner to live and work in the city. He mentioned the petition of support that had five signatures and the two letters of opposition.

Staff is supporting the variance because it is a low intensity use and has its sufficient parking. He added that staff would work with the applicant to make the necessary changes to the building for it to become ADA compliant.

Chair Carroll closed the public hearing.

FINDING OF FACT

Ms. van den Hombergh moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1014 Mills Street shall include all information included in the notice of public hearing dated June 29, 2022.
- 2.) 96 notices of public hearing were sent and 3 responses were received. There was a signed petition received, and a letter of opposition from Renee Brown at 1013 Garden Street and a letter of opposition from Janet Germaine at 1012 Lake Street.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Finding of Fact shall include all facts and comments made during the public hearing which are summarized to include without limitation, the following:

Mr. Bellinger is requesting a variance to use his property for light equipment repair, excluding body repairs and painting. The applicant mentioned the following regarding unnecessary hardship and special circumstances: the current business is out of compliance, and he wants to rectify that. It would be difficult to repurpose the building because it was built with the intention of auto service in 1935. He mentioned that the use of the building would be less intensive than the other auto related businesses in the area. Mr. Bellinger will also implement ADA standards to the building.

Mr. Lager seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Lager moved to approve the application for a use variance from Appendix A, Chapter 4, Section 4.1 to allow the property to be used for “Light Equipment Repair” (which is defined as repair of automobiles and the sale, installation, and servicing of automobile equipment and parts but excluding body repairs and painting, seconded by Ms. van den Hombergh.

Discussion:

Chair Carroll stated he was in favor but questions the speed in which the city will update the ordinance. He wanted to know should they wait until the ordinance passes or can they put a condition on the variance that it expires, and Mr. Eldridge said the variance will no longer be needed once the ordinance is adopted and if approved, the variance will disappear. He added that there can be delays but he doesn't see them coming from the residential district standards that are being proposed.

Vice Chair Lager added he will be in favor based on the special circumstances and that the building was custom built for an automotive business. He felt that it wouldn't make sense to deny this based on there being other auto related businesses on opposite corners of this location.

Chair Carroll asked if there were additional comments from the board and there were none.

Motion approved by roll call vote unanimously.

Mr. Lager read the application for 315 E. Frank Street

ZBA#22-07-21: 315 E. Frank Street: An application for a dimensional variance of the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Bogan Developments LLC for 315 E Frank Street, which is situated in the Live-Work District (LW-1). The applicant is requesting a dimensional variance from Chapter 50-5.6 to allow up to a 27-foot setback where a build-to zone of 0-10 feet is required.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above.

Jamauri Bogan of Bogan Development and Alex Phelan of Hurley and Stewart spoke. Mr. Bogan said they would bring a 14 unit building to the site with one of those being a childcare center run in partnership with the YMCA.

Mr. Phelan, a civil engineer with Hurley and Stewart said they have been working on this project for one year. He stated they have been working with the city to rezone the property from a Manufacturing zone to a Live-Work 1 zone. He said part of Live-Work designation is that the

property would bump up against the right of way and even though they intended to do that, they found an error in the survey, which he presented on the screen. He stated a typical right of way is 33 feet wide on each side of the road, or 66 feet wide in total. The right of way, which was platted back in the 1800's, is only 22.5 feet on that side of the road. He said while they were going through site plan, they were told they would need to bring the road up to the 24 feet cross section standard. The issue is standard number two: they have the 24-foot road with parking, and sidewalks and that is pushing the buildings further away. They would like to grant an easement to the city and the hope is it will function as a right of way and the buildings would be 10 feet within the easement area instead of the right of way.

Mr. Carroll asked if the image shown is what they intend to build, and Mr. Phelan said it is. Mr. Phelan described the buildings are highlighted in yellow. Mr. Carroll asked if the pink is the landscaped easement and Mr. Phelan said yes.

Mr. Phelan said there are two ways to correct: one is to go back and replat, which goes thru the state of Michigan and can take years or establish an easement. He then presented a picture of Pitcher Street stating the city is asking that they improve the street to turn it into a thoroughfare to accommodate traffic, on street parking, pedestrian traffic, a fire apparatus, and other emergency vehicles. He said the goal is to meet the intent of the Live-Work zone.

Mr. Burdue asked if the whole street is being reconstructed or just a portion adjacent to the property and Mr. Phelan pointed out the gray area on the image as being what is being done since it is owned by Mr. Bogan. Mr. Bogan added that they will also be doing the part of Pitcher Street by Myrtle and that the city will also add dollars into the rest of the street as well.

Ms. Harrington asked if it is Mr. Bogan's responsibility to make the improvement or the city's and Mr. Bogan said it's part of the project.

Chair Carroll asked for comments/questions from the public and there were none. He then asked if there were any phone calls and there were none.

Staff comments are as follows: the focus is a set-back issue that this is a platting error made long ago that is creating this hardship and is no fault of the applicant or the city. He added that once the error was discovered it was realized that it would affect public utilities, on-street parking, and the public sidewalk. He said that the city decided it was best to go with an easement and that the easement would not change the property lines.

Mr. Eldridge touched on the strategic vision stating that this is a Brownfield site the city has been looking to develop and has been working closely with Bogan Development. He stated the site has been cleaned up and now will be repurposed to add businesses and housing and is a very positive thing for the city. He said the city recommends granting the variance based on the hardship.

Chair Carroll asked for additional questions from the board and Ms. Harrington stated she doesn't understand why it is the applicant's responsibility if this was a planning error and Mr. Eldridge stated that the error occurred many years ago and because this portion of Pitcher Street has seen very little development, it wasn't known until this project came up that there was an error with the right of way until the survey was done and what was thought to be 66 feet wide is only 22.5 feet

and that it's insufficient for travel lanes, utility runs or the placement of the public sidewalk. So either has to be re-platted or an easement has to be created so that the city has access to the property frontage for the utilities.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Terpening moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 315 E. Frank Street shall include all information included in the notice of public hearing dated June 29, 2022.
- 2.) 29 notices of public hearing were sent, and zero responses were received. There were no public or call in comments.
- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Jamauri Bogan and Alex Phelan of Hurley and Stewart presented a platting error that occurred several years ago and is resulting in set back issues. The easement will allow the city to install utilities and other investments to the property can also move forward. Hurley and Stewart submitted slides to show the final result. Two solutions were given replatting is lengthy and expensive and easement of right of way was also suggested.

Ms. van den Hombergh seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Lager moved to approve the application for a dimensional variance from Chapter 50-5.6., to authorize a dimensional variance from Chapter 50-5.6 to allow up to a 27-foot setback where a build-to zone of 0-10 feet is required, seconded by Mr. Burdue.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above.

Discussion:

Chair Carroll appreciated the slides and explained his reasons for support based on the fact that this one meets all of the requirements and the circumstances are not the fault of the applicant, it will not have a negative impact on the immediate area, and it is in conjunction with the intent and purpose of the ordinance.

Ms. Harrington agreed and said she is in favor and appreciates that the city was able to work with the applicant to correct the situation.

Motion approved by roll call vote unanimously.

Mr. Lager read the application for 3650 Alvan Road

ZBA#22-07-22: 3650 Alvan Road: An application for a dimensional variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by 3650 Alvan Road LLC for 3650 Alvan Road in the Commercial-Community District (CC). The applicant is requesting a dimensional variance from Chapter 50-7.2 to allow 32 off-street parking spaces where 7 spaces is the maximum permitted for this retail use.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the item described above.

Tom Ferrell, Tom Ferrell Jr., and Erin Ferrell, are the owners of 3650 Alvan Road, also known as The Refinery. Mr. Ferrell stated they own 3 ½ acres and are using about 20 percent of the land and the building is about 2000 square feet. They have about 700-800 customers per day and states they don't have adequate parking, Alvan Road isn't lit, and there have been security issues with the employees being approached at night by homeless and others. He explained they were out of compliance when they added a gravel parking lot in the back on the property, which has been removed. They are now asking for permission to add a paved, lit parking lot to their property next door. He said they want to get out of the way of Alvan Road because of the semis and landscape companies that are down the road. He added that the only parking they have at the moment is on the street for their 12 employees and the customers and they are only asking for ten additional parking spaces. Mr. Ferrell stated there is talk of having one side of Alvan Road allowed for parking but fears customers getting ticketed and not returning. He said they have researched alternate parking but the places in the area need their parking for their own needs. He added that they have received two letters of support.

Vice Chair Lager asked about the employee count from 12 to 15 employees at peak times. Mr. Ferrell said peak can last up to four hours. Vice Chair Lager repeated information about the parking lot that they had that was out of compliance, customer complaints about the safety issues and other businesses in the area complaining about the on-street parking to which Mr. Ferrell affirmed. Vice Chair Lager asked if there was any pedestrian infrastructure and the younger Mr. Ferrell advised only the walkway in front of the business. Mr. Ferrell said there is no lighting on the street and that the street was put in by Alvan Trucking and at some point the city took over the street. Mr. Lager asked if there is enough parking for customers in the lot and was told that sometimes the on-street parking is utilized. Mr. Ferrell added that the employees park closer to the building on the street and the spillover customers park on the street across from the building. Mr. Lager added that

per the ordinance the building has more parking spaces than would normally be allowed and Mr. Ferrell said they bought the land then added the building.

Mr. Terpening asked why aren't they asking for more parking spaces if they average 100 customers per hour and the younger Mr. Ferrell said they were going to ask for more but didn't want to ask for too much.

Mr. Burdue asked where the nearest public transit is, and Mr. Ferrell stated he assumed it's Sprinkle Road but isn't sure.

There were no questions/comments from the public. There were also no phone calls.

Chair Carroll closed the public hearing and asked for staff comments.

Staff comments are as follows: developed before the ordinance changes to the off-street parking requirements, has 22 spaces now where seven to nine is permissible under the current code, and they're looking to add 10 to make it 32. The calculation is one off street parking space spot per 330 square feet of gross floor area. Mr. Eldridge added that the type of business they have relies heavily on the employee base. He said he has driven by there on several occasions and has not yet witnessed the heavy volume customer times but he has witnessed cars in the lot as well as on the street. Parking alternative is on-street parking on both sides of the street but there are 20 to 30 semis that use the road on a daily basis according to Old Dominion Trucking. Mr. Eldridge stated both Old Dominion and the other business, an insurance company, would like to see the variance granted however, the city can allow for parking on the south side of the street only and that would allow for better maneuvering of the tractor trailers that also use the road. Staff is not supporting the variance given that the applicant already has access parking beyond what the code allows and that there is on-street parking to cover the overage and the criteria is difficult to apply because of the parking options.

Chair Carroll wanted to know how the signs would go up if the ZBA denied the applicant's request and Mr. Eldridge stated the planning department would work with the traffic engineer who would then communicate with the property owners along Alvan Road about the changes. He added that the reason for the on-street parking is to minimize the amount of asphalt because it adds to the stormwater management and the heat island effect with the addition of the paved surfaces, and it adds to the expense of managing the commercial properties because you have to resurface every so many years and there is a stormwater detention system that also has to be maintained, so the city is leaning more toward on-street parking alternatives. Chair Carroll wanted to know how he could be guaranteed that the city would hold up their end by adding the signage and Mr. Eldridge said he would have to take the suggestion back to the city planner and the traffic engineer who would meet with the property owners, who have already made it clear they are against more on-street parking. Chair Carroll asked about the timeline of reapplying if an application is denied, and Mr. Eldridge said they can reapply in one year unless there are substantial changes to the request. Chair Carroll asked how long the process would take and Mr. Eldridge stated a matter of months, possibly by this fall.

Ms. Harrington wanted to understand Chair Carroll's line of questioning. He answered if the city is not supportive and if he wanted to vote know, he would struggle with there not being a solution

to the issue and he's unsure if he even wants to entertain a motion at this time. Mr. Eldridge explained that as an example, they would be able to come back before the year if the traffic engineer didn't agree to make changes to the street.

Ms. van den Hombergh asked if parking is allowed on Alvan even without signage and would people really get ticketed and Mr. Eldridge stated parking is allowed on both sides of the road and the reason for talking about parking on one side of the road is to help with traffic flow, to appease the other businesses on the street, and to allow for better maneuvering of the tractor trailers.

Ms. Harrington asked if the city could help them develop their parking lot like they are helping the previous applicant and Mr. Eldridge said the difference is that this is outside the bounds of the ordinance and the other situation the city isn't covering the costs but suggested the easement as a solution to a problem .

Chair Carroll wanted to go over the sequence of events again and asked if there were any letters of opposition, Mr. Eldridge stated there is no opposition.

Mr. Burdue asked if there is any crash data for that road and has there been any pedestrian related accidents because of the on-street parking and Mr. Eldridge stated he hasn't looked at any related to Sprinkle and Alvan. Mr. Burdue asked how they were allowed 22 parking spaces when they just constructed the building between 2018 and 2019. Mr. Eldridge stated the former standards established a minimum but there was no maximum. Mr. Burdue asked about the city's stance on asphalt versus gravel. Mr. Eldridge stated for smaller parking lots public services would allow gravel, but 20 or more parking spaces has to be a solid surface and have stormwater management. Mr. Burdue wanted to know if there is a way around that to allow for gravel and Mr. Eldridge stated it would have to be approved by public services but is unsure if there is an appeal process because they have stormwater management standards they follow.

Mr. Terpening wanted to clarify the placement of the new parking lot and Mr. Eldridge said it is adjacent to the current lot.

Mr. Burdue said he would be more comfortable with obtaining more information on alternatives such as gravel for the parking lot that would satisfy their needs while minimizing the concerns from the city. Mr. Eldridge said that whatever the materials used, they are still adding parking spaces.

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 3650 Alvan Road shall include all information included in the notice of public hearing dated June 29, 2022.
- 2.) 17 notices of public hearing were sent, and two responses were received and were in support of the variance from Old Dominion Freightline Inc at 3600 Alvan Road and from Modern Woodman of America at 2700 Sprinkle Rd.

- 3.) A public hearing was held before the board and public comments were accepted.
- 4.) The Zoning Board of Appeals received documents on the request including a packet with photographs.
- 5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Tom, Tom, and Erin Ferrell are the applicants and owners of the 3.5-acre property that has a slightly over 2,000 square foot building on it. The applicant indicates they have as many as 700 customers a day and between 12 and 15 employees during peak times. The applicant indicates that Alvan isn't pedestrian friendly and there are no lights or infrastructure for pedestrians there. At the onset of parking issues, the applicant created a gravel parking lot adjacent to the building but when they were informed that was outside the ordinance, they deconstructed it and their goal is to now obtain off-street parking on their property but across from the current parking lot. The applicant indicated that Alvan Road, just off Sprinkle Road, has significant heavy truck use during the day. Since deconstructing the parking lot, the applicant says employees have complained about the safety of parking on the street and the applicant has asked for ten extra parking spots. There was much discussion about potential parking solutions and whether the street could be re-signed for limited parking on one side of the street to accommodate the truck use.

Ms. van den Homberg seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Lager moved to approve the application for a dimensional variance from Chapter 50-7.2 to allow 32 off-street parking spaces where 7 spaces is the maximum permitted for this retail use, seconded by Mr. Terpening

Discussion:

Ms. Harrington questioned why staff is not in favor of the application and Mr. Eldridge stated they have more than ample parking spaces according to the ordinance and they also have alternative on-street parking. Ms. Harrington asked what the issue was with the gravel lot and Mr. Eldridge stated that it went against the ordinance, and it was constructed without a permit. She wanted to

know what they could do to get a parking lot and was told they would have to be granted the variance or add to the building for more square footage and that would create more parking.

Mr. Burdue said he will be in support because he would love for Kalamazoo to be more walkable and transit oriented but that wouldn't be the case at that location and he's not comfortable telling a business they can't expand their parking lot to accommodate customers.

Vice Chair Lager also stated his support because of the special circumstances and citing that Sprinkle Road is one of the least pedestrian friendly areas and the street being named after a trucking company. He added that the solution seemed to be the least safe and least customer friendly, and he doesn't know why they would want to do that to a business or to the people who frequent the business. He added that when the ordinance changed, they granted two or three variances to increase parking in that area he believes to a couple of hotels that if they reached full occupancy, wouldn't have sufficient parking. He said that the changing of the ordinance, which took the minimum and turned the minimum plus ten percent into the maximum is now having a negative impact on the businesses that bought before the ordinance came into place, built, and then realized they didn't have enough after they built in excess of the ordinance. He feels it's common sense to grant the variance.

Motion approved by roll call vote unanimously.

Mr. Lager read the application for 333 E. Alcott Street

ZBA#22-07-23: 333 E. Alcott Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Hollander Development Corporation in the Residential-Multi Family District (RM-4). The applicant is requesting a dimensional variance from Chapter 50-7.2, to allow for 75 off-street parking spaces, where 56 is the maximum number of spaces permitted.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above.

