

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, October 20, 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 September 8, 2022

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #22-09-29 3625 W. Michigan Avenue. Great Lakes Capital is requesting the following: 1) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the proposed development to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. 2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize the removal of 71.7% of woodland, where 50% is the maximum permitted.
2. ZBA #22-10-32: 301 Nazareth Rd. The Kalamazoo Department of Public Safety is requesting a use variance from Chapter 4, Section 4.1 to authorize an explosives training facility and explosives disposal range at this site in the Manufacturing- Limited District (M1)
3. ZBA #22-10-33: 100 Monroe Street. Drakkar Hill of Westmain Hill, LLC is requesting a use variance from Chapter 4, Section 4.1, to authorize a small wine making operation on the residentially zoned premises which would utilize the existing carriage house and wine cave.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
September 8, 2022 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Jeff Carroll, Matt Lager, Christina Doane, Remi Harrington, Beth van den Homberg, and Jeremy Terpening

Members Absent: None

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

Chair Carroll called the meeting to order at 7:02 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 315 East Frank Street will be removed from tonight's agenda because it is no longer needed since variance was approved in August. Also, the October 13, 2022 meeting will move to October 20, 2022.

APPROVAL OF MINUTES:

Mr. Terpening moved to approve the minutes as submitted, seconded by Mr. Lager. 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.

Ms. Doane read the application for 1521 Palmer Avenue

ZBA#22-09-28: 1521 Palmer Avenue: An application for a dimensional variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Matthew Torzewski for 1521 Palmer Avenue in the Residential-Single Dwelling District (RS-5). The applicant is requesting 1) a dimensional variance from Chapter 6, Section 6.3 A 2, of two feet to install a six-foot fence in the yard along Cameron Street, where four feet is the maximum height for fencing in the front yard and 2) a dimensional variance from Chapter 6, Section 6.3 a 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%.

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.

Matthew Torzewski, the property owner and applicant, has a four-foot chain link fence that is deteriorating and is also in the public right of way. He would like to install a six-foot fence in the yard along Cameron Street and authorization for a solid fence that has no gaps. Mr Torzewski said he would like it for safety and privacy reasons because the height of the fence he has now allows people to see into his home.

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 were none.

Staff comments are as follows: Mr. Eldridge stated that most comments are in the staff report, looked at property in relation to the front. Looked at positioning of the house and ordinance changed two years ago regarding fencing on corner lots.

Mr. Lager had questions about the Cameron Street side and asked if staff would be asking for a consideration of the variance approval of the fence not being where the applicant wants it, but where and Mr. Eldridge answered in the range of seven and a half feet from the house, but the board can evaluate and see what makes sense. Mr. Lager asked if the Palmer side is currently at 12 and a half feet and Mr. Eldridge answered it's 20 feet from the house to the property line on Cameron Street.

Ms. Harrington wanted to know what an image was that she was looking at and it was of a non-conforming fence on a corner lot in the neighborhood. She asked if it was six-feet tall and Mr. Eldridge told her yes, she then asked if it was comparable as it relates to the setback situation and Mr. Eldridge replied yes, it would be built at or close to the property line.

Chair Carroll asked if they were to put up the seven or seven- and one-half foot fence would they have to remove the chain link fence and Mr. Eldridge replied no.

Ms. van den Hombergh wanted to know what the consequences are for the homeowners that have the non-conforming fences now that they have been discovered and Mr. Eldridge said many of

them have been around for ten to twenty years and can be maintained and repaired if damaged, but can't be replaced with another non-conforming fence. Ms. van den Hombergh then asked if someone put up something non-conforming, how long can it stay to be grandfathered and Mr. Eldridge replied that the terms non-conforming and being grandfathered in are interchangeable and it means it's an improvement that doesn't meet the zoning ordinance requirements and that it is an improvement that has been in place long enough that the city can't legally take action to remove it. It would be allowed to remain, and the owner can continue to use it and can make it last for a period of time.

Attorney Bear added that the critical date is if something predates the ordinance, it then becomes non-conforming when the ordinance becomes legal at that point it becomes non-conforming and would be potentially subject to an enforcement action to remove the non-conformity.

Mr. Lager asked for permission to ask one last question of the applicant. He asked Mr. Torzweski how far from Cameron Street would the fence have to be to make him happy and Mr. Torzweski replied.

Chair Carroll closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1521 Palmer Avenue shall include all information included in the notice of public hearing dated August 24, 2022.
- 2.) 71 notices of public hearing were sent, and one opposing response was received from Danny Clapp of 1510 Palmer.
- 3.) A public hearing was held before the board and public comments were accepted and there were none.
- 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:

Matthew Torzewski is seeking to have fencing he has seen in his area. If he installed fencing to code, it would cut his yard size putting some outside of the fence line. He wants a privacy fence to protect his yard from intrusion. Twenty foot of side yard would be outside the allowed fence line. Backyard rules allow for six-foot fencing, requesting it for Cameron Street side only, he also states it's a busy corner and has had people walk up to his house and look into his windows, so four-foot fencing won't work. Two properties nearby are deemed non-conforming per staff and not known to have come before the board. Applicant feels natural blockage is not viable due to time and security concerns. Staff reports this lot is not unique rules do allow for setbacks and could sit 7.5 feet closer than it does, but doesn't fully support variance and reports future construction would be mor difficult if fencing were at the property line.

Mr. Terpening seconded the Finding of Fact.

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

Mr. Eldridge asked that the motion to approve the application be broken into two votes.

Ms. Doane moved to approve the application for a dimensional variance from Chapter 6, Section 6.3 A 2, of two feet to install a six-foot fence in the yard along Cameron Street, where four feet is the maximum height for fencing in the front yard, seconded by Mr. Terpening.

Discussion: Mr. Lager said he's asking himself questions as he thinks about the purpose of fence zoning and he feels it was designed to create uniformity and character, especially in residential areas. He added that he thinks of the Edison neighborhood as a "front porch" neighborhood where many of the streets have houses that have front porches and the setback from the street is smaller than in a more suburban-style neighborhood and he doesn't think fences can defeat some of the character that is found in neighborhoods with shorter setbacks. He feels Palmer is different than other streets in the area in that the houses were built uniformly, by one or two developers, that were putting in single-story houses where much of the neighborhood, to the north, has two-story houses and he thinks the setbacks on Palmer are a little further back. He feels that a six-foot fence doesn't fit in this area and wants it known that is his opinion. He said that he is struggling to find something because he is sympathetic to the applicant. He said he is inclined to make the standards the board has to meet work for one of the variances, but not for both. He said the six foot wouldn't be as problematic if it wasn't so opaque and the opacity at four feet doesn't meet the applicant's desires. He then brought up the opposition from the neighbor on Palmer Street regarding the dimensional part of the application. He feels that since someone living within the 300-foot radius is opposed to it and that if you would build something that would cause a non-conformity, he will oppose this part of the variance request.

Chair Carroll added that this is unfair because there is a personal property rights and needs, and there are community needs and the largest consideration has to be on the community's side. He said if they are going to stick with the needs of the community safety, he would be more inclined to vote in favor of a six-foot fence that isn't 100% opaque, and he believes the applicant has the right to put a fence all the way to the property line and it's not his decision to ask him not to. He feels that getting him the fence at six-foot while being able to see partially through the fence for public safety is the only thing he can come up with.

Mr. Torzewski asked if anyone on the board lives in the Edison neighborhood, Chair Carroll said he does not, and Ms. Harrington acknowledged that she owns three properties in the area and lives less than half a mile away. Mr. Torzewski made another comment and Ms. Harrington responded that they have fences and people still come onto the property.

Mr. Lager said he agrees with Chair Carroll and could get behind the six feet, but not the 100% opacity and Ms. Harrington agreed.

Mr. Terpening said that he would agree with the opacity issue but as the as the Vine Street Neighborhood Association Chairperson, he had the chance to speak with the acting chief and vice

chief and the reason for not wanting 100% occlusion is if something were to happen or needed to be found or someone was hiding within those bounds, it causes concern for safety for the community-wide directive and based on that he's even gone around the neighborhood to make sure fencing follows the guidelines. He would not be in favor of a six-foot fence with 100% opacity going around the property.

Chair Carroll asked Mr. Eldridge to tell them what the ordinance is. Mr. Eldridge stated the opacity maximum for a fence in the front yard is up to 75% so there would be some gaps. He added that traditional picket fences are 50%. He added that the board has to keep in mind where is this fence appropriate will it still be at the property line or ten feet back from it. He added that that can be clarified as well.

Ms. Harrington asked for an example of what 75% opacity looks like and Mr. Eldridge said with an eight-foot wooden fence, you're breaking it down into inches and calculating the space between the boards and making sure that no more than 25% is open air, 75% can be solid. Chair Carroll said he looked it up on his phone and it's essentially a chain link fence or lattice so it's basically a see-through fence. He added that right now the issue is the motion for the six feet and asked for a motion.

Ms. Harrington wanted to talk more about Mr. Clapp's opposition to the variance. She asked staff to give a little more detail since they observed children getting off the bus and she wanted to know what the impediment to safety since this would be going down a hill. Mr. Eldridge said there isn't much of a topographic change to the property, but he thinks the property owner's point is since his backyard is open to Cameron Street whether it's kids getting dropped off on the bus or people walking down the sidewalk, it's right next to his backyard and that is the main premise behind it. He added that he doesn't know how to speak to the comment that came in from Mr. Clapp. Ms. Harrington said he wrote that any blockage of this corner would make it more dangerous in his opinion, and Mr. Eldridge stated they did look at vision obstructions and the fence is positioned so that it's completely outside the Palmer Avenue front yard and it's pulled back from the alley behind the property roughly 18 feet so where the intersection is, it wouldn't create a vision obstruction in his opinion.

Motion denied for the dimensional variance by a four to one roll call vote with Mr. Terpening, Mr. Lager, Ms. Doane and Ms. van den Hombergh voting no, Chair Carroll and Ms. Harrington voting yes.

Ms. Doane moved to approve the second part of the application, a dimensional variance from Chapter 6, Section 6.3 a 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%, seconded by Mr. Terpening.

Discussion: there was none

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

Motion denied by a three-to-three roll call vote with Ms. Harrington, Ms. van den Hombergh and Ms. Doane voting yes and Chair Carroll, Mr. Lager, and Mr. Terpening voting no.

Ms. Doane read the application for 3625 W. Michigan Ave

ZBA#22-09-29: 3625 W. Michigan: An application for variances for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Great Lakes Capital LLC, for 3650 W. Michigan Avenue, which is situated in the Commercial-Community District (CC). The applicant is requesting variances from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to 1) authorize the development proposed to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area and 2) a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2G, to authorize the removal of 71.7% of woodlands (increase of 21.7%), where 50% 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.

Jason Raleigh of AR Engineering, representing Great Lakes Capital. The site is at 3625 West Michigan Avenue, the old Hallmark Assisted Living Center. He stated their team has been working a little over 12 months to navigate the next steps on the project. He said that late last year the property was added into the natural features protection overlay, which changed the approach of the development and they have worked with the natural features and other city staff. He said the initial submittal had more buildings and units to maximize the feasibility of the development and while working through that with the city, they've toned it back to see where they can save the natural features and reduce impacts. He said one of the requests is with the slope impacts, that is outlined in blue in the pictures staff provided the board, where the slopes are greater than 20%. Mr. Lager asked if Mr. Raleigh could orient him in the map. Mr. Raleigh said there's an aerial view on page two. He said there are two entrances off of West Michigan overlay. He said there is a basement level off the back and the site falls off to the south towards the railroad tracks back there, at the south limits of the property. They want to demolish the current site and redevelop it with an apartment complex. He added that with the slope stabilization impacts, the area ranges from 20 to 32% and the slopes that would typically be put back in the normal development are on the 25-max range but are also mobile slopes and to put in perspective what is classified as a steep slope impact, 20% is a feasible slope to put back into normal development with slope management. He said initially they looked to develop down to the south limits but have reduced it as much as they can from a feasibility standpoint. They have six units and six buildings including a clubhouse, a fitness center, a pool, and other amenities. He said one of the items the city required was a completely loop drive system to not create any dead ends for safety. He said one of the things they looked at initially didn't have that and they found out it was required and that is what caused the impacts at the southeast corner of the development. He then moved on to the tree removal. He said they are allowed to remove up to 50% of the trees base on the characteristics of the site and are asking for just over 70%, just over an additional 20%. In the picture there was a storm basin and he added that there is a large area that's empty. That area is to manage that slope and they are looking to put back vegetation and a more desirable species of trees. He spoke to the stormwater side and stated that in the overlay there are more significant stormwater management requirements than in a typical site so they asked city staff if those could be reduced and the desire by the city is to maintain those and that's what impacted some of the trees. Mr. Lager asked if everything above the red line in the picture is tree removal and Mr. Raleigh said yes. He pointed out where the stormwater basin sits and said that at the orange line is the limits of the pavement and the development ends at that

location and the rest is to manage the stormwater requirements and the slopes to tie back into existing. Mr. Lager is asking if the trees interfere with the stormwater plans and Mr. Raleigh replied that with the overlay it had additional requirements than what the city allows in developable lands that don't have the overlay protection, which drove the size of the footprint of the basin, which impacted the trees. Chair Carroll asked if lessening the units led to lessening the blacktop, which lessened the water concerns and Mr. Raleigh replied yes and wanted to add that the requirements to remove the existing building and redevelop the site has costs associated with that. He also wanted to note that upon visiting the site, he is local, but the development team does a lot of work here and in Northern Indiana but have made site visits. He said that during the visits the police had either been there or had been called there because of squatters and others causing damage and pilfering from the building. He added that there had been some dumping in the back, and they want to clean up the site. He said in order to make the development feasible, there is a line to get it to work from a cost standpoint. He agreed with Chair Carroll that the less surface area, the less impervious area and the less the storms. Chair Carroll asked how many units and what configurations and Mr. Raleigh said three story buildings and units, down from the 220 range. Chair Carroll asked about the bedrooms and baths and was told they range from studio to three bedrooms, with some of the three bedrooms having two baths. They want to create a small community complex with several amenities and will be working closely with an architect, a landscape architect, and the city in the next phase. Chair Carroll asked if he knew how long Great Lakes, or its affiliates have owned the property and was told they are currently working with the seller and have a purchase agreement for a little over 12 months. He added that the current owner is working to have an llc entity with Great Lakes Capital to redevelop the property. Chair Carroll asked if the current owner is looking to sell to Great Lakes and continue to be in owner in the llc and Mr. Raleigh affirmed. Chair Carroll asked who the current landscape company is for the property and Mr. Raleigh said no. Chair Carroll said it's an eyesore and they need to take care of the weeds, he then asked Mr. Eldridge if it has been reviewed for that reason because the weeds are three or four feet, but he isn't sure if that is the landscape strategy and Mr. Raleigh said it's been vacant for quite some time to which Chair Carroll replied a vacant house still has to have the lawn mowed. He added that it calls into question the stewardship of the land and the project, and he wanted to make sure he understood everything. Mr. Raleigh added that Great Lakes wants to demolish the building as early as next month if they can and are looking into it, but don't want to invest the money if they can't move forward. He added that he will pass along the boards concerns and comments. Chair Carroll said it would have come off better if the property had been maintained at least at the street view. Mr. Lager asked if the two variances are tied together and does the greater encroachment into the setback cause the needed reduction in the amount of trees and Mr. Raleigh said yes, they are tied together, and they went before the NFP board on August 23 and both were found to be favorable to get an approval because they and the city reached a happy medium with what the city saw as feasible versus not feasible impacts. Mr. Lager asked Mr. Eldridge if there was a recommendation from the NFP board and Mr. Eldridge replied that there is and they recommended approval but with the condition of replanting of the area south of the retention pond, which is the area Mr. Lager was asking about. He said he would reiterate the condition in its entirety at the making of the motion. Ms. Harrington said that since they are at the allowable 50% and want to increase the woodlands by 21.7%, they believe, is that why they made the recommendation and said that it will all be equaled out and Chair Carroll said no, they want to cut down 40% more or 20% more, depending on how you use your language. Ms. Doane said she believes the NFP board's goal was to offset the loss and Ms. Harrington said that's what she was asking but wants to know if Chair Carroll is saying they want 40% more and he said yes. Mr. Raleigh said that they are allowed to remove 50%, they want 20% more than what's allowed but of the remaining 50% it's 40% of the remaining 50%. He added that one of the comments that came back from the NFP board is that the bare area shown on the map

be replanted and re-vegetated and they will add that to the plan when it gets to that point and then go back to NFP for the approval. Ms. Harrington took issue with cutting down the trees now. Mr. Raleigh added that this plan was started 12 months ago, when the site wasn't in the NFP overlay and to the west and east, they maximized the development while saving trees and the point is to minimize cost and impacts as much as possible, which is why they reduced the complex by 60 to 70 units. Ms. van den Homberg is doing the finding of fact and had a couple of questions for clarity. She stated that she is a resident of the area and agreed with Chair Carroll that the looks of the property are disconcerting and considers that property and another property nearby, Great Lakes Shipping Company which is now demolished, to be blighted. She added that even though she respects the fact that he said he will mention their concerns but looking at actions, she gets the feeling that since they're not sure they can move forward with this so they're just going to let it go, which she understands and respects, but wonders about the people in the neighborhood and said it sends a mixed message. She wanted to see them put something in writing as a show of good faith, but with some accountability that they will take ownership of the property and clean it up whether they get what they want or not. She wants them to show they are invested in the community and asked if he could do that. Mr. Raleigh said that he isn't the owner, but Great Lakes Capital is involved in several projects in Kalamazoo County and are invested in Kalamazoo but would like to demolish the building, but they have to think about the financial aspect of the development. He added that the current owner has obviously let some things go but Great Lakes would like to demolish the building next week if they could, but he doesn't see a reason why they can't get someone to come and mow at least the front. He said that this ask would be a tipping point from the development side and he can't see why they wouldn't do it, but they can't move forward with the demolition if they can't make the rest of the project balance. Ms. van den Hombergh thanked him for sharing about the south part of the property and the steep slope and the fact that the police have been called and there have been people living on the property. She said she was looking at the fact that the removal of the hardwood has to do with the storm drainage system and the slope, but it takes 40 years to grow a good tree so she wants to see something about them working with the landscaper to make sure the trees will be of good quality, Mr. Raleigh said they would follow the city's list of desirable trees. Mr. Eldridge pointed out that part of the conditions of the NFP were that they address the types of plantings and that once they go to site plan review, there is a step where the NFP reviews the site plan again. Ms. Harrington wanted to know the purpose of the NFP board and Mr. Eldridge said they administer the natural features protection ordinances, to look closely at the qualifying features on a property whether it's slope or woodland coverage, and to evaluate that with the developers plans for the site. He stated the ordinance is supposed to strike a balance between preservation and allowing development to occur. He pointed at the image on the screen and said looking at the property to the right to the east where there are apartment buildings, he pointed out trees between the buildings and said that's typical of a development project of this scale. He added this site is clear-cut, graded down, and then buildings are built and then a landscaping plan is implemented, which means all of the mature vegetation is gone and the NFP ordinances are charged with preserving these woodland areas and native planting areas if there are certain species identified and making sure the development doesn't impact steeply sloped areas which in this case, occurred because of neighboring properties and that disrupted the natural grade that existed before. He then referenced the fire lane that would wrap around the building and stated that earlier there was no loop road going around the back of the southernmost building and there is a steep slope in the southeast corner that they were going to leave alone but the fire marshall said having the loop would best accommodate the fire apparatus. He added that some of the city requirements resulted in the need to run a drive through the area. He added comments about the retention pond saying that in order for them to create the retention pond they have to grade a larger area around where the pond is going and that will call for tree removal so they can run tubing and

pipings and that is why the area shown is larger than just where the retention pond sits, which is also the reason the NFP board placed conditions on their recommendation for approval. They want to make sure the area south of the retention pond gets replanted with native plants and trees to restore the area. They want to make sure there is a natural habitat south of the retention pond. Ms. Harrington said she needs that answer reinforced because it is the tendency of city staff to explain and re-explain the normalcy of processes, like the way structures and systems have historically operated to reinforce the status quo, the legality, the laws, the technicality of the laws and ordinances but that doesn't mean that when people come before the board, they can't consider the entire development being relooked at. She feels there should be a moratorium specifically when it's in opposition to what they stand for in the municipal plan surrounding the protection of natural features and she doesn't have a way, outside of the board, to make recommendations like that. She stated she asks questions that way because she doesn't know why they can come before this board and it seems out of alignment and the fact that, as Ms. van den Hombergh mentioned, it takes 40 years for a tree to mature, and she is talking about the immediate implications and the fact that we're dealing with a climate crisis right now. She said that's hard for her and honestly, she doesn't know how to contend with it. Mr. Eldridge said he could always advise the board when the NFP board meets to discuss a project so they would have a chance to either go to the meeting or watch afterward, he added that they are recorded, but if they wanted to interact with the NFP board, that might help bridge the gap. Attorney Bear added that there are certain standards for the membership of the NFP board and they have to have education or experience in water resources, what lands, plants, trees, slopes, site development and building construction and then assist in the addition of that layer of review and some expertise that members of this board may or may not have, not slighting this board but they don't have to have those specific qualifications to be on this board. He reiterated the NFP ordinance does allude to quality trees, shrubs, plants and so forth that are to be included in any replanting and has to be desirable. Chair Carroll offered Ms. Harrington the floor at discussion time so that the procedure can continue because he said every time, they get something from NFP it rubs them the wrong way or causes them trouble. He suggested adding an agenda item to discuss it and Ms. Harrington agreed.

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.

Additional staff comments are as follows: Mr. Eldridge added to Mr. Raleigh's point that the originally mapped properties of 2019 did not include this property and was added in phase two in 202, to the NFP overlay. He said the structure is blighted and is a former assisted living facility and is roughly 50,000 square feet and has been a resource drain on public safety with the homeless breaking in and said he doesn't know the code enforcement status of the mowing, but he can look into it and he and Mr. Raleigh can keep in touch to make sure the frontage is taken care of. He added this project presents an opportunity to see the site being improved and used versus what's there now. He wanted to take the legal speak out of it and said the natural grade goes from West Michigan Avenue down as you work your way south to the railroad tracks, and then there are topographic changes on the sides due to the student housing developments to the east and west. He added that with a typical development, you would clear-cut the site and re-grade it the way they want to for building and parking lot positioning. He added that the NFP board is mindful of what typically happens and is aware of the scope and scale of the areas around where the retention pond is going to go, they also looked at the woodland areas that could be saved and he said the stormwater is something the developer did ask for relief on and at one point there was talks with Public Services to have a smaller retention basin and have the overflow go into the woods in the

event of a large storm event and in case the pond filled up, it would flow into the wooded area to the south, but the engineering staff didn't deem that ideal so a larger retention basin is required. He admitted that while it's hard to see mature trees cut down, there are elements of a project that need space on a property and of these were all one-story buildings and the developer wanted to take down all of the trees, they would want to know why, when they can build up to reduce their footprint. He pointed out that this developer is building up with three-story buildings and has proposed less parking than what is required, as this is student housing and what's allowed is two parking spaces per dwelling unit, at 1.4 spaces per dwelling unit. He said he knows it's difficult to look at what is happening on the southern part of the property, but the retention basin has to go somewhere, and the condition went on to try to soften the blow of the gradient that has to go on around the retention basin. He said he would be happy to answer questions, but the NFP board has the expertise, and this board is now comparing their actions with reviewed criteria and determining the correct direction to move tonight.

Chair Carroll closed the public hearing.

FINDING OF FACT

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

- 1.) The Finding of Fact for 3625 W. Michigan Avenue shall include all information included in the notice of public hearing dated August 24, 2022.
- 2.) 206 notices of public hearing were sent, and one opposing response was received from Catherine Dobbs of 3651 Kenbrooke Court. She felt there is a conflict and wants to support the city's natural features ordinance.
- 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:

Mr. Raleigh of AR Engineering, spoke on behalf of Great Lakes Capital. They have worked with the city to scale back and reduce their footprint on this property, which is a former nursing home they want to demolish. The slope impacts greater than 20%, where 20% is the feasible slope. They want to build six buildings, a clubhouse, and a fitness center. They originally wanted to have 220 but have scaled back to 164 units and have scaled back on the parking as well. These will be three-story buildings with studio, one two-, and three-bedroom apartments. They are working with the fire department to make sure the traffic pattern between the apartments is looped in case of emergencies. The NFP overlay ordinance allows for 50% of the removal of trees and they are asking for 70, which they are asking for because of the slope and the drainage pond and all of the extra work they would have to do to maintain the systems. It was also shared that the back of the property is a hazard to the community due to break-ins and the homeless camping out there and there's also been some dumping. If

Great Lakes Capital were able to acquire the property and move forward with their project, those concerns will be eliminated. There was discussion about the blighted nature of the property and concerns of the people living on that side of town and Mr. Raleigh said he will take those to the property owner with a special request for mowing to show the good faith of Great Lakes.

Chair Carroll wanted to clarify if Great Lakes LLC is the owner and Mr. Eldridge said no, they have a purchase agreement with the owner. Chair Carroll questioned whether they could request the variance and Mr. Eldridge said with the permission of the owner they can. Chair Carroll then said neither of the parties are present, just the engineering company and Mr. Eldridge said correct. Chair Carroll then asked Ms. van den Hombergh what she meant by reducing their footprint and she stated they are reducing it from what their ideal is. He then asked what she meant by scaling back their parking. Is it from what is there now or what they want and she said her understanding is what they want, she's not sure of the amount of parking there currently.

Mr. Lager seconded the Finding of Fact.

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

Ms. Doane made a motion to approve the application from the Natural Features Protection ordinance, Chapter 50, Section 50-6.2 H, to authorize the development proposed to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area, seconded by Mr. Terpening.

Discussion: Chair Carroll asked Ms. Harrington if she had anything further to discuss and she said she wanted someone else to speak and to come back to her. Chair Carroll asked if anyone else had anything further and no one did, so he spoke. He said that this is all leading to the six requirements they have in front of them. Mr. Eldridge stopped him and told him NFP variances are different and directed him to the review sheet in the packet. Chair Carroll said he will speak until someone gets that for him but since this is a discussion, he can say whether or not he is in opposition or in favor and it's concerning to him that most of the large projects there's a litany of people present when the application is presented: the owner, sometimes the attorney, the seller and last month the seller and the buyer were here and engineers on multiple occasions but this ties into the fact that the property is currently blighted, and that's nobody's fault but the owner's, who hasn't been taking care of it, and the owner not being there, he said it's hard to support when they aren't there to speak. He said this is kind of an interview for their application. He wanted to pick up on something Mr. Eldridge said about reduced footprints, but Chair Carroll said the footprint in this case is being increased even though they're going three stories in the air he added that second, they wouldn't be here if they proposed less units. He went on to say because there are no financials available, so he can't speak to the feasibility of the project because he doesn't know the break-even roi or the internal roi on this project in terms of units and without data he doesn't know if this is the minimum number of units and footprint that will make this project feasible, especially since there is already a footprint there and that business was feasible, and he wanted to point that out. He found the NFP review sheet and wanted to go through it: The parcel could not be reasonably utilized for its zoned use; he said it doesn't meet the first criteria because the parcel can be used for what it was zoned

for in the past. The extent of the relief requested is the minimum needed to permit reasonable utilization of the site: he said it doesn't meet this one because the minimum relief needed is zero because the site is already developed. He added that he has concerns about whether or not they will take care of it and they aren't taking care of it now. It is demonstrated that the relief can be granted without substantial detriment to public good he said nobody can answer question number three. The request for the relief is balanced by the use of conservation and/or green development tools. Chair Carroll said he would stop right there because there's another paragraph and he thinks this meets that requirement but not the other three and it doesn't need number four in the board's use variance, so he said he is in opposition. Mr. Eldridge said that one option the board has is to table this, send the applicant back to gather more information and return next month to which Chair Carroll asked why would they do that when they've sent others out the door tonight. Mr. Eldridge advised that theirs wasn't a two-tiered review process where another board has already reviewed the application before this board to which Chair Carroll replied it's the same thing because this ordinance says they can't have the fence and this ordinance says they can't have the 40% more and he wanted to know what the difference is. Mr. Eldridge said this ordinance also says that it's trying to strike a balance between preservation and allowing development. Mr. Carroll said that it doesn't meet the criteria. Mr. Eldridge said his point was that Chair Carroll mentioned information that wasn't available tonight, the owner wasn't here, maintenance of the site has been unacceptable, and Chair Carroll wanted to know if this means they just give them a pass and Ms. Doane said she believes that what Mr. Eldridge is offering is a chance for him to get more information and Chair Carroll said he doesn't need more information because they didn't show up and they didn't mow the lawn and he's concerned this project will be more of the same. Mr. Raleigh asked for permission to speak, and he offered that the people he represents wanted to show, caught Covid and wanted to come join virtually but was told that wasn't an option but would have been able to speak to some of the concerns. Chair Carroll asked if he's referring to the current owner or Great Lakes and Mr. Raleigh stated Great Lakes to which Chair Carroll said but the current owner doesn't have Covid to which Mr. Raleigh said he doesn't have contact with him and he lives out of state. Chair Carroll asked where Great Lakes is based, and Mr. Raleigh said Michigan and Indiana. Ms. Harrington said some things that are disconcerting to her, being on a constituent board, the first thing is that this is a byproduct of the fact that our Natural Features and Protection board, despite all their education that she may or may not have, is so lenient surrounding the development of properties that their philosophical bent surrounding development feels as if that takes priority over the conservation of the green space and it leaves her with the impression that with all the education that they have, they're creating the space for our community to maintain the integrity of our commitment to conserving green space because we're in a climate crisis so if our entities that hold so much education, to whom much is given much is required, and she finds they are very flexible on protecting us. She added that these cases come before this board regularly puts them in a position to be contentious and antagonistic towards developers and she finds that unfair. She added she also doesn't like the idea that the board is using the homeless and blighted properties and education, it feels like the people that don't have as much education don't have a voice and just because people don't have it doesn't mean they don't matter, and she doesn't like that those types of things are being said on this board or being brought up in those types of ways. She said she doesn't like the tone of bringing up people and how they're situated in our community. She stated she doesn't like how the homeless in relation to blighted properties and calling public safety is being brought up and feels it's tacky. Mr. Eldridge said it's reality, and she said reality or not, it's still tacky. Chair Carroll said he would be willing to add an agenda item after the closure of the cases to discuss the NFP board and he concurs with her but everything is painted with rose

colored glasses and he understands that it's a sales pitch, one that he would make in order to get what he wanted as well, but he doesn't feel they should rush to development. Ms. Harrington agreed and said she still feels there should be a moratorium on development until these types of issues are worked out. Chair Carroll asked if she would support him on a discussion and she said yes.

