

Agenda

Zoning Board of Appeals

City of Kalamazoo



Thursday, June 13, 2024

7:00 PM

City Commission Chambers – 241 West South Street

A. CALL TO ORDER/ROLL CALL

B. APPROVAL OF MINUTES

1. Approval of minutes from the Zoning Board of Appeals meeting on May 9, 2024

C. COMMUNICATIONS AND ANNOUNCEMENTS

D. PUBLIC HEARINGS

1. ZBA #24-06-10: 4300 W. Main Street. Panda Express Group Inc. is requesting a dimensional variance of 18 feet for the front setback from Chapter 50, 50-5.1, Table 5.1-2, to allow the building to be located 38 feet from the front property line where the build-to-zone is 10 to 20 feet.
2. ZBA #24-06-11: 3401 Nazareth Road. Southwest Michigan Land Conservancy is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, 50-6.2 H, to allow construction of nonmotorized trails within the Bow in the Clouds Nature Preserve to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback.

E. DISCUSSION/ACTION ITEMS

F. REPORTS

- 1.

G. ADJOURNMENT

**MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
May 9, 2024 - 7:00 p.m.
CITY COMMISSION CHAMBERS**

Members Present: Allison Haan, Remi Harrington, Joe Hohler III, Beth van den Hombergh, Gary Wark, and Alan Sylvester (Alternate)

Members Absent: Tony McReynolds

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

Chair Hohler called the meeting to order at 7:01 p.m.

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

Chair Hohler asked if there were any changes to the original agenda and Mr. Eldridge said no.

APPROVAL OF MINUTES:

Mr. Wark moved to approve the minutes as submitted, seconded by Ms. van den Hombergh.

The motion was approved by voice vote unanimously.

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 four minutes and afterward. The public can call in to 888-382-9556 to enter a queue to comment live for any property on the agenda and will no longer be able to leave a recorded message, then the public hearing will be closed on that request. The Board would then conduct the finding of facts. The Board must approve the Finding of Fact. Therefore, the first vote you hear is not a ruling on the request, but the Finding of Fact, then the Board discusses the request in order to determine a ruling. The Board reserves the privilege to ask questions of persons who have already spoken even though the public comment portion is closed. Once discussion has ended the Board moves onto a roll call vote. A full board consists of six members and four affirmative votes are required to grant a motion for a non-use or use variance.

Chair Hohler advised that tonight's proceedings will not adhere to the 10-minute time limit because of the number of items that need to be covered and said since the narrative will only be general information, it shouldn't need to be more than 10 minutes, then they can give the presentation of requests 1-10, related to the building siting and then the meeting will follow normal standards, and the board will vote on each variance to adhere to legalities. He then explained that the meeting will proceed into the next variances related to the parking deck and they will proceed the same as the first set of variances. He also explained that he is hesitant to give unlimited time but will extend time if necessary.

Ms. Harrington read the application for 411 W. Kalamazoo Avenue and North 17 feet of W. Water Street into the record.

ZBA#24-05-09: 411 W. Kalamazoo Avenue and North 17 feet of W. Water Street: An application for dimensional and use variances have been filed with the Zoning Board of Appeals by CD Arena, LLC for the above listed addresses, which are located in the Downtown 2(D-2) and the Downtown 3(D-3) Districts. The applicant is requesting the following variances for the Event Center: Building Siting: 1) a dimensional variance from Chapter 50-5.6 C (1) (a) 2, to allow front lot line coverage of 43% from the requirement of 70% for the placement of the event center along Kalamazoo Avenue, 2) a dimensional variance from Chapter 50-5.6 C (1) (a) 3, to allow relief from the requirement that the building occupy the corner at Kalamazoo Avenue and Park Street, 3) a dimensional variance from Chapter 50-5.6 C (1) (a) 4, to allow a build to zone of 4 feet 8 inches to 36 feet 4 inches, where a build to zone of 0 to 10 feet is required along Kalamazoo Avenue. Height: 4) a dimensional variance from Chapter 50-5.6 C (2) 17, to allow upper floors of the building to be 16 feet in height where 14 feet is the maximum height for upper floors. Street Facing Facades: 5) a dimensional variance from Chapter 50-5.6 C (4) (a) 20, to allow the ground floor transparency levels of 66% for Kalamazoo Ave., 57% for Westnedge Avenue, and 47% for Park Street where 70% transparency is required, 6) a dimensional variance from Chapter 50-5.6 C (4) (a) 21, to allow 0% upper floor transparency along Westnedge Avenue, where 20% transparency is required, 7) a dimensional variance from Chapter 50-5.6 C (4) (a) 22, to allow blank wall areas exceeding the 30% requirement on both Westnedge Avenue and Park Street, 8) A dimensional variance from Chapter 50-5.6 C (4) (b) 25, to allow only 14 entrances where the requirement is one per 60 feet, totaling 24 entrances for the three street facing facades. Parking and Loading Regulations: 9) a dimensional variance from Chapter 50-7.3-1, to allow 60 bike parking spaces where 144 are required based on the maximum occupancy, and 10) a dimensional variance from Chapter 50-7.5 A (1) (b), to allow a driveway for the loading area on Westnedge Ave. to be 91 feet where 24 feet is the maximum driveway width.

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

Chair Hohler asked that 20 minutes be put onto the timer instead of 10 and Mr. Eldridge added that for the board members that have been on the Zoning Board of Appeals they may have noticed that as the new elements have been adopted into the ordinance, the Commercial Zone District specifically, most of them shifted from a traditional Euclidean zoning where the focus is on land use and the development regulations surrounding that, to form based development standards. While focus is still on permitted uses by zone district, there is a much greater focus on the relation

of the building to the public space and the right of way, so with the form based code the building façade, facing the public street is significant and there are a lot of development standards that apply. He added that in past situations they had big projects that might have had three variances, tonight there is a substantial number but many of them impact one another and when you shift a building back in a form-based code, you're outside of the build to zone so to speak, and that will impact the requirement that a certain percentage of the building is up against the front property line and if it's on a street corner, it's supposed to occupy the street corner, which will also be impacted if you shift the building back. Mr. Eldridge said that he wanted to make that clear that's the reason why there's such a large number of variances and they wanted to break it down by building, siting, height and street facing facade and they tried to group them together to make the point clearer. He also added that with this development having four street frontages and the form-based code putting such an emphasis on the front face of buildings, it's hard to get around it with the type of facility that is being proposed for this site.

Mr. Steve Loney, a project manager with Tower Pinkster who is the architect and engineer of record for the project, said he will give the overview and introduced Jeff Birzele, the project architect, and Laura Klosterman, the landscape architect who will give the details of the project. Mr. Loney started by saying this project is unlike any other in the city of Kalamazoo and he couldn't imagine that when the zoning code was developed, it anticipated a project like this. He then presented information from the monitor and stated the images shared are a fairly accurate representation, but some are a little old and he will point those out, but this is a fairly accurate representation of the design as it stands today. He stated that he is going to give an overview of the presentation, including the parking deck. He said they were looking at a site plan orienting the projects between Westnedge and Park Street, between Kalamazoo Avenue and Water, directly west of the new courthouse and east of the Diocese of Kalamazoo, and it shows the four unique spaces within the facility: the main arena, on the southeast corner there is the basketball practice facility, along with supporting athletic training and locker room facilities for the basketball teams at Western Michigan University, which is also where the Western Michigan University hockey training and locker rooms will be, as well as the Kalamazoo Wings offices and their locker room, in the northwest corner there's a practice ice sheet that will be used by both Western Michigan University and the Kalamazoo Wings, as well as available for community use for youth hockey or open skate. He said in the southwest corner there is a multi-use event hall space and in total it's about 30,000 square feet with 20,000 square feet of flat floor area for use, and across to the South side of the Creek is the parking deck (the next slide held the same images without the units being identified). He stated the next image would be presented as looking west from high above the Cancer Center, the creek is down the middle between the parking deck on the left and the Event Center on the right and they are proposing an open plaza space to the east of the parking deck, and the south of the event center, and an 1,100-car parking deck with three floors of commercial space on the east end of that for development by others. The next slide presented the same areas from a different vantage point, looking southwest, he added the two images are a little a bit dated in terms of the architecture of the parking deck. The next slide presented the south side of the event center, Mr. Loney added that technically it's not a street facing facade, but this is the Southside entrance that would be directly north of the plaza space and would more or less face downtown Kalamazoo. He then presented a view along Park Street and said the taller item is the arena and they would notice in this elevation they tried to provide architecture along the pedestrian way that brings the scale of the building down, so there's a datum line that runs horizontally around the building to cap that, and then they provided some storefront in trees and vision into the facility so there's a little more pedestrian feel to it. The next view is looking from Kalamazoo Avenue and Park Street, looking southwest and added that this tall volume is the basketball performance center, and there

are two basketball courts in there, so the tallest part of the volume is where the Western Michigan University coaches' offices will be, with added dining and training facilities, and below that the locker rooms for the K Wings and the Bronco hockey team, again trying to bring a pedestrian feel to it, so there's kind of a horizontal datum line there with some shorter scale elements underneath. Continuing to move down Kalamazoo Avenue, he stated they would see an image that shows the whole elevation, but the present image is approximately in the middle of the elevation along Kalamazoo Avenue, and it shows the north side entrance which would be the entrance that faced the north side community and would welcome them into the facility, and would also be where youth hockey would enter the facility, or visiting hockey or basketball teams would probably enter here as well. He then showed a southeast view and stated this volume is the practice ice space that not only would the tenants of the building be able to use, but the community would also be able to use or rent it as well and so would youth hockey and added that, again, the board would see a differentiation of materials trying to bring a horizontal datum line and bring that scale down to a more pedestrian (he pointed out the people drawn in for purposes of scale) and added it's a tall volume. He went on to the view of the north elevation and stated this is the view that would be seen if the Park Trade building wasn't there. Mr. Eldridge asked if the right-hand corner is the outline of the overall building and is the triangle showing where the vantage point is, and Mr. Loney said yes and allowed that that gives some perspective of where the plan is being viewed from, and said that triangle is on each slide, giving direction. He moved on to the Westnedge side, looking kind of northeast, that shows the practice ice on the left, the center portion is the loading area, which they tried to make as attractive as possible with fold up doors for access to that space. He moved a little further down Westnedge, still looking northeast, showing the multi-use space. He explained that the glassy look of that is a terracotta product and said that to the right, the view is of the creek, which is the separation between the Event Center and the parking deck, which is to the right and further down the street, there would be a connection between the parking deck and the event center.

He then moved on to the parking deck and showed a view that was from a similar perspective of the one he just showed of the flat floor space, looking southeast at the parking deck, Water Street is on the right, on Westnedge was the northeast facing view, along to the right side is Water Street and the left side is Westnedge. There are three stairs in the facility, one in the northeast and the one in the southwest is the one they were viewing, made of glass for visibility and security purposes, and the last one is in the center on the north side of the parking deck. He said the more current view of the parking deck, in what they call the white box space and what's slated for future commercial development space, on the east end of the parking deck, Park Street is on the right side of the image and Water Street is on the left. He then showed a view looking westward at the parking deck, and a more current view of the two images he showed at the beginning of the presentation, and an overall view along Water Street and added that it was an unobstructed view of the south elevation of the parking deck. The next images were meant to scale down along the pedestrian way and introduce some architecture that was a little more human scale, but along the left side are brick infills.

Ms. Harrington asked to see the first two pictures of the presentation of the aerial view and the proximity to the Cancer Center and to Parks Trade and Ms. van den Hombergh asked the height of the parking structure and was told it's eight stories. Ms. Harrington asked what is currently in the space and Mr. Loney said where the basketball courts will be is currently a parking lot owned by that was owned by the county and the rest is either dirt or some remnant of paving, but added that Cooley and Eleanor are still intact, but have been vacated and he believes are under the ownership of this developer. She then asked if there used to be a gymnastics gym there and Chair Hohler said as they're looking at it, it's to the right of the parking deck and Mr. Loney pointed to

where it used to be and added he believes it's been taken down and Chair Hohler pointed out where the funeral home used to be. Ms. Harrington wanted to know where Park Trade is and Mr. Loney pointed it out, along with the new courthouse and the new behavioral health building. Ms. van den Hombergh wanted to know, in regard to the future commercial space in the deck, if Mr. Loney could talk more about it and Mr. Loney said each floor is approximately 3,000 square feet, so there's the potential for a tenant on each of the three floors. Mr. Loney went to the next slide and said an interesting component of the parking deck is that the space on the first level has been opened to pedestrian pass through because they are anticipating that on Water Street there will be students, or others, coming by bus that will be dropped off on Water Street and they will be able to pass through and under the parking deck on their way into the facility. He stated that if anyone has been to a Western hockey game, the lunatics line up around the building and outside, that's the anticipated use of that space and it's important to the university that that energy is maintained.

Ms. Laura Kloosterman, the landscape architect for the project who also works at Tower Pinkster presented to speak about the variances and said some of them tend to fall in "clusters" and domino into other variances. She said she will talk about the first three regarding the building siting and will had it off to Mr. Birzele for the height and street facing façade items, then they will both addressed the parking and loading regulation items. She said the first slide is to give the board a sense of the zoning map. she stated that the site had been four parcels and as Mr. Loney touched on, there were two streets running through the site, which have been vacated and the zoning on three of the four parcels is D2 and the 4th parcel is D3, and added that it is their understanding that the zoning of the parcels becomes what the majority of the other parcels are when it becomes one parcel, so they are submitting under the D2 zone. She said looking at use tables they have an assembly and entertainment sport use in the venue, which makes sense under the D2 zoning for the use flex, so they're submitting these under flex. She also had a diagram but she didn't want to dwell too long on it but it gives a sense the overall variance is for the site. The first variance request is for a dimensional variance for placement of the Event Center along Kalamazoo Avenue, with the front lot line being along Kalamazoo Avenue, and it's set back slightly. she said if they look at the blue line, it's 10 feet back from the property line and the red line is the property line of the site, so the front door does come under the front lot line coverage, both the areas to the right and left do not. She added that one of the primary reasons this is occurring is because they are allowing for access to the Kalamazoo Valley River Trail through that section, and the board would see that on the next three sheets. The second building siting variance being asked for is related to the occupancy of the corner, which are the areas pointed out in green with a number three, showed the corners for the event center, the corner to the left with a three is occupied so they do meet it in that section but the corner to the right on Kalamazoo and Park Street is not occupied because the building is set back beyond the 10 foot boundary line shown in blue and one of the main reasons is because the Kalamazoo Valley River Trail runs through that area and on this sheet you can see where the trail will run in the dashed line. The third item is the front build to zone, which according to code allows zero-to-10-foot distance and the green, lightly shaded area along Kalamazoo Avenue and along Park Street, shown is where they are beyond the 10 foot, so they are asking for relief for that because what they have is a 4 foot 8 inch to a 36 foot 4 inch distance in those areas, it varies a bit but that will allow the trail to go through, and around the corner.