Matt Hollander, the owner of Hollander Development Corporation, is the applicant. He is asking for the parking related variance that Mr. Lager read. He also explained that the second half of the request has been dropped and that Mr. Eldridge and he will get into that a little later. He stated they are in the middle of developing a 6.64-acre sub-parcel of 333 E. Alcott Street into a multi-unit, including 48 units of affordable housing. They are asking for a parking variance for 75 parking spaces for the 48 units, but the ordinance only allows for 56. Two reasons for seeking the variance are that they want to seek Michigan State Housing Development Authority (MSHDA) financing. MSHDA has their own design standards which requires they construct two parking spaces per unit. Per the ordinance, they can construct 1.17 spaces per unit, but they are seeking to construct 1.56 spaces per unit. The second reason is they don't feel the parking requirements associated with the RM-24 multi-unit district are consistent with the unit mix that they intend to construct on the property. The units are intended for families and their goal, although not set in stone is to have approximately 75 percent of the units as two- and three-bedroom units and would have more occupants than the studio and one-bedroom units that have been more common. They feel that MSHDA will give them more problems with financing if they have to stick with the ordinance and second, they feel they really need the additional parking spaces because these would be some the only two- and three-bedroom units to come into Kalamazoo in some time. Other

circumstances are that they have 48 units on 6.64 acres and the RM-24 one permits them to construct approximately 24 per acre. If they maximized the number allowed, they would be able to construct up to 160 units. It is the opinion of the applicant that they have a light footprint, an abundance of green space, and they are also going to be focusing on multimodal transportation, so as part of the project they are looking to complete a spur of the Kalamazoo Valley River trail that runs along Portage Creek on the west side of the site and they are also seeking to establish a bus stop at the development to service those 48 units. Mr. Hollander added that with the multimodal transportation pathway there is access for walking, biking, skateboarding...they will also complete sidewalks along the east side of the site on Belford Street where there are none, so they will surround the property with sidewalks on Reed, Belford, and Bryant and will add some additional options for pedestrians. The reason they dropped the second portion of the variance is that they found they don't meet the definition of woodland under the natural features protection overlay and when they went to the NFP board they agreed. They are meeting all of the requirements of NFP in terms of the Portage Creek waterway, the setbacks, and protection of some special status trees they have identified on the property.

Ms. Harrington asked if he could go over why the NFP issue is dropped and Mr. Eldridge said at the time the packet was sent out, it was thought that NFP variants was applicable to this development and the packet was put together before the June 28 NFP review board meeting. At the meeting information was given about the trees on the property and how they didn't meet the definition of woodland under the NFP ordinance and that a variant wasn't applicable so that item was removed from what the ZBA is considering tonight.

Mr. Lager asked Mr. Hollander how many units per acre they could build if they were to maximize the number allowable and Mr. Hollander said 24. Mr. Lager pointed out that if they were to build more units then, by right, they could have more parking and Mr. Hollander agreed.

Mr. Burdue inquired about MSHDA's requirements since they are asking for 75 off-street parking spaces and Mr. Hollander said 2 parking spaces per dwelling.

Chair Carroll asked for comments/questions from the public and there were none. He then asked if there were any phone calls and there were none.

Chair Carroll closed the public hearing and asked for staff comments.

Staff comments are as follows: Looking at the review criteria they indicated that under special circumstances the difference between MSHDA's parking standards and the city's zoning ordinance parking requirements because this is one of the few projects that is being put forth for funding through MSHDA for low-income housing or what is referred to as low-income tax credits. Mr. Eldridge said the board must feel that there are quite a few of these projects, especially since they heard the Mount Zion project last month for parking and it's also going to MSHDA, but in reality there aren't a lot of these types of projects and because funding from the state is dependent on certain development standards being met it places the developer in a difficult situation to try to meet both the city ordinance and the state standards. The city is supportive of the project because it brings additional low-income housing to the community. Mr. Eldridge added he wanted them to have a little background about why they now have seen two requests in a row that are dealing with parking and are both projects going forth to MSHDA for low-income housing tax credits. Other

items to note are that this is different because of the high number of two- and three-bedroom units that are proposed, which will require more parking because of the larger occupant counts. He also added that this is another Brownfield site that the city has been working for years to complete cleaned up coordination with the State and allow for redevelopment. Mr. Eldridge said it is a benefit to the Edison as it brings more housing, it is a Brownfield site that is being put back into active use, and therefore staff is supportive of the request.

FINDING OF FACT

Ms. Harrington moved the Finding of Fact as follows:

1. The Finding of Fact for 333 E. Alcott Street shall include all information included in the notices of public hearing dated June 29, 2022.
2. 125 notices of public hearing were sent, and zero responses were received.
3. A public hearing was held before the board and public comments and phone calls were accepted.
4. The Zoning Board of Appeals received documents on the request including.
5. The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

The facts regarding circumstances or conditions of the property are structures that are special circumstances or conditions not commonly found other lots or structures in the same zone district that make this request unique are that the applicants are requesting a dimensional variance that allow for 75 off-street parking spaces where only 56 are allowed and the city ordinance conflicts with the MSHDA design standard. Matt Hollander came before the board and the special circumstances are that there are two- and three-bedroom units that will require the need for more parking spaces and the current design standard isn't consistent with the unit mix. Their goal is to have 75 percent of the units be two to three bedrooms and they will be using a light footprint at the site and will be incorporating multimodal transportation pathways and would like to establish a bus stop at the property.

Mr. Lager seconded the Finding of Fact.

Discussion:

Mr. Burdue stated he will be in support, and he is excited about the multimodal transit orientation.

Ms. Harrington agreed, and Mr. Eldridge reminded the chair that they were still doing the finding of fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Lager moved to approve the application for a dimensional variance from Chapter 50-7.2, to allow for 75 off-street parking spaces, where 56 is the maximum number of spaces permitted, seconded by Mr. Terpening.

Motion for the dimensional variance was approved by roll call vote unanimously.

Mr. Lager read the application for 3110 Oakland Drive

ZBA#22-07-23: 3110 Oakland Drive: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Sign Art in the Commercial-Neighborhood District (CN-1). The applicant is requesting a dimensional variance from Appendix A, Chapter 7, Section 7.3, to allow a 128 square foot freestanding sign along the Oakland Drive frontage where the maximum sign area permitted is 100 square feet and a dimensional variance from Appendix A, Chapter 7, Section 7.2D, to allow a 28% changeable copy portion of the freestanding sign where 25% is the maximum permitted.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above.

Steve VanderSloot of Sign Art, speaking on behalf of Consumer's Credit Union, who started this project approximately seven years ago. He explained that they are ready to move forward with, and market, the retail component and they are trying to help the retailers that will be in that strip center with their signage, so he pushed Mr. Eldridge to put this on the agenda. He said the application and staff report reflects what the intention is the reason for being there, and that is to move the items forward early instead of waiting for the ordinance to be updated.

Vice Chair Lager asked for help visualizing 28 square feet and Mr. Vandersloot said a sheet of 4x8 plywood is approximately 32 square feet. He also explained that to create a digital display, you have to work within one-foot increments and they also like specific height to width proportions and lastly, they are trying to be consistent with other displays Consumers has within Southwest Michigan, so they are able to carry over the same message from one location to the next. He explained they are trying to balance between the digital, what's available, their logo and satisfying the proportions for the commercial tenants as well as the identification and the digital display came out at 4x9 feet.

Chair Carroll asked if the digital display is necessary, and Mr. Vandersloot said Consumers believes it is and they have very few locations that don't have a digital display: one only because of limited space and another because there is a clear vision drainage basin. Chair Carroll asked about the one near Costco and Mr. Vandersloot stated that one is very similar to the one being proposed. Chair Carroll told Mr. Vandersloot that he hates to tell him that these signs don't work because he drives by there and he couldn't even tell if there's a sign there, digital, or otherwise. Mr. Vandersloot said that means that the sign isn't obnoxious, so he's confident that he's doing good work. He added that he always makes sure the signs are dimmed to an acceptable level in addition to doing ambient lighting testing after the sign is installed and that complaints usually

stem from the brightness, the change, and how the information is presented. Chair Carroll also asked if he knew how many suites would be in the development and Mr. Vandersloot said he believes there will be four retail spaces on the ground floor and three apartments on the second floor, the commercial element of the bank with offices upstairs, a drive-thru lane and a pedestrian gathering point on the corner. Chair Carroll asked if they added a fifth suite, how would they get a sign on this sign and Mr. Vandersloot said hypothetically he could see Consumers either offering them space on the digital component, which would be the easiest solution, or they could expand the sign on Parkview since it's undersized. Chair Carroll asked if this sign is oversized because it's digital and Mr. Vandersloot said pretty much but per the current ordinance, it is oversized but by the ordinance that is in process it will be well undersized. Chair Carroll wanted to know what is causing the sign to be oversized and Mr. Vandersloot said there are a number of things that add to the square footage such as decorative reveals and maybe a destination name. Chair Carroll stated he was just trying to get a visual of the overage request.

Ms. van den Hombergh wanted to clarify the retail space.

Mr. Eldridge raised a side question that was posed by Ms. Harrington and that was what the next steps in the proposed sign regulations are as opposed to the standards that were brought to the board tonight. Mr. Eldridge explained the amendments are being prepared to be presented to the commission and that what is before the board tonight does align with the proposed amendments. Mr. Vandersloot added that the new sign is 18 feet tall and will be under the new ordinance and that once code is enacted it will be a conforming sign.

Chair Carroll asked for comments/questions from the public and there were none. He then asked if there were any phone calls and there were none.

Chair Carroll closed the public hearing.

Staff comments are as follows: Mr. Eldridge wanted to clarify the two requests and the reason Mr. Vandersloot is familiar with the sign ordinance amendments is because the amendments have been put out for public comment for quite some time and the city intentionally sent the drafts to a number of local sign companies to get feedback. He added that although it's complicated the city is moving forward and that Attorney Bear recently had to write an opinion on a court case related to billboards and how the Supreme Court ruled on the definition of off-premises signs. The city has crafted ordinance amendments that fit the needs of the community and they have looked at case law to make sure they are moving in a content neutral direction. He added that it's a different because of the commercial speech and the legal ramifications. He said the ordinance will increase the size of freestanding signs for developments like this one and seeing these monument signs for multi-tenant developments come before the board over and over again because the standard allowance based on the street frontage is hard to utilize to cover a multi-tenant development so they intentionally increased the square footage so the allowed maximum for this type of sign that will be on the Oakland Drive frontage is 150 square feet and this sign is only 128 square feet. He added the applicant is also proposing an 18-foot-tall sign which is the new height, and the current standard is 20 feet so the sign will be shorter than other signs in that zone district and the city felt that the height wasn't necessary, but the square footage was. He said as far as the changeable copy, that has been a difficult match, as mentioned by Mr. Vandersloot and there's only certain sizes that the LED panels are made in so when the sign ordinance says the cap is 25 percent of the overall sign

area for the LED display or changeable copy, it's difficult to design the sign so the city is changing that standard to 50 percent of the sign area and the applicant is only proposing 28 percent. He added that the special circumstances are because of the complexity of what the city is trying to move forward, it has caused delays and the applicant is dealing with circumstances in their industry of material shortages, manufacturing delays and the need to have an answer to the sign allowance so that tenants will know what they will be allowed to display. He said he wanted to lay those out as well as what the staff has gone through trying to move the sign amendments forward.

Mr. Eldridge said there was one correspondence received from Margaret Carr on Parkview Avenue, she lives in the Woods Harbor condo, and she had concerns about the need for a freestanding sign when the building is already so close to the road, she also indicated that there a lot of things being constructed that may impede drivers' vision. Her letter was more directed toward the development of the property and not the two sign variances. He said staff is in support of both variances as they will fall in line with the proposed amendments.

FINDING OF FACT

Ms. van den Hombergh moved the Finding of Fact as follows:

1. The Finding of Fact for 3110 Oakland Drive shall include all information included in the notices of public hearing dated June 29, 2022.
2. 34 notices of public hearing were sent, and one opposition response was received from Margaret Carr of 2210 Parkview Avenue.
3. A public hearing was held before the board and public comments were accepted.
4. The Zoning Board of Appeals received documents on the request including.
5. The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Steve Vandersloot of SignArt Inc, on behalf of Consumers Credit Union is requesting two dimensional variances: one for a 128 square foot sign along Oakland Drive, where the maximum, at this time, is 100 square feet. The second variance is to allow a 28% changeable copy portion of the sign where 25% is the maximum permitted. Mr. Vandersloot mentioned the following and a discussion ensued: regarding the special circumstances and looking to expedite the brand identification for Consumers Credit Union, SignArt, as well as Consumers Credit Union, has been working with the city for 7+ years to remarket this property and are looking to include the bank and retail businesses along the lines of four retail offices at the ground level and three apartments on the second floor to include a pedestrian gathering point. The digital sign is necessary and similar to the one at Costco and they are taking great care to have the digital signs to be less obnoxious, dimming features. With regard to the minimum action that could be taken there was some discussion regarding smaller signage, about

the Woods Lake square at the top but one of the big issues is that with all of the changes the city is making to the ordinances, what SignArt is doing is well within the boundaries of the new requirements and, in some cases, smaller.

Mr. Lager seconded the Finding of Fact.

Motion approved for the Finding of Fact by voice vote unanimously.

Mr. Lager moved to approve the application for a dimensional variance from Appendix A Chapter 7, Section 7.3, to allow a 128 square foot freestanding sign along the Oakland Drive frontage where the maximum sign area permitted is 100 square feet, seconded by Ms. van den Homberg.

Motion approved to pass the dimensional variance by roll call vote unanimously.

Mr. Lager moved to approve the application for a dimensional variance from Appendix A, Chapter 7, Section 7.2D, to allow a 28% changeable copy portion of the freestanding sign where 25% is the maximum permitted, seconded by Mr. Terpening.

Motion approved to pass the dimensional variance by roll call vote unanimously.

OTHER BUSINESS: None

ADJOURNMENT:

The meeting was adjourned at 9:12 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Zoning Board of Appeals Staff Report

Date: **8/11/2022**

Item: **D.1.**

City of Kalamazoo

TO: Zoning Board of Appeals

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

DATE: August 11, 2022

SUBJECT: ZBA #22-08-25: 235 Cooley Street and 455 Eleanor Street. ACW 1N, LLC is requesting a use variance from Chapter 50-4.4 C(10)(b), to temporarily allow a parking lot on a corner lot in the D-2 District, where a stand-alone parking lot is not permitted on corner lots.

BACKGROUND:

PlazaCorp Realty Advisors have been working on the development of this area, commonly known as Arcadia Commons West (ACW) for years. The area encompassing this project are the parcels bounded by Eleanor Street, Park Street, Water Street, and Westnedge Avenue. The proposed parking lot is part of the first phase of the larger development in this area. Two 12-story mixed use buildings are proposed on the two lots south of Arcadia Creek are also part of the first phase of this development. The block of Cooley Street between the ACW parcels is in the process of being vacated to allow for pedestrian amenities, outdoor dining and gathering space, and surface parking. The planned future phase of the ACW development will place buildings on this lot and the lot across Cooley Street, unless these parcels are used as part of the potential Event Center under consideration for the blocks south of Kalamazoo Avenue, west of Park Street, north of Arcadia Creek, and East of Westnedge Avenue. The use variance to temporarily use this northwest parcel as parking and not begin building construction planning is due to the on-going consideration of an Event Center.

The use variance is being requested to authorize a temporary parking lot for up to five (5) years from the date of this approval to provide parking for adjacent uses. The temporary parking lot will meet all zoning and stormwater requirements. It will have a stormwater retention basin along the east side (near Cooley Street) and will meet all required landscaping standards. After the five (5) year-period has elapsed, the property owner will be required to remove all parking lot improvements and restore the site with natural ground cover or begin building construction, if plans for development, Event Center, or otherwise, have been approved.

Staff supports limiting stand-alone parking lots on corners in the D2 District. Staff support for this request is tied to the limited or temporary nature of the proposal. A bond or other financial

assurance will be required to make certain that removal of the parking lot occurs if future development does not move forward on this site.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision and Master Plan 2025 Alignment:

The mixed-use development on the ACW site aligns with the Strategic Vision goal of Economic Vitality. The Future Land Use map identifies this area as Downtown, which supports high-density residential and compact commercial development to recreate an active and vibrant downtown. A stand-alone parking lot on a corner in Downtown does not align with the Downtown Life Chapter of the 2025 Master Plan.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

The applicant has sent emails and letters to surrounding property owners. The city has sent public hearing notices to all property owners within 300 feet.

Engagement/Communication Tools:

Kalamazoo Gazette notice, letters, and emails.

FINDINGS:

The staff has made the following findings regarding this request:

1. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use identified in the Zoning Ordinance, which is a right commonly enjoyed by other land in the same zone district.

The applicant has indicated that due to the potential development of the Event Center, it does not make sense at this time to plan or construct a building on this lot. Once a decision is made on the Event Center project, this hardship will no longer exist. Also, the literal interpretation of the Ordinance does not prevent the developer from including the desired additional parking in the first-phase buildings on the two south lots.

2. That there is an unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.

The special circumstance is that the parcel being considered in this request may be included in the larger Event Center project. While the Event Center project is being studied and designed, constructing a building on this location does not make sense.

3. That the special circumstances are not the result of the actions of the applicant.

The applicant is not required by the Zoning Ordinance to use this parcel as a parking lot. It is their desire to use it as parking while the ultimate use of the parcel is being determined.

4. That the granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.

The use variance requested with the five (5) year sunset provision is the minimum action that could be taken to allow the developer short-term activity on this property. However, granting it without this time-limit condition would not be the minimum action, as it would result in the permanent use of this prominent downtown street corner for a stand-alone parking lot.

