

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, April 11, 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 on March 14, 2024

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #24-04-07: 1367 Portage Street. Simple AG, LLC, are requesting a dimensional variance from Chapter 50-7.2, 7.2-1, to allow 32 off-street parking spaces where 16 off-street spaces is the maximum permitted per this marijuana retailer.
2. ZBA #24-04-08: 1500 E. Kilgore Road. ANR Kalamazoo Hotel LLC, is requesting the following use variances for a residential redevelopment project:
 1. A use variance from Chapter 50, 50-4.4, (5) (b), Residential uses in the CC District are only permitted in conjunction with a commercial use, where the proposed project will be all residential.
 2. A use variance from Chapter 50, 50-4.4, (5) (b), Multi-family units are not permitted in the ground floor occupied space that directly fronts the front property line.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
March 14, 2024 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

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

Members Absent: None

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

Chair Hohler called the meeting to order at 7:04 p.m.

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

PUBLIC HEARINGS: Chair Hohler 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 three 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 facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Chair Hohler asked if there were any changes to the original agenda and Mr. Eldridge replied there are no changes to the original agenda but there was an announcement related to 4100 Oakland Drive. Mr. Eldridge received phone calls and emails that day. The company that is providing the construction signs for this project has already delivered the signage for this project, if it moves forward tonight, and has placed them along Vincent Road and Angling Road and he wanted to assure everyone that there's not even a date set for the start of the project and the City of Kalamazoo's Public Services Department is still waiting for traffic control plan to be submitted and there has been no determination of what's going to happen at the intersection of Oakland Drive and Angling Road. He added that there may be one lane open because of the other street closures.

He added that this will be up the traffic engineer. There has not been a traffic control plan submitted by the developer yet, which will need to be reviewed and approved. Then there will be a media release on this project to inform the public in advance of when this will start and what exactly is occurring.

APPROVAL OF MINUTES:

Mr. McReynolds moved to approve the minutes as submitted, seconded by Ms. van den Hombergh. The motion was approved by voice vote unanimously.

Ms. Harrington read the application for 700 River Street into the record.

ZBA#24-03-04: 700 River Street: An application for dimensional variances for the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Dr. Michelle Johnson of the Playgrown Housing Development, is requesting dimensional 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 and 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 a variance only regarding the items described above.

Mr. Mike Hoffman, of Intersect Studios, the design firm for the project, spoke on behalf of the project. There was also Kennedy Williams and Mia Sanchez, who are with the development team. He said Dr. Michelle Johnson had to go out of town for business, but she's eager to get this variance approved so she can move on to the next phase of the project. He added that Tim Stewart of Hurley and Stewart Civil Engineers is also in attendance. Mr. Hoffman said this really comes down to the structure of property ownership, Playgrown, as a developer, is trying to make home ownership accessible for people who have had struggles in that area. He said the way that the property is structured it will be handled in a trust as a single property then the homes themselves will eventually be sold, in the same manner as a condo but the properties are not subdivided like a condo would be, which triggered the need for a variance because of the ordinance being one driveway or curb cut, per street frontage, per ownership of the land so because it is one entity, even though there will be 10 housing units and that entity, the ordinance says only one driveway and they have done their best and they even removed two of the curb cuts during the preliminary site plan meeting with the city staff to try to tighten up the number of drives. He said that under the original platting, there could be four homes on Ampersee and four on River, totaling eight drives but they are requesting six total: one on Hotop, three on Ampersee, and two on River. He added that some of that is related to where the housing units have been placed and the Ampersee elevation is higher, because the river is on the west, this is a floodplain property, and they have to build up the elevation for the homes, so they are out of the floodplain and they had to do some compensating cutting to allow the river not to change the floodplain level for that. He said the elevation is higher on Ampersee, it's also furthest from the river, which makes it the best place to put the homes to meet the EGLE requirements for the floodplain development, also to create the lower area closer to the river. Mr. Hoffman stated those are the primary reasons that led to the variance request because they're based on the site and not how they're doing the ownership of the site and not asking

for a changing of the ordinance to fit that. He also said another aspect is that the site has a lot of environmental contamination, which is mostly along Ampersee, which they will be digging out and replacing with clean fill and as they raise the property to where the homes are, which is another good reason they ended up with the 10 units along the River and Ampersee corners.

Chair Hohler asked for staff comments, and they are as follows: Mr. Eldridge stated the review criteria of there being special circumstances related to the property and the focal point was the soil contamination, the 100-year floodplain and, as Mr. Hoffman pointed out, where they're putting the houses they have to remove soil and add clean soil to the area and added that the floodplain requirements in dealing with the contaminated soils were the main reasons the housing is concentrated on the north and east sides. He said regarding the number of driveways allowed, this section of the ordinance is written if the property were to be subdivided, a driveway is permitted per lot but in this case, because it's being held as one parcel with ownership situation similar to a condominium type development, it's one drive per street frontage, which is where the difficulty lies, so what the developer has done is decrease the number of curb cuts and created shared driveways for the single family homes. This will result in five total driveways for ten single family dwellings.

Chair Hohler asked if there was anyone who wanted to speak in favor of the applicant and there was none.

Chair Hohler asked if anyone wanted to speak against the applicant and there was none.

Chair Hohler asked if there were any call ins and there were none.

Chair Hohler asked if there were any other questions from the board and there were none.

Chair Hohler closed the public hearing.

Chair Hohler asked, out of curiosity, how would they move forward if the board votes no and Mr. Hoffman said they would most likely put a driveway that goes behind the homes and have a larger, common drive and parking area, but that would eliminate a large portion of green space behind the homes. Chair Hohler said doing it this way would create less drives and more green space and Mr. Hoffman said yes and because the homes have to sit up higher because of the floodplain issue, so if the parking was behind, they would also have to worry about how they transverse up to get to the homes and keep that mobile for everyone.

Mr. Wark wanted to know how much contamination is on the site and where it is and Mr. Hoffman said, if he remembers correctly, from all the environmental details, it's mostly arsenic, which occurs pretty naturally in the soils in this area, as he understands it, it's in the clay about two feet deep and they're bringing in two feet of fill to cover that, but it's Dr. Johnson's desire to go above and beyond the minimum standards for cleaning the site, and remove the two feet of soil containing the arsenic, dispose of it properly off site, and bring in additional fill plus what they're moving in the compensating cut, to handle the floodplain level and build up that soil so in 20 years if homeowners want to put a tree in and they're digging down two feet, they're not getting into that soil.

FINDING OF FACT

Mr. McReynolds moved the Finding of Fact as follows:

- 1.) The Finding of Fact for 700 River Street shall include all information included in the notice of public hearing dated February 24, 2024 in the agenda packet staff provided for this request.
- 2.) 24 notices of public hearing were sent, and five responses were received as follows: Mr. Reynaldo Archer, Mr. Jonathan Price of Ray Street, Mr. Ray Wood, Randall, and Mrs. Wilkerson, all in support.
- 3.) A public hearing was held before the board and public comments and telephone calls were accepted. 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. Hoffman mentioned a 100-year floodplain and soil contamination issues on Ampersee. He also talked about soil removal and the layout of the property not being ideal for the parking situation.

Ms. van den Hombergh seconded the Finding of Fact.

Discussion:

Chair Hohler stated he will vote in favor because it will be a good use of that land, he added that it seems the literal enforcement of the ordinance is probably unwarranted in this instance, otherwise the alternative is to force them to subdivide and put in more driveways than what they are willing to work with.

Mr. Wark added he will also vote in favor because he likes the fact that they are willing to go above and beyond removing the contamination and if it's not approved there will be a loss of green space on this site by rerouting the drives.

Ms. Harrington added she is also in support because she feels they have taken very careful and intentional consideration to develop the site and to be good neighbors and stewards of this property.

Mr. Eldridge reminded the board that procedurally they still needed to do a voice vote on the finding of fact and agreed with Chair Hohler that these variances needed to be voted on separately.

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

Mr. McReynolds made a motion to approve the application for the dimensional variance from Chapter 50-5.6 H (1)(d) 13, to authorize two driveways on Bridge Street where only one driveway is permitted, seconded by Ms. van den Hombergh.

Motion was approved unanimously by a roll call vote.

Chair Hohler made a motion to approve the application for the dimensional variance from Chapter 50-5.6 H (1)(d) 13, to authorize three driveways on Ampersee Street where only one driveway is permitted, seconded by Ms. van den Hombergh.

Motion was approved unanimously by a roll call vote.

Ms. Harrington read the application for 4100 Oakland Drive into the record.

ZBA#24-03-05: 4100 Oakland Drive: An application for a variance has been filed with the Zoning Board of Appeals by the Oakland Financial Company, LLC. They are 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 property. This is a request for a variance only regarding the items described above.

Mr. Tim Stewart, of Hurley and Stewart Engineers located at 2800 South 11th Street in Kalamazoo, is working with the Kalamazoo Country Club and the two representatives with the Kalamazoo Country Club, Mr. John Fulling and J. J. Henn, who is the representative of the owner of the Country Club. Mr. Stewart said they wanted to talk about their variance for grading some slopes on the south side of the intersection of Angling Road and Oakland Drive. Mr. Stewart presented pictures, that were also included in the agenda packets given to the board, of what the intersection presently looks like. He said if you've been in that area of Oakland Drive, you know that Angling Road comes in at an odd, sharp angle and even though there's a signal there, with the development of the country club, the new entrance is going to come in directly across from the Angling Road intersection. He said the long-range plan is that the existing Country Club facilities that are accessed from Whites Road will be demolished and the new Country Club will contain a clubhouse, a golf performance center, a tennis building and there's a short course on the parcel on the east side of Oakland Drive, but all of that activity and traffic will now come out to Oakland Drive, so as part of the project they designed all of these improvements, gained site plan approval last year, and as the board saw if they've been through there, the Country Club's buildings and site work are under construction right now. He stated that part of the next phase this year they want to construct the improvements of the Oakland and Angling intersection and in order to bring this new driveway up to Oakland Drive, constructing a new signal and then from a safety standpoint, it's important to realign Angling Road so that it curves like many intersections around our area, and comes in at a 90° angle, which is a much safer configuration from a traffic standpoint, and visibility as you're rounding corners will be greatly improved. He stated as part of that, the Country Club has negotiated with the Oakland Bible Church, on the south side, and purchased a small sliver of right of way in order to make this reconfiguration. Mr. Stewart pulled up a drawing of how Angling Road intersects with Oakland Drive from the west and said all of the red hatching will be removed and will be realigned and there will be a short boulevard section and turning lanes in each direction, or drivers can go straight across to the Country Club, in addition there will be a new traffic signal. He then pulled up the grading plan and explained there will be quite a bit of grade change from south to north through this intersection, and also toward the west. He then went back to the first page and explained the purpose of the request and the work that will be required. He stated the purple hatch are the slopes that are greater than 20% and to complete the work there's a little bit of

grading that will need to be completed along that stretch and they will impact two small areas that are protected by the natural features protection zoning overlay, and those are on the corner closest to Oakland Drive and just immediately south of Angling, there's a small section where the blue hatch gets into the purple hatch, and there's another little sections on the west edge and in total it's about 0.05 acres of slopes they will be impacting and also as part of the ordinance there's about 0.03 acres if slope setbacks. He said the request has been before the Natural Features Protection Board already and they approved it unanimously, and it was also taken in front of the city's tree committee, because there are eight trees in the right of way, and they approved that removal as well, in addition to having site plan approval from city staff and they are asking for approval of their variance request to allow them to complete the work and it would be moving forward later this year. Mr. Stewart asked if there were any questions and Ms. van den Hombergh asked, since she would be doing the finding of fact and didn't want to cut into his time, she repeated his name and credentials, then asked for the names of the people with him, Mr. John Fulling and Mr. J.J. Henn. Chair Hohler said there may be more questions later.