Mr. Jeff Birzele, a project architect for Tower Pinkster, spoke next regarding the height variances. He stated they didn't separate the slides according to variance because they all applied to the building's exterior elevations. He said they are seeking a variance for the floor-to-floor height and the ordinance calls for a maximum upper floor height of 14 feet but they are seeking a variance of 16 feet for various reasons but for a building of this size, the level of mechanical, electrical, and

plumbing systems that need to serve this facility are going to be quite large but in addition to that, due to the size and span of some of the interior spaces, the structure gets to be quite large so trying to weave all of those systems through the building to serve all the various spaces, the extra height is needed to accommodate that. He added that some other benefits to the added height is that it lends opportunities on the interior to provide some very interesting architectural components to create a more dynamic interior, so it's twofold to try to seek the extra height in the upper floors. The next item is the street facing façade, which is the ground floor transparency, which they are seeking variances for each of the street facing facades. Mr. Birzele stated that the footprint of the building is quite large and due to the different uses of the interior there are requirements for the amount of light that they can allow in and still provide for the function of the interior spaces as well as controlling the security of the facility itself. The variance for Kalamazoo Avenue, he pointed out the elevation, for the ground floor, which 70% is the minimum transparency required between the elevations of two feet and eight feet, and they are at a 66% transparency. On Westnedge Avenue, which is the bottom elevation, they were at 57% and at the lower left-hand corner of the visual is the practice ice facility, and they were able to get some glazing in there with some solar shades to minimize how much solar heat they would get from the natural light. He added that Westnedge is the service side of the facility and with the loading bag there are limited in terms of how much transparency they could get into that zone, in the Event Center is the other lower right hand section and they, again, try to get some glazing in there, but overall they're at 57% and on Park Street, they're at 47% which is the next elevation he pointed out on the display. He added that the blank areas that are not glazed are typically restrooms or support spaces within the building itself so where they could they tried to maximize the amount of transparency, but they are seeking a variance for Park Street as well. The next variance was for the upper floor transparency, primarily for Westnedge Avenue, which they are at 0% transparency, which is primarily driven by the functions of the spaces. Mr. Birzele stated the practice is in that section and the west facade has a lot of direct sunlight, so they were really limited on trying to control the heat gain on the ice, which is why they had to keep that solid, the center section is utilitarian and that's where the loading dock area is, so the upper level portion is an outdoor farm for the mechanical equipment, which will be screened by a while to conceal that equipment so it won't be seen, but there wasn't a lot of room to provide transparency for the equipment. He added that in the multi-use portion of the event center, since the space can be rented out for various activities, which need to be light and sound controlled, they were limited in terms of trying to get glazing in that upper portion. The last variance, in respect to the slides, is the street facing façade, which are blank wall limitations, which go hand in hand with what was talked about so they're looking for a variance request of Westnedge Avenue, where they have an 82% amount of blank space for all of the reasons mentioned, and they are also looking at Park Street where they are at 38% blank space with 30% is the ordinance maximum for blank space. Mr. Birzele stated the primary driver for Park Street is volume right here (on display), which is the practice basketball courts for Western and direct light doesn't usually fare well for basketball practice because of the glare and other reasons. Next, he wanted to talk about the street facing facades for variance number eight, the variance for the quantity and location of entrances which goes back to the overall size of the building and the various functions. he said they tried to cluster the entrances for security reasons but also for efficiency of access, song the main entrance at the north is in the section he's pointing out on the screen, the main entrance for the arena is in the southeast corner, in the main entrance for the event center and student access to the arena is in a cluster he pointed out on the screen, so all of the green arrows shown on screen include the south elevation of the event center, even though that's not part of the variance but it's more for reference, but they weren't able to get the entrances at every 60 feet, which is what the requirement is and again, it's for security and access reasons that they couldn't meet it. Mr. Eldridge added that the last diagram in the packet has the same

image, if they can't see it from where they sit and it's labeled parking, loading, and access. Mr. Birzele continued that they were seeking a variance based on the linear footage of the three-street facing facades, which requires 24 entrance locations and they're providing 16.

Ms. Kloosterman moved on to the next variance, number nine, regarding bike parking. She said the way the math works with what the code asks for bike parking is 144 and when they looked at the site they're asking for 60 bike parking spaces, which are highlighted in green on the sheet, there would be 30 spaces to the northeasterly corner and another 30 spaces that would be covered and underneath the first-floor roof parking deck.

Mr. Birzele touched on the last of the building variances and stated that it is regarding the width of the driveway. He said they designated Westnedge as the main service façade of the building trying to be conscious about consolidating all of the utilitarian access to the building, so the loading dock they located on the West side of the building and there's a maximum dimension of 24 feet for a driveway and they're seeking 91 feet, again, for the support of the various functions of the building, such as food service deliveries, trash and recycling services and there's also opportunities in the loading dock for broadcast so if Western gets broadcasted for their basketball or their hockey, there's a spot in the loading dock area for broadcast trucks as well as for buses in the event of concerts.

Chair Hohler asked if there were any questions and Ms. Harrington asked what the affiliation of CD Arena, LLC is to Western and Mr. Loney replied that Western is just a tenant and Ms. Harrington said since that's already worked out, is this built to suit, and Mr. Loney said it could be considered that since they have been part of the design process.

Chair Hohler asked if they would be allowed 24 feet of driveway on each road ie: 24 on Westnedge, 24 on Kalamazoo, 24 on Park and on Water and Mr. Birzele replied they could probably have more than that, but asked for clarification of the question and Chair Hohler said because this site has four frontages, and maybe there's different zoning where 24 feet is the maximum width, you could do that, so 91 feet is less than allowed but advantageous by consolidating in one spot and Mr. Birzele said yes. Chair Hohler asked what efforts were made to get 144 bike spaces and where would they go and Ms. Kloosterman stated there are two spaces, the open space to the bottom right corner, known as the commons, but it's a public space and there are a lot of intentions for how that space gets used, but if it were filled with bike parking it would conflict with the public's use of that space, and the other possible space is between the larger arena and the parking deck below and some of the images spoke to what's occurring in that space, such as community amenities. She wanted to mention that as she understood it, 144 spaces would be the largest collection of bike parking anywhere downtown and Chair Hohler said why not give up more of the garage space, even though he understands the conversation isn't about the garage at this moment, but the bike parking is part of this. Mr. Eldridge asked to make a staff comment related to this and wanted the board to know that staff worked to get the table for required bike parking right for over a year and for those who were on the board when the Kalamazoo Country Club came before the board for some variances may remember that the table in place at the time was requiring them to have 240 bike parking spaces, so they put in for a variance and the country club has a total of 20 bike parking spaces based on the variance that was granted. He added that looking at this calculation as based on the maximum occupancy, so for every 50 people there should be one bike parking space but the scale of the building and the ability to hold 7,200 people for a sporting event doesn't match well with that calculation of one per 50, which is why staff mentioned in the report that this would be the largest cluster of bike parking spaces in the downtown area and throughout the city. He added that when they looked at the other modes of transportation to get to the arena, biking was

one of many. Chair Hohler said he didn't want his question taken the wrong way because if we're asking for variances, he thinks it's fair because some people may care to know why or why not (Ms. Harrington said she cares). Chair Hohler went on to say that he doesn't know if you're ever going to get 60 people to ride to a hockey game in the middle of winter on their bike, so while 60 seems sufficient to him, some people may want more than that, so he wanted to know if we had to get to the 144, it would mean sacrificing some green space or some of the garage space or something else.

Ms. Harrington said it's curious to her that we did so much to create the bike lanes downtown, but this is not a requirement and added that these are the incongruencies that she questions because we went through so much to get these interesting bike lanes and congest our downtown area, but now we're making accommodations for this mega event center downtown and she's trying to understand the logic. Mr. Eldridge said maybe he didn't explain it right because there's no other building in the downtown that has an occupancy like the event center will have, the bike parking table disproportionately impacts this development by requiring 144 bike parking spaces, Ms. Harrington asked how and Mr. Eldridge replied that staff feels that number is overinflated and there won't be that much bike traffic, on a regular basis, to the event center. He added that there are other businesses that also have bike parking so this is not the only bike parking in downtown and Mr. Wark added that he was just about to say that there's more bike parking in the surrounding area and he chairs the Stuart Neighborhood Association, so they've been working with the city on bike racks and things of that nature and added that they kind of border this event center. Chair Hohler said he thinks what Mr. Eldridge is saying is the bike requirements are made for buildings like the Comerica Building where it's a few 100 people in it at a time versus an arena where people are shoulder to shoulder, and there may be 7000 at a time in the space and the calculation doesn't make sense for this event building, as opposed to the other building and Mr. Eldridge said that was correct. Ms. Harrington stated that 7,000 people is close to 10,000 and out of 7,000 people, they don't believe 144 will ride their bikes and the city made 27 lanes so that we can have bike lanes? She said that was the reasoning so people can ride their bikes and stress us, that drive, out. Mr. Sylvester said he thinks the staff rationale makes sense because people aren't coming here for an 8-hour day of work in an office building, they're coming for an event, typically an evening event often times in the winter, so they're coming for that event then leaving, so he agrees with staff and Ms. Harrington said she doesn't and added that she thinks that the city should prioritize congruency if they are going to prioritize creating a multimodal community and shift that then development should reflect that.

Chair Hohler asked if anyone had façade questions and Ms. Harrington said she wants to understand the safety issue, when talking about the lights and the function for the street facing facades, which she understands the transparency needed for the functionality of the ice skating rink but she wants to understand what they mean by safety and Mr. Birzele said it's more about controlling the access points to the building given the amount of people and a lot of the entrances shown are egress only in case of emergencies, so they're trying to control the access through the building for security reasons so they can be monitored and control the flow of traffic during a large event. Chair Hohler said he doesn't believe this security had anything to do with the transparency, but more to do with the doors. Ms. Harrington said her final question was regarding numbers two and three, which are specific to the Kalamazoo Valley Trail, she wanted to know more about the dimensional variances. Ms. Kloosterman said the dashed line shows where the trail will run and the end points connect to where it does run. Chair Hohler said does it run through the center of their block right now and she said yes and she believes they're required to provide a 10 foot wide path to comply with the standards for that trail, which gets cozy and Chair Hohler said, but for

having to accommodate for this, they might be able to build within the distances required and Ms. Kloosterman said yes, to which Chair Hohler replied so it's like if they want to do this they have to keep that trail on the property somewhere and Ms. Kloosterman replied yes. Ms. Harrington asked if that was for walkability and Ms. Kloosterman said it's not for walkability, but they're required to provide a connection for that existing trail, which currently runs through the site and it has to connect somewhere. Ms. Harrington said was that to fulfill the requirement and Ms. Kloosterman replied yes.

Chair Hohler asked for staff comments, and they are as follows: Mr. Eldridge stated, the applicant mentioned various hurdles with this first grouping of variances regarding the building siting, and another thing staff noted was this set back from Kalamazoo Avenue Also allows for some bike parking on the north side of the building where the main entrance is and then the other grouping of bike parking that's in the parking deck is in close proximity to the south main entrance, which was up on the screen. He said he wanted to add under those three variances regarding the building siting, one other element it does provide for is bike parking in front. He said the applicant touched on floor height as it relates to the large-scale plumbing and mechanical systems running through the building, and the architectural treatments. Mr. Eldridge talked about the street facing facade transparency on the ground level and the upper floor and said that because this is downtown, the ground level transparency requirement is 70% at the ground floor and then 20% for the upper floors and this proposed building is in conflict with that, with the ice rink being on the west side of the building, where there's the least amount of transparency at 57% transparency on the ground level and 0% on the upper floors, so the positioning of the multi-use space impacts meeting the transparency levels, as well as on the other sides of the building, for example on the Park Street side you have the arena and the larger seating area. He didn't think there was anything else to add about the blank wall because it aligned with what he just talked about. The entrances, regarding security, they have 15 doors where if you got one entrance door for every 60 feet, it comes out to 24 entrances on those three street facing facades and again this is one of those points where having three street facing facades creates an additional burden, but he added it's understandable for security reasons add it with the difficulty of having to put the loading dock somewhere, and there's only a few entry doors in that area, and where the interior space is being used for the ice rink or the stadium, you're not going to have a whole grouping of doors right there. Mr. Eldridge said as for the bike parking were there more questions and Chair Hohler said he wanted to make sure that for anybody that cared that there was some discussion about it.

Ms. Harrington asked about the 16 feet height of the ceilings and Mr. Birzele said that a typical office space may have an 8-foot ceiling, and there's space above that however, they have some volumes in there that are taller than that so you may have a 10 foot ceiling, so if you have a room like the chambers in a structure that spans that space there's a certain dimensions that needs to support the floors and trying to weave all of the duct work, which will be about 34 inches in diameter above the ceiling where an extra two feet may not sound like much, but it makes a big difference. Ms. Harrington asked Mr. Eldridge if this requires a variance because using form-based standards, why has the precedent been set at 14 feet instead of 16 feet, to make developers come in and Mr. Eldridge replied that eight to 10 feet is the typical ceiling height but the 14-foot height has worked for a lot of new developments and we haven't run into this before and the answer is just the sizing of the ductwork.

Chair Hohler asked if the entrance off the bridge from the parking garage counts in their doorways or does that not count because it's on an upper level and Mr. Eldridge said that the form-based standards are silent on the interior sides of the building since the focus is on the street facing facade and it's understandable to think there's a shortfall but there are a lot more entrances on the south side that face the creek.

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

Chair Hohler asked that those opposed to the variance please step forward and there were none.

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

Chair Hohler closed the public hearing and added that there will be a blanket finding of fact that would cover the first 10, but all of the variances need to be voted on individually so that the votes can be recorded on each of them individually.

FINDING OF FACT

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

- 1) The Finding of Fact for 411 West Kalamazoo Avenue and North 17 feet of West Water Street, shall include all information included in the notice of public hearing dated April 24, 2024, and the agenda packet provided by staff.
- 2) 20 notices of public hearing were sent, and no responses were received.
- 3) A public hearing was held before the board and public comments were accepted as were additional documents and there were no public comments for or against the variances, and no phone in comments.
- 4) The Finding of Fact shall include those documents just described and all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

The facts presented regarding circumstances or conditions of the property or structures that are special circumstances or conditions not commonly found on other lots or structures in the same zone district that make this request unique.

