

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, March 14, 2024

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 February 8, 2024

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #24-03-04: 700 River Street. Dr. Michelle Johnson of the Playgrown Housing Development is requesting variances from Chapter 50 for the form-based development standards related to the 'Yard -Detached' lot type:
 1. A dimensional variance from Chapter 50-5.6 H (1) (d) 13, to authorize two driveways on Bridge Street where only one driveway is permitted.
 2. A dimensional variance from Chapter 50-5.6 H (1) (d) 13, to authorize three driveways on Ampersee Street where only one driveway is permitted.
2. ZBA #24-03-05: 4100 Oakland Drive. Oakland Financial Company, LLC is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to allow the re-alignment of Angling Road with Oakland Drive which will encroach into a protected slope with a grade greater than 20% and protected slope setback. This will impact approximately 1,350 square feet (.031 acres) of protected slope and 1,500 square feet (.034 acres) of protected setback area.
3. ZBA #24-03-06: 1609 Whites Road. Oakland Financial Company, LLC is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the new pump house for the golf course sprinkling system to encroach into a protected slope and protected slope setback.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
February 8, 2024 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Beth van den Hombergh, Gary Wark, Remi Harrington, Joe Hohler III, Tony McReynolds, and Allison Haan

Members Absent: None

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

Chair van den Hombergh called the meeting to order at 7:01 p.m.

Chair van den Hombergh asked if there were any changes to the agenda and Mr. Eldridge noted there were none.

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

APPROVAL OF MINUTES:

Mr. McReynolds moved to approve the minutes of January 11, 2024 as submitted, seconded by Mr. Hohler.

The motion was approved by voice vote unanimously.

PUBLIC HEARINGS: Chair van den Hombergh 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. 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 fact. 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. Harrington read the application for 825 and 847 Portage Street and 720 and 726 E, Vine Street:

ZBA#24-03-03: 825 and 847 Portage Street/720 and 726 E. Vine Street: An application for dimensional variances to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by The Boys and Girls Club of Kalamazoo for 825 and 847 Portage Street and 720 and 726 E. Vine Street, located in the Live Work-2 District (LW-2). The applicants are requesting 1) a dimensional variance from Chapter 50-5.6 E (1) (c), of 10% to increase the maximum impervious surface coverage to 80% from the required 70% for a “Civic” lot type development in the LW-2 District and 2) a dimensional variance from Chapter 50-5.6 E(4) (b)24 (Number of Entrances), to authorize only one street facing entrance on the Portage Street façade where two entrances are required.

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

Mr. Alex Phalen and Eric Barkovich, both project managers for Hurley & Stewart Engineers located at 2800 South 11th Street in Kalamazoo Michigan; Matt Lynn, the Chief Executive Officer, and Jenn Frank Brenton, the Chief Operating Officer of The Boys and Girls Club of Kalamazoo, which is located at 4000 Portage Street, and Doug Milburn and Lori Pawlias, a project manager and architectural project coordinator respectively from Tower Pinkster were present for this application.

Mr. Phalen expressed his appreciation of the city zoning staff. He said Hurley & Stewart is a civil engineering consulting firm that helps with development projects throughout the city, state, and Midwest. Mr. Lynn gave a brief overview of the history of the Boys and Girls Club of Greater Kalamazoo. He said it was founded in 1953 and currently serves as one of the largest and longest serving youth development institutions in the City of Kalamazoo. He said the club has served generations of families over their 70 years of existence and today they average approximately 1000 plus kids that come through the club doors every year. They offer 80 types of different programs and experiences for all youth with the goal of developing and growing them into responsible adults and contributing members of our community. He added that they are part of a network of Boys and Girls Clubs around the country which incorporates 5,402 different Boys and Girls Clubs from coast to coast and added that they operate in a fully inclusive organization because all youth in the community are welcome to join and participate for free based on the generosity of our community. he added that some of what they provide for the club kids, as they call them, are access to healthy foods, daily meals, paid employment opportunities for teens, mentoring and mental health supports, educational assistance and personal enrichment activities, volunteer and advocacy, learning positive relationships with peers and with caring adults, and most importantly a lot of fun activities that last a lifetime. Mr. Lynn added that they are a fully incorporated organization and are proud to serve the Kalamazoo community.

Mr. Phalen provided information about the project via a PowerPoint presentation, which started in 2020 when the property was purchased. He said it was a manufacturing zoned property and they worked through the project but in 2022 while they were doing fundraising, the city planned to establish a new zone district on the property which moved forward in 2023. The project site was rezoned to Live-Work, which went into effect in late fall of 2023. He said they wanted to split the requests into two and present one, do a question and answer for that one, then move on to the second request. He said they are seeking A dimensional variance for impervious coverage and a dimensional variance from the number of entrances from two to one and he listed the standards for consideration on the screen. He said the heart of the request is that they are asking for an increase

in impervious area to allow more paving of the property than what is allowed from 70% to 80% but added that the property is contaminated. He stated one of the main methods for dealing with contamination is to pave over it so that you don't further exasperate groundwater contamination and the goals are to facilitate the needs of the Boys and Girls Club while not further contaminating groundwater. He said one of the standards is the unique conditions which is the shape of the lot, that he pointed out was the uncommon triangular shape in the middle of the screen, surrounded in blue. He said they are trying to do a parking lot and, efficiently, lay it out. He said the image on the right is inefficient because you only get 16 spaces however the image on the left would allow for 20 parking spaces and is more efficient but is causing some of the impervious coverage issues. The next standard is the special circumstances that are unique or not a result of the applicant and presented an environmental report which states the area was contaminated in 1934, several years before the founding of the Boys and Girls Club in 1954 and is not a result of their action. He said when they purchased the property, they knew it was contaminated and knew that there was going to be some hardship, but they did it because the property was blighted but it was an ideal piece of property for their needs but in doing so, incurred \$600,000 worth of extra costs for the contaminated soils, which is over six times the normal cost. He said that because of this extra cost they had to reduce the building from a two-story to a one-story building and pointed out the images on the screen. He said that as he mentioned earlier, one way to deal with contaminated soil is to cap it and pave over it that way when it rains it does not leach further into the groundwater and travel to other properties and because water flows downhill, if there is a property that has a well on it, it becomes a public safety hazard so they are proposing to cap more of it. He moved on to the next standard which is this the minimum action that can be taken, and he said, again, capping it would keep it from going into the groundwater and because it's gravel now it is going into the groundwater so what they're doing is building a building, cap it with pavement so it won't go into the ground and therefore not negatively impact the public but in fact we'll be a positive impact. The next standard he wanted to discuss was will the variance be consistent with the purpose and intent of the ordinance and Mr. Phelan said essentially the purpose is that it promotes public health. He then asked if they would be allowed an extra 10 minutes for the second request and Mr. Eldridge advised that he and Chair van den Hombergh discussed it said it would be helpful since Mr. Phelan mentioned environmental work and someone present who can speak to the environmental work done for this site and Mr. Phelan said he isn't an environmental engineer, but works closely with them and there's always a three-phase approach to environmental issues. He said phase one is called environmental assessment, which was conducted and completed, and it goes through the history of documents, looks at the history of the property and whether or not there's any red flags of that history and phase one did show red flags of a previous gas station that had some leaking underground storage tanks and was classified as a site in 1950 so it is a contaminated site that the EPA is aware of. He said phase two is when they go out and sample the soils and get them tested and those soils were tested and they found that there were contaminants in the soil, most of which are metals. He said that the metals are more of a touch hazard when they're hit but there's also the gasoline and petroleum that can leech into the ground, so those are the two concerns that they try to solve and one of the ideas is capping because you don't want to be able to touch it and you don't want water to push it down. He said phase three is the baseline environmental assessment which spells out the procedure for construction and what you need to do for that, and they had all three done and now that they're approaching construction the baseline environmental would be followed.

Chair van den Hombergh asked for questions from the board and Ms. Harrington asked if capping the impervious surface was the recommendation in their environmental assessment and Mr. Phelan replied yes, but there were many recommendations that were mentioned and there are many ways

to deal with it such as remediation where you clean it, which is difficult but in some of the slides there are experts from the US EPA and the recommendation on how to deal with this, and one of the main ways is to cap it, and a lot of sites in the city that have these issues get capped. He mentioned that he worked on a site in the city at 600 East Michigan where the restaurant is and the Kalamazoo County courthouse parking lot were both contaminated and the goal was always to cap it in place because the only other option is to haul it off, which is expensive and causing a worse issue somewhere else.

Chair van den Hombergh asked for staff comments, and they are as follows: Mr. Eldridge stated there are six review criteria and when talking about special circumstances and practical difficulties that pertain to the property, the applicant mentioned the unusual shape of the property which makes it difficult to layout a traditional parking lot, which lent to increased impervious or solid coverage on the site. He also noted other ancillary items like the basketball court which is part of the recreational element of the Boys and Girls Club but in addition to that staff is supportive because it's clear that with all of the environmental work that was done and all the documents that were turned over to city staff, which they read through most but not all because it contains hundreds of pages, but it's clear there is site contamination and where normally staff is supporting the addition of the prescribed amount of green space on a site but in this case, it's clear that a little less green space would be preferable given the soil and groundwater contamination and for those reasons staff is supportive of this first variance request.

Chair van den Hombergh asked for comments from those in favor and there were none.

Mr. Eldridge suggested consolidating the public hearing portion by doing presentation number two and staff comments, then do the public hearing for both requests and Chair van den Hombergh agreed and introduced part two of the dimensional variance regarding the number of entrances and restarted the clock for this portion of the hearing.

Laura Pawlias, an architectural project coordinator for Tower Pinkster, presented the second dimensional request, to reduce the number of entrances to the building from two to one. She said the reduction would reduce any threats by design and one of the facts that we are dealing with today is there are no safe locations for civic buildings or spaces for children, and through design we can reduce these, somewhat, by removing children from fast moving traffic, reducing unknown surveillance of children, reducing the number of entry points to a building or playground, tightly monitoring building access, preparing for lockdowns, building in close proximity to emergency services, and reducing emergency response times by locating on or near primary streets. She referred to the screen graphic which showed what a secure vestibule looks like: people have to pass through surveillance and are monitored at all times, and that is the only entrance into the building. The uncommon conditions are that there's emergency services nearby, the properties meet the needs of the neighborhood youth population, safe and convenient location for the youth to commute, and there are unusual proportions to this building that caused a lot of issues trying to find a location for the vestibule and how to do the bus drop offs. She stated that there is a timeline and one of the things that has created an inordinate amount of project hours is that the rezoning was in the works, and they had no idea of when that was going to happen and added that there was an unknown timeline and a lack of clarity when she came on the project because in 2022 they thought they were under a manufacturing zoning but she noticed there was form based zoning showing up on the website so she reached out to the city and discovered at that point there was an

overlay district and immediately started having meetings with the city about design of the building to get it to comply with the ordinances. Referencing the screen, she said those are the elevations they have now and they got the transparency up, they added lots of windows and are now at 55% on Portage and 30% on Vine and added that from the city's master plan, the goal is youth development in a city with places that supports where young people can thrive and another goal is to create a safe environment for living, working, and playing. She stated that as part of the AIA committee on Architecture for Education, they have a program where they have crime prevention through environmental design and part of that is that you have a single-entry point or a secure vestibule and working at Tower Pinkster, as they work with educational facilities, the number one request is for them to add these secure vestibules. She said pulling out from the city's master plan, everyone is looking for the same thing: to have security and safety for these children while also providing a space that is open and welcoming without looking like a prison. She summarized the facts by saying the lot is in odd proportion it's been challenging but there are services nearby that are necessary to the program and that is why the owners chose it and there's been a lack of clarity and certainty in the zoning over a four year period, and that's led to increased project hours, redesigns, and increased costs because as they've been doing this the cost of construction has been going up. She added that the financial exposure that their client is experiencing is unrealized by others, she thinks it's a very good rezoning that has been done and she thinks it's very helpful but unfortunately, they were caught in a net of uncertainty which caused problems for them. She said having the single point entrance will reduce threats to the youth, crime prevention through environmental design, and that's part of the city's master plan and part of her profession's goals. She added there will be no negative impacts to adjacent properties but will create positive impacts because you will be providing a good environment for youth and children and granting the variance does meet the spirit and intent of the ordinance because they are creating a safe environment for working, playing, and where young people can thrive.

Mr. Hohler asked if she could go back to the slide with all of the zoning and asked if where it says neighborhood plan goals is part of the zoning and Mr. Phelan said that comes out through the neighborhood plans and for the Edison neighborhood this is the goal and this is from the executive summary that the community has said is important to them and Mr. Hohler said, so it is in the zoning and Mr. Phelan said no, it is part of the city's master plan. Mr. Eldridge added that there is a City of Kalamazoo Master Plan 2025, and each neighborhood has plans that are approved by the City Commission and added as an additional "city plan" specific to those neighborhoods, so it's part of the package but not necessarily part of the zoning ordinance and Mr. Hohler stated it's like the goal they want for this particular part of the city and Mr. Eldridge agreed but stated that when you think about the master plan as the overall plan for the city, then we have individual neighborhood plans that are neighborhood specific. Chair van den Homberg wanted to clarify she understood some things about the zoning and asked if they were saying that when they purchased the property and started the design of all of this, it was under manufacturing, so they crafted everything for one entrance and then the zoning was changed to Live Work, then it changed to a requirement of two entrances or where did the two entrances come in and Ms. Pawlias said she spent Tuesday reviewing this because she came into the project in 2022 and she had never been to Kalamazoo and knew nothing about it. She said she was given this project and it showed that manufacturing was the zoning and they were designing to that so she immediately went to the website because part of her job is to check other people's work, and while looking at the website she started noticing this form-based design with Live Work 2 which was also for the same lot she was working on and it was unclear what was happening, and she was trying to figure out if it was

Live Work -2 or was it manufacturing that her team had been working under in their schematic design phase, which is the very early phase of design. She said she reached out to the city via e-mail and was informed that there was an overlay and it was an extension of the downtown design district and they were actually under that, she was also informed that there was a plan to rezone and go to a form-based zoning in the future but they had no idea of when it would be in effect and she was informed that they had to work within the existing law so they started that way and found that contrary to what the owners believed and what the team believed, there were rules about entrances, transparency, and all of these downtown design review guidelines they weren't aware of so they immediately started trying to design according to the ordinance and it was very challenging. She said that's how they got their transparency up and it was much higher than what they were comfortable with, but they were trying to comply so they did all of that and continued to have meetings and discussions with the city and the one thing they couldn't give up was the one secure entrance, which is something they have to have for their organization and is also part of the goals of the AIA and also of educational use organizations and schools so they were trying to keep that and working with the city she knows at that time, they had to have an entrance on Portage. She said they kept working and by the time they were mid design the rezoning still hadn't been completed and the form-based zoning still hadn't been implemented citywide, so they were still working under the old one and at this point we were into 2023 trying to work under the old one without knowing what the new one was going to be, so by late 2023 when the citywide rezoning happened with the form-base and when they were at the end of their design phase, they were asked to increase the number of entrances on the front of the building. Chair van den Hombergh asked if when they started the project the zoning was one way and they could have one entrance, then when it changed as they went through the project, they were required to have two entrances and Ms. Pawlias said that's what she believes to be true, but she can't prove it because she doesn't know when the downtown design district got expanded and she has tried to research it but to her knowledge, that is what happened. Chair van den Hombergh asked staff if that is what happened, and Mr. Eldridge admitted there was a definite lag because there was such an extensive public outreach process that began in late January of 2023 and then continued deep into the summer before the package of properties being rezoned, as well as the amendments to the ordinance, were ready to go. He said that even though there were already Live Work One and Live Work Two in the city, this property was still under the manufacturing zoning and wasn't officially changed until October of 2023, and that's when it was clear what design standards would apply and up to that point it was only that this was what the city was planning with the rezonings and these were the applicable regulations, and there were some minor amendments made to the form based standards but for the most part the live work zone districts were already in place in other parts of the community on a much smaller scale. Mr. Phelan added they were informed of the Live Work Two and they were aware that it was there but from their perspective they knew they knew there were going to be text amendments which would, or wouldn't, change the requirements but they didn't know what the amendments were and at the time they thought the process was going to take a lot longer than what they anticipated. He said they were aware of that back in 2020/2021 that they would be working through those and then 2023 came and the city was still working through it, and they couldn't wait any longer so they moved forward under the impression that it would probably take much longer and they would probably be them to the finish line but unfortunately the city beat them to the finish line and now here they were, at the end of their project. Ms. Harrington asked if it was as if the intended use became allowable because of the rezoning but the stipulation surrounding the design had to change? She asked what would they have the board understand about the process and how tumultuous it has been because of the rezoning and Mr. Phelan explained that