Mr. Lager said he is in favor of this variance because one thing he likes about living in Kalamazoo is that he feels we have a local government that, in a progressive way, tried new statutory ordinance schemes to protect natural features. He added that procedurally it may have some kinks and the balance hasn't been set right but those are wide open questions upon which reasonable minds can differ. He added that he is grateful to live in a city where conversations between developers and natural features protection and city staff happen and that people are cognizant of the needs of the different parties involved. He said in the case, with great deference to the Natural Features Protection board, the parcel can't be utilized for its zoned use without the relief requested. He said that Mr. Eldridge painted a picture of what a typical development might look like in which it was clear cut and graded the way the developer wanted so they could easily build what they want to meet their purpose be it a financial or concrete purpose, which in this case is residential housing. He said we know there are knock on effects when development in the residential arena doesn't happen as expected, housing costs are rising and there's not enough housing for people. He said we're at the tail end of a period of time where there was a dearth of development, and he thinks the board is lucky to be hearing cases where developers are asking for variances to do projects because that could be the solution where more housing does get built. He said this site, whether used for economic feasibility or not, can't be used as it is for the scale of the development that is permissible without the encroachment into the slope, so he doesn't think it can be reasonably be utilized for its zoned use without the requested relief. He feels that the extent of the relief requested is the minimum needed to permit reasonable utilization of the site and the evidence he has that this is the minimum is his belief and trust that the back-and-forth process described by both the applicant's representative and city staff, is that there was a give and take and discussions about how the water runoff would work, what could and couldn't happen and how that was impacted then by some fire safety type issues. He believes in good faith that this has already been discussed and has been brought to this board the minimum needed in order to use this site. He also believes that relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the NFP overlay district. He said he is, again, giving great deference to the NFP board not only because of their training and experience, but because during a Zoom call where they met them, he found that they professed a strong desire to not only protect the natural features, but to be environmental stewards, but to make the new statutory scheme work for everyone in an optimal way. He moved on to the next one which is the requested relief is balanced by the use of conservation and/or green development tools and actions such as utilizing storm water best management practices from the Michigan Low Impact Development manual that promote infiltration, restoration, or expansion of a natural feature on the site or use a wild type native plant, which will come at a later date and be reviewed by the Natural Features Protection board. He added that they have already heard about how he stormwater runoff plan was adjusted so he also believes that one has been met, so he will be in favor of the slope variance.

Chair Carroll asked if anyone had anything to add and Ms. Harrington stated she will not be in favor because she's not confident in the information received from the NFP board. Mr. Eldridge asked if he could have the floor. He said that the board has only had a few of these cases and before

the vote occurs, the board has the option to table until the next meeting and all of the information they are asking for can be brought in as well as bring in the liaison to the Natural Features Protection Review board to speak about this case. He added that they were in the early stages of utilizing the new ordinance and dealing with these sort of development variances and he wants the board to know there are options but there is a need for resolution of these concerns before they get to this point in the evening, and Chair Carroll concurred and offered to table it until the open agenda item.

Ms. van den Homberg was going to make a motion to table the item until October, but Chair Carroll interrupted because this motion needed to be voted on because there is a second and added then she could table the second variance, but they currently have a seconded motion that needs a vote. Mr. Eldridge referred to Attorney Bear to clarify but offered unless the maker and second of the motion choose to remove their actions, and Attorney Bear said they can do that if they choose, and Mr. Eldridge said there is a way to reverse out of having a motion on the table and not having to be forced to vote. Chair Carroll said he doesn't think anyone is being forced to vote but wanted to know if the motion will be rescinded and Ms. Doane said she would be willing to rescind the motion if they would like to push it to next month. Chair Carroll said he doesn't need more time, Ms. Harrington said she said what she said but she would be willing to hear more information about the case because she might be swayed, but right now she is saying no. Chair Carroll said he is accepting the rescinding of the first motion. Mr. Eldridge said the seconder has to also rescind and Mr. Terpening rescinded his second based on the motion they table discussion and vote for one month from the day. Chair Carroll said he is taking Mr. Terpening's second rescinding and is that a second on the tabling by Ms. van den Homberg. Mr. Terpening answered he rescinded his second and made the motion that was tabled until next month, seconded by Ms. van den Homberg. Chair Carroll clarified that they were tabling both variances. Mr. Terpening made a motion to table both variances, seconded by Ms. van den Homberg.

Motion to table both variances approved by voice vote unanimously.

Ms. Doane read the application for 1801 Oakland Drive

ZBA#22-09-30: 1801 Oakland Drive: An application for variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Simbarashe Chirara, for 1801 Oakland Drive, which is situated in the Residential District (RS-5). The applicant is requesting a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or 'lodging' land use in one of the three apartments on the premises, where in Zone RS-5 rentals are limited to 30 days or more under the definition of 'household living'.

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.

Simbarashe Chirara, of 1801 Oakland Drive is requesting a use variance to turn one of the three units in his building into a short-term rental. He bought the property in 2017 and lives in one of the units and leased out the other two units. He wants to turn one of the units into an Air BnB. He stated that he has invested significantly in this unit through remodeling and furniture updates. He said there are three reasons he wants this opportunity. One is the unique features of the property, being a multiple dwelling unit that is owner occupied, and he lives in an area that has multi-family

rental units as well. He said it is located on the edge of the Oakland neighborhood and at the edge of two busy streets: Oakland and Howard. He stated another unique feature is that there is a big parking lot and it's also located opposite a fire/police station. He added that with short-term rentals, there is more of a mobile workforce and being in Kalamazoo where we have Borgess and Bronson, he wants to market to traveling nurses who are here for shorter stays as well as temporary stay needs such as executives that need to travel to the area. He said one of the difficulties he's had is that it is a rental property that he has listed out, but he hasn't been able to get market rates to generate the income to maintain the property at the level that is desired for the neighborhood so part of the reason he came up with this plan and invested so heavily is to be able to generate additional income by making these changes and also to be able to put it back into the property. Finally, he understands the concerns of the city and how it affects the people around him so did reach out to some of his neighbors and those he was able to talk to reacted positively. He added he sent four positive responses to Mr. Eldridge, but he also encountered some challenges where no one would talk to him. He added that he reached out to the neighborhood association and talked to Mr. Kushner who said he would have no concerns as long as the city requirements are met, and he maintains appropriate certification. He added that he understands the spirit of the ordinance is to maintain low intensity residential space, but he wants to add that it has been a rental all this time, he just wants to change it into a shorter-term stay and this won't change anything in terms of how things are as he currently stays on the property so he's able to monitor things more and Air BnB does a good job of screening so he believes in the quality of people coming in and they will limit the number of people coming in, which he will be able to monitor. Ms. Harrington wanted to know who he had problems talking to and what did he think was the barrier and Mr. Chirara said he wouldn't say he had problems but the way the houses are set up you would have to go into someone's property to knock and he found that difficult because he was concerned for himself. Mr. Lager asked Mr. Eldridge that since he lives on the property, wouldn't this be fall into the bed and breakfast provision and Mr. Eldridge said it could be if the applicant wanted to treat it as such, but that isn't how it was laid out. Mr. Eldridge clarified a bed and breakfast means he's providing clean linens and at least one meal a day, but in the case, he's looking to reach a more mobile workforce and letting them rent the unit and provide their own meals and take care of their own household needs and his understanding is that isn't what the owner is looking to do. Mr. Terpening asked if this is an RS-5 and Mr. Eldridge said it is. Ms. Doane stated she knows one concern was parking and she asked if he has sufficient parking and Mr. Chirara said yes, the parking can accommodate five to six cars. Ms. Harrington asked if these would be apartments or rooms and Mr. Chirara said he's asking for a use variance for one unit only and there are two bedrooms within it so if one person wanted both rooms, they can do that, but he added features that would allow for a roommate situation as well. Mr. Lager asked if the building is currently registered as a rental and Mr. Chirara stated that the one he is getting the approval for is not because when it came to do the inspection, he notified the city of his interest to do the short-term rental. Mr. Lager asked if the other unit is registered, and Mr. Chirara said it is currently going through an inspection.

Chair Carroll asked if there were any other questions and there were none.

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 he has been working with the property owner for some time on this and he put quite a bit of information in the application, including his level of outreach to the Oakland/Winchell neighborhood associations as well as the other property owners

and added that there is more public feedback for this case than any of the others they heard tonight. Mr. Eldridge said some of the defining features are that the driveway faces outward and connects to Howard Street, which is a neighborhood collector, not a residential street per se, and is on the outer edge of the Oakland/Winchell neighborhood and faces the public safety station as well as Western Michigan University property. He stated that it is a legal, non-conforming three unit and added that there are already multiple dwelling units on the property and that allows for the owner to live there as well as have rentals he is able to keep a close eye on, which is a unique feature. He added that the parking for up to six cars so he's not sure why the neighbors on Hillcrest were concerned with the parking. To sum it up, he said there are some unique circumstances that apply to this property and the impact on neighboring properties would be negligible, in staff's opinion, given that the owner is there and that there are two other dwelling units on the site. He also said there is a need for this for mobile workforce who are looking for a stay of three months or more, not 30 days or less, but there is a need to accommodate housing for short-term workers in our community. He said staff is in support, but he wants to make sure the board reviews the public feedback and the concerns identified in those communications.

Chair Carroll asked if there were more questions before establishing the finding of fact and Mr. Lager said in meeting the conditions, one is that it be certified. He added that typically a variance runs with the land and once they grant a variance on something, it applies to the subsequent owners. He asked if there was a suggestion in the packet about this and Ms. Doane said the second condition is that the variance can only be active while the current owner lives on the premises but current can mean the active owner, not just Mr. Chirara. Mr. Lager asked if he has a problem with that last condition and Mr. Chirara said no and Ms. Harrington asked why does he have to do that and Ms. Doane said she reads it differently and if the property passes to someone else, they would then need to come to the board. Mr. Lager said the two ways to look at it are whether it's just with Mr. Chirara or whether it's with anyone that chooses to reside there so it's quasi or defacto bed and breakfast. Ms. Harrington told Mr. Chirara he can't move, and Mr. Lager said the more forgiving position would be as long as Mr. Chirara owns it, to which Ms. Harrington told Mr. Chirara that he might live in the short-term rentals, but he might want to move into a different house and Mr. Chirara said he may have spoken too soon and Mr. Eldridge said it would just revert back to a traditional rental. Chair Carroll and Mr. Lager found that to be reasonable and Ms. Harrington wanted to make sure Mr. Chirara was clear on what was being said and reiterated the terms of the short-term rental. Mr. Chirara had questions about when they said it would be based on ownership and if he moved but still owned it, could it still be a short-term rental and Mr. Lager said they could make any condition and that could be that the owner would have to live on the premises make it run with this owner's ownership interest. Mr. Chirara said he understands the concerns for the neighborhood, but he asked for flexibility because he felt that making him stay there would be limiting. Chair Carroll wanted to have the discussion during the discussion period.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 5.) The Finding of Fact for 1801 Oakland Drive include all information included in the notice of public hearing dated August 24, 2022.

- 6.) 49 notices of public hearing were sent, and five responses were received, and they are as follows: Scott Keith, Matt Fowler, Chia Jung Lesman, all in support, Kurt Adema and Kathy Doane who wanted conditions but were also viewed as support
- 7.) A public hearing was held before the board and public comments were accepted as were additional documents and comments.
- 8.) 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 applicant bought the property in 2017 and lives in one of the units. The property is zoned RS-5 there are unique features, as described by the applicant, of this house: it has a large parking lot, which is not typical of the neighborhood and probably has enough space for six vehicles, it is a multi-unit and is in a neighborhood that has other multi-units, and the house next door is as well. It is located close to the intersection of two busy streets, it's not in the interior of the neighborhood, and is located directly across the street from public safety. The other item the applicant brought up was wanting to serve a certain market need, mobile workforce, or short-term workers, or to serve employers that bring on employees for a short period of time. The applicant mentioned he had done some outreach and received some positive responses, and he reached out to the neighborhood association and received positive feedback from them as well as long as he received rental certification from the city. The units have been rentals and the granting of the variance will not change the number of people coming into or out of unit and the applicant lives on the property in one of the units so he will be able to observe what is going on. He is in process with the city to complete rental registration at this time.

Mr. Terpening seconded the Finding of Fact.

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

Discussion: Chair Carroll said this is tough because he feels he should be able to do what he wants with his property and he had the same concerns with the natural features overlay, somebody owns a property and should be able to do what he wants with it but there is the ordinance. He remembers denying a couple an Air BnB and they lived in a unit next door and were going to bring their elderly parents when they got sick, but they didn't meet the ordinance because they didn't meet the minimum necessary to allow them to use the property for its intended use, so it was denied. More recently, there was a gentleman who lives on campus on his property and rented it out as a "bed and breakfast" but was short-term rental and he squeezed in under the bed and breakfast ordinance. He said in order to be consistent they all should have conditions and that be that this gentleman, the owner, live on site or the variance would lapse because that's what they granted for one gentleman and denied for the other people. He said it wouldn't be wholly consistent, but it would be most consistent that the applicant live on the property and the variance would be lost if he didn't. Ms. Doane asked if they should add something about it being certified and Chair Carroll

said no because that is the law. Mr. Lager said it makes sense and Ms. Harrington said she doesn't think he should have to live on the property. Mr. Terpening asked if the city considered taking his up as a possible change to the code or board of ordinances for short-term rentals and Air BnB situations and Mr. Eldridge replied it has been talked about but they are updating other ordinances at the moment like the sign ordinance amendments are being finalized and clearly when they deal with short-term rentals they will need to have some public feedback sessions because they need to get the pulse of where the city stands on that because there has been some difficulty with short-term rentals but there is a definite need all different housing types but it's a matter of what zone districts and what areas of the city it's most appropriate so the answer is yes.

Mr. Lager moved to approve the application for a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or 'lodging' land use in one of the three apartments on the premises, where in Zone RS-5 rentals are limited to 30 days or more under the definition of 'household living', with the condition that the owner of the property reside on the premises, seconded by Mr. Terpening.

Discussion: Ms. Harrington acknowledged that this is to permanent a solution because, as Mr. Eldridge pointed out, the city doesn't have a strong position on short term rentals yet and Mr. Chirara is coming in with a request without there having been a precedent set. She wanted to know if the city does make a change will it take precedence over the variance and Mr. Eldridge said yes. Chair Carroll said he can support it. Mr. Lager said he feels that this does deserve some feedback when the city gets to this ordinance but in the meantime, this board is carving out some logical exceptions to this but hopes they can stay consistent on a case by case and where the boundaries are.

Chair Carroll asked if there were more questions and Mr. Chirara stated that with the current conditions, life events could happen and if he gets sick and has to go to a home for two months what could happen that would make this a waste of time and Mr. Carroll said that when those bridges have to be crossed, we'll cross them and the ordinance may change so that he could live anywhere. Mr. Eldridge pointed out that it would have to also be that Mr. Chirara himself moved to a different location and was registered at a different location, so if it was a temporary situation, the variance wouldn't be nullified, and Attorney Bear agreed.

Motion was approved by roll call vote, with the condition, unanimously.

OTHER BUSINESS:

DISCUSSION/ACTION ITEMS:

Tabled discussion until next month to bring back agenda item #2 for 3625 W. Michigan Avenue so they can hear from a Natural Features Protection member and one of the developers. Mr. Eldridge wanted to know if there was anything else other than these items and the trees and Ms. van den Homberg said she wasn't being condescending but she has seen developers bring in some awful trees, but she understands why they need to do what they need to do for the property. Chair Carroll said that even though he didn't ask for the tabling, people come in all the time making statements without proof of what they're saying. Ms. Harrington said she leads by emotion and will need Mr. Eldridge to interpret for her because she is thinking about the future from the

perspective of a parent and the climate crisis is important to her. She feels that a lot of the information coming in surrounding these developments is not as complete as it should be. She added that she understands that the NFP board performs in a way to ensure conservation and still make room for developments but feels that aspect always takes precedence over the conservation aspect. Mr. Eldridge asked her if she was just trying to get the tie-in to the bigger picture as it relates to the ZBA since variances are based on the facts of each case and climate crises are not a reason to deny a variance, to do that it has to be specific to the property and something the developer may have dropped the ball on and should have done better. Attorney Bear said it has to be specific to the requirements of the variance and as far as is that the minimum necessary and how that's determined is what Mr. Eldridge and the staff does and what the NFP board does, and they have to get what the NFP board is doing and how they're doing involved in the decision. Mr. Terpening said the NFP seems like a pay to play program and if the developer pays enough, they will overlook anything. He wants to know if they can have a liaison between a board member and that group so they can have a better understanding of what the ruling is and how NFP came up with it. Attorney Bear said that was a good point and part of his role is to provide additional information and provide them with some expertise and right now he's getting the sense that they're not getting that from the process and said that needs to be refined and part of his role is to see that the meetings are conducted in a way that is defensible if someone wants to challenge and he feels it will be more defensible if the board has all the information and they feel more confident that they have reliable information. Chair Carroll asked if it would be selfish to have the NFP make the decision and leave them out of it and Mr. Lager said there is a procedural reason they're involved. Mr. Eldridge stated it's because this is the board of appeals that handles any sort of variance from provisions of the zoning ordinance so only this board can do that. Ms. Harrington said she feels that sometimes their ignorance is held against them, and she is on a constituent board and is reflective of a community that is underrepresented on most boards. She added she asks questions because she really wants to know the answers and she feels that the Natural Features Protection board should have a report to this board if they expect this board to make determinations based on their recommendations, they should also include a staff report. Chair Carroll said to Ms. Harrington's point, there is still a vacancy for an alternate and does she know anyone that would want to join and she said she knows a lot of people and urged anyone watching the meeting to come and apply.

REPORTS:

ADJOURNMENT:

The meeting was adjourned at 10:00 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair

DRAFT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
September 8, 2022 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Jeff Carroll, Matt Lager, Christina Doane, Remi Harrington, Beth van den Homberg, and Jeremy Terpening

Members Absent: None

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

Chair Carroll called the meeting to order at 7:02 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 315 East Frank Street will be removed from tonight's agenda because it is no longer needed since variance was approved in August. Also, the October 13, 2022 meeting will move to October 20, 2022.

APPROVAL OF MINUTES:

Mr. Terpening moved to approve the minutes as submitted, seconded by Mr. Lager. 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.

Ms. Doane read the application for 1521 Palmer Avenue

ZBA#22-09-28: 1521 Palmer Avenue: An application for a dimensional variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Matthew Torzewski for 1521 Palmer Avenue in the Residential-Single Dwelling District (RS-5). The applicant is requesting 1) a dimensional variance from Chapter 6, Section 6.3 A 2, of two feet to install a six-foot fence in the yard along Cameron Street, where four feet is the maximum height for fencing in the front yard and 2) a dimensional variance from Chapter 6, Section 6.3 a 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%.

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.

Matthew Torzewski, the property owner and applicant, has a four-foot chain link fence that is deteriorating and is also in the public right of way. He would like to install a six-foot fence in the yard along Cameron Street and authorization for a solid fence that has no gaps. Mr Torzewski said he would like it for safety and privacy reasons because the height of the fence he has now allows people to see into his home.

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 were none.

Staff comments are as follows: Mr. Eldridge stated that most comments are in the staff report, looked at property in relation to the front. Looked at positioning of the house and ordinance changed two years ago regarding fencing on corner lots.

Mr. Lager had questions about the Cameron Street side and asked if staff would be asking for a consideration of the variance approval of the fence not being where the applicant wants it, but where and Mr. Eldridge answered in the range of seven and a half feet from the house, but the board can evaluate and see what makes sense. Mr. Lager asked if the Palmer side is currently at 12 and a half feet and Mr. Eldridge answered it's 20 feet from the house to the property line on Cameron Street.

Ms. Harrington wanted to know what an image was that she was looking at and it was of a non-conforming fence on a corner lot in the neighborhood. She asked if it was six-feet tall and Mr. Eldridge told her yes, she then asked if it was comparable as it relates to the setback situation and Mr. Eldridge replied yes, it would be built at or close to the property line.

Chair Carroll asked if they were to put up the seven or seven- and one-half foot fence would they have to remove the chain link fence and Mr. Eldridge replied no.

Ms. van den Hombergh wanted to know what the consequences are for the homeowners that have the non-conforming fences now that they have been discovered and Mr. Eldridge said many of

them have been around for ten to twenty years and can be maintained and repaired if damaged, but can't be replaced with another non-conforming fence. Ms. van den Hombergh then asked if someone put up something non-conforming, how long can it stay to be grandfathered and Mr. Eldridge replied that the terms non-conforming and being grandfathered in are interchangeable and it means it's an improvement that doesn't meet the zoning ordinance requirements and that it is an improvement that has been in place long enough that the city can't legally take action to remove it. It would be allowed to remain, and the owner can continue to use it and can make it last for a period of time.

Attorney Bear added that the critical date is if something predates the ordinance, it then becomes non-conforming when the ordinance becomes legal at that point it becomes non-conforming and would be potentially subject to an enforcement action to remove the non-conformity.

Mr. Lager asked for permission to ask one last question of the applicant. He asked Mr. Torzweski how far from Cameron Street would the fence have to be to make him happy and Mr. Torzweski replied.

Chair Carroll closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 1521 Palmer Avenue shall include all information included in the notice of public hearing dated August 24, 2022.
- 2.) 71 notices of public hearing were sent, and one opposing response was received from Danny Clapp of 1510 Palmer.
- 3.) A public hearing was held before the board and public comments were accepted and there were none.
- 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:

Matthew Torzewski is seeking to have fencing he has seen in his area. If he installed fencing to code, it would cut his yard size putting some outside of the fence line. He wants a privacy fence to protect his yard from intrusion. Twenty foot of side yard would be outside the allowed fence line. Backyard rules allow for six-foot fencing, requesting it for Cameron Street side only, he also states it's a busy corner and has had people walk up to his house and look into his windows, so four-foot fencing won't work. Two properties nearby are deemed non-conforming per staff and not known to have come before the board. Applicant feels natural blockage is not viable due to time and security concerns. Staff reports this lot is not unique rules do allow for setbacks and could sit 7.5 feet closer than it does, but doesn't fully support variance and reports future construction would be mor difficult if fencing were at the property line.

Mr. Terpening seconded the Finding of Fact.

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

Mr. Eldridge asked that the motion to approve the application be broken into two votes.

Ms. Doane moved to approve the application for a dimensional variance from Chapter 6, Section 6.3 A 2, of two feet to install a six-foot fence in the yard along Cameron Street, where four feet is the maximum height for fencing in the front yard, seconded by Mr. Terpening.

Discussion: Mr. Lager said he's asking himself questions as he thinks about the purpose of fence zoning and he feels it was designed to create uniformity and character, especially in residential areas. He added that he thinks of the Edison neighborhood as a "front porch" neighborhood where many of the streets have houses that have front porches and the setback from the street is smaller than in a more suburban-style neighborhood and he doesn't think fences can defeat some of the character that is found in neighborhoods with shorter setbacks. He feels Palmer is different than other streets in the area in that the houses were built uniformly, by one or two developers, that were putting in single-story houses where much of the neighborhood, to the north, has two-story houses and he thinks the setbacks on Palmer are a little further back. He feels that a six-foot fence doesn't fit in this area and wants it known that is his opinion. He said that he is struggling to find something because he is sympathetic to the applicant. He said he is inclined to make the standards the board has to meet work for one of the variances, but not for both. He said the six foot wouldn't be as problematic if it wasn't so opaque and the opacity at four feet doesn't meet the applicant's desires. He then brought up the opposition from the neighbor on Palmer Street regarding the dimensional part of the application. He feels that since someone living within the 300-foot radius is opposed to it and that if you would build something that would cause a non-conformity, he will oppose this part of the variance request.

Chair Carroll added that this is unfair because there is a personal property rights and needs, and there are community needs and the largest consideration has to be on the community's side. He said if they are going to stick with the needs of the community safety, he would be more inclined to vote in favor of a six-foot fence that isn't 100% opaque, and he believes the applicant has the right to put a fence all the way to the property line and it's not his decision to ask him not to. He feels that getting him the fence at six-foot while being able to see partially through the fence for public safety is the only thing he can come up with.

Mr. Torzewski asked if anyone on the board lives in the Edison neighborhood, Chair Carroll said he does not, and Ms. Harrington acknowledged that she owns three properties in the area and lives less than half a mile away. Mr. Torzewski made another comment and Ms. Harrington responded that they have fences and people still come onto the property.

Mr. Lager said he agrees with Chair Carroll and could get behind the six feet, but not the 100% opacity and Ms. Harrington agreed.

Mr. Terpening said that he would agree with the opacity issue but as the as the Vine Street Neighborhood Association Chairperson, he had the chance to speak with the acting chief and vice

chief and the reason for not wanting 100% occlusion is if something were to happen or needed to be found or someone was hiding within those bounds, it causes concern for safety for the community-wide directive and based on that he's even gone around the neighborhood to make sure fencing follows the guidelines. He would not be in favor of a six-foot fence with 100% opacity going around the property.

Chair Carroll asked Mr. Eldridge to tell them what the ordinance is. Mr. Eldridge stated the opacity maximum for a fence in the front yard is up to 75% so there would be some gaps. He added that traditional picket fences are 50%. He added that the board has to keep in mind where is this fence appropriate will it still be at the property line or ten feet back from it. He added that that can be clarified as well.

Ms. Harrington asked for an example of what 75% opacity looks like and Mr. Eldridge said with an eight-foot wooden fence, you're breaking it down into inches and calculating the space between the boards and making sure that no more than 25% is open air, 75% can be solid. Chair Carroll said he looked it up on his phone and it's essentially a chain link fence or lattice so it's basically a see-through fence. He added that right now the issue is the motion for the six feet and asked for a motion.