There were three people from Tower Pinkster who spoke on behalf of the applicant. Steve Loney, a project manager for Tower Pinkster, gave an overview of the project and essentially the basic site design of the arena is that it's going to contain an ice sheet, basketball courts, and a multi-use event hall. The south side entrance, facing downtown Kalamazoo, does not have a street facing façade. WMU has worked very closely with Tower Pinkster on this project for example, the WMU coaches offices, the Bronco hockey team, and the K-Wings are all going to move to this location. The north side entrance of the building mostly for community use. Regarding Westnedge, there is a service view entrance which is a multi-use space and will be large enough to accommodate buses and broadcasts. What gives the building a glassy look is a terracotta product and there's also an enclosed connector going from the parking ramp into the event center. The parking deck has three staircases that are all clear glass for

safety reasons and is eight stories. Inside the structure there is space for vendors on each of the three floors and Water Street will have a pedestrian walk through so that people we'll be able to cut through the parking structure to get into the event center. Ms. Kloosterman and Mr. Birzele, the project architects, broke up the 10-dimensional variance requests. With regard to the building siting, the first request focused on the front door which comes under the front line of coverage, and they're asking for relief to accommodate the Kalamazoo Valley River Trail. Request number two where the left corner is occupied but the right corner is not due to the trail. Number three was also related to the trail. Mr. Birzele presented the next few variances and the first was regarding height because in the past the 14-foot maximum has worked well however, in the city of Kalamazoo we have not had a building of this magnitude, so considering the HVAC system and the plumbing and everything else that's needed the components are going to be larger and they will need the extra height. Number five, and the next few variances will be regarding floor transparency because there are a lot of street facing facades, consideration has to be taken for light, security, controlling the flow of traffic and there are a lot of unique features that call for a little bit of privacy and the ice needs to be kept cool, and there's also the outdoor farm to hide the mechanicals. There was talk about the facades with the blank wall, the project needs to have some relief from some of those transparency requirements. Number eight was regarding the entrances, which they tried to cluster for efficiency and security access. Ms. Kloosterman spoke to the bike parking and the ordinance is requiring 144 but the variance is for 60, 30 spaces on the north side and another thirty under the roof of the parking deck on the first floor to provide some protection. Mr. Birzele spoke to the Westnedge service entrance, requesting 91 feet where the maximum is 24 feet because that is where they will receive their deliveries, as well as needing the extra space for buses and broadcasting and what they're asking for is less than what they can receive under the current zoning ordinance. There was also discussion about the 15 door locations and more on the south side facing the creek, and the three street facing facades has created some challenges so factoring in security, the flow, transparency, the way the building is situated on the lot, and the Kalamazoo Valley River Trail.

Mr. Sylvester seconded the Finding of Fact.

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

Chair Hohler said they will need to discuss each individual request, then he will make the motion one by one, someone can second, then they can take the votes and Attorney Bear pointed out that the Chair can't make the motion.

Chair Hohler asked if there were any additional comments and Ms. Harrington said she had some items to discuss, as did Chair Hohler. Mr. Eldridge said they need to make the motion, second it, get it on the table, then have the discussion and vote on them. The board wanted to know if they could discuss them in clusters and Attorney Bear said they could, but he would rather they didn't and Chair Hohler said they will discuss each one individually.

Mr. Wark made a motion to approve the application for variances from Chapter 50-5.6 C (1) (a) 2, to allow front lot line coverage of 43% from the requirement of 70% for the placement of the event center along Kalamazoo Avenue, seconded by Mr. Sylvester.

Ms. Harrington said she had a general statement about all 10 of the variances because she still needs professional development on understanding form-based standards, but her issue is with the incongruency of the ordinances, like with the municipal plan, coupled with developers having to come in and request the variances, to her it feels like somehow there's a performative aspect to, and an element of selective enforcement to what the city requires of major developers like, as was mentioned earlier, the country club and this development. She said she doesn't have a fully formed question or statement about that but it feels like she questions that because we've done so much to affect the quality of life for people in our community with the shifts with the bike lanes, and then when major developers come in, it appears the city and constituent boards like this one will say "Oh, well we've worked with them for a year and a half..." to justify reducing what this requirement is. She added that she is all for the event center, but would like to see the things we say we want to happen in our community, like having a multimodal community which she is also in alignment with, she would like for us to work more closely with development teams to make it feel better for the community so that when smaller developers come in and we hold them hostage to these ordinances, where they might not have really sophisticated teams. She said that looking back at things that she brought before the board there was very little leeway granted to her and she questions things like that because being on this board, she doesn't like how that feels and she would be remiss not to say anything.

Chair Hohler said he appreciates what she's saying, which is why is the board asked to give these massive projects a break versus the little mom and pop store around the corner, like holding them to different standards and if he had to speak to that, generally, to take the devil's advocate side, he doesn't think the zoning was set up to account for this kind of project where no matter where it was they would have to ask for the same amount and said he asked before the meeting why didn't the City Commission just carve out that area and rezone it so that we didn't have to have the meeting but realized it would have just been easier to have this meeting. He said he thinks about that from time to time. He went on to say what he would say about the first three, and what it came down to because his vote is going to be the same on all three since the Kalamazoo Valley River Trail has to go somewhere and it's staying on this site, but they're backed into a corner and, unless you dug a tunnel under the building, which isn't feasible or realistic, they will have this problem no matter where you put it, and the issue will just shift streets. He added he wants the trail to stay, so that's why he's voting in favor. He asked if there were more comments and there were none.

Motion approved by roll call vote unanimously on request number one.

Mr. Wark made a motion to approve the variance ZBA number 24-05-09 at address 411 West Kalamazoo, number two, seconded by Ms. van den Hombergh.

Chair Hohler asked for discussion on this variance and there was none.

Motion approved by roll call vote unanimously on request number two.

Ms. van den Hombergh made a motion to approve a dimensional variance from Chapter 50-5.6 C 4, to allow a build to zone of 4 feet 8 inches to 36 feet 4 inches, where a build to zone of 0 to 10 feet is required along Kalamazoo Avenue, seconded by Ms. Haan.

It was noted that Ms. van den Hombergh misread the chapter, as it should have been Chapter 50-5.6 C (1) (a) 4. Attorney Bear stated that you can change the chapter, but the second has to approve that as well. Chair Hohler made the change and asked Ms. van den Hombergh if she approved the change and she said yes, as did her second, Ms. Haan.

Motion approved by roll call vote unanimously on request number three.

Mr. Sylvester made a motion to approve a dimensional variance from Chapter 50-5.6 (2) 17, to allow upper floors of the building to be 16 feet in height where 14 feet is the maximum height for upper floors, seconded by Ms. van den Hombergh.

Chair Hohler asked for discussion on this variance, and no one had comments. He stated that the size of the building requires that it needs different structural issues for the roof, given the spans involved and air and other things that have to move, so it makes sense to approve the variance and the height isn't going to be a big change to the building, aesthetically, or any other way, so he will vote to approve. Chair Hohler asked if there was more discussion and Ms. Harrington asked how tall the building will be and Mr. Birzele said 88 feet. Chair Hohler noted it's the difference between 86 feet and 88 feet.

Motion approved by roll call vote unanimously on request number four.

Ms. van den Hombergh made a motion to approve a dimensional variance from Chapter 50-5.6 C (4) (a) 20, to allow the ground floor transparency levels of 66% for Kalamazoo Avenue, 57% for Westnedge Avenue, and 47% for Park Street where 70% transparency is required, seconded by Mr. Wark.

Chair Hohler asked for discussion and there was none.

Motion approved by roll call vote unanimously on request number five.

Ms. van den Hombergh made a motion to approve a dimensional variance from Chapter 50-5.6 C (4) (a) 21, to allow 0% upper floor transparency along Westnedge Avenue, where 20% transparency is required, seconded by Ms. Haan.

Chair Hohler stated that the applicant made a good case for it, since it had to do with heating the building and not wanting sun from the west on the ice rink, etc...he then asked for more comments and there were none.

Motion approved by roll call vote unanimously on request number six.

Mr. Sylvester made a motion to approve a dimensional variance from Chapter 50-5.6 C (4) (a) 22, to allow blank wall areas exceeding the 30% requirement on both Westnedge Avenue and Park Street, seconded by Ms. van den Hombergh.

Chair Hohler said his only point is that it seems like seven and five are basically the request, but because they're under slightly different chapters or subparts, they must be voted on differently, but it seems to him if you're in favor of one you would be in favor of the other for the same reasons. Mr. Eldridge said they are definitely related when you're talking about transparency and blank wall space.

Motion approved by roll call vote unanimously on request number seven.

Ms. van den Hombergh made a motion to approve a dimensional variance from Chapter 50-5.6 C (4) (b) 25, to allow only 15 entrances where the requirement is one per 60 feet, totaling 24 entrances for the three street facing facades, seconded by Mr. Wark.

Chair Hohler stated his thinking is that this one is similar to The Boys and Girls Club where is a security issue, plus this is a massive building and an entrance every 60 feet seems a bit much, but he understands the ordinances, but the reasons given regarding security are reasonable, so he will vote in favor. He asked for more discussion and there was none.

Motion approved by roll call vote unanimously on request number eight.

Ms. van den Hombergh moved to approve a dimensional variance from Chapter 50-7.3-1, to allow 60 bike parking spaces where 144 are required based on the maximum occupancy, seconded by Mr. Wark.

Chair Hohler asked that Ms. Harrington argue why this one shouldn't be approved, and she said that maybe, in 2076, they will need all 144 bike spaces, and this is a build to suit situation. She added that they may not even play hockey anymore and there may be rations on ice and water, we don't know, or it may have to be turned into a bicycle rink.

Ms. Haan asked if more bike parking can be added in the future and Chair Hohler stated that he believes once the variance is approved, you're kind of locked in, then added they can put more in, but they aren't required and added that she can think of it in terms of the marijuana shop a few cases ago who wanted a massive amount of parking and the board said no, come back when you can prove that you need it. He added that the vote can be a no and they can make them put in 144 and make them come back when they can prove that the 84 spaces went unused.

Mr. Sylvester stated that if consumer demand is for that, that is how a responsive arena operator responds because that's how the market system works and Ms. Haan added that if all 60 bike spaces are full, they can take up car spaces and Mr. Sylvester said he thinks covered bike parking is very good, and he predicts there will be more covered bike parking in the future, especially if you look at major cities and other countries, it's predictable that that will happen here and Ms. Harrington agreed. Chair Hohler said so if he's hearing Mr. Sylvester correctly, he is saying approve the 60 and if they're smart businesspeople, they will add extra later, and Mr. Sylvester said yes.

Ms. van den Hombergh said she's glad they're having this conversation because she did some research and had some conversations before this meeting and had the exact same question and she wants it on record because Kalamazoo, the city, has done so much with all of these bike lanes and she doesn't want it to come back five years from now or 20 years from now saying she just passed that through to accommodate Western and the arena, and the discussion needed to be had, in addition to factoring in the ratio of the expectations.

Ms. Harrington added that if she's going to be 100% about this, she thinks that major developers, if they were working in alignment with the city, it would reflect like an encouragement if the board did what they asked, in this way, and they haven't addressed the issue of Natural Features Protection, but if they accommodated that, she thinks it would be a good gesture towards the community to set a precedent since the city has done all of this with the bike lanes, like Ms. van den Hombergh was outlining, then major developers like this putting all that there would encourage, or even incentivizing like the Kalamazoo Farmers Market, they incentivize them to ride their bikes there, there could be incentives to encourage multimodal communities.

Mr. Wark said yes there are a lot of bike lanes that have been create lately, but he knows that there's another phase to that, he then asked if anyone was familiar with the electric bikes and the electric scooters that are out right now in major cities like in DC, he said those will come here, so there will be more traffic in those bike lanes and of course, they have their own parking.

Chair Hohler said he will vote in favor of this one because he believes 60 is sufficient for the stadium, and he believes that the ordinance was intended for offices and businesses and not an arena that holds 7,000 people, but he doesn't want to rely on other businesses for bike parking because if that business goes away so does that bicycle parking.

Motion approved by roll call vote unanimously on request number nine.

Ms. van den Hombergh motioned to approve a dimensional variance from Chapter 50-7.5 A (1) (b), to allow a driveway for the loading area on Westnedge Ave. to be 91 feet where 24 feet is the maximum driveway width, seconded by Mr. Wark.

Chair Hohler said that when he asked the applicant if they could have more driveway, if they wanted it, if they spread it around, and his answer was yes, and Mr. Eldridge indicated agreement with that answer. He stated it just makes sense to limit it as much as possible and while 91 feet is 57 feet wider than what is normally allowed, there's only one spot and that is going to allow them to use it for everything that they need to use it for, so he will vote in favor of it.

Motion approved by roll call vote unanimously on request number ten.

Chair Hohler called for a five-minute recess.

Ms. Harrington read the application for 411 W. Kalamazoo Avenue and North 17 feet of W. Water Street into the record.

The applicant is requesting the following variances for the Parking Deck: Building Siting: 1) a dimensional variance from Chapter 50-5.6 C (1) (a) 2, to allow zero front line coverage where the requirement is 70% along Park Street, 2) a dimensional variance from Chapter 50-5.6 C (1) (a) 3, for relief from the requirement that the building occupy the corner at Park Street and Water Street, 3) a dimensional variance from Chapter 50-5.6 C (1) (a) 4, to allow a build to zone of 0 to 112 ft 4 in. where a build to zone of 0 to 10 ft is required. Use: 4) a use variance from Chapter 50-5.6 C (3) 19, to allow relief from the requirement that there be occupied space on both the first and second floors of the parking deck along Westnedge Avenue and Water Street. Street Facing Façade: 5) a dimensional variance from Chapter 50-5.6 C (4) (a) 20, to allow ground floor transparency levels of 33% for Westnedge Avenue and 19% for Water Street where 70% transparency is required, 6) a dimensional variance

from Chapter 50-5.6 C (4) (a) 22, to allow blank wall areas exceeding the 30% requirement on both Westnedge Avenue and Water Street. Parking and Loading Regulations: 7) a dimensional variance from Chapter 50-5.6 C (4) (b) 25, to allow the parking deck to have one entrance on the Westnedge Avenue façade, where two entrances are required.

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

Ms. Kloosterman, spoke first regarding the first three variance requests. She stated the first three on this request are the exact same as the first three on the event center. She spoke to the images on the screen and said the event center is grayed out, and the parcel that they're dealing with is the deck parcel to the south. She stated the front of the parking deck, as it would be interpreted, is the side facing Park Street and there is an occupied space along that edge, which makes it the front. She said the reasons on the parking deck are different than the ones that are on the event center, but situations are similar. The first request is related to the front lot line coverage, and they're requesting a variance for providing 0% front lot line coverage because the building is so far from that 10 foot setback because the Commons area that was in the first presentation, is going to occupy that space so, that is a wonderful community amenity they anticipated, but couldn't be provided if they accommodated that front facade right up against the edge, she added that they can go back to that image later on in the presentation because it might be useful to provide justification for these three variances. The second request deals with the no occupancy of the corner and she stated they occupy the corner in the area where Westnedge and Water intersect. The third request is the build to zone variance, which they are much further than the 10 feet from Park Street, 112 feet and nine inches, but that is appropriate for that common space.