5. That the granting of the variance will not adversely affect adjacent land in a material way.

The granting of the use variance for a temporary parking lot will not adversely impact adjacent land. The proposed parking lot will be built to code, including stormwater management and landscaping. However, allowing a parking lot on this corner permanently would adversely impact adjacent land as it would undermine the development density anticipated for this Downtown block and would prevent activation of the street frontage.

6. That the granting of the variance will be generally consistent with the purposes and intent of this Ordinance.

The granting of the use variance with the five (5) year sunset provision provides off-street parking in the short run while supporting appropriate downtown development consistent with the Ordinance in the future.

RECOMMENDATION:

Staff recommends approval of the use variance to temporarily allow a parking lot with two conditions: 1) a five-year sunset provision from the date of this Board's approval and 2) the required removal of the parking lot improvements at the end of the five (5) year period.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

July 27, 2022

**RE: ZBA #22-08-25
235 Cooley Street and 455 Eleanor Street
Parcel #06-15-315-505 and #06-15-315-506**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by ACW 1N, LLC for 235 Cooley Street and 455 Eleanor Street in the Downtown – 2 District (D-2).

The applicant is requesting a use variance from Chapter 50-4.4 C(10)(b), to allow a commercial parking lot on a corner lot in the D-2 District, where a stand-alone parking lot is not permitted on corner lots in the D-2 District.

Please note that this request will not change the zoning classification of the property. This is a request for variance only regarding the item described above.

The meeting will be held on Thursday, August 11, 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](#).

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://www.kalamazoocity.org/boards>

Sincerely,

Peter C. Eldridge, AICP
Assistant City Planner



Community Planning & Economic Development

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

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

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: ACW 1N, LLC		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		
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.		
Name: same as above		Mailing Address:
City:	State:	ZIP Code:
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 235 Cooley Street & 455 Eleanor Street Kalamazoo, MI 49007		
Parcel Identification Number(s): See the attached Map		Zone District (kalamazoo-city.org/maps): D2
TYPE OF REQUEST		
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____ ☒ Use Variance to allow parking on a corner lot in the D2 zone district 50-4.4C(10)(b). ☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☒ Temporary Use Approval		
Reason for Request: The variance is requested to provide adjacent parking for Phase 1 of a mixed-use residential project that will provide energy, activity, and connectivity to an underdeveloped area in the urban core. Improvements to the site will include storm management and landscaping. It is anticipated to be temporary in use for approximately 5 years.		
ATTACHMENTS		
☒ \$ 300.00 Fee ☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☒ Review Sheet for Request Type		☒ Optional: Photos of property, architecture plans, etc.
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: <i>Andrew C. Wenzel</i>		Date: 7/22/22
Signature of Owner (if different than applicant):		Date:



ZONING BOARD OF APPEALS

USE VARIANCE REVIEW SHEET

General Information

Project Description (may also provide on a separate sheet):

See attached Exhibit A.

Review Criteria for Use Variances

ZBA will review all Dimensional Variance requests using the following criteria. Please reach out to staff if you have questions.

Does the Ordinance deprive the applicant from using the property for a permitted use, which is a right enjoyed by other property owners in the same zone district?

Yes, there are other stand alone parking lots located on corners in the D2 zone district. Prior to the adoption of the new downtown zone districts on November 2, 2020, corner parking lots were permissible in downtown. A few examples include the adjacent lot on Eleanor & Park, as well as the parking lots on E. Michigan and N. Edwards, E. South & S. Pitcher as shown in the attached map.

Is there a hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district?

See attached Exhibit A.

Are the special circumstances created by actions of the applicant?

No, these were created by a potential future event center that may absorb this particular corner lot, along with the lot to the east located on Eleanor and Park. Therefore, the applicant is not proposing constructing a building on this particular lot due to the unknown. Otherwise, applicant may propose a future building on this site.

Will the granting of the variance be the minimum action necessary for the use of the land or structure that will meet the spirit of this Ordinance?

Yes, granting this variance will allow phase one of development to move forward. The 5 year limitation is a challenge to development timing as phase one will not be complete for at least 2 years considering architectural design, final building plans and construction term. A longer temporary use would be helpful and allow for better flexibility and utilization of investment capital.

Will the granting of the variance negatively affect adjacent land?

No, this lot is adjacent to an existing surface parking lot located on the corner of Eleanor and Park as depicted in the attached materials.

Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?

Yes, it will allow for future development and shall include off street parking for downtown users. There are currently similar surface parking lots on corners in the D2 district as indicated in the attached map.

Exhibit A

Use Variance Review Sheet

Project Description - Specific Project Details

The variance is requested to provide adjacent parking for phase one of a mixed-use residential project that will provide activity and connectivity to an underdeveloped area in the urban core. Improvements to the site will include storm management and landscaping.

The mixed-use project consists of two 12-story buildings constructed in phases (see design elevation), each building being 12-stories with approximately 220 residential units, 2-stories of internal parking, first-floor commercial space and building amenities.

Access to each walkway and Kalamazoo River Trail is maintained and shall be further activated. The development includes outdoor activation along the creek as building amenity space. Cooley Street will also include parking and the ability for community activation (i.e., food trucks).

This project creates energy and vibrancy in an area of underutilization. The parking proposed supports phase one (one building) of the project.

Is there a hardship that is unique to the land or structure that is not applicable to other land or structures in the same zone district?

Yes, the impact of an event center being located adjacent to our development and including the subject parcel creates a significant hardship related to cost and timing.

The surface lot in question is needed for phase one of our development. Phase two will include alternate parking. If the event center moves forward and includes the subject parcel, alternate parking for our development will be part of the event center planning.

We are limited by city planning to a variance term of 5 years from approval. The surface lot will not be constructed for 18 months to 2 years after approval. Therefore, the surface lot will only be utilized for 3 years.

Development planning and action needs to continue forward related to this development and we are making every effort to remain flexible, taking into consideration the overall adjacent developments.

SITE DATA

1. PROPERTY INFORMATION:

PARCEL #S:
2A: 06-15-317-105
2B: 06-15-316-001
2C: 06-15-316-101
2D: 06-15-316-002
2E: 06-15-322-004
2F: 06-15-322-105
2G: 06-15-321-107
2H: 06-15-321-108
2I: 06-15-321-008
2J: 06-15-321-208
2K: 06-15-321-209

3A: 06-15-311-002
3B: 06-15-320-001
3C: 06-15-315-003
3D: 06-15-315-001
3E: 06-15-315-502

4. PARKING:

SITE LOCATED IN PARKING EXEMPT LOCATION
PROVIDED
ABOVE GROUND 9'X18' SPACES = 170
PARALLEL SPACES = 31
PARKING GARAGE = 100
BARRIER FREE SPACES = 8
TOTAL PROVIDED 194

5. BUILDING:

BUILDING 'A' = 10 STORIES
BUILDING 'B' = 8 STORIES
MAXIMUM HEIGHT: 2' STORIES HIGHER THAN NEARBY BUILDINGS
TOTAL AREA OF 22,668 SFT. (SEE FLOOR PLAN AND ELEVATIONS FOR MORE DETAIL.)
PROPOSED BUILDING COVERAGE: 12%
MAXIMUM BUILDING COVERAGE: 100%

6. LOT:

MINIMUM LOT SIZE: N/A
MINIMUM LOT WIDTH: N/A
LOT SIZE: 139,347 SFT / 3.119 ACRES
LOT DIMENSIONS: IRREGULAR

7. LANDSCAPING:

SHALL BE IN ACCORDANCE WITH LANDSCAPING PLAN.

8. STORM WATER DETENTION REQUIRED:

STORM WATER MANAGEMENT SHALL BE IN ACCORDANCE WITH CITY STORM WATER GUIDELINES.

SITE AREA: 139,348 SF (3.199 AC)

DEVELOPER:

PLAZA CORP
200 W. MICHIGAN
KALAMAZOO, MI 49008
PHONE: (269) 383-5775

2. ZONING:

PROPERTY CURRENTLY ZONED:
CCBD - COMMERCIAL CENTRAL BUSINESS DISTRICT
ABUTTING PROPERTY CURRENTLY ZONED:
NORTH: CCBD
SOUTH: CCBD
EAST: CCBD
WEST: CCBD
PROPOSED LAND USE = MULTI-FAMILY
*PERMITTED USE IN CCBD

3. SETBACKS

FRONT = 0'
SIDES = 0'
REAR = 0'

SITE PLAN NOTES

A BITUMINOUS PAVEMENT (SEE DETAIL SHEET).

B PROPOSED HVAC CONDENSERS LOCATED ON THE ROOF. REFER TO MECHANICAL DRAWINGS FOR ADDITIONAL INFORMATION.

C BIKE PATH

D FIRE PIT WITH BENCHES

E DOG PARK

F PICNIC TABLE (TYP)

G EXISTING PARKING METER (TYP)

H INTEGRAL CURB/WALK (SEE DETAIL SHEET).

I AT-GRADE RAMP (SEE GRADING PLAN).

J PAINT/ STRIPING (SEE DETAIL SHEET)

K 4" PAINTED PARKING LOT MARKING/ STRIPING (TYP.)
L LIGHT POLE (SEE L2.0 PHOTOMETRIC SHEET)

M SPEED RAMP (SEE GRADING PLAN)

N PROPOSED LANDSCAPING (SEE LANDSCAPE PLAN)

O 6" BARRIER CURB

P PROPOSED FENCE

Q PEDESTRIAN CROSS WALK

R DECORATIVE FENCE

GENERAL NOTES

1. DIMENSIONS TAKE PRECEDENCE OVER SCALE. CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD.

2. IF ANY ERRORS, DISCREPANCIES, OR OMISSIONS BECOME APPARENT, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ ENGINEER PRIOR TO CONSTRUCTION OF ANYTHING AFFECTED SO THAT CLARIFICATION OR REDESIGN MAY OCCUR.

3. ALL CURB RADII AND DIMENSIONS ARE TO FACE OF CURB. CURBS TO BE PROVIDED WHERE SHOWN AND INTEGRAL WITH SIDEWALK AT PAVING EDGE.

4. SLOPE GRADES UNIFORMLY BETWEEN ELEVATIONS SHOWN. NOMINAL GRADING, SLOPE SIDEWALKS AWAY FROM BUILDING AT 1/4" PER FOOT ON ENTRY WALK.

LEGEND

HMA PAVEMENT
(SEE DETAIL ON C5.0)

CONCRETE PAVEMENT AND SIDEWALK
(SEE DETAIL ON C5.0)

BRICK PAVERS

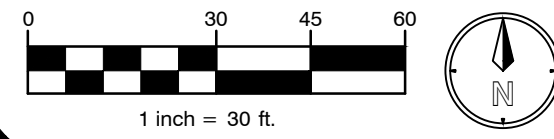
EXISTING CONCRETE PAVEMENT AND SIDEWALK

EXISTING PAVERS

BENCHMARKS

BM #1
ELEV. = 781.66 (NAVD88)
NW FLANGE BOLT ON A HYDRANT UNDER 'E' LOCATED AT NORTHWEST CORNER OF THE INTERSECTION OF PARK AND ELEANOR STREET

BM#2
ELEV. = 784.77 (NAVD88)
NE FLANGE BOLT ON A HYDRANT UNDER 'E' LOCATED AT NORTHWEST CORNER OF THE INTERSECTION OF PARK STREET AND WATER STREET



PLANS PREPARED BY:



Civil Engineers & Surveying
MICHIGAN | INDIANA | ILLINOIS | OHIO
326.250.5891 PHONE | 326.250.6854 FAX
www.arengineeringllc.com

DRAWN: ab

CHECKED: ASR

PRELIMINARY
NOT FOR CONSTRUCTION

No.	ISSUED FOR:	DATE	BY
0	PRELIMINARY SITE PLAN REVIEW	03/16/2022	ck
1			
2			
3			
4			

SITE LAYOUT
ARCADIA COMMONS WEST
PLAZA CORP

SHEET TITLE:
PROJECT:
CLIENT:

JOB NUMBER
2173002

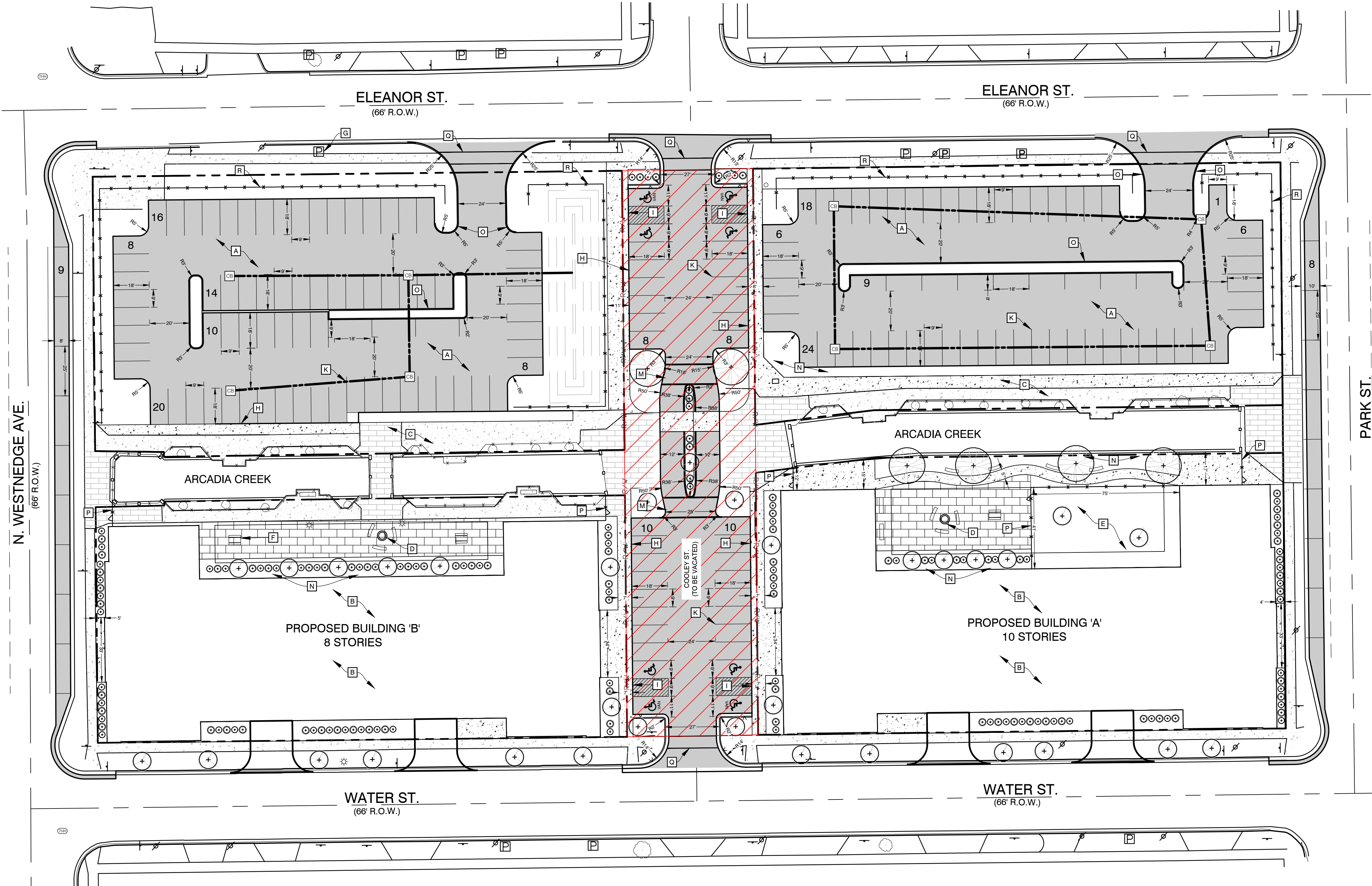
DATE
03/16/2022

SHEET NUMBER

C2.0



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA. FIELD WORK PERFORMED BY: LRE ENGINEERS & SURVEYORS





**ARCADIA COMMONS WEST
REDEVELOPMENT**
Kalamazoo • Michigan



VIEW LOOKING SOUTH

PRELIMINARY
Not for construction

ARCADIA COMMONS WEST
AERIAL SITE VIEW

21100321
SK-1



**ARCADIA COMMONS WEST
REDEVELOPMENT**

Kalamazoo • Michigan

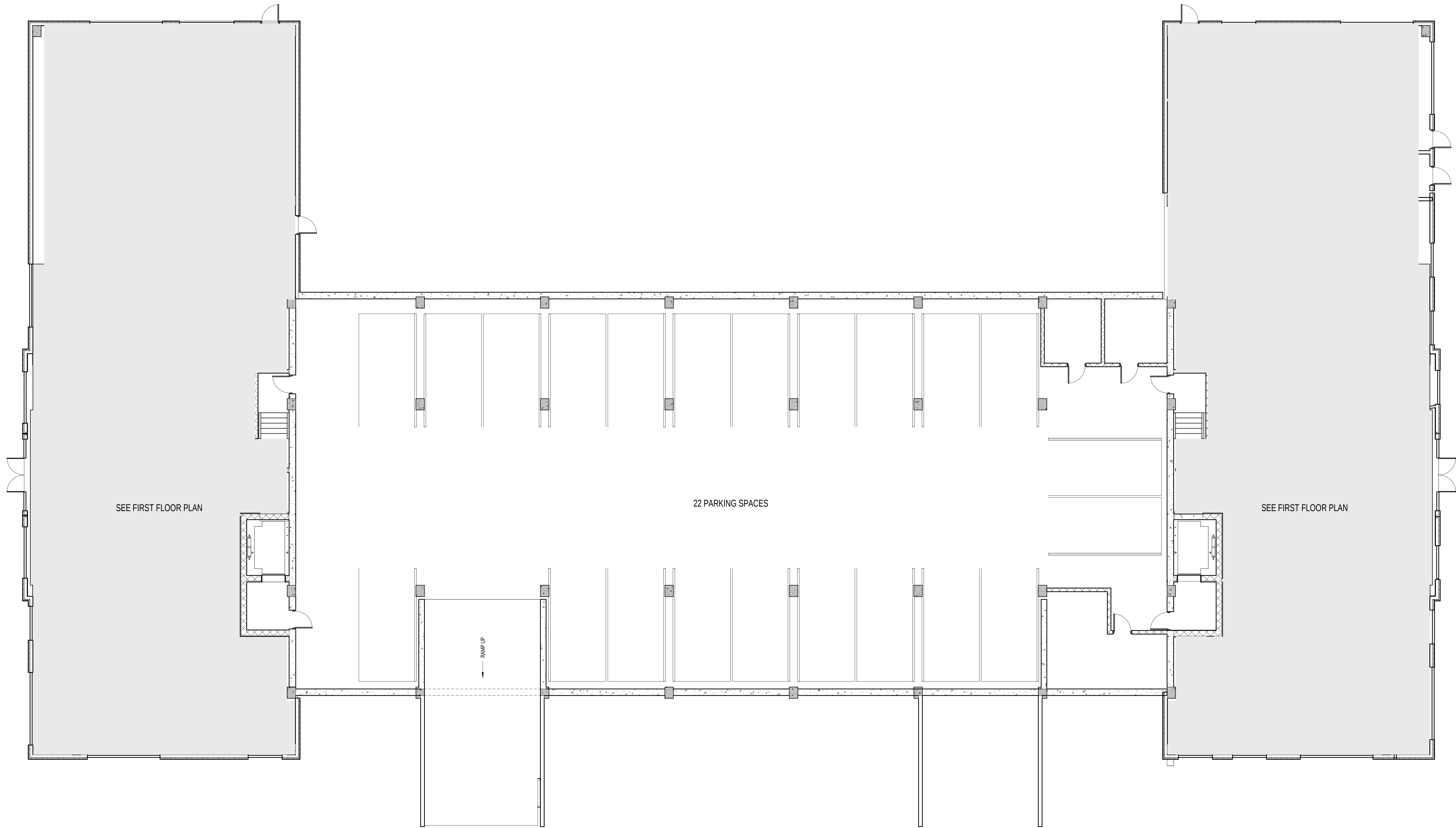


VIEW LOOKING NORTH

PRELIMINARY
NOT FOR CONSTRUCTION

ARCADIA COMMONS WEST
AERIAL SITE VIEW

21100321
SK-2



FLOOR ELEVATION 96'-7"

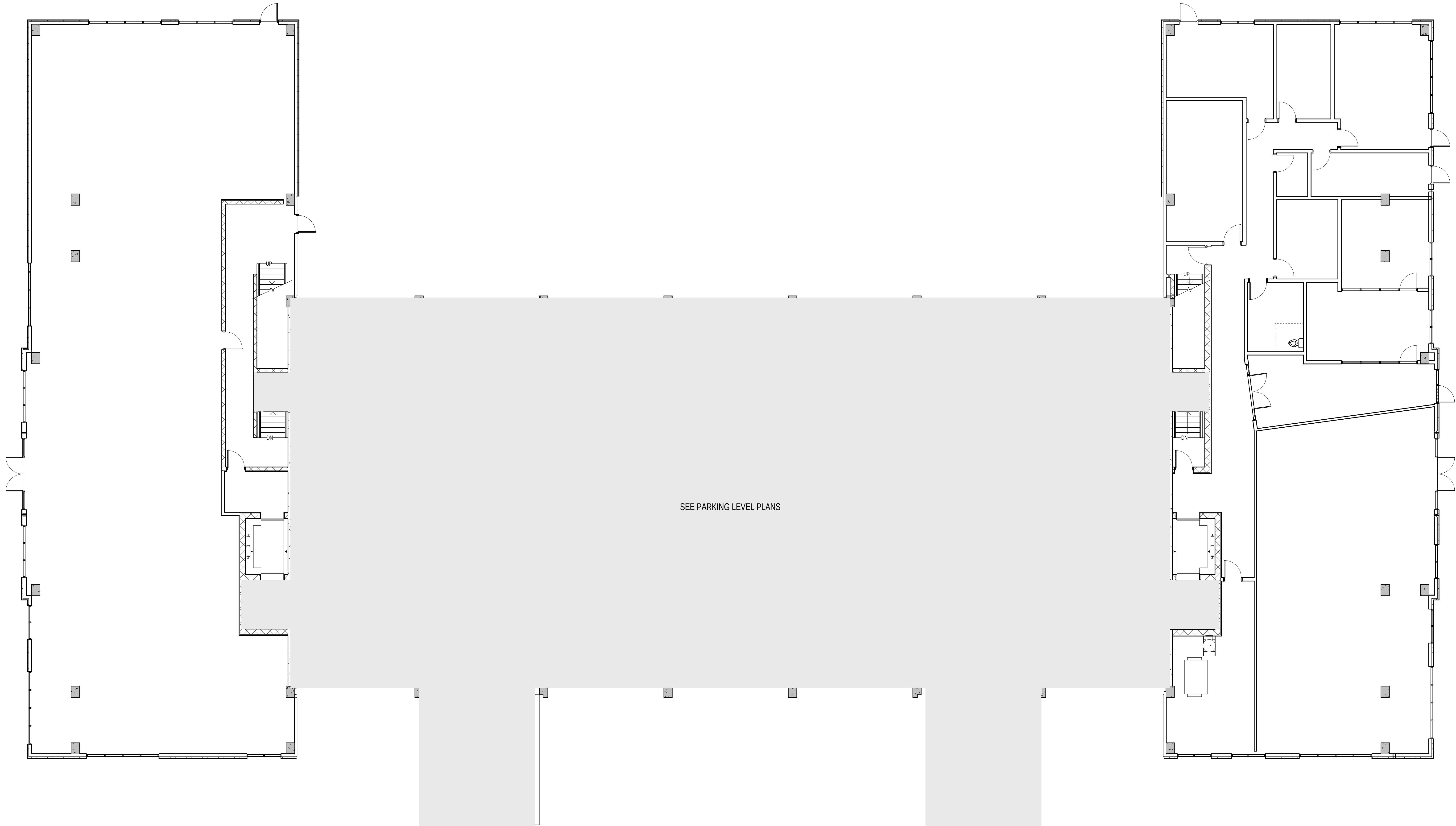
LOWER PARKING LEVEL PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

211000321
WEST 8
LOWER LEVEL PARKING PLAN

A205

AutoDesk Docs:011000321 Plazacorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_022.rvt
Printed: 3/16/2022 12:43:27 PM

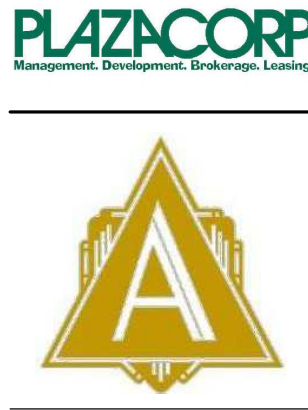


FLOOR ELEVATION 100'-0"
N
FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

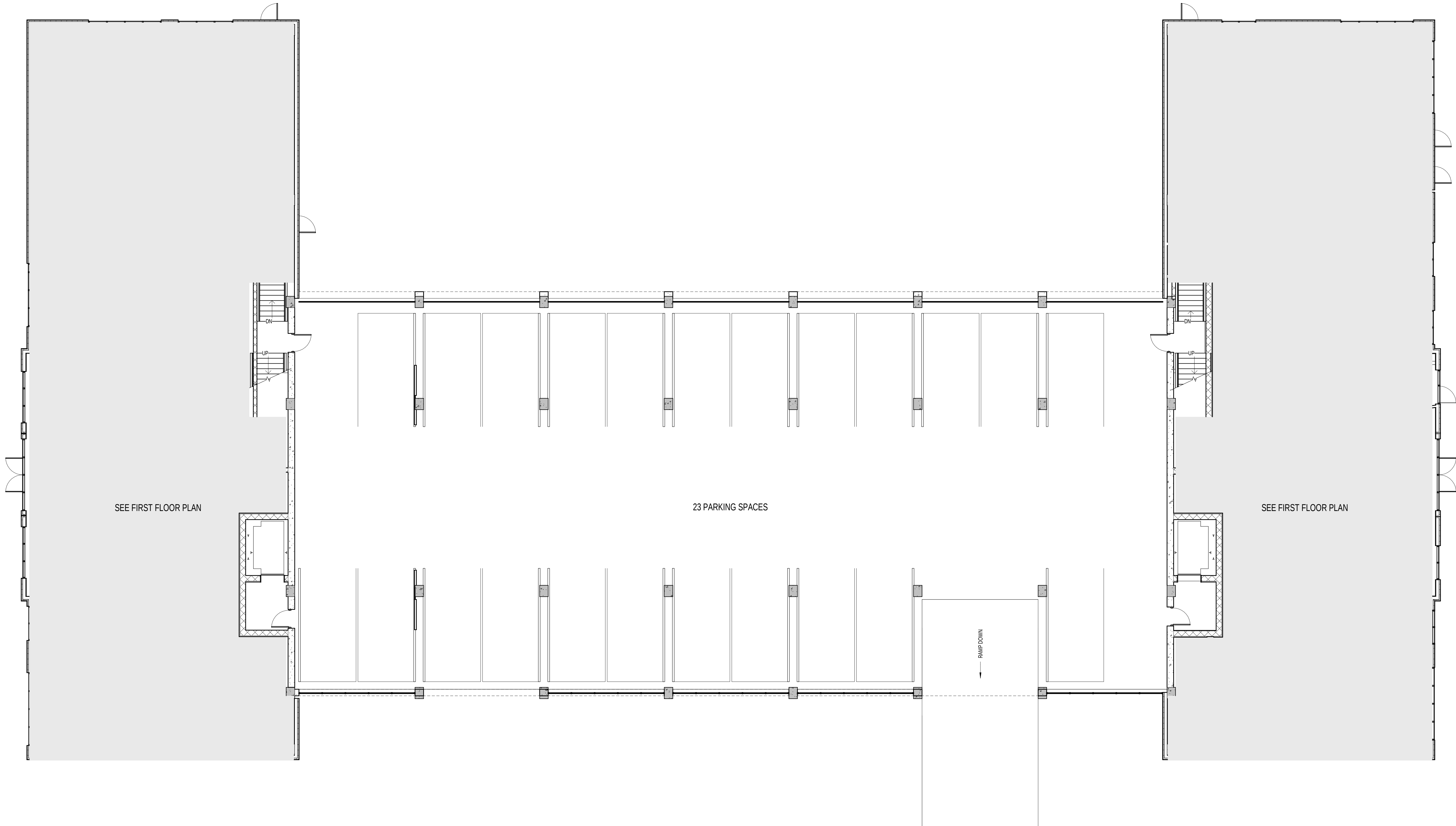
211000321
A210
2022.03.11 5:05 Schematic Design
WEST 8
FIRST FLOOR PLAN

BYCE
ENGINEERS ARCHITECTS
487 PORTAGE STREET
KALAMAZOO MI 49007
CORPORATE@BYCE.COM
WWW.BYCE.COM
TEL: 269•381•6170
FAX: 269•381•6176



**ARCADIA COMMONS WEST
REDEVELOPMENT**
Kalamazoo • Michigan

AutoDesk Docs:01100021 Plazacorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_022.dwg
Project: 31160022 12:43:27 PM

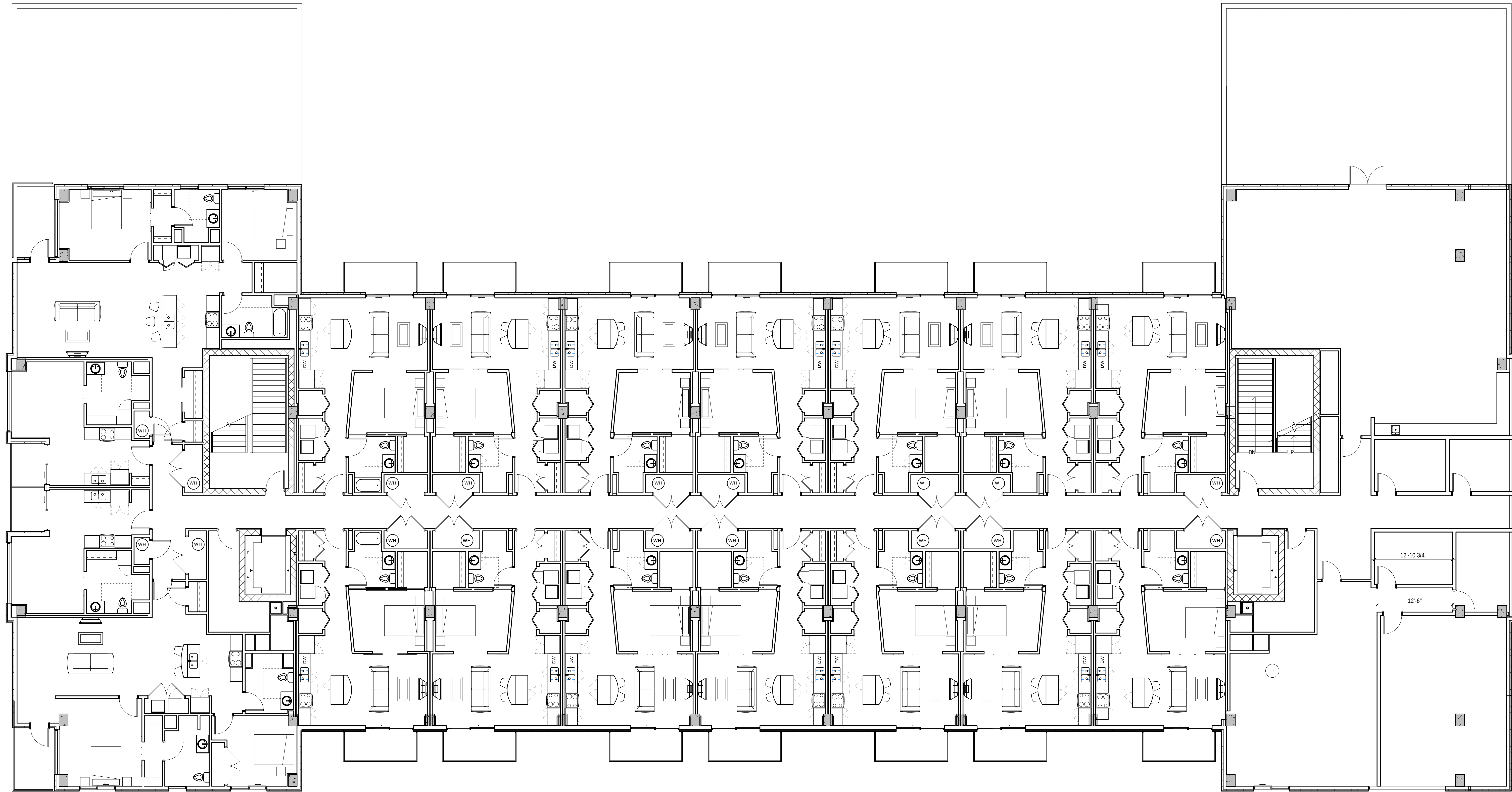


FLOOR ELEVATION 106'-7"
UPPER PARKING LEVEL PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