Chair Hohler asked for staff comments, and they were as follows: Mr. Eldridge stated that there is review criteria that is utilized for NFP variances and as Mr. Stewart mentioned, this went before the Natural Features Protection Review Board on February 29th and was unanimously approved, then went to the tree committee on March 5th, and there are questions asked about if there would be any replanting going on along the south side of Angling Road and the answer is yes, that was the reason for the meeting with the tree committee so there will be significant replanting going on there. He added what he wanted to touch on was that there are two significant things and the first is the realignment because it was mentioned that the angle which Angling Road comes into Oakland Drive isn't ideal and for an intersection, it's best to have a 90° connection point of one street into another, and secondly they're trying not to create here what was created years ago just south of Kilgore on Oakland Drive: south of Kilgore and north of 94, there's Greenbriar Drive, which is an entrance into a neighborhood on the east side of Oakland Drive and to the west is Preserve Boulevard, which is the entrance to the subdivision built on the west side of Oakland Drive and there was an old farmhouse so they were unable to align the intersections and put one traffic signal in, so there's two traffic signals staggered by a short distance, and that's an inefficient setup, and the last thing we want to create is to have this new driveway for the Kalamazoo Country Club, that's going to have a significant amount of traffic flow, not aligned with where Angling Road comes into Oakland Drive. He said there are comments being made that this is being done just for the Country Club, but this is going to create a better intersection, along with a new crosswalk with a pedestrian signal, that will be on the south side of the intersection, and they will also be rebuilding some sidewalks so there will be some benefits to this project. He added that because of our Kalamazoo River Valley, we constantly deal with slopes and wetlands and once again, are faced with a little bit of impact into the slope and the protected slope setback. He said as far as disturbance in the slope setback, it's approximately 1,350 square feet and the disturbance in the slope setback itself is 1,500 square feet, so these aren't large numbers, to Mr. Stewart's point with the graphics showing where the protected slopes are, yet the impacted area is quite small.

Mr. Eldridge said he wanted to make the connection there and the other comments related to the intersection upgrades that the city is looking forward to. He wanted to revisit his comments earlier in the evening about the construction signage that was delivered, prematurely, along Vincent and Angling Road, which has caused some misunderstanding. He said the project hasn't been approved and has to go through this board tonight and if approved, it has to go back to public services for them to work out the final details and get the traffic control plan from the developer and then there will be a press release, so more information will be coming regarding the project and he

understands that the signs being out there can be misleading but there is no start date for this project.

Ms. Harrington asked what the justification was for saying this intersection would be better after the upgrades and Mr. Eldridge said the city traffic engineer was the lead on redesigning this intersection, so this isn't coming from the developer but it's coming from the public services department and that 90° intersection creates better lines of sight. Ms. Harrington, she wanted to be clear about it because obviously the project isn't approved yet, but was the study done on behalf of the project and how did the traffic engineer arrive at the understanding that this would be an intersection upgrade, when was the traffic study done and why? Mr. Eldridge said he doesn't know about a traffic study but maybe Mr. Stewart does, but he was saying the developer put together the plan and said here's where the new driveway is going to come out for the Kalamazoo Country Club and that's where the city got involved and said if that's where it's going to come out, we need to sit down and work through this because we want one comprehensive intersection there with one traffic signal. Mr. Eldridge added that if she wanted to ask the applicant she can because he wasn't privy to those meetings.

Mr. Wark asked if he heard correctly about this being approved by the NFP Board and Mr. Eldridge said yes, Mr. Wark then asked about the property purchased by the developer being turned over to the city and the city would in turn do the street because it's a small sliver and Mr. Eldridge said there's an easement agreement between the developer, the property owner which is the church that's located there, and the City of Kalamazoo to complete the work and at the end of the day, that additional strip of property that the developer has purchased from the church will become part of the city right of way.

Ms. van den Hombergh said she understands that the city did a study, but did Mr. Eldridge also say that they were waiting for a study from the state and Mr. Eldridge said no, he doesn't have any knowledge of a study, but he was saying that the intersection plan that was shown tonight came from the developer meeting with public services, and public services crafted this new intersection and said Mr. Stewart could comment.

Mr. Stewart said a traffic study was conducted on behalf of the country club to analyze the new drive connection to Oakland Drive that was submitted to the city and reviewed by the city's traffic engineer to evaluate if Oakland Dr. can handle this traffic and if it's sufficient, are there any other upgrades that are needed, and if this connection is going to be made to Oakland Drive, where should it go? He stated the existing Lakeside Drive is all the way at the very north line and they looked at if they could use the existing drive connection and not make any alterations at all and as Mr. Eldridge said, there's too much traffic there and you would want to have a signal there for activity coming and going from the Country Club. He said that's all been done following standard appropriate engineering review and judgment, calculations, and projections, and there's a lot of work that went into that, so they feel this connection at this location, and the improvements that the city requested through the site plan approval process, are appropriate.

Ms. van den Hombergh said she had a question she felt is important to her and the constituents, she wanted something specific in the minutes regarding the eight trees that are going to be removed, and the Natural Features Protection has approved it, the city's tree committee has approved it and it says that it's going to be replaced using wild type native plants or desired trees, and she wanted it specifically written that they are hardwood, deciduous trees, like Maple, Crimson Maple, or Oak not Saw Grass or Birch or Chinese Elm and Mr. Stewart wanted to clarify that Mr. Eldridge mentioned the trees would be replaced on the south side of Angling, and that's not true because there isn't room with the road changes, so the tree committee asked that they replace the eight trees, two of which are dead, with 16 trees in a different location and they talked about since

the property has a lot of frontage along the east side of Oakland Drive, there's many opportunities to plant these 16 trees there. He added that as part of the previous approvals for the Country Club, this board approved a variance on previous natural features, and they are under obligation to plant 4 1/2 acres of new trees on the short course and 2 1/2 acres of native grasses and all of the trees are from the cities approved list, which are hardwoods, and they will be creating a woodland. Ms. van den Hombergh thanked him for clarifying.

Ms. Harrington said that, with all due respect, she feels she's not clear on the benefit for the community in its totality so she needs to know how it is going to benefit the community and added that the Country Club feels like Kalamazoo A and Kalamazoo B and said she has no touch points with anybody at the Country Club and nobody told her she couldn't go there but, there is nothing that specifically benefits her from the Country Club whatsoever, but what does affect her is when we don't consider how development impacts climate change and some of the most vulnerable areas of our community and she wants to understand if we're going to be addressing the issue of natural features protection, like if the Country Club doesn't necessarily benefit her in any way, she doesn't want the Country Club to harm her. She said she lives in one of the most vulnerable neighborhoods in our community and she also loves people in some of the most vulnerable neighborhoods in our community, she wants to understand how this is going to be beneficial for the community, because she does drive on Oakland Drive and Angling. Mr. Stewart said he would try to answer her question and he wanted her to redirect him if he's not. He said to him, this isn't about the Country Club, but about the use of the property and access to Oakland Drive, and there are proper ways to design access and the reason for this is to properly design this, make and make this a safe intersection. He stated we have all gone through intersections where the roads don't line up square and you have to crane your neck to turn around for visibility and the more you have to do that the less safe it is, in addition there is some great change from south to north through this intersection, so as you're traveling north on Oakland Drive and you're coming to that light, there's a big dip just to the south of that so it's great that there is a signal there already, but Angling comes in at an odd angle and he wouldn't be surprised if there's already accidents occurring there. He said the country club is going to put more traffic into that intersection and paying for a new traffic signal, but they're doing it the right way with the city's endorsement of realigning the other side. He also said that this is probably costing them several hundred thousand dollars and they're doing improvements to the city's infrastructure in order to make that connection, so there's no request on the city and to him this is a much safer situation for the public.

Chair Hohler said so ultimately if this was a no from the board, the project is moving forward with the Country Club, this is just a nice addition and if they don't approve it the work is still going to happen at the Country Club, and Mr. Eldridge said yes, and Chair Hohler added that a no from the board could make this stretch of road more dangerous instead of safer and Mr. Eldridge said yes, because you would either have a high traffic entrance and exit point for the Country Club, with no traffic signal, which goes to the quality of life, like what would they expect to see on Oakland Drive if this isn't passed? It would impact traffic congestion. Ms. Harrington asked if there would be more traffic because of this development and Mr. Eldridge stated there would be more traffic shifting from Whites Road, depending on the time of day and any events in the area, to Oakland Drive which will create more congestion unless there's a signalized intersection for cars to come out to.

Mr. Stewart wanted to get back to Ms. Harrington touching on global warming and advised that they are very sensitive to that in the Country Club is an excellent example of stewardship and added that Mr. Fulling could tell them about the work they do controlling fertilizer, water quality and invasive species, but right now they are asking for a variance for touching some slopes, not trees, and they won't be impacting wetlands or bodies of water, they have a slope that's over 20%,

and they need permission to touch those, in a very small area, so they can do these improvements they feel are beneficial to the community. Ms. van den Hombergh asked if the city is paying a portion of this, and Mr. Stewart said no. She then asked how much the Country Club, or the entity that owns it, who she said she believes is Matthew Maroun who she believes is the sole owner and investor of Oakland Financial Company, and Mr. Stewart said he doesn't know, and Mr. Eldridge also admitted he doesn't know that name. She said she guess it will have to be alleged now, but she wanted to know how much he was paying for this, and Mr. Stewart asked if she was talking about the land from the church and Ms. van den Hombergh replied for everything, for the intersection to be safer? Mr. Stewart asked if she was referring to the road improvements or the country club development and she said she is talking about parcel at 4100 Oakland Drive and all of the improvements they're doing, she wanted to know if there was a budget and Mr. Eldridge said he didn't feel that was germane to the variance so it's the applicants choice to answer that question and Mr. Stewart said he doesn't know and Ms. Harrington asked why isn't that germane and Mr. Eldridge said that the focus should be on the impact of this project on the natural features and Chair Hohler said he believes that it's outside of the criteria for the current consideration and outside the zoning department, budgeting is somebody else's issue.

Mr. Eldridge added that he didn't want to put a representative for the company on the spot and added that he had an announcement that public services staff has been working behind the scenes ever since it was discovered that all of the construction signs were delivered, he wanted to backtrack and said it was not the development company that informed the sign people to drop the signs off, there was a mistake and the signs were inadvertently delivered early by the company and public services would be there to remove the signs the next day, and they would be brought back closer to the start date of the project.