Mr. Birzele spoke to the next four variance requests and stated request number four is for the occupied space and what they've done is highlight the areas where they're seeking the variance along Water St. and Westnedge. He stated the main driver of the variance of the parking garage is that it's obviously for parking, but they were limited when trying to carve out space for other uses other than trying to maximize as much square footage as they could for parking. He said they were limited on this site with Water Street to the south, and the creek to the north, so the area they had to build the garage is in that long skinny narrow lot and because of that, the first and second floors are dedicated to either vehicular traffic to get up to the upper levels, or for parking itself. The next item, street facing facades, request number five, has to do with ground floor transparency, similar to the discussions with the event center ground floor. They are seeking variances for Westnedge and Water Street, and the Water Street elevation is broken up into two halves (he pointed out the southwest half and the southeast half) and the garage was wide enough to be broken into two, and then the next elevation he showed was the Westnedge elevation which, again, because he first floor is dedicated to vehicular traffic, there isn't a lot of opportunity to include transparency glazing, but as Mr. Loney mentioned earlier, they're trying to be conscious that this is a large structure, but they're trying to break it down to the pedestrian level because there are going to be people walking along the street. He said all of the first floor will have an architectural treatment to it: it will be a screen wall, with detailing in the brick that also has little pockets in it so you can still see through it but again, there's no opportunity to provide glass and transparency at the first floor level, so they're at 33% for Westnedge and 19% for Water Street, he added that he tried to include some color in there, so the blue areas are windows and the yellow areas are just open, and because it's just a parking garage, they wanted to add some interest to it so there's a screen that goes around it. The next variance request is the street facing facades, number six, the blank wall

limitations, he stated that this is very similar to what was talked about with the event center and they're seeking a variance for the Westnedge elevation, on the screen, in the upper left-hand corner, which is at 40% where 30% is the max. He stated that the main driver for this is that the center section is where the bulk of the blank wall is, which is being driven by the fact that this is a structural element, it's a sheer wall so it's the blank wall section in the center, and it's required for the stability and structural support of the parking deck itself. He said they were trying to break that down a bit and include some openings to add light into the space and break down the scale of that, but the bulk of that mass is needed for the structure of the building, or the parking garage itself. The last variance request is street facing side, number seven, entrance locations, and they are seeking one entrance and the Westnedge side according to the calculations, requires two. Mr. Birzele stated that that is a vehicular entrance, as shown in the upper left-hand corner of the image, and they could only provide one entrance on that facade because inside the garage there will be cars traveling along that façade, so there's not an opportunity to provide another entrance because you would be walking into the floor of the traffic that serves the garage.

Chair Hohler asked if the board had any questions for the applicant and there were none.

Chair Hohler asked for staff comments, and they are as follows: Mr. Eldridge stated the first grouping of variances for the front lot line coverage corner occupancy and build to zone was reviewed as Park Street being the frontage for the parking deck in Kalamazoo Avenue open being the frontage for the event center because eventually it appears this is going to have to be split into two parcels based on Consumers Energy and the power feeds and if this was all one parcel, and there wasn't a need for multiple primary frontages, that would have reduced the number of variances at the beginning. He said the practical difficulty applying all of those standards would leave no space for the plaza that's proposed, and the only open space would have to be in the interior of the site between the buildings, which would be an unfortunate outcome and he feels the occupied space speaks for itself. He said the developer has done a great job of incorporating office space into the East End of the parking deck, and that's why that area was not highlighted, but along Water Street and Westnedge, in order to utilize the parking deck for what it is you can't easily accommodate office space or some other commercial use in there. He had no additional comments to add regarding the transparency and stated that again, the practical difficulty is the use of the structure, and that applies to the blank wall area and the reduction in the number of entrances along Westnedge.

Chair Hohler asked if anyone had questions for Mr. Eldridge and Ms. Harrington said the courthouse entrance is on the other side, but the event center frontage will be facing Kalamazoo Avenue, correct, and Mr. Eldridge asked if she was asking where the entrance to the courthouse is and she said no, she's repeating what she thought she heard him say, which is the entrance of the courthouse will be on the opposite side of where the event center frontage is going to be, she's asking if the entrance to the event center will be facing Kalamazoo Avenue and Mr. Eldridge said that he was saying that the parking deck's primary frontage is Park Street and for the event center itself, the primary frontage is Kalamazoo Avenue.

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

Chair Hohler asked that those opposed to the variance please step forward and there were none.

Chair Hohler asked if there were any call ins 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 the parking deck, shall include all information included in the notice of public hearing dated April 24, 2024, and the agenda packet provided by staff, as well as the presentation provided by the applicant.
- 2) 20 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 and there was no call ins.
- 4) The Finding of Fact shall include those documents just described and all facts and comments made during the public hearing, which are summarized to include without limitation, the following:

Laura Kloosterman and Jeff Birzele, of Tower Pinkster, discussed why they are requesting the variances and it's because they need every square inch of the property in order to build the event center and parking deck. Many of the requests on the parking deck are the same as the event center.

There were no comments in favor or opposing the variance, and there were no call-in comments.

Ms. van den Hombergh seconded the Finding of Fact.

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

Mr. Sylvester motioned to approve a dimensional variance from Chapter 50-5.6 C (1) (a) 2, to allow zero front line coverage where the requirement is 70% along Park Street, seconded by Me. Wark.

Chair Hohler said he's in favor of this for the same reasons he's in favor of the first three which are if they are held to the zoning you won't get any green space, you will only get what is between them which happens to be shaded and nothing will grow there anyway, so if you're opposed to big blocks of concrete downtown, this is a good use of that for some green space near the Creek. he then asked if anyone else had comments and there were none.

Motion approved by roll call vote unanimously on request number one.

Ms. van den Hombergh motioned to approve a dimensional variance from Chapter 50-5.6 C (1) (a) 3, for relief from the requirement that the building occupy the corner at Park Street and Water Street, seconded by Mr. Wark.

Chair Hohler asked for comments and there were none.

Motion approved by roll call vote unanimously on request number two.

Mr. Sylvester motioned to approve a dimensional variance from Chapter 50-5.6 C (1) (a) 4, to allow a build to zone of 0 to 112 ft 4 in. where a build to zone of 0 to 10 ft is required, seconded by Ms. van den Hombergh.

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

Motion approved by roll call vote unanimously on request number three.

Ms. Haan motioned to approve a use variance from Chapter 50-5.6 C (3) 19, to allow relief from the requirement that there be occupied space on both the first and second floors of the parking deck along Westnedge Avenue and Water Street, seconded by Ms. van den Hombergh.

Chair Hohler said even though the applicant didn't say this, he is treating Water Street as an alley between this project and the courthouse to its south, and what would be the point of putting occupied space along what is essentially an alley. He added ask for the Westnedge portion, they already, in their designs, treated that is the back of the building and it doesn't make sense to put businesses in the back of the building on that street, which is why he is voting in favor of the variance. He asked if there were additional comments and there were none.

Motion approved by roll call vote unanimously on request number four.

Ms. Haan motioned to approve a dimensional variance from Chapter 50-5.6 C (4) (a) 20, to allow ground floor transparency levels of 33% for Westnedge Avenue and 19% for Water Street where 70% transparency is required, seconded by Mr. Wark.

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

Motion approved by roll call vote unanimously on request number five.

Ms. Haan motioned to approve a dimensional variance from Chapter 50-5.6 C (4) (a) 22, to allow blank wall areas exceeding the 30% requirement on both Westnedge Avenue and Water Street, seconded by Ms. van den Hombergh.

Chair Hohler said he believed that they could hit the 30% requirement were they not required to have a structurally found parking garage, and if they were willing to put up popsicle sticks and call it a parking garage they could meet it, and said that's not the way the applicant said it but that is the way that he took it which is "We can do it, but it might fall over..." and because it's a parking garage, they need to be smart about it and that is why he is voting in favor. he then asked if anyone else had any comments and there were none.

Motion approved by roll call vote unanimously on request number six.

Ms. Haan motioned to approve a dimensional variance from Chapter 50-5.6 C (4) (b) 25, to allow the parking deck to have one entrance on the Westnedge Avenue façade, where two entrances are required, seconded by Mr. Wark.

Chair Hohler said the applicant said everything that he would say as to why they want one as opposed to two, and Ms. Harrington asked if it was one big one and Chair Hohler said he doesn't think it's one big one necessarily, but the issue is he thinks they said, is if you put in a second one, they are going to start crossing the line of traffic inside the garage and Mr. Wark agreed and said it was a safety issue because people would be crossing and there will be traffic both ways and someone could get hurt.

Motion approved by roll call vote unanimously on request number seven.

OTHER BUSINESS:

DISCUSSION/ACTION ITEMS:

REPORTS:

ADJOURNMENT:

The meeting was adjourned at 9:31 p.m.

Submitted By _____ **Date** _____
Recording Secretary

Reviewed By _____ **Date** _____
City Staff

Approved By _____ **Date** _____
Chair



Zoning Board of Appeals Staff Report

Date: **6/13/2024**

Item: **D.1.**

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: June 13, 2024

SUBJECT: ZBA #24-06-10: 4300 W. Main Street. Panda Express Group Inc. is requesting a dimensional variance of 18 feet for the front setback from Chapter 50, 50-5.1, Table 5.1-2, to allow the building to be located 38 feet from the front property line where the build-to-zone is 10 to 20 feet.

BACKGROUND:

The site is in the CC2 Zone District; a designation which was approved in October 2023. The .87-acre site currently has a vacant bank building and parking lot. The site is surrounded by CC2-zoned parcels except for to the south, which is located in a commercial zone district in Kalamazoo Township. Panda Express Group Inc. is exploring redevelopment of the site with a 2,700 square foot restaurant with a drive-thru, which is a permitted use in the CC2 District. The proposed redevelopment plan prepared will use the existing curb cuts, as MDOT has requested. The site also has a 20-foot wide stormwater drainage easement along the frontage of the property and a Consumers Energy easement that extends approximately 21 feet into the site from the front property line. These easements mean that the building cannot be located closer than 21' from the front property line, requiring relief of up to 3 feet to account for the building foundation and overhang of the roof.

The applicant is requesting a dimensional variance of 18 feet to allow for the proposed building to be located 38 feet from the front property line, where CC2 requires the building to be within 10 to 20 feet of the front property line. The site layout prepared has the drive-thru on the west side of the building with a 12-wide foot maneuvering lane next to the drive-thru lane for the circulation of traffic around the building. The layout also includes an internal circulation drive across the front of the building to allow the drive-thru traffic to circulate back around the building. This has been identified as important for problems with food orders at the drive-thru, so the customer does not have to exit and re-enter the site. The applicant has also provided a diagram showing delivery truck maneuvering on the site and traffic flow for the drive-thru lanes.

The CC2 Zone District was added to the Zoning Ordinance in October 2023. This district zone is designed for small to medium-scale commercial or mixed-use developments and has been

implemented in areas where walkability can be improved. Development standards for CC2 include parking in the side and rear yards, established build-to-zone, and entrance type and building facade transparency requirements for buildings positioned close to the front property line.

The site proposed for redevelopment does have some fixed elements to consider, including the curb cut location and the easements across the frontage. However, other elements of site design could be adjusted, including frontage landscaping could be reduced to a five-foot planting strip which would help provide more area for turning movement of vehicles traveling from the drive-thru lane around the front of the building. The applicant has indicated having parking to the west of the drive-thru lane and customers walking through the drive-thru lane to reach the building is not desirable and unsafe, but it is not uncommon for many restaurants with drive-thru service. This area to the west could also serve as a holding area if a vehicle had to exit the drive-thru lane.

STRATEGIC VISION ALIGNMENT:

Strategic Goal and Master Plan 2025 Impact:

This project aligns with the CC2 District as the use is permitted and the Future Land Use map which identifies this property as commercial.

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. The applicant has been advised on outreach to the adjacent property owners.

Engagement/Communication Tools

Public notice in the newspaper, mailings of public hearing notices to properties within 300 feet of the property, and applicant outreach.

FINDINGS:

The staff has made the following findings regarding this request:

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

The only special circumstances are the easements along the frontage and existing MDOT-approved curb cuts. The easements do require the building to be located 21 feet from the front property line, which is a smaller variance request than what the applicant has requested.

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

The special circumstances beyond the applicant's control support a much smaller variance request to comply with the Consumers Energy easement restrictions. There are no special circumstances to support a larger variance request.

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

The literal application of the built-to-zone would create a practical difficulty with the Consumers Energy easement that extends 21 feet into the site. Minor setback relief is appropriate based on this easement.

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 would be counter to the recently adopted development standards for the CC2 District. It does appear that the site functionality is not impeded to the extent identified by the applicant.

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

The granting of the variance does not improve or support the walkability of this corridor adjacent to the Westwood neighborhood as is the intent of the CC2 District. Also, as other sites are redeveloped, this building will be out of alignment with all the new construction along W Main Street in the CC2 District.

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

The granting of the variance will not be consistent with the Zoning Ordinance and the CC2 development standards.

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.

The requested dimensional variance does not impact required landscaping.

RECOMMENDATION:

Staff does not support the requested variance as it didn't meet the review criteria. However, staff can support a reduced variance of three feet which would allow the building to be positioned beyond the easement and any roof overhang or signage on the front building facade would also not project into the easement.



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

May 29, 2024

**RE: ZBA #24-06-10
4300 W. Main Street
Parcel #: 06-18-196-002**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Panda Express Group Inc. for 4300 W. Main Street in the Commercial – Community 2 District (CC2).

The applicant is requesting a dimensional variance of 18 feet for the front setback from Chapter 50, 50-5.1, Table 5.1-2, to allow the building to be located 38 feet from the front property line where the build-to-zone is 10 to 20 feet.

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, June 13, 2024, at 7 p.m. in the City Commission Chambers at City Hall, 241 W. South Street. This meeting will also be streamed live on the [City's Facebook page](#) and [YouTube Channel](#).

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

Sincerely,

Peter C. Eldridge, AICP
Zoning Administrator



Community Planning & Economic Development

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

ZONING BOARD OF APPEALS APPLICATION

APPLICANT INFORMATION		
Name: Panda Restaurant Group		Mailing Address: 1683 Walnut Grove Ave.
City: Rosemead	State: CA	ZIP Code: 91770
Phone: 314-494-1698	Email: josh.hibbits@pandarg.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY OWNER INFORMATION		
<i>If the applicant is not the property owner, owner must sign application or provide a letter stating that owner gives consent for the application to be filed.</i>		
Name: 4300 West Main Properties, LLC		Mailing Address: 3820 Stadium Dr.
City: Kalamazoo	State: MI	ZIP Code: 49008
Phone: (269) 207-6564	Email: mike@seelye.com	Preferred Contact: ☒ Email ☐ Phone
PROPERTY INFORMATION		
Property Address(s): 4300 W. Main St.		
Parcel Identification Number(s): 06-18-196-002		Zone District (kalamazoo.org/maps):
TYPE OF REQUEST		
☒ Dimensional Variance from Chapter(s) _____, Section(s) _____		
☐ Appeal of an Administrative Decision		
☐ Use Variance to allow _____		
☐ Interpretation of Zoning Ordinance, Chapter(s) _____, Section(s) _____		
☐ Natural Features Protection Variance		
☐ Temporary Use Approval		
Reason for Request: Asking for 18' of relief for the 20' maximum building setback - variance would allow a 38' setback		
ATTACHMENTS		
☒ \$ 300 Fee		
☒ Type Plan detailing variance request, plat, site plan, sketch plan can all be used.		
☒ Review Sheet for Request Type		Optional: Photos of property, architecture plans, etc.
Note: 10 days before meeting provide update on outreach to neighbors or provide any letters of support		
SIGNATURE		
Signature of Applicant: <i>Josh Hibbits</i>		Date: 05/09/24
Signature of Owner (if different than applicant): <i>Mike Seelye</i>		Date: 5-10-2024

ZONING BOARD OF APPEALS

DIMENSIONAL VARIANCE REVIEW SHEET

General Information

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

We are requesting 18' of relief from the required building setback line for a total setback of 38'. Per the City of Kalamazoo's Zoning Code, the maximum setback for a building is 20'. Due to the existing width of the parcel, the location of the MDOT approved driveway entrances, and utility easements at the front of the site, we would not be able to provide a safe and maneuverable site that can be utilized for a drive-through restaurant.