21100021
2022.03.11 5:05 Schematic Design
WEST 8
UPPER LEVEL PARKING PLAN

A215

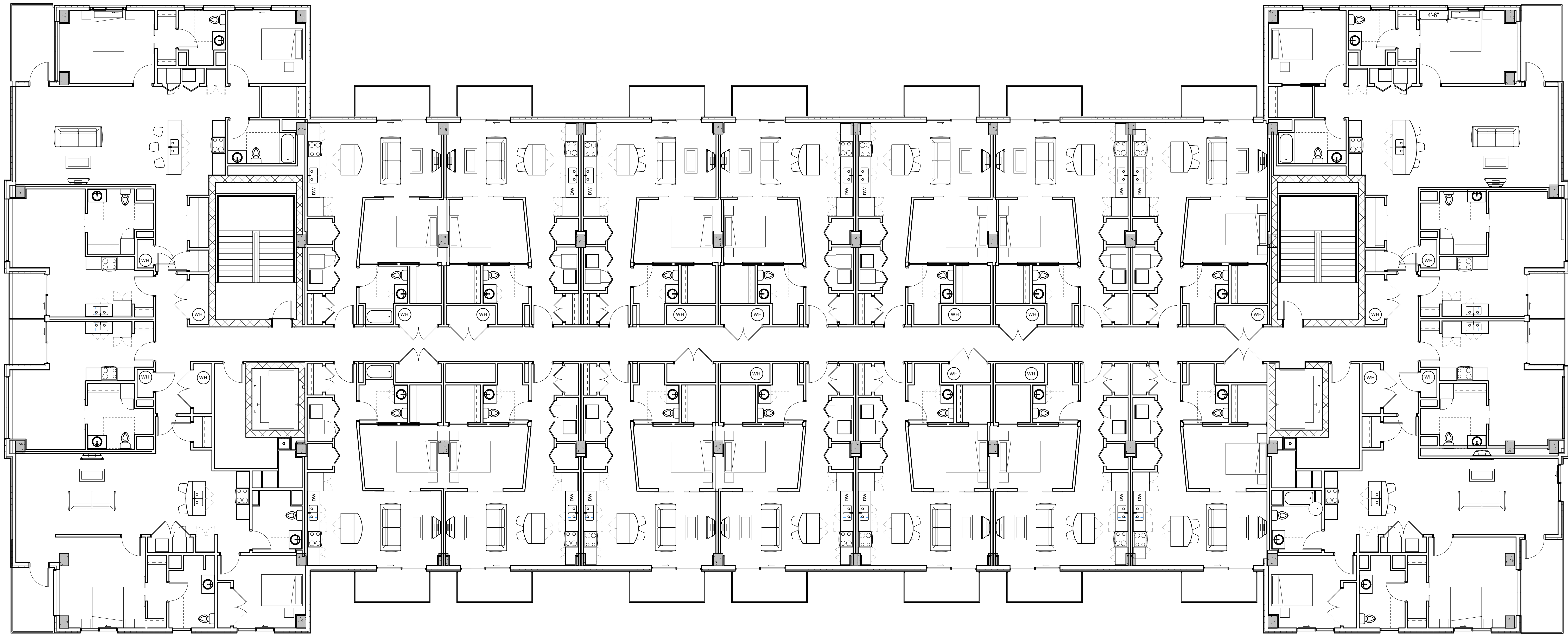


SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

211000321
A220
2022.03.11 5:05 Schematic Design
WEST 8
SECOND FLOOR PLAN

Autodesk Docs:01100021 Plazacorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_022.rvt
Project: 31100022 12:43:31 PM



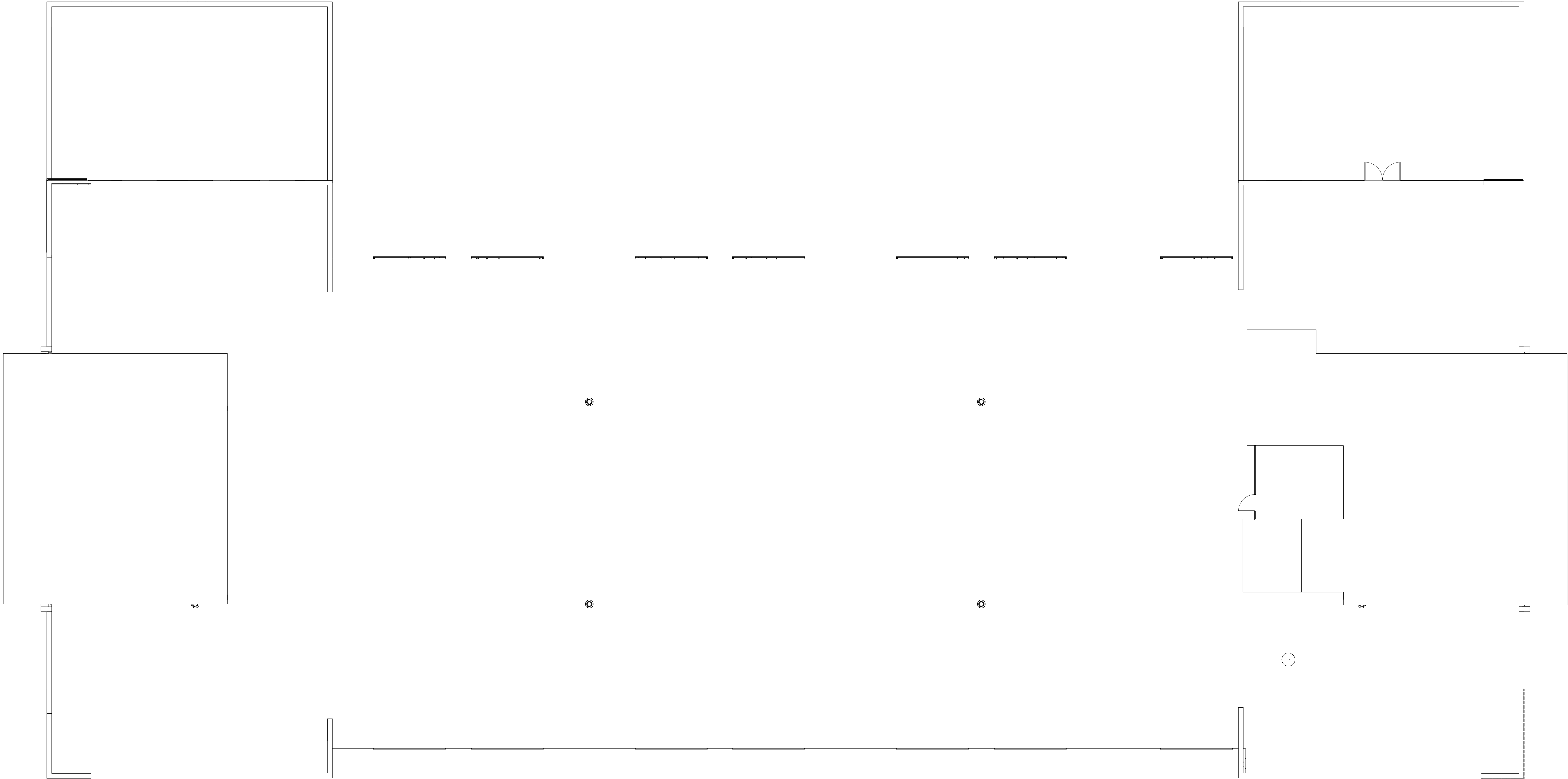
THIRD - TENTH FLOOR PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

21100021
A230
WEST 8
THIRD - TENTH FLOOR PLAN



AutoCAD Desc: 01100021 Plazacorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_R22.dwg
Printed: 3/16/2022 12:43:31 PM



ROOF PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

21100021
A300
2022.03.11 5:05 Schematic Design
WEST 8
ROOF PLAN

**ARCADIA COMMONS WEST
REDEVELOPMENT**

Kalamazoo · Michigan



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CORPORATE@BYCE.COM
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FAX: 269•381•6176



**ARCADIA COMMONS WEST
REDEVELOPMENT**
Kalamazoo • Michigan

PRELIMINARY
NOT FOR CONSTRUCTION

WEST 8
ELEVATIONS

21100321
A604



WEST 8 - SOUTH ELEVATION



WEST 8 - EAST ELEVATION

Autodesk Docs/011000321 PlazaCorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_002.rvt
Project: 3/16/2022 12:23:17 PM



WEST 8 - NORTH ELEVATION

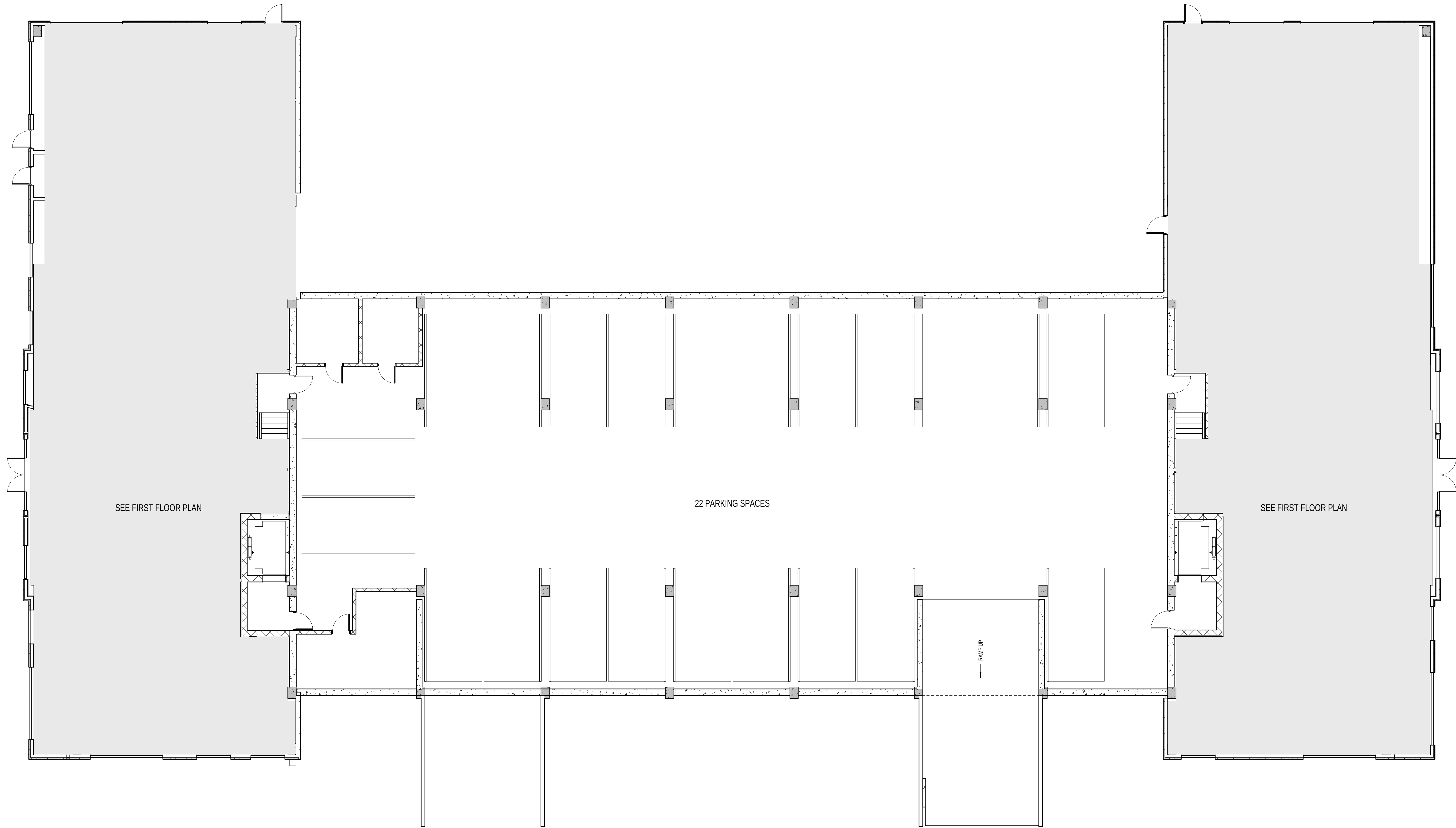


WEST 8 - WEST ELEVATION



**ARCADIA COMMONS WEST
REDEVELOPMENT**
Kalamazoo · Michigan

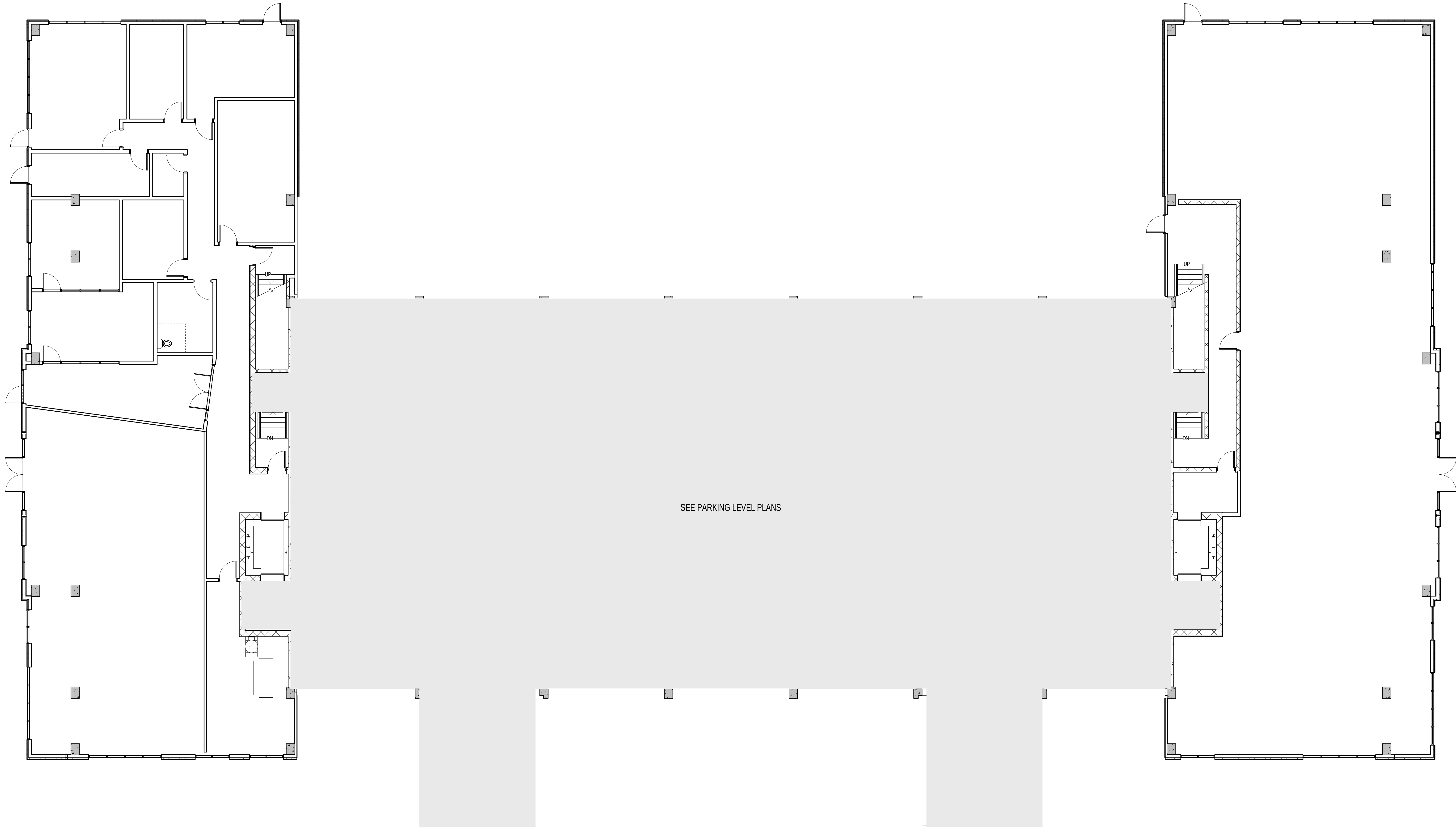
PRELIMINARY
Not for construction



FLOOR ELEVATION 96'-7"

LOWER PARKING LEVEL PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

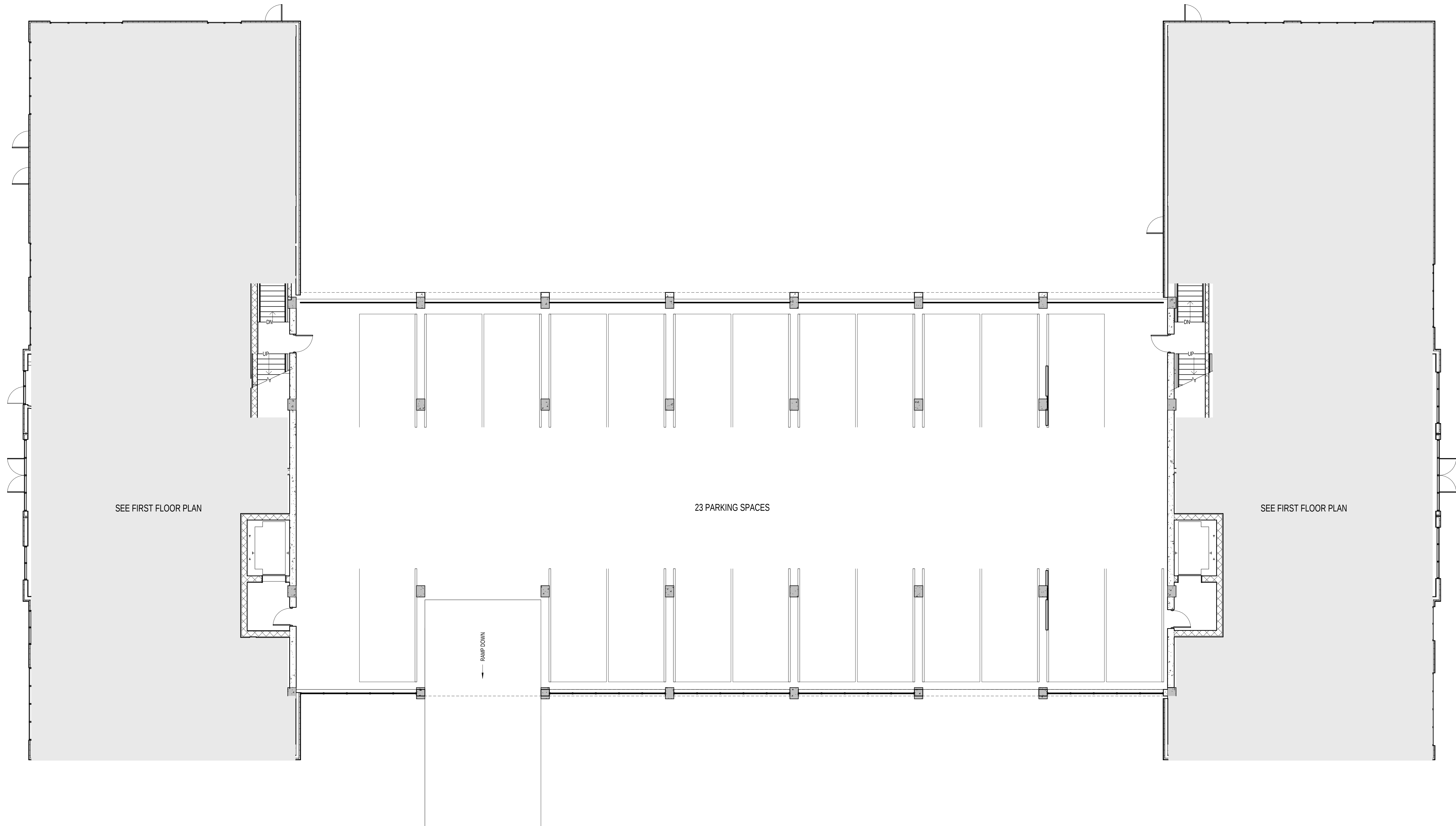


FLOOR ELEVATION 100'-0"
FIRST FLOOR PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