Chair Hohler asked that those in favor of the variance please step forward and there were none.

Chair Hohler asked that those opposed to the variance please step forward and Sue Schultz of 2148 Oakland Ridge Drive, the first street that you turn up. She said she wanted to say one emotional thing and that's that she has peace of mind when she turns that corner and she would hate to lose all of those trees however, she was understanding why they want to situate it over a little farther, but she thought the problem was on Oakland Drive and she wanted to know what they're going to do so that people can make a left on to Oakland Drive, since going straight up, she wanted to know why the go straight across Angling because they're going to have the same problem, she said she also lives in a place where they were allowed to take away part of the ridge to make their condos, and they've already had to replace the retaining wall because it just keeps pushing. Her question is how are they going to protect that wall in the church parking lot, which is up considerably higher, how much the grading is going to be, and what are the chances they're going to cause damage to that? She said that was part of her issue and she thanked Mr. Eldridge for talking to them about her other issue, which was the traffic. She said she still feels they could just go straight across because she doesn't understand how they're going to work in a left-hand turning lane, but she's assuming they're doing that and that's why the road is up a little farther, but she wants that clarified. Chair Hohler asked her if she was talking about a left turn onto, or off of Oakland and she said off of Oakland, to get into the Country Club. Chair Hohler said they can call Mr. Stewart back up there to answer that question after all the comments have been gone through.

Ms. Betina Meyer of 2148 Oakland Ridge Drive, she is Ms. Schultz sister and is on the Oakland Ridge Estates board, which is directly across the street from the project. She stated the board had discussions and attended meetings where they could express their environmental concerns, how it

would affect them, and would it cause more damage to the wetlands that are on their side of the road? She stated another concern was turning the road into a boulevard, taking away space for cars, and had the traffic engineer considered that this road is heavily walked and has bicycle traffic and added that we're supposed to be making roads safer for walkers and bicyclists and putting a boulevard section in there isn't going to help with walkers on that road who are walking up to Water Street to get their morning coffee, so you see them every day. She said she wanted to say one thing positive, and that's making a stoplight accessible for crossing the road would be a big improvement in that area, she added that she's nearly been killed trying to cross the road and she's visually impaired so having clear access would be helpful. She said she hopes the designers we'll take another look and consider the walkers and bicyclists on the road because right now there's only about a foot for bicyclists and it's very dangerous for them and coming from Oakland Drive onto Angling Road is ridiculous and the board, she is on has talked over their concerns, and hope they will be taken into consideration.

Chair Hohler asked if there were any calls and there were none.

Chair Hohler asked Mr. Stewart to please approach the podium to address Ms. Meyer's concerns. He first wanted to address the left-hand lanes and said when he looks at the site plans, he sees left hand turn lanes, and wanted to know if the road was getting widened to accommodate those or are those already there and Mr. Stewart said those are already there, there are left turn lanes in all four directions. Chair Hohler asked if there would still be straight pass-through lanes and Mr. Stewart said yes. Chair Hohler said another issue is that Ms. Meyer was concerned about the walking and bicycle traffic, he wasn't sure if she was referring to Oakland Drive or Angling Road, and asked if Mr. Stewart could speak to those on both Oakland and Angling Road and what's going to be impacted here for those in this area and Mr. Stewart said they added a portion of sidewalk to this new alignment on the south side of Angling, there are no bike lanes, and they do have sidewalk and a new pedestrian crossing at the south side of this four direction intersection. He said the sidewalk comes down approximately 75 feet, which is shown on drawing C 2.01, which was part of the submittal, so they are picking up as much of that as they can because they do appreciate the fact that there is pedestrian and bicycle activity. Mr. Stewart added that the alignment and the lane configuration was not their design, it was requested by the city's public services department, so all of those improvements, including the pedestrian crossing, came from the city and he wanted to point out that there will be new pedestrian signals, which he believes are visual and audio, so believes that will help crossings there.

Ms. van den Hombergh wanted to know if there would be a green arrow to turn left onto Oakland and Mr. Stewart said he didn't know because they have a new signal design. Chair Hohler asked if they design the signal or the city and Mr. Stewart said they design it in accordance with city standards, and the city reviews it and tells them how they want it to operate. Chair Hohler said if the city feels there should be arrows, they would put them in there and Mr. Stewart said correct. Ms. van den Hombergh said boulevards are beautiful but would it be possible to make it smaller so there was room for bike lanes and Mr. Stewart said it is possible, but he doesn't think it would be preferable because the boulevard is there is to line up the lanes across the intersection. He added that ideally, you want a car to go as straight as possible across an intersection to find their lane on the other side and there is a boulevard on the Country Club side so the other side either has to have a boulevard, or a hatched off, paved area which isn't as nice to look at, they could make the boulevard smaller, but you would only have a paved area with hatching in it that no one could use because you wouldn't want bikers to be in there, you would want the bikers to be to the outside. Ms. van den Hombergh asked who would manage the landscaping of the boulevard and Mr.

Stewart said there has been talk between the developer and the city to maintain that because they will be maintaining the other side.

Mr. Wark asked Mr. Eldridge if boulevards in streets are a form of traffic calming and added that in the Stuart neighborhood they are talking about traffic calming, boulevards, and bumping out curbs, and Mr. Eldridge said it is a form of traffic calming because it defines travel lanes, so it's not just asphalt with lanes in each direction or a center turn lane, but there's a defined barrier on both sides of the road and said he knows Ms. van den Hombergh mentioned the width of the boulevards, and they can't speak to that because Public Services did the design work on it and they don't know why they chose the width they chose and he wish he had an answer.

Chair Hohler closed the public hearing.

FINDING OF FACT

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

- 1) The Finding of Fact for 4100 Oakland Drive shall include all information included in the notice of public hearing dated February 28, 2024, and the agenda packet provided by staff.
- 2) 45 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 from Sue Schultz and Betina Meyer of 2148 Oakland Ridge Drive.
- 4) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Mr. Eldridge clarified that there has been no start date for this project and the city is waiting for that to be determined, then there will be a press release. The city understands that there has been some additional tension because people are seeing the signs and they think that the project is starting. The signs were put up prematurely and will be taken down tomorrow. Mr. Tim Stewart from Hurley Stewart Engineers presented, and in his company were Mr. John Fulling and Mr. J.J. Henn. Mr. Stewart is working in conjunction with the Kalamazoo Country Club, there will be a golf performance center, a tennis exercise center, and a pool and the objective for this ordinance is to have a new signal. They're looking to realign Angling Road to have it come into Oakland drive at a 90° angle, that is considered safer, and this isn't just about serving the needs of the Country Club, but the community as well. They purchased some property from a church, two small areas at the intersection. The city's NFP board unanimously approved this petition, as well as the city's tree commission approved the removal of eight trees, to be replaced by 16 deciduous hardwood trees, but not in the same location because that wouldn't be feasible. A traffic study was conducted on behalf of the Kalamazoo Country Club evaluating if Oakland Drive can handle the traffic and the city engineer recommended it and said Oakland Drive can handle it. There was some discussion about the natural features protection plan, regarding this impacting our most vulnerable neighborhoods, but it was stated in different ways that this impacts the whole

community for the better because this is about an intersection, and not just the people coming down the boulevard to go into the Country Club. It's serving those in the Oakwood neighborhood, people coming out of D&W, and Water Street Coffee. There was also some discussion about possibly making the boulevards smaller to allow for bicycle lanes and more walking sidewalks as well as discussion regarding maintaining the boulevards. There was discussion about a green arrow because the people in those neighborhoods need to be able to get out of their area. There was no one speaking in support of the project, but there were two community members speaking in opposition. Sue Schultz of 2148 Oakland Ridge expressed it makes her feel bad to lose the trees and she feels safe at the intersection as it is and has concerns about turning left onto Oakland Drive, and she shared there have been some issues with a retaining wall due to the topography. Betina Meyer of 2148 Oakland Ridge Drive spoke in opposition as well, and she had some environmental concerns about the wetlands and concerns regarding the design of the boulevard. She also had concerns about the bike lanes.

Mr. Wark seconded the Finding of Fact, with one exception. He doesn't believe the land sale has taken place and won't until this is hashed out. Ms. Harrington said she believes it did and Mr. Wark said he spoke with Bob McCain from the church the week prior and he said it didn't take place yet. Mr. Stewart said there is a purchase agreement in place between the church and the Country Club, but it has not been finalized yet. He added that this has been submitted to the City Commission and the City Commission is supposed to take this up at their meeting the following week and Mr. Wark said if it's not approved, everything is as is and Mr. Stewart said the property purchase hasn't been approved, the approvals they have are for site plan and the intersection design, but the property sale hasn't been finalized yet.

Attorney Bear suggested a motion since there has been a recommended change to the finding of fact, and a voice vote to amend the finding of fact to make the correction and Chair Hohler said if Mr. Wark were to second with the correction, he then asked Ms. van den Hombergh if she accepted the second, with the correction and she did.

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

Mr. Wark moved to approve the application for 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 seconded by Mr. Hohler.

Discussion:

Mr. Wark said he thinks it's much safer to do it this way because there will be a lot more control, there will be crosswalks, pedestrian signals, and it doesn't seem to affect that much, 1,350 square feet and 1,500 square feet total. He mentioned if you go on Angling Road and look as if you're turning north or south, you're scootching out there to see what's coming around the corner. He added they're removing several trees, but a few of them are already dead and they will be planting, probably, 10 times those trees in that area.

Chair Hohler said he agrees with Mr. Wark, but he doesn't believe he would have chosen to put an entrance and exit along Oakland Drive, given that it's skinny, but the property owner can do

that. He added that if the variance isn't approved, we will most likely end up with a significantly more dangerous stretch of road. than it already is, and if they do approve it, they will improve that whole area with or without the extra traffic from the Country Club. He added that he does share the concerns about the trees and the natural features protections, but he's satisfied that the project, as presented, has addressed all of those concerns adequately.

Ms. van den Hombergh admitted she is still undecided but said that she believes the project is a good thing for the city and for the citizenry, and it will be much safer at that intersection, and it will look nicer and with everything they have going on with the crosswalks and the trees, she would be a supporter of this provided that there is that left turn lane. She wanted to encourage them to think about what it looks like when you're at D&W coming from downtown and you go down by where it used to be the Black Swan, but it's now Martel's, there's a boulevard at Green Leaf, it's a beautiful area however, on the left hand side where she has family members, it's a nice area with a lot of starter and smaller homes, and she can speak to the constituents there that when that light came in, they can't turn left out of the subdivision, so she can't support it without a left turn lane. She wanted to add that there needs to be some discussion about the boulevard since they are talking about the Country Club being good stewards and all of the things they have done for the city. Chair Hohler asked her where on the plan is she was speaking about the left turn lane and Ms. van den Hombergh stated she was speaking about the inequity of it all and using a personal example of how people in her relative's neighborhood can't get out of their subdivision, but there is this big deal being made about Oakland Drive, which is a two lane street. She said when the Country Club opens, and it's expanded and beautiful and when they start hosting events...she can't support it without a left turn lane.