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?

Due to existing drive approaches and space needed for maneuvering lanes for a drive-through and allowed curb cuts along W. Main St., the required 20' building setback is not achievable. Cars would not have space to stay on the site after proceeding through drive-through in case of longer wait times or missing item orders with the site that would be produced with a 20' setback. All delivery, garbage vehicles, and emergency vehicles would also need to proceed through the drive-through in order to exit the site. As shown in the included exhibits, by meeting the 20' setback, this creates a dead end site which poses multiple issues. This would prohibit delivery trucks, garbage trucks, and emergency vehicles from being able to turn around on-site. All oversized vehicles would need to be routed through the drive through. With out proposed site layout, if our drive-through stacking exceeds what is expected, we have the opportunity to extend this line into the parking lot without significantly reducing function. By taking away the inner loop, the drive through could cause stacking into W. Main St. or begin to block parking spaces.

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?

There are existing curb cuts for this lot along W. Main St., due to their location and the proximity of adjacent entrances, our site entrances are not able to be moved.

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

The ordinance was recently adopted and other property owners were not held to the same standards at time of development. No other properties along this corridor would be in compliance with this setback. By allowing a 38' setback, our site will still have the closest building to the ROW and will be upholding the intent of the new ordinance.

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?

We have made every effort possible to have our building as close to compliance while still providing a site that is safe for pedestrians and users. An alternative that was explored that allowed the building at the 20' setback would have created a need for parking along the driveway. This would have created an unsafe site causing customers to cut through the drive-through in order to enter the restaurant. This also does not allow for customers using the drive-through to stay on the site in case of a long wait time or order issue. The turn from the drive-through into the pass-through lane is not obtainable. For this drive to be accessible, a minimum of 15' would be needed off the corner of our building and this would still only allow for an average sized vehicle to make the turn. This is shown in the attached exhibits.

Will the granting of the variance negatively affect adjacent land?

Granting this variance will not negatively impact adjacent land.

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

Yes, we are bringing our proposed building closer to the ROW than the existing building.

Additional Criteria for Variance Requests for Required Landscaping

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

We are not requesting a variance for required landscaping.

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

Yes - landscaping will meet the intent and requirements of the ordinance.



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

No.

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

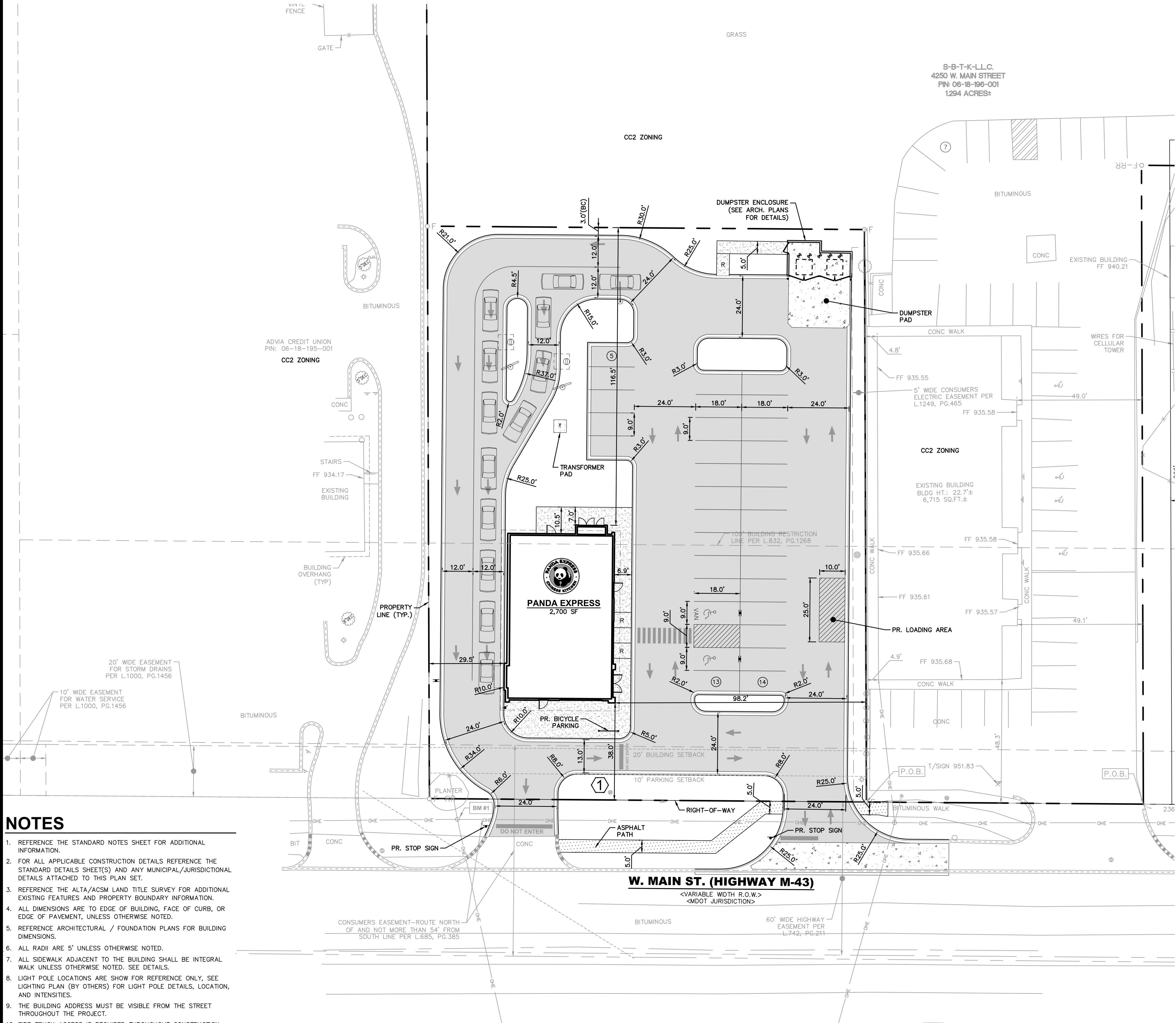
Yes - we are requesting a setback of 38' from the required 20'

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

All adjacent properties are currently developed and are commercially zoned.

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

We are intending to meet the landscaping requirements set forth in the zoning code.



NOTES

- REFERENCE THE STANDARD NOTES SHEET FOR ADDITIONAL INFORMATION.
- FOR ALL APPLICABLE CONSTRUCTION DETAILS REFERENCE THE STANDARD DETAILS SHEET(S) AND ANY MUNICIPAL/JURISDICTIONAL DETAILS ATTACHED TO THIS PLAN SET.
- REFERENCE THE ALTA/ACSM LAND TITLE SURVEY FOR ADDITIONAL EXISTING FEATURES AND PROPERTY BOUNDARY INFORMATION.
- ALL DIMENSIONS ARE TO EDGE OF BUILDING, FACE OF CURB, OR EDGE OF PAVEMENT, UNLESS OTHERWISE NOTED.
- REFERENCE ARCHITECTURAL / FOUNDATION PLANS FOR BUILDING DIMENSIONS.
- ALL RADI ARE 5' UNLESS OTHERWISE NOTED.
- ALL SIDEWALK ADJACENT TO THE BUILDING SHALL BE INTEGRAL WALK UNLESS OTHERWISE NOTED. SEE DETAILS.
- LIGHT POLE LOCATIONS ARE SHOW FOR REFERENCE ONLY. SEE LIGHTING PLAN (BY OTHERS) FOR LIGHT POLE DETAILS, LOCATION, AND INTENSITIES.
- THE BUILDING ADDRESS MUST BE VISIBLE FROM THE STREET THROUGHOUT THE PROJECT.
- FIRE TRUCK ACCESS IS REQUIRED THROUGHOUT CONSTRUCTION.

SITE BENCHMARKS

BENCHMARK 1
SET BENCH TIE IN EAST FACE OF UTILITY POLE LOCATED IN NORTH RIGHT OF WAY MAIN STREET
ELEVATION: 935.19' (NAVD88)

BENCHMARK 2
SET RAILROAD SPIKE IN NORTH FACE OF UTILITY POLE LOCATED IN SOUTH RIGHT OF WAY OF MAIN STREET
ELEVATION: 935.35' (NAVD88)

LEGEND

---	PROPERTY LINE	↑ ↓	TRAFFIC FLOW ARROWS
=====	PROPOSED CURB & GUTTER	▲	PROPOSED SIGN
- - - - -	RIGHT-OF-WAY	FF	PROPOSED DOUBLE-SIDED FIRE LANE SIGN
[Pattern]	CONCRETE SIDEWALK	Ⓟ	PARKING ROW COUNT
[Pattern]	CONCRETE	♿	ACCESSIBLE PARKING SPACE
[Pattern]	PROPOSED ASPHALT PAVEMENT	★	PROPOSED LIGHT POLE
[Pattern]	PROPOSED ASPHALT WALKWAY	○	EXISTING UTILITY POLE
[Pattern]	PEDESTRIAN CROSSWALK	[R]	RAMP

SITE DATA

PARCEL SUMMARY

PARCEL ID#	GROSS AREA	ZONING
06-18-196-002	0.879 AC.	CC2

BUILDING DATA

HEIGHT	GROSS FLOOR AREA
23'-6"	2,700 SFT

GROSS LOT AREA: ±38,289 S.F. (100%)

BUILDING COVERAGE: ±2,700 S.F. (7.0%)

LANDSCAPE COVERAGE: ±7,924 S.F. (20.7%)

PARKING/DRIVE/SIDEWALK COVERAGE: ±27,665 S.F. (72.3%)

IMPERVIOUS AREA: ±30,365 S.F. (79.3%)

PERVIOUS AREA: ±7,924 S.F. (20.7%)

STANDARD PARKING DATA

	PROPOSED	REQUIRED	FORMULA
TOTAL	32 SPACES	24 SPACES	*1 SPACE/4 PERSONS AT MAX CAPACITY
		5 SPACES	**1 SPACE/2 EMPLOYEES AT LARGEST SHIFT
		29 SPACES	

*94 PERSONS AT MAX CAPACITY
**10 EMPLOYEES AT LARGEST SHIFT

BICYCLE PARKING DATA

	PROPOSED	REQUIRED	FORMULA
TOTAL	7 SPACES	7 SPACES	*1 SPACE/15 PERSONS AT MAX CAPACITY

ACCESSIBLE PARKING DATA

	PROPOSED	REQUIRED	FORMULA
TOTAL	2 SPACES	2 SPACES	28-50 TOTAL SPACES

DRIVE-THRU STACKING DATA

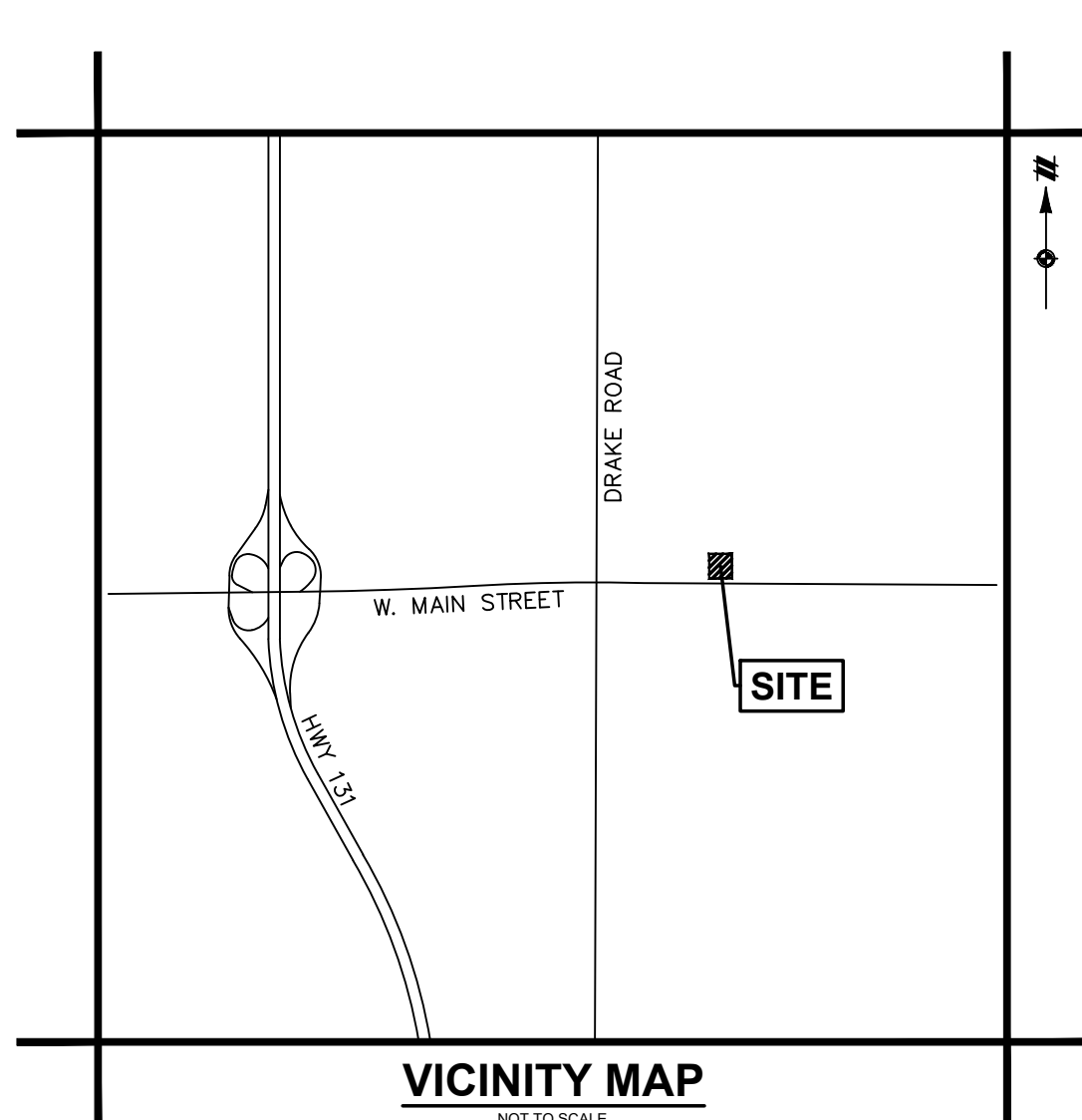
USER	PROPOSED	REQUIRED	FORMULA
PANDA EXPRESS	12 SPACES	3 SPACES	3/EACH DRIVE-THRU WINDOW