initially, it was zoned manufacturing and they knew they had to get a special exception use so they we're not permitted by right and they applied for, and were given, that and they had a lot of support from the city and the city wrote a letter in support of it and it was approved but the special exception use lapsed, so instead of applying for a new one they worked through the design under the manufacturing with the overlay district knowing that there may be something that comes forward with Live Work Two. He stated that they were being told for years that it was coming, and it hadn't, so they continued to move forward and then it did happen so now they're seeking variances for what they hope is minor because their understanding is that the downtown development didn't require two entrances, but he doesn't know that for sure but now it triggers where they have to have two entrances. Ms. Harrington asked if when they didn't have the intended use that was allowable could they have just gotten away with one door and Mr. Phelan said he believes that to be true and Ms. Harrington said now that the intended use has changed, they're now required to have two doors, is that what he wants the board to understand, and Mr. Phelan said yes. Mr. Wark stated the city was more than cooperative with them when they reached out and started working with them, the city let them know what was happening, what the process was, and thought it would take a little while, but the city ended up beating them to the finish line is what he was saying, and Mr. Phelan said yes. Mr. Phelan said the city was very cooperative with them when they started the process in 2020 but the Boys and Girls Club was getting a lot of pressure because there had been no progress made, so the decision had been made to move forward because the city process was taking such a long time and whether it was approved in one month or two years they would just be spinning their wheels, so they moved forward but didn't realize the second entrance was going to come up, and he admitted it is a sticking point since it's a safety concern. Ms. Harrington asked why two doors are a safety concern and Mr. Phelan said because, as Ms. Pawlias pointed out, it is multiple points of ingress and if you go to any school, you don't ever want to have more than one entrance. He added that to Ms. Pawlias' point, he has worked on a lot of schools and that is always number one design is to secure the entrance and there is documentation proving that point because you want to be able to contain who comes in the building, and containment is one option and if they do get into the building then you have to lock down and wait for emergency services. Ms. Harrington wanted to know what is in the ordinance that requires them to have two doors and Mr. Eldridge replied this is the difference between a building based on form standards versus building based on the use and that the Portage street corridor from downtown, extending down into the Milwood neighborhood, and has transitioned from a mix of residential, commercial, and manufacturing, like this property was in a manufacturing zone district, now to Live Work One Live Work Two, and neighborhood nodes which are all form based zone districts. He added that what you get with that is the layout of the building is more important than focusing on the use going into the building, so now you require a certain level of window of transparency meaning there's a certain number and size of windows along the facade of the building, and that the building is within a range from the front property line so you don't have a building that is up against the property line and then the next building has got a parking lot between the front property line and the building, so you have consistency in the position of the buildings and the look of the buildings. He said as far as entrances go, based on these larger buildings, many of them are looked at in the long run that they may have more than one tenant in them so for every 60 feet of building façade, there's to be another entrance point so that's why two entrance doors are being required on the Portage Street side, because it's a form standard. Mr. Phelan added that this being form standard makes sense and they're not disputing that, they are disputing the fact that with this particular use of the form standard, it's not recommended to have multiple doors and if this were a regular commercial building this would be a no brainer but because this is essentially a school, it's not

desirable to have more than one entrance. Chair van den Hombergh asked what the capacity of the building is and Ms. Pawlias said daily, around 150 but if there was an event in the gym it would be a maximum of 499 and Mr. Phelan added that that is to enter but there are egress doors to allow people to safely exit the building in the event of a fire, but they don't want people to be able to come in under other circumstances. Ms. Pawlias said surveillance is provided for each of those doors, they have to be wired and then it has to notify central control that a door is ajar or a door has been opened, so every extra door requires extra wiring and surveillance and it becomes a big thing to put another door in for those reasons, so by having a secure vestibule, people are contained and viewed by someone on a screen but they also designed the windows so that they are physically able to see them so they can look at their demeanor, expression, what they're carrying and to identify, and that's what you want at every entry point because there are also threats from "friendly" people that you know and this vestibule becomes a tool to protect the building from serious threats. Chair van den Hombergh asked how many exits the building has and Ms. Pawlias said they followed code, so there are three on the north, three on the east, and the main entry has two separate sets and added that they also have alarms that go off because people have opened doors to let someone in. Chair van den Hombergh repeated that there are usually 150 kids, but in the case of a big event there can be as many as 499 and they have approximately six exit doors, she said she is trying to envision school systems where you go down a long hallway, and there's an exit door and Mr. Phelan said that is correct, exit only doors. Ms. Pawlias added that if the gym is in use, the rest of the building becomes inaccessible and they have it in a series of lockdowns, so they have also compartmentalized: there are security screens that drop down and get locked off, so once you get in the gym, there's only access to the gym and the toilets associated with the gym so you can freely egress from the gym, but there is no access to the school and in theory, they can compartmentalize the gym as well.

Chair van den Homberg asked if the board had any more questions and there were none.

Chair van den Homberg asked for staff comments and there are as follows: Mr. Eldridge stated that as was pointed out, there is a timing issue but for staff, looking at this the difficulty on the other end is this is one of the first large redevelopment projects since the city has put these form based standards in place and they are anticipating more and he said there may be another one nearby that will hopefully gain some traction. He said as he mentioned these are form-based standards that are working towards creating a more pedestrian friendly environment and won't be so auto centric as these redevelopments occur so there will be more pedestrian spaces, wider sidewalks, and it will become more of a retail and service-based area just outside downtown but with these form-based standards going in place, and just being adopted, it's a matter of trying to preserve these new standards and get them implemented in order to bring about the change. He said talking a lot about the particular use, and rightfully so because of the fact that it involves youth and trying to maintain a secure facility, it becomes a delicate balancing act as far as attempting to meet the form based standards to the highest degree possible and grant relief to the minimal amount necessary to make the project work, and staff has said they really want to see the form based standards, including the entrances, incorporated into the building design. He added as far as transparency, they've exceeded the minimum threshold for the building for the Vine and Portage Street frontages and it's a very attractive structure but when you look at the special circumstances it gets more complicated because those aren't related to the property anymore, they're related to the project and the project is being brought forward by the applicant so it is self-created in that respect, granted these are security standards that are the standard for schools and youth facilities,

but that is something for the board to weigh and if other questions come up he encourages them to answer additional questions on that, but at the end of the day they don't want to dilute and diminish the standards that were just adopted in October of last year. He added that he does have to give some understanding to the timeline since the project started under one zoning designation, and now it's been rezoned and during that process there was the shift in trying to redesign the building to fit the form-based standards, so there are some other circumstances that have been pointed out as well.

Chair van den Hombergh asked for comments from those for the request and there were none.

Chair van den Hombergh asked for comments against the request and there were none.

Chair van den Hombergh asked if there were any call-in comments and there were none.

Chair van den Hombergh closed the public hearing.

Chair van den Hombergh asked if there were any questions or comments from the board and

FINDING OF FACT

Mr. Hohler moved the Finding of Fact as follows for the first part of the variance request:

- 1.) The Finding of Fact for 825 and 847 Portage Street and 720 and 726 E. Vine Street shall include all information included in the notice of public hearing dated January 24, 2024.
- 2.) 64 notices of public hearing were sent, and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted, which 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:

Mr. Alex Phalen and Eric Barkovich, of Hurley & Stewart Engineers, Matt Lynn and Jenn Frank Brenton of The Boys and Girls Club of Kalamazoo, and Doug Milburn and Lori Pawlias of Tower Pinkster were present for this application and spoke of the project but the parking lot is an odd shape, which limits what they can do to stay within the zoning but its odd shape means you have to go over the zoning, also the site is contaminated and if they asked for coverage at 100%, that would be beneficial to everyone.

Mr. Wark seconded the Finding of Fact.

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

Mr. Wark moved to approve the application for dimensional variances, made by The Boys and Girls Clubs of Kalamazoo, 1) from Chapter 50, 5.6 E (1) (c), of 10% to increase the maximum impervious coverage to 80% from the required 70% for a 'Civic' lot type development in the LW-2 District, and 2) from Chapter 50, 5.6 E(4) (b)24 (Number of Entrances), to authorize only one street facing entrance on the Portage Street façade where two entrances are required, seconded by Mr. Hohler.

Mr. Hohler asked that the variances be voted on separately and Mr. Eldridge approved.

Discussion:

Mr. Hohler asked if the size of the building dictates the number of parking spaces they have to have, and Mr. Eldridge said the size of the building does play into the calculated number for the maximum number of parking spaces and what they've done with the ordinance is eliminated a required minimum. He said if the calculation based on the building size says 35 parking spaces and the developer says to make this marketable, I only need 25 parking spaces and because there is no minimum, that allows for that flexibility and added that in this case they are nowhere near the maximum allowed if he were to guess because with the gymnasium and its assembly capacity, they could have a lot more parking than what they're providing. Mr. Hohler asked if they could build a building to 70% of this lot and have no parking and Mr. Eldridge said theoretically yes and Ms. Harrington asked why, and Mr. Eldridge said it gives them the flexibility and the city is not mandating that they have to build an asphalt parking lot if there were other parking alternatives for example, the city of Kalamazoo just recently built a parking structure adjacent to this property because they would rather lease spaces in a parking structure then build a surface parking lot, so the point of not having a minimum is to give flexibility depending on where the development project is in the city, it might make sense to go with a smaller parking lot so it wouldn't be a situation that requires a trip back to the Zoning Board of Appeals. Mr. Hohler added that if the parking lot were 25 by 25 and you put a small coffee shop on it, you're not going to say the coffee shop now has to be 12 by 25 because you have to get one car in there, this allows you the flexibility based on that particular business, but in this case, use and Mr. Eldridge agreed but added that it allows more of the market to dictate versus the ordinance dictating the parking. Ms. Harrington asked if this was according to the new form based standard and Mr. Eldridge said that it's part of the ordinance amendments that were adapted in October of 2023 so it's outside the form-based standards because it's in the parking section, but it is a new standard the city clearly identified there is no minimum, but there is a maximum and that maximum parking has to be practical based on your building size and Mr. Hohler added that the amount of parking is reasonable based on the ordinance or the zoning given the size of the building.

Ms. Harrington stated that her issue with the entirety of the project is that the design team has been tasked with a difficult project in its totality and she feels that they had to go through layers of impediments for this particular property and for this particular intended use, she said it's contaminated which is an issue of safety, it's on a major road and they have these standards that they've had to design through, and it seems it's been difficult to navigate the nuances and she knows that they tried to accommodate what this goal is, and she doesn't think they've done anything wrong with trying to use the space, being in the Edison neighborhood, and they tried to find a location that was close to the school and they thought it was perfect but things keep happening and they're an unfortunate state of affairs but she feels it has to be noted that the way she perceives it, it feels

like from its inception it was not a good space for this use. She said she wanted to say that because she feels it would be irresponsible not to say it, considering everything that they're having to navigate tonight, but she does love the Boys and Girls Club.

Mr. Wark said he understands that there was difficulty with the zoning and the way everything was laid out and he understands it took a while, but he said they weren't the only ones, the whole city of Kalamazoo went through a rezoning and there was a lot of work involved with that and he knows that the staff worked diligently with everyone to get everything approved. He wanted to speak to the contamination and said that they were asking for, he believes, a 10% increase but he said it was a no-brainer to him and they can pave over it and it's too bad that they still have 20% that's contaminated but in regard to the one entrance request, for this particular use he believes that the one entrance lends itself to the safety of the project and that's why he is voting for the one entrance.

Mr. Hohler wanted to talk about point four regarding the parking lot, which is this is the minimum action that will allow the parking lot to meet all codes for drive aisle width and parking space dimensions, which he's happy to read on its own, and the contaminants seem enough reason on its own to approve the variance because the contaminant issue pushes it over the edge and he will be voting in favor.

Chair van den Hombergh stated she will be voting in favor of the parking lot and Ms. Harrington said so is she, but she wants the contamination capped off because they bought the property and now it needs to be done but she agrees with Mr. Wark and wishes they could cap off more.

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

FINDING OF FACT

Mr. Hohler moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 825 and 847 Portage Street and 720 and 726 E. Vine Street shall include all information included in the notice of public hearing dated January 24, 2024.
- 2.) 64 notices of public hearing were sent, and zero responses were received.
- 3.) A public hearing was held before the board and public comments were accepted, which 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:

Mr. Alex Phalen and Eric Barkovich, of Hurley & Stewart Engineers, Matt Lynn and Jenn Frank Brenton of The Boys and Girls Club of Kalamazoo, and Doug Milburn and Lori Pawlias of Tower Pinkster were present for this application and spoke of the project. The points for the two entrances are that they are keeping within the form-based standards for appearance, but for safety reasons and given what they do, they're requesting a variance of one entrance as opposed to two entrances given the length of the building.

Mr. Wark seconded the Finding of Fact.

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

Mr. Eldridge pointed out that the motion and the second were already on the table for request number two, the motion made by Mr. Wark and seconded by Mr. Hohler so now it is just a matter of discussion and then asking staff for a roll call vote.

Discussion:

Mr. Hohler repeated comments made by Mr. Eldridge earlier when he said because of the length of the building every 60 feet of building, there needs to be an entrance, and Mr. Eldridge said that is correct and Mr. Hohler wanted to know if the entrances have to be 60 feet apart or was it that if the building is 120 feet there just needs to be two, no matter where there just needs to be two and Mr. Eldridge said that was correct and Mr. Hohler asked if they put two of them on the same corner or, based on the pictures Ms. Pawlias had, one door is an entrance and the other door is an entrance but they're right next to one another would that suffice, he then asked what an entrance is defined as and then he asked someone to go back to the first slide with the picture showing the corners of the building. Mr. Eldridge said an entrance is defined as a point of entry or exit from a building, so an ingress or an egress, and in this case they have three exit only doors along the Vine Street frontage on the north side of the building and then where you see the vestibule and the southwest corner, highlighted in yellow, the one arrow is pointing through the door that's on the Portage Street side. Mr. Hohler said if they swung this other door just around the corner where the other arrow is, but if both of the arrows were pointing in the same direction does Mr. Eldridge think that would suffice and Mr. Eldridge said the form-based standards give flexibility but is that really useful and Mr. Hohler said sometimes you have to do weird things to remain within the ordinance. Mr. Hohler admitted coming to the meetings wanting to say no to everything because the ordinances are set up for a reason, so he's trying to find a way to convince himself that this has got to be a yes and if it's something as simple as putting the other door right around the corner or just putting another one next to it, would that suffice because he understands it's a school but it's the boys and Girls Club and he remembers when the Y used to have various entrances but they've unified them down to one and there's a reason why, but it's even more important in this case because the Y at least has adults coming in and the Boys and Girls Club is just kids even though there may be some adults, it's mostly children. He said he knows that the zoning just changed but they are instantly considering setting a precedent that may end up driving what they do for the next however many years, like the first thing out-of-the-box and that's where his struggle is, he asked if anyone else wanted to weigh in on that but that's where he is, which is why he wanted these separated because he hasn't made up his mind.

Ms. Harrington said that to her, the form based standards feel like they're rooted in aesthetics, not function and when city staff is saying that the form based standards will create a more pedestrian community and all the other things he said then Mr. Hohler said he understands what she means by aesthetics because right now Portage Street is just a hodgepodge of whatever buildings and that's probably because some of them are old, like the one they did on Mill Street a couple of months ago that hadn't had anything done to it in years because the minute you touch it you have to bring everything up to code and so you have to start setting precedence now, there's some vacant land and it's in development and this probably fits in with the newer building on Portage down the

street, but if they don't have form based standards they're going to wind up with a bunch of weird, different looking buildings but he understands wanting a neighborhood that has a variety of character and that's got its own flavor. Ms. Harrington stated she's not necessarily in opposition and she doesn't believe they have to choose either/or, but she's saying based on what was presented tonight the utility has been neglected in terms of what the explanation was for this particular case, and they've been focusing more on the uniformity of the aesthetic. Mr. Hohler said that earlier Mr. Eldridge stated they moved away from the use standard to the form standard, so they consciously have moved away from using it for this thing and this thing only, to use it for whatever you feel like within limit, as long as it kind of looks but he understands Ms. Harrington doesn't want to be penned in by the form over function portion and she said that is correct and she's struggling with that.

Mr. Wark asked if it required multiple entrances when it was zoned manufacturing, or was it one entrance and Mr. Eldridge stated they could have gone with one entrance and Mr. Wark asked Mr. Hohler is that why he keeps going back to one entrance and Mr. Hohler said yes but then asked if they had just started messing with the property just a little, would this even be a discussion and Mr. Eldridge said if the site plan was approved under the former zoning, they wouldn't be having this discussion. Mr. Eldridge said that there were also some projects that were about half to 3/4 of the way through the pipeline when the zoning change occurred, so they were finishing approval under the former zoning. Mr. Hohler thanked Mr Wark for reminding them of the timeline because they bought the property when it was zoned one way and they got approval to use it, then the zoning changed on them, which they anticipated but not to this extent and Mr. McReynolds acknowledged that they kept waiting and hoping to get done before the rezoning got approved. Mr. Wark added that he believes the board has approved other variances based on a previous zoning and said ok.