Ms. Harrington stated she agrees with Ms. van den Hombergh, but she also thinks that her trepidation it's about the cumulative effect of the development and how it continues to encroach upon the neighborhood. She said the stewardship on that property is gorgeous and it's meticulously maintained but we don't develop in silos, we are interconnected and right now it's eight trees, but no one is taking into consideration the comprehensive impact on the neighbors, which is bringing up her concerns from the last time, but she wants to stay specific to this particular case. She clarified they were talking about traffic calming, not traffic combing, and wanted to discuss that further, but added she doesn't think there should be a bike lane because we're putting in bike lanes just to say that we have them, and it has been a catastrophe, and is already too skinny right there so she feels they shouldn't do it bike lane because it isn't necessary and Chair Hohler said that if the city wants a bike lane, there will be one but as far as the boulevard, aside from realignment as a calming thing, is it's cutting down on the cars that can go zipping at a weird angle through there for example, coming down Lovers Lane from Kilgore and you make that connection onto Portage Road, people take that left so sharp they cut across the first two lanes that are going up Portage, but if there was a boulevard there, or even a cone that was fixed to the ground, you would have to slow down to go around it. He added that it was like by Milwood L, with a person recently getting hit, there are now cones close to the roadway that makes people have to slow down to go between them. He added that the roads in Europe are narrow, and people tend to go a lot slower because of that. Mr. Wark wanted to add another example using Kalamazoo and West Main, he stated cars fly down there, and he lives on Stuart, but when his kids were young, he could barely get across the road because they were driving so fast, but everything is going to be changing soon and there are a lot of traffic calming ways they will slow the traffic down in those areas for when it's going to be two way, but then they're going to narrow the lanes and there's going to be parking on each

side so everything gets a little tighter, they're going to bump out curbs and if we had room for a boulevard, they would probably put one there. Chair Hohler added similar to the one on West Main where it switches into Douglas where they extended the curb way down but it used to just go straight across. Mr. Wark added that on Stuart and West Main, cars are trying to pass, and will bump against the curb and go into Maria's, which he believes is the southeast quadrant of that "T" there and he doesn't know how many times people have almost hit her home but it's only because they're trying to get somewhere fast, and they're not slowing down. He feels that the city has really looked at traffic calming, and they've looked at boulevards and narrowing everything, they looked at roundabouts as well, and those all are ways to slow everything down.

Mr. Eldridge said some valid points are being made as Ms. Harrington mentioned, the cumulative effect, so not only does it impact the private property and the redevelopment of that with the new Country Club facilities, but we have the impact of the traffic flow from this new facility on Oakland Drive that is part of the request tonight, but this is a natural features variance related to just the 4100 Oakland Drive property, so the scope is this property and is this impact in this limited protected slope area, and protected slope setback, appropriate. Chair Hohler said in other words, Mr. Eldridge wanted them to stick to the subject and Mr. Eldridge said he's trying to bring the focus back, but said he talked a lot about the importance of the point being that these improvements will make this a safer intersection and that's how they got off on a tangent, but he wanted to real everyone back in. Ms. Harrington interjected, and apologized for cutting Mr. Eldridge off, but added that he's saying it's going to be a safer intersection but they're creating the increase in traffic so they should mitigate that, then asked if it's safer without the development and Mr. Eldridge said he sees what she's saying, that they're taking the traffic off of Whites Road, and moving it to Oakland Drive, but it's going to come out either one place or the other, and then in this case when the new facility is built and the old facility goes away, the traffic flow will move to Oakland Drive instead of the Whites Road entrance. Chair Hohler said they can't stop it from happening and Ms. Harrington told Mr. Stewart he did an excellent job and Chair Hohler said do they want to let the natural feature be impacted to improve the safety of the rest of it and Mr. Eldridge said we also can't hold the developer responsible for the design, but he knows what they're saying about maybe they can look at it differently but they are not the developer, it's public services that came up with the design and told the developer this is what they wanted. Mr. Eldridge then offered to take their comments back to the public services department and added that not being supportive of the design because it doesn't have a specific element to it...he's struggling with that because the focus should be on the protected slope and Mr. Wark added that it could have an arrow and they just don't know about it because they don't have all the specifics and Attorney Bear said that is a valid point and said the turn signal is a traffic control device, so the determination of what it includes and what it should include, from a safety standpoint, is under the jurisdiction of the traffic engineers and is not a zoning issue and with the turn lanes and how that's designed, going back eons to his transportation planning background, he would say there is going to be a turn signal, but that isn't a fact but again, that isn't an issue here.

Chair Hohler asked if Mr. McReynolds or Ms. Haan had anything to say and Mr. McReynolds said he had some of the same issues already raised and Ms. Haan said she appreciated the discussion and has nothing to add.

Motion approved by a 4-2 roll call vote with Chair Hohler, Ms. Haan, Mr. McReynolds, and Mr. Wark voting yes and Ms. Harrington and Ms. van den Homberg voting no.

Ms. Harrington read the application for 1609 Whites Road.

ZBA#24-03-04: 1609 Whites Road: An application for a variance from the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by the Oakland Financial Company, LLC, in Residential-Single Dwelling District (RS-5). 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 property. This is a request for a variance only regarding the items described above.

John Fulling, the superintendent of the Kalamazoo Country Club, is speaking on behalf of the applicant, who is requesting a variance to install a new pump station for irrigation that will, eventually, service both sides of the property. He added that it affects a slope that is part of the NFP, which they went to on the 29th, and it was approved, and he displayed pictures so they can see the details of what he's talking about and why they need to do what it is they need to do. He showed a picture that has the current pump station on it, which draws from the lake for irrigation, which is located on the right side of the picture. He said that the current system is outdated and would eventually have to be replaced, but the new location of the pump station, based on the design of the new property and its proximity to the Oakland Drive side, is better placed in the area on the left side on the picture. He said their reasons for putting it there is they have current and future golf holes, and that area is about the only place they can put it and it will be situated in a place where the neighbors won't be able to see it because of the elevation, it will be built into the slope of the hill, there also won't be any noise and the water line will be underground, into the lake, but from there, with the new irrigation, they're able to service both sides of the project in the future and eventually the first pumps will go away so they will still only have one water draw from the lake and they have been working with the state on that as well. He stated they went to the NFP for a variance request because the area is so close to the lake, there is some slope, and there are trees. He said they went to NFP with a few different options: they could put it down closer to the water, away from the slope and the slope setback, they can go into the slope, which is man-made, affecting only between 500 and 600 square feet, because it's a small building, or they can stay away from the trees and not touch the critical root zone of those trees and they voted, unanimously, to have them not affect the trees and put it in the slope. He said they could manage that, and the surroundings of the buildings, and stay away from the critical root zone. He then showed a graphic with some of the guidelines and said of the 370,000 square feet of slope on that side, they will be, potentially, disturbing 1,500 square feet, but the building is only about 500 square feet, .5% and 2.5% of the property and added that 1609 Whites has woodland and none of that is touched, and they have 735 total trees, potentially disturbing one to three, but that was before they moved it and decided to keep it out of the critical root zone, so that will be zero now, if this is approved, and then they won't cut any trees down if it's approved here tonight where the NFP approved it. He then showed a map of where the slope runs and stated the pump station would be in the beige, circular thing, right in the middle of the red slope line so there's no trees there because they excavated it out a little bit and built the building into the slope, a lot of it will be covered and it would house the pumps there he said they also discussed the intake that has to go from the lake into the pump station and they're going to check with their contractor because they are going to directional bore a 24-inch pipe and the reason for doing that is to not disturb any of the soil along

the lakeshore because they don't want to dig near the lake, so they will directional bore underneath, out into the water all the way to pump station, which will keep the pipe under the critical root zones and it's the more expensive, but better option, and the state likes that as well. He then showed a picture highlighting what trees are there and there was an arrow pointing to where the pump station is going to be, but they will be keeping all of those trees. His next graphic showed a cross-section of how the pump station will look, and he pointed out the horizontal intake line, which is under the land and into the water and added that the top pipe needs to be a minimum of 10 feet below the water surface, and it will be significantly underground by the time it gets to the pump station as much as, maybe, 18 feet, so it will be well under the critical root zone of those trees. He pulled up a picture of the sloped area, with the trees in it, and showed where they placed some stakes to outline where the pump station would go but added it would be just a few feet up from the stakes in the picture to insure they would be out of the critical root zone. He said the front two stakes are about the level of the roof so it will be excavated, dug into, and that's as high as it will get so no one will be able to see it and it will be set back into the ground, mostly covered, and it's basically a utility building.

Chair Hohler asked for staff comments, then asked how tall the stakes were and Mr. Fulling answered they were eight-foot 2x4s and they are basically going down about five feet to get to where they need to have their pad and the building is about 13 feet tall, so those stakes would have been the top.

Staff comments are as follows: Mr. Eldridge stated again, this is a Natural Features Protection variance for this pump house, the existing pump house is much smaller and is in need of replacement and clearly they're going to need something larger for this golf course expansion. Mr. Eldridge said this location has been worked out over many months and there were some pre-meetings with JJ Henn; Nolan Bergstrom, the community planner; and himself. Mr. Eldridge said at these meetings they talked in concept about where the pump station should go, and they provided KCC with some initial feedback and then they came back with a tree inventory, which confirmed there is a grouping of oak trees that were also protected trees, so not only do the trees need to remain, but they also need to stay outside the critical root zone. He stated there were a number of things that led into the best location being a little further west into the protected slope, away from the trees and obviously it has to be somewhat in close proximity to the lake because of the pipe connection, it has to be positioned in a manner because it will be pumping water for the existing golf course to the north and then the new course to the south, so this location is more central. He added that during the NFP meeting on February 29th, one of the comments made by one of the board members was that they would prefer to see it pushed further back into the slope, which Mr. Fulling mentioned, to make sure it's not close on the critical root zone, and the focus was on making sure the trees were well protected in this impact and the slope was minimal but acceptable to the NFP Board, which unanimously approved it.

Chair Hohler wanted to know if they shouldn't concern themselves with the amount of water the pump station takes out, but approval should be based on the slope itself and Mr. Eldridge said that is correct because other factors, like how much water are they going to draw from the lake and is it going to damage the lake, are all being handled by EGLE, they have to have a water draw permit, where all of the information has to be fully articulated, it gets reviewed at the state level, and they get their marching orders from the state, and a permit. Chair Hohler asked, so he is clear, this board not approving won't stop it, because they can just move to another piece of the property where they won't need approval and they'll just take the water they're permitted and he's asking because there is one letter of opposition from someone concerned about the water usage and he wanted to address it so he can understand what the boards issue is and the water is someone else issue. Mr.