LOADING DATA

	PROPOSED	REQUIRED
LOADING AREA	(1) 10'x25'	(1) 10'x25'

VARIANCE REQUEST

- ① INCREASE BUILDING SETBACK FROM 20' TO 38' TO ALLOW FOR SAFE SITE CIRCULATION



PANDA RESTAURANT GROUP INC.
1683 Walnut Grove Ave.
Rosemead, California
91770
Telephone: 626.799.9898
Facsimile: 626.372.8288

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REVISIONS:

NO.	DESCRIPTION	DATE

ISSUE DATE:

NO.	DESCRIPTION	DATE

DRAWN BY: RPF

PANDA PROJECT #: D23353
ARCH PROJECT #:
ENG PROJECT #: 22006626

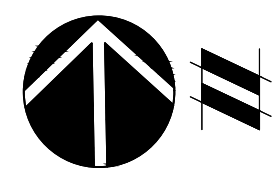
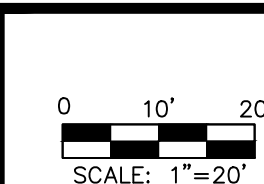


PANDA EXPRESS

4300 W. MAIN ST.
KALAMAZOO, MI

C01

LAYOUT PLAN



Know what's below.
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THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

NOTICE:
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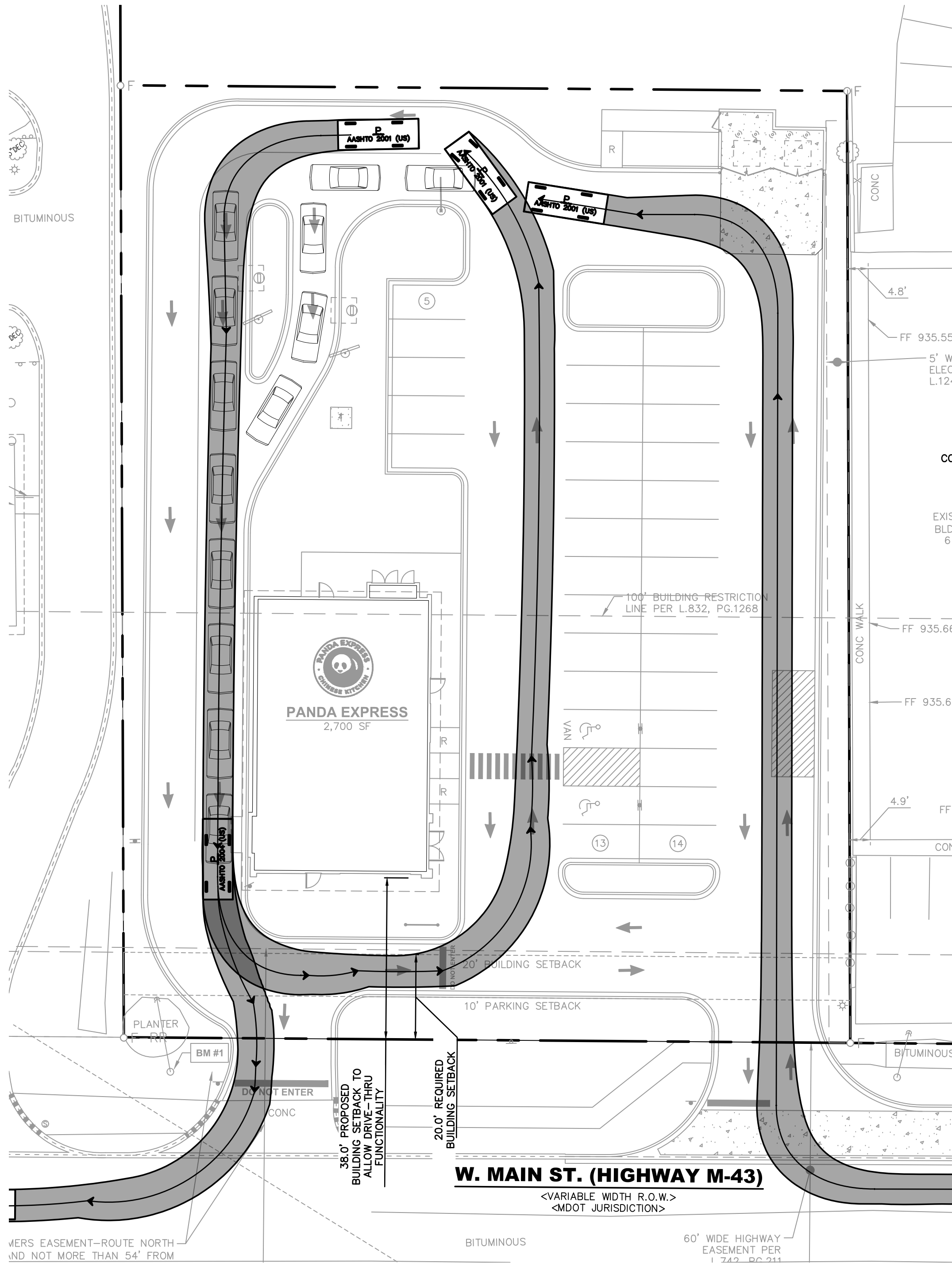
LAYOUT AS PROPOSED



TRUCK ACCESS (WB-50)

SCALE: 1"=20'

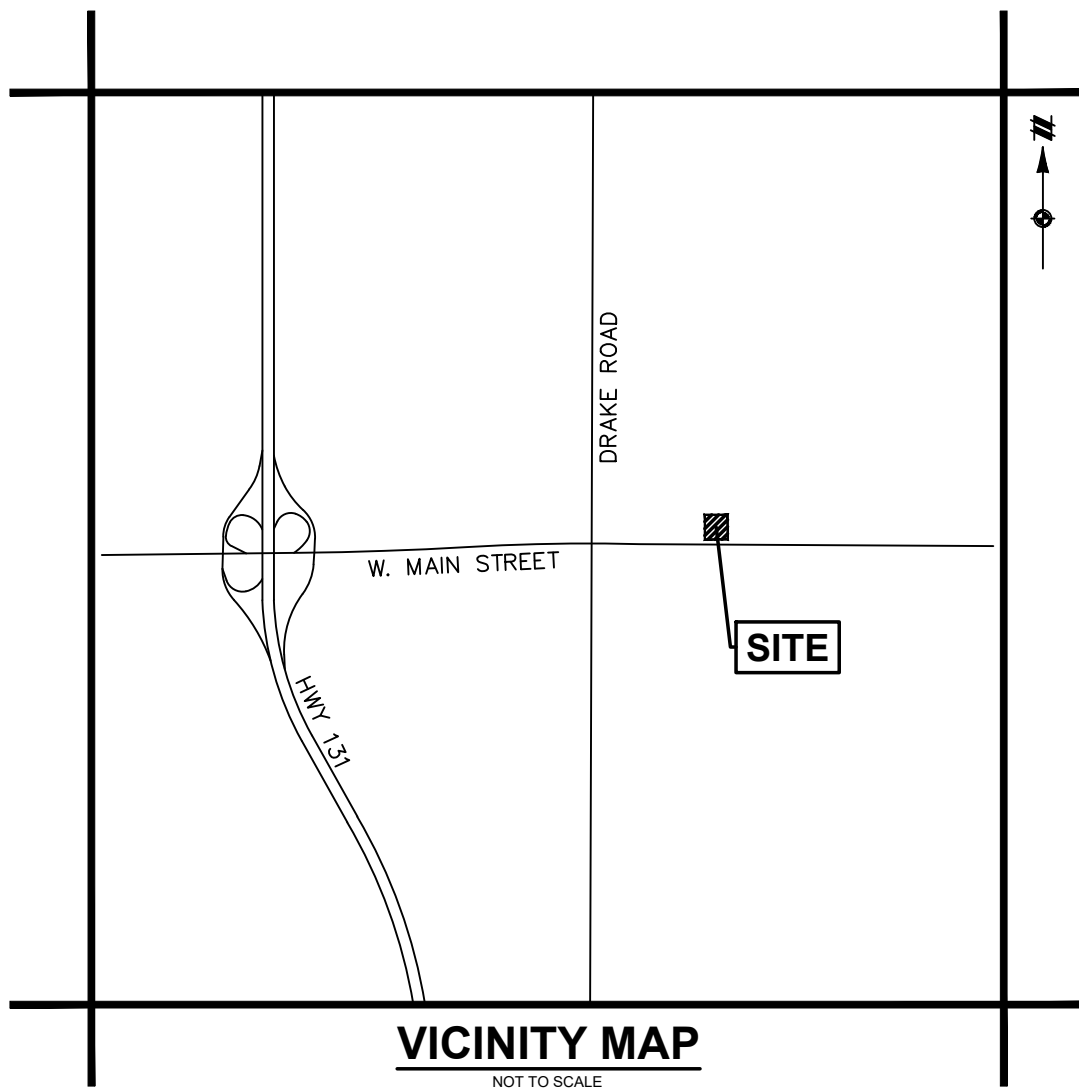
-DELIVERY TRUCK ABLE TO TURN AROUND WITHIN SITE



CAR ACCESS (19')

SCALE: 1"=20'

-CUSTOMER VEHICLE ABLE TO EXIT DRIVE THRU AND RETURN TO SITE OR EXIT SITE



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PANDA EXPRESS

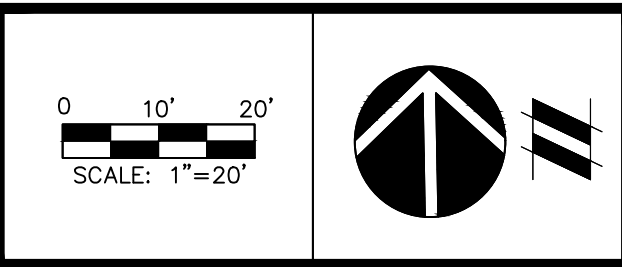
4300 W. MAIN ST.
KALAMAZOO, MI

02
SITE CIRCULATION

SITE BENCHMARKS

BENCHMARK 1
SET BENCH TIE IN EAST FACE OF UTILITY POLE LOCATED IN NORTH
RIGHT OF WAY MAIN STREET
ELEVATION: 935.19' (NAVD88)

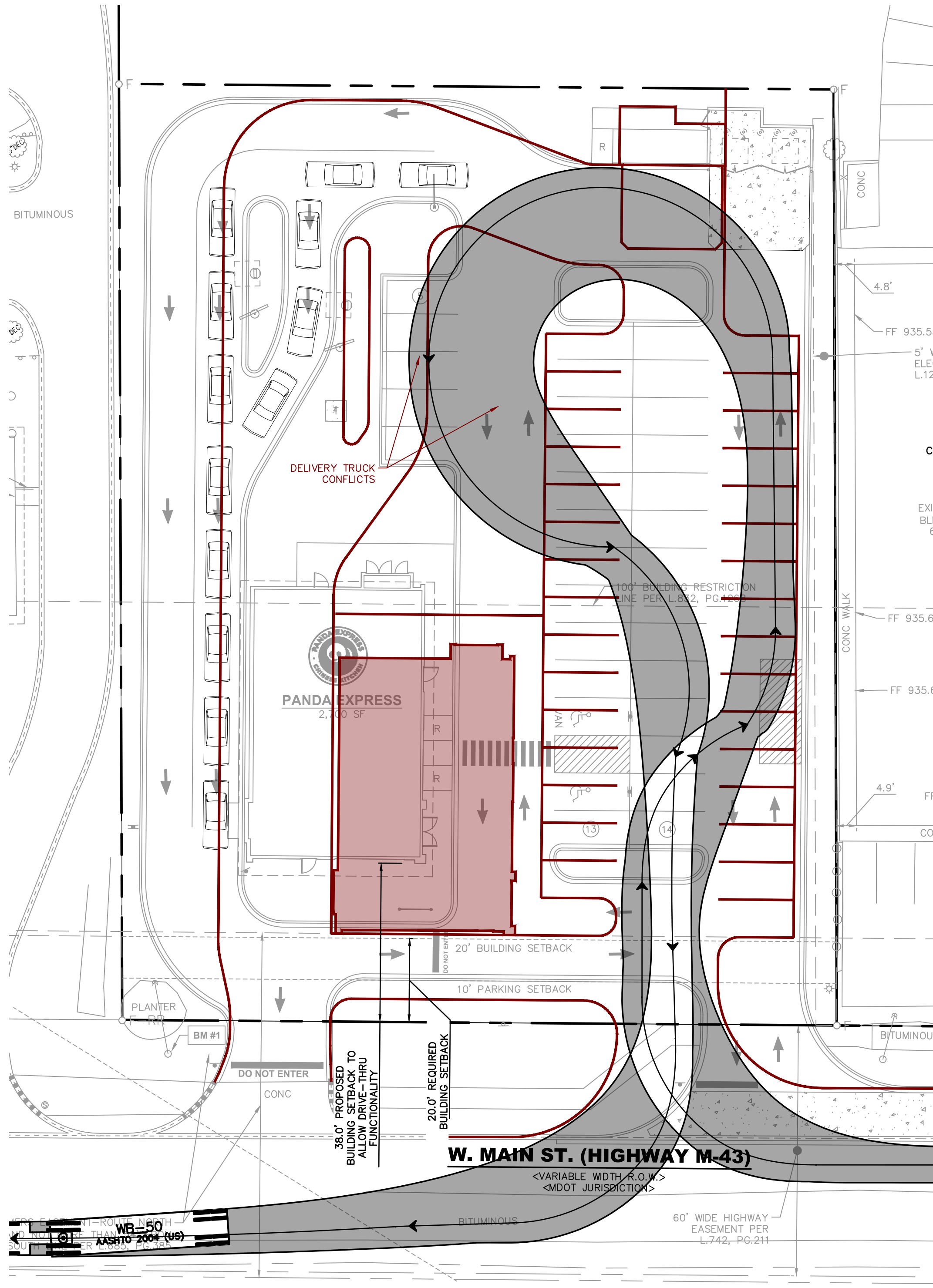
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COMPLIANCE LAYOUT



TRUCK ACCESS (WB-50)