21100021
A210
2022.03.11 4:05 Schematic Design
EAST 10
FIRST FLOOR PLAN

AutoCAD Desc: 01100031 PlazaCorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_022.dwg
Project: 31100031 2/27/13 PM



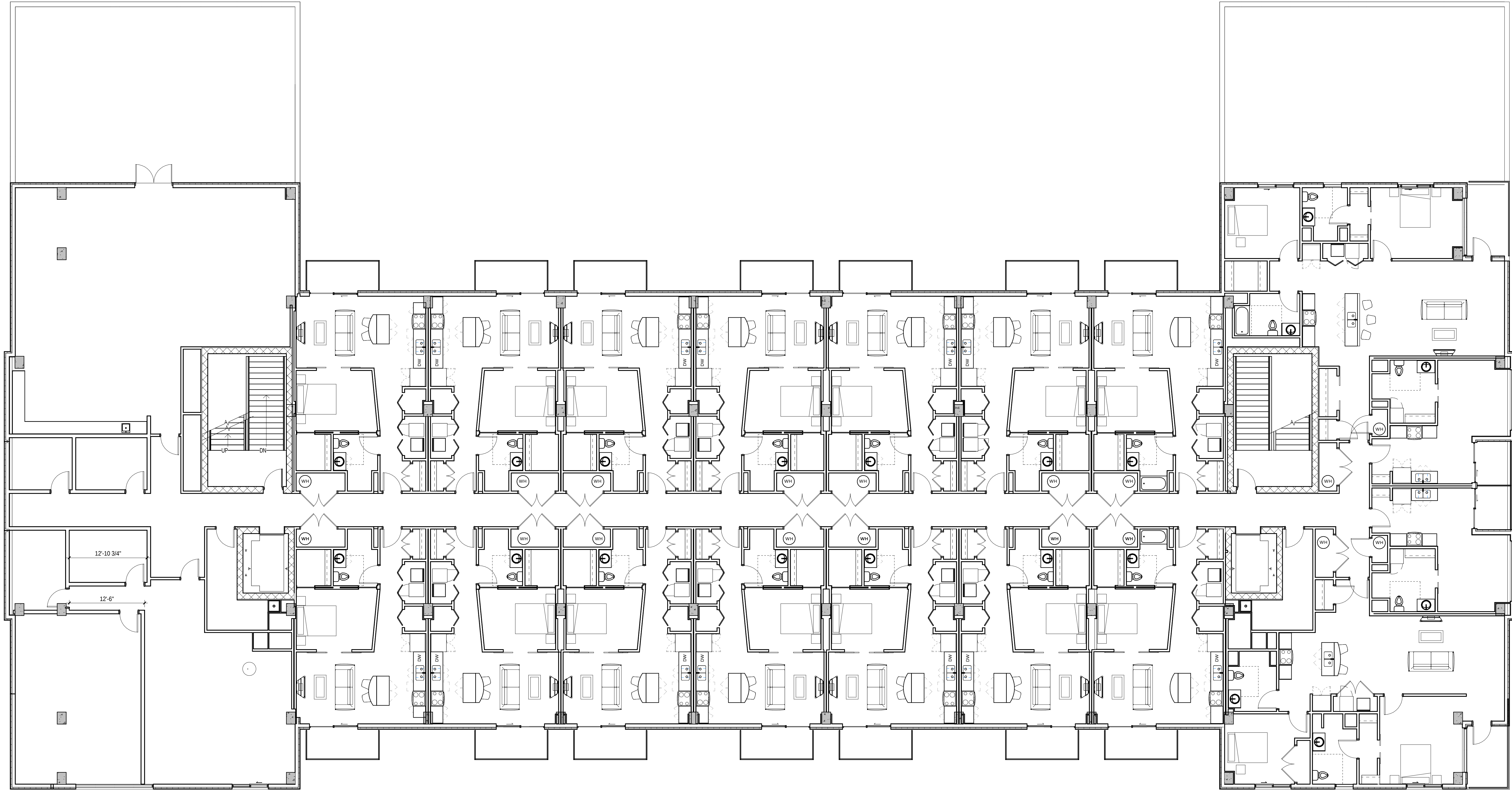
FLOOR ELEVATION 106'-7"

UPPER PARKING LEVEL PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

21100031
EAST 10
UPPER LEVEL PARKING PLAN

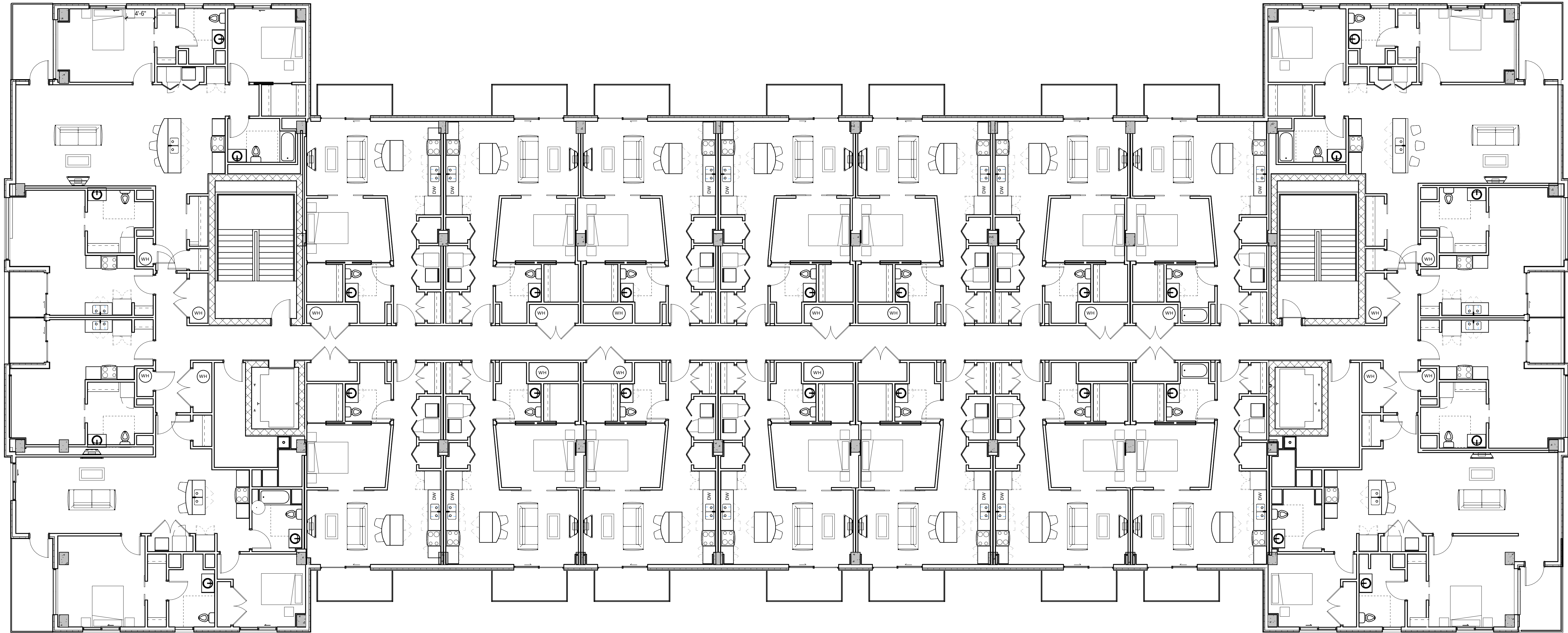
A215



SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

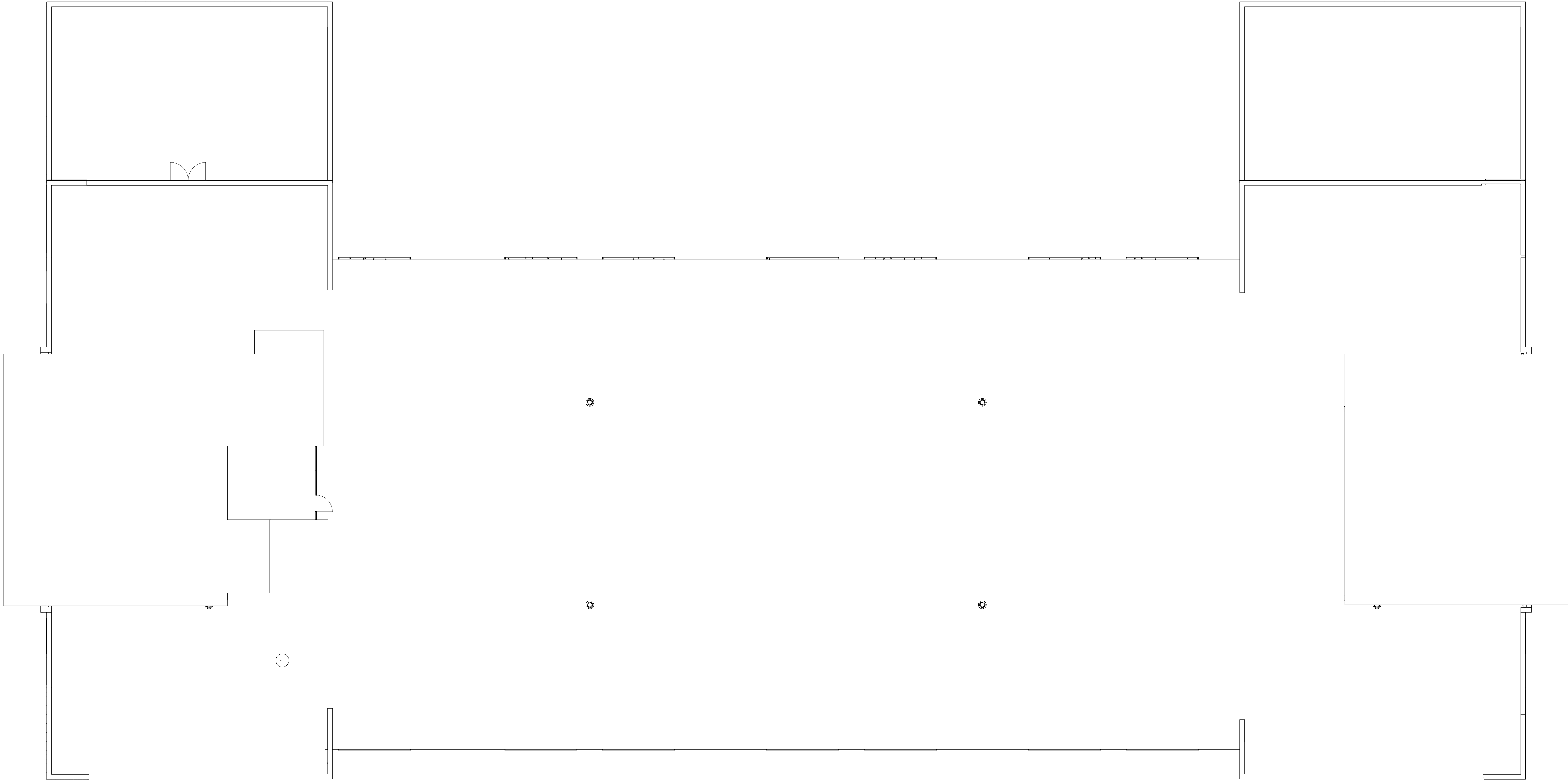
Autodesk Docs/01100021 Plazacorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_P021.rvt
Project: 31160022 12:27:38 PM



THIRD - TENTH FLOOR PLAN
SCALE: 1/8" = 1'-0"

PRELIMINARY
Not for construction

21100021
A230
2022.03.11 50% Schematic Design
EAST 10
THIRD - TENTH FLOOR PLAN



ROOF PLAN
SCALE: 1/8" = 1'-0"

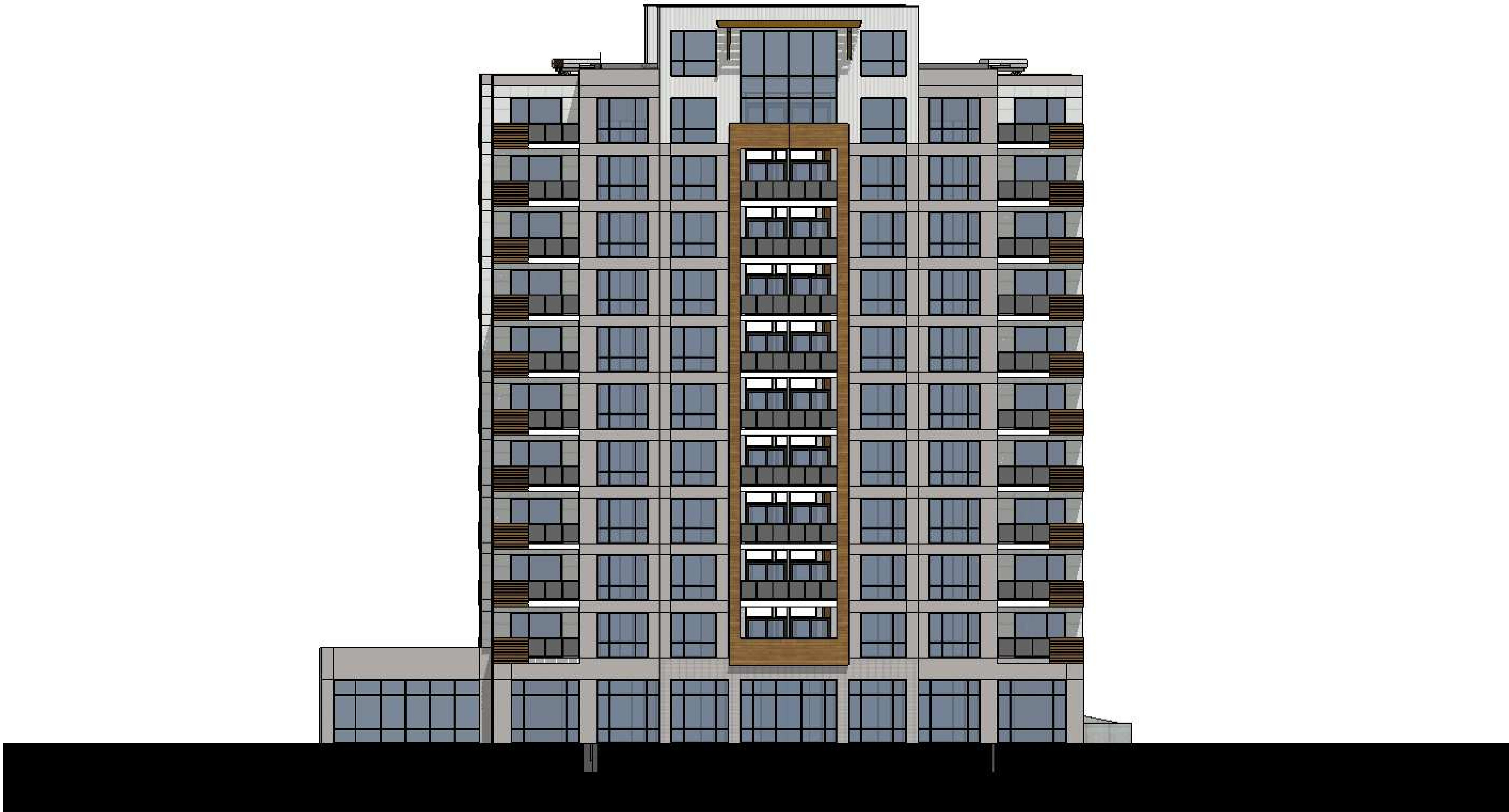
PRELIMINARY
Not for construction

21100031
A300
2022.03.11 4:05 Schematic Design
EAST 10
ROOF PLAN

Autodesk Docs:011000321 PlazaCorp Arcadia Commons West Multi-Use Development Building 1 & 2_Arch_022.rvt
Project: 3/16/2022 12:23:17 PM