Ms. Harrington wanted to talk more about Mr. Clapp's opposition to the variance. She asked staff to give a little more detail since they observed children getting off the bus and she wanted to know what the impediment to safety since this would be going down a hill. Mr. Eldridge said there isn't much of a topographic change to the property, but he thinks the property owner's point is since his backyard is open to Cameron Street whether it's kids getting dropped off on the bus or people walking down the sidewalk, it's right next to his backyard and that is the main premise behind it. He added that he doesn't know how to speak to the comment that came in from Mr. Clapp. Ms. Harrington said he wrote that any blockage of this corner would make it more dangerous in his opinion, and Mr. Eldridge stated they did look at vision obstructions and the fence is positioned so that it's completely outside the Palmer Avenue front yard and it's pulled back from the alley behind the property roughly 18 feet so where the intersection is, it wouldn't create a vision obstruction in his opinion.

Motion denied for the dimensional variance by a four to one roll call vote with Mr. Terpening, Mr. Lager, Ms. Doane and Ms. van den Hombergh voting no, Chair Carroll and Ms. Harrington voting yes.

Ms. Doane moved to approve the second part of the application, a dimensional variance from Chapter 6, Section 6.3 a 3b, to authorize the new fencing to be 100% opaque (solid, no gaps between boards), where the maximum opacity for fencing in the front yard is 75%, seconded by Mr. Terpening.

Discussion: there was none

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

Motion denied by a three-to-three roll call vote with Ms. Harrington, Ms. van den Hombergh and Ms. Doane voting yes and Chair Carroll, Mr. Lager, and Mr. Terpening voting no.

Ms. Doane read the application for 3625 W. Michigan Ave

ZBA#22-09-29: 3625 W. Michigan: An application for variances for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Great Lakes Capital LLC, for 3650 W. Michigan Avenue, which is situated in the Commercial-Community District (CC). The applicant is requesting variances from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to 1) authorize the development proposed to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area and 2) a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2G, to authorize the removal of 71.7% of woodlands (increase of 21.7%), where 50% 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.

Jason Raleigh of AR Engineering, representing Great Lakes Capital. The site is at 3625 West Michigan Avenue, the old Hallmark Assisted Living Center. He stated their team has been working a little over 12 months to navigate the next steps on the project. He said that late last year the property was added into the natural features protection overlay, which changed the approach of the development and they have worked with the natural features and other city staff. He said the initial submittal had more buildings and units to maximize the feasibility of the development and while working through that with the city, they've toned it back to see where they can save the natural features and reduce impacts. He said one of the requests is with the slope impacts, that is outlined in blue in the pictures staff provided the board, where the slopes are greater than 20%. Mr. Lager asked if Mr. Raleigh could orient him in the map. Mr. Raleigh said there's an aerial view on page two. He said there are two entrances off of West Michigan overlay. He said there is a basement level off the back and the site falls off to the south towards the railroad tracks back there, at the south limits of the property. They want to demolish the current site and redevelop it with an apartment complex. He added that with the slope stabilization impacts, the area ranges from 20 to 32% and the slopes that would typically be put back in the normal development are on the 25-max range but are also mobile slopes and to put in perspective what is classified as a steep slope impact, 20% is a feasible slope to put back into normal development with slope management. He said initially they looked to develop down to the south limits but have reduced it as much as they can from a feasibility standpoint. They have six units and six buildings including a clubhouse, a fitness center, a pool, and other amenities. He said one of the items the city required was a completely loop drive system to not create any dead ends for safety. He said one of the things they looked at initially didn't have that and they found out it was required and that is what caused the impacts at the southeast corner of the development. He then moved on to the tree removal. He said they are allowed to remove up to 50% of the trees base on the characteristics of the site and are asking for just over 70%, just over an additional 20%. In the picture there was a storm basin and he added that there is a large area that's empty. That area is to manage that slope and they are looking to put back vegetation and a more desirable species of trees. He spoke to the stormwater side and stated that in the overlay there are more significant stormwater management requirements than in a typical site so they asked city staff if those could be reduced and the desire by the city is to maintain those and that's what impacted some of the trees. Mr. Lager asked if everything above the red line in the picture is tree removal and Mr. Raleigh said yes. He pointed out where the stormwater basin sits and said that at the orange line is the limits of the pavement and the development ends at that

location and the rest is to manage the stormwater requirements and the slopes to tie back into existing. Mr. Lager is asking if the trees interfere with the stormwater plans and Mr. Raleigh replied that with the overlay it had additional requirements than what the city allows in developable lands that don't have the overlay protection, which drove the size of the footprint of the basin, which impacted the trees. Chair Carroll asked if lessening the units led to lessening the blacktop, which lessened the water concerns and Mr. Raleigh replied yes and wanted to add that the requirements to remove the existing building and redevelop the site has costs associated with that. He also wanted to note that upon visiting the site, he is local, but the development team does a lot of work here and in Northern Indiana but have made site visits. He said that during the visits the police had either been there or had been called there because of squatters and others causing damage and pilfering from the building. He added that there had been some dumping in the back, and they want to clean up the site. He said in order to make the development feasible, there is a line to get it to work from a cost standpoint. He agreed with Chair Carroll that the less surface area, the less impervious area and the less the storms. Chair Carroll asked how many units and what configurations and Mr. Raleigh said three story buildings and units, down from the 220 range. Chair Carroll asked about the bedrooms and baths and was told they range from studio to three bedrooms, with some of the three bedrooms having two baths. They want to create a small community complex with several amenities and will be working closely with an architect, a landscape architect, and the city in the next phase. Chair Carroll asked if he knew how long Great Lakes, or its affiliates have owned the property and was told they are currently working with the seller and have a purchase agreement for a little over 12 months. He added that the current owner is working to have an llc entity with Great Lakes Capital to redevelop the property. Chair Carroll asked if the current owner is looking to sell to Great Lakes and continue to be in owner in the llc and Mr. Raleigh affirmed. Chair Carroll asked who the current landscape company is for the property and Mr. Raleigh said no. Chair Carroll said it's an eyesore and they need to take care of the weeds, he then asked Mr. Eldridge if it has been reviewed for that reason because the weeds are three or four feet, but he isn't sure if that is the landscape strategy and Mr. Raleigh said it's been vacant for quite some time to which Chair Carroll replied a vacant house still has to have the lawn mowed. He added that it calls into question the stewardship of the land and the project, and he wanted to make sure he understood everything. Mr. Raleigh added that Great Lakes wants to demolish the building as early as next month if they can and are looking into it, but don't want to invest the money if they can't move forward. He added that he will pass along the boards concerns and comments. Chair Carroll said it would have come off better if the property had been maintained at least at the street view. Mr. Lager asked if the two variances are tied together and does the greater encroachment into the setback cause the needed reduction in the amount of trees and Mr. Raleigh said yes, they are tied together, and they went before the NFP board on August 23 and both were found to be favorable to get an approval because they and the city reached a happy medium with what the city saw as feasible versus not feasible impacts. Mr. Lager asked Mr. Eldridge if there was a recommendation from the NFP board and Mr. Eldridge replied that there is and they recommended approval but with the condition of replanting of the area south of the retention pond, which is the area Mr. Lager was asking about. He said he would reiterate the condition in its entirety at the making of the motion. Ms. Harrington said that since they are at the allowable 50% and want to increase the woodlands by 21.7%, they believe, is that why they made the recommendation and said that it will all be equaled out and Chair Carroll said no, they want to cut down 40% more or 20% more, depending on how you use your language. Ms. Doane said she believes the NFP board's goal was to offset the loss and Ms. Harrington said that's what she was asking but wants to know if Chair Carroll is saying they want 40% more and he said yes. Mr. Raleigh said that they are allowed to remove 50%, they want 20% more than what's allowed but of the remaining 50% it's 40% of the remaining 50%. He added that one of the comments that came back from the NFP board is that the bare area shown on the map

be replanted and re-vegetated and they will add that to the plan when it gets to that point and then go back to NFP for the approval. Ms. Harrington took issue with cutting down the trees now. Mr. Raleigh added that this plan was started 12 months ago, when the site wasn't in the NFP overlay and to the west and east, they maximized the development while saving trees and the point is to minimize cost and impacts as much as possible, which is why they reduced the complex by 60 to 70 units. Ms. van den Homberg is doing the finding of fact and had a couple of questions for clarity. She stated that she is a resident of the area and agreed with Chair Carroll that the looks of the property are disconcerting and considers that property and another property nearby, Great Lakes Shipping Company which is now demolished, to be blighted. She added that even though she respects the fact that he said he will mention their concerns but looking at actions, she gets the feeling that since they're not sure they can move forward with this so they're just going to let it go, which she understands and respects, but wonders about the people in the neighborhood and said it sends a mixed message. She wanted to see them put something in writing as a show of good faith, but with some accountability that they will take ownership of the property and clean it up whether they get what they want or not. She wants them to show they are invested in the community and asked if he could do that. Mr. Raleigh said that he isn't the owner, but Great Lakes Capital is involved in several projects in Kalamazoo County and are invested in Kalamazoo but would like to demolish the building, but they have to think about the financial aspect of the development. He added that the current owner has obviously let some things go but Great Lakes would like to demolish the building next week if they could, but he doesn't see a reason why they can't get someone to come and mow at least the front. He said that this ask would be a tipping point from the development side and he can't see why they wouldn't do it, but they can't move forward with the demolition if they can't make the rest of the project balance. Ms. van den Hombergh thanked him for sharing about the south part of the property and the steep slope and the fact that the police have been called and there have been people living on the property. She said she was looking at the fact that the removal of the hardwood has to do with the storm drainage system and the slope, but it takes 40 years to grow a good tree so she wants to see something about them working with the landscaper to make sure the trees will be of good quality, Mr. Raleigh said they would follow the city's list of desirable trees. Mr. Eldridge pointed out that part of the conditions of the NFP were that they address the types of plantings and that once they go to site plan review, there is a step where the NFP reviews the site plan again. Ms. Harrington wanted to know the purpose of the NFP board and Mr. Eldridge said they administer the natural features protection ordinances, to look closely at the qualifying features on a property whether it's slope or woodland coverage, and to evaluate that with the developers plans for the site. He stated the ordinance is supposed to strike a balance between preservation and allowing development to occur. He pointed at the image on the screen and said looking at the property to the right to the east where there are apartment buildings, he pointed out trees between the buildings and said that's typical of a development project of this scale. He added this site is clear-cut, graded down, and then buildings are built and then a landscaping plan is implemented, which means all of the mature vegetation is gone and the NFP ordinances are charged with preserving these woodland areas and native planting areas if there are certain species identified and making sure the development doesn't impact steeply sloped areas which in this case, occurred because of neighboring properties and that disrupted the natural grade that existed before. He then referenced the fire lane that would wrap around the building and stated that earlier there was no loop road going around the back of the southernmost building and there is a steep slope in the southeast corner that they were going to leave alone but the fire marshall said having the loop would best accommodate the fire apparatus. He added that some of the city requirements resulted in the need to run a drive through the area. He added comments about the retention pond saying that in order for them to create the retention pond they have to grade a larger area around where the pond is going and that will call for tree removal so they can run tubing and

pipings and that is why the area shown is larger than just where the retention pond sits, which is also the reason the NFP board placed conditions on their recommendation for approval. They want to make sure the area south of the retention pond gets replanted with native plants and trees to restore the area. They want to make sure there is a natural habitat south of the retention pond. Ms. Harrington said she needs that answer reinforced because it is the tendency of city staff to explain and re-explain the normalcy of processes, like the way structures and systems have historically operated to reinforce the status quo, the legality, the laws, the technicality of the laws and ordinances but that doesn't mean that when people come before the board, they can't consider the entire development being relooked at. She feels there should be a moratorium specifically when it's in opposition to what they stand for in the municipal plan surrounding the protection of natural features and she doesn't have a way, outside of the board, to make recommendations like that. She stated she asks questions that way because she doesn't know why they can come before this board and it seems out of alignment and the fact that, as Ms. van den Hombergh mentioned, it takes 40 years for a tree to mature, and she is talking about the immediate implications and the fact that we're dealing with a climate crisis right now. She said that's hard for her and honestly, she doesn't know how to contend with it. Mr. Eldridge said he could always advise the board when the NFP board meets to discuss a project so they would have a chance to either go to the meeting or watch afterward, he added that they are recorded, but if they wanted to interact with the NFP board, that might help bridge the gap. Attorney Bear added that there are certain standards for the membership of the NFP board and they have to have education or experience in water resources, what lands, plants, trees, slopes, site development and building construction and then assist in the addition of that layer of review and some expertise that members of this board may or may not have, not slighting this board but they don't have to have those specific qualifications to be on this board. He reiterated the NFP ordinance does allude to quality trees, shrubs, plants and so forth that are to be included in any replanting and has to be desirable. Chair Carroll offered Ms. Harrington the floor at discussion time so that the procedure can continue because he said every time, they get something from NFP it rubs them the wrong way or causes them trouble. He suggested adding an agenda item to discuss it and Ms. Harrington agreed.

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.

Additional staff comments are as follows: Mr. Eldridge added to Mr. Raleigh's point that the originally mapped properties of 2019 did not include this property and was added in phase two in 202, to the NFP overlay. He said the structure is blighted and is a former assisted living facility and is roughly 50,000 square feet and has been a resource drain on public safety with the homeless breaking in and said he doesn't know the code enforcement status of the mowing, but he can look into it and he and Mr. Raleigh can keep in touch to make sure the frontage is taken care of. He added this project presents an opportunity to see the site being improved and used versus what's there now. He wanted to take the legal speak out of it and said the natural grade goes from West Michigan Avenue down as you work your way south to the railroad tracks, and then there are topographic changes on the sides due to the student housing developments to the east and west. He added that with a typical development, you would clear-cut the site and re-grade it the way they want to for building and parking lot positioning. He added that the NFP board is mindful of what typically happens and is aware of the scope and scale of the areas around where the retention pond is going to go, they also looked at the woodland areas that could be saved and he said the stormwater is something the developer did ask for relief on and at one point there was talks with Public Services to have a smaller retention basin and have the overflow go into the woods in the

event of a large storm event and in case the pond filled up, it would flow into the wooded area to the south, but the engineering staff didn't deem that ideal so a larger retention basin is required. He admitted that while it's hard to see mature trees cut down, there are elements of a project that need space on a property and of these were all one-story buildings and the developer wanted to take down all of the trees, they would want to know why, when they can build up to reduce their footprint. He pointed out that this developer is building up with three-story buildings and has proposed less parking than what is required, as this is student housing and what's allowed is two parking spaces per dwelling unit, at 1.4 spaces per dwelling unit. He said he knows it's difficult to look at what is happening on the southern part of the property, but the retention basin has to go somewhere, and the condition went on to try to soften the blow of the gradient that has to go on around the retention basin. He said he would be happy to answer questions, but the NFP board has the expertise, and this board is now comparing their actions with reviewed criteria and determining the correct direction to move tonight.

Chair Carroll closed the public hearing.

FINDING OF FACT

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

- 1.) The Finding of Fact for 3625 W. Michigan Avenue shall include all information included in the notice of public hearing dated August 24, 2022.
- 2.) 206 notices of public hearing were sent, and one opposing response was received from Catherine Dobbs of 3651 Kenbrooke Court. She felt there is a conflict and wants to support the city's natural features ordinance.
- 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:

Mr. Raleigh of AR Engineering, spoke on behalf of Great Lakes Capital. They have worked with the city to scale back and reduce their footprint on this property, which is a former nursing home they want to demolish. The slope impacts greater than 20%, where 20% is the feasible slope. They want to build six buildings, a clubhouse, and a fitness center. They originally wanted to have 220 but have scaled back to 164 units and have scaled back on the parking as well. These will be three-story buildings with studio, one two-, and three-bedroom apartments. They are working with the fire department to make sure the traffic pattern between the apartments is looped in case of emergencies. The NFP overlay ordinance allows for 50% of the removal of trees and they are asking for 70, which they are asking for because of the slope and the drainage pond and all of the extra work they would have to do to maintain the systems. It was also shared that the back of the property is a hazard to the community due to break-ins and the homeless camping out there and there's also been some dumping. If

Great Lakes Capital were able to acquire the property and move forward with their project, those concerns will be eliminated. There was discussion about the blighted nature of the property and concerns of the people living on that side of town and Mr. Raleigh said he will take those to the property owner with a special request for mowing to show the good faith of Great Lakes.

Chair Carroll wanted to clarify if Great Lakes LLC is the owner and Mr. Eldridge said no, they have a purchase agreement with the owner. Chair Carroll questioned whether they could request the variance and Mr. Eldridge said with the permission of the owner they can. Chair Carroll then said neither of the parties are present, just the engineering company and Mr. Eldridge said correct. Chair Carroll then asked Ms. van den Hombergh what she meant by reducing their footprint and she stated they are reducing it from what their ideal is. He then asked what she meant by scaling back their parking. Is it from what is there now or what they want and she said her understanding is what they want, she's not sure of the amount of parking there currently.

Mr. Lager seconded the Finding of Fact.

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

Ms. Doane made a motion to approve the application from the Natural Features Protection ordinance, Chapter 50, Section 50-6.2 H, to authorize the development proposed to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area, seconded by Mr. Terpening.

Discussion: Chair Carroll asked Ms. Harrington if she had anything further to discuss and she said she wanted someone else to speak and to come back to her. Chair Carroll asked if anyone else had anything further and no one did, so he spoke. He said that this is all leading to the six requirements they have in front of them. Mr. Eldridge stopped him and told him NFP variances are different and directed him to the review sheet in the packet. Chair Carroll said he will speak until someone gets that for him but since this is a discussion, he can say whether or not he is in opposition or in favor and it's concerning to him that most of the large projects there's a litany of people present when the application is presented: the owner, sometimes the attorney, the seller and last month the seller and the buyer were here and engineers on multiple occasions but this ties into the fact that the property is currently blighted, and that's nobody's fault but the owner's, who hasn't been taking care of it, and the owner not being there, he said it's hard to support when they aren't there to speak. He said this is kind of an interview for their application. He wanted to pick up on something Mr. Eldridge said about reduced footprints, but Chair Carroll said the footprint in this case is being increased even though they're going three stories in the air he added that second, they wouldn't be here if they proposed less units. He went on to say because there are no financials available, so he can't speak to the feasibility of the project because he doesn't know the break-even roi or the internal roi on this project in terms of units and without data he doesn't know if this is the minimum number of units and footprint that will make this project feasible, especially since there is already a footprint there and that business was feasible, and he wanted to point that out. He found the NFP review sheet and wanted to go through it: The parcel could not be reasonably utilized for its zoned use; he said it doesn't meet the first criteria because the parcel can be used for what it was zoned

for in the past. The extent of the relief requested is the minimum needed to permit reasonable utilization of the site: he said it doesn't meet this one because the minimum relief needed is zero because the site is already developed. He added that he has concerns about whether or not they will take care of it and they aren't taking care of it now. It is demonstrated that the relief can be granted without substantial detriment to public good he said nobody can answer question number three. The request for the relief is balanced by the use of conservation and/or green development tools. Chair Carroll said he would stop right there because there's another paragraph and he thinks this meets that requirement but not the other three and it doesn't need number four in the board's use variance, so he said he is in opposition. Mr. Eldridge said that one option the board has is to table this, send the applicant back to gather more information and return next month to which Chair Carroll asked why would they do that when they've sent others out the door tonight. Mr. Eldridge advised that theirs wasn't a two-tiered review process where another board has already reviewed the application before this board to which Chair Carroll replied it's the same thing because this ordinance says they can't have the fence and this ordinance says they can't have the 40% more and he wanted to know what the difference is. Mr. Eldridge said this ordinance also says that it's trying to strike a balance between preservation and allowing development. Mr. Carroll said that it doesn't meet the criteria. Mr. Eldridge said his point was that Chair Carroll mentioned information that wasn't available tonight, the owner wasn't here, maintenance of the site has been unacceptable, and Chair Carroll wanted to know if this means they just give them a pass and Ms. Doane said she believes that what Mr. Eldridge is offering is a chance for him to get more information and Chair Carroll said he doesn't need more information because they didn't show up and they didn't mow the lawn and he's concerned this project will be more of the same. Mr. Raleigh asked for permission to speak, and he offered that the people he represents wanted to show, caught Covid and wanted to come join virtually but was told that wasn't an option but would have been able to speak to some of the concerns. Chair Carroll asked if he's referring to the current owner or Great Lakes and Mr. Raleigh stated Great Lakes to which Chair Carroll said but the current owner doesn't have Covid to which Mr. Raleigh said he doesn't have contact with him and he lives out of state. Chair Carroll asked where Great Lakes is based, and Mr. Raleigh said Michigan and Indiana. Ms. Harrington said some things that are disconcerting to her, being on a constituent board, the first thing is that this is a byproduct of the fact that our Natural Features and Protection board, despite all their education that she may or may not have, is so lenient surrounding the development of properties that their philosophical bent surrounding development feels as if that takes priority over the conservation of the green space and it leaves her with the impression that with all the education that they have, they're creating the space for our community to maintain the integrity of our commitment to conserving green space because we're in a climate crisis so if our entities that hold so much education, to whom much is given much is required, and she finds they are very flexible on protecting us. She added that these cases come before this board regularly puts them in a position to be contentious and antagonistic towards developers and she finds that unfair. She added she also doesn't like the idea that the board is using the homeless and blighted properties and education, it feels like the people that don't have as much education don't have a voice and just because people don't have it doesn't mean they don't matter, and she doesn't like that those types of things are being said on this board or being brought up in those types of ways. She said she doesn't like the tone of bringing up people and how their situated in our community. She stated she doesn't like how the homeless in relation to blighted properties and calling public safety is being brought up and feels it's tacky. Mr. Eldridge said it's reality, and she said reality or not, it's still tacky. Chair Carroll said he would be willing to add an agenda item after the closure of the cases to discuss the NFP board and he concurs with her but everything is painted with rose

colored glasses and he understands that it's a sales pitch, one that he would make in order to get what he wanted as well, but he doesn't feel they should rush to development. Ms. Harrington agreed and said she still feels there should be a moratorium on development until these types of issues are worked out. Chair Carroll asked if she would support him on a discussion and she said yes.

Mr. Lager said he is in favor of this variance because one thing he likes about living in Kalamazoo is that he feels we have a local government that, in a progressive way, tried new statutory ordinance schemes to protect natural features. He added that procedurally it may have some kinks and the balance hasn't been set right but those are wide open questions upon which reasonable minds can differ. He added that he is grateful to live in a city where conversations between developers and natural features protection and city staff happen and that people are cognizant of the needs of the different parties involved. He said in the case, with great deference to the Natural Features Protection board, the parcel can't be utilized for its zoned use without the relief requested. He said that Mr. Eldridge painted a picture of what a typical development might look like in which it was clear cut and graded the way the developer wanted so they could easily build what they want to meet their purpose be it a financial or concrete purpose, which in this case is residential housing. He said we know there are knock on effects when development in the residential arena doesn't happen as expected, housing costs are rising and there's not enough housing for people. He said we're at the tail end of a period of time where there was a dearth of development, and he thinks the board is lucky to be hearing cases where developers are asking for variances to do projects because that could be the solution where more housing does get built. He said this site, whether used for economic feasibility or not, can't be used as it is for the scale of the development that is permissible without the encroachment into the slope, so he doesn't think it can be reasonably be utilized for its zoned use without the requested relief. He feels that the extent of the relief requested is the minimum needed to permit reasonable utilization of the site and the evidence he has that this is the minimum is his belief and trust that the back-and-forth process described by both the applicant's representative and city staff, is that there was a give and take and discussions about how the water runoff would work, what could and couldn't happen and how that was impacted then by some fire safety type issues. He believes in good faith that this has already been discussed and has been brought to this board the minimum needed in order to use this site. He also believes that relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the NFP overlay district. He said he is, again, giving great deference to the NFP board not only because of their training and experience, but because during a Zoom call where they met them, he found that they professed a strong desire to not only protect the natural features, but to be environmental stewards, but to make the new statutory scheme work for everyone in an optimal way. He moved on to the next one which is the requested relief is balanced by the use of conservation and/or green development tools and actions such as utilizing storm water best management practices from the Michigan Low Impact Development manual that promote infiltration, restoration, or expansion of a natural feature on the site or use a wild type native plant, which will come at a later date and be reviewed by the Natural Features Protection board. He added that they have already heard about how he stormwater runoff plan was adjusted so he also believes that one has been met, so he will be in favor of the slope variance.

Chair Carroll asked if anyone had anything to add and Ms. Harrington stated she will not be in favor because she's not confident in the information received from the NFP board. Mr. Eldridge asked if he could have the floor. He said that the board has only had a few of these cases and before

the vote occurs, the board has the option to table until the next meeting and all of the information they are asking for can be brought in as well as bring in the liaison to the Natural Features Protection Review board to speak about this case. He added that they were in the early stages of utilizing the new ordinance and dealing with these sort of development variances and he wants the board to know there are options but there is a need for resolution of these concerns before they get to this point in the evening, and Chair Carroll concurred and offered to table it until the open agenda item.

Ms. van den Homberg was going to make a motion to table the item until October, but Chair Carroll interrupted because this motion needed to be voted on because there is a second and added then she could table the second variance, but they currently have a seconded motion that needs a vote. Mr. Eldridge referred to Attorney Bear to clarify but offered unless the maker and second of the motion choose to remove their actions, and Attorney Bear said they can do that if they choose, and Mr. Eldridge said there is a way to reverse out of having a motion on the table and not having to be forced to vote. Chair Carroll said he doesn't think anyone is being forced to vote but wanted to know if the motion will be rescinded and Ms. Doane said she would be willing to rescind the motion if they would like to push it to next month. Chair Carroll said he doesn't need more time, Ms. Harrington said she said what she said but she would be willing to hear more information about the case because she might be swayed, but right now she is saying no. Chair Carroll said he is accepting the rescinding of the first motion. Mr. Eldridge said the seconder has to also rescind and Mr. Terpening rescinded his second based on the motion they table discussion and vote for one month from the day. Chair Carroll said he is taking Mr. Terpening's second rescinding and is that a second on the tabling by Ms. van den Homberg. Mr. Terpening answered he rescinded his second and made the motion that was tabled until next month, seconded by Ms. van den Homberg. Chair Carroll clarified that they were tabling both variances. Mr. Terpening made a motion to table both variances, seconded by Ms. van den Homberg.

Motion to table both variances approved by voice vote unanimously.

Ms. Doane read the application for 1801 Oakland Drive

ZBA#22-09-30: 1801 Oakland Drive: An application for variance for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Simbarashe Chirara, for 1801 Oakland Drive, which is situated in the Residential District (RS-5). The applicant is requesting a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or 'lodging' land use in one of the three apartments on the premises, where in Zone RS-5 rentals are limited to 30 days or more under the definition of 'household living'.

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.

Simbarashe Chirara, of 1801 Oakland Drive is requesting a use variance to turn one of the three units in his building into a short-term rental. He bought the property in 2017 and lives in one of the units and leased out the other two units. He wants to turn one of the units into an Air BnB. He stated that he has invested significantly in this unit through remodeling and furniture updates. He said there are three reasons he wants this opportunity. One is the unique features of the property, being a multiple dwelling unit that is owner occupied, and he lives in an area that has multi-family

rental units as well. He said it is located on the edge of the Oakland neighborhood and at the edge of two busy streets: Oakland and Howard. He stated another unique feature is that there is a big parking lot and it's also located opposite a fire/police station. He added that with short-term rentals, there is more of a mobile workforce and being in Kalamazoo where we have Borgess and Bronson, he wants to market to traveling nurses who are here for shorter stays as well as temporary stay needs such as executives that need to travel to the area. He said one of the difficulties he's had is that it is a rental property that he has listed out, but he hasn't been able to get market rates to generate the income to maintain the property at the level that is desired for the neighborhood so part of the reason he came up with this plan and invested so heavily is to be able to generate additional income by making these changes and also to be able to put it back into the property. Finally, he understands the concerns of the city and how it affects the people around him so did reach out to some of his neighbors and those he was able to talk to reacted positively. He added he sent four positive responses to Mr. Eldridge, but he also encountered some challenges where no one would talk to him. He added that he reached out to the neighborhood association and talked to Mr. Kushner who said he would have no concerns as long as the city requirements are met, and he maintains appropriate certification. He added that he understands the spirit of the ordinance is to maintain low intensity residential space, but he wants to add that it has been a rental all this time, he just wants to change it into a shorter-term stay and this won't change anything in terms of how things are as he currently stays on the property so he's able to monitor things more and Air BnB does a good job of screening so he believes in the quality of people coming in and they will limit the number of people coming in, which he will be able to monitor. Ms. Harrington wanted to know who he had problems talking to and what did he think was the barrier and Mr. Chirara said he wouldn't say he had problems but the way the houses are set up you would have to go into someone's property to knock and he found that difficult because he was concerned for himself. Mr. Lager asked Mr. Eldridge that since he lives on the property, wouldn't this be fall into the bed and breakfast provision and Mr. Eldridge said it could be if the applicant wanted to treat it as such, but that isn't how it was laid out. Mr. Eldridge clarified a bed and breakfast means he's providing clean linens and at least one meal a day, but in the case, he's looking to reach a more mobile workforce and letting them rent the unit and provide their own meals and take care of their own household needs and his understanding is that isn't what the owner is looking to do. Mr. Terpening asked if this is an RS-5 and Mr. Eldridge said it is. Ms. Doane stated she knows one concern was parking and she asked if he has sufficient parking and Mr. Chirara said yes, the parking can accommodate five to six cars. Ms. Harrington asked if these would be apartments or rooms and Mr. Chirara said he's asking for a use variance for one unit only and there are two bedrooms within it so if one person wanted both rooms, they can do that, but he added features that would allow for a roommate situation as well. Mr. Lager asked if the building is currently registered as a rental and Mr. Chirara stated that the one he is getting the approval for is not because when it came to do the inspection, he notified the city of his interest to do the short-term rental. Mr. Lager asked if the other unit is registered, and Mr. Chirara said it is currently going through an inspection.