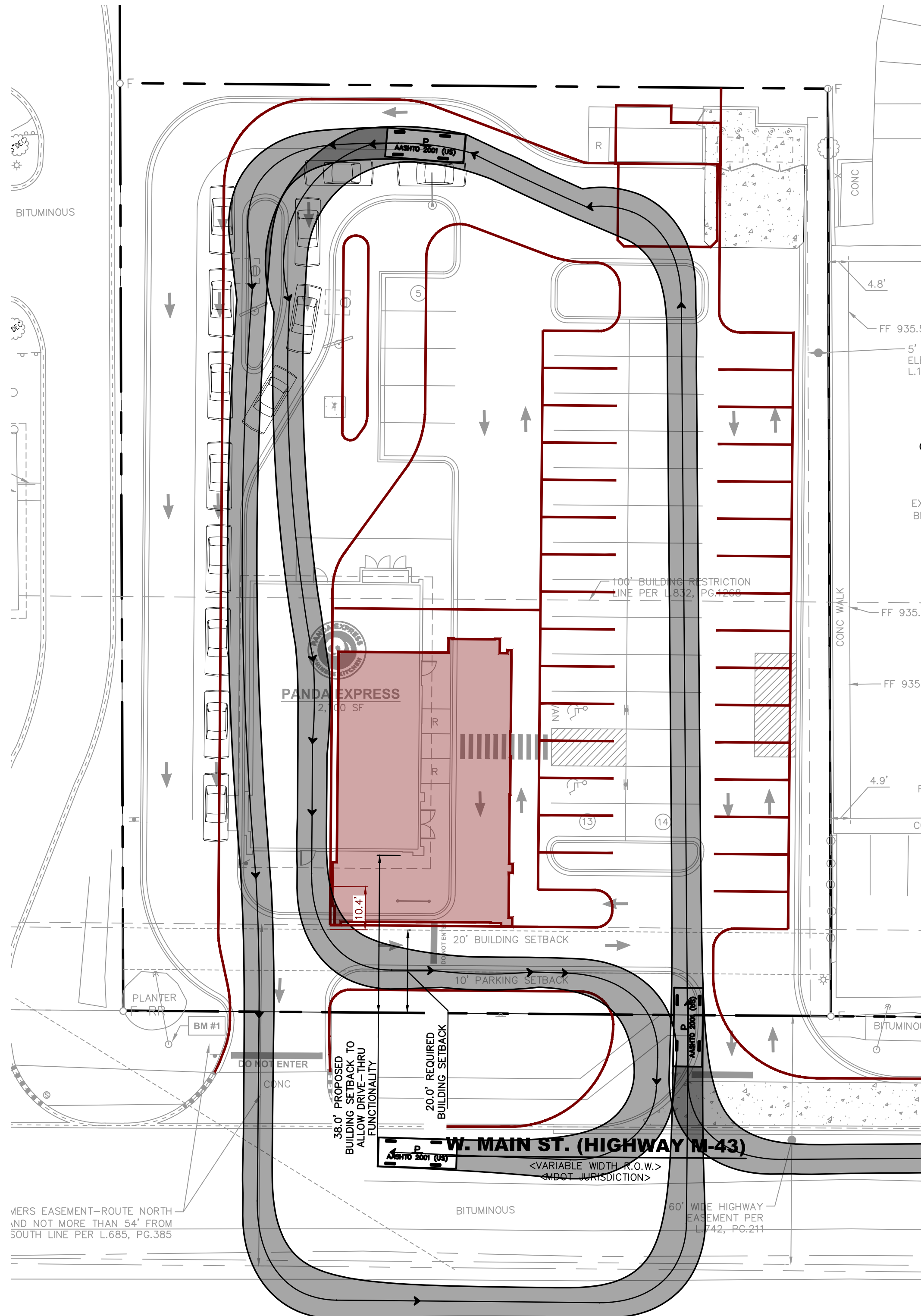
SCALE: 1"=20'

-DELIVERY TRUCK NOT ABLE TO TURN AROUND ON SITE

SITE BENCHMARKS

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SET BENCH TIE IN EAST FACE OF UTILITY POLE LOCATED IN NORTH
RIGHT OF WAY MAIN STREET
ELEVATION: 935.19' (NAVD88)

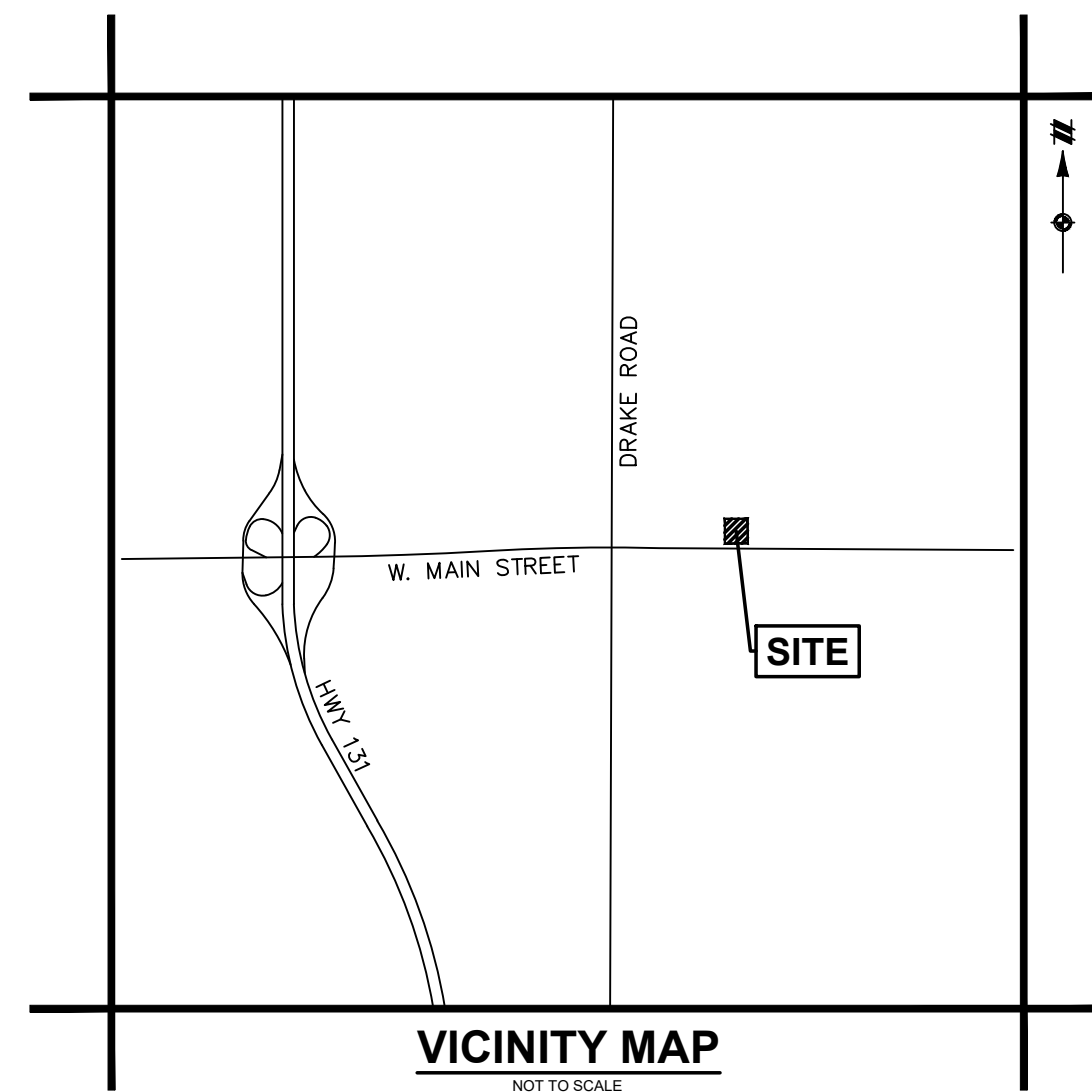
BENCHMARK 2
SET RAILROAD SPIKE IN NORTH FACE OF UTILITY POLE LOCATED IN
SOUTH RIGHT OF WAY OF MAIN STREET
ELEVATION: 935.35' (NAVD88)



CAR ACCESS (19')

SCALE: 1"=20'

-CUSTOMER VEHICLE NOT ABLE TO EXIT DRIVE THRU TO SITE (BUILDING IMPEDES)



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REVISIONS:

	-

ISSUE DATE:

[illegible]

DRAWN BY: RPF

PANDA PROJECT #: D23353
ARCH PROJECT #:
ENG PROJECT #: 22006626

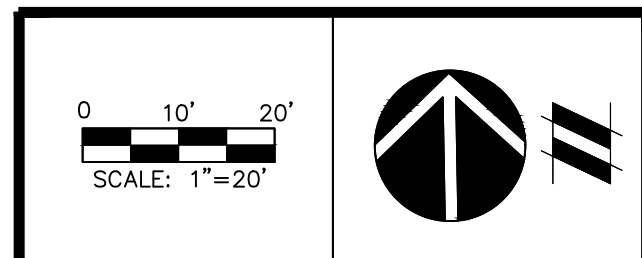


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KALAMAZOO, MI

01

SITE CIRCULATION



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SOLE RESPONSIBILITY OF THE
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EXPECTED TO ASSUME ANY
RESPONSIBILITY FOR SAFETY OF THE
WORK, OF PERSONS ENGAGED IN
THE WORK, OF ANY NEARBY
STRUCTURES, OR OF ANY OTHER
PERSONS.



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Parcels within 300' Mailing Radius 4300 W Main

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



0 110 220 440 ft



Zoning Board of Appeals Staff Report

Date: **6/13/2024**

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: June 13, 2024

SUBJECT: ZBA #24-06-11: 3401 Nazareth Road. Southwest Michigan Land Conservancy is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, 50-6.2 H, to allow construction of nonmotorized trails within the Bow in the Clouds Nature Preserve to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback.

BACKGROUND:

The subject property is located in the Burke Acres Neighborhood in the Northeast area of Kalamazoo. The site is zoned RM-36 with the Natural Features Protection (NFP) Overlay District. The Bow in the Clouds Preserve is owned and maintained by the Southwest Michigan Land Conservancy, which also owns a neighboring parcel in the Township that is part of the Bow in the Clouds Preserve. The site consists of existing recreational trails, underground utilities, and multiple natural features (Slopes, Woodland, Wetlands, and Water Resources). The site is approximately 118 acres and is accessible to the public.

The applicant is proposing to add portions of a non-motorized, aggregate surfaced trail development to connect to the existing trail system. This includes the addition of a steel boardwalk at two stream crossings and installation of benches. The new trails will be designed to be universally accessible as well as provide access to the existing sanitary collector sewer traversing the property for the City of Kalamazoo Public Services Department for future service and maintenance. These utilities are currently not accessible or difficult to access. The trails will be wide enough for maintenance vehicles leading back to the manhole locations. The trails will then narrow for foot traffic only. The majority of the trail expansion planned is within the Kalamazoo Township parcel; the request is for the segments within the City of Kalamazoo boundaries.

The project was before the Natural Features Protection (NFP) Review Board on May 28, 2024. The Board unanimously approved a recommendation for a variance to allow for the trail expansion to impact the protected slope and slope setback.

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 providing nature trails open to the public and residents of the Burke Acres Neighborhood.

This also aligns with the Future Land Use Map as the property is designated as Neighborhood Edge and this preserve is located between the Sisters of Saint Joseph (mult-family housing development) and the Spring Valley Creek/ single-dwelling zoned area north of the preserve.

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. The applicant has been advised on outreach to the adjacent property owners.

Engagement/Communication Tools:

Newspaper public notice, mailings of the public hearing notice to properties within 300 feet of the property, and applicant outreach. This outreach also occurred for the NFP Review Board meeting.

FINDINGS:

The staff has made the following findings regarding this request:

Relief from the NFP Overlay District Standards in § 50-6.2 may be granted when all the following conditions are met:

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

The parcel can be utilized for recreation, which is a permitted use in this zone district. However, expanding the nonmotorized trail network and providing the City of Kalamazoo access to the sanitary sewer that runs through the site does result in relief being needed from the NFP Overlay District. The site has creeks, slopes and wetlands, making even trail construction difficult. This relief is significant because it will allow for a gravel access trail wide enough for Public Service vehicles to reach the sanitary sewer access points on the site, which will improve maintenance of the area.

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

The requested relief is the minimum action necessary to allow for the expansion of trails

and the widening of a portion of the trails for maintenance vehicle access to the site. No tree removal will occur on the preserve parcel that is located within the City.

It is demonstrated that the relief requested will not substantially impair the intent and the purpose of the NFP Overlay District.

The Southwest Michigan Land Conservancy has worked with OCBA Landscape Architects to thoughtfully design the new trails and limit impact as much as possible to protect slopes and slope setbacks. The wide aggregate trail is only as long as necessary to reach the access points to the sanitary sewer. The entire project will only result in 13 tree removals. The Michigan Department of Environmental, Great Lakes, and Energy - Water Resource Division (EGLE) has also reviewed this work and granted a permit for this project.

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

The development team spoke in detail to the NFP Review Board about the limited impact on the protected slope and slope setbacks. The trail will be composed of gravel. The trail is also being designed to meet universal accessibility requirements. Lastly, the boardwalks are being replaced over the creeks to protect these areas from foot traffic.

RECOMMENDATION:

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



Community Planning and Economic Development

245 N. Rose Street, Ste. 100

Kalamazoo, MI 49007

PH: (269) 337-8044

FAX (269) 337-8429

www.kalamazoocity.org

NOTICE OF PUBLIC HEARING

May 29, 2024

**RE: ZBA #24-06-11
3401 Nazareth Road
Parcel #: 06-01-407-001**

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by the Southwest Michigan Land Conservancy for 3401 Nazareth Road in the Residential – Multi Dwelling District and the Natural Features Protection Overlay.

The applicant is requesting a variance from the Natural Features Protection Ordinance, Chapter 50, 50-6.2 H, to allow construction of nonmotorized trails within the Bow in the Clouds Nature Preserve to encroach into a protected slope (which has a grade greater than 20%) and protected slope setback.

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, June 13, 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	16 May 2024, 10:43AM
Receipt number	39
Related form version	14

Introduction

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

Applicant Information

Name	Mitch Lettow
Organization (if applicable)	Southwest Michigan Land Conservancy
Email Address	lettow@swmlc.org
Phone Number	(269) 324-1600
Address	8395 E Main St, Galesburg, MI 49053, USA Map (42.3035034, -85.4662883)
Preferred Contact Method	Email
Are you the property owner?	Yes

Property and Application Details

Property Address	3401 Nazareth Rd, Kalamazoo, MI 49048, USA Map (42.3252098, -85.5367194)
Parcel Identification Number	06-01-407-001
Zone District	RM-36
Type of Request	Natural Features Protection
Application Fee	\$300.00
Project Description & Reason for Request	Non-motorized, aggregate surfaced trail development to connect to existing trail system, with steel boardwalk at 2 stream crossings and in wetland, and installation of benches. New trails will be universally accessible as well as provide access to the existing sanitary collector

sewer traversing the property for City of Kalamazoo Public Services Dept. for service and maintenance. Request variance for trail construction on protected slopes.