Eldridge said there were some comments made in the NFP meeting about water usage and efficiency and the improved technology over the current water sprinkling system on the golf course. Chair Hohler said that this board's disapproval won't stop anything and that one way or another, this will happen in some form, and he is really making a statement for Mr. Eldridge to agree or disagree with, and Mr. Eldridge agreed and Chair Hohler said he doesn't want anyone watching or who follows up with this to think that they don't care, it's just outside of their "pay grade" so to speak and Mr. Eldridge said it talks about reasonable use of the parcel for which it zoned and recreational uses are a permitted use in these residential zone districts, and the golf course is a recreational use and the need for irrigation is part of a golf course.

Chair Hohler asked that those in favor of the variance please step forward and there was none.

Chair Hohler asked that those in opposition of the variance please step forward and there was none.

Chair Hohler asked if there were any call in comments and there were none.

Chair Hohler closed the public hearing.

FINDING OF FACT

Mr. Wark moved the Finding of Fact as follows:

- 1) The Finding of Fact for 1609 Whites Road shall include all information included in the notice of public hearing dated February 28, 2024 and the agenda packet provided by staff.
- 2) 117 notices of public hearing were sent, and one response was received from Nina Bosner of 3614 Knox Street in opposition.
- 3) A public hearing was held before the board and public comments were accepted and there was no call in comments.
- 4) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Mr. John Fulling, the superintendent, represented the Country Club gave the presentation. There was an NFP Review Board approval prior to this variance. The pump will service both sides of the course, which will be well hidden. They remove an existing pump that is up and running and will affect approximately 500 to 600 square feet on a man-made slope and will not remove any trees or damage any critical root zones and there will be a direct bore to the water source, which is a big deal because they're not digging anything up a direct bore just goes under and pushes through. There was no one present for or against the variance and there were no call-ins.

Mr. McReynolds seconded the Finding of Fact.

Discussion:

Ms. Harrington said she thought the presentation said they would remove one to three trees and Chair Hohler said that Mr. Fulling said based on the original idea, it might affect one to three trees but because of input from NFP, they pushed it back.

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

Mr. McReynolds moved to approve the application for a variance from the Natural Features Protection Ordinance Chapter 50, 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, seconded by Mr. Wark.

Discussion:

Ms. van den Hombergh said she felt she had quite a bit to say because of the new board members and right now, there are two board members who were familiar with the entity that came and asked for the first Natural Features on June 9th of 2022, and that was the Country Club so in an effort to be transparent, her way of thinking whether it's the Country Club or this Oakland Financial Company, LLC, it's the same property and Mr. Eldridge said to be clear, there are two different properties: 1609 and 3921 Oakland Drive, which is where all the construction is going on right now, and Ms. van den Hombergh said now we're specifically talking about 1609, which is where the pump house is. Ms. van den Hombergh stated back on June 9th of 2022, they approved variance for the natural features protection ordinance and with all due respect, she takes this very personally and very seriously because those trees and the woodlands are protected for a reason and when they were here in June, just so that people can get a perspective of this, they or any entity that owns the property can clear up to 50% of the woodlands. She said back in June of 2022 they asked for a 17.5% increase, resulting in a 67.5% clearing of those woodlands and at that time the four swimming pools, and she did a site visit and some research, weren't mentioned, there was the clubhouse, golf performance center, indoor tennis facility, and short golf course for the property and it was touched on earlier but she wants it put in the minutes regarding the 4.5 acres of Woodlands they did agree to plant with deciduous hardwood trees and two acres of the native natural grasslands and Mr. Fulling gave an estimate that would be between 800 and 1,000 trees. She said again, they're being placed in this position with cutting into this 55-acre parcel with these woodlands being removed and her question to the applicant is, when they came to the board in June of 2022, and maybe he's had some conversation with the city, about the pump house or whatever it is that they need, what has changed for this parcel between the first natural features protection zoning request in 2022 and now when they were working on the short golf course and Mr. Fulling said nothing, but he will agree with everything she said, but this is not the same parcel, that was 3921 Oakland Drive and this is 1609 Whites Road, but everything she said still stands. Mr. Wark asked Mr. Fulling if he could pull up the 500 to 600 square foot section they're going to put the pump house in so they can see it again, once he found the graphic Mr. Wark stated that that's what they're looking at, that area is approximately 500 square feet and the pump is going to go into the brim and Mr. Fulling said yes but for the sake of pictures they made the area a little bit bigger, but the stakes are 8 feet but the back stakes are probably approximately 4 feet tall because it has to be level going back into the hill, but at the base of the 8 foot two by fours, that's roughly 5 feet above where the pad's going to be but the building is probably going to be about 12 or 13 feet tall, but backed into the hill. He said it's even likely to be a little shorter than that because they're moving it back according to what the NFP wanted, they're moving it a little bit further back into the hill, so it could be a little bit shorter. Mr. Wark asked if they're removing trees or going

into the root zones and Mr. Fulling said no, this has nothing to do with any woodlands anywhere and added that the woodlands were all on another piece of property and that variance has nothing to do with this variance.

Chair Hohler asked how much above the slope would the top of the building be in the back of the hill and Mr. Fulling said right now the back walls are up about three or four feet, so about one or two feet above on the very back and six or seven in the front. Chair Hohler stated to Mr. Eldridge that he assumes part of the slope protection is they still want, even though the slope is man-made and not naturally occurring, to protect the slope and water running down it so blocking that with a building might be a problem and Mr. Eldridge said just to clarify, any slope that is at a grade of 20%, as far as the level of steepness, is considered a protective slope if you're in the NFP overlay. He said that since we've had too many developments where too much slope is cut away and too many retaining walls are put in, it does result in water runoff problems, but the intent of the natural features protection ordinance is more thoughtful development, not no development, but more thoughtful and coordinated development to preserve these areas. He said he's assuming Chair Hohler's question is does this structure, being inserted into this sloped area that exceeds 20%, going to cause any water run off issues and added that it is a fairly small footprint and they viewed pictures of the grass areas to the left and right of it, so the water run-off is going to sheet drain into the grass on both sides. Chair Hohler said regarding the retaining walls, is some of the slope protection meant to prevent the slope from collapsing because you've removed stuff from in front of it and put up a retaining wall and Mr. Eldridge said yes but he was using that as an example and Chair Hohler said that would be one thing that it's protecting against and Mr. Eldridge agreed and added that in this case, they're building right into the hillside and the foundation walls of the building are essentially retaining the earth on those sides, and it's a roof structure. Chair Hohler said that doesn't necessarily affect his vote, he just wanted to learn something.

Mr. Wark asked if there were trees surrounding the current pump and Mr. Fulling said no because that one is in a far more severe slope then this one will be, but they've got tall, native grasses up around the slope and this one is essentially going to be the same, there will be tall grasses around the outside and they will bring them around the sides of the building and added that they will be hiding this with trees and plants which he believes will stop the water, and will probably be better than what it is right now.

Chair Hohler asked if there were more questions or comments from the board and there were none, he said he will be voting in favor, but wanted to address the letter that was received where the author was concerned about water usage. He said he's not unsympathetic to the position but it's outside of what this board does, so he's not basing his vote on that because it's not really up to the board, but he's voting yes for all of the reasons in the staff report.

Ms. Harrington had a question about saying it's beyond their purview because she doesn't see it that way and if she needs to be corrected, she needs to know. She said her positions are not in opposition to Mr. Fulling, but she's standing on her values and perspectives about development in our community and that's why she took on this role on this board. She said that when they're making their decisions they have to do research so that they can have the full complement of information, so when you say that's not in your purview or it's not germane to the conversation and she wanted to ask staff or the city attorney what they would have them speak to if they don't take the full complement of information into consideration when they're making their determinations about their vote? Chair Hohler said not to interrupt Attorney Bear, but she is making some valid

points and he knows that he and Mr. Eldridge says it's outside their purview, he believes that everybody's reasons for the way they want to vote, the things they want to talk about that will impact their vote are completely valid and you vote your own way, and if things outside of what Mr. Eldridge, him, or Attorney Bear or whoever believes that's beyond the board, just make up your mind based on the information you have, but he understands where Mr. Eldridge is saying, that maybe they're going out of range and they need to come back in a little bit. He added that he says that to explain why he's voting the way he does, but they have different views, and he respects how she wants to get to it. He asked Mr. Eldridge and Attorney Bear to tell them what they are and aren't doing well. Mr. Eldridge said he really doesn't know what to say about this request and obviously the last request...Chair Hohler said he thinks it was a generalized question and Ms. Harrington said they can make it specific to this request because she made the comment about the cumulative effect so this a completely different aspect of what this development is, but how can she not take into consideration the request that came in before them prior to this one? She spoke about how Ms. van den Hombergh brought up what happened in June of 2022, as did she, but said they're not just talking about just one thing and she's not only referring to what's happening at the Country Club because she thinks the Country Club is beautiful however, we don't develop an a silo and whenever we take away natural features protection, no matter how di minimus it is, we have to take into consideration that even though they may have a beautifully curated, well stewarded, gorgeously manicured property, that will effect Edison and the northside and those communities and neighborhoods are most at risk for climate change, and when we're thinking about regenerative development, we have to take all of that into consideration if we're going to be good friends and neighbors, that's all she's saying. She said that when we're talking about representation on boards, it's not always to make the issue about race or ethnicity, it's about positioning and how you see things and that's why it's important to bring up and that's why her perspectives are the way they are because she sees things based on being one of the most vulnerable populations, if not the most vulnerable population in this community: she's a single black mother that lives in a neighborhood that's at risk for these things and she would be remiss and irresponsible not to speak from that point of view. Chair Hohler said that's why he thinks it's terrific that everyone on the board is from a different neighborhood, that way they're getting the diverse views.

Mr. Eldridge said he understands and she's absolutely right, it goes back to the scale of a project like this and when Ms. van den Hombergh brought up the 2022 variance, and obviously that was a substantial amount of earth change going on at the Oakland Drive property, and how they compensated for that with the conditions of the substantial amount of tree plantings and the native grasses so there's an offset for that. He said 4100 Oakland Drive was a smaller bit of slope impacted and there's going to be some replanting that has already worked its way through the tree committee, so yes, these are all elements that are tied to the large-scale project but what he's trying to say is what are we focusing on here, and what are the periphery elements related to the related to this pump house that they need to take into account when they're evaluating the NFP request.