Chair Carroll asked if there were any other questions and there were none.

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 he has been working with the property owner for some time on this and he put quite a bit of information in the application, including his level of outreach to the Oakland/Winchell neighborhood associations as well as the other property owners

and added that there is more public feedback for this case than any of the others they heard tonight. Mr. Eldridge said some of the defining features are that the driveway faces outward and connects to Howard Street, which is a neighborhood collector, not a residential street per se, and is on the outer edge of the Oakland/Winchell neighborhood and faces the public safety station as well as Western Michigan University property. He stated that it is a legal, non-conforming three unit and added that there are already multiple dwelling units on the property and that allows for the owner to live there as well as have rentals he is able to keep a close eye on, which is a unique feature. He added that the parking for up to six cars so he's not sure why the neighbors on Hillcrest were concerned with the parking. To sum it up, he said there are some unique circumstances that apply to this property and the impact on neighboring properties would be negligible, in staff's opinion, given that the owner is there and that there are two other dwelling units on the site. He also said there is a need for this for mobile workforce who are looking for a stay of three months or more, not 30 days or less, but there is a need to accommodate housing for short-term workers in our community. He said staff is in support, but he wants to make sure the board reviews the public feedback and the concerns identified in those communications.

Chair Carroll asked if there were more questions before establishing the finding of fact and Mr. Lager said in meeting the conditions, one is that it be certified. He added that typically a variance runs with the land and once they grant a variance on something, it applies to the subsequent owners. He asked if there was a suggestion in the packet about this and Ms. Doane said the second condition is that the variance can only be active while the current owner lives on the premises but current can mean the active owner, not just Mr. Chirara. Mr. Lager asked if he has a problem with that last condition and Mr. Chirara said no and Ms. Harrington asked why does he have to do that and Ms. Doane said she reads it differently and if the property passes to someone else, they would then need to come to the board. Mr. Lager said the two ways to look at it are whether it's just with Mr. Chirara or whether it's with anyone that chooses to reside there so it's quasi or defacto bed and breakfast. Ms. Harrington told Mr. Chirara he can't move, and Mr. Lager said the more forgiving position would be as long as Mr. Chirara owns it, to which Ms. Harrington told Mr. Chirara that he might live in the short-term rentals, but he might want to move into a different house and Mr. Chirara said he may have spoken too soon and Mr. Eldridge said it would just revert back to a traditional rental. Chair Carroll and Mr. Lager found that to be reasonable and Ms. Harrington wanted to make sure Mr. Chirara was clear on what was being said and reiterated the terms of the short-term rental. Mr. Chirara had questions about when they said it would be based on ownership and if he moved but still owned it, could it still be a short-term rental and Mr. Lager said they could make any condition and that could be that the owner would have to live on the premises make it run with this owner's ownership interest. Mr. Chirara said he understands the concerns for the neighborhood, but he asked for flexibility because he felt that making him stay there would be limiting. Chair Carroll wanted to have the discussion during the discussion period.

Chair Carroll closed the public hearing.

FINDING OF FACT

Mr. Lager moved the Finding of Fact as follows:

- 5.) The Finding of Fact for 1801 Oakland Drive include all information included in the notice of public hearing dated August 24, 2022.

- 6.) 49 notices of public hearing were sent, and five responses were received, and they are as follows: Scott Keith, Matt Fowler, Chia Jung Lesman, all in support, Kurt Adema and Kathy Doane who wanted conditions but were also viewed as support
- 7.) A public hearing was held before the board and public comments were accepted as were additional documents and comments.
- 8.) 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 applicant bought the property in 2017 and lives in one of the units. The property is zoned RS-5 there are unique features, as described by the applicant, of this house: it has a large parking lot, which is not typical of the neighborhood and probably has enough space for six vehicles, it is a multi-unit and is in a neighborhood that has other multi-units, and the house next door is as well. It is located close to the intersection of two busy streets, it's not in the interior of the neighborhood, and is located directly across the street from public safety. The other item the applicant brought up was wanting to serve a certain market need, mobile workforce, or short-term workers, or to serve employers that bring on employees for a short period of time. The applicant mentioned he had done some outreach and received some positive responses, and he reached out to the neighborhood association and received positive feedback from them as well as long as he received rental certification from the city. The units have been rentals and the granting of the variance will not change the number of people coming into or out of unit and the applicant lives on the property in one of the units so he will be able to observe what is going on. He is in process with the city to complete rental registration at this time.

Mr. Terpening seconded the Finding of Fact.

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

Discussion: Chair Carroll said this is tough because he feels he should be able to do what he wants with his property and he had the same concerns with the natural features overlay, somebody owns a property and should be able to do what he wants with it but there is the ordinance. He remembers denying a couple an Air BnB and they lived in a unit next door and were going to bring their elderly parents when they got sick, but they didn't meet the ordinance because they didn't meet the minimum necessary to allow them to use the property for its intended use, so it was denied. More recently, there was a gentleman who lives on campus on his property and rented it out as a "bed and breakfast" but was short-term rental and he squeezed in under the bed and breakfast ordinance. He said in order to be consistent they all should have conditions and that be that this gentleman, the owner, live on site or the variance would lapse because that's what they granted for one gentleman and denied for the other people. He said it wouldn't be wholly consistent, but it would be most consistent that the applicant live on the property and the variance would be lost if he didn't. Ms. Doane asked if they should add something about it being certified and Chair Carroll

said no because that is the law. Mr. Lager said it makes sense and Ms. Harrington said she doesn't think he should have to live on the property. Mr. Terpening asked if the city considered taking his up as a possible change to the code or board of ordinances for short-term rentals and Air BnB situations and Mr. Eldridge replied it has been talked about but they are updating other ordinances at the moment like the sign ordinance amendments are being finalized and clearly when they deal with short-term rentals they will need to have some public feedback sessions because they need to get the pulse of where the city stands on that because there has been some difficulty with short-term rentals but there is a definite need all different housing types but it's a matter of what zone districts and what areas of the city it's most appropriate so the answer is yes.

Mr. Lager moved to approve the application for a use variance from Chapter 4, Section 4.1 to authorize a short-term rental or 'lodging' land use in one of the three apartments on the premises, where in Zone RS-5 rentals are limited to 30 days or more under the definition of 'household living', with the condition that the owner of the property reside on the premises, seconded by Mr. Terpening.

Discussion: Ms. Harrington acknowledged that this is to permanent a solution because, as Mr. Eldridge pointed out, the city doesn't have a strong position on short term rentals yet and Mr. Chirara is coming in with a request without there having been a precedent set. She wanted to know if the city does make a change will it take precedence over the variance and Mr. Eldridge said yes. Chair Carroll said he can support it. Mr. Lager said he feels that this does deserve some feedback when the city gets to this ordinance but in the meantime, this board is carving out some logical exceptions to this but hopes they can stay consistent on a case by case and where the boundaries are.

Chair Carroll asked if there were more questions and Mr. Chirara stated that with the current conditions, life events could happen and if he gets sick and has to go to a home for two months what could happen that would make this a waste of time and Mr. Carroll said that when those bridges have to be crossed, we'll cross them and the ordinance may change so that he could live anywhere. Mr. Eldridge pointed out that it would have to also be that Mr. Chirara himself moved to a different location and was registered at a different location, so if it was a temporary situation, the variance wouldn't be nullified, and Attorney Bear agreed.

Motion was approved by roll call vote, with the condition, unanimously.

OTHER BUSINESS:

DISCUSSION/ACTION ITEMS:

Tabled discussion until next month to bring back agenda item #2 for 3625 W. Michigan Avenue so they can hear from a Natural Features Protection member and one of the developers. Mr. Eldridge wanted to know if there was anything else other than these items and the trees and Ms. van den Homberg said she wasn't being condescending but she has seen developers bring in some awful trees, but she understands why they need to do what they need to do for the property. Chair Carroll said that even though he didn't ask for the tabling, people come in all the time making statements without proof of what they're saying. Ms. Harrington said she leads by emotion and will need Mr. Eldridge to interpret for her because she is thinking about the future from the

perspective of a parent and the climate crisis is important to her. She feels that a lot of the information coming in surrounding these developments is not as complete as it should be. She added that she understands that the NFP board performs in a way to ensure conservation and still make room for developments but feels that aspect always takes precedence over the conservation aspect. Mr. Eldridge asked her if she was just trying to get the tie-in to the bigger picture as it relates to the ZBA since variances are based on the facts of each case and climate crises are not a reason to deny a variance, to do that it has to be specific to the property and something the developer may have dropped the ball on and should have done better. Attorney Bear said it has to be specific to the requirements of the variance and as far as is that the minimum necessary and how that's determined is what Mr. Eldridge and the staff does and what the NFP board does, and they have to get what the NFP board is doing and how they're doing involved in the decision. Mr. Terpening said the NFP seems like a pay to play program and if the developer pays enough, they will overlook anything. He wants to know if they can have a liaison between a board member and that group so they can have a better understanding of what the ruling is and how NFP came up with it. Attorney Bear said that was a good point and part of his role is to provide additional information and provide them with some expertise and right now he's getting the sense that they're not getting that from the process and said that needs to be refined and part of his role is to see that the meetings are conducted in a way that is defensible if someone wants to challenge and he feels it will be more defensible if the board has all the information and they feel more confident that they have reliable information. Chair Carroll asked if it would be selfish to have the NFP make the decision and leave them out of it and Mr. Lager said there is a procedural reason they're involved. Mr. Eldridge stated it's because this is the board of appeals that handles any sort of variance from provisions of the zoning ordinance so only this board can do that. Ms. Harrington said she feels that sometimes their ignorance is held against them, and she is on a constituent board and is reflective of a community that is underrepresented on most boards. She added she asks questions because she really wants to know the answers and she feels that the Natural Features Protection board should have a report to this board if they expect this board to make determinations based on their recommendations, they should also include a staff report. Chair Carroll said to Ms. Harrington's point, there is still a vacancy for an alternate and does she know anyone that would want to join and she said she knows a lot of people and urged anyone watching the meeting to come and apply.

REPORTS:

ADJOURNMENT:

The meeting was adjourned at 10:00 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair

DRAFT



Zoning Board of Appeals Staff Report

Date: **10/20/2022**

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: October 20, 2022

SUBJECT: ZBA #22-09-29 3625 W. Michigan Avenue. Great Lakes Capital is requesting the following: 1) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the proposed development to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. 2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize the removal of 71.7% of woodland, where 50% is the maximum permitted.

BACKGROUND:

The project is located on West Michigan Avenue near the Western Michigan University campus in the Commercial - Community District (CC) zone with the Natural Features Protection Overlay (NFP). The proposed use will be student housing, which will include 164 apartment units, a pool, a pool house, a basketball court, and other amenities. The proposed project will redevelop a vacant and blighted former long-term care facility (nursing home), including the demolition of the main building on the property, with significant site preparation to balance the land and manage grades on the property. This work is necessary to match grades with adjacent properties and properly route stormwater for on-site management. The project identifies both protected slopes (over 20%) and woodlands on the property. Working with AR Engineering, the applicant, Great Lakes Capital (GLC), is requesting variances from the two NFP standards. The proposal went to a Project Review Meeting to gain early feedback from the Site Plan Review Committee. After several meetings with staff and adjustments to the site plan, the applicant is requesting the following:

Variance from the Slope Protection Standards:

The NFP Ordinance has a conservation slope protection standard, which prohibits any disturbance to slopes of a 20% grade with woodland cover. Additionally, development within the slope setback is prohibited. The initial site plan for the project showed regrading and/or filling of all slopes on the entire site to prepare for a much larger footprint of buildings and parking. The applicant reduced the apartment count and pulled the development to the north end of the site, thereby reducing the impact on the sloped and woodland covered area along the

southern boundary. The loop driveway, recommended by the Fire Marshal, which extends around the south side of the southernmost buildings does pass through a protected slope area along the east side of the property.

Variance from the Woodland Protection Standards:

The NFP Ordinance has woodland protection standards, whereby sites with 50-75% total woodland coverage must preserve 50% of the area of woodland on the site. The woodland preservation requirement for this site would be preserved except for the regrading that is required to match grades of adjacent sites, loop access drive around all the buildings, and stormwater facilities that will protect off-site wetlands below the property. The initial site plan for this project showed clearing of all the woodland on the entire site to prepare for a much larger grouping of buildings and parking area. The reduction in the number of apartments and pulling the development to the north of the site has preserved the woodlands along the southern boundary.

The Natural Features Protection Review Board met on August 23, 2022 (Link to view this meeting is here: <https://youtu.be/zC5H98r8x7Q>). At this meeting, the Board unanimously approved a recommendation to the ZBA to approve the two variances with one condition that the future site plan includes a native seed mix, grasses, and trees being planted on the south slope of the new stormwater retention basin. The Zoning Board of Appeals initiated a review of the application at the September 8, 2022 regular meeting. However, this was tabled to October 20, 2022 for the developer to provide additional information.

A meeting was recently held with the developer to review concerns expressed by Board members. The developer and their consultants will provide a more detailed explanation of the complexity of redeveloping this site, additional background on the condition of the woodland being removed, and talk through the extensive site grading required. The applicant is considering expanding the replanting area and adding additional landscaping in other areas of the site. The NFP Review Board Staff Liaison Jamie McCarthy will also be present at the October 20th meeting.

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision and Master Plan 2025 alignment:

This project touches on the Strategic Vision goal of Complete Neighborhoods as it will result in the removal of a blighted structure and construction of new housing units.

The Future Land Use Map identified this parcel as commercial. The proposed use does fit with the surrounding land uses as there is student housing to the east and a bar/restaurant and more student housing to the west.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement

Notices have been sent to all property owners within 300 feet.

Engagement/Communication Tools:

Gazette notice and letters.

FINDINGS:

Relief from the NFP Overlay District Standards in § 50-6.2 may be granted when all the following conditions are met. The staff has made the following findings regarding this request:

The parcel cannot be reasonably utilized for its zoned use without the requested relief.

The goal of the NFP Ordinance is to balance development with protection of the natural features. Adherence to the standards in the NFP Ordinance would limit development to approximately 50% of the property and would not address the antiquated stormwater management on the site. The developer has reduced the number of housing units and parking spaces to less than what is permitted for this site to accommodate the preservation of the natural features. Further reductions would make this project no longer feasible.

The extent of relief requested is the minimum needed to permit reasonable utilization of the site.

The requested relief is the minimum action that will allow for the redevelopment of this site. The developer has scaled back the project to protect the natural features.

It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.

Granting the relief will result in the demolition of a blighted structure, the regrading of the site to match the grades of the adjacent developments, preservation of native slope and woodlands along the southern boundary of the site, and replacement of the antiquated stormwater system.

The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater BMPs from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List.

Greater stormwater capture and treatment will improve the condition of woodland and low-lying areas along the southern boundary of the property. The condition placed on the

recommendation for approval requires the replanting of the area south of the detention basin with native grasses and trees.

RECOMMENDATION:

The staff follows the recommendation of the NFP Board and recommends approval of the two NFP variances as they meet the review criteria, with the one condition that the future site plan includes a native seed mix, grasses, and trees being planted on the south slope of the new stormwater retention basin.



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

October 5, 2022

**RE: ZBA #22-09-29
3625 W. Michigan Avenue
Parcel #06-19-463-001**

NOTE: Application Tabled at Prior Meeting on Sept. 8, 2022

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Great Lakes Capital for 3650 W. Michigan Avenue in the Commercial – Community District (CC).

The applicant is requesting the following variances:

- 1) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the development proposed to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately 36,590 square feet (.8 acres) of slopes and slope setback area.
- 2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 G, to authorize the removal of 71.7% of woodlands (increase of 21.7%), where 50% is the maximum permitted.

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

The meeting will be held on Thursday, October 20, 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

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ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Great Lakes Capital		Mailing Address: 130 South Main St., Ste. 325
City: South Bend	State: IN	ZIP Code: 46601
Phone: 574-855-5700	Email: j smoke@greatlakescapital.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: Kalamazoo Realty Holdings, LLC		Mailing Address: 40600 Ann Arbor Rd. E. Ste. 201
City: Ann Arbor	State: MI	ZIP Code: 48170
Phone:	Email: simi@hallmark-living.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 3625 W Michigan Ave, Kalamazoo, MI 49006		
Parcel Identification Number(s): 06-19-463-001		Zone District (kalamazoo.org/maps): CC - community commercial
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>50</u> , Section(s) <u>6.2 and 7.2</u>		
☐ Appeal of an Administrative Decision		
☐ Interpretation of Zoning Ordinance, Chapter(s) <u>50</u> , Section(s) _____		
☐ Use Variance to allow _____		
☐ Temporary Use Approval		
Reason for Request: Variance to allow for tree removal within the NFP Overlay as noted on the plans. (28.3% preserved / 71.7% requested to be removed). Variance to allow for 36,590 sft of steep slope impacts.		
ATTACHMENTS		
☒ \$ <u>300.00</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.
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: <u>Jeff Smoke</u>		Date: <u>08/02/22</u>
Signature of Owner (if different than applicant): <u>[Signature]</u>		Date: 08 / 02 / 2022

ZONING BOARD OF APPEALS

NATURAL FEATURES PROTECTION REVIEW SHEET

General Information

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

The site is proposed to be redeveloped as an apartment complex. The existing site will be demolished and cleaned up to allow for redevelopment. The development is planned to have several amenity upgrades such as a pool, pool house, basketball court and other sport court.

Review Criteria for Natural Features Protection Variances

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

The parcel cannot be reasonably utilized for its zoned use without the requested relief.

The existing parcel was recently added into the NFP Overlay. Adjacent parcels have been developed fully utilizing their parcel. The property in question cannot reasonably be utilized as similar uses that exist on the adjacent parcels without some relief.

The extent of relief requested is the minimum needed to permit reasonable utilization of the site.

The extent of relief shown for the tree impacts are the minimum needed when considering a balance between preservation, cost feasibility, and required site improvements. There are fire department requirements that dictate needing a looped fire lane around the site. This requirement does impact and require tree removal. The site redevelopment will clean up a dilapidated building and site that has created issues for the City of Kalamazoo. The shown improvements (number of units) are at the low end of desired unit count to make this project feasible to redevelop the site.

It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.

There is no concern for substantial detriment to the public good and granting relief will not impair the intent and purpose of the NFP Overlay District.

The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater best management practices from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List.

The requested relief utilizes existing site features as best possible to minimize tree removals and minimize slope impacts. Storm water management will be reviewed in greater detail with the City Engineering team, but existing natural low areas near the South property line are intended to be utilized to help minimize required storm water runoff requirements.

It is intended to plant desired trees detailed in Table 6.2-5. We will work closely with the City of Kalamazoo and our landscape architect to put together a detailed landscape plan utilizing desired trees and plantings.

We also intend to have additional supporting documentation on the types and condition of existing trees within the woodland area that is proposed to be impacted. We will have these documents prepared and provide them to the City prior to the upcoming Board meetings.

The proposed development coincides with the City's zoning ordinance and provides more residential housing within the City limits in an area that has additional demand for housing. Michigan Ave contains multiple uses ranging from commercial to multi-family residential. Approving this variance increases housing availability for families and students in this area.



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ZONING BOARD OF APPEALS

NATURAL FEATURES PROTECTION REVIEW SHEET

General Information

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

The site is proposed to be redeveloped as an apartment complex. The existing site will be demolished and cleaned up to allow for redevelopment. The development is planned to have several amenity upgrades such as a pool, pool house, basketball court and other sport court.

Review Criteria for Natural Features Protection Variances

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

The parcel cannot be reasonably utilized for its zoned use without the requested relief.

The existing parcel was recently added into the NFP Overlay. Adjacent parcels have been developed fully utilizing their parcel. The property in question cannot reasonably be utilized as similar uses that exist on the adjacent parcels without some relief.

The extent of relief requested is the minimum needed to permit reasonable utilization of the site.

The extent of relief shown for the steep slope limits is the minimum needed when considering a balance between preservation, cost feasibility, and required site improvements. There are fire department requirements that dictate needing a looped fire lane around the site. This requirement does require impacts to a section of steep slope. The neighboring development to the East created berm areas / steep slopes adjacent to the shared property line, which creates hardships to match existing grades.

It is demonstrated that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the NFP Overlay District.

There is no concern for substantial detriment to the public good and granting relief will not impair the intent and purpose of the NFP Overlay District. Slope restoration methods such as double sided mulch blanket, utilizing foundation walls of proposed buildings, and reinforcing slopes are planned for in order to minimize steep slope impacts.

The requested relief is balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater best management practices from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List.

The requested relief utilizes existing site features as best possible to minimize impacts to steep slopes. Storm water management will be reviewed in greater detail with the City Engineering team, but existing natural low areas near the South property line are intended to be utilized to help minimize required storm water runoff requirements and therefore keep impacts to steep slopes minimal (as shown on the submitted plans).

The proposed site redevelopment will clean up a dilapidated building and site that has created issues for the City of Kalamazoo. The shown improvements (number of units) are at the low end of desired unit count to make this project feasible to redevelop the site. We will plan to attend the required meeting and be prepared to discuss any questions the City or Board may have that the required meetings.

The proposed development coincides with the City's zoning ordinance and provides more residential housing within the City limits in an area that has additional demand for housing. Michigan Ave contains multiple uses ranging from commercial to multi-family residential. Approving this variance increases housing availability for families and students in this area.



Community Planning & Economic Development

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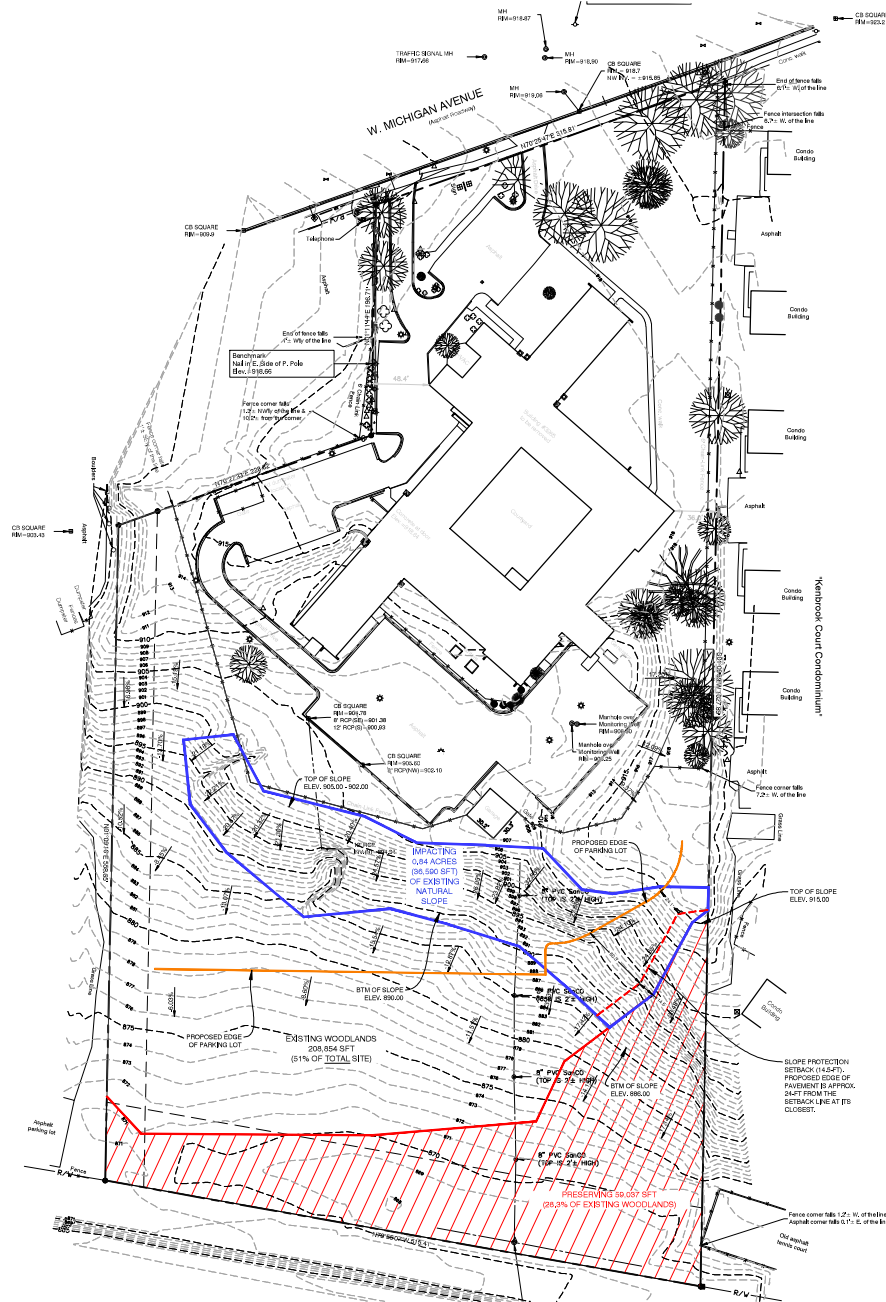
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DEMOLITION NOTES

1. ALL WORK SHALL CONFORM TO ALL LOCAL, STATE AND FEDERAL LAWS, RULES AND REGULATIONS IN FORCE AT TIME OF CONSTRUCTION.
2. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS, PERMIT COSTS, TAP FEES, METER DEPOSITS, PERMANENT UTILITY APPLICATIONS, BONDS, AND OTHER FEES REQUIRED FOR PROPOSED WORK. THIS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO THOSE REQUIRED BY THE CITY OF KALAMAZOO, MICHIGAN AND KALAMAZOO COUNTY.
3. CONTACT MISS DIG "911" FOR LOCATION OF UNDERGROUND UTILITIES. A MINIMUM OF 48 HOURS BEFORE COMMENCING EXCAVATION WORK, THE DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY OF NOTIFYING UTILITY OWNERS WHO ARE NOT PART OF THE MISS DIG ALERT SYSTEM. THE CONTRACTOR SHALL CONDUCT HIS OPERATIONS IN A MANNER AS TO ENSURE THAT THOSE UTILITIES NOT REQUIRING RELOCATION WILL NOT BE DISTURBED.
11. DEMOLISH & REMOVE ALL EXISTING SITE FEATURES AS REQUIRED.
12. ALL SOIL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO DEMOLITION.
13. ALL EXCAVATION SHALL BE IN ACCORDANCE WITH THE TECHNICAL SPECIFICATIONS AND GEOTECHNICAL REPORT FOR THIS SITE.
14. ALL EXISTING ELEVATIONS ARE TO BE VERIFIED AND ACCEPTED AS SHOWN PRIOR TO COMMENCEMENT OF WORK.
15. CONTRACTOR SHALL TAKE PRECAUTIONS TO AVOID TRACKING SOIL ONTO ADJACENT ROADWAYS. CONTRACTOR SHALL SWEEP IMMEDIATELY IF OCCURS.
16. ANY DISTURBED AREA WHICH WILL BE LEFT UNWORKED 15 DAYS OR LONGER MUST BE SEEDED TO ESTABLISH VEGETATION FOR TEMPORARY STABILIZATION. BAINS TO BE SEEDED AND MULCH BLANKETS APPLIED IMMEDIATELY TO PROVIDE A STABLE BASE AND AVOID EXCESSIVE EROSION.
17. REVIEW ALL THE REMOVALS AND PROTECTION WITH OWNER PRIOR TO COMMENCING CONSTRUCTION. INSTALL TEMPORARY SNOW FENCE AROUND ALL TREES REQUIRING PROTECTION. SNOW FENCE SHALL BE PLACED AT EDGE OF DRIP LINE.
18. SAWCUT ALL CURBS, SIDEWALK, AND PAVEMENTS PRIOR TO REMOVAL. ADDITIONAL SAWCUT MAY BE NECESSARY PRIOR TO REPLACEMENT TO ENSURE CLEAN EDGE.
19. ALL REMOVALS SHALL BE TAKEN OFF-SITE AND DISPOSED OF PROPERLY. NO STOCKPILE OR BURNING OF DEBRIS IS ALLOWED.
20. ALL REMOVALS SHALL BE TO THE LIMITS INDICATED ABOVE UNLESS OTHERWISE DIRECTED BY THE ENGINEER. UNAUTHORIZED REMOVALS AND SUBSEQUENT REPLACEMENT SHALL BE AT THE CONTRACTORS EXPENSE.
21. REMOVE, STORE, AND RESET ANY EXISTING SIGNS AS DIRECTED BY THE ENGINEER/OWNER.
22. REMOVE ALL TREES TO THE CLEARING LIMITS AS SHOWN. REMOVE ALL EXISTING TREES, STUMPS AND BRUSH FROM THE SITE AS NECESSARY TO CONSTRUCT THE IMPROVEMENTS.
23. THE CONTRACTOR SHALL DEMOLISH AND REMOVE ANY ITEMS REMAINING FROM THE EXISTING BUILDING, IN ITS ENTIRETY, INCLUDING WALLS, FOUNDATIONS AND FOOTINGS. ALL BUILDING DRAINS AND UTILITY LEADS SHALL BE LOCATED AND PROPERLY PLUGGED. UTILITY LEAD WORK SHALL BE COORDINATED WITH THE APPROPRIATE UTILITY COMPANY.
24. BACKFILL EXCAVATED AREAS WITH CLEAN GRANULAR FILL COMPACTED TO 95% OF THE MATERIAL UNIT WEIGHT BY MODIFIED PROCTOR.
25. CONTROL SHALL BE MAINTAINED OVER THE SITE AND OPERATION TO ELIMINATE HAZARDS TO THE PUBLIC. NAILS OR OTHER TIE PUNCTURING ITEMS SHALL NOT BE DROPPED ON STREETS, ALLEYS AND ADJACENT PROPERTY. PUBLIC STREETS, CURBS AND SIDEWALKS SHALL BE PROTECTED FROM DAMAGE. THE PERSON ENGAGED IN THE DEMOLITION WORK SHALL BE LIABLE FOR ANY AND ALL DAMAGE TO CURBS, STREETS, SIDEWALKS AND OTHER PUBLIC OR PRIVATE PROPERTY AND FOR ANY BODILY INJURY OCCURRING AS A RESULT OF THE DEMOLITION WORK.