EAST 10 - NORTH ELEVATION



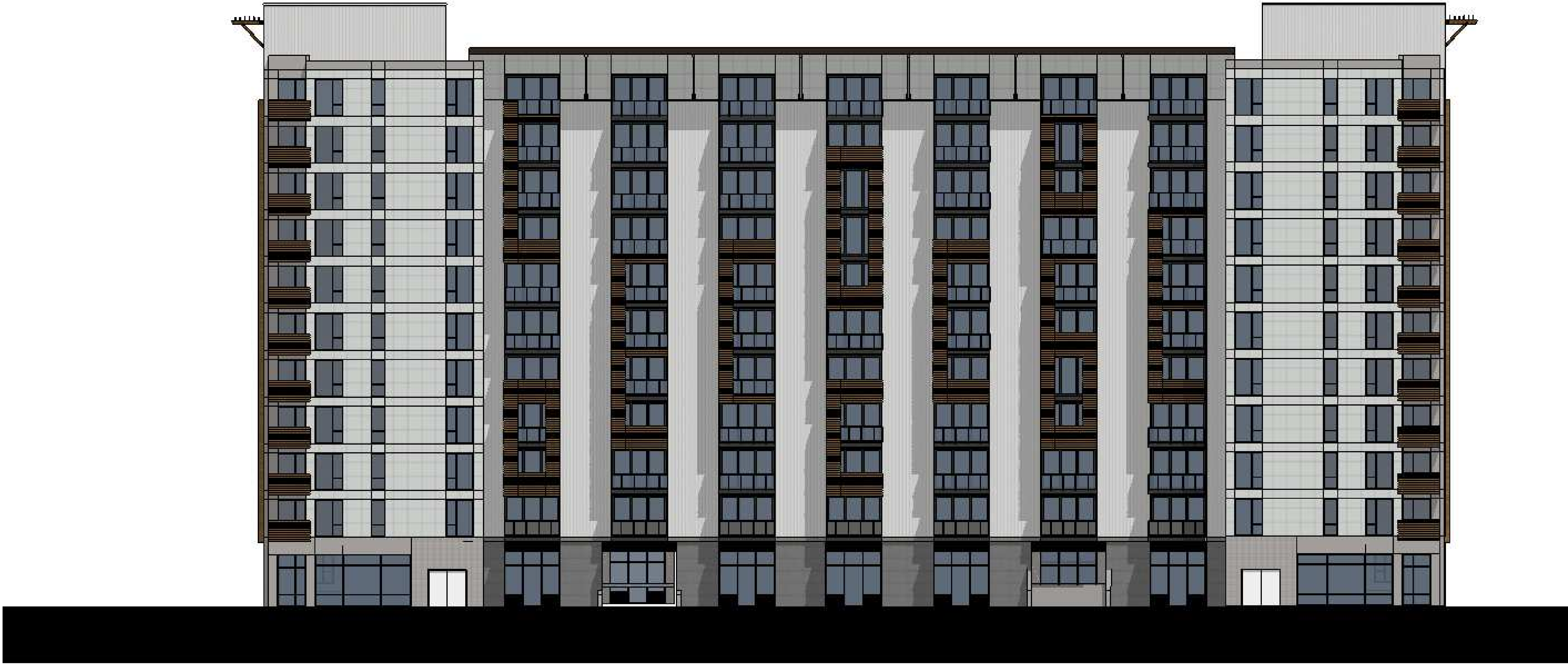
EAST 10 - WEST ELEVATION



**ARCADIA COMMONS WEST
REDEVELOPMENT**
Kalamazoo · Michigan

PRELIMINARY
Not for construction

Autodesk Docs/011000321 PlazaCorp Arcadia Commons West Multi-use Development Building 1 & 2_Arch_022.rvt
Project: 3/16/2022 12:23:17 PM



EAST 10 - SOUTH ELEVATION



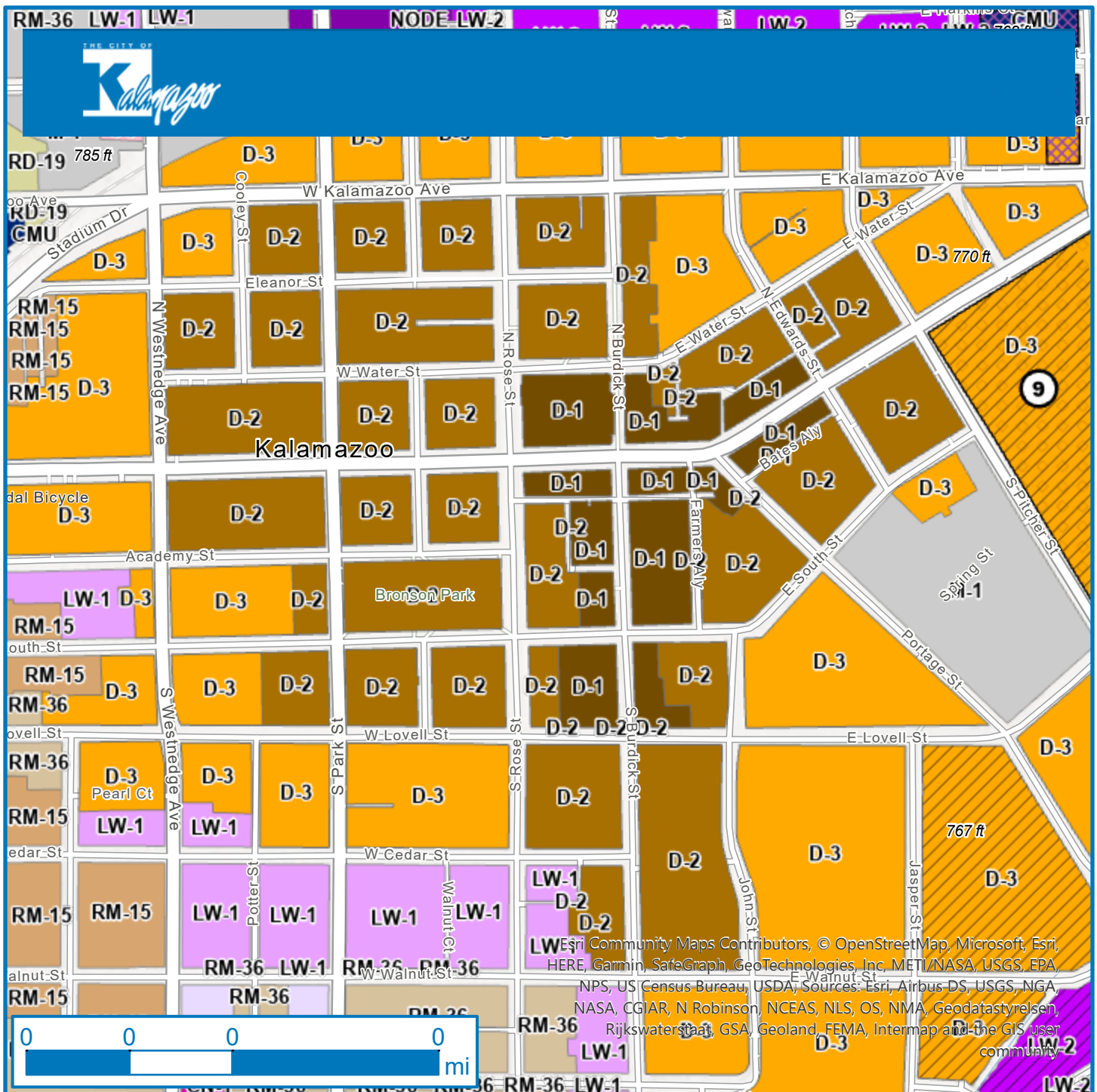
EAST 10 - EAST ELEVATION



**ARCADIA COMMONS WEST
REDEVELOPMENT**
Kalamazoo · Michigan

PRELIMINARY
NOT FOR CONSTRUCTION

211000321
A607
EAST 10
ELEVATIONS



LEGEND

LAND USE 7925

/// Natural Features Overlay

Riverfront Overlay

Subarea and Description

Subarea 4: Southwest Commercial

Subarea 9: South Mixed Use

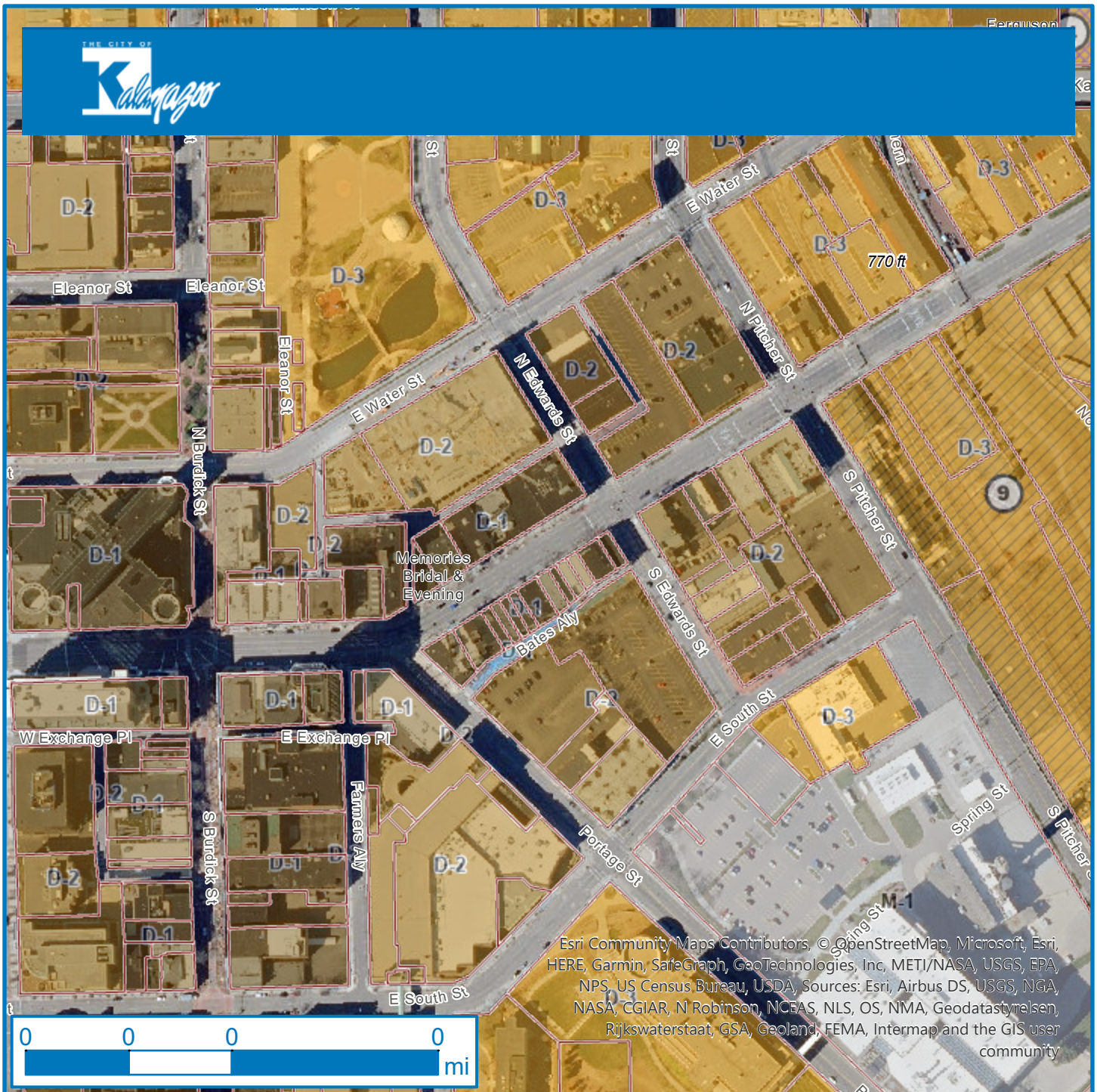
Zoning

NAME

- CC
- CMU
- CN-1
- CO
- D-1
- D-2
- D-3



City of Kalamazoo,
7/20/2022



LEGEND

PARCEL MAP

 Parcel

GENERAL INFORMATION

 City Boundary

PLANNING & ZONING

 Natural Features Overlay

Riverfront Overlay

Subarea and Description

-  Subarea 4: Southwest Commercial
-  Subarea 9: South Mixed Use

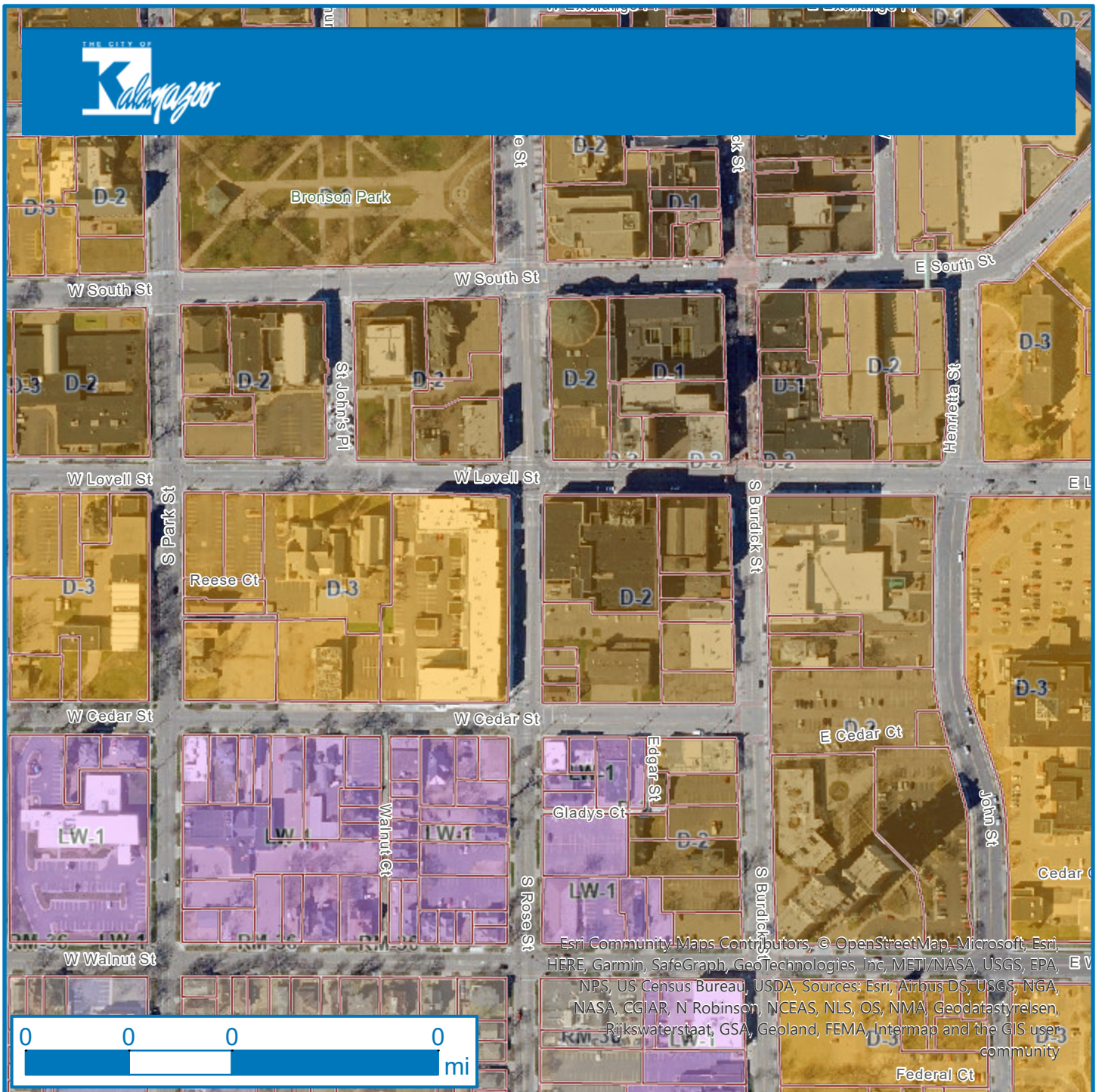
Zoning

NAME

-  D-1
-  D-2
-  D-3
-  M-1



City of Kalamazoo,
7/21/2022



LEGEND

PARCEL MAP



Parcel

GENERAL INFORMATION



City Boundary

PLANNING & ZONING

Zoning

NAME



CO



D-1



D-2



D-3



LW-1



City of Kalamazoo,
7/21/2022



LEGEND

PARCEL MAP



Parcel

GENERAL INFORMATION



City Boundary

PLANNING & ZONING

Zoning

NAME



CC



D-1



D-2



D-3



LW-1



City of Kalamazoo,
7/21/2022



Zoning Board of Appeals Staff Report

Date: **8/11/2022**

Item: **D.2.**

City of Kalamazoo

TO: Zoning Board of Appeals

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

DATE: August 11, 2022

SUBJECT: ZBA #22-08-26: 4114 Stadium Drive. LE Battle Creek Inc., is requesting a dimensional variance from Chapter 50-4.4 E(1)(b), of seven feet to allow a marihuana retailer to locate 943 feet from another nearby marihuana retailer after the required separation distance was established at 950 feet.

BACKGROUND:

This multi-tenant commercial building has three tenant spaces. A marihuana provisioning center (Huntington Valley Ventures) was in the rear tenant space until it shut down a year ago. LE Battle Creek, Inc. would like to lease this rear tenant space and the tenant space directly in front of it, to create a larger marijuana retailer here that would have some visibility from Stadium Drive. It was thought that because there was a prior licensed marihuana provisioning center in the building, there would not be any difficulty in licensing the new entity. However, because of the expansion into the front tenant space, the minimum separation distance to the nearest marihuana retailer at 3825 Stadium Drive was reduced.