Chair Hohler said he's heard about the 4 1/2 acres of trees on this request, because Ms. van den Hombergh brought it up, and it was brought up in the previous case, but he asked who follows up on the 4 1/2 acres of trees to make sure they're planted and wondered if the tree committee follows up on that and Ms. van den Hombergh said she will drive back there. He said he's asked the question before but didn't follow up on it, but when people come with their requests and they're saying if you give us this we'll plant your 4 1/2 acres of trees, who holds their feet to the fire? Mr. Eldridge said that would be the planning staff, they've already gone through site plan review,

they've provided very detailed tree inventories so to get at how do we figure this out, a tree inventory has been done so the staff knows what's there, and they are going to quantify for the staff, when they start planting, where the plantings are going and how many there are, just like if someone complains because they think there's impact to the critical root zone, our staff is to go out and look and see if there's an issue that needs to be addressed so yes, there's an accountability side to it, it's not just a condition on paper. Chair Hohler asked, out of curiosity, if they have started planting the trees or is there still a lot of construction and Mr. Fulling said they're still under construction and those trees are planned for around fall of 2025 and the planting plans are done and there's way more than what they took out going back in and they're not just planned for the Oakland Drive side but there will be trees going in on the other side as well. Chair Hohler said to be clear, this request has nothing to do with trees, they will be pushing it into the slope and it's avoiding all of the root zones. Mr. Fulling said the plan is once the construction is done, they will be able to get in there and put the trees in, but they have to be able to protect them, fence them in, and keep the wildlife away, so they want to do that as soon as they can. He said they want to start as soon as possible because it's going to be a long arduous job, so they're looking forward to getting started with it.

Attorney Bear said he would like to comment and said as far as enforcement of site plan requirements or potential conditions imposed by this board in granting a variance, the planning department has people that monitor those things, they will send out notices of violations and seek to work something out, and that can ultimately involve his office in taking legal and judicial action to enforce those things, so there is a certain in place. He said when we're talking about the scope of what this body can and can't do, they're not suggesting that you leave your values at home or that you ignore your values when you come here, because that is part of the decision making process and is appropriate, you're making decisions in consideration of what is the spirit of the ordinance and ordinances are enacted for health, safety, and welfare so those are considerations however, we do have statutes and ordinances that address the scope of what this board can consider and that's focused specifically on the zoning ordinance. He added that they do get some things that are tied into the development of a project that do not involve the zoning ordinance as far as water and how it could be taken out of a lake, that's under EGLE and they have the authority over it but that's not within the scope of what this body can decide. Ms. Harrington said she'll just run for president and Chair Hohler said he doesn't believe the president is involved with local zoning and she said she would be.

Chair Hohler asked if there were any more comments and Mr. Wark said he has a comment. He said of course he would be voting for it, but fact that it has a stamp of approval from the NFP review board and that it's being guided by EGLE, and they're both above and beyond what this board can do, and that's why he's voting for it.

Mr. Eldridge summarized by saying this is a vote to approve the NFP variance to approve the authorization for the variances related to the pump house location, he has Mr. McReynolds making the motion, and Mr. Wark seconding the motion and he will proceed with the roll call vote.

Motion approved five to one by a roll call vote with Mr. Wark, Chair Hohler, Ms. Harrington, Mr. McReynolds, and Ms. Haan voting yes, and Ms. van den Hombergh voting no.

OTHER BUSINESS:

There was no other business.

The meeting was adjourned at 9:32 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair

DRAFT



Zoning Board of Appeals Staff Report

City of Kalamazoo

Date: **4/11/2024**

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: April 11, 2024

SUBJECT: ZBA #24-04-07: 1367 Portage Street. Simple AG, LLC, are requesting a dimensional variance from Chapter 50-7.2, 7.2-1, to allow 32 off-street parking spaces where 16 off-street spaces is the maximum permitted for this marihuana retailer.

BACKGROUND:

The applicant acquired 1367 Portage Street and three other adjacent parcels along E. Stockbridge Avenue in 2022, which at the time was zoned Commercial - Community (CC). The Site Plan was approved on December 16, 2022, with one amendment approved on Nov. 6, 2023, for a marihuana retailer and a parking lot with 16 spaces on this group of parcels. The project is not yet constructed, but the applicant contacted staff this year about enlarging the number of off-street parking spaces to 32. 32 spaces exceeds the maximum off-street parking allowed of 16 spaces for the site. Further, it should be noted that the property was rezoned Neighborhood Node in 2023. Neighborhood Node does not permit marihuana retailers. Since this is a request for expansion of a site characteristic and not an expansion of the retail use, this can be viewed as a dimensional variance. If this variance is approved, a site plan amendment will also be required.

The applicant has indicated that the building under renovation for the marihuana retailer is 4,800 square feet, which will be able to accommodate a larger retail operation than the average marihuana retailer in the Kalamazoo area. This means they will have more budtender stations (up to 10) and a higher number of employees on site (12 to 15 employees at peak times), according to the applicant. The applicant explained that this level of employees at peak times would result in very limited customer parking. This plan was not discussed in 2022 when this project went through site plan review initially.

The Off-Street Vehicular Parking section of the Zoning Ordinance per Chapter 50 - 7.2 A (3)(b) outlines additional review criteria to consider when relief is requested from the off-street parking maximum.

1. Availability of on-street parking and shared parking opportunities within walking

distance. Portage Street has on-street parking on one side of Washington Square (west) and there is an under-used public lot running the length of the block between Stockbridge and Lake behind the buildings on the westside of Washington Square (225' feet to the west). There is no on-street parking on Stockbridge near the intersection of Stockbridge and Portage Street. The applicant has had conversations with the property owner of the large parking lot to the north, but currently they are not interested in leasing spaces.

2. Location in or adjacent to walkable mixed-use areas of Downtown and Node Districts. This location is in the Neighborhood Node district, which supports walkable, mixed-use areas. Surface parking where necessary should be limited to the rear yard. The applicant is proposing to place the additional parking space in the rear yard.

3. Impact on the ability of the property to meet the maximum impervious coverage requirements as detailed in 50-5. The site is currently under the maximum impervious coverage for the Neighborhood Node District.

4. Existing funding from the state or other federal sources which is tied to design standards with a minimum parking requirement. This project does not have funding from these sources.

5. Presence of the Natural Features Protection (NFP) Overlay, as detailed 50-6, on the property in question. This site is not in the Natural Features Protection overlay.

The initial concept offered by the applicant for the parking lot showed 46 total spaces, but the applicant then scaled it back to a total of 32 spaces. Three of the above considerations are neutral (3-5) and two do not support the request (1-2). The applicant attempted to lease parking spaces on the adjacent lot to the north without success.

STRATEGIC VISION ALIGNMENT:

Strategic Goal and Master Plan 2025 Impact:

The Future Land Use Map identifies this property as Commercial, which aligns with the new retail establishment planned.

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 within 300 feet. A notice was also sent to the Edison Neighborhood Association. The applicant has been advised on outreach to the adjacent property owners and has extensive conversations with the property owner north of this site (Black Wall Street LLC).

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 no special circumstances related to the size or shape of the property. The retailer is moving into an existing building and is using all of it for this use, which is about 4,800 sq ft; this is larger than most marihuana retailers in this area.

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

The applicant selected this location and determined how the square footage of the structure is to be used; the circumstances behind this request are driven by the applicant. A higher employee count is common with many marihuana retailers as compared to other types of retail. This type of retailer involves a separate reception area with a staff person, budtenders in the product salesroom, behind the scenes staff that are preparing the orders and on-site security. Some other marihuana retailers in the City have received variances for parking over the maximum. Staff have observed that not all parking lots for marihuana retailers are full or regularly full.

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 Ordinance allows for 16 spaces, regardless of the employee count. This is because parking for retail in this district and other districts is based on the square footage of the store.

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

The granting of the variance as requested is not the minimum action to make the use of the structure possible.

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

The marihuna retailer in this location, zoned Neighborhood Node is a legal nonconforming use, as of the zoning change in 2024. It is located in a compact, accessed by many forms of transportation, mixed use area. Excess parking in this location could impact its character and walkability.

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

Parking spaces above the maximum is contrary to the intent of the Neighborhood Node Zoning District.

7. Where the requested dimensional variance involves required landscaping, the Zoning Board of Appeals may grant a variance upon the following additional criteria: 1) existing landscaping, screening or wetlands intended to be preserved meets the intent of this section; 2) the landscape design proposed by the applicant meets the intent of this section; 3) there is a steep change in topography that would limit the benefits of required landscaping; 4) the proposed building and parking lot placement is setback well beyond the minimum required; 5) the abutting or adjacent land is developed or will be developed in the near future with a use other than residential; and 6) similar conditions to the above exist such that no good purpose would be served by providing the landscaping or screening required.

This criterion is not applicable to the requested dimensional variance

RECOMMENDATION:

Staff does not support the request for 16 additional parking spaces.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

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NOTICE OF PUBLIC HEARING

March 27, 2024

RE: ZBA #24-04-07
1367 Portage Street / 903 E. Stockbridge Avenue
Parcel #: 06-23-350-200 / 06-23-351-180

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Simple AG, LLC at 1367 Portage Street in the Neighborhood – Node District (N-Node).

The applicant is requesting a dimensional variance from Chapter 50-7.2, 7.2-1, to allow 32 off-street parking spaces where 16 off-street spaces is the maximum permitted per the Zoning Ordinance for this marihuana retailer.

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

The meeting will be held on Thursday, April 11, 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	15 January 2024, 3:38PM
Receipt number	35
Related form version	14

Introduction

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

Name	Darcie Fankhauser
Organization (if applicable)	Simple AG LLC
Email Address	darcie@supergoodstore.com
Phone Number	269-217-6817
Address	PO Box 428, New Buffalo MI 49117 No coordinates found
Preferred Contact Method	Email
Are you the property owner?	Yes

Property and Application Details

Property Address	1367 Portage Street, Kalamazoo, MI 49001, USA Map (42.2778173, -85.5696524)
Parcel Identification Number	06-23-350-177
Zone District	LW-1
Type of Request	Dimensional Variance
Application Fee	\$300.00
Project Description & Reason for Request	Adult Cannabis Store project seeking a parking variance to install parking in excess of the standard parking ratio for LW-1 zoning

ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

The subject project is for an adult-use cannabis retailer. The building is approximately 4,800 SF and will be built-out to provide up to 10 POS stations in the sales floor. With this size of a sales floor, the project will be able to accommodate upwards of 30-40 customers as a time. When operating at full capacity, there will be 12-15 employees in the store per shift which will utilize up to 15 out of the 16 parking stalls available by right without considering shift changes. In this scenario, the retail store will only have 1 parking stall available for customer use. We are seeking a parking variance to increase the stripped stalls to 32 as compared to the 16 stalls that are currently approved.

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?

This project is a renovation of an older retail space encompassing 4,800 SF. On average the space requirement for an adult-use retailer is 1,500 - 3,500 SF. The size differential correlates to added staff in-store along with added expected customer traffic requiring adequate availability of on-site parking stalls.

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?

Our intended use for the project is for an adult-use cannabis retailer. This use creates a higher volume of vehicular traffic than a standard retail store. The approved number of parking stalls is only sufficient to accommodate the in-store staff with 1 parking space left available for customers.

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

There is a similar adult-use retailer on Drake Road that successfully received a variance for a 100% increase of their parking stalls. Cannabis retail is unique in that the sales process requires 1 employee per customer similar to a pharmacy operation. With that requirement, available parking stalls becomes crucial for the success of the business.



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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?

Yes, our store operations will need at a minimum 32 parking stalls to operate efficiently and have enough available parking stalls for customers. Without the additional parking stalls, the probability of parking in unmarked areas and parking lot congestion that could impact Stockbridge Ave is high.

Will the granting of the variance negatively affect adjacent land?