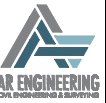
NATURAL FEATURES PROTECTION

ORDINANCE REQUIREMENTS:
WOODLAND COVERAGE OF PARENT PARCEL: 50% - 75%
MINIMUM REQUIRED WOODLAND COVERAGE TO BE PRESERVED: 50%
EXISTING WOODLAND AREA: 208,845 SFT
TOTAL SITE AREA: 411,971 SFT
WOODLAND COVERAGE PERCENTAGE: 51%
PROPOSED WOODLAND AREA: 59,037 SFT
PROPOSED WOODLAND TO BE PRESERVED: 26.3%
VARIANCE REQUESTED TO REMOVE 71.7% OF REMAINING WOODLANDS WHEN ORDINANCE ALLOWS 50% REMOVAL OF WOODLANDS.



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: MCGRAW & ASSOC., INC.

PLANS PREPARED BY:



DRAWN: BROAD
CHECKED: JPM

No.	ISSUED FOR:	DATE	BY
0	VARIANCE	08/02/22	JPM
1			
2			
3			
4			

EXISTING CONDITIONS
KALAMAZOO MULTIFAMILY
GREAT LAKES CAPITAL
3625 W MICHIGAN
SECTION 19, T2S, R17W

JOB NUMBER
2185008

DATE
08/02/2022

SHEET NUMBER
C1.0

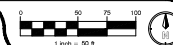
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ORDINANCE REQUIREMENTS:
WOODLAND COVERAGE OF PARENT PARCEL: 55% - 75%
MINIMUM REQUIRED WOODLAND COVERAGE TO BE PRESERVED: 50%

EXISTING WOODLAND AREA: 208.85 SFT
TOTAL SITE AREA: 411.971 SFT
WOODLAND COVERAGE PERCENTAGE: 51%

PROPOSED WOODLAND AREA: 56.037 SFT
PROPOSED WOODLAND TO BE PRESERVED: 28.2%

VARIANCE REQUESTED TO REMOVE 74.7% OF REMAINING WOODLANDS WHEN ORDINANCE ALLAYS 50% REMOVAL OF



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: MOSTROM & ASSOC., INC.

C1.1

SITE DATA

1. PROPERTY INFORMATION:
PARCEL #S: 06-19-403-001
SITE AREA: 411,971 SF (6.46 AC)
OWNER: KALAMAZOO REALTY HOLDINGS, LLC
4060 W. MICHIGAN RD., E. 3RD, 201
A111 (H101), MI 48817
DEVELOPER: GREAT LAKES CAPITAL
130 SOUTH MAIN ST., STE 325
SOUTH BEND, IN 46801
PHONE: (874) 854-7000
EMAIL: JIM@GREATLAKESCAPITAL.COM
2. ZONING:
PROPERTY CURRENTLY ZONED: CC-COMMUNITY COMMERCIAL
ABUTTING PROPERTY CURRENTLY ZONED:
NORTH: CM-1-COMMERCIAL NEIGHBORHOOD &
RS-4-RESIDENTIAL SINGLE DWELLING
SOUTH: CC-COMMUNITY COMMERCIAL
EAST: RM-15-RESIDENTIAL MULTIFAMILY
WEST: CM-1-COMMERCIAL NEIGHBORHOOD; PUD
PROPOSED LAND USE = MULTIFAMILY DWELLING
PERMITTED USE IN COMMUNITY COMMERCIAL DISTRICT
3. SETBACKS
FRONT = NOT SPECIFIED
SIDES = 25' ABUTTING R. DISTRICT / N/A
REAR = 25' ABUTTING R. DISTRICT / N/A
4. PARKING:
REQUIRED = (1) PARKING SPACE PER UNIT
164 UNITS / 1 PER UNIT = 164
ORDINANCE ALLOWS 10% INCREASE = 180
PROVIDED (SURFACE PARKING SPACES) = 204
PROVIDED (GARAGE PARKING INSIDE BLDG) = 30
TOTAL PROVIDED = 234
VARIANCE OF 54 SPACES REQUIRED
5. BUILDING:
THREE-STORY
MAXIMUM HEIGHT: N/A
PROPOSED IMPERVIOUS COVERAGE: 81%
MAXIMUM IMPERVIOUS COVERAGE: 80%

GENERAL NOTES

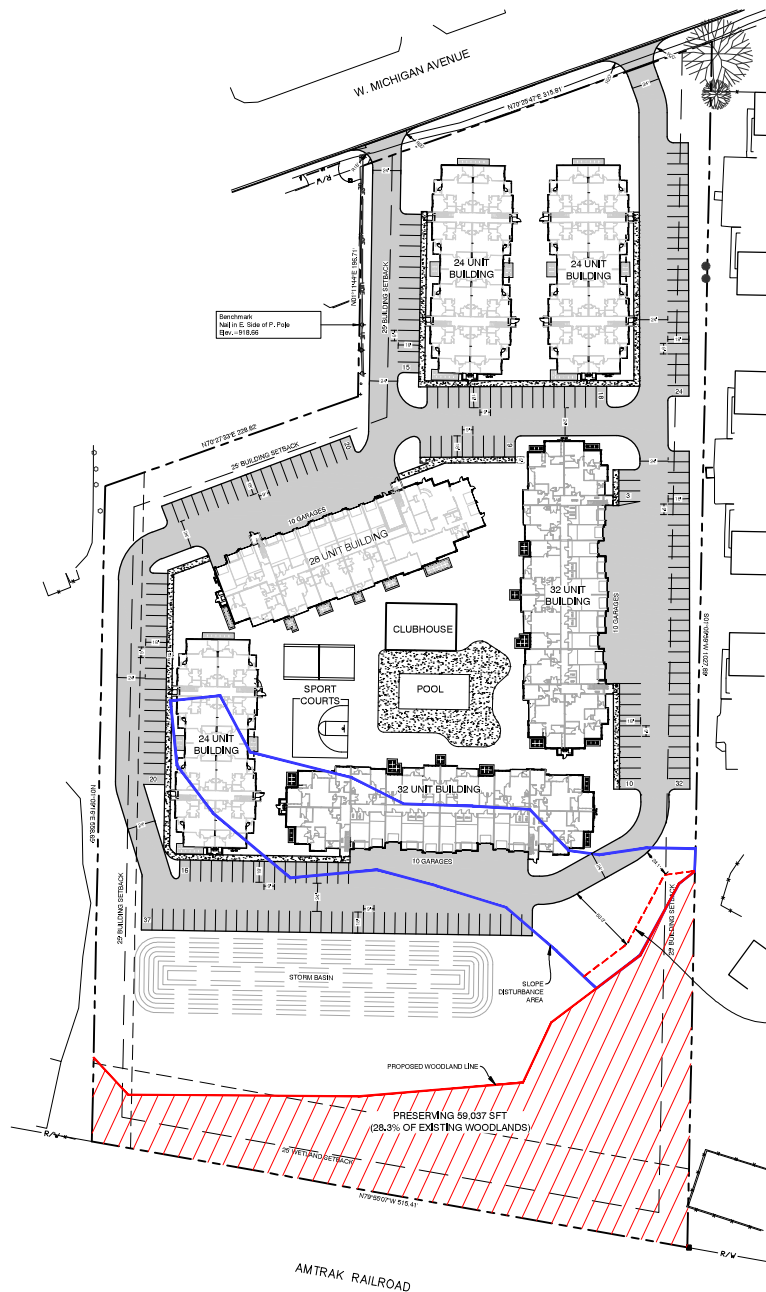
1. DIMENSIONS TAKE PRECEDENCE OVER SCALE. CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD.
2. IF ANY ERRORS, DISCREPANCIES, OR OMISSIONS BECOME APPARENT, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER PRIOR TO CONSTRUCTION OF ANYTHING AFFECTED SO THAT CLARIFICATION OR REVISION MAY OCCUR.
3. ALL CURB RADIUS AND DIMENSIONS ARE TO FACE OF CURB. CURB 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

- PAVEMENT SECTION
- CONCRETE PAVEMENT AND SIDEWALK

NATURAL FEATURES PROTECTION

- ORDINANCE REQUIREMENTS:
WOODLAND COVERAGE OF PARENT PARCEL: 50% - 75%
MINIMUM REQUIRED WOODLAND COVERAGE TO BE PRESERVED: 50%
EXISTING WOODLAND AREA: 201,645 SFT
TOTAL SITE AREA: 411,971 SFT
WOODLAND COVERAGE PERCENTAGE: 51%
PROPOSED WOODLAND AREA: 59,037 SFT
PROPOSED WOODLAND TO BE PRESERVED: 28.3%
VARIANCE REQUESTED TO REMOVE 71.7% OF REMAINING WOODLANDS WHEN ORDINANCE ALLOWS 50% REMOVAL OF WOODLANDS.



PLANS PREPARED BY:



No.	ISSUED FOR:	DATE	BY
0	VARIANCE	08/02/22	JPN
1			
2			
3			
4			

SHEET TITLE
PROJECT
COUNT
SITE ADDRESS
SITE SECTION

JOB NUMBER
2185008
DATE
08/02/2022

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: MCGRAW & ASSOC., INC.



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Parcels within 300' Mailing Radius 3625 W Michigan Ave

-  Subject Property
-  Property within 300' Mailing Radius
-  Other Property
-  Zoning District Boundary



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **10/20/2022**

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: October 20, 2022

SUBJECT: ZBA #22-10-32: 301 Nazareth Rd. The Kalamazoo Department of Public Safety is requesting a use variance from Chapter 4, Section 4.1 to authorize an explosives training facility and explosives disposal range at this site in the Manufacturing- Limited District (M1).

BACKGROUND:

The Kalamazoo Department of Public Safety (KDPS) Bomb Squad is requesting to construct a permanent explosives facility for training, demonstrations, and explosives disposal. The current location is on the east side of Nazareth Road where the KDPS training facility is located. This explosives disposal facility is considered temporary due to its limited size and proximity to buildings and Nazareth Road.

KDPS would like to establish a permanent facility to enhance the Bomb Squad's capabilities at 301 Nazareth Road. KDPS is working with the Bureau of Alcohol, Tobacco and Firearms and Explosives (ATF) on this proposal, as permanent explosives ranges are regulated by the ATF. The ranges or facilities are limited to the size of detonation the location can support. At 301 Nazareth Road, the nearest occupied structure is 600 feet away, which is a considerable standoff distance from where explosives would be detonated. KDPS will limit the size of explosive devices to five (5) lbs. of net explosive weight though the existing standoff distance of 600 feet would allow for a slightly larger amount. KDPS will also not store any explosives on the site. Any explosives brought to the site will be properly transported by bomb technicians.

Reasons provided for site selection:

1. Size of parcel (56 acres) and location in a manufacturing zone district.
2. It can easily be secured with fencing and controlled access points created.
3. Not close to any occupied structures or roads.
4. The elevation difference between location and structures in the area would protect the structures from the effects of detonation of explosives.
5. It is outside of the Wellhead Protection capture zones.

6. The site meets the ATF requirements to be a permanent facility, not a temporary one like the currently designated location.

STRATEGIC VISION ALIGNMENT:



Safe Community- Creating a safe environment for living, working, and playing

Strategic Goal Impact:

The project does touch on the Strategic Vision goal of Safe Communities as this facility will provide for improved training opportunities for the KDPS Bomb Squad and a designated location for detonating Improvised Explosive Devices (IDE's).

COMMUNITY ENGAGEMENT:

Inform (the community will be made aware of the project.):

Appropriate Depth of Engagement:

The applicant has reached out to the adjacent property owners on East Michigan Avenue. Notices have also been sent by the city to all property owners within 300 feet and a notice was sent to the Eastside Neighborhood Association.

Engagement/Communication Tools:

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 enforcement of the terms and provisions of the ordinance would not allow the KDPS Bomb Squad to utilize the parcel to conduct explosive training and/or conduct render safe procedures on improvised explosive devices which are hazardous to public health and safety. The Zoning Ordinance does allow for explosive storage and mining in the M-2 District but not in the M-1. However, this site meets all the other ATF criteria for a permanent explosives disposal range. Furthermore, the M-1 District does permit 'General - Industrial Uses' in which land uses are allowed which generate noise and vibrations detectable from the property boundaries.

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 hardship is finding a suitable location that meets all the qualifying factors in the city. KDPS researched many sites; this involved looking at properties owned by the city in zone districts of M-1 and M-2, locating this facility on a property with an adequate buffer from occupied structures, considering the topography of the site, and not placing it within the Wellhead Protection Zones. This site meets all the ATF requirements and is suitably large to create a good standoff distance from the nearest structures.

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

The special circumstance is derived from the responsibility to keep the public safe. There is not a properly designed and designated permanent explosive disposal facility within the city. The KDPS Bomb Squad has conducted a comprehensive review of ATF (Bureau of Alcohol, Tobacco, Firearms and Explosives) regulations regarding the establishment of a permanent explosive disposal facility. Guided by these regulations, the current site was selected.

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 is the minimum action that will make it possible for this parcel to be utilized as an explosives training and disposal facility. Further, the maximum size of any explosive device to be detonated at this site will be limited to five (5) lbs.

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

The proposal has been reviewed and approved by the City of Kalamazoo Public Services Director James Baker, Environmental Programs Manager Jean Talanda and Senior Civil Engineer Eric Sajtar. No findings were identified that this project would have an adverse impact on the community or the environment.

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

The granting of the variance will be consistent with the intent of the Ordinance. This location is in a manufacturing zone district which does acknowledge that some land uses permitted may generate noise and vibration which will be detectable at the property line. Further, this is a 56 acre site which will provide a substantial buffer from developed properties.

RECOMMENDATION:

Staff supports approval of the use variance as the proposed project meets the review criteria and this is a necessary facility for the KDPS operations.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

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FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

October 5, 2022

**RE: ZBA #22-10-32
301 Nazareth Road
Parcel #06-13-452-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by the Kalamazoo Department of Public Safety for 301 Nazareth Road in the Manufacturing – Limited District (M-1).

The applicant is requesting a use variance from Chapter 4, Section 4.1 to authorize an explosives training facility and explosive disposal at this site located in the Manufacturing-Limited 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, October 20, 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: David Moran		Mailing Address: 150 E Crosstown Parkway	
City: Kalamazoo	State: MI	ZIP Code: 49001	
Phone: 337-8352	Email: morand@kalamazoo-city.org	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: City of Kalamazoo		Mailing Address:	
City:	State:	ZIP Code:	
Phone:	Email:	Preferred Contact: ☐ Email ☐ Phone	
PROPERTY INFORMATION			
Property Address(s): 301 Nazareth Rd			
Parcel Identification Number(s): 06-13-452-001		Zone District (kalamazoo-city.org/maps):	
TYPE OF REQUEST			
☐ Dimensional Variance from Chapter(s) _____, Section(s) _____ ☒ Use Variance to allow M-1 to M -2 <u>Explosives training and disposal</u>		☐ Appeal of an Administrative Decision ☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____ ☐ Temporary Use Approval	
Reason for Request: The Kalamazoo Department of Public Safety Bomb Squad is requesting use of the property to conduct explosives training and improvised explosive device (IED) disposal.			
ATTACHMENTS			
☐ \$ _____ 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: 		Date: 8/29/22	
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):

Kalamazoo Department of Public Safety (KDPS) Bomb Squad Explosive Disposal Range.
Please see attached proposal.

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. The KDPS Bomb Squad is proposing use of the parcel to conduct explosive training and/or conduct render safe procedures on improvised explosive devices which are hazardous to public health and safety. The current zoning (M-1) would prohibit this activity as there is no land use involving explosives detonation other than 'Mining'. However, the M-1 District does permit 'General -Industrial Uses' in which the Ordinance states it is permissible to generate noise and vibrations detectable from the property boundaries for periods of less than 15 minutes per day.

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?

The hardship was finding a suitable location that met all the qualifying factors. KDPS has been researching the city to determine the most appropriate location. This involved looking at properties owned by the city in the more intensive zone district of M-1 and M-2, locating this facility on a property with an adequate buffer from residential areas, considering the topography of the site, and not placing it within the Wellhead Protection Zones.

Are the special circumstances created by actions of the applicant?

This special circumstance is derived from the responsibility to keep the public safe. There is no properly designed and designated location currently to use as an explosive disposal range within the city. The KDPS Bomb Squad has conducted a comprehensive review of ATF (Bureau of Alcohol, Tobacco, Fire Arms and Explosives) regulations regarding the establishment of a permanent explosive disposal range. Guided by these regulations, the KDPS Bomb Squad has completed a proposal for use of this city owned parcel as a explosive disposal range. The location, size and proposed use of the lot would be in compliance with these regulations.

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. Allowing the variance from M-1 (light industrial) will allow the KDPS Bomb Squad to conduct explosive training and/or render safe procedures.

Will the granting of the variance negatively affect adjacent land?

No. The proposal has been reviewed and approved by the City of Kalamazoo Public Services Director James Baker, Environmental Programs Manager Jean Talanda and Senior Civil Engineer Eric Sajtar.

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

Yes. The proposed use of the parcel is consistent with the current zoning requirements for use, with the exception of using explosives. Granting a variance will allow for the use of explosives and only be a slight deviation from the current land use.



Kalamazoo Department of Public Safety Explosive Demolition Range Site Plan Proposal

Pre-Site Plan Review
City of Kalamazoo
08-10-2022



Proposal:

The Kalamazoo Department of Public Safety (KDPS) Bomb Squad is requesting to construct a permanent explosive disposal range at 309 Nazareth Rd to be used for explosive disposal operations, training, and demonstrations. This permanent range would replace the expedient range which is currently in use at the KDPS training facility.

Problem:

The current range used by the KDPS Bomb Squad is located at the KDPS Training Facility at 300 Nazareth Road and is classified by the Bureau of Alcohol, Tobacco Firearms and Explosives (ATF) as an “expedient range”. An expedient range is an area suitable for conducting disposal operations, but is limited in safety, control, and consistency. Expedient ranges are temporary in nature and should only be used on a limited basis.

The overarching issue with the current range is the location. The assigned range area is very small in size, is adjacent to a well-traveled road and near an active gravel pit. Additionally, the range is centered between several buildings which are frequently used for training by KDPS personnel. During range operations, it is difficult to manage all these variables to assure no bystanders/officers breach the designated safety area. These constraints have significantly limited the KDPS Bomb Squad’s capability at the range.

Solution:

By establishing the proposed site as a permanent disposal range the KDPS Bomb Squad’s capabilities will be greatly enhanced. The proposed site is an ideal location for a permanent range. The site is already secured with fencing and has controlled access points. The site is ample distance away from inhabited structures and would support an area designated only for explosive disposal, demonstration, and training. Establishing a designated area as an explosive range sets a standard of consistency, which strengthens safety measures and increases control over the training ground. Outside of utilizing the proposed site as an explosive disposal range, the scope of use for the site is limited, as the terrain would not support large developments. Therefore, establishing the proposed area as an explosive disposal range would optimize use of the site.

Objectives:

- Outline the proposed construction plans for the range.
- Highlight the policies and procedures for use of the range.

Note: This proposal has been drafted using recommendations set forth in the “Guide to Developing a Permanent Disposal Range” which was written by the Bureau of Alcohol, Tobacco, Firearms and Explosives with the assistance and cooperation of the San Bernardino County CA, Sheriff’s Department, and the National Bomb Squad Commander’s Advisory Board. (Appendix 6).

Range limit:

Permanent explosive disposal ranges are regulated by the ATF. Range regulations limit the size of detonation in which the range can support; this is known as the range limit. The range limit is determined by several variables, most notable is assuring there is standoff distance from the blast origin to the nearest inhabited structure(s). The range limit is established to prevent damage/injury from fragmentation and/or blast pressure from occurring. The range limit is measured in net explosive weight (NEW). The NEW is the total weight, expressed in pounds, of explosive material or explosive equivalency contained in an item. Commercial explosives are measured using the standard equivalency weight of TNT (Trinitrotoluene), which is a 1:1 ratio, as 1lb of TNT has the net explosive weight of 1lb.

The range limit for the proposed site was calculated using the K-Factor method. The K-Factor method is a calculation used to determine a standoff distance which protects personnel and bystanders against hazardous blast pressure and fragmentation of a detonation. The accepted, industry standard K-factor is 328. The process of calculating the range limit and standoff distance is highlighted next.

Range limit calculation:

According to Google Earth, the nearest occupied structure is 600ft away from the center of the proposed range site. Using this distance, which is input into the K-Factor calculation, the acceptable range limit for this site is 6.12lbs net explosive weight. This explosive range limit was also confirmed by an industry expert. To provide an additional margin of safety and limit the likelihood of noise complaints from residents in the area, the range limit for the site will be set at 5lbs net explosive weight.

(K=K-factor, D= Distance, NEW = Net Explosive Weight)

The equation used to calculate range limit is $(D/K)^3 = NEW$

Therefore, the range limit is calculated by $(600/328)^3 = 6.12\text{lb NEW}$

Standoff:

The restricted access point(s) were determined by calculating the standoff distance of a 5lb (range limit) detonation, again, using the K- Factor calculation. The standoff distance for the proposed range is 560.87ft. The restricted access points will be this distance from the center of the range to ensure a standoff distance is maintained throughout operations. Any disposals involving heavy fragmentation shall remain within this safe distance as well. Any anticipated operation involving a detonation beyond this level will be done so at another facility.

Standoff calculation:

The K-factor equation to calculate standoff distance is $D = K \sqrt[3]{NEW}$

Therefore, the standoff distance for the proposed range is $328 (\sqrt[3]{5}) = 560.87\text{ft}$

The stipulations for the explosive range are as follows:

Disposal Site Preparation:

- A 300ft radius around the disposal site will be bare earth.
- A 500ft radius around the disposal site will be cleared of combustible material such as dry grass, brush, debris, and leaves.
- A minimum distance of 150ft will be established for multiple burn/demolition sites. This will prevent a burning ember from entering the adjacent disposal site.
- The ground will be flat and not exceed a 10% grade.
- If using a burn pad, it will not be constructed of concrete, gravel, or cinders.
- Additional protective measures will be applied by adding berms around the disposal site.
- A designated emergency area or shelter will be established near the disposal site which will be used to protect members from high velocity fragment and radiant heat from burning and denotation operations.

Range Security:

- The entire range perimeter is protected using chain link fencing. The range will be restricted to only two vehicle entrances to the site, both of which will be gated. The main entrance to the site is key card access only and the secondary entrance will be secured and/or blocked during range operations. The key card access will be restricted to City of Kalamazoo employees with Public Services and the Kalamazoo Department of Public Safety.
- Prior to range operations a designated section of the interior roadway will be closed to prevent vehicular and pedestrian traffic from entering within the designated standoff distance of the disposal range.
- The entrance and fenced perimeter will be placarded with signs restricting access to the site and giving notice to the presence of an explosive demolition range. Please refer to Appendix 1 for the map which provides a visual representation.

Range Operations:

- All range operations will be conducted in compliance with internal KDPS policies and procedures, as well as explosives regulations set by the Bureau of Alcohol, Tobacco, Firearms and Explosives.
- Every detonation will be supervised by certified bomb technicians. Control of the range will be the responsibility of the Range Officer and Safety Officer. For larger disposal operations, the Range Officer will designate an Explosive Control Officer and assign operational assistants as needed.
- An explosive demolition range operation plan will be completed for each operation (Appendix 2). The operations plan is a safety checklist which is used to ensure proper notification has been made and procedures are in place while at the range. Included within the operation plan, is the requirement to give notice to public services, prior to conducting explosive disposal/demonstration or training.

- Prior to conducting explosive operations, the range will be “closed” by the Range Officer. When the range is closed, only essential KDPS personnel will be allowed beyond the restricted access points. The restricted access points will be closed by using a system of warning signs and instructions. After the operation is complete, the Range Officer will conduct a range walk and assure the range is safe to open. Once the range is opened by the Range Officer, all city employees will be allowed past the restricted access point.
- At the conclusion of the range operation, the range will be cleared of solid wastes and will be disposed of properly.

Range Safety:

- Every operation conducted at the range will be documented with the range operation plan and in accordance with departmental policies and procedures.
- All explosives handling will be conducted by or under the supervision of federally licensed public safety bomb squad technicians.
- The disposal range is within cellular and/or radio service area and the Range Officer will be responsible to maintain a method of communication.
- If any toxic hazards or certain explosive and munitions are present, range members will take safeguards to prevent exposure during disposal operations.
- A first aid kit and fire extinguisher will be present during all range operations. If needed, additional firefighting resources will be staged.
- If an injury occurs, patients will be transported to a level 1 trauma hospital the nearest being Bronson Hospital located at 601 John St, Kalamazoo, MI.
- The range officer will ensure the disposal area is secured around the designated standoff area during disposal operations and warn personnel of ongoing operations by yelling “fire in the hole!” three times in multiple directions

Signage

- The entire perimeter of the range will be affixed with warning signs, indicating the presence of an explosive disposal range. These signs will be accompanied by “no trespassing” signs alternating every 250ft.
- The gated access points leading into the site will also be affixed with warning signs.
- The two restricted access points will also be designated using warning signs and an interchangeable marker sign which will be used to display the status of the range. See signage examples in Appendix 3.