The required separation distance between marihuana retailers per the Zoning Ordinance is 1000 feet, but an exception was previously granted for 3825 Stadium Drive in order to more closely follow the Natural Features Protection Overlay standards (NFP). The Natural Feature Protection Ordinance states “When a conflict exists between meeting the 50-6.2C-J NFP Standards and the required placement of structures, the setbacks or built-to zones or lines may be adjusted to eliminate or reduce the conflict, provided that the adjustment is the minimum required to meet the NFP standards.” In this, instance the Gage Cannabis building at 3825 Stadium Drive would have been pushed into a wooded and steeply sloped area on the lot due in order to meet the separation distance of 1000 feet between marihuana retailers. This NFP clause supported relief of 50 feet (5% of separation distance) being approved in order to shift the building away from the protected wooded slope.

The applicant, LE Battle Creek, Inc., believes that the prior marihuana provisioning center failed at this location due to a lack of adequate square footage and no visibility from Stadium

Drive. The applicant retained an architect to evaluate the separation distance between the front of the building and the Gage Cannabis retailer at 3825 Stadium Drive. The separation distance was determined to be just over 943 feet. The applicant looked at modifying the existing building's facade to move it north by seven feet, but this was determined to not be practical. Therefore, the applicant is pursuing the dimensional variance of seven feet which equates to .7% of the overall separation distance.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision and Master Plan 2025 Alignment:

This project aligns with the Strategic Vision goal of Economic Vitality as this will result in occupancy of two vacant commercial tenant spaces in the building and creation of approximately 25 new jobs. This is also in alignment with the Future Land Use map which identifies this area as 'Commercial'. Marihuana retailers are a permitted use in this commercially zoned area.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

Notice of the public hearing was sent out to all property owners within 300 feet of this property.

Engagement/Communication Tools:

Gazette notice and letters.

FINDINGS:

The staff has made the following findings regarding this request:

1. That there are special circumstances or conditions (like exceptional topographic conditions, narrowness, shallowness, or the shape of property) that are peculiar to the land or structure for which the variance is sought, that is not applicable to other land or structures in the same zone district.

The special circumstance is the location of the existing commercial building. The rear tenant space was previously set up for use as a marihuana provisioning center but was not successful due to the limited visibility from Stadium Drive and small overall square footage. The applicant has indicated that for a viable marihuana retailer to operate at this location they need additional square footage and street

visibility. However, there is no feasible way to redesign the front of the building to move the front tenant space out of the required separation distance.

2. That there are special circumstances which are not the result of the actions of the applicant or titleholder of the land.

The applicant pursued this location as it was licensed before as a marihuana provisioning center. The applicant included the front tenant space as the lack of square footage and visibility was understood to have hindered the prior business. It was not until after filing for the license that the separation distance issue was discovered. The applicant explored modifying the building to address the separation distance, but this was found to be cost prohibitive and would not help achieve visibility from Stadium Drive.

3. That the literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zone district, and would cause practical difficulty.

The enforcement of the provisions of the Ordinance would deprive the applicant from being able to fully utilize the front tenant space, resulting in smaller than desired square footage and no street visibility.

4. That the granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.

This dimensional variance of seven feet represents .7% of the overall separation distance of 950 feet. This is the minimum action that will make use of these tenant spaces successful for a new marihuana retailer.

5. That the granting of the variance will not adversely affect adjacent land in a material way.

There was a marihuana business in this building at this location previously. There will be no expansion of the building's footprint and there is adequate parking and circulation on site.

6. That the granting of the variance will be generally consistent with the purposes and intent of this Ordinance.

The intent of the ordinance is to promote orderly development for the success of the community. This variance will not result in any alteration of the site layout.

7. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria: 1) existing landscaping, screening or wetlands intended to be preserved meets the intent of this section; 2) the landscape design proposed by the applicant meets the intent of this section; 3) there is a steep change in

topography that would limit the benefits of required landscaping; 4) the proposed building and parking lot placement is setback well beyond the minimum required; 5) the abutting or adjacent land is developed or will be developed in the near future with a use other than residential; and 6) similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

This criterion is not applicable to the requested dimensional variance

RECOMMENDATION:

Staff recommends approval of the dimensional variance as it meets the review criteria.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

July 27, 2022

**RE: ZBA #22-08-26
4114 Stadium Drive
Parcel #06-30-148-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Grassy Key Land Co., LLC for 4114 Stadium Drive in the Commercial – Community – District (CC).

The applicant is requesting a dimensional variance from Chapter 50-4.4 E(1)(b), of seven feet to allow a marihuana retailer to locate 943 feet from another nearby marihuana retailer after the required separation distance was established at 950 feet.

Please note that the reduction of this separation distance to 950 feet was the result of the application of the Natural Features Protection Ordinance to the marihuana retailer developed south of Stadium Drive. Please note that this request will not change the zoning classification of the property. This is a request for variance only regarding the item described above.

The meeting will be held on Thursday, August 11, 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](#).

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://www.kalamazoocity.org/boards>

Sincerely,

Peter C. Eldridge, AICP
Assistant City Planner



ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: LE Battle Creek, Inc.		Mailing Address: 8312 Portage Rd
City: Portage	State: MI	ZIP Code: 49002
Phone: 269-806-5590	Email: todd@lakeeffected.com	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: Grassy Key Land Company LLC		Mailing Address: 700 Rockland Rd
City: Rockland	State: DE	ZIP Code: 19732
Phone: 305-304-9915	Email: craig@omtae.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 4120 Stadium Drive		
Parcel Identification Number(s): 06-30-148-001		Zone District (kalamazoo-city.org/maps): CC
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>50</u> , Section(s) <u>4.4(E)(1)(b)</u>		
☐ Use Variance to allow _____		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) <u>50</u> , Section(s) _____		
☐ Temporary Use Approval		
Reason for Request: Applicant has submitted an application to the City to establish a marijuana retailer business at 4120 Stadium Dr. After a lengthy review, it was determined that the property was approximately 6 feet short of the required buffer of 950 feet from another marijuana retailer which is located at 3825 Stadium Dr. Accordingly applicant seeks a dimensional variance.		
ATTACHMENTS		
☒ \$ <u>300</u> Fee		
☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☒ Review Sheet for Request Type		
☒ Optional: Photos of property, architecture plans, etc.		
<i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>		
SIGNATURE		
Signature of Applicant: <i>Todd Lake</i>		Date: <i>7/27/22</i>
Signature of Owner (if different than applicant): <i>Robert Chris Burk</i>		Date: <i>7/27/2022</i>



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

Specific Project Details (may also provide on a separate sheet):

Review Criteria for Dimensional Variances

ZBA will review all Dimensional Variance requests using the following criteria. Please reach out to staff if you have questions.

Are there conditions, like unusual topography, the shape of the lot or structure that are not commonly found on other lots or structures in the same zone district that make this request unique?

Are there special circumstances which are not the result of the actions of the applicant or property owner of the land that impact the project?

Does the Ordinance deprive the applicant of rights enjoyed by other property owners in the same zone district?



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Is this the minimum action which will make it possible to use the lot or structure in a manner that does not negatively impact the public and meets the spirit of this Ordinance?

Will the granting of the variance negatively affect adjacent land?

Will the granting of the variance be generally consistent with the purpose and intent of this Ordinance?

Additional Criteria for Variance Requests for Required Landscaping

Does existing landscaping, screening or wetlands planned to be preserved meet the intent of the Ordinance?

Does the landscaping proposed by the applicant meet the intent of this section?



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Are there steep changes in topography that would limit the benefits of landscaping?

Are the proposed building and parking lot locations setback beyond the required setback?

Are there abutting lands developed or could be developed in the near future with a use other than residential?

Do similar landscaping conditions exist which would result in no added benefit if additional landscaping or screening was provided?

RE: 4120 Stadium Drive (the "Property")

Dear ZBA:

On behalf of LE Battle Creek, Inc. ("Applicant or Lake Effect"), please accept the enclosed zoning variance application for a dimensional variance related to the distance with which one cannabis dispensary can be located from another cannabis dispensary. By way of background, Huntington Valley Ventures ("HVV") previously operated a dispensary at the Property. However, HVV only operated out of the back portion of the Property as there was another tenant in the front portion at that time.

Thereafter, another dispensary ("Gage") was granted an administrative adjustment which enabled Gage to open a facility 950 feet from the existing HVV facility. Unfortunately, HVV closed down their business in early 2021 as the space within the Property that they were operating out of was not conducive to running a successful retail business. For starters, the HVV space did not have visibility from Stadium Drive as it was located only in the back portion of the building. This resulted in customers having difficulty finding the business. In addition, the size of the HVV space was too small for a traditional retail setup. For example, there was no show room or shopping area and customers were not allowed inside the business. The business served customers solely via curbside pickup and delivery. The size of the HVV space also limited the amount of inventory that they could safely store as well as the amount of employees that could work at any given time.

When the space in front of the HVV space became available for lease, Lake Effect and the building owner signed a lease wherein it was agreed that Lake Effect would combine the two adjoining spaces. The new combined space would result in store front visibility and additional square footage (the two main factors leading to HVV's closure).

Given that a dispensary had previously operated at the Property, Applicant did not anticipate any obstacles in obtaining City approval. Lake Effect submitted its Marijuana Business Permit Application to the City in March of 2022. After a lengthy review process, Lake Effect recently learned that the proposed combined space (when measured from the front of the building) was approximately 6 feet within in the now 950 foot buffer zone created by the Gage variance (ironically, Gage required a variance to operate within 1000 feet of HVV at the subject Property).

Applicant believes that the variance is the minimum necessary to allow the use and meets and exceeds the spirit of the ordinance as it was always contemplated that there would be two dispensaries operating at the two respective locations after the Gage variance was granted. During the time that HVV operated at the Property, there were not any complaints or any negative impact to the neighborhood.

Granting the variance would enable Lake Effect to combine and occupy two currently vacant spaces in the building (a condition Lake Effect has identified as being necessary to run a successful business at the Property). Should the variance be granted, both Applicant and the building owner would invest significant sums of money in improvements to the Property, including but not limited to a brand new

building façade, a new parking lot, improved pylon sign and a complete interior buildout of the space. Applicant would also be creating a minimum of 25 new jobs.

For these reasons and the reasons stated in the attached application, we respectfully request that you approve this variance.

Best Regards,

A handwritten signature in blue ink, appearing to read "Todd Schafer", with a long, sweeping horizontal stroke extending to the right.

Todd Schafer
Owner

Dear ZBA Members:

LE Battle Creek, Inc. ("Applicant or Lake Effect") launched in 2016 in order to provide medical patients in Kalamazoo County with safe access to quality, laboratory tested cannabis. Since that time, we have assisted thousands of people with countless ailments from cancer to insomnia. In 2019, we opened a second retail location in the County as well as a processor facility in the City of Kalamazoo. We are also currently in the process of building out a 33,000 sq ft cultivation facility in the City of Kalamazoo.

Lake Effect currently employs over 100 team members in the County. Our ownership group is comprised of all Michigan residents. Although our company has grown rapidly, we remain highly focused on safety, quality and community. Safety- all of our facilities are equipped with state of the art surveillance and security equipment and we work closely with our state and local partners. We are very proud of our incident free compliance record, maintained across multiple locations. Quality- only the finest cannabis products make it on to the shelves at Lake Effect. Community- Lake Effect provides ongoing support and funding for several veteran organizations. We have an ongoing collaboration with Kalamazoo Valley Community College focusing on cannabis education and entry level training. We also serve as a responsible community partner through philanthropic efforts such as our donations to Young King and Queens and Black Wall Street Kalamazoo an organization which funds startup businesses for minority entrepreneurs. We are proud to have recently been the lead sponsor at the OutFront Kalamazoo festival.

Lake Effect offers an uncommon standard of personalized and professional care at our facilities as we strive daily to eliminate any stigma that may still surround cannabis. Lake Effect is a founding member of the Michigan Cannabis Industry Association a top-tier member of Southwest Michigan First. We believe it is our responsibly to be a good corporate citizen and we look forward to continuing that tradition in and around the Stadium Drive corridor should the ZBA grant this variance.

Very truly yours,


Jevin Weyenberg
Owner

MICHAEL A.
BOGGIO
ASSOCIATES

30150 Telegraph Rd.
Suite 150
Bingham Farms, MI 48025
248.258.5155
BOGGIOARCHITECTS@COMCAST.NET

PROPOSED:

LAKE EFFECT
DISPENSARY

STADIUM DRIVE
KALAMAZOO, MICHIGAN

Sheet Title:
FLOOR PLAN

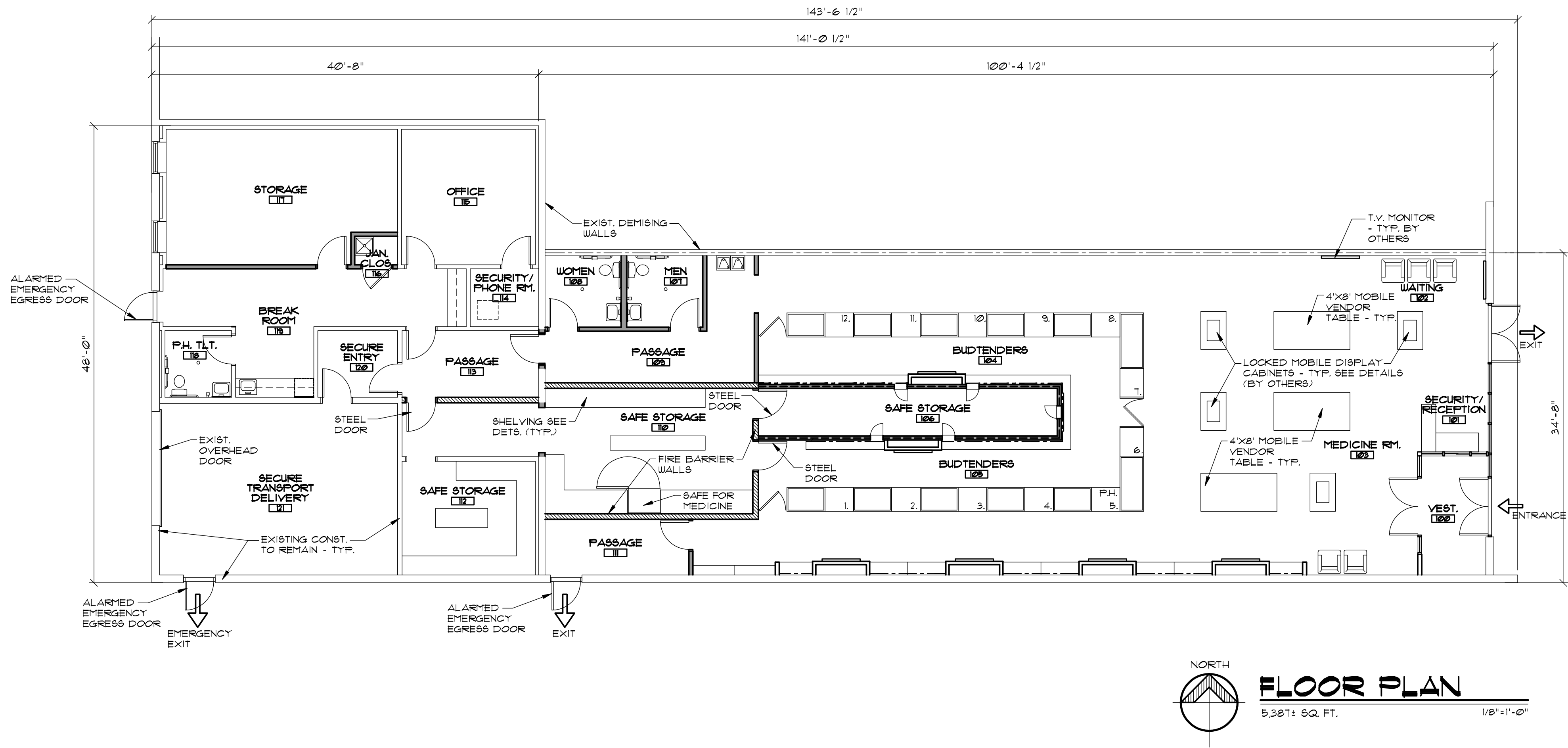
Issued For:

03-03-22

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Sheet No.

A = 1/8"



Grassy Key
4120 Stadium Dr., Kalamazoo, MI



City of Kalamazoo GIS Map Separation Measurement

NOTE:
1. The City of Kalamazoo Public GIS Web Map is the basis of these separation measurements which was downloaded from the City of Kalamazoo website on 6/24/2022.
2. The dimensions noted are scale measurements made using the GIS Aerial Map, and are limited to the accuracy of the map.
3. The existing Grassy Key building at 4220 Stadium drive existed at the time the Aerial Map was created and is shown on the Aerial Map.
4. The Gage Cannabis building was constructed after the Aerial Map was created and was not included in the Aerial Map. The Gage Cannabis building plans submitted to the City of Kalamazoo were used illustrate the newly constructed building.

SEPARATION MEASUREMENTS:
1. Distance Building Corner to Building Corner = 943.75'
2. Distance Building Door to Building Door = 973.50'

Gage Cannabis
3825 Stadium Dr., Kalamazoo, MI

Aerial Site Plan/Separation Measurement Map
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Grassy Key Land Co.
4023 Kennett Pike #302, Greenville, DE 19307

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Architect's Seal

NOTE: Official drawings prepared by the Architect bear his embossed seal below.

Date: 06/24/2022
Revised:
Drawn by: R.A.S.
Project: 0995.101

Sheet Number

A-01