No, this will be an overall site improvement and will not negatively affect adjacent land.

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

Yes, if the variance is granted, the property will be able to have an adequate amount of parking spaces to meet customer demands, which is the intention of the 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?

Not applicable

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

Not applicable

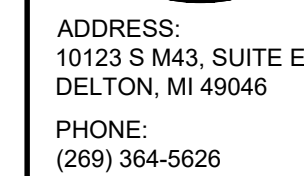


SITE GENERAL NOTES

- ## KEY NOTES

- ### PAVEMENT LEGEND

No.	Revisions	Date	By
1	PER CITY OF KALAMAZOO COMMENTS	10/07/2022	TJLB
2	PER CLIENT REVISIONS AND KALAMAZOO COMMENTS	10/19/2022	TJLB
3	PER CITY OF KALAMAZOO COMMENTS	12/05/2022	TJLB
4	PER PARKING ADJUSTMENTS SOUTH OF THE BUILDING	10/13/2023	TJLB



SCALE: AS NOTED

DESIGNED BY: TLB

DRAWN BY: DMP

CHECKED BY: TWC

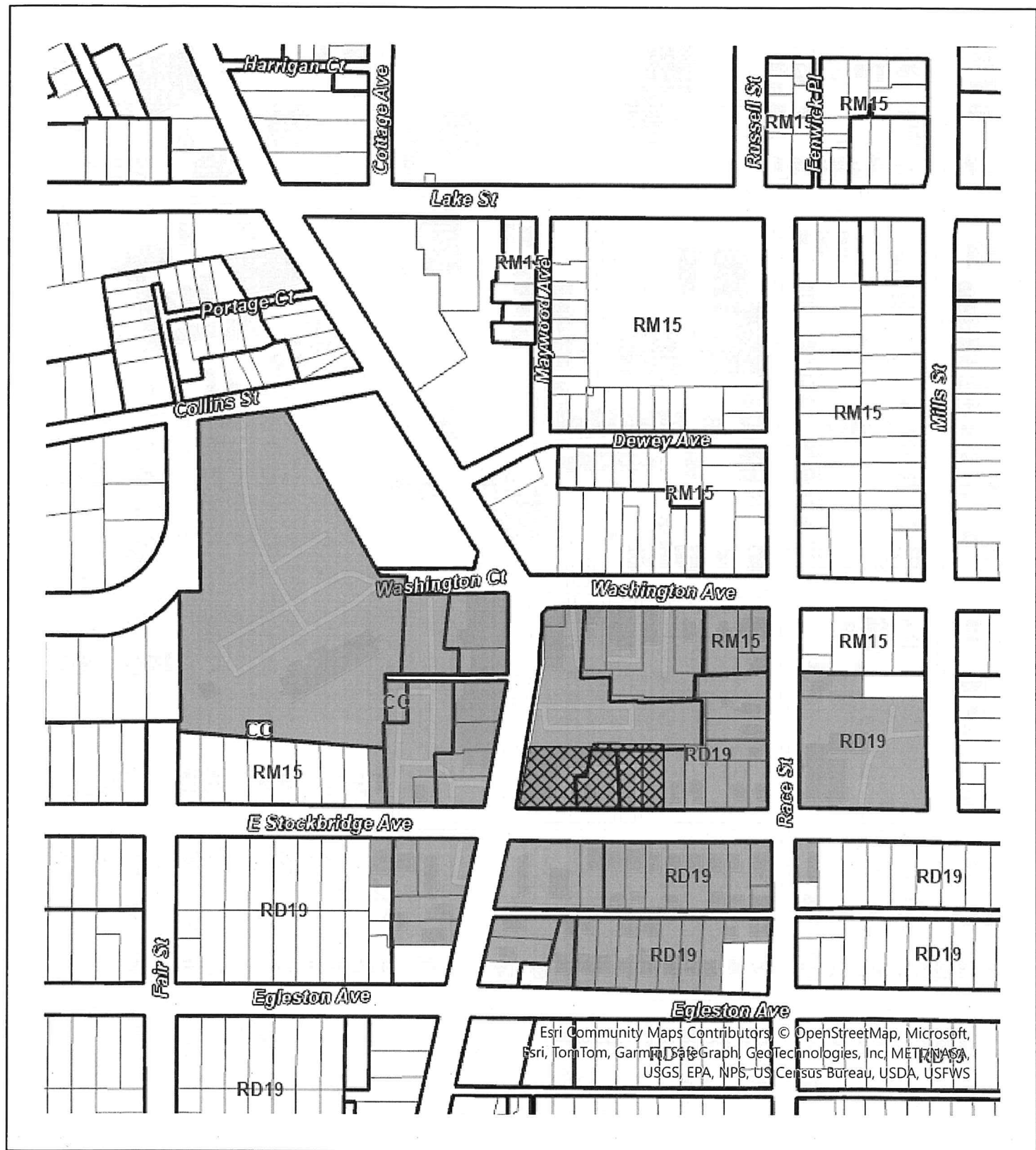
PORTAGE STREET GROW
KALAMAZOO, MI

ORIGINAL ISSUE:

PROJECT NO.
22035

SHEET NUMBER

C101



Parcels within 300' Mailing Radius 1367 Portage/903 E Stockbridge

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



0 110 220 440 ft



Zoning Board of Appeals Staff Report

Date: **4/11/2024**

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: April 11, 2024

SUBJECT: ZBA #24-04-08: 1500 E. Kilgore Road. ANR Kalamazoo Hotel LLC, is requesting the following use variances for a residential redevelopment project:

1. A use variance from Chapter 50, 50-4.4, (5) (b), Residential uses in the CC District are only permitted in conjunction with a commercial use, where the proposed project will be all residential.
2. A use variance from Chapter 50, 50-4.4, (5) (b), Multi-family units are not permitted in the ground floor occupied space that directly fronts the front property line.

BACKGROUND:

The subject property is in the Commercial - Community District. A Residence Inn by Marriott is currently operating in this location. It was constructed in 1989 as a hotel and underwent upgrades in 2000. It currently operates as a 83-unit extended stay hotel.

The applicant is planning to shut down the hotel and has researched viable alternatives for the site so that it does not sit vacant. The applicant is proposing to convert the extended-stay units into apartments. This would result in 48 studio units (416 square feet), 14 large studio units (440 square feet) and 21 one-bedroom units (532 square feet). The applicant has indicated that the physical layout of the extended stay units makes this a very simple conversion of the complex compared with the renovation of all the buildings to accommodate commercial uses. The existing extended-stay units are already designed to be independent of one another and contain kitchens, bathrooms and sleeping areas. Renovations would include interior and exterior building repairs, window replacement, HVAC upgrades, and aesthetic upgrades around the complex.

The Commercial - Community District allows for residential development but only when the following development standards are met. The first development standard is that residential is only permitted in conjunction with commercial use to make it a mixed-use project. The second development standard is that residential units are not permitted within the ground floor occupied space (first 15 feet of each building) facing the front property line (Kilgore Road). The third development standard which the proposed project meets, is that residential units must have

access to usable outdoor space on the site. The complex already has this required outdoor space with a swimming pool, small basketball court, and outdoor seating area. It should be noted that first and second development standards are linked as they are both related to creating commercial space.

STRATEGIC VISION ALIGNMENT:

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

Strategic Goal and Master Plan 2025 Impact:

The project aligns with the Strategic Goal of Complete Neighborhoods by expanding the housing options in Milwood.

This proposal does not align with the Kalamazoo Future Land Use Map which notes this and the adjacent hotel and office building as commercial. However, the property to the north and east (Milham Park Golf Course) is designated as Open Space/Parks, and the property to the south and east in the City of Portage is shown in their future land use plan as residential. Given the number of land uses converging in one area, pushing or pulling the future land use designation in one direction or another is reasonable and has occurred in other similar locations.

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 Milwood Neighborhood Watch. The applicant has been advised to reach out to the surrounding property owners.

Engagement/Communication Tools:

Newspaper, mailings, and applicant outreach

FINDINGS:

Staff has made the following findings regarding this request:

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

1. Mixed Use: The extended stay hotel is closing, leaving a unique situation: structures that are residential in character (setback from the street and turned to

face inward to a court) in a district that requires ground floor commercial along the front property line. Requiring commercial development along the front property line would require the applicant to undertake significant modification of the existing buildings to convert them to house a commercial use other than an extended-stay hotel.

2. Occupied Space: As stated above, the structures on this lot were singularly focused to contain an extended-stay hotel. The buildings do not front Kilgore, but face the interior court. The structures are residential in character, which suit a commercial use like an extended-stay hotel, but not other commercial uses that require viability from the street.

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

1. Mixed Use: The existing hotel is considered a commercial use though the structures are residential in nature; this is a unique circumstance. If converted to apartments for rent, the site will operate in much the same way as it does today as an extended-stay hotel, though by code it is a change in use since an extended-stay hotel is a commercial use. To staff's knowledge, there is not another similar situation in the CC District.

2. Occupied Space: The existing buildings (which are approximately 30 years old) were constructed as extended-stay units with no other commercial component. Buildings fronting on E. Kilgore would be required to undergo substantial modification to add a non-hotel commercial use and also meet the occupied space for requirement. This would likely result in the loss of many apartments to create small fragmented commercial spaces in each separate building along the frontage. Again, staff is not familiar with any other similar situation in the CC District.

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

Both 1 and 2: The applicant is not responsible for these circumstances. The extended-stay structures were designed for this use and not any other commercial use, making conversion challenging. The structures were built in 1989 - two zoning codes ago; standards have shifted since that time.

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.

Both 1 and 2: The granting of the use variances is the minimum action that will allow this site to be reused in the short term.

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

Both 1 and 2: The granting of the variance will not adversely affect adjacent land in a material way. The project is directly next to a single family neighborhood to the south and will not impact the hotel in operation to the east of the site. The operation of these units as for-rent apartments will not, from an outward appearance, seem different from an extended-stay hotel.

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

Both 1 and 2: The granting of the variance will be consistent with the intent of the ordinance, though it does shift the Future Land Use designations from the City of Kalamazoo and Portage slightly. The CC District allows multifamily as a permitted use when combined with a commercial.

RECOMMENDATION:

Staff recommends approval of these variances as each meets the above criteria.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

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NOTICE OF PUBLIC HEARING

March 27, 2024

**RE: ZBA #24-04-08
1500 E. Kilgore Road
Parcel #: 06-35-392-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by ANR Kalamazoo Hotel LLC at 1500 E. Kilgore Road in the Commercial – Community District (CC).

The applicant is requesting the following use variances for a residential redevelopment project:

1. A use variance from Chapter 50, 50-4.4, (5) (b)[1], Residential uses in the CC District are only permitted in conjunction with a commercial use, where the proposed project will be all residential.
2. A use variance from Chapter 50, 50-4.4, (5) (b)[2], Multi-family units are not permitted in the ground floor occupied space that directly fronts the front property line.