Range maintenance:

- The landscaping and grass areas in proximity to the disposal range will be properly maintained to prevent overgrowth.
- The sand range will also be properly groomed after each disposal operation, to ensure an orderly and clean appearance. Hand tools will be stored on site to make this possible.

Explosives Storage/Transport:

- No explosives will be stored on site. Any explosives brought to/from the range will be properly transported by bomb technicians

Range Improvements

- A large section of the disposal/demonstration range will be graded with tamped sand at least 3 inches deep. This is to protect from fragmentation hazards such as rocks and other natural debris.
- A fragmentation barrier will be constructed using railroad ties and/or large timbers. This barrier will be used to dispose of material that has a likelihood to produce fragmentation (pipe bomb, rocket motor, etc.) The fragmentation barrier will be built into the west berm at the end of the range. Please refer to Appendix 4 for dimensions and proposed location of the fragmentation barrier.
- An open pavilion will be constructed at a safe distance away from the range. The pavilion will provide a covered, controlled, and safe area to prepare explosives out of the elements. The pavilion will be located at least 330ft away from the furthest most portion of the demolition range. This distance is the safe, acceptable distance for a 1lb net explosive weight shot, which is commonly used for explosive demonstrations.
- Large earthen berms will be constructed around the range site to provide another layer of protection against fragmentation and to protect the utility lines near the north portion of the range.
- Trees will be planted on the north and west portion of the range to provide additional sound abatement for residences located away from the range.
- The site will be properly graded to ensure ground water runoff is channeled away from the range.
- A door breaching façade will be constructed at the range. The façade will be used for explosive door breaching training. Please refer to Appendix 5 for the map and dimensions of the façade.

APPENDIX 1



Kalamazoo Department of Public Safety Explosive Demolition Range Site Plan Proposal



APPENDIX 2



KALAMAZOO DEPARTMENT OF PUBLIC SAFETY BOMB SQUAD



Explosive Demolition Range Operation Plan

RANGE PERSONNEL: Two required for disposal (RO, SO). Three required for demonstration (RO, SO, OA)

Range Officer:	
Safety Officer:	
Operational Assistant(s):	
Explosive Control Officer:	

SHOT INFORMATION (5lb range limit)

☐ Disposal ☐ Demonstration ☐ Training

Shot #	NEW	Safe Distance
1		
2		
3		
4		
5		

NOTIFICATIONS

Life EMS: ☐ Yes ☐ No

Fire: ☐ Yes ☐ No

KCCDA: ☐ Yes ☐ No

Public Services: ☐ Yes ☐ No

PRE- FIRE CHECKLIST

Safety Brief Complete: ☐ Yes ☐ No
Safe standoff met: ☐ Yes ☐ No
Med kit/fire extinguisher: ☐ Yes ☐ No
Airspace clear: ☐ Yes ☐ No
Lightning w/in 7 miles: ☐ Yes ☐ No
Roadway secured: ☐ Yes ☐ No
Range cleared: ☐ Yes ☐ No
Announcement made: ☐ Yes ☐ No

POST- FIRE CHECKLIST

Proper initiation: ☐ Yes ☐ No
All shots fired: ☐ Yes ☐ No
Range walk completed: ☐ Yes ☐ No
Material collected: ☐ Yes ☐ No
Range groomed: ☐ Yes ☐ No

EMERGENCY RESPONSE PLAN

If any injury occurs during range operations the patient will be transported to the nearest level 1 trauma hospital. (Bronson Hospital, 601 John St, Kalamazoo, MI)

APPENDIX 3

Perimeter Signage

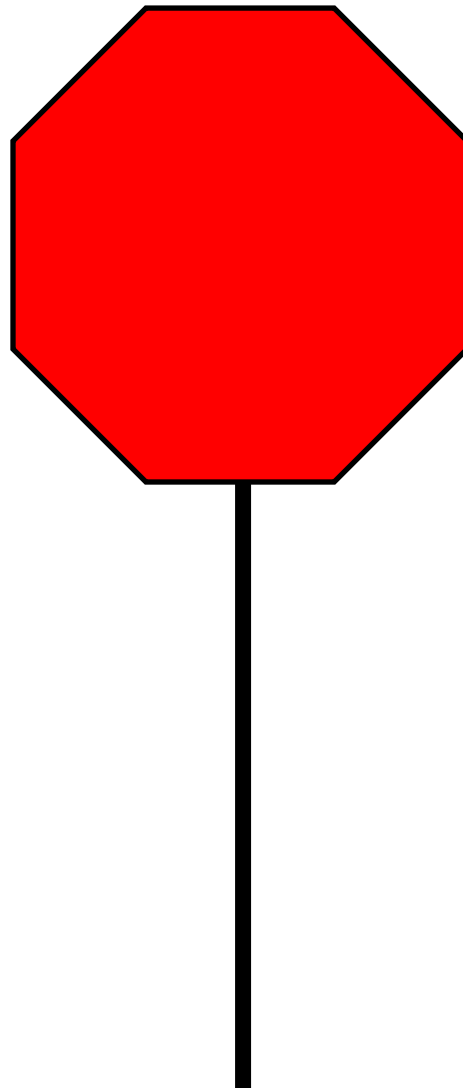
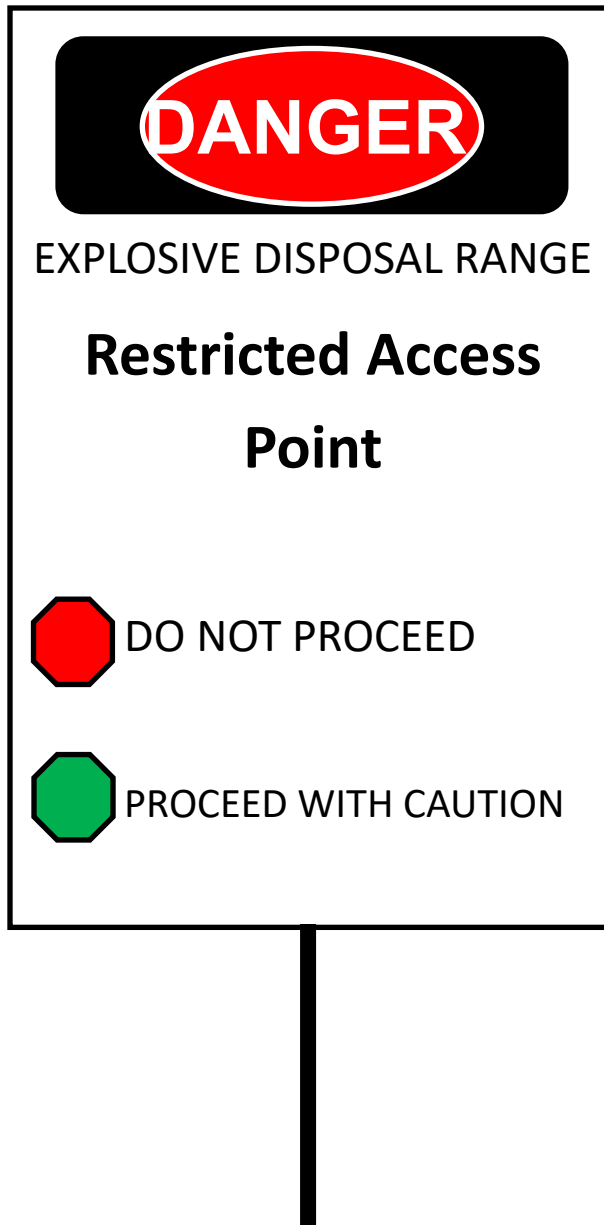


This sign will be affixed to the outside perimeter fencing. This sign will be accompanied by a "No Trespassing Sign" and will be alternately placed every 250ft along the entirety of the fence. These signs will be approximately 7" x 10" in size. The letters on the sign will be at least 2" tall.



This sign will be affixed near the gated entrances to the site. This sign will be approximately 24" x 30" in size and letters on the sign will be at least 2" tall.

Restricted Access Point Signage



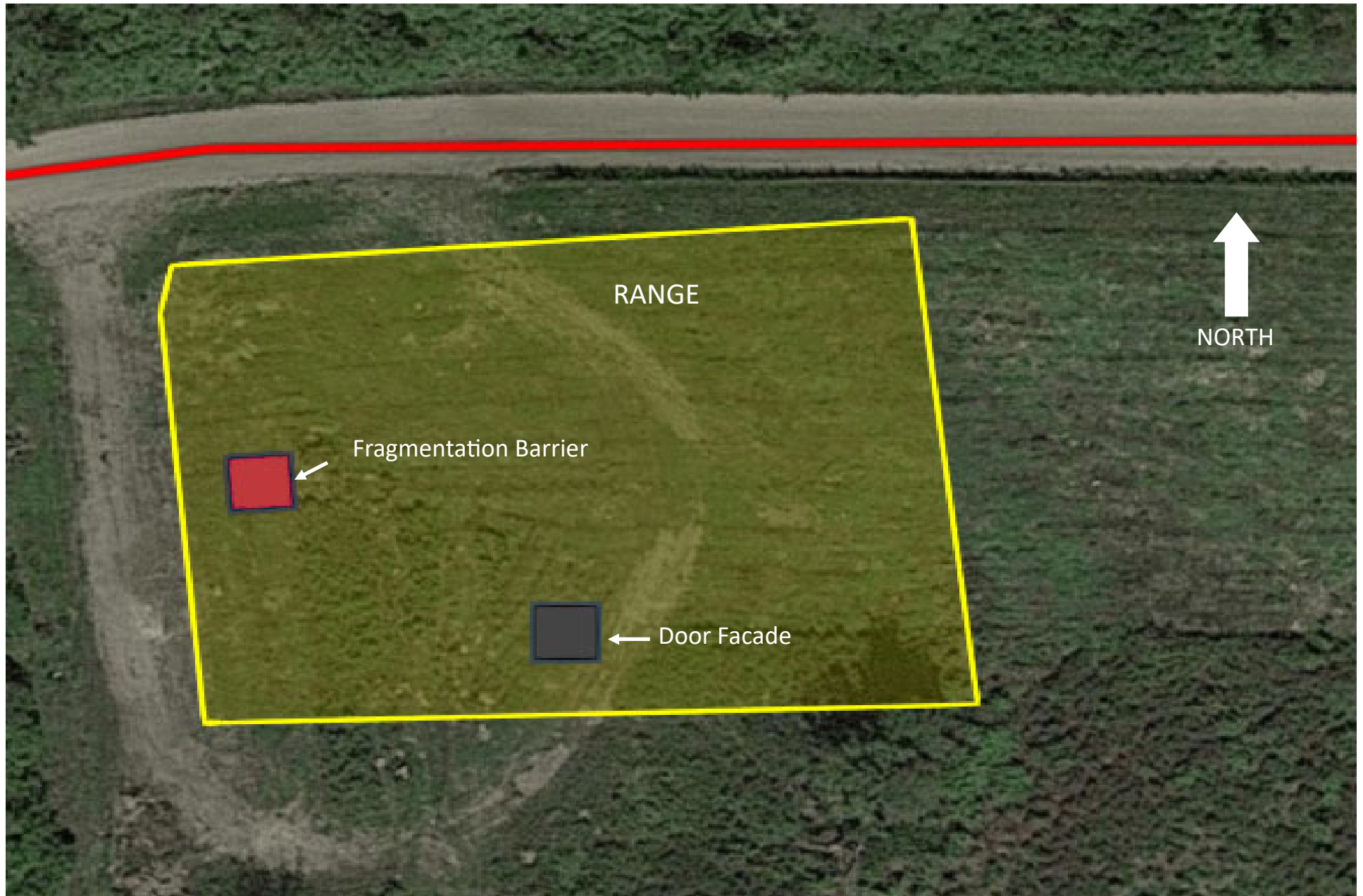
Within the secured area of the range, there will be two restricted access points.

- Each restricted access point will be marked with a 24" x 30" sign accompanied with a marker sign. The sign will have at least 2" lettering and the marker sign will be the size of a standard stop sign.
- The marker sign will have one color on each side; one side green, the other side red. The marker sign will be placed in a hollow mount so it can be rotated. When the range is closed, the red side of the marker sign will face the incoming traffic, notifying that the range is closed. When the range is open, the green side of the sign will face incoming traffic, indicating that the range is open and to proceed with caution.
- The range officer will be responsible to change the appearance of the marker sign.

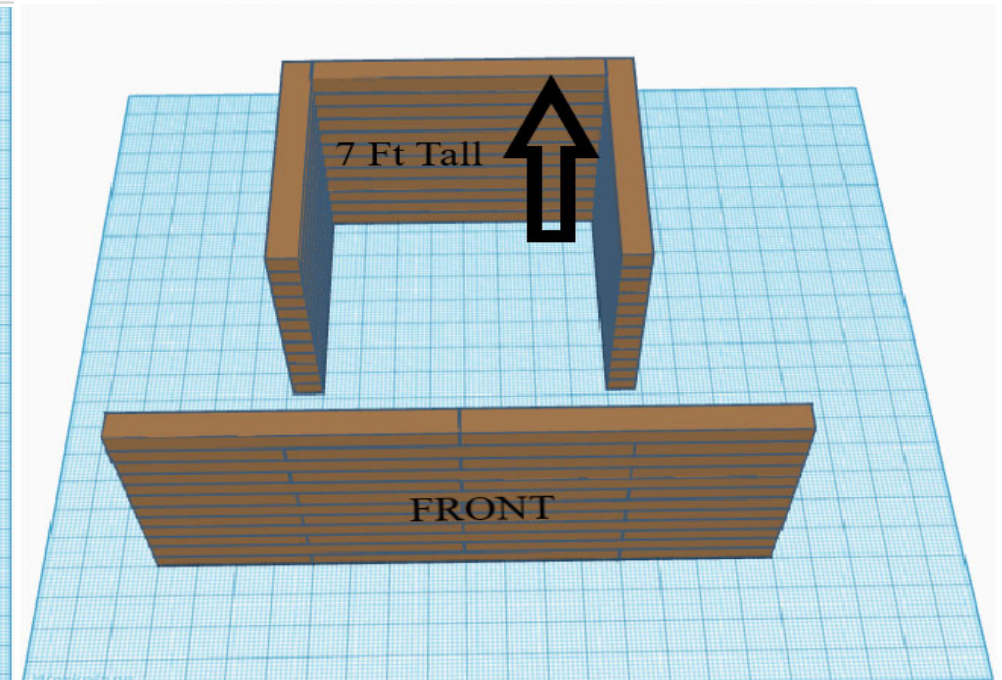
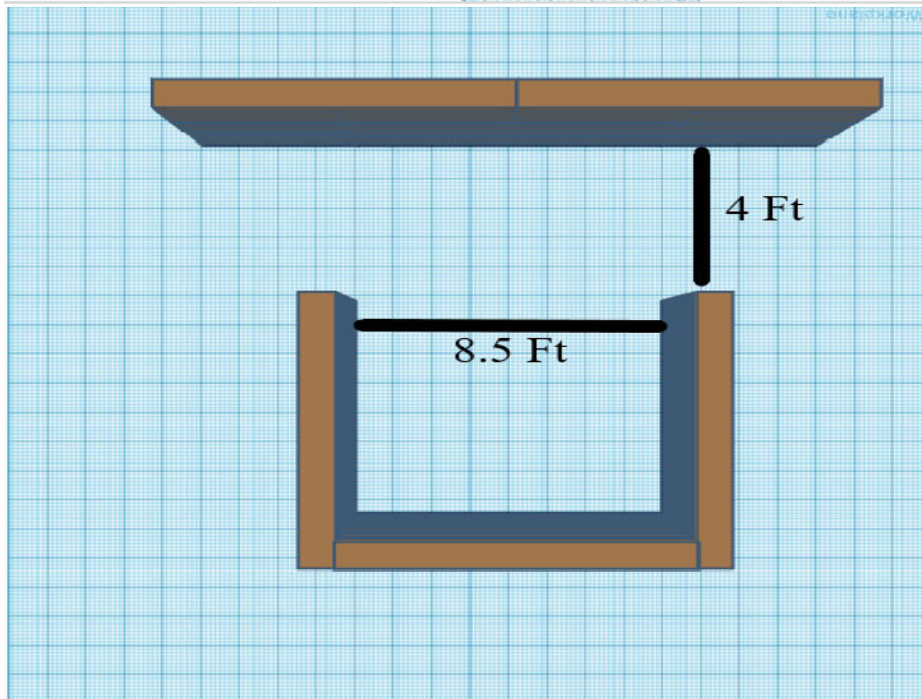
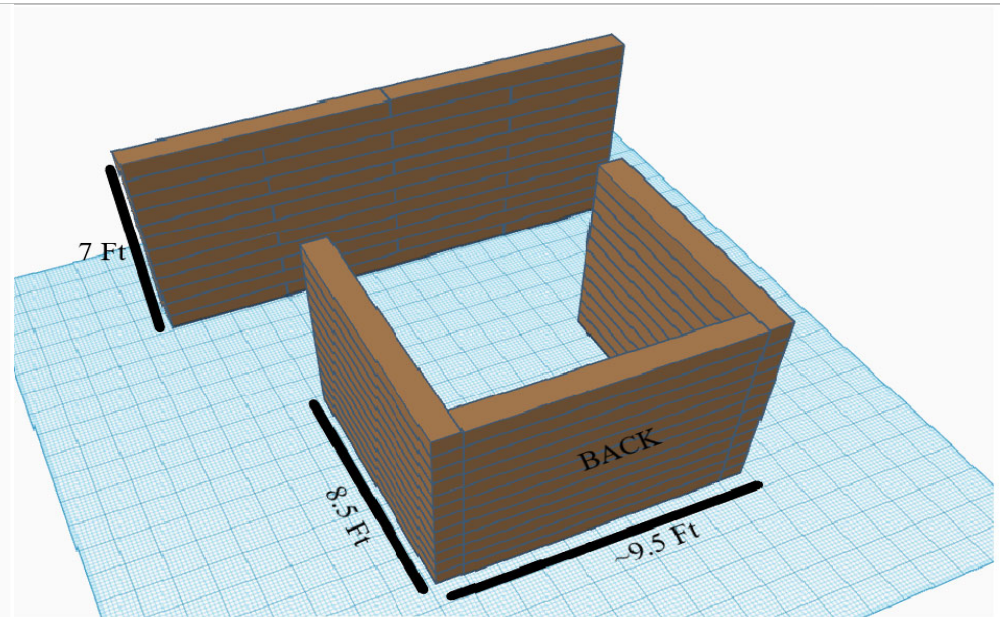
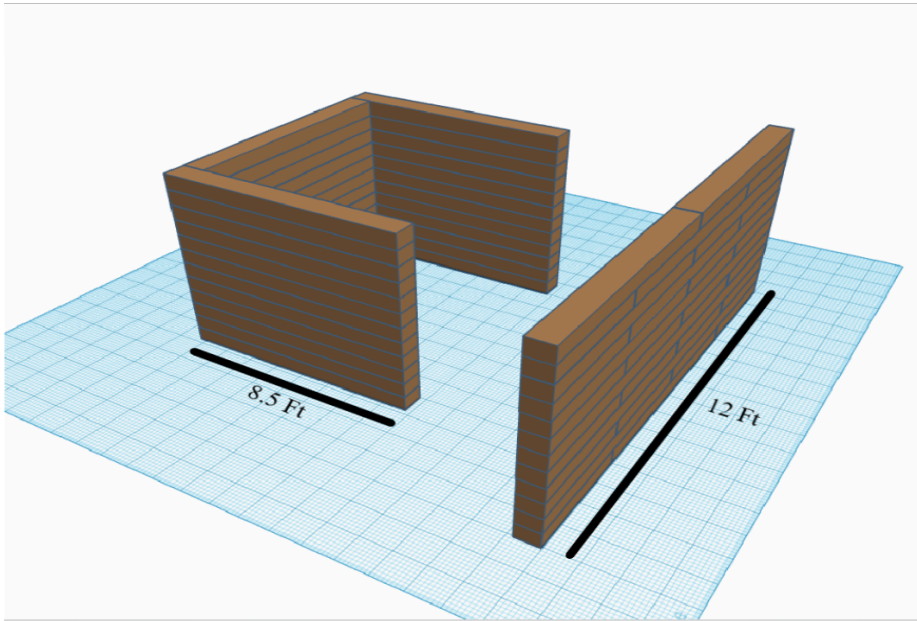
APPENDIX 4



Kalamazoo Department of Public Safety Explosive Demolition Range Site Plan Proposal



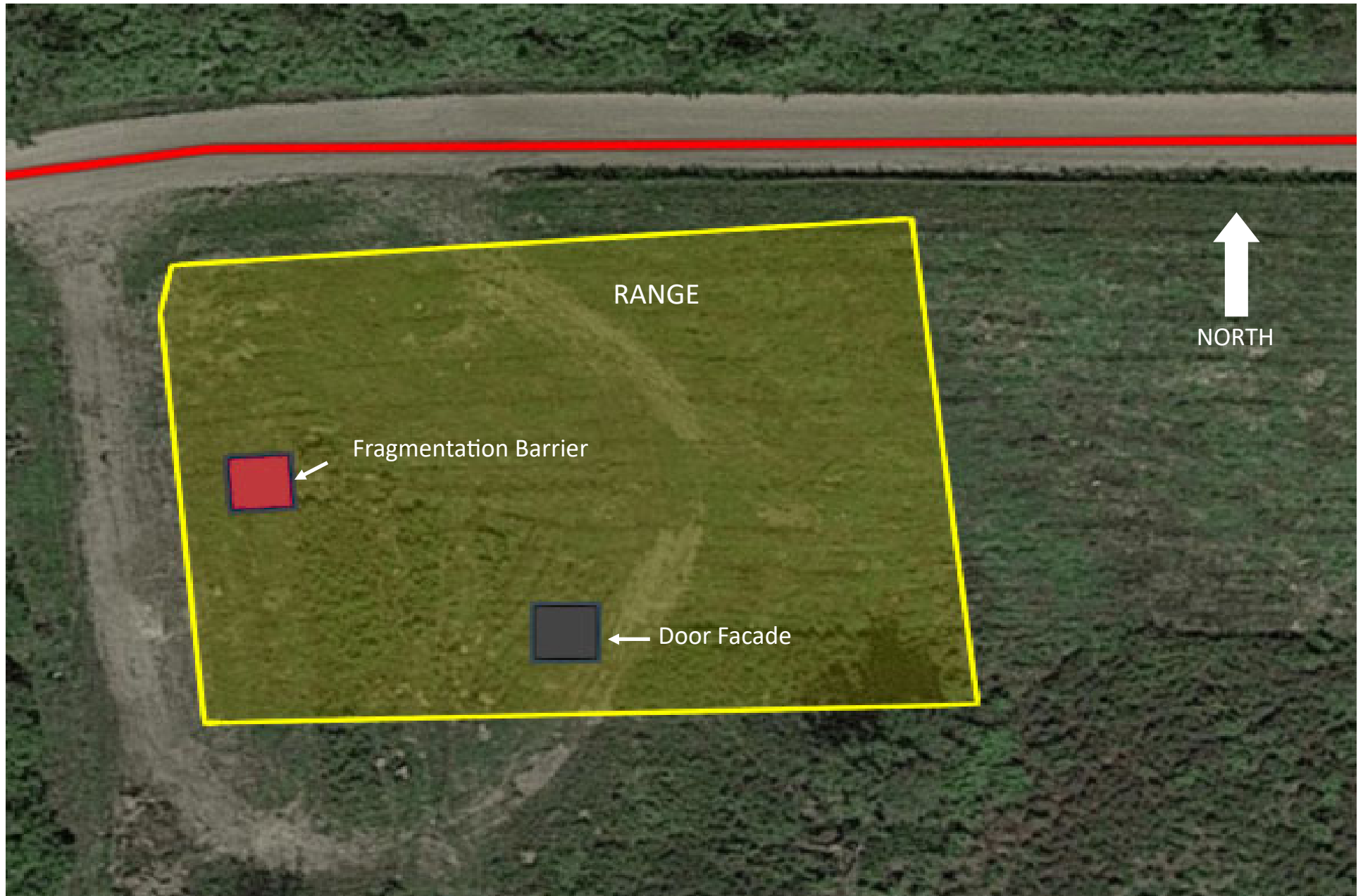
Concept design of fragmentation barrier



APPENDIX 5



Kalamazoo Department of Public Safety Explosive Demolition Range Site Plan Proposal



Door breaching facade



Door breaching façade - construction

This slide depicts one door frame. All 6 x 6's must be cemented into the ground and the 4 x 8 panel at each end helps keep the wall rigid.
(NEVER) use nails to put the façade together, the boards will separate from the charge over pressure. Always use 3" screws



6 x 6 x 10ft posts = 6ea for door ways and 2 extra for end flaps = **8ea**
2 x 6 treated = 10 will be used for the door frames and 3 will be for top rail support = **13ea total**
2 x 6 untreated = **10ea** (note: these are not treated because they will get replaced regularly)
2 x 4 untreated = **10ea** (note: You can count on replacing the 2 x 4 on the hinge side for some shots)
1 x 2 trim = **10ea** (this will be replaced on the hinge side for every shot also)
4 x 8 treated sheet of plywood for end flaps = **2ea**

APPENDIX 6

Developing a Permanent Disposal Range

The following checklist is a guide to assist bomb technicians in determining their range needs and requirements. This checklist is not all-inclusive. It is meant to give the technician a starting point when developing a permanent disposal or training range. The user may find additional publications to assist with establishing range requirements.

This checklist does not address operational procedures. All personnel present during disposal or training operations involving explosives should be thoroughly trained and familiar with all requisite local operating procedures.

This guide has been written by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) with the assistance and cooperation of the San Bernardino County, CA, Sheriff's Department and the National Bomb Squad Commanders' Advisory Board.

Inquiries regarding the content of this document should be directed to:

Chief, Explosives Technology Branch
Bureau of Alcohol, Tobacco, Firearms
and Explosives
99 New York Avenue, NE
Washington, D.C. 20226

CHECKLIST

1. Determine Your Needs

- Determine what types and quantities of materials you will be destroying from past explosives destruction requirements.
- Determine the quantities of material that you can safely store and transport.
- Determine how much material you can safely destroy, taking into consideration:
 - Material (fragmenting, non-fragmenting);
 - Disposal techniques;
 - Manpower;
 - Training; and
 - Disposal environment.
- Select an area that meets your needs.

2. Suggested Preparatory Research

Radio Frequency (RF) Hazards

Ensure that RF energy or stray electrical current is not present in the disposal area.

Extraneous Electrical Currents (Blasters Handbook)

Address problems such as lightning, stray ground currents, induced current from alternating electromagnetic fields, static from wind-driven dust and snow, galvanic currents, and stray currents in equipment.

Pre-Blast Survey (Department of Interior Blasting Guidance Manual)

Address problems such as ground vibration, air blast, and fragmentation.

Soil Contamination (Environmental Protection Agency [EPA])

Address problems such as previous soil contamination, previous water table contamination, and future hazards of ground water and water table contamination.

Fire Hazards

Discuss with the local fire marshal what fire hazards are present and how to eliminate or reduce the possibility of a range fire.

Air Quality Board

Discuss with the Air Quality Board your unique circumstances and requirements. Discuss requirements and procedures for scheduled burns and emergency burns.

Federal Aviation Administration

Contact the local office to ensure that the proposed disposal area does not interfere with any existing or proposed airways.

Utilities

Ensure that no public utility lines are located in or near the disposal area. If utilities cannot be avoided, contact the owners of the utility to develop the necessary protective measures.

Other Research Sources

Speak with local blasters and the local water district managers who may have dealt with these issues in the past.

Meet with the Owners of the Surrounding Property

Discuss with them your proposed plans and their concerns.