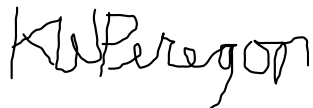
Natural Features Protection Review Criteria

Please indicate the relevant natural features and the requested variances	Protected Slopes
What variances are you requesting from the requirements for these natural features?	Impact on protected slopes.
Are there reasons the parcel cannot be reasonably utilized for its zoned use without the requested relief?	Ownership by the Southwest Michigan Land Conservancy (SWMLC) it is being conserved as a natural space with no future development permitted. Open Space/Nature Preserve/Recreation Facility is a permitted use in the RM-36. In fact, the site already includes existing trails throughout the property. SWMLC protects natural spaces from development to allow community members and visitors to have access to nature and recreation with minimal impact on the site and to protect water resources. In addition, the City of Kalamazoo's Public Services Department (COKPSD) needs maintenance access into the property to service multiple manholes located along the existing sanitary collector sewer. Without this access, COKPSD will continue to be unable to access this sewer and to struggle to maintain its existing infrastructure. With the new NFP overlay, universally accessible trails are no longer allowable on the much of the property due to the steepness of existing slopes. Without this variance, COKPSD will continue to not have access to their infrastructure and SWMLC will not be able provide recreational services to the community.
Is the extent of relief requested the minimum action needed to permit reasonable utilization of the site?	Yes, the design team has worked closely with SWMLC and COKPSD to design trails that maintain existing grades as much as possible and reduce earthwork changes to have the minimum impact on the existing grades and vegetation. The COKPSD team has agreed to confine vehicular traffic to the trails to minimize impacts and use smaller maintenance equipment in order to reduce the proposed size of those trails.
How can you demonstrate that the relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the NFP Overlay District?	Proposed trail layout and grading have been designed to follow as closely as possible existing slopes to minimize the area of protected slopes that will be impacted; soil stabilization of disturbed areas will be implemented using BMP and maintained by SWMLC, for which stewardship of the land is its highest priority. Continuing to provide recreational access through the site is a positive benefit to the community, not a detriment. And providing service and maintenance access for COKPSD will also be a positive benefit to the community.
Is the requested relief balanced by the use of conservation and/or green development tools and actions, such as utilizing stormwater best management practices from the Michigan Low Impact Development Manual that promote infiltration, restoration or expansion of a natural feature on the site, or use of wild-type native plants or desired trees as detailed in Table 6.2-5, Replacement Tree List?	Yes, soil stabilization of disturbed areas will be implemented using BMP and maintained by SWMLC, for which stewardship of the land is its highest priority. Revegetation will be with native plants consistent with existing native plant communities SWMLC has been working to re-establish through removal of invasive species and re-planting.

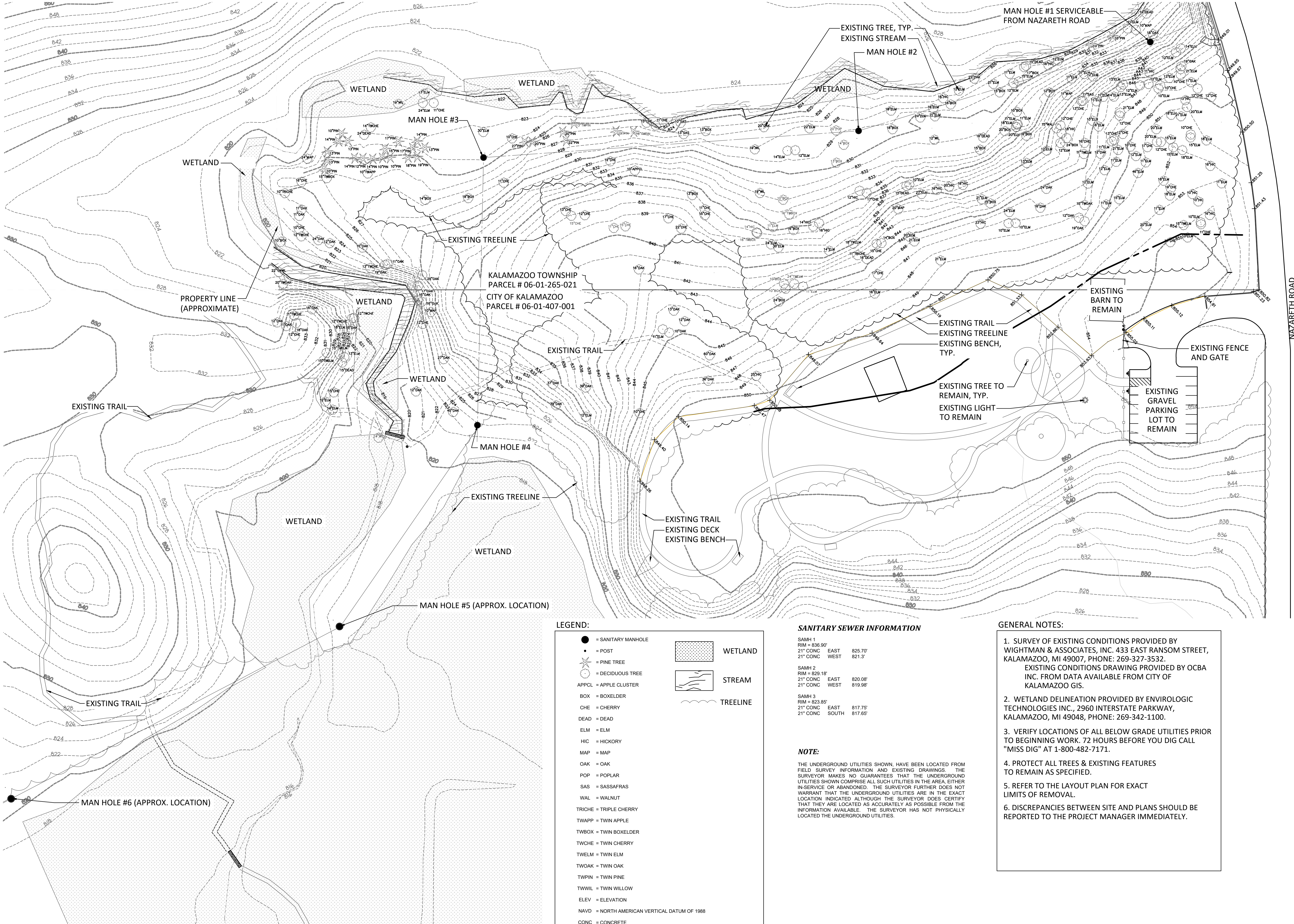
Supporting Documents

Submit

Your Signature



[Link to signature](#)



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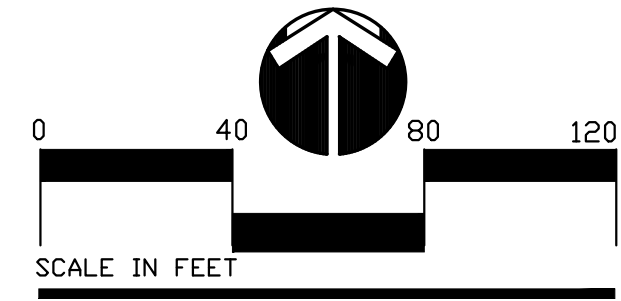
Issued For: Date
NFP REVIEW 05-14-2024

Project:
**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

KALAMAZOO, MI

Sheet Title

**EXISTING
CONDITIONS PLAN**



Job No. Sheet No.

052367 C1.0

- LEGEND:**
- = SANITARY MANHOLE
 - = POST
 - ★ = PINE TREE
 - = DECIDUOUS TREE
 - APPL = APPLE CLUSTER
 - BOX = BOXELDER
 - CHE = CHERRY
 - DEAD = DEAD
 - ELM = ELM
 - HIC = HICKORY
 - MAP = MAPLE
 - OAK = OAK
 - POP = POPLAR
 - SAS = SASSAFRAS
 - WAL = WALNUT
 - TRICHE = TRIPLE CHERRY
 - TWAPP = TWIN APPLE
 - TWBOX = TWIN BOXELDER
 - TWCH = TWIN CHERRY
 - TWELM = TWIN ELM
 - TWOAK = TWIN OAK
 - TWPIN = TWIN PINE
 - TWWIL = TWIN WILLOW
 - ELEV = ELEVATION
 - NAVD = NORTH AMERICAN VERTICAL DATUM OF 1988
 - CONC = CONCRETE
 - SPOT GRADE
 - APPROXIMATE SANITARY SEWER LOCATION
 - WETLAND
 - STREAM
 - TREELINE

SANITARY SEWER INFORMATION

SAMH 1
RIM = 836.90'
21" CONC EAST 825.70'
21" CONC WEST 821.3'

SAMH 2
RIM = 828.18'
21" CONC EAST 820.08'
21" CONC WEST 819.98'

SAMH 3
RIM = 823.85'
21" CONC EAST 817.75'
21" CONC SOUTH 817.65'

NOTE:

THE UNDERGROUND UTILITIES SHOWN, HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN-SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES ARE IN THE EXACT LOCATION INDICATED ALTHOUGH THE SURVEYOR DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

GENERAL NOTES:

1. SURVEY OF EXISTING CONDITIONS PROVIDED BY WIGHTMAN & ASSOCIATES, INC. 433 EAST RANSOM STREET, KALAMAZOO, MI 49007, PHONE: 269-327-3532. EXISTING CONDITIONS DRAWING PROVIDED BY OCBA INC. FROM DATA AVAILABLE FROM CITY OF KALAMAZOO GIS.
2. WETLAND DELINEATION PROVIDED BY ENVIROLOGIC TECHNOLOGIES INC., 2960 INTERSTATE PARKWAY, KALAMAZOO, MI 49048, PHONE: 269-342-1100.
3. VERIFY LOCATIONS OF ALL BELOW GRADE UTILITIES PRIOR TO BEGINNING WORK. 72 HOURS BEFORE YOU DIG CALL "MISS DIG" AT 1-800-482-7171.
4. PROTECT ALL TREES & EXISTING FEATURES TO REMAIN AS SPECIFIED.
5. REFER TO THE LAYOUT PLAN FOR EXACT LIMITS OF REMOVAL.
6. DISCREPANCIES BETWEEN SITE AND PLANS SHOULD BE REPORTED TO THE PROJECT MANAGER IMMEDIATELY.



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Project:

BOW IN THE CLOUDS

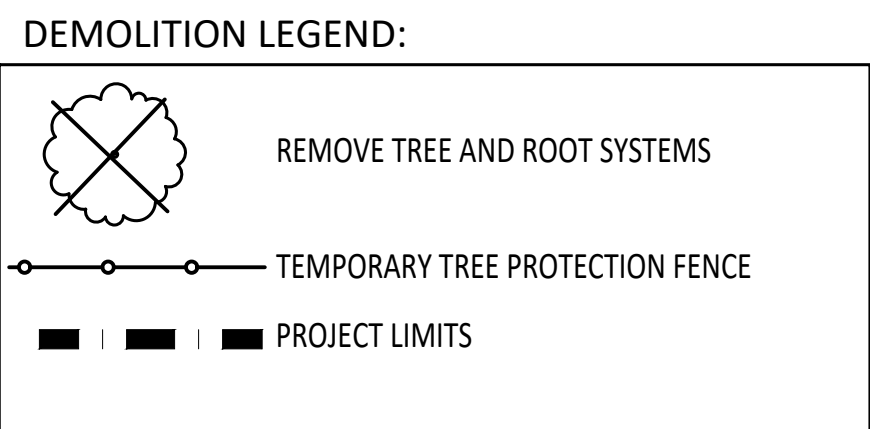
SWMLC

PHASE 2

IMPROVEMENTS

0 40 80 120
SCALE IN FEET
Job No. Sheet No.

C1.1



SPECIES	QUANTITY
Boxelder	5
Siberian Elm	1
Hickory	1
Cottonwood	1
White Pines	2
Cherry	3

PROVIDE AND MAINTAIN TEMPORARY TREE PROTECTION FENCING IN ALL LOCATIONS MARKED . TREE FENCING SHALL BE PROVIDED AND IN PLACE PRIOR TO ANY WORK ON SITE (INCLUDING TOPSOIL STRIPPING OPERATIONS). REFER TO THE FOLLOWING NOTES AND THE SPECIFICATIONS FOR TREE PROTECTION REQUIREMENTS.

1. NO CONSTRUCTION OPERATIONS, EQUIPMENT, MATERIALS OR TOPSOIL SHALL BE ALLOWED WITHIN THE TREE PROTECTION AREAS.
2. EXISTING GROUND COVER AND TOPSOIL SHALL NOT BE REMOVED FROM TREE PROTECTION AREAS DURING EARTHWORK PHASE.
3. VEHICULAR TRAFFIC, PARKING, EQUIPMENT OR MATERIAL STORAGE MAY NOT OCCUR WITHIN THE TREE PROTECTION AREAS AT ANY TIME.
4. NO EXCAVATION SHALL BE MADE WITHIN THE TREE PROTECTION AREAS EXCEPT AS NOTED OTHERWISE.

1. SURVEY OF EXISTING CONDITIONS PROVIDED BY
WIGHTMAN & ASSOCIATES, INC. 433 EAST RANSOM STREET,
KALAMAZOO, MI 49007, PHONE: 269-327-3532.
ADDITIONAL EXISTING CONDITIONS TAKEN FROM DATA
AVAILABLE FROM CITY OF KALAMAZOO GIS.

LOCATION OF SANITARY MANHOLE ARE FROM CITY OF KALAMAZOO RECOREDS AND ARE APPROXIMATE.

2. WETLAND DELINEATION PROVIDED BY ENVIROLOGIC TECHNOLOGIES INC., 2960 INTERSTATE PARKWAY, KALAMAZOO, MI 49048, PHONE: 269-342-1100.
3. VERIFY LOCATIONS OF ALL BELOW GRADE UTILITIES PRIOR TO BEGINNING WORK. 72 HOURS BEFORE YOU DIG CALL "MISS DIG" AT 1-800-482-7171.
4. PROTECT ALL TREES & EXISTING FEATURES TO REMAIN AS SPECIFIED.
5. REFER TO LAYOUT PLAN FOR LIMITS OF WORK.
6. DISCREPANCIES BETWEEN SITE AND PLANS SHOULD BE REPORTED TO THE PROJECT MANAGER IMMEDIATELY.
7. ALL TOPSOIL AND EXCESS FILL MATERIAL SHALL BE STOCKPILED ON SITE SEPARATELY FOR LATER RE-USE. LOCATE STOCKPILES IN AREAS AS DIRECTED BY LANDSCAPE ARCHITECT AND PROTECT FROM EFFECTS OF EROSION.



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NPF REVIEW	05-14-2024

Project:

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SWMLC