Chair van den Hombergh said the two main sticking points for her that she's struggling with and was trying to ask them to just keep it simple and she said that she takes her votes very, very seriously, as she believes they all put a lot of thought and effort into their decisions. She asked Mr. Eldridge when they purchased the property it was zoned one way and she understands that, but did the applicant know there was a change in the works and were they just hoping to beat the rezoning to the punch or did they purchase the property not knowing about the change, believing everything was ok with one entrance and then they found out and Mr. Eldridge said when the property was purchased and the project was started, because this was in the manufacturing zone district, as referenced by Mr. Phalen, they had to get a special use permit from the Planning Commission for this community service type use in a manufacturing zone district, which was approved, then they started down the design path and that approval from the Planning Commission lapsed but because the city was already saying at that point they were looking at rezoning this property to the Live Work zone that's going to have these form based standards that wouldn't require reapproval of the special use permit, that was another reason why they were like ok, we will start to shift gears on the design but then the city essentially took seven months for public comment and feedback in various versions of some of the ordinance language before it then moved through the approval process in the fall. Chair van den Hombergh said so they knew, and Mr. Eldridge said what the verbiage was exactly for the entrance type for the civic lot type, he said he wouldn't know without digging back if it was specific on the number of entrances before like they are now, but he does know the manufacturing zone district did not address entrances and it was completely up to the developer. Ms. Harrington asked if Grapevine Furniture used to be there and Mr. Eldridge said

yes, she asked if they got a variance or was the furniture store an allowable use and Mr. Eldridge said they called it a warehousing-type operation. He added that the manufacturing zoning explains the contamination because there was a gas station and a dry cleaner, and Ms. Harrington added there was an underground storage tank that leaked and Mr. Eldridge stated it was a manufacturing zone district that allowed a variety of more intensive uses, and this is the result. Ms. Harrington stated that so much land is contaminated so where were we supposed to build the Boys and Girls Club and that we as humans have done things to the land so all of it's contaminated and it's not the applicant's fault.

Mr. Wark asked about the new county buildings that went up on Alcott and said he believes there is only one entrance for each of those buildings and Mr. Hohler said the Family Health Center definitely has one entrance, but he isn't sure about the DHS. Mr. Wark said he know the one entrance was also for safety reasons so they can monitor people coming and going and added he isn't sure about the new school on Portage and Mr. Hohler said he believes that does have only one entrance, and they have stopped voting there for security purposes and added that is his precinct and they now vote in the former church on Stockbridge. Mr. Hohler said if they're leaning on security, that's a good reason because lots of the most recent construction in that area seems to have only one entrance. Attorney Bear said if we're talking about county buildings, they're different and Mr. Wark asked they don't need to come in from of the board for rezoning, do they, they just kind of do what they want to like the colleges and the schools and things like that, but his point was the one entrance for safety reasons and it seems that's the direction development is taking now, and Chair van den Hombergh asked Attorney Bear if he had anything else to add and he said no. Ms. Harrington added that we don't need any more impediments to the children's safety and she will be voting in support. Mr. Hohler said he thinks he will vote in favor of it as well, but he hates setting a bad precedent, but he feels that this being more akin to a school is different than a coffee shop or a wine bar. He said it's kind of a rare case that allows them to make an exception given that it going to need security and the character of the usage dictates that they make this small variance since there's not a good explanation as to what an entrance is and if they swung the door around, they would be within the zoning. He added that he isn't suggesting they do it but if they can get away with it by doing something that petty, then it seems fine to him. Chair van den Hombergh said she would just like to put out there, is it feasible or appropriate to put in the second entrance and have people go to a main entrance and have the second entrance for safety in the sense of people leaving for an emergency? Mr. Hohler asked why an exit can't, technically, be considered and entrance if it can let people in, they just don't use it that way and Mr. McReynolds added he was thinking that maybe they could swing one of the exit doors he sees on the side to the other side. Mr. Phelan asked if he could speak and Mr. Hohler deferred to Chair van den Hombergh, who said she was going to call him up. Mr. Phelan said from their team's perspective, they have been working with the city, the love the ordinance, the new zoning code and they hate to see the board, right off the bat, set a precedent so they are willing to have a condition of the approval be to swing a door around or add another door so there are two doors that come out of there, perhaps they would be egress doors, but if that would alleviate any concerns with setting a precedent, he sees no reason why they couldn't do that. Mr. Hohler asked if that is what her barrier is and she said yes, she wants the second door and if they can find a way to have it, even if only for aesthetic purposes and Mr. Hohler stated even if it's never used as an entrance and she said correct. Mr. Phelan asked her if she meant on the vestibule and Mr. Hohler said he thinks she's saying keep the secure entrance but stick an exit door somewhere else on that wall and Chair van den Hombergh said another entrance and Mr. Phelan said on the yellow square, and Chair van den

Hombergh said down further, and Mr. Hohler said Mr. Phelan is talking about Portage Road and Mr. Phelan said that's a different story and he was under the impression that Mr. Hohler was referring to the yellow square and Mr. Hohler said that's why he was asking what is an entrance and Chair van den Hombergh said can't they put an egress door there and fit with the aesthetics of it because she sees what the city is going for and Mr. Phelan said that was a consideration but again, trying to put entrances and exits on that face of the building is still a security concern because if someone opens that door, they are in a space they don't want them to be in because those are spaces they want to keep as secure as possible. He then apologized if he muddled the waters because he was under the impression they wanted to swing around the yellow and Ms. Harrington said Chair van den Hombergh wants two doors for the aesthetics of it because in 20 years, this may not be the Boys and Girls Club. Mr. Phelan said he was under the impression that she was referring to the yellow, and if it helps them not set a precedent, because they would swing it around on the secured vestibule, it would meet the intent, to Mr. Hohler's point and that would, hopefully, keep them from setting a precedent, but in terms of putting it on that door, or the face of the building, they considered that and it's still an issue because of what those rooms are intended to do. Mr. Wark said, so it wouldn't actually be an entrance door, it would be an exit door because an entrance door goes both ways and Mr. Phelan said that is correct but the concern with these particular rooms is that if there were somebody in the building and a child opens that door, then you have somebody that gets into these rooms, whereas if they were in a secure vestibule, they are directed into a corridor. He stated all the doors go into a corridor, versus this door would go to a room like if they were in a classroom and that door is locked, anyone in the corridor can't get in, but if you have a door that is directly in the room and it gets opened, now you have people that have the ability to come in. Ms. Harrington asked would it suffice if the two doors entered into the vestibule where they would still have to go into that check-in point. Mr. Phelan said there is no one in the vestibules themselves, but there are windows for people to be able to view through cameras and windows. Mr. Hohler asked if there was a wall between student reception and the entrance area and Mr. Phelan said that is the check in counter and reception area and the receptionist is the one who has the controls and the ability to view the vestibule. Mr. Phelan pointed at the screen and said if they put another door into the yellow square where the red arrow is, and two entrances on Portage into the vestibule and Mr. Hohler said that because of one facing one way and one facing out, it's different streets. Mr. Phelan said they would double the one door and Mr. Hohler said if they just did that, the board wouldn't have to take a vote because in his mind, they would be in the spirit of the ordinance, they would have two entrance doors right there and Ms. Harrington asked if one's and entrance and one's and exit and Mr. Phelan said they can be however they want them to be and Mr. Hohler said they're both in/out and Ms. Harrington said they're both in/out but they're going toward the same corridor that is the security checkpoint and Mr. Phelan said to Mr. Eldridge's point, it's not classified as in or out, it's just a door so they're putting a door there and Ms. Harrington said, but you don't want to put both there and Mr. Phelan said they would add another door into the secure vestibule if that meets the intent of what they're looking for and Mr. Hohler said he's voting yes not matter what. Mr. Edridge said he understands where the board is at and he knows comments have been made about the change in zoning and the hardship placed on the developer, he understands the security aspect and based on the floor plan layout that's already established, that it's difficult to add another exterior door along the façade facing Portage Street other than the vestibule, but he doesn't think it makes sense to require another entry door be put next to the entry door on the vestibule facing Portage Street because it defeats the form-based standard and it's not worth adding the condition, they might as well let the development team design the one entry door, as nicely as possible, that faces Portage Street would

be his suggestion. Mr. Hohler said he knows that he and Ms. Harrington are a yes, he was unsure about Chair van den Hombergh, and he wasn't sure about Mr. Wark, Mr. McReynolds, or Ms. Haan, but he was curious because he's trying to get them to four votes. Ms. Harrington said everyone gets their vote, but going back to what Mr. Hohler said earlier about setting a precedent, the ordinance is the precedent, so if people in the community have different projects and we have new form-based standards, she doesn't think it's a problem for people to come before the board to say what they want to do and they can make judicious decisions like they will tonight with the Boys and Girls Club since they're going to have children there and they only need one door because we have to keep them safe and that's what their saying as a community. Mr. Hohler added that's what he's saying, that because of the specific character of the organization and what they need for security, that should give them good reason to vary from the strict application of the ordinance, whereas if this was a developer putting in a 10 storefront then they would say no, you need a door for all of these because it's not an indoor shopping mall and needs to exit out onto the street and said he believes he and Ms. Harrington are on the same page about that. Chair van den Hombergh said don't count them all out, she is trying to find a way to make everybody happy. Mr. Hohler admitted that he comes into the meetings with the intent of saying no, so he sits and lets them convince him to say yes and Ms. Harrington said we're not made for the law, the law is made for us and we don't have to marry ourselves to things because we can change it and Mr. Hohler said that's true because if they wanted it to be this way, they wouldn't have a zoning board of appeals, it would just be no.

Chair van den Hombergh asked if there was any more discussion and there wasn't, and she asked for a roll call vote. Mr. Eldridge said this is for variance number two to allow for only one entrance on the Portage Street frontage where two are required.

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

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

OTHER BUSINESS:

Item #1-Annual report of 2023

Mr. Eldridge summarized that there were 11 regular meetings last year and the rezoning and ordinance amendments they talked about was adopted October 16, 2023, by the City Commission, and he made note of that under the new initiatives. He also noted the joint training done in December that included the Planning Commission, the Natural Features Protection Review Board, and the ZBA members together and wanted to say for the record this was the only board that had full attendance at the training. He pointed out that the table on top of page articulates the type of requests that came before the board: there was a total of 22 applications but a total of 31 actual variances. He explained the reason for that is, for example, with some of the sign variances, the ordinance language breaks out in size allowance, height requirements for signs, the percent of changeable copy allowed, so you get into the granular detail and they separate dimensional variance for each of these segments so that was something that came out with several of the sign variances that there were multiple parts, there were also several large projects such as the Kalamazoo Country Club that was before the board for off street parking and bike parking that happened early in the year. This came before the board because of the square footage of the facility, the calculated parking came out to somewhere around 800 parking spaces and this was one of the reasons they

made the ordinance changes, the city set it up so there is no minimum because the Country Club wanted to go with less parking but the ordinance said this is the parking based on the square footage of the building, but it didn't make practical sense and they said they don't need all of that parking and if they have overflow they would use some of the golf course for it. He said in situations like that, and big projects that involve multiple variances, is the reason for the discrepancy in applications versus total number of cases. He said that what the city always does is they lay out what use variances came before the board, what was approved and what was denied because these are the ones where they are most cautious when they're writing the staff report and the review criteria is more precise as when you're evaluating a use variance. He added that he looked at the projects and one of the eight was denied, and that was the adult foster care that wanted to increase the number of persons at 3113 Parchmont Avenue, so that left seven that got approved and he looked to see how many of those are actively moving through the review and approval process, because variances are good for 12 months from the date they're granted and if the projects don't move, the projects will lapse and expire. He said two out of the remaining seven that were approved hasn't had any movement yeah and one of those, 1122 South Westnedge, is nullified because the commercial office zone district has been removed, as it was a house in the Vine Neighborhood that they wanted to add a ground floor level residential unit but because of the commercial office zoning which doesn't have the flexibility allowing residential on the ground floor, they needed a use variance. He said that is now in the Live-Work zone, it's allowed by right, so even though that project hasn't moved forward there's still going to be OK when they get around to adding that additional ground floor unit, but the other ones are moving forward which is good to note. He went on to temporary use approvals, which the board doesn't see many of, and the only one they saw last year was Harvey's Barbecue, which was a four month approval and there were no problems with that operation when he was out there near South Burdick and East Cork Street and as far as the number of variance requests before the board, it's hard to say whether with the ordinance amendments the board will see a reduction in the number of variances in the future. He added that the form-based standards are complex and now there are standards for transparency that didn't exist before so we'll see but, on the upswing, they tweaked the sign regulations so there should be less of those variances coming. He said some other significant cases that came before the board includes the second one from the bottom on the third page was the dimensional variance related to the rooftop signs for Enterprise Car Rental and that was significant that the board upheld the fact that roof mounted signs are still not something that's desirable, the ordinance is clear on that and the board held firm on it as well, so Enterprise Car Rental is coming up with new signs for their building on Cork Street. He set as mentioned before about the elimination of some of the less flexible commercial zone districts like Commercial-Office and Commercial Neighborhood, those have been replaced with Live Work One and Live Work Two, so there will be less variances for ground floor residential because now it's permitted by right, so it allows more flexibility for the property owner that didn't exist before. Mr. Eldridge asked if anyone had any questions and Ms. Harrington admitted she was happy they didn't do the Burger King thing and said she thought there were some rooftop signs but as she has been driving, she has realized we don't have any. Mr. Eldridge clarified that Ms. Harrington's comments were related to the old Burger King on East Cork Street, which is now Enterprise Car Rental and Mr. Hohler said he likes when Mr. Eldridge says we don't know what's going to happen with the new zoning because he's sure that people who are building stuff we'll find new and interesting ways to break it, because that's usually what happens and Mr. Eldridge said it's a fluid document and there's always room for improvement and if there are some loopholes that need to be addressed then they will address them.

Mr. Eldridge said other than that they just had the election of board officers to entertain, and that is the last item of business. He said he talked to some folks and came up with a tentative slate of board officers for 2024, so unless there's changes to that they just need a motion and a second, then the board would vote on that and that tentative slate was Chair Joe Hohler III, Vice-Chair Gary Wark, and Secretary Remi Harrington. Mr. Hohler asked if it was bad manners to make the motion and Ms. van den Hombergh said she was going to make the motion.

Ms. van den Hombergh made a motion to approve the slate of Board Officers for the Zoning Board of Appeals for 2024, seconded by Mr. McReynolds.

The motion was approved unanimously by voice vote.

Mr. Wark wanted to know if the board can get a hard copy of the zoning ordinances because of all the changes and Mr. Eldridge said we can print copies and bring those to the next meeting and added that unfortunately what has been in process since mid-November, is trying to get the online ordinance updated so when you go to the City of Kalamazoo website and you bring up the ordinances, that is housed in an outside and so the city has been trying to get the changes uploaded to the site. Ms. Harrington asked if that's why when requesting information from the ordinance be sent to you, it's very difficult to do that and she still hasn't received the information she requested from the site. Mr. Eldridge asked if it was a FOIA request and she said no, but when they were having the conversation about rezoning, she was just simply trying to get access to some information from the site and it didn't allow her to, but she can send Mr. Eldridge an email. Mr. Eldridge said the ImagineKalamazoo web page has the updated ordinance on it as well and there's a link there to submit questions, but he can follow up with her after the meeting and Ms. Harrington said maybe other constituents are experiencing difficulties as well.

ADJOURNMENT:

The meeting was adjourned at 8:55 p.m.

Submitted By _____ Date _____
Recording Secretary

Reviewed By _____ Date _____
City Staff

Approved By _____ Date _____
Chair



Zoning Board of Appeals Staff Report

City of Kalamazoo

Date: **3/14/2024**

Item: **D.1.**

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner/Deputy Director of CPED
Prepared by: Pete Eldridge, AICP, Zoning Administrator

DATE: March 14, 2024

SUBJECT: ZBA #24-03-04: 700 River Street. Dr. Michelle Johnson of the Playgrown Housing Development is requesting variances from Chapter 50 for the form-based development standards related to the 'Yard -Detached' lot type:

1. A dimensional variance from Chapter 50-5.6 H (1) (d) 13, to authorize two driveways on Bridge Street where only one driveway is permitted.
2. A dimensional variance from Chapter 50-5.6 H (1) (d) 13, to authorize three driveways on Ampersee Street where only one driveway is permitted.

BACKGROUND:

A 10-unit housing development is proposed for this site by Home Start Initiatives. This is a collaborative project between Playgrown and the Institute of Public Scholarship. The group is planning ten residential units, with a freestanding solar array, green space, walking paths, raised garden beds and playground. The Playgrown organization looks to build on Eastside initiatives to create a playground installation that caters to teens and adults to support healthy living, physical exercise and public art.

In Chapter 50 Zoning Ordinance under the 'Yard - Detached' lot type standards, one driveway per lot frontage is permitted. This proposed 10-unit housing development is unique in that it will remain one large parcel with several housing units, rather than dividing it into smaller lots with housing units on each lot, as is typical. The property has four street frontages, however, the housing units are all proposed to be placed on the north (Bridge St) and east (Ampersee Ave) street frontages due to floodplain implications and soil contamination. This concentration of housing units means the driveways are also concentrated along these two frontages. Shared driveways are proposed for the residential units, resulting in five driveways for the 10- units, however, this is more than the code allows.

STRATEGIC VISION ALIGNMENT:

Complete Neighborhoods - residential areas that support the full range of people's daily needs
Environmental Responsibility - A green and healthy City.

Strategic Goal, Master Plan 2025 and Eastside Neighborhood Plan Impact:

The project proposed aligns with the Strategic Goals of Complete Neighborhoods and Environmental Responsibility as this will result in additional housing units for the neighborhood and this is a sustainable redevelopment project that will result in the re-use of contaminated property for a small housing development with solar and other energy-efficient improvements. Further, this aligns with the Future Land Use Map which labels it as Urban Edge and the Eastside Neighborhood Plan which supports a mix of new housing options for residents.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

A public hearing notice was placed in the newspaper and notices were sent to the property owners and occupants within 300 feet. A notice was also sent to the Eastside Neighborhood Association. The applicant has been in communication with the Kalamazoo Eastside Neighborhood Association.

Engagement/Communication Tools:

Newspaper, mailings, and applicant outreach

FINDINGS:

Staff has made the following findings regarding this request:

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

There are special circumstances that pertain to the property, which are site contamination and the 100-year floodplain which has dictated the positioning of the residential units along the north and east sides of the site. The site layout has been prepared to mitigate soil contamination issues and adhere to EGLE floodplain requirements.

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

The applicant did not create the site contamination or cause this parcel to be located in the floodplain.

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

The literal application of the Zoning Ordinance would limit this site to four total driveways, one on each frontage. This is not a practical alternative with the dwelling units concentrated on the Bridge Street and Ampersee Avenue frontages due to site development constraints. It should be noted the parcel is not being divided into small lots due to future ownership and operations reasons for managing the solar array, green space improvements, and ten housing units.

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 allow this housing development project to move forward. The number of driveways is half what would have been proposed along Bridge Street and Ampersee Avenue if they had not designed the project with shared driveways or if the developer had divided the property and placed each dwelling unit on an individual lot.

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

The proposed number of driveways will not adversely impact adjacent property. The north side of Bridge Street is vacant and the east side of Ampersee Avenue has three houses and one commercial building with a total of four driveways.

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

The granting of these variances will be generally consistent with the intent of the Ordinance as this will result in a minimal number of additional driveways (6 total) dispersed on three frontages of this 1.6 acre property. The fourth frontage (River Street) will not have any driveways.

7. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria: 1) existing landscaping, screening or wetlands intended to be preserved meets the intent of this section; 2) the landscape design proposed by the applicant meets the intent of this section; 3) there is a steep change in topography that would limit the benefits of required landscaping; 4) the proposed building and parking lot placement is setback well beyond the minimum required; 5) the abutting or adjacent land is developed or will be developed in the near future with a use other than residential; and 6)

similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

This criterion is not applicable to the requested variances

RECOMMENDATION:

Staff recommends approval of these variances for the additional driveways on Bridge Street and Ampersee Avenue as each meets the review criteria.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

February 28, 2024

**RE: ZBA #24-03-04
700 River Street
Parcel #: 06-15-284-200**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Dr. Michelle Johnson for the Playgrown Housing Development at 700 River Street in the Live Work -1 District (LW-1).

The applicant is requesting variances from Chapter 50 for the form-base development standards related to the 'Yard -Detached' lot type:

1. A dimensional variance from Chapter 50-5.6 H (1) (d) 13, to authorize two driveways on Bridge Street where only one driveway is permitted.
2. A dimensional variance from Chapter 50-5.6 H (1) (d) 13, to authorize three driveways on Ampersee Street where only one driveway is permitted.

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

The meeting will be held on Thursday, March 14, 2024, 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
Zoning Administrator



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: Dr. Michelle Johnson	Mailing Address: 925 Cambridge Drive	
City: Kalamazoo	State: MI	ZIP Code: 49001
Phone: 269-873-6828	Email: michellesjohnson.mi@gmail.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: City of Kalamazoo Brownfield	Mailing Address: 241 W. South Street	
City: Kalamazoo	State: MI	ZIP Code: 49007
Phone: 269-337-8789	Email: mccarthyja@kalamazoo-city.org	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 700 River St, Kalamazoo, MI 49048		
Parcel Identification Number(s): 06-15-284-200	Zone District (kalamazoo-city.org/maps): LW1	
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>50</u> , Section(s) <u>5.6 H (1) (d) 13</u> Driveway location	☐ Appeal of an Administrative Decision	
☐ Use Variance to allow _____	☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____	
☐ Natural Features Protection Variance	☐ Temporary Use Approval	
Reason for Request: To construct six (6) total drive entrances along Ampersee Avenue, Bridge Street, and Hotop Avenue.		
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.	
<i>Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support</i>		
SIGNATURE		
Signature of Applicant: <u>Michele Johnson</u>		Date: 2.15.2024
Signature of Owner (if different than applicant):		Date:



ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

Review Criteria for Dimensional Variances

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

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

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

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



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

Will the granting of the variance negatively affect adjacent land?

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

Additional Criteria for Variance Requests for Required Landscaping

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

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



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

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

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

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

DRAWING LOCATION: H:\23-0150 (700 River Street - Ampersee Housing) - FINAL DRAWINGS\2 Site Layout Plan.dwg LAST SAVED BY: KRAUSE ON 2/15/2024



ZONING REQUIREMENTS

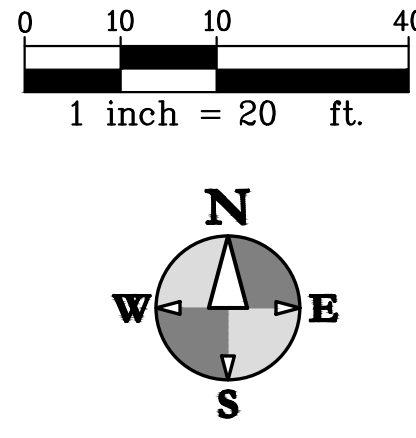
ZONING
THE SITE IS ZONED LW-1 (LIVE WORK 1 DISTRICT)
SETBACKS: FRONT BUILD-TO ZONE - 10'-25'
CORNER BUILD-TO ZONE 10'-20'
SIDE SETBACK - 5'
REAR SETBACK- 10'

PROPOSED USE
RESIDENTIAL AND CIVIC
CONSTRUCTION TYPE ---

PARKING
PARKING ALLOWED IN SIDE AND REAR YARDS ONLY
ALL BARRIER FREE SPACES DESIGNED PER ADA REQUIREMENTS

BUILDING INFORMATION
SEE FLOOR PLAN AND ELEVATIONS FOR MORE DETAIL.
BUILDING HEIGHT = 3 STORIES MAX 9-14' STORIES

LOT COVERAGE REQUIREMENTS
FRONT LOT COVERAGE 40% MAX - 28% PROVIDED
IMPERVIOUS SURFACE ALLOWED 50% - 27% PROVIDED
ADDITIONAL SEMIPERVIOUS ALLOWED 15% - 8.0% PROVIDED
TOTAL LOT AREA= 69,696 SF
IMPERVIOUS COVERAGE=18,826 SF
SEMI PERVIOUS COVERAGE= 5,605 SF



LEGEND

- CONCRETE PAVEMENT AND SIDEWALK
- PROPOSED BUILDING



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:
HURLEY & STEWART, LLC

SITE LAYOUT PLAN
AMPERSEE HOUSING
PLAYGROWN

Sheet Title:
Project:
Client:

2/8/24
Sheet
C-2

Job No. 23-0150	P.M.	Drft.	QA/QC: 00/00/00
ISSUED FOR/REVISIONS:			
1	OWNER REVIEW	9/26/23	
2	OWNER REVIEW	2/8/24	
3			
4			

hurley & stewart
hurley & stewart, llc
2800 s. 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleystewart.com

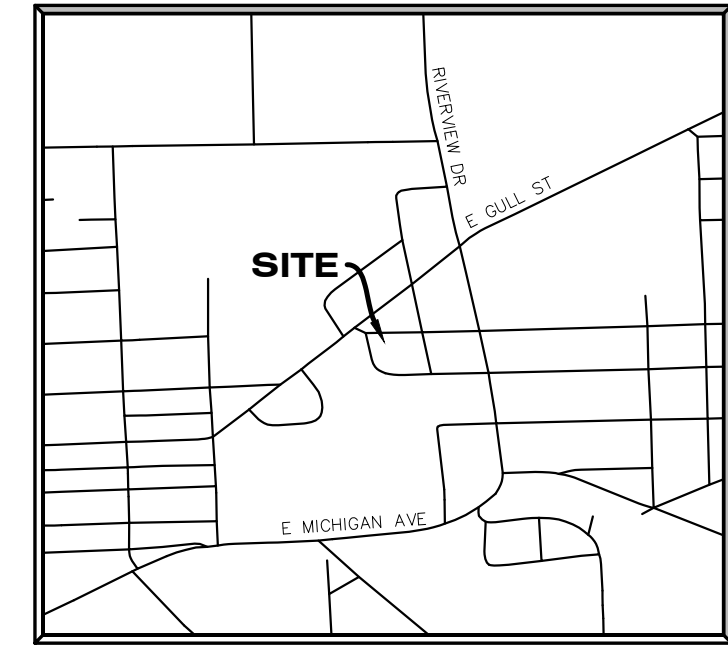
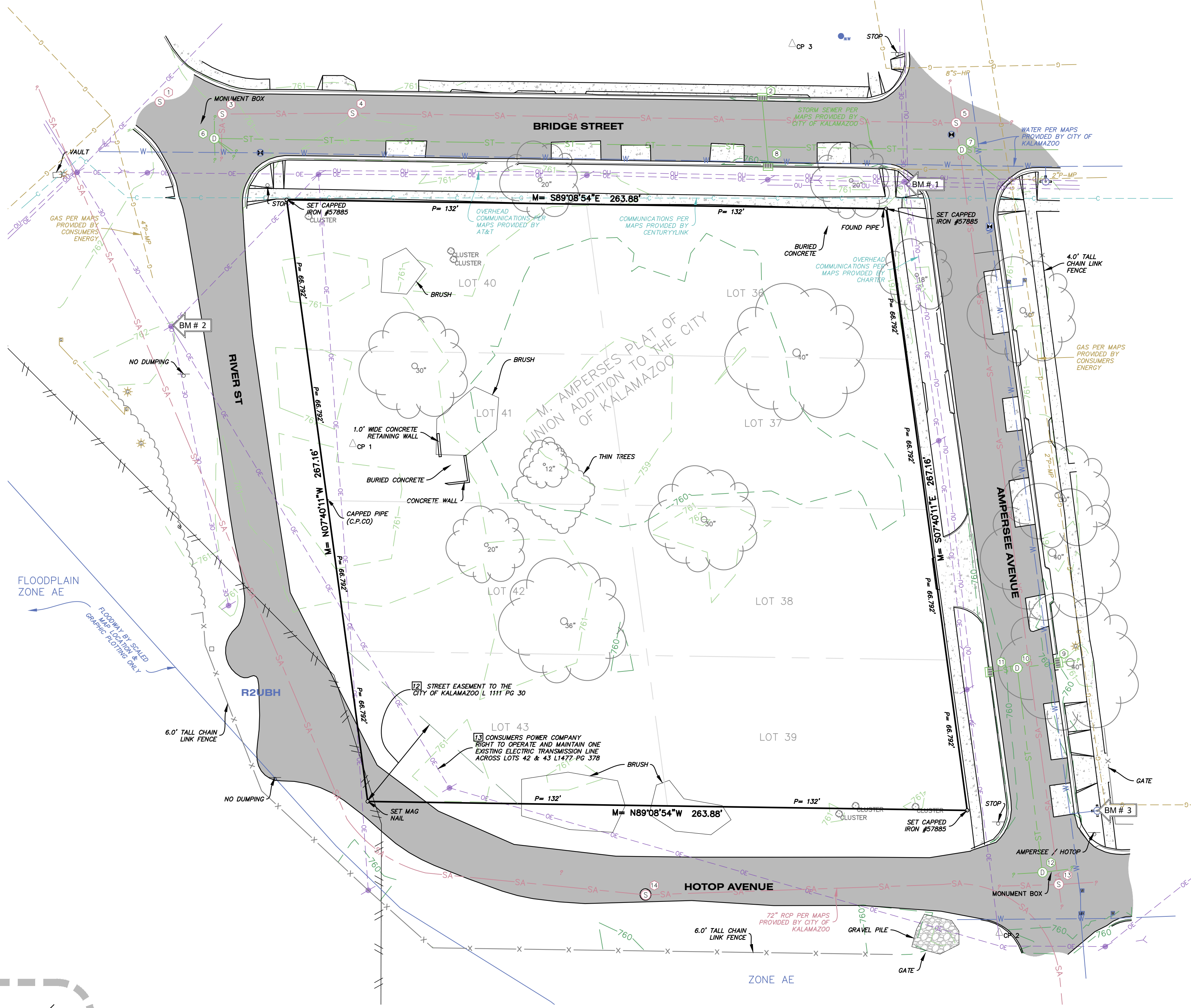
SURVEYOR'S NOTES

1. BASIS OF BEARINGS: MICHIGAN STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83
2. CONTOUR INTERVAL = 1 FOOT
3. UTILITIES SHOWN ARE BASED ON FIELD LOCATION OF SURFACE EVIDENCE AND RECORDS PROVIDED BY OTHERS. UNDERGROUND UTILITY LOCATIONS ARE APPROXIMATE. ADDITIONAL UTILITIES MAY BE ENCOUNTERED. PRIOR TO ANY EXCAVATION THE CONTRACTOR SHALL CALL MISS DIG AT 1-800-482-7171.
4. BY SCALED MAP LOCATION AND GRAPHIC PLOTTING ONLY, THE LAND DEPICTED IN THIS SURVEY LIES IN ZONE AE AND ZONE X. MAP 26077C0187D, EFFECTIVE DATE 2/17/2010. AREAS WITH ELEVATION BELOW 761.3 COULD POTENTIALLY BE WITHIN ZONE AE.
5. WETLANDS ARE ON SITE PER THE NATIONAL WETLANDS INVENTORY. A DELINEATION OF THE WETLANDS BY A QUALIFIED CONSULTANT WAS NOT PERFORMED AT THE TIME OF SURVEY.
6. NO LEGAL DESCRIPTION WAS PROVIDED AT THE TIME OF SURVEY. PROPERTY LINES SHOWN ARE BASED ON FOUND MONUMENTATION AND THE AVAILABLE TAX DESCRIPTION AND SHOULD BE CONSIDERED APPROXIMATE UNTIL COMPARED TO THE TITLE COMMITMENT OR CURRENT DEED.
7. TITLE WORK WAS NOT PROVIDED AT THE TIME OF SURVEY. NO EASEMENTS ARE SHOWN OR HAVE BEEN RESEARCHED.
8. THIS IS NOT A BOUNDARY SURVEY. PROPERTY LINES ARE APPROXIMATE AND SHOULD NOT BE RELIED ON FOR IMPROVEMENT PURPOSES.
9. PARCEL CONTAINS 1.60± ACRES (69,719± SQFT).

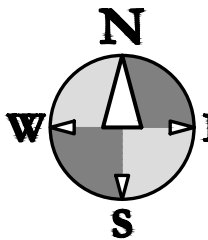
LEGEND

BM #XX	BENCH MARK																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									</
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BOUNDARY/TOPOGRAPHIC SURVEY



SECTION 14 AND 15, TOWN 02 S, RANGE 11 W,
CITY OF KALAMAZOO, KALAMAZOO COUNTY,
MICHIGAN
ADDRESS



0 15 30 60
1 inch = 30 ft.

SURVEY CONTROL

CP 1 N = 5000.00 E = 5000.00 EL = 761.32
CP 2 N = 4784.91 E = 5284.52 EL = 760.24
CP 3 N = 5176.04 E = 5193.37 EL = 760.74

BENCHMARKS

ELEVATIONS OF THIS SURVEY ARE BASED ON
NAVD 88 AS DERIVED FROM GPS

BM 1 EL = 762.34'
SPIKE ON SOUTH FACE OF UTILITY POLE AT
THE SOUTHWEST CORNER OF BRIDGE ST AND
AMPERSEE AVE.

BM 2 EL = 763.72'
RAILROAD SPIKE IN EAST FACE OF UTILITY
POLE ON THE WEST SIDE OF RIVER ST 87±
SOUTH OF THE CENTERLINE OF BRIDGE ST.

BM 3 EL = 762.69'
CHISELED X ON SOUTH BOLT OF HYDRANT
AT THE NORTHEAST CORNER OF HOTOP AVE
AND AMPERSEE AVE.

EXISTING STRUCTURE DATA

1. 4.0' BLOCK SAN MH
RIM = 761.64'
NO PIPES VISIBLE
SEDIMENT = 756.89'
2. 1'X 2' VERTICAL CONCRETE STM CB
RIM = 759.83'
INV. 12" N CLAY = 754.83'
SEDIMENT = 754.83'
3. 1'X 2' VERTICAL CONCRETE STM CB
RIM = 759.94'
INV. 12" S CLAY = 754.94'
SEDIMENT = 754.94'
4. 4.0' BLOCK SAN MH
RIM = 761.01'
INV. 6" E = 755.11±
INV. 6" W = 755.11±
5. 4.0' BLOCK SAN MH
RIM = 760.75'
INV. 8" N CLAY = 754.05'
INV. 8" S CLAY = 754.15'
INV. 8" E CLAY = 754.15±
INV. 8" W CLAY = 754.15±
6. 6.0' BLOCK STM MH
RIM = 761.66'
INV. 12" N IRON = 753.46±
INV. 12" SE IRON = 756.66±
INV. 12" S IRON = 753.11'
INV. 18" S IRON = 752.96±
INV. 12" E IRON = 752.96±
WATER = 754.11'
SUMP = 752.96'
7. 4.0' BLOCK STM MH
RIM = 760.48'
N/S TOP OF PIPE = 754.85'
NO OTHER PIPES VISIBLE
WATER = 754.10'
SUMP = 753.75'
8. 1'X 2' VERTICAL CONCRETE STM CB
RIM = 759.83'
INV. 12" N CLAY = 754.83'
SEDIMENT = 754.83'
9. VERTICAL CONCRETE STM CB
RIM = 759.94'
INV. 12"± W CLAY = 757.14'
INV. 12"± E CLAY = 757.14'
10. 4.0' BLOCK STM MH
RIM = 760.17'
INV. 12" S RCP = 753.67'
INV. 12" E RCP = 755.07'
INV. 12" W RCP = 755.27'
WATER = 754.02'
SEDIMENT = 753.82'
11. VERTICAL CONCRETE STM CB
RIM = 759.76'
INV. 12" E CLAY = 755.71'
12. 4.0' BLOCK STM MH
RIM = 760.51'
INV. 12" N RCP = 753.21±
INV. 15" E RCP = 753.06±
INV. 18" W RCP = 753.06±
WATER = 754.01'
SUMP = 753.01'
13. 4.0' BRICK SAN MH
RIM = 760.38'
INV. 8" N CLAY = 754.88'
INV. 8" S CLAY = 755.03±
INV. 8" E CLAY = 754.98±
INV. 8" W CLAY = 755.03±
14. 4.0' CONCRETE SAN MH
RIM = 760.48'
INV. 36" W
WATER = 738.18±

SCHEDULE C LEGAL DESCRIPTION

TITLE CO: SUN TITLE AGENCY OF MICHIGAN, LLC
UNDERWRITTEN BY: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT #223819 EFFECTIVE DATE : 7/28/2023 AT 8:00AM

THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:
LAND SITUATED IN THE CITY OF KALAMAZOO, KALAMAZOO COUNTY, MICHIGAN:
LOT 36, 37, 38, 39, 40, 41, 42, AND 43 OF M. AMPERSEE'S PLAT OF UNION ADDITION TO THE CITY OF KALAMAZOO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN LIBER 3 OF PLATS, ON PAGE 26.
39-06-15-284-200

SCHEDULE B SECTION II EXCEPTIONS

TITLE CO: SUN TITLE AGENCY OF MICHIGAN, LLC
UNDERWRITTEN BY: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
COMMITMENT #223819 EFFECTIVE DATE : 7/28/2023 AT 8:00AM

[10] OIL, GAS, MINERALS, WATERCOURSE OR STREAM AND ABORIGINAL ANTIQUITIES RESERVED BY THE STATE OF MICHIGAN BY DEED IN INSTRUMENT NO. 2002-033935 (NOT SURVEY MATTERS).

[11] OIL, GAS, MINERALS, WATERCOURSE OR STREAM AND ABORIGINAL ANTIQUITIES RESERVED BY THE STATE OF MICHIGAN BY DEED IN LIBER 1031 ON PAGE 495 (NOT SURVEY MATTERS).

[12] EASEMENT IN FAVOR OF CONSUMERS POWER COMPANY (NOW KNOWN AS CONSUMERS ENERGY), AS RECORDED IN LIBER 1111 ON PAGE 30 (SHOWN).

[13] EASEMENT IN FAVOR OF CONSUMERS POWER COMPANY (NOW KNOWN AS CONSUMERS ENERGY), AS RECORDED IN LIBER 1477 ON PAGE 378 (ELECTRIC TRANSMISSION LINE SHOWN).

MISS DIG DESIGN TICKET DATA

123.NET, INC. FIBER OPTICS - 248-431-4584 - 02/22/23 - MAPS PROVIDED
AT&T TELEPHONE - PHILIP BARDOZ 269 384-4476 - 03/02/23 - MAPS PROVIDED
CHARTER COMMUNICATIONS CABLE TV - CHRISTIE DOLE CHRISTIE.DOLE@CCSYSTEMS.COM - 02/28/23 - MAPS PROVIDED
CHARTER COMMUNICATIONS FIBER OPTICS - CHRISTIE DOLE CHRISTIE.DOLE@CCSYSTEMS.COM - 02/28/23 - MAPS PROVIDED
COMCAST CABLE TV - 855-962-8525 - CLEAR - 02/22/23
COMCAST FIBER OPTICS - 855-962-8525 - CLEAR - 02/22/23
CONSUMERS ENERGY ELECTRIC - 800-778-9140 - 04/19/23 - NO RESPONSE
CONSUMERS ENERGY GAS - CONSUMERS ENERGY SIMS WEBSITE - 02/27/23 - MAPS PROVIDED
KALAMAZOO CITY DPS POTABLE WATER - ELISE V. CASE 269-337-8772 - 02/28/23 - MAPS PROVIDED
KALAMAZOO CITY DPS SANITARY SEWER - ELISE V. CASE 269-337-8772 - 02/28/23 - MAPS PROVIDED
KALAMAZOO CITY DPS STORM SEWER - ELISE V. CASE 269-337-8772 - 02/28/23 - MAPS PROVIDED
LEVEL3 NOW CENTURYLINK FIBER OPTICS - 877-366-8344 - 02/22/23 - MAPS PROVIDED



Know what's below.
Call before you dig.

BOUNDARY/TOPOGRAPHIC SURVEY
700 RIVER STREET
INTERSECT-STUDIO

Sheet Title:
Project:
Client:

09/20/23
Sheet

S-1

hurley & stewart, llc
2800 s. 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleystewart.com



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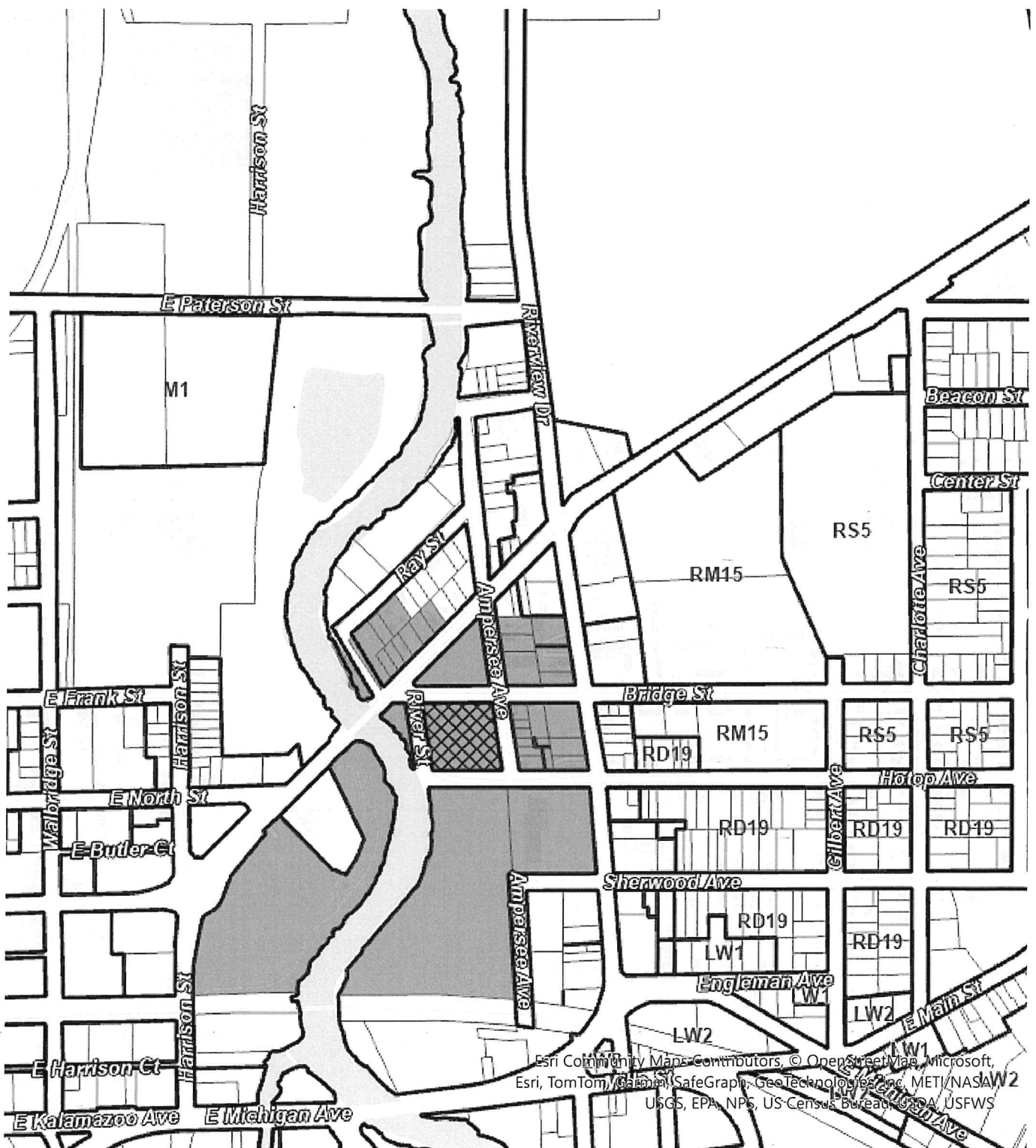
LEGEND

PARCEL MAP GENERAL INFORMATION

-  Parcel  City Boundary



City of Kalamazoo,
2/27/2024



Esri Community Maps Contributors, © OpenStreetMap contributors, Esri, TomTom, Garmin, SafeGraph, GeoTechnology Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, NOAA, USFWS

Parcels within 300' Mailing Radius 700 RIVER ST

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



0 220 440 880 ft



Zoning Board of Appeals Staff Report

Date: **3/14/2024**

Item: **D.2.**

City of Kalamazoo

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner/ Deputy Director of CPED
Prepared by: Pete Eldridge, AICP, Zoning Administrator

DATE: March 14, 2024

SUBJECT: ZBA #24-03-05: 4100 Oakland Drive. Oakland Financial Company, LLC is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to allow the re-alignment of Angling Road with Oakland Drive which will encroach into a protected slope with a grade greater than 20% and protected slope setback. This will impact approximately 1,350 square feet (.031 acres) of protected slope and 1,500 square feet (.034 acres) of protected setback area.

BACKGROUND:

The project site is at the southwestern corner of Oakland Drive and Angling Road next to Oakwood Bible Church. The property is in the RS-5 Zone District and NFP Overlay District. The proposed project will realign Angling Road and make improvements to establish a four-way intersection with new driveway access on the east side of Oakland Drive for the Kalamazoo Country Club. The project involves the acquisition of additional right-of-way by the City on the south side of Angling Road. The grading work planned for this area conflicts with the protected slope and protected slope setback, resulting in a disturbance of approximately 1,350 square feet and slope setback of 1,500 square feet.

This intersection redesign has been reviewed by the City Traffic Engineer and a right-of-way easement is in place with the Oakland Finance Company, LLC to complete the needed site work.

This application went before the Natural Features Protection Review Board on February 29, 2024. At that meeting, the design team for the developer noted how the intersection would be updated, including the safety considerations. This project will result in a redesigned intersection with Angling Road and the driveway for the KCC coming in to Oakland Drive at a 90-degree angle for improved visibility of motorists at the intersection. Additionally, an ADA-compliant pedestrian crosswalk will be installed on the south side of the intersection on Oakland Drive. The NFP Review Board unanimously approved a recommendation to the Zoning Board of Appeals supporting the granting of these variances.

STRATEGIC VISION ALIGNMENT:

Connected City - A City networked for walking, biking, riding, and driving

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

Strategic Goal and Master Plan Impact:

This project aligns with the Strategic Goals of Connected City and Complete Neighborhoods as this will result in improved pedestrian access across Oakland Drive and the KCC improvements will provide recreational amenities that area residents can utilize with a club membership. This project will not change the use of any adjacent properties.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

A public hearing notice was placed in the newspaper and notices sent to the property owners and occupants within 300 feet. A notice was also sent to the Oakwood Neighborhood Association. The applicant has been working with the Oakwood Bible Church for a considerable period of time.

Engagement/Communication Tools:

Newspaper, mailings and applicant outreach

FINDINGS:

Staff has made the following findings regarding this request:

Are there reasons the parcel cannot be reasonably utilized for its zoned use without the requested relief?

The property at 4100 Oakland Drive has a considerable slope along the north frontage of Angling Road, making it difficult to re-align the intersection without impacting the natural features. This requested relief is related to a city project to make safety improvements to the Angling Road and Oakland Drive intersection.

Is the extent of relief requested the minimum action needed to permit reasonable utilization of the site?

The design has been thoughtfully created with the assistance of the Traffic Engineer to limit the impact on protected natural features. There is no better viable option as moving the Angling Road further north would create impacts on natural features on the adjacent property to the north.

How can you demonstrate that the 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?

The minor impacts on the protected slope and protected slope setback will result in improved vehicle and pedestrian safety at the intersection.

Is the requested relief 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 natural features on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List?

Given the limited scope of this project and its impact on the natural features, there are no additional improvements planned that fall in the suggested categories of this question. The intersection will remain connected to the existing city storm water management system in place for Oakland Drive.

RECOMMENDATION:

Staff recommends approval of the variance as it meets the review criteria and is supported by the NFP Review Board.



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

February 28, 2024

**RE: ZBA #24-03-05
4100 Oakland Drive
Parcel #: 06-32-423-001**

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 Oakland Financial Company, LLC for 4100 Oakland Drive in the Residential – Single Dwelling District (RS-5) and the Natural Features Protection Overlay.

The applicant is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to allow the re-alignment of Angling Road with Oakland Drive which will encroach into a protected slope (which has a grade greater than 20%) and protected slope setback. This will impact approximately .74 acres of protected slope and .58 acres of protected setback area.

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

The meeting will be held on Thursday, March 14, 2024, 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
Zoning Administrator

ZONING BOARD OF APPEALS APPLICATION GUIDELINES

The Zoning Board of Appeals (ZBA) reviews applications for the following requests:

- **Dimensional Variance** - relief from physical or dimensional standards that apply to a lot or structure.
- **Use Variance** - relief from standards that apply to how a lot or structure is used
- **Administrative Appeals** - relief from decision related to zoning made by the CPED Staff
- **Interpretation of Ordinance** - request to confirm the precise meaning of the ordinance text
- **Temporary Use Approval** - approval of temporary use with a duration of more than 30 days

Staff

Pete Eldridge, Assistant City Planner, (269) 337-8806 or eldridgep@kalamazoocity.org

ZBA Application Process

Step 1: Pre-Application Meeting. Before completing the application, schedule a meeting with the Assistant City Planner. Applications will not be noted as complete if this meeting has not occurred first.

Step 2: Application. Please complete general application form and review sheet for specific type of request. Also include any supporting information, plan, or map. Applications are available in person at the Community Planning & Economic Development (CPED) Offices at 245 N Rose Street, Suite 100 or online at www.kalamazoocity.org/planningzoningforms.

Step 3: Application Fee. Fee Schedule available at www.kalamazoocity.org/cpdfeeschedule/file

Step 4: Completed Application. Please email application and information to eldridgep@kalamazoocity.org. The application can be mailed or drop off with the application fee at CPED offices (245 N Rose Street, Suite 100). Complete applications are due four (4) weeks before the scheduled meeting date.

Step 5: ZBA Schedule & Deadlines. ZBA meetings are held on the 2nd Thursday of each month at 7 pm. These meetings are virtual until further notice and can be watched on the [City's Facebook page](#) and [YouTube Channel](#). The list of meeting dates can be found at www.kalamazoocity.org/planning.

Step 6: Notice and Outreach. Reaching out to the neighborhood association (if one) and to adjacent property owners about your project is encouraged. Please see Public Participation Plan (www.imaginekalamazoo.com/plans) for information on community engagement.

Step 7: Required Attendance at Meeting. The applicant or representative of the applicant is required to attend the meeting.

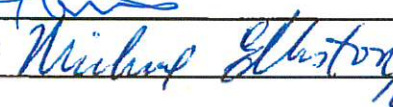


Community Planning & Economic Development

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

(269) 337-8026 • www.kalamazoocity.org

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Timothy Stewart - Hurley & Stewart		Mailing Address: 2800 S. 11th Street
City: Kalamazoo	State: MI	ZIP Code: 49009
Phone: 269.552.4960	Email: tstewart@hurleystewart.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: Oakland Finance Company, LLC		Mailing Address: 100 W. Michigan Ave., Suite 300
City: Kalamazoo	State: MI	ZIP Code: 49007
Phone: 269.553.6924	Email: melliston@greenleafcompanies.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 4100 Oakland Drive		
Parcel Identification Number(s): 06-32-423-001		Zone District (kalamazoocity.org/maps):
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) <u>50</u> , Section(s) <u>6.2</u>	☐ Appeal of an Administrative Decision	
☐ Use Variance to allow _____	☐ Interpretation of Zoning Ordinance, Chapter(s) <u>50</u> , Section(s) _____	
	☐ Temporary Use Approval	
Reason for Request: Realignment of Angling Road will require disturbance of slopes within 500 feet of a water source.		
ATTACHMENTS		
☐ \$ <u>300</u> Fee	☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.	
☒ Review Sheet for Request Type	☐ Optional: Photos of property, architecture plans, etc.	
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: 		Date: <u>2/12/24</u>
Signature of Owner (if different than applicant): 		Date: <u>2/12/2024</u>

ZONING BOARD OF APPEALS

NATURAL FEATURES PROTECTION REVIEW SHEET

Please Indicate the Nature Features and Requested Variances:

- ☐ Wetlands _____
- ☐ Water Resources _____
- ☐ Protected Trees & Replacements _____
- ☐ Woodlands _____
- ☒ Protected Slopes _____
- ☐ Natural Heritage Areas & Rare Species _____

General Information

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

Realignment of Angling Road will require disturbance and removal of woodlands and disturbance of slopes within 500 ft of a water resource. Variances we are seeking are:

- disturb 1,350 sf of native slopes greater than 20%
- disturb 1,500 sf of native slope setbacks

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.

Are there reasons the parcel cannot be reasonably utilized for its zoned use without the requested relief?

The property has significant grade changes across it making realigning Angling Road difficult without impacts to protected natural features. Angling Road currently concludes at Oakland Drive at a non-perpendicular angle. Our aim is to realign this road to bring it to a perpendicular intersection with Oakland Drive and improve site distances with input from the City of Kalamazoo's engineers.



Is the extent of relief requested the minimum action needed to permit reasonable utilization of the site?

Yes, great care has been taken with the proposed development to limit impacts to protected natural features. As identified in the attached drawing set, the limits of construction avoid the great majority of all protected features - especially those of higher value.

How can you demonstrate that the 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?

The public good is intended with the improved safety of the intersection once constructed. The limits of construction avoid the great majority of all protected features.

Is the requested relief 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?

Additional Required Information:

Please attach appropriate documentation of the existing conditions on the site for all natural features where the applicant is seeking a variance from the NFP standards.

☒ **WETLANDS**

- 1) Include a map of existing wetland conditions and boundaries
- 2) Include a plan set showing future development plan overlayed with wetland boundaries and mark areas of potential wetland impacts

Either of these sources are acceptable as a wetlands determination:

- 1) Wetland delineation report performed by a qualified consultant including a map denoting delineated boundary of all wetlands, OR
- 2) Use the most recent US Fish & Wildlife Service's National Wetlands Inventory boundary (State of Michigan mapper: <https://www.michigan.gov/egle/about/organization/water-resources/wetlands/inventory-maps>)

☐ **WATER RESOURCES**

- 1) Include a map of existing water resources on the site (including lakes, rivers, streams, and surface waters not created primarily for stormwater treatment)
- 2) Include a plan set showing future development plan, water resources, and all applicable setbacks required in the NFP ordinance

☒ **PROTECTED TREES & REPLACEMENTS**

- 1) Include a map with existing trees that meet the protection criteria in the NFP ordinance
- 2) Mark on the plan set all protected trees that will remain during and after construction AND those that will be removed
- 3) Include a table listing the protected tree species, size, and condition AND list the replacement tree species that will be planted in place of removed trees after construction

☒ **WOODLANDS**

- 1) Include a map delineating existing woodland areas meeting the definition in the NFP ordinance
- 2) Include a plan set showing future development plan overlayed with woodland boundaries
- 3) Mark on map the square footage or acres of woodland that will be removed/cleared for construction; include a table or note comparing the amount that is permitted for removal in the NFP ordinance to the amount requested in the variance

Either of these sources are acceptable as a woodland delineation and assessment when performed by a qualified consultant:

- 1) Woodland assessment report with determination that the Trees per Area (TPA) meets the NFP definition of a woodland and mapped delineation of woodland
- 2) Woodland assessment report with a determination that Basal Area is equivalent to the TPA in the NFP definition and meets definition of a woodland and mapped delineation of woodland

3) In addition to determination of whether stand of trees meets NFP definition of a woodland, assessment should include information on general species diversity, composition of species, any notable trees (either notable species or size), invasive species composition, and general health and age observations of tree stand

✕ PROTECTED SLOPES

- 1) Include a map that delineates all existing areas on the parcel that meet the definition of “protected slope” in the NFP ordinance
- 2) Include a plan set showing future development plan overlayed with protected slopes; mark slope setbacks on the plan and areas of potential slope and setback impacts

Either of these sources are acceptable to determine slope protection status:

- 1) A topographic survey performed in the field by a qualified consultant to delineate areas of a slope with grade of 20% or greater
- 2) A desktop analysis performed using U.S. Geological Survey digital topographic maps, LIDAR, digital elevation map, or equivalent data showing 2' intervals or finer resolution, performed by a qualified consultant or engineer

✕ NATURAL HERITAGE AREAS & RARE SPECIES

- 1) Check for any species considered to be rare, threatened or endangered per the State of Michigan, Federal Government or listed on the Michigan Natural Features Inventory (MNFI) Database.
- 2) Check for any remnant of a Natural Community listed on the MNFI Michigan's Natural Communities List.

DRAWING LOCATION: H:\21-046D\Kalamazoo Country Club\Designs\FINAL DRAWINGS\NFP\NFP-CLD NFP INVENTORY AND IMPACTS.dwg LAST SAVED BY: LEBEL ON 9/15/2023

LEGEND

GREATER THAN 20% SLOPE

20% SLOPE SETBACK

EXISTING WOODLANDS

PROPOSED WOODLAND REMOVAL

WOODLAND STATS

63.7% OF EXISTING 3.04 ACRES SITE IS IN WOODLAND.
11.1% OF WOODLAND TO BE REMOVED.

50% OF SITE WOODLANDS REQUIRE PRESERVATION. 88.9% OF WOODLANDS PROPOSED TO BE PRESERVED.

0153060

1 inch = 30 ft.

N

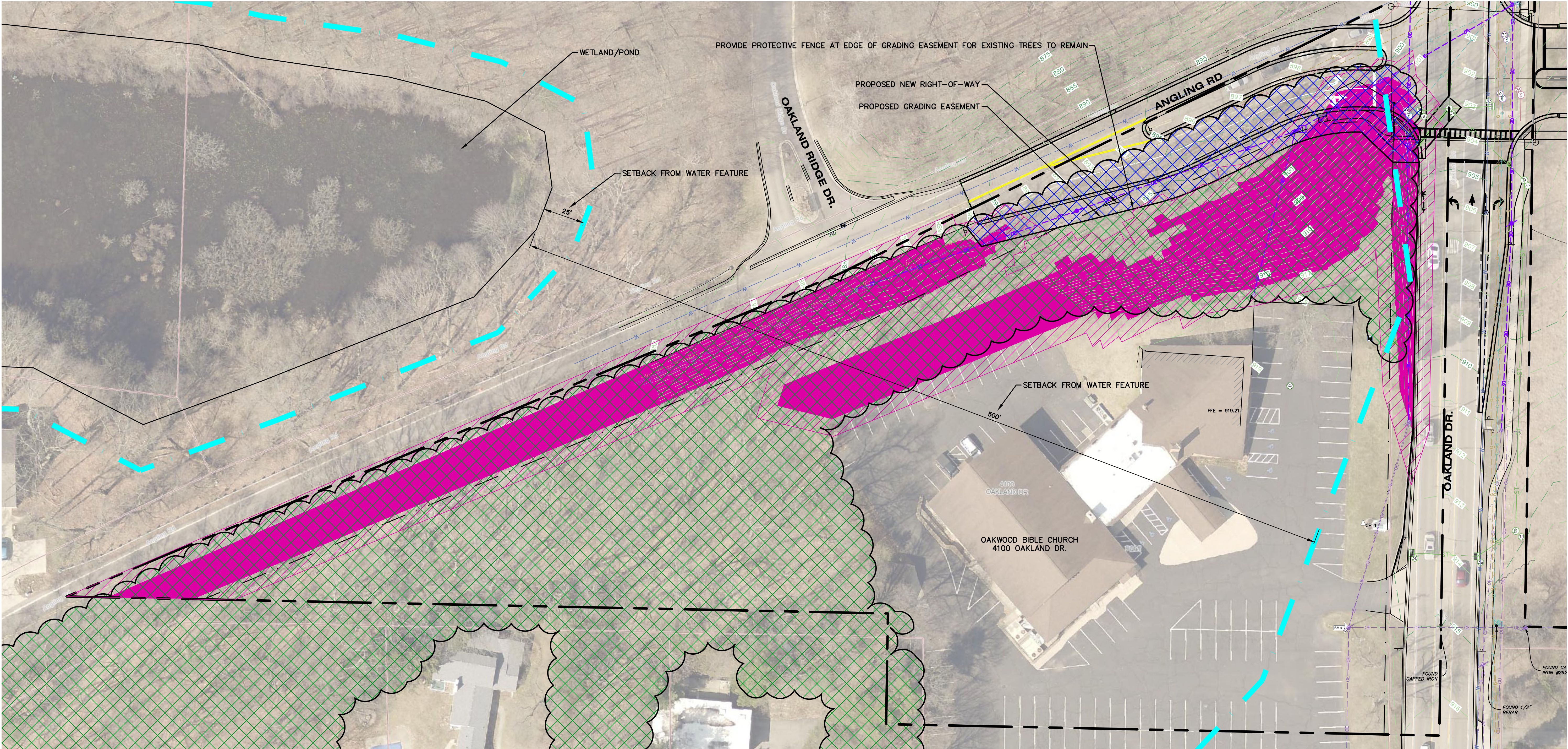
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811

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hurley & stewart, llc

2800 s. 11th street

kalamazoo, michigan 49009

269.552.4960 fax 269.552.4961

www.hurleystewart.com

hurley & stewart

Job No. 21-046D	P.M.T.A.S.	Drft: LAD	QA/QC: 09/15/23
ISSUED FOR/REVISIONS:			
1	NFP REVIEW	9/15/23	
2			
3			
4			
COPYRIGHT © of Hurley & Stewart, LLC			

Sheet Title:

Project:

Client:

NFP INVENTORY AND IMPACTS

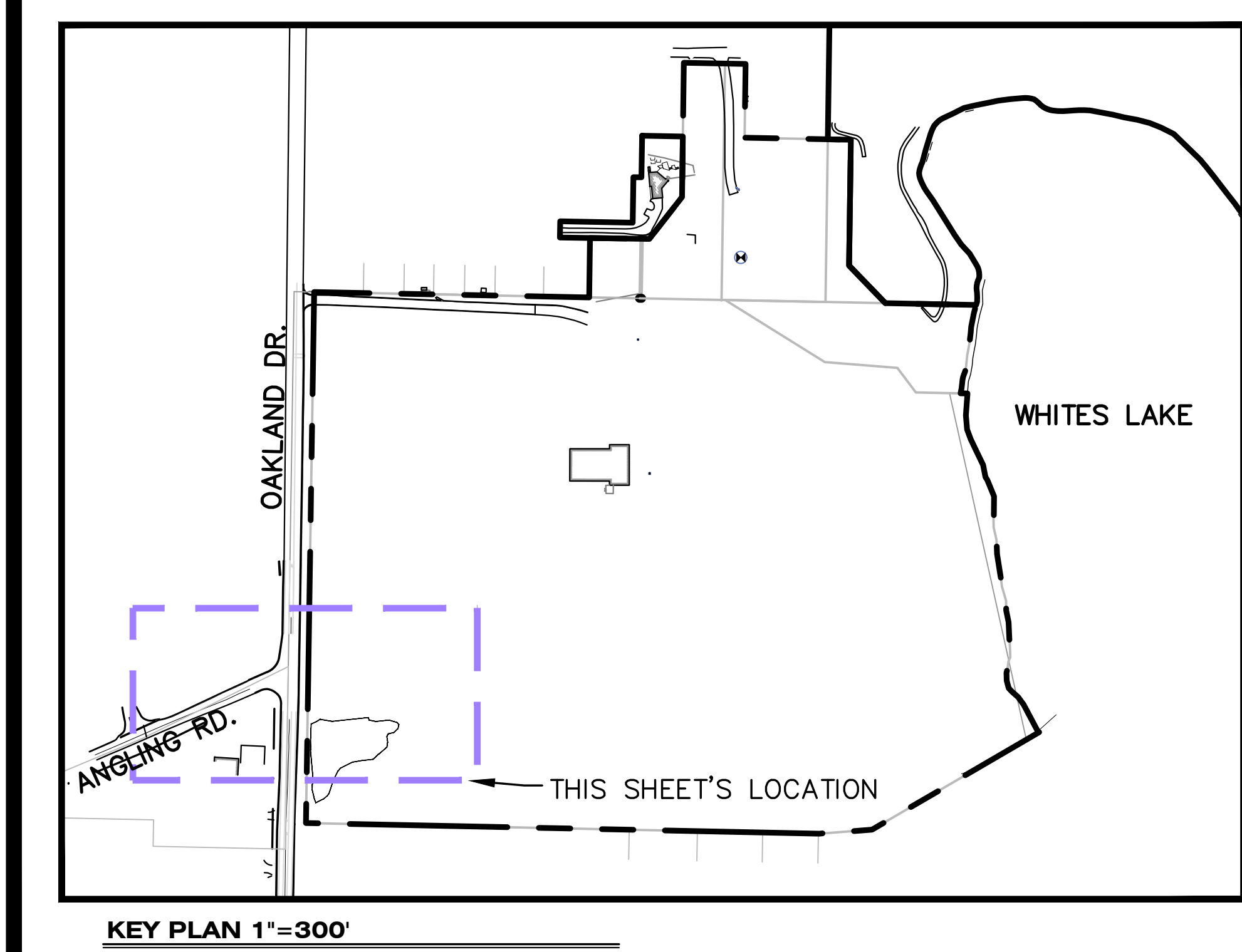
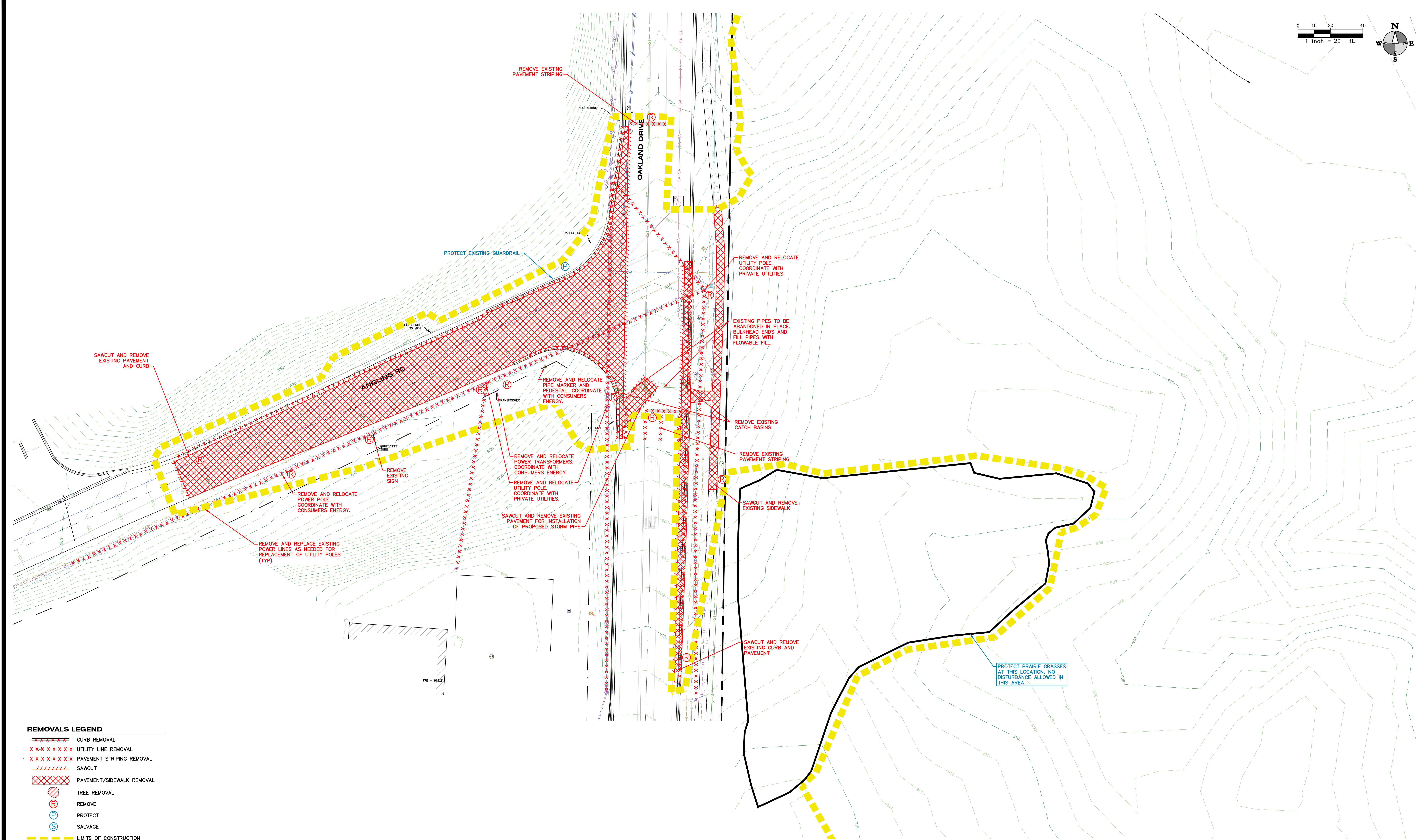
OAKWOOD BIBLE CHURCH -4100 OAKLAND DR.