3. Disposal Site Preparation

Site Preparation

- Ensure that an area 300 feet in radius from the disposal site is completely cleared (bare earth).
- Remove combustible material such as dry grass, brush, debris, and leaves from an area that is an additional 200 feet in radius (500 feet total) from the disposal site.
- Ensure that the distance between multiple burn sites will be sufficient to prevent a burning ember from landing on an adjacent site (a minimum distance of 150 feet).
- Ensure that the ground is flat and does not exceed a 10 percent grade.
- Ensure that the burn pad is not made of concrete, gravel, or cinders.
- Take advantage of the topography when establishing the location of the disposal area to shield public areas from operations.
- Include an emergency protective shelter near the disposal sites that will afford protection from high velocity fragments and radiant heat from burning and detonation operations.

Site Security

- Establish a procedure to block all entrances and exits to the disposal area.
- Identify the disposal area with fencing and signs around the perimeter.
- Limit the number of entrances and exits to the disposal area.
- Develop a procedure to:

- Ensure that the disposal area is secured around the fragmentation zone perimeter during the conduct of disposal operations; and
- Warn personnel of ongoing demolition operations using flags, road guards, and warning signals.
- Placard the disposal area at each entrance to ensure that unauthorized personnel do not enter the area.

Site Safety

- Ensure that the disposal area is serviced by either telephone or two-way radio communication located in a safe area.
- Be aware of the toxic hazards of certain explosives and munitions, and take safeguards to prevent personnel exposure during disposal operations.

Site Maintenance

- Establish a method of disposing of solid waste in order to keep the disposal area clean and orderly at all times.
- Establish a method of collecting and disposing of non-explosive hazardous waste.

4. Temporary Explosives Storage

The storage site should:

- Be located outside the fragmentation zone.
- Be upwind of the disposal site.
- Have no RF energy or stray electrical currents present in the explosives storage area if electrical explosive devices are present.
- Meet physical security requirements.

5. Emergency Equipment

- Prepare an Emergency Response Plan. Ensure that the local fire and medical authorities are aware of your response plan.
- Ensure that fire extinguishers or other firefighting equipment is available onsite.
- Ensure that a first aid kit is available onsite and make arrangements with local medical facilities in the event personnel are injured.
- Designate an area for life flight/ medevac.

6. Site Operations

- Write a Standard Operating Procedure (SOP) for the disposal site that includes:
 - Procedures for common disposal methods;
 - Procedures for writing and authorizing operations plan for each disposal operation;
 - All misfire procedures;
 - Post-operation procedures;
 - Personal Protective Equipment Plan, such as wearing flame resistant clothing when conducting burn operations;
 - The use of spark-resistant tools; and
 - A method for obtaining weather-related data, including wind, rain, and lightning.

- Ensure that all personnel have read the range SOP and that it is available onsite.
- Conduct all disposal operations in accordance with the SOP developed for the site.
- Establish a training standard for all personnel who will participate in disposal operations.

7. Range Improvements

Disposal Pit Construction

- Bed of Sand (reduce fragmentation and fly rock).
- Fragmentation Barriers.
 - Use wooden barriers such as railroad ties, which can be constructed and repaired or replaced when needed.
 - Consider earth berms, which are very rugged.
 - Use natural barriers such as quarry walls.
 - Use tamping if possible.
- Sound Reduction.
 - Plant vegetation.
 - Consider fragmentation barriers, most of which also reduce or deflect sound.
- Water Runoff.
 - Catching the ground water runoff and filtering it using drainage ditches and HEPA filters may reduce the chances of contamination of the area water supply.

8. Burn Pad Construction

- Surface Pad.
 - Packing the earth and preparing the ground to improve drainage will give you a site that you can use more often and that will stand up to prolonged use.
- Water Run Off.
 - (See above).

9. Burn Trailer or Burn Tank

- A burn trailer or burn tank at the designated site will create much less contamination and limit it to a very small area.
- Establish a procedure for the disposal of burn residue.
- Permanent structures may raise additional environmental issues and involve additional regulations.

10. Regulating Agencies

ATF

Ensures that qualified and legitimate applicants enter the explosives industry and that licensees employ proper recordkeeping and safe storage practices to help prevent thefts, explosives incidents, and the acquisition of explosives for criminal purposes. ATF works closely with public safety officials and explosives industry members to promote compliance with the Federal regulations in Title 27 of the Code of Federal Regulations (CFR), Part 555.

Occupational Safety and Health Administration (OSHA)

Responsible for standards to protect workers in the use of explosives outside of mines. General standards are found in 29 CFR, Part 1910.109, while standards for construction are found in Part 1926, Subpart U.

Federal and State EPA

Impacts the manufacturing and use of explosives in a variety of ways.

Air Quality Board

Establishes and monitors procedures for emissions and air quality issues.

Water Agency

Establishes and monitors procedures to prevent contamination of the local water supply.

Fire Marshal

Protects life and property through the development and application of fire prevention engineering, education, and enforcement.

11. Reference Material

The following reference material may or may not apply to your agency or your activities. The information found in the reference material below will answer many of your questions concerning explosives storage, disposal operations, range requirements, and accepted demolition procedures. These reference materials were current at the time of writing this document, and you should seek the most current version of these materials if possible.

- 27 CFR, Part 555, Commerce in Explosives (ATF).
- 29 CFR, Part 1910.109, Explosives and Blasting Agents (Department of Labor, OSHA).
- 29 CFR, Part 1926.900, Blasting and the Use of Explosives (Department of Labor, OSHA).
- 30 CFR, Section 816.61-68, Use Of Explosives: (Department of the Interior, Office of Surface Mining).
 - 816.61 Use of Explosives: General Requirements.
 - 816.64 Use of Explosives: Blasting Schedule.
 - 816.66 Use of Explosives: Blasting Signs, Warnings, and Access Control.
 - 816.67 Use of Explosives: Control of Adverse Effects.
 - 816.68 Use of Explosives: Records of Blasting Operations.
- U.S. Army Corps of Engineers, Engineer Pamphlet 1110-1-17.
 - Establishing a Temporary Open Burn and Open Detonation Site for Conventional Ordnance and Explosive Projectiles.
- Department of the Interior, Blasting Guidance Manual.
- NAVSEA Operational Publication (OP) 5, Volume 1, Ammunition and Explosives Ashore.
- Department of the Army Field Manual (FM) 5-250, Explosives and Demolitions.

- International Society of Explosives Engineers (ISEE) Blasters Handbook.
- Institute of Makers of Explosives (IME) Safety Library Publication.
 - No. 3: Suggested Code of Regulations for the Manufacture, Transportation, Sale, Possession, and Use of Explosive Materials.
 - No. 4: Warnings and Instructions for Consumers in Transporting, Storing, Handling, and Using Explosive Materials.
 - No. 17: Safety in the Transportation, Storage, Handling, and Use of Explosive Materials.
 - No. 20: Safety Guide for the Prevention of Radio Frequency Radiation Hazards in the Use of Commercial Electric Detonators.
 - No. 21: Guidance on the Destruction of Commercial Explosive Materials under the U.S. EPA's Immediate Response Exception.

12. Fragmentation Distances

Using Charts

- FBI Special Technicians Bulletin 94-1.
 - Guide to the Destruction of Commercial Explosives.
 - Table 1, Fragmentation Distance Table.
- Department of the Army FM 5-250.
 - Explosives and Demolitions.
 - Table 6-2, Safe Distances for Personnel (Near Bare Charges).

- Table 6-3, Safe Distances for Personnel (Charges On Target).
- NAVSEA OP 5, Volume 1.
 - Ammunition and Explosives Ashore.
 - Table 13-1, Classifications of Detonation Sites.
 - Table 13-2, Demolition Training Sites.

Calculating

- Department of the Army FM 5-250.
 - Explosives and Demolitions.
 - Safe Distances for Personnel Near Bare Charges.
 - Safe Distance (Feet) = 300 Times the Cubed Root of the Weight of the Explosives.
- NAVSEA OP 5, Volume 1.
 - Ammunition and Explosives Ashore.
 - Chapter 13: Disposal of Ammunition and Explosives.
 - 13-1.4, Personnel.
 - Safe Distance (Feet) = 328 Times the Cubed Root of the Weight of the Explosives.
 - Not Less Than 1,250 Feet for Non-Fragmenting Explosive Materials.
 - Not Less Than 2,500 Feet for Fragmenting Explosive Materials.
 - Not Less Than 4,000 Feet for Bombs and Projectiles 5 Inches in Diameter or Larger.

Schippers Lane, City of Kalamazoo – KDPS Potential Bomb Detonation Site over Basin #7 (5/11/2022)

Attached is my summary of the Safety Data Sheets (SDSs) and other information researched. Overall, most of the information researched focused on military bases or manufacturing facilities which have a more extensive use of chemicals than what KDPS is proposing. Based on the proposal, the range limit is 5 lbs net explosive weight.

Summary of the use of Schippers Lane property for a small bomb detonation site:

- First, the proposed range is not in a wellhead capture zone. The property is vacant and used for disposal of inert materials (i.e., concrete and asphalt), composting and wood piles. Seven basins formerly exist that were used for disposal of sanitary sludges, ash-like materials and eventually filled with organic materials, sands and/or inert materials. The site elevation is approximately 840 feet above mean sea level (ft AMSL).
- Second, a confirmed aquitard is beneath the entire area of the proposed range dividing the upper and lower aquifers. A 1972 well log of basin #4 shows a 17-foot thick aquitard separating the two aquifers. The closest wellfield is station 5 (approximately 770 ft AMSL) and it draws groundwater from the lower aquifer, between 60-97 feet depths (approximately 673 to 710 ft AMSL).
- The proposed range overlies former City disposal basin (lagoon) #7 which contained at least 24 feet of fill. This basin never received waste sludge or the ash-like materials disposed of in the other basins. Basin #7 is reportedly 24 to 30 feet deep and the base of the basin was filled with sandy materials, and some inert debris. The top was filled with up to 24 feet of compostable materials and leveled off with mostly leaves and sandy materials.
- The groundwater flow in the upper aquifer at the proposed area within basin #7 is northwesterly. The groundwater flow in the lower aquifer is on a gradient divide. Groundwater on the north portion of the property flows northwesterly and southwesterly on the southern portion.
- The basin materials have not leached chemicals to the upper aquifer groundwater in excess of EGLE Part 201 criteria. Based on monitor well K-41 screened in the lower aquifer, which is located on the west side of the proposed range, the water samples have historically exceeded Drinking Water Criteria for iron and manganese (which could also be background levels). Neither of these metals are listed in the SDSs provided. This well was drilled to 78 ft and the screen set at 66-69 ft. The static water level at K-41 is approximately 68 feet deep in the lower aquifer (approximately 772 ft AMSL).
- The closest residential wells are: 1) 3413 E Michigan Avenue which is located 600 feet to the southeast of the proposed range and screened 28-32 feet deep (approximately 758 to 762 ft AMSL). This well is screened within the lower aquifer and is cross-gradient to groundwater flow and therefore would not be at risk. 2) 3421 E Michigan Avenue which is located over 600 feet from the range and screened within the lower aquifer 68-72 feet deep (approximately 718 to 722 ft AMSL) and is cross-gradient to groundwater flow would not be at risk.
- The basin area is open field and the entire property is fenced for safety. When blasting it can be easily secured from intruders at two check points on the road per the proposed plan.
- All ATF required distances for the range location with respect to other structures and this site meet the criteria (i.e., distance to roads, residences, utilities, fencing and access points).

- The SDSs show the major chemicals detonated to be TNT, RMX, PETN, HMX, Ammonium nitrate and Aluminum. After reviewing several sources, EPA, EGLE and others, the main concerns acknowledged for bomb detonation sites were almost exclusively for military areas and manufactures of these materials.
- Most of the SDS chemicals have no or low solubility. Some references stated biodegradation, evaporation, etc. as means of long-term chemical breakdown and risk reduction. Overall, there were minimal environmental or ecological issues cited in the resources reviewed.
- Most degradation products listed were gases: Carbon monoxide, carbon dioxide, nitrogen oxides, and hydrocarbons. TNT has toluene-based degradation products with limited solubility that are probably the most persistent in soil or groundwater of the chemicals in the SDSs reviewed. Three cast booster products listed TNT as an ingredient. Most of these chemicals ultimately break down to nitrogen products like nitrates based on the reducing or oxidizing conditions.
- EPA has some guidance for acceptable screening criteria for a few of the SDS-listed compounds however, EGLE does not have any criteria other than Aluminum (50 ppb) and 2,4-Dinitrotoluene (7.7 ppb) for these chemicals in groundwater. Therefore, a risk assessment is not straight forward.
- Overall, the chances for soil or groundwater contamination would depend primarily on the quantity of bombs being detonated and the subsurface materials below the range (i.e., high organic matter). The presence of up to 24 feet of compost beneath the proposed range would promote adsorption and biodegradation of explosive residues and limit the potential for impacts to the subsurface.
- In summary, the environmental risk appears to be low if the proposal is approved.

There are three options to assess chemical risks at the site if warranted:

1. Hire a consultant to continue the research on other similar sites that have been developed by public safety entities as small bomb detonation sites.
2. Collect soil samples from the existing bomb detonation site to determine if contamination has occurred, and what would be the chemicals of concern.
3. It may also be possible to construct an institutional control beneath the 3 inches (or more) of sand that KDPS proposed to place on the surface (i.e., absorbent or clayey layer).

The impact of detonation derived vibrations on the subsurface and the potential for exacerbation of existing site conditions by mobilizing subsurface contamination to some extent is unlikely. This is due to the presence of up to 24 feet of compost just beneath the surface, which is underlain by a perched (shallower aquifer), below which is a 17-foot thick aquitard underlain by the deeper aquifer at 60+ feet bg The following options to further assess this concern are listed below:

- Determine the depth that vibrations from a 5 lbs TNT equivalent explosion could propagate to in the subsurface.
- Require a vibration dampening pad at ground zero to mitigate vibration concerns (if warranted).
- Observe the largest proposed explosion for the site and monitor surface vibrations.



LEGEND

- MONITORING WELL LOCATION
- MONITORING WELL ABANDONED

NOTE: AERIAL PHOTOGRAPHY: 2009 COLOR ORTHOPHOTO, OBTAINED FROM THE CITY OF KALAMAZOO ON LINE GIS VIEWER.



SCALE 1" = 400'
0 50 100 200 400 800

SCHIPPERS CROSSING SITE

BEING PART OF SECTIONS 13, 14 AND 24
TOWN 2 SOUTH, RANGE 11 WEST
KALAMAZOO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN

MONITORING WELL LOCATIONS

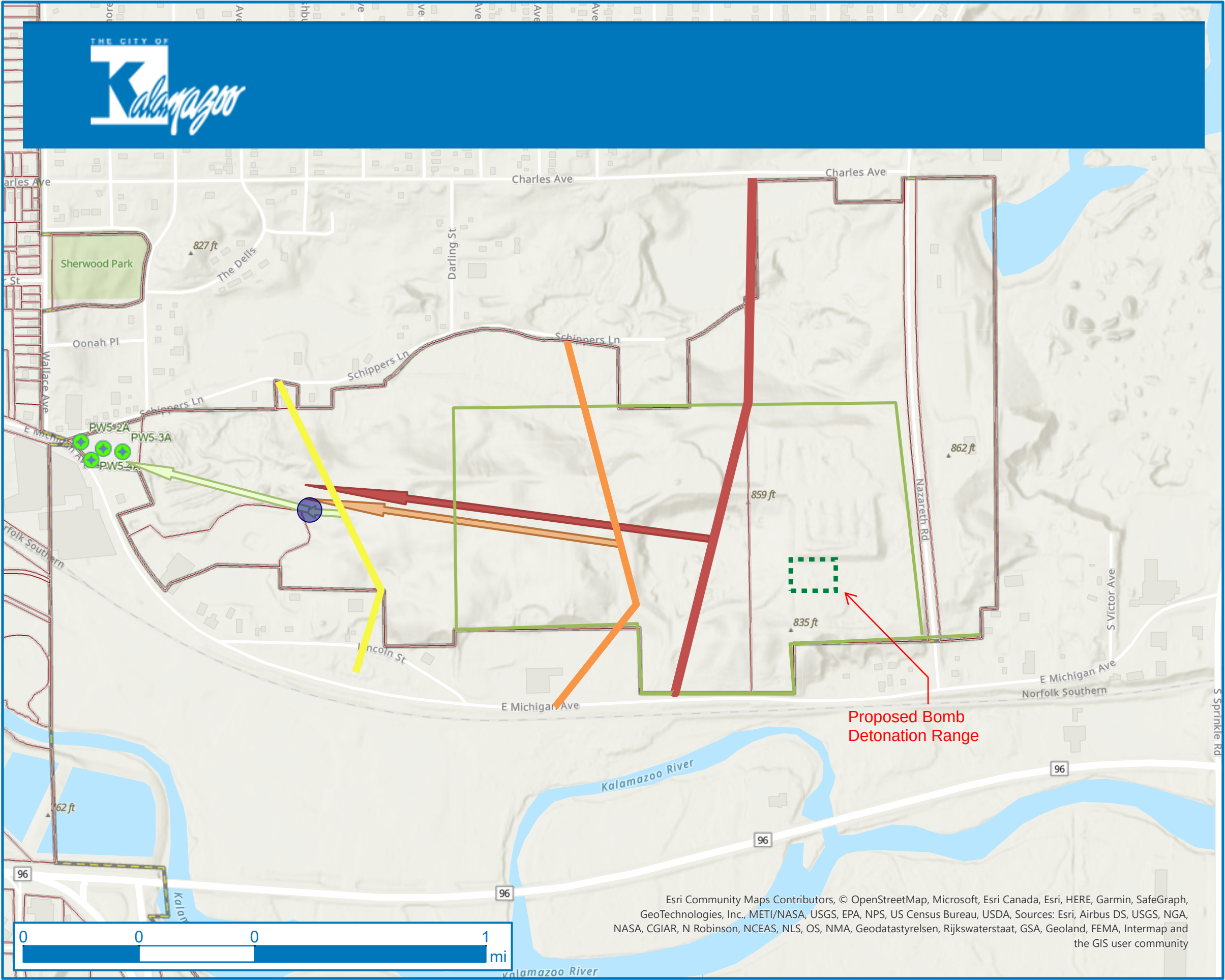
NOTE: THIS IS NOT A PROPERTY BOUNDARY SURVEY, PROPERTY BOUNDARIES SHOWN ON THIS MAP ARE BASED ON AVAILABLE FURNISHED INFORMATION. BOUNDARIES SHOWN ARE APPROXIMATE ONLY AND SHOULD NOT BE USED TO ESTABLISH PROPERTY BOUNDARY LOCATION IN THE FIELD.



**ENVIROLOGIC
TECHNOLOGIES, INC.**
2960 INTERSTATE PARKWAY
KALAMAZOO, MICHIGAN 49048
PH: (269) 342-1100 FAX: (269) 342-4945

PROJECT NO.
080389
FIGURE NO.

1



LEGEND

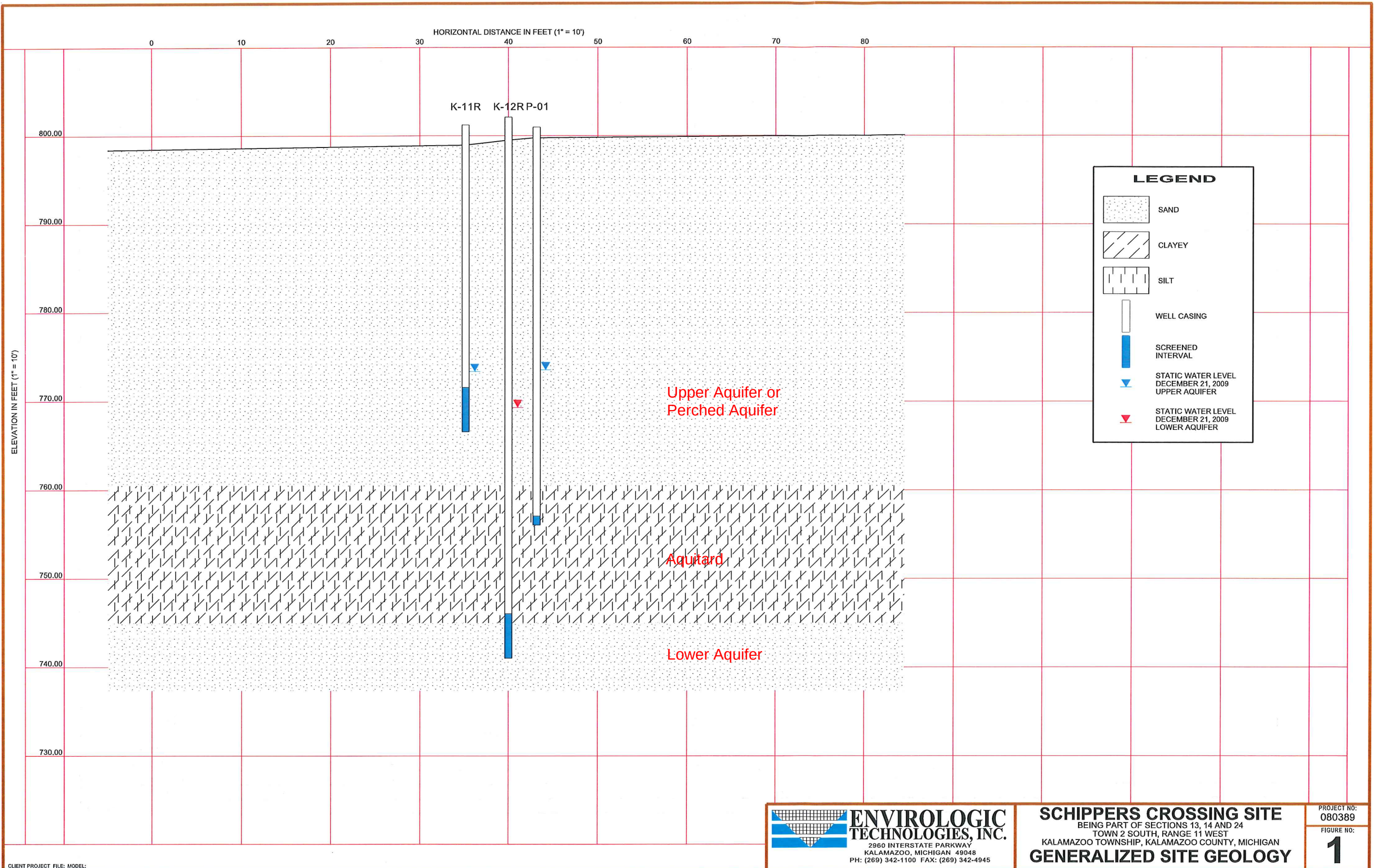
- Production
- Parcel
- City Boundary

Station 5 Capture Zones 2021

Yellow line = 1-year Capture Zone
Orange line = 5-year Capture Zone
Red line = 10-year Capture Zone



City of Kalamazoo,
2/28/2022

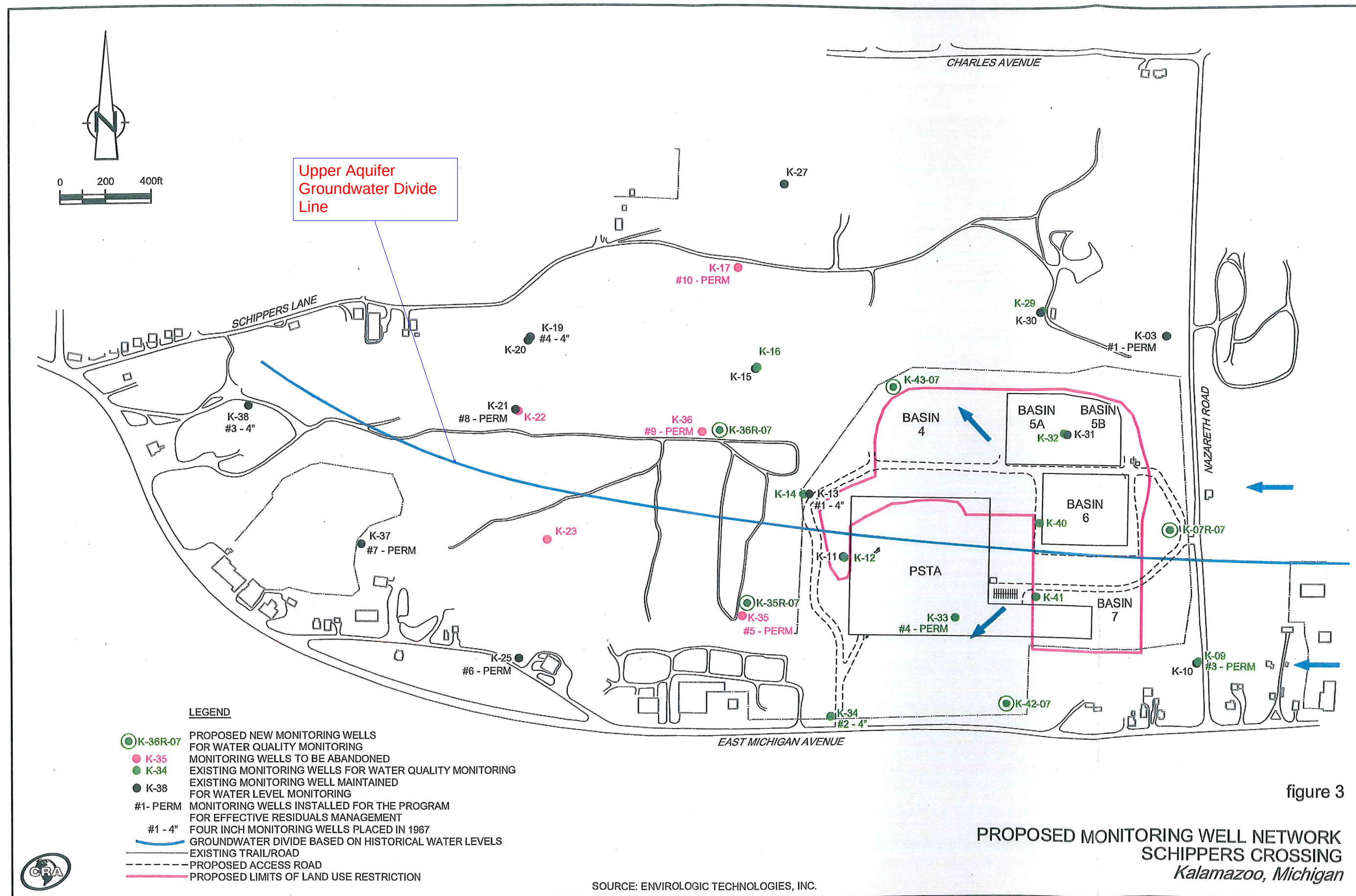


CLIENT PROJECT FILE: MODEL:

ENVIROLOGIC TECHNOLOGIES, INC.
 2960 INTERSTATE PARKWAY
 KALAMAZOO, MICHIGAN 49048
 PH: (269) 342-1100 FAX: (269) 342-4945

SCHIPPERS CROSSING SITE
 BEING PART OF SECTIONS 13, 14 AND 24
 TOWN 2 SOUTH, RANGE 11 WEST
 KALAMAZOO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN
GENERALIZED SITE GEOLOGY

PROJECT NO:
080389
 FIGURE NO:
1

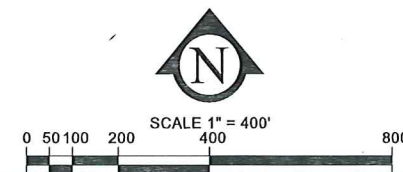




LEGEND

- MONITORING WELL LOCATION
- MONITORING WELL ABANDONED
- GROUNDWATER CONTOUR LINE
CONTOUR INTERVAL: 2.5 FEET
- DIRECTION OF GROUNDWATER MOVEMENT

NOTE: AERIAL PHOTOGRAPHY: 2009 COLOR ORTHOPHOTO, OBTAINED FROM THE CITY OF KALAMAZOO ON LINE GIS VIEWER.



SCHIPPERS CROSSING SITE

BEING PART OF SECTIONS 13, 14 AND 24
TOWN 2 SOUTH, RANGE 11 WEST
KALAMAZOO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN

**GROUNDWATER FLOW
LOWER AQUIFER
DECEMBER 16, 2010**

NOTE: THIS IS NOT A PROPERTY BOUNDARY SURVEY. PROPERTY BOUNDARIES SHOWN ON THIS MAP ARE BASED ON AVAILABLE FURNISHED INFORMATION. BOUNDARIES SHOWN ARE APPROXIMATE ONLY AND SHOULD NOT BE USED TO ESTABLISH PROPERTY BOUNDARY LOCATION IN THE FIELD.