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, April 11, 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	9 March 2024, 10:40AM
Receipt number	37
Related form version	14

Introduction

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

Name	ANR Kalamazoo Hotel LLC
Organization (if applicable)	Odyssey Hotels
Email Address	rdhingra@odysseyhotels.com
Phone Number	312 752 7504
Address	7065 N Port Washington Rd, Glendale, WI 53217, USA Map (43.1453086, -87.9140133)
Preferred Contact Method	Email
Are you the property owner?	Yes

Property and Application Details

Property Address	1500 E Kilgore Rd, Portage, MI 49002, USA Map (42.2456415, -85.5626573)
Parcel Identification Number	06-35-392-001
Zone District	CC
Type of Request	Use Variance
Application Fee	\$375.00
Project Description & Reason for Request	We intend to convert the entire property to 83 units of affordable rental apartments. Staff indicates our plan will require two variances, specifically from Chapter 50, 50 -4.4 Use Definitions and Standards: 5) (b) [1] & [2]

1) The site development standards identify that any residential housing development in this zone should be part of a mixed-use zone. We have no plans for any commercial space in the project and creating any would be problematic.

2) The limitation of residential use not being permitted in the first 15 feet of the ground floor level of all buildings facing the street cannot be met as these buildings are already constructed for living space only.

Use Variance Review Criteria

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

Yes. Our project is a currently operating hotel which lends itself to cost efficient conversion to 83 affordable apartments. While a partial change of use to commercial is physical conceivable, it would reduce the number of affordable apartments available to lower income renters and significantly increase the need for governmental/charitable subsidies to make the project financially viable.

Thus,

Variance 1) The sole space that could conceivably become commercial is in the clubhouse/lobby area of the currently operating hotel. This would be ill-advised and a hardship as a) we want to use this area for necessary rental resident amenities such as gym, party room, and managers office. The space has no street frontage/visibility on Kilgore - and in our opinion isn't attractive for commercial users and very unlikely to successfully rent.

Variance 2) The existing structures facing Kilgore were built approximately 30 years ago in a residential typology (see photos). Conversion of the street-facing portions to commercial would be a great hardship as the structures-as-existing do not (in any way) lend themselves to financially feasible reconstruction, i.e., it might be less expensive to demolish and start over. Perhaps more importantly, any areas converted to commercial would subtract from the total number of affordable apartment units we could offer.

Are the special circumstances created by actions of the applicant?

This response applies to both variance requests.
No. We purchased the property as it currently exists in 2009 and operated it continuously as an extended stay hotel. It was designed for and has been occupied as "living units" since Day 1. Our proposed project is entirely consistent with the historic use.

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

This response applies to both variance requests.
We believe so. Granting the requested two variances is a minimum action, zero-cost, and speedy path to opening 83 affordable rental units. Our project specifically addresses Kalamazoo's stated public good policy of promoting affordable rental housing.

Will the granting of the variance negatively affect adjacent land?

This response applies to both variance requests.
No, not at all. (Please see the attached photos and aeriels.) Our proposal is benign insofar as negatively affecting the immediately surrounding land uses (park, hotel, office building). Our site is not part of a particularly commercial zone "per se".

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

This response applies to both variance requests.
Yes, we believe granting the requesting variances is generally consistent with the purpose and intent of both provisions: to promote appropriate commercial activity and cross-use in mixed-use areas. The area is indeed mixed use, but somewhat of a "betweenner", i.e., in a spit of land between/among the highway interchange, park/golf course, single family residential, hotel, and high school. Our stretch of Kilgore is a sweeping

S-curve, i.e, a somewhat tricky left-turn-in access. A lower-trips/quieter-use is perhaps advisable.

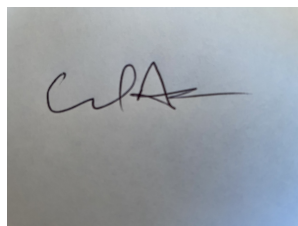
Supporting Documents

Supporting Documents

[1500 E Kilgore_Summary Exhibit.pdf](#)
[1500 E Kilgore_Summary 1.25.24.pdf](#)

Submit

Your Signature



Uploaded signature image: [Signatue MDW.jpg](#)

1500 E Kilgore, Kalamazoo

Project Summary

Odyssey Hotels, with General Capital as a consultant, intends to execute a renovation and conversion of an 83-room long term stay hotel, into an 83-unit affordable rental housing development. Located at 1500 E Kilgore Road, Kalamazoo, the property exists as an operating hotel. ANR Kalamazoo Hotel, LLC is a single purpose entity owned by Odyssey Hotels, which since 2009 has owned and managed the real estate and business operations of the premises.

We understand that increasing affordable housing is a strong priority for Kalamazoo County and City (discussed in numerous strategic plans). We share the goal of increasing the supply of quality, safe, affordable housing units, and identified this conversion as a unique opportunity.

The existing extended stay hotel is approaching the end of its franchise licensing agreement with Marriott (expires October 2024). The physical layout of the premises are ideal for quick conversion into an affordable rental community. The circumstances lend itself to an efficient rental conversion, both in terms of time and expense. We view the opportunity as "better than shovel ready".

The renovation scope includes sitework improvements, exterior and interior building repairs, window replacements, HVAC upgrades, interior cosmetic upgrades and more. We will reposition the property as an affordable rental housing community and set the property up for long term success. Renovation work is expected to take 6 months to complete.

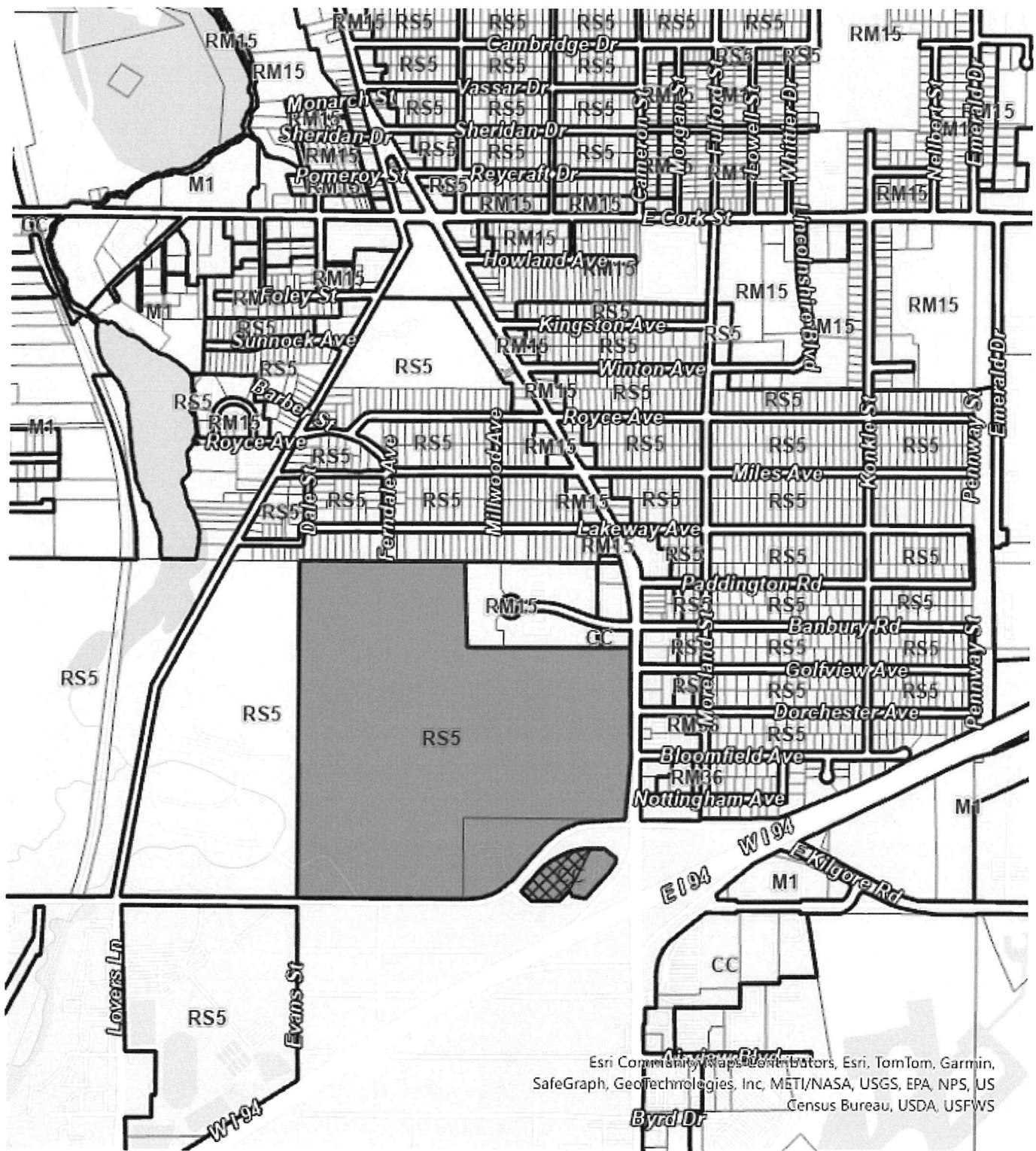
The unit mix for the property includes 48 studio units (416 sf), 14 large studio units (440 sf), and 21 one-bedroom units (532 sf). 100% of the units at the project will be reserved for residents earning less than 60% of Kalamazoo County median income. The rents for these 60% units will be limited to a maximum of \$963 per month for a studio and \$1032 sf per month for a one-bedroom unit, although our proforma anticipates actual rents to be significantly lower than these maximum levels. The target population is a one-person household earning a maximum of \$38,520 or two-person household earning a maximum of \$44,040 annually. These residents would benefit from the convenient location near the airport, restaurants, schools, and parks, at affordable rents. Onsite amenities available to residents will include a community room for gatherings, pool, and sport courts.

Sponsor and Property Management Background

Odyssey is a Chicago based hospitality company with ownership interest and operations in many hotels across the Midwest (www.odysseyhotels.com). The Odyssey senior team has over fifty years of combined experience operating full and limited-service hotels. In addition to operations/property management, Odyssey is an expert in hotel renovation, construction management, ground up new hotel development, single family homes, and renovating apartments. Odyssey owns the Hampton Inn Airport and Town Place Suites, as well as land site for a future hotel in Kalamazoo. Odyssey has a strong reputation, as an approved owner and operator for world class leading hotel brands like Marriott, Hilton, Intercontinental Hotel Group, Hyatt Hotels, etc. Odyssey also has experience developing single family homes in the Chicago area.

The team will engaged KMG Prestige for professional property management services and compliance with affordability regulations. General Capital has a well-established relationship with KMG Prestige, given their previous engagement on all nine General Capital projects in Michigan. KMG is best in class professionals with local knowledge and expertise. KMG will hire local, on-site management and maintenance personnel to run the property on a day-to-day basis. KMG's central Compliance Department will ensure all affordability requirements are maintained and are available for review/audit.





Esri Community Maps Contributors, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

Parcels within 300' Mailing Radius 1500 E Kilgore Rd

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



0 420 840 1,680 ft