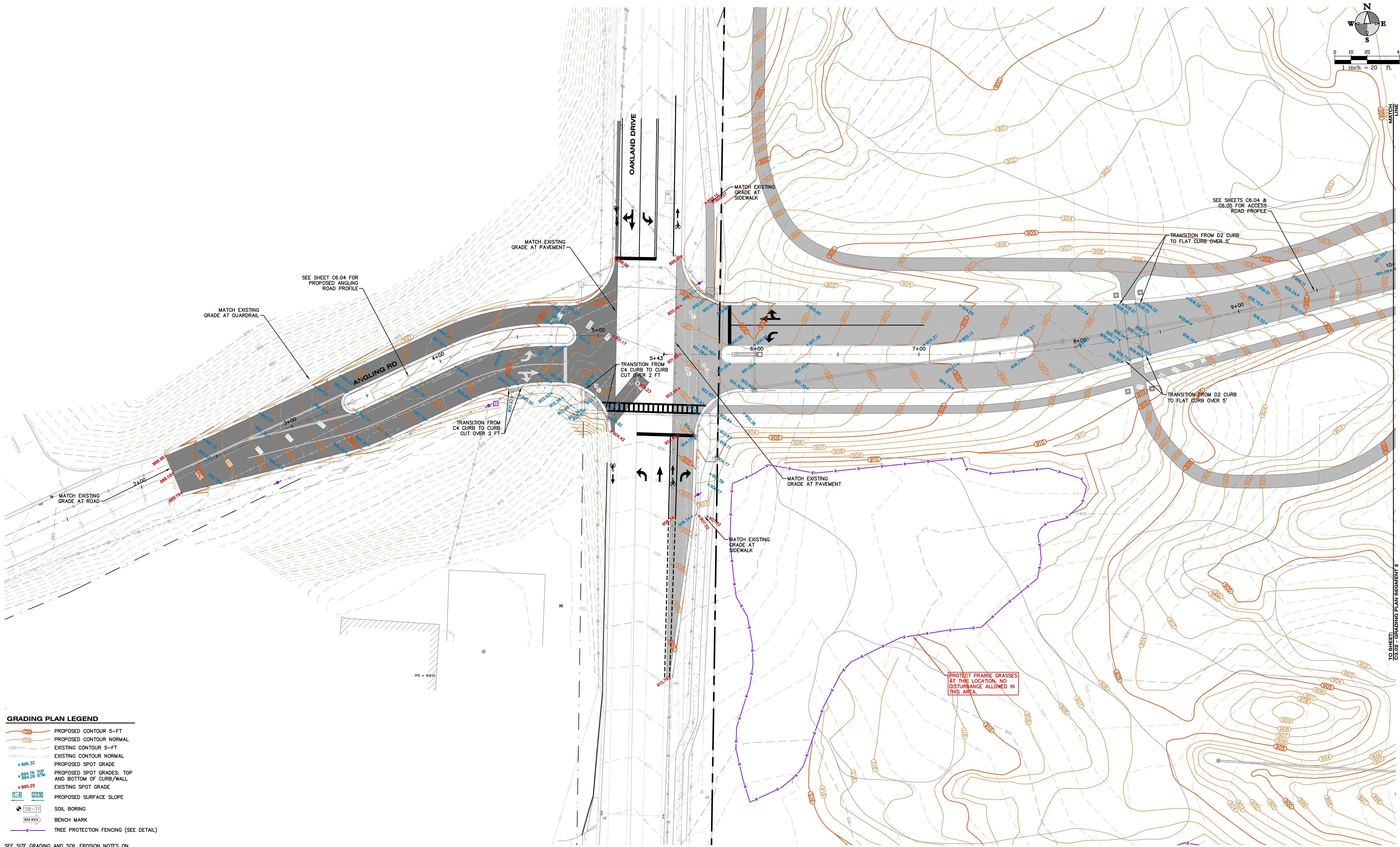
KALAMAZOO COUNTRY CLUB

09/15/23

Sheet

C1.0

[illegible]



- GRADING PLAN LEGEND**
- 720 PROPOSED CONTOUR 5-FT
 - 715 PROPOSED CONTOUR NORMAL
 - 710 EXISTING CONTOUR 5-FT
 - 705 EXISTING CONTOUR NORMAL
 - x 696.32 PROPOSED SPOT GRADE
 - x 694.75 TOP AND BOTTOM OF CURB/WALL
 - x 694.28 B/W
 - x 695.25 EXISTING SPOT GRADE
 - 1:4 2:5% PROPOSED SURFACE SLOPE
 - SB-11 SOIL BORING
 - BM XXX BENCH MARK
 - x TREE PROTECTION FENCING (SEE DETAIL)

SEE SITE GRADING AND SOIL EROSION NOTES ON SHEET C3.00 - OVERALL GRADING & SESC PLAN

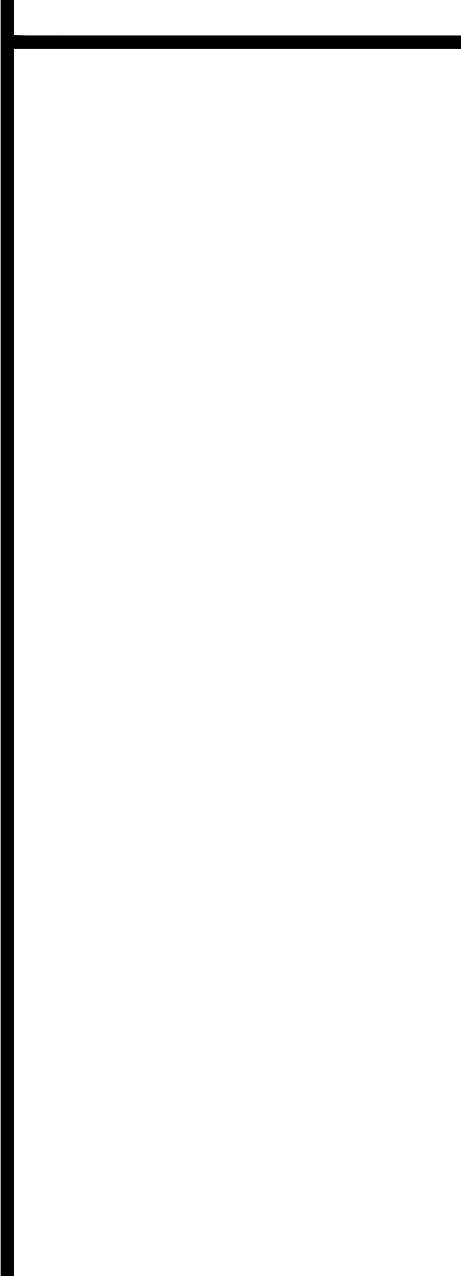
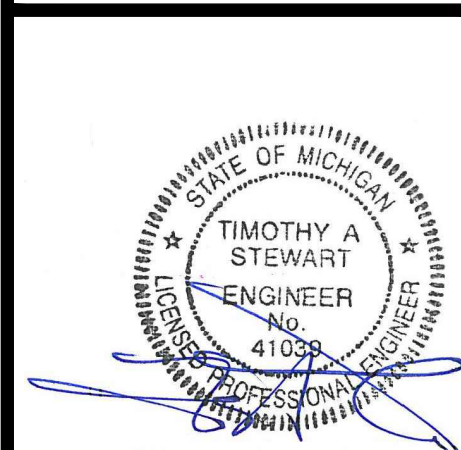


KEY PLAN 1"=300'

PLANNING ARCHITECTURE INTERIOR DESIGN PURCHASING

ARCHITECT & INTERIORS
CHAMBERS
301 MISSION BLVD
SUITE 2202
BALTIMORE, MD 21230
PHONE: (410) 727-4535
FAX: (410) 727-1172

hurley & stewart
hurley & stewart, llc
2800 s. 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleystewart.com



KALAMAZOO COUNTRY CLUB
1609 Whites Rd, Kalamazoo, MI 49008

CONSTRUCTION DOCUMENTS

DATE	ISSUE
08/31/2023	PERMIT RESUBMIT
06/30/2023	POOL PERMIT
06/13/2023	SITE RESUBMIT
12/23/2022	PERMIT

Date : 08/31/2023

Job No.: 21-124

Sheet Title
Grading Plan - C3.01
Grading Plan
SEGMENT 1

Sheet Number

811 Know what's below. Call before you dig.

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:
HURLEY & STEWART, LLC

**GRANT OF RIGHT OF WAY AND
TEMPORARY CONSTRUCTION EASEMENT**

THIS AGREEMENT made this 24th day of SEPT., 2023, by and between the CITY OF KALAMAZOO, a Michigan Municipal Corporation, with its principal offices located at 241 W South Street, Kalamazoo, Michigan 49007 (the "**Grantee**"), OAKLAND FINANCE COMPANY, LLC, a Michigan limited liability company, with its principal offices located at 350 E Michigan Ave., Suite 500, Kalamazoo, Michigan 49007 (the "**Builder**"), and OAKWOOD BIBLE CHURCH, a Michigan Nonprofit Corporation, with its principal offices located at 4100 Oakland Drive, Kalamazoo, Michigan, 49008 (the "**Grantor**").

WHEREAS, the Grantor owns 4100 Oakland Drive, in the city of Kalamazoo, Kalamazoo County, Michigan (the "**Property**"); and

WHEREAS, the Builder desires to widen Angling Road and complete other related site improvements (the "**Scope of Work**"); and

WHEREAS, the Builder desires to obtain a temporary construction easement (Attached as Exhibit A) from the Grantor for the Scope of Work (Attached as Exhibit B), covering approximately 2,290 of right of way (the "**RoW**") and an additional approximately 1,220 square feet outside of the RoW for grading and site improvements; and

WHEREAS, Grantee desires to obtain an approximately 2,290 square foot permanent right of way easement (Attached as Exhibit A) from the Grantor for the operation of the new Angling Road site improvements;

WHEREAS, Builder agrees to pay Grantor the sum of \$15,488.00 (Fifteen Thousand Four Hundred and Eighty-Eight Dollars);

WHEREAS, these parties desire to enter into an agreement for a right of way and temporary construction easement for the above recited purposes.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

ONE: The Grantor hereby grants to the Builder, its successors and assigns, a temporary construction easement over, under, across and upon the following described parcel for purposes of the Scope of Work:

G32-14 Section 32-2-11, City of Kalamazoo, Kalamazoo County, Michigan
Parcel Number: 06-32-423-001
Common Address: 4100 Oakland Drive

TWO: The Grantor hereby grants to the Builder and its designees, ingress and egress to and from the Property, to allow for the construction, inspection and otherwise of the Scope of Work.

THREE: Builder shall be responsible for obtaining all permits requires under local and state law.

FOUR: Grantor hereby grants to the Grantee a permanent right of way easement of the approximately 2,290 square foot area identified in Exhibit A.

FIVE: Builder agrees to pay Grantor the sum of \$15,488.00 (Fifteen Thousand Four Hundred and Eighty-Eight Dollars) upon the execution of this Agreement by all of the parties.

SIX: Grantor covenants that it has lawfully possessed the premises herein described and warrants the Grantor has good and lawful right to grant and convey the right of way and construction easement described herein, and that no other persons or entities have any right, title or interest in the Property.

SEVEN: Builder's easement shall expire when the Scope of Work is fully complete.

EIGHT: It is expressly understood that this agreement constitutes the entire terms and conditions applicable to the easements as agreed upon by the parties hereto, except as may be amended in writing hereafter.

NINE: Time is of the essence.

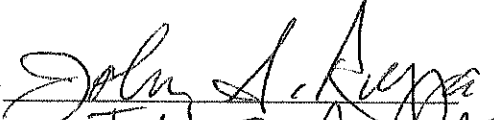
TEN: The Agreement is governed by the laws of the State of Michigan.

[Remainder of Page Intentionally Left Blank – Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first written above.

GRANTOR:

OAKWOOD BIBLE CHURCH

By: 
Name: JOHN S. RUGGA
Title: BOARD CHAIRMAN

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first written above.

GRANTEE:

CITY OF KALAMAZOO

By:_____

Name:

Title:

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first written above.

BUILDER:

OAKLAND FINANCE COMPANY, LLC

By: _____

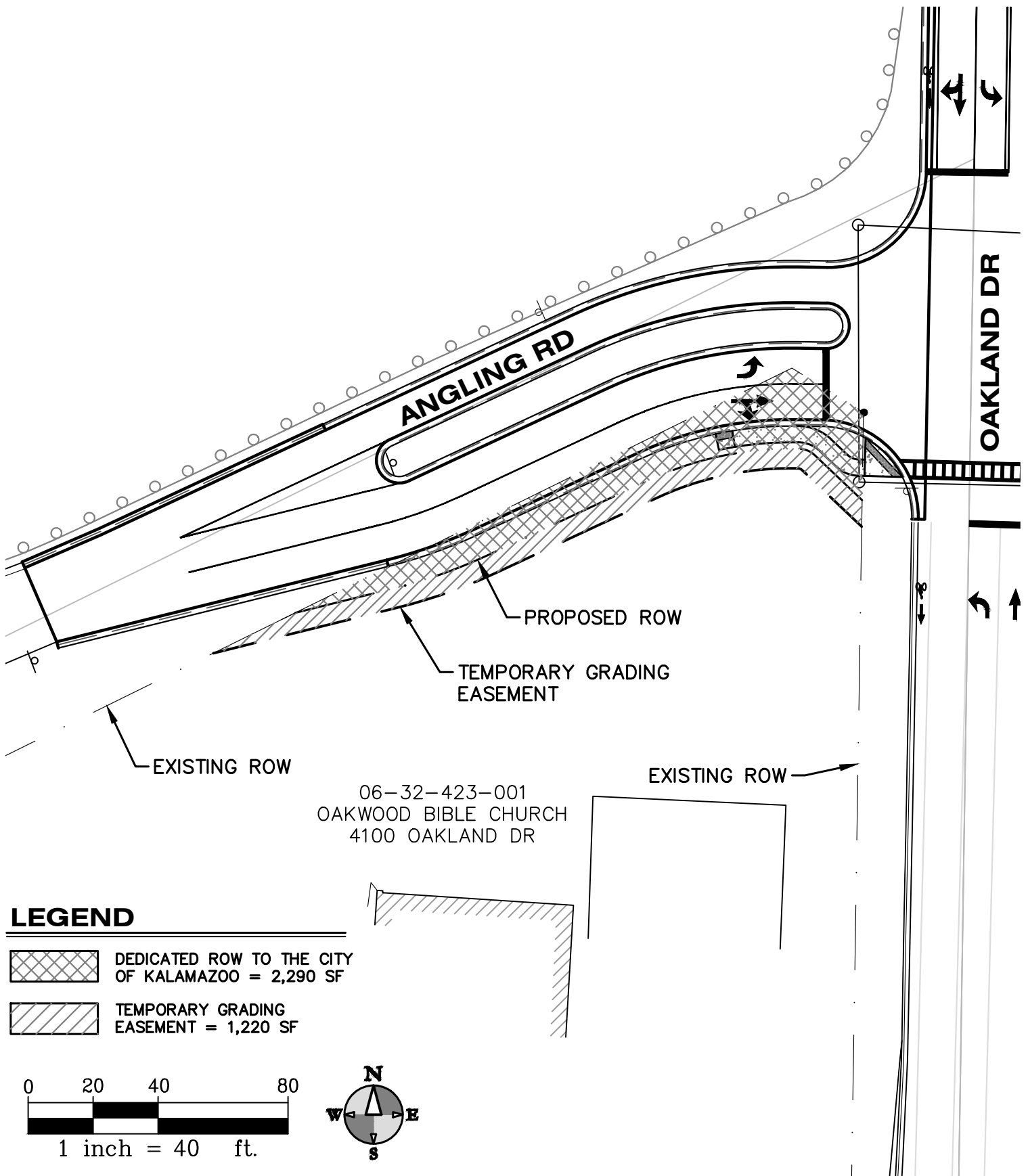
Name: Gerald Henn II

Title: Owner's Representative

EXHIBITS

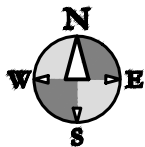
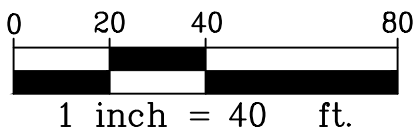
Exhibit A Right of Way and Easement Description

Exhibit B Right of Way Grading Plan



LEGEND

-  DEDICATED ROW TO THE CITY OF KALAMAZOO = 2,290 SF
-  TEMPORARY GRADING EASEMENT = 1,220 SF



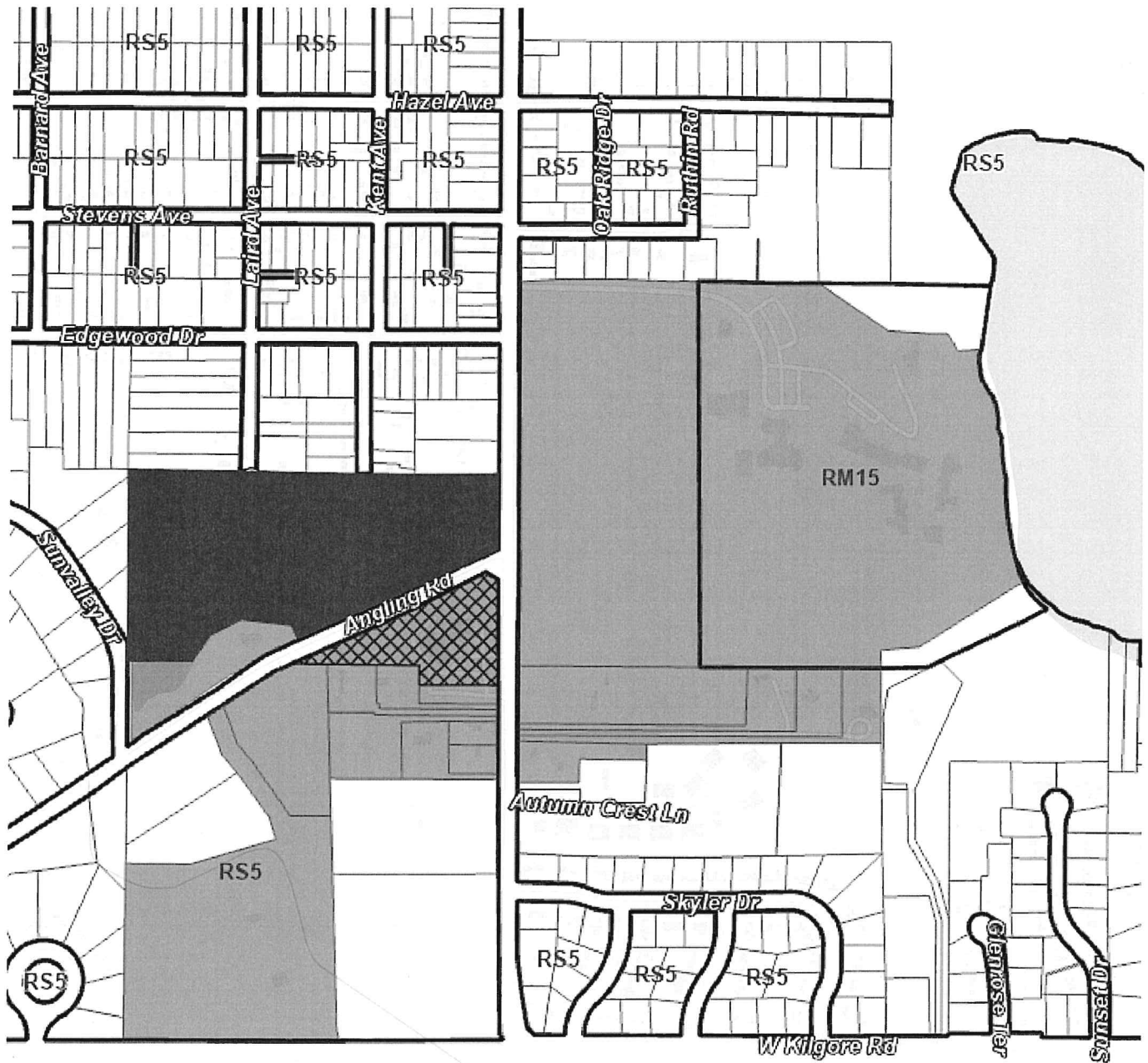
hurley & stewart, llc
2800 s. 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleystewart.com

Job No.: 21-046D
Date: 05/08/23
Scale: AS NOTED
P.M.: TAS
Dft: DSV
QA/QC: 05/08/23

Title: ROW DEDICATION EXHIBIT
Project: KALAMAZOO COUNTRY CLUB
Client: OAKLAND FINANCE COMPANY, LLC

Drawing No.

1



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 Bureau, USDA, USFWS

Parcels within 300' Mailing Radius 4100 Oakland Drive

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



0 220 440 880 ft



Zoning Board of Appeals Staff Report

City of Kalamazoo

Date: **3/14/2024**

Item: **D.3.**

TO: Zoning Board of Appeals

FROM: Reviewed by: Christina Anderson, AICP, City Planner / Deputy Director of CPED
Prepared by: Pete Eldridge, AICP, Zoning Administrator

DATE: March 14, 2024

SUBJECT: ZBA #24-03-06: 1609 Whites Road. Oakland Financial Company, LLC is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the new pump house for the golf course sprinkling system to encroach into a protected slope and protected slope setback.

BACKGROUND:

The project is located at the Kalamazoo Country Club, 1609 Whites Road, in the RS-5 District and Natural Features Protection Overlay. The proposed project is a new 20-foot by 30-foot pump house building. The current pump house does not have the capacity to meet the needs of the future site development; as a result a new and larger pump is planned. Due to the pump house needing to be located in proximity to Whites Lake, there are limited options for placement. The proposed location would disturb protected slopes and slope setbacks at the southwestern corner of the property between Whites Lake and the dead end of Hazel Avenue. Locating the pump house in this location mitigates what would be an additional impact, disturbance of protected trees (Oak) and critical root zones closer to Whites Lake.

This application went before the Natural Features Protection Review Board on February 29, 2024. At that meeting, the design team for the developer noted how this location was identified as the least impactful to natural features spot with the least impact on natural features and the golf course layout. The pump house will be partially recessed within the slope, minimizing the height of the building. Directional boring will be used to run the intake pipe from the pump house to the lake. It will be approximately 10 feet below the trees, so even where it passes through the critical root zone it will not impact the root structure of the trees. KCC has worked directly with the State of Michigan (Department of Environment Great Lakes and Energy) on the new permit to construct and operate the new pump. The NFP Review Board unanimously approved a recommendation to the Zoning Board of Appeals supporting the granting of this variance.

STRATEGIC VISION ALIGNMENT:

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

Strategic Goal and Master Plan Impact:

This project aligns with the Strategic Goals of Complete Neighborhoods as the Kalamazoo County Club provides recreational amenities that area residents can utilize with a club membership. This project will not change the use of the subject property.

COMMUNITY ENGAGEMENT:

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

Appropriate Depth of Engagement:

A public hearing notice was placed in the newspaper and notices sent to the property owners and occupants within 300 feet. A notice was also sent to the Oakwood Neighborhood Association. It should be noted that a public hearing notice was also sent to surrounding residents before the NFP Review Board meeting on February 29, 2024.

Engagement/Communication Tools:

Newspaper, mailings and applicant outreach

FINDINGS:

Staff has made the following findings regarding this request:

Are there reasons the parcel cannot be reasonably utilized for its zoned use without the requested relief?

The property at 1609 Whites Road will continue to be used for outdoor recreation use (golf course) in the future, which is a permitted use in the RS-5 District. However, the pump house is a necessary element of maintaining the golf course. Without the pump house there would be no means for irrigation for the course during the summer months.

Is the extent of relief requested the minimum action needed to permit reasonable utilization of the site?

This is the minimum action that will allow the irrigation for the current golf course to continue and have capacity for the future expansion. The selected location is only partially in the protected slope and slope setback. Further, it is centrally located to feed the two parcels that comprise the 18 hole and future nine hole course with new clubhouse facilities. If the location was moved further to the southeast, the pump house would not be centrally located and would either require removal of protected oak trees or be in an existing fairway. The existing pump house is in this area but much smaller and completely built into the hillside about 750 feet southeast of the new location. If the pump house was

moved southwest of the proposed location it would be 100% in a protected slope and fairway.

How can you demonstrate that the 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?

The development team reviewed with the NFP Review Board why other sites near Whites Lake were not ideal, which narrowed down the selection process to the location identified. Further, permits from the city and EGLE are required before this new pump house can be put in operation.

Is the requested relief 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 natural features on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List?

The development team spoke in detail to the NFP Review Board about the water efficiency of the new irrigation system which will have more sprinkler heads and be more precise in the allocation of water on the golf course. It was further mentioned that they hope to use less water with the system even though the new pump is larger, and the golf course is being expanded.

RECOMMENDATION:

Staff recommends approval of the variance as it meets the review criteria and is supported by the NFP Review Board.



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

February 28, 2024

**RE: ZBA #24-03-06
1609 Whites Road
Parcel #: 06-33-112-001**

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 Oakland Financial Company, LLC for 1609 Whites Road in the Residential – Single Dwelling District (RS-5) and the Natural Features Protection Overlay.

The applicant is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H, to authorize the new pump house for the golf course sprinkling system to encroach into a protected slope and protected slope setback.

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

The meeting will be held on Thursday, March 14, 2024, 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
Zoning Administrator

Zoning Board of Appeals Application



Submitted on	13 February 2024, 12:40PM
Receipt number	36
Related form version	14

Introduction

Have you scheduled a pre-application meeting?	Yes
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Applicant Information

Name	Gerald Henn
Organization (if applicable)	Kalamazoo Country Club
Email Address	jj@mibacking.com
Phone Number	2695694688
Address	1609 Whites Rd, Kalamazoo, MI 49008, USA Map (42.2550333, -85.6059397)
Preferred Contact Method	Email
Are you the property owner?	Yes

Property and Application Details

Property Address	1609 Whites Rd, Kalamazoo, MI 49008, USA Map (42.2550333, -85.6059397)
Parcel Identification Number	06-33-112-001
Zone District	RS-5
Type of Request	Natural Features Protection
Application Fee	\$300.00
Project Description & Reason for Request	On an NFP parcel, building will require disturbance of slopes within 500 feet of a water source; alternatively, potentially disturbance of protected trees.

Natural Features Protection Review Criteria

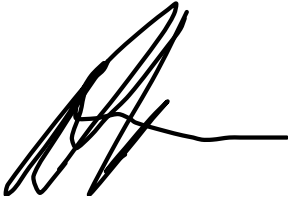
Please indicate the relevant natural features and the requested variances	Water Resources Protected Trees and Tree Replacements Protected Slopes
What variances are you requesting from the requirements for these natural features?	Building a 20' x 30' building on a slope more than 20%, within 500 feet of a water source.
Are there reasons the parcel cannot be reasonably utilized for its zoned use without the requested relief?	Yes, this building is necessary for the zoned use, and there are constraints on where this building can be located.
Is the extent of relief requested the minimum action needed to permit reasonable utilization of the site?	Yes.
How can you demonstrate that the 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?	The proposed location is the least impactful to the public good and was chosen solely using the intent and purpose of the NFP.
Is the requested relief 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?	Yes.

Supporting Documents

Supporting Documents	Pump station with Trees.png KCC CRZ and slope with locations.pdf
----------------------	---

Submit

Your Signature



[Link to signature](#)



**Current Golf
Holes (Yellow)**

**Future Golf
Holes (Pink)**

**Proposed new
pump station**

Whites Lake

NFP Slope/Woodland







White Oak 26"
White Oak 43"
White Oak 36"

Scarlet Oak 12"
Scarlet Oak 17"

Proposed Pump
Station Area

Red Oak 28"
Red Oak 28"

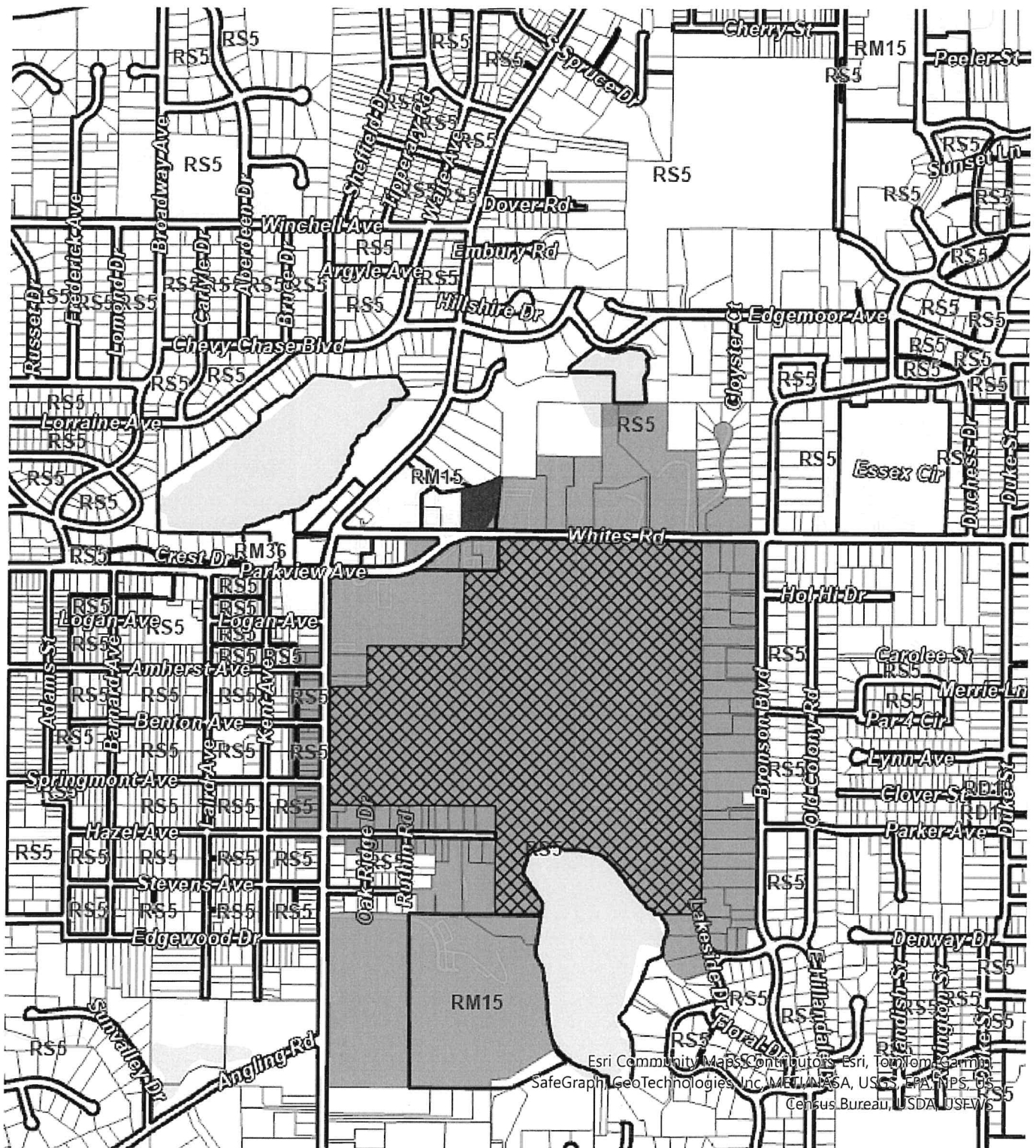
Red Oak 50"

Dawn Redwood 8"

White Oak 40"

White Oak 37"

Swamp White Oak 8"
White Oak 21"



Parcels within 300' Mailing Radius 1609 Whites Rd

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



0 420 840 1,680 ft

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