**ENVIROLOGIC
TECHNOLOGIES, INC.**
2960 INTERSTATE PARKWAY
KALAMAZOO, MICHIGAN 49048
PH: (269) 342-1100 FAX: (269) 342-4945

PROJECT NO.
080389
FIGURE NO.

Water Well And Pump Record

Completion is required under authority of Part 127 Act 368 PA 1978.



Import ID:

Failure to comply is a misdemeanor.

Tax No: 		Permit No: 08-244		County: Kalamazoo			Township: Kalamazoo		
Well ID: 39000019779 Elevation: Latitude: 42.287988 Longitude: -85.537643 Method of Collection: Address Matching-House Number				Town/Range: 02S 11W	Section: 24	Well Status: Active	WSSN:	Source ID/Well No:	
				Distance and Direction from Road Intersection: 2/10 MILE W OF NAZARETL RD ON E MICHIGAN AVE , THEN N 100'					
				Well Owner: BEVERLY STAELE					
				Well Address: 3413 E MICHIGAN KALAMAZOO, MI 49048			Owner Address: 233 E VANBRUSGEN PLAINWELL, MI 49080		

Drilling Method: Rotary Well Depth: 32.00 ft. Well Type: Replacement	Well Use: Household Date Completed: 10/9/2008	Pump Installed: Yes Pump Installation Date: 10/9/2008 Manufacturer: Unknown Model Number: Drop Pipe Length: 25.00 ft. Drop Pipe Diameter: 1.00 in. Draw Down Seal Used: No	Pump Installation Only: No HP: 0.50 Pump Type: Jet Pump Capacity: 5 GPM Pump Voltage: Drilling Record ID:
Casing Type: Steel - galvanized Casing Joint: Threaded & coupled Casing Fitting: Drive shoe	Height:	Pressure Tank Installed: Yes Pressure Tank Type: Unknown Manufacturer: Unknown Model Number:	Tank Capacity: 5.0 Gallons Pressure Relief Valve Installed: Yes
Diameter: 2.00 in. to 26.00 ft. depth			
Borehole: 2.75 in. to 28.00 ft. depth			

Static Water Level: 16.00 ft. Below Grade Well Yield Test: Pumping level 16.00 ft. after 1.00 hrs. at 15 GPM	Yield Test Method: Plunger		Formation Description	Thickness	Depth to Bottom
			Sand & Gravel Coarse Fine	32.00	32.00
Screen Installed: Yes Filter Packed: No Screen Diameter: 1.25 in. Blank: Screen Material Type: Stainless steel-wire wrapped Screen Installation Type: Unknown					
Slot Length Set Between 10.00 4.00 ft. 28.00 ft. and 32.00 ft.					
Fittings: Bremer check valve					

Well Grouted: Yes Grouting Method: Unknown				Geology Remarks:
Grouting Material	Bags	Additives	Depth	
Bentonite dry granular	1.00	None	0.00 ft. to 25.00 ft.	
Wellhead Completion: Pitless adapter. 12 inches above grade				

Nearest Source of Possible Contamination:			Drilling Machine Operator Name: LYLE LUMBARD Employment: Employee
Type	Distance	Direction	

Septic tank	50 ft.	North	
Abandoned Well Plugged: No Reason Not Plugged: Other			Contractor Type: Water Well Drilling Contractor Reg No: 39-2230 Business Name: LUMBARD PUMP SALE & SERV. Business Address:

	Water Well Contractor's Certification This well was drilled under my supervision and this report is true to the best of my knowledge and belief.
	Signature of Registered Contractor
	Date

General Remarks: OLD WELL NOT ACCESSIBLE, PLUGGED PIPE TO OLD WELL
Other Remarks: Not Plugged Reason:OLD WELL NOT ACCESSIBLE



Water Well And Pump Record

Completion is required under authority of Part 127 Act 368 PA 1978.



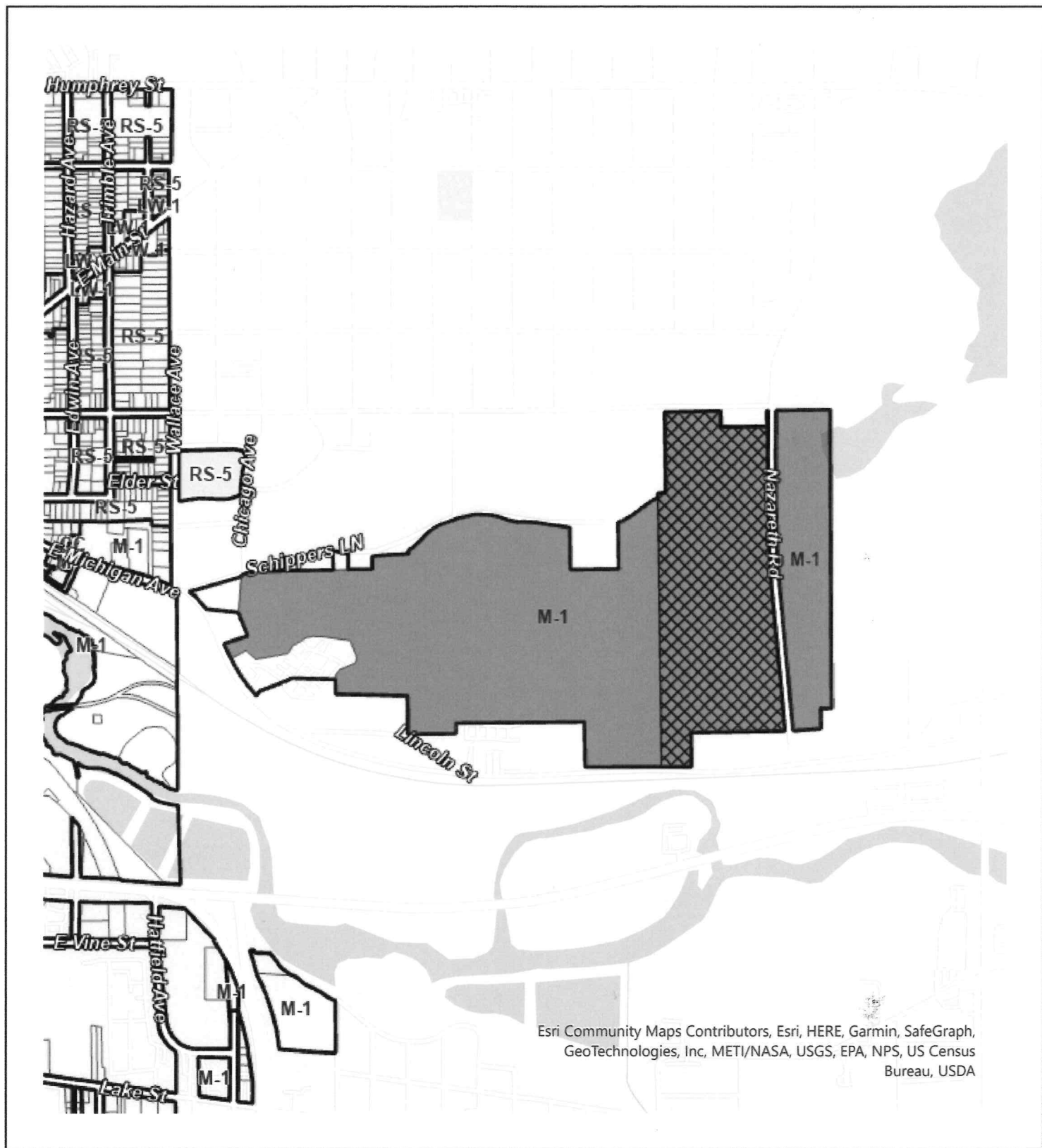
Import ID:

Failure to comply is a misdemeanor.

Tax No: 06-24-205-040	Permit No: 000269	County: Kalamazoo	Township: Kalamazoo
Well ID: 39000010756 Elevation: Latitude: 42.288185 Longitude: -85.537451 Method of Collection: Interpolation-Map		Town/Range: 02S 11W	Section: 24
		Well Status: Active	WSSN:
		Source ID/Well No:	
		Distance and Direction from Road Intersection: 1/4 MILE OF WEST OF SPRINKLE	
		Well Owner: DELBERT DORMAN	
		Well Address: 3421 East Michigan Avenue Kalamazoo, MI 49048	Owner Address: 3421 East Michigan Avenue Kalamazoo, MI 49048

Drilling Method: Cable Tool Well Depth: 72.00 ft. Well Type: Replacement Casing Type: Steel - black Casing Joint: Threaded & coupled Casing Fitting: None Diameter: 4.00 in. to 72.00 ft. depth Borehole: 3.88 in. to 72.00 ft. depth	Well Use: Household Date Completed: 7/17/2000 Height: 1.00 ft. above grade Pump Installed: Yes Pump Installation Date: 7/20/2000 Manufacturer: Eagle Model Number: unknown Drop Pipe Length: 60.00 ft. Drop Pipe Diameter: 1.00 in. Draw Down Seal Used: No Pressure Tank Installed: Yes Pressure Tank Type: Diaphragm/bladder Manufacturer: Well-Rite-Flexcon Model Number: 203 Pressure Relief Valve Installed: No	Pump Installation Only: No HP: 0.50 Pump Type: Submersible Pump Capacity: 10 GPM Pump Voltage: Drilling Record ID:																																																
Static Water Level: 18.00 ft. Above Grade (Flowing) Well Yield Test: Yield Test Method: Bailer Pumping level 30.00 ft. after 1.00 hrs. at 40 GPM Unrestricted Flow Rate:	<table border="1"> <thead> <tr> <th>Formation Description</th> <th>Thickness</th> <th>Depth to Bottom</th> </tr> </thead> <tbody> <tr> <td>Sand & Gravel</td> <td>54.00</td> <td>54.00</td> </tr> <tr> <td>Clay</td> <td>10.00</td> <td>64.00</td> </tr> <tr> <td>Sand & Gravel</td> <td>8.00</td> <td>72.00</td> </tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	Formation Description	Thickness	Depth to Bottom	Sand & Gravel	54.00	54.00	Clay	10.00	64.00	Sand & Gravel	8.00	72.00																																					
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Sand & Gravel	8.00	72.00																																																
Screen Installed: Yes Screen Diameter: 3.00 in. Screen Material Type: Stainless steel-slotted Screen Installation Type: Attached Slot Length Set Between: 10.00 4.00 ft. 68.00 ft. and 72.00 ft. Fittings: Neoprene packer	Geology Remarks:																																																	
Grouting Material: Bentonite dry granular Bags: 4.00 Additives: None Depth: 0.00 ft. to 68.00 ft.																																																		
Wellhead Completion: Pitless adapter																																																		
Nearest Source of Possible Contamination: Type: Septic tank Distance: 50 ft. Direction: South-Southeast	Drilling Machine Operator Name: LARRY Employment: Employee																																																	
Abandoned Well Plugged: No Reason Not Plugged: Other	Contractor Type: Pump Installer Business Name: AMERICAN WELL DRILLING CO. Business Address: 8621 EAST C AVE, RICHLAND, MI, 49083																																																	
Water Well Contractor's Certification This well was drilled under my supervision and this report is true to the best of my knowledge and belief.																																																		
Signature of Registered Contractor		Date																																																
General Remarks: changed township per health department request on December 15 2000, by ordwayd.																																																		
Other Remarks: Not Plugged Reason: COULD NOT FIND OLD WELL LOG PLUGGED BY DRILLER																																																		

Product	Chemicals	SDS	Decomposition	Notes:	Methods	Res DW ppb	GSI
Emuline	Ammonium nitrate	Not soluble					
	paraffin oils						
	Light naphenic hydrotreated distillates						
	Polyolefin alkanolamine ester						
	PETN						
Aqua Ammonia 19%	Ammonium hydroxide	Soluble					
Shockstar tm Shock Tubing	Aluminum	Not soluble					
	HMX or Octogen						
Anhydrous Ammonia	Anhydrous Ammonia	Soluble 51 g at 68 degrees F					
Kinepak Liquid	Nitromethane	Soluble 1.8% by wt. @ 20 degrees C					
Explosive	Pentaerythritol Tetranitrate	Not soluble					
	Nitrocellulose						
	Acetyltri-n-butyl Citrate						
	Dimethyl Dinitrobutane						
C4	RDX	Low solubility; toxic to aquatic life		Low solubility			
Cast Boosters	PETN	Variable depending on product; toxic to fish; extremely hazardous to water					
	TNT or 2,4,6-Trinitrotoluene						
	Aluminum metal						
	HMX or Octogen						
AES Cast Boosters	same as above	TNT soluble 0.1% @ 68 degrees C; some mobile in soil and not readily biodegrade by sun, anaerobic and aerobic processes					
Texpak	Diethyl Triamine	Completely soluble; if released to soil ma evaporate to moderate extent. Expected to leach to groundwater, not biodegrade					
Nitromethane	Nitromethane	Soluble 10% @ 20 degrees C (68 F); may leach to groundwater and moderate evaporation; if release to soil expected to quickly evaporate, not biodegrade					
Perforator Shape Charges	RDX	Harmful to aquatic life; moderate biodegrade; not persistent, high mobility in soil	Carbon monoxide, carbon diaoxide, nitrogen oxides, hydrocarbons, metal fumes and oxides				
	HMX or Octogen						
	HNS						
	PYX or 2,6-bis(picrylamino)-3,5-dinitropyridine						
	Aluminum						
	Graphite						
	Copper						
	Lead						
	Tungston						
	Zinc						
Shock Tube	HMX	Practically insoluble	Carbon monoxide, carbon diaoxide, hydrocarbon gases				
	Aluminum	Not soluble					



Parcels within 300' Mailing Radius 301 Nazareth Rd

-  Subject Property
-  Property within 300' Mailing Radius
-  Other Property
-  Zoning District Boundary



0 420 840 1,680 ft



Zoning Board of Appeals Staff Report

Date: **10/20/2022**

Item: **D.3.**

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: October 20, 2022

SUBJECT: ZBA #22-10-33: 100 Monroe Street. Drakkar Hill of Westmain Hill, LLC is requesting a use variance from Chapter 4, Section 4.1, to authorize a small wine making operation on the residentially zoned premises which would utilize the existing carriage house and wine cave.

BACKGROUND:

Westmain Hill, LLC has been working with Henderson Castle to lease a portion of the facilities for the purpose of making wine and holding wine tasting events. Westmain Hill, LLC applied for a Small Wine Maker License but it was determined that, due to the residential zoning, a use variance was required.

This organization will utilize the Carriage House behind the Henderson Castle, for blending, bottling and storage of wine. The building also contains the required restroom. The wine tastings and some wine storage will occur at the Wine Cave. The lease agreement includes the Carriage House, Wine Cave, patio, ten (10) parking spaces, .5 acres of orchard, and .75 acres of vineyard. The timing of wine tasting events will align with the prior use variance approved for the Wine Cave (2014). This will allow wine tastings between the hours of noon and 6 pm from April 1st to October 31st annually. The wine making operation will not increase the required parking as a prior parking variance was also granted for the Wine Cave.

Westmain Hill, LLC will be leasing existing buildings and developed areas of the property for this operation. There are no physical changes proposed to accommodate the use except for the alteration of the west half of the Carriage House, which was previously a bed and breakfast room.

History of Henderson Castle Special Approvals:

July 13, 2000: Frederick E. Royce requested a use variance to allow the Castle and Carriage House to be occupied as a 10-room Bed and Breakfast. - APPROVED with conditions: 1) That the variance applies only to the current property owner and not run with the land and 2) That ingress and egress be impeded from accessing Prospect Hill Drive.

October 13, 2005: Peter and Laura Livingstone-McNelis requested a use variance to allow the Castle and Carriage House to be occupied as a 10-room Bed and Breakfast with receptions for up to 125 people. APPROVED with conditions:

- 1) Access to remain from Monroe Street, Prospect Hill right-of-way is not to be used;
- 2) Compliance with the revised site sketch submitted for the parking area location;
- 3) Compliance with the Fire Marshall occupancy limit of 49 people in the Ballroom ;
- 4) Outdoor receptions must conclude at 10:30 pm; and
- 5) Site plan approval and driveway permit be obtained for the new parking area. Barrier free and building code regulations are also applicable.

September 8, 2011: Francois Moyet requested a use variance to allow a 40 – seat full service restaurant on the ground floor level of the Castle. In addition, Mr. Moyet would like to continue the existing Bed and Breakfast and the hosting of receptions at the Castle for up to 125 people (approved October 13, 2005). - APPROVED with all conditions tied to the 2005 approval plus one more, as listed below:

1. Access to remain from Monroe Street, Prospect Hill right-of-way is not to be used.
2. Compliance with revised site sketch submitted for the parking area location
3. Compliance with the Fire Marshall occupancy limit of 49 people in the third floor Ballroom
4. Outdoor receptions must conclude at 10:30 pm.
5. Site plan approval and driveway permit be obtained for the new parking area (completed November 18, 2005).

One additional condition was added to the 2011 approval:

6. The restaurant may not be open to the public during a reception at Henderson Castle.

August 14, 2014 Francois Moyet requested: **1)** A use variance to operate the Wine Cave and conduct wine tastings. - APPROVED with the condition that wine tastings are limited to noon to 6 PM, seven days a week from April 1st to October 31st annually; and **2)** A dimensional variance of 10 off-street parking spaces to allow the Wine Cave (with a patio seating area + structure totally 1, 245 square feet) in addition to the Bed and Breakfast and restaurant uses on the property. - APPROVED

STRATEGIC VISION ALIGNMENT:



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

Strategic Vision Alignment:

The project does touch on the Strategic Vision goal of Complete Neighborhoods as the proposed wine-making operation will compliment the existing Henderson Castle Bed and Breakfast and provide this amenity to residents in the neighborhood.

COMMUNITY ENGAGEMENT:

Appropriate Depth of Engagement:

Notices have also been sent by the city to all property owners within 300 feet and a notice was sent to the West Main Hill Neighborhood Association.

Engagement/Communication Tools:

Gazette notices, 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 enforcement of the terms and provisions of the Ordinance would not permit wine making and wine tasting on this residentially zoned property. However, this property has had numerous commercial uses approved in the past and one of these prior use variances was to allow for wine tasting events at the wine cave. Therefore, only the blending, bottling and storage of wine is what is being added to the prior use variances approved.

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 circumstances are related to the adaptive reuse which has occurred over decades of the Henderson Castle (approximately 9,200 square feet) and the property (3.2 acres). Other non-residential uses approved a bed and breakfast, a restaurant, outdoor events for up to 125 guests, and wine tastings at the Wine Cave.

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

The applicant did not create the special circumstances. The applicant is only looking to take over the previously approved wine tastings and begin making wine on-site.

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 is the minimum action needed to allow for the review and approval process to proceed at the local level. The next step is the review and approval by the Michigan Liquor Control Commission.

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

The proposed use variance will not impact surrounding property owners due to the limited hours of operation for wine tasting events.

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

The use variance will not result in a physical change to the exterior of any of the structures on the property or the parking configuration. The only alterations proposed are to the interior of the Carriage House.

RECOMMENDATION:

Staff recommends approval of the use variance as it meets the above 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

October 5, 2022

**RE: ZBA #22-10-33
100 Monroe Street
Parcel # 06-16-324-005**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Drakkar Hill of Westmain Hill, LLC for 100 Monroe Street in the Residential – Single Dwelling District (RS-5).

The applicant is requesting a use variance from Chapter 4, Section 4.1 to authorize a small wine making operation on the residentially zoned premises which would utilize the existing carriage house and wine cave.

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, October 20, 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



Submission date: 6 July 2022, 12:52AM
Receipt number: 5
Related form version: 9

Introduction

Have you scheduled a pre-application meeting? Yes

Applicant Information

Name Drakkar Hill
Organization (if applicable) West Main Hill. LLC
Email Address drakkar.d.hill@gmail.com
Phone Number 2693661730
Address 1432 Prospect Hill, Kalamazoo, MI 49006, USA Map
(42.2929961, -85.6052613)
Preferred Contact Method Email
Are you the property owner? No

Property Owner Information

Name Francois Moyet
Mailing Address 100 Monroe St, Kalamazoo, MI 49006, USA Map
(42.2928947, -85.6050559)

Phone Number	2698300863
Email Address	fmoyet@hotmail.com
Preferred Contact Method	Email
Authorization from property owner:	<u>Henderson Castle foundation variance for zoning board for winery.pdf</u>

Property and Application Details

Property Address	1432 Prospect Hill, Kalamazoo MI 49006 No coordinates found
Parcel Identification Number	06-16-324-005
Zone District	RS-5
Type of Request	Use Variance
Application Fee	\$375.00
Project Description & Reason for Request	I will be operating a small winery separated from the Henderson Castle as a business. I will need part of the property for the operation. I have an different address and a lease agreement on the property.

ZONING BOARD OF APPEALS

USE VARIANCE REVIEW SHEET

General Information

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

West Main Hill's small winery is for small productions and educational purposes. There will be processing, wine tasting, and a touring destination. Inside the wine cave I will be able to hold 8 - 10 people and on the patio area up to 25 people.

Process starts by bringing in 160ml - 225ml barrel of unfinished wine from Finn Valley. Finishing the wine will be conducting inside the wine cave for educational purposes and inside cottage A. We will be adding but not limited to, essential oils, chocolate, herbs, powdered tannins etc. I will add my own fermented products, rectifying the unfinished wine. We will be using 10 gallon mixing containers and aging in French oak barrels. This process will not change any alcohol percentage, just enhancing the flavor. We will also do the labeling, corking and boxing. My main job will be distributing wine to local stores. Weekends for educational services and weekdays used for deliveries.

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?

No, the RS-5 District does not permit Small Wine Maker Licenses

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?

There is not any hardship that is unique to the land, that is not applicable. There are other non-residential uses on the property as this is unique to the land. There is a bed and breakfast, restaurant, occasional outdoor events and an existing building approved for wine tastings.

Are the special circumstances created by actions of the applicant?

I have an lease agreement for a portion of the property, where I will start the small winery operation. The property has evolved accomodate commercial uses which are low impact to the neighborhood. The added amenities on site compliment the bed and breakfast operation. The the Small Wine Maker License will enhance the experience for guests at the Henderson Castle.

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?

There is other action needed that are currently being taken care of. This action is one of the final steps needed. This is the minimum action needed to allow for the review and approval process to proceed at the local level. The next step is the review and approval by the Michigan Liquor Control Commission

Will the granting of the variance negatively affect adjacent land?

No, there will be no negative affects to the adjacent land

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

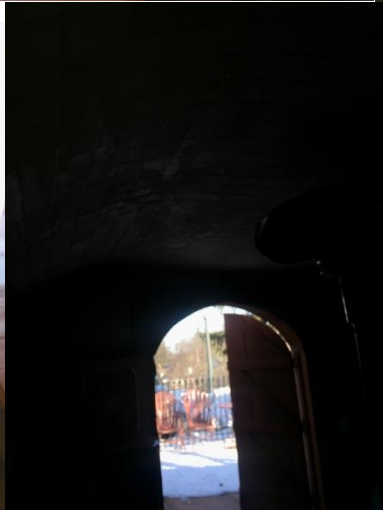
Yes, this use variance will not result in a physical change to the exterior of any of the structures on the property or the parking configuration. You will be using the Carriage House and Wine Cave for the license.

Dimension Of Property

West Main Hill, LLC

- **Wine Cave:** 12x12 and 8ft in Height (Can conduct wine tastings inside and will showcase winery process inside wine cave)
- **Patio:** 12x100 and 20x20 (Can conduct wine tastings out in this area along with lounging)
- **Orchard:** Half of an acre
- **Vineyard:** $\frac{3}{4}$ of an acre
 - **Both:** Orchard and vineyard are attached the patio facing South of the property
- 10 parking spots that are facing the cave touching the fence
- Cottage for restroom: Bathroom facing south measures 10x10





facing South

(Orchard)

$\frac{1}{2}$ acre

(Wine
Cave)

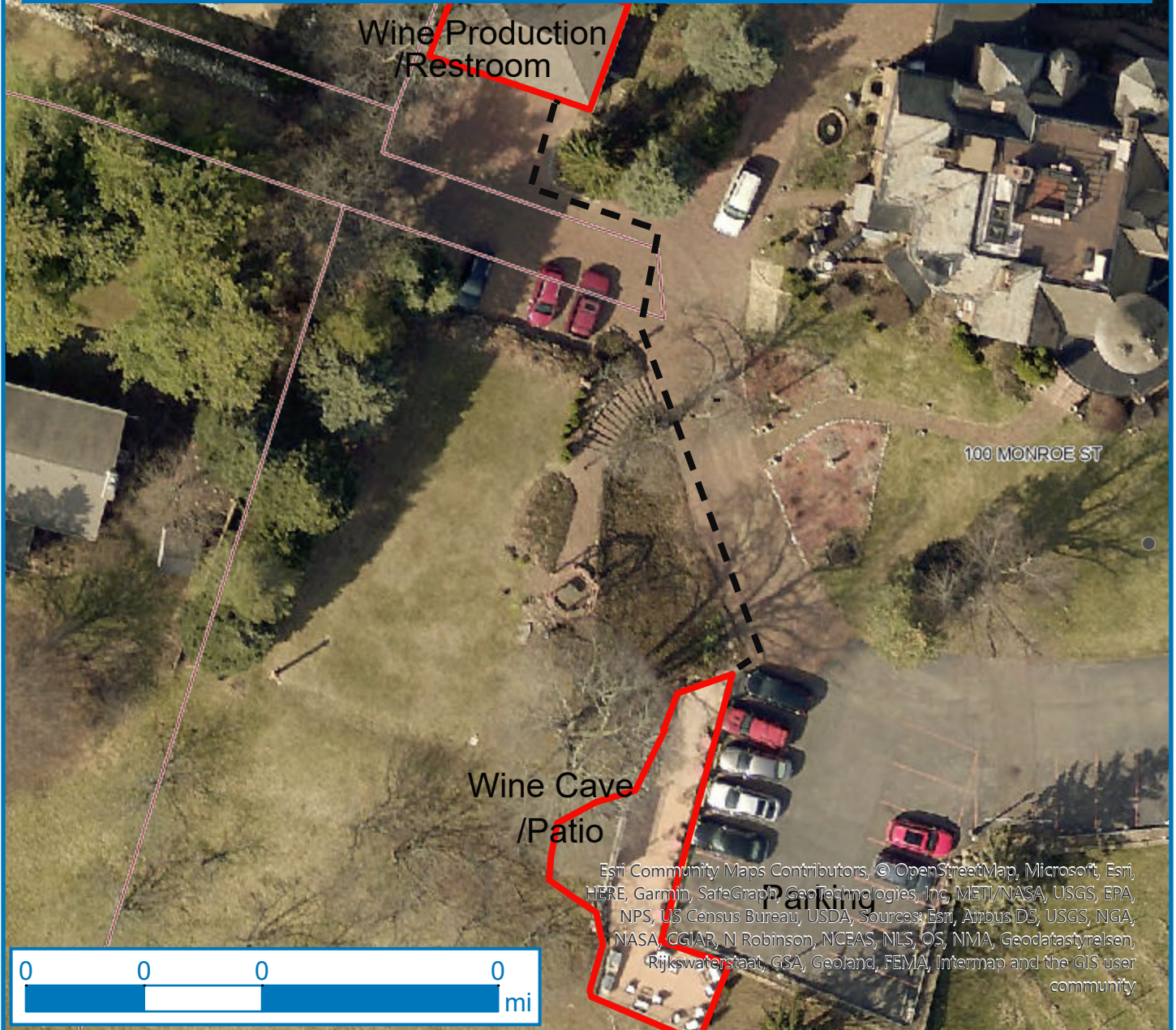
12 x 12
3 ft height
20 x 20

12 x 100
3
20 x 20

(Lounge)

(Parking
Lot)
16 parking
spots

facing South
3/4 of an acre
(Wineyard)



LEGEND

Lines	PARCEL MAP	GENERAL INFORMATION
— • Override 12	Parcel	City Boundary
— • Override 21	Address	
— • Override 31		
— • Override 41		



City of Kalamazoo,
10/9/2022



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Parcels within 300' Mailing Radius 100 Monroe

-  Subject Property
-  Property within 300' Mailing Radius
-  Other Property
-  Zoning District Boundary



0 110 220 440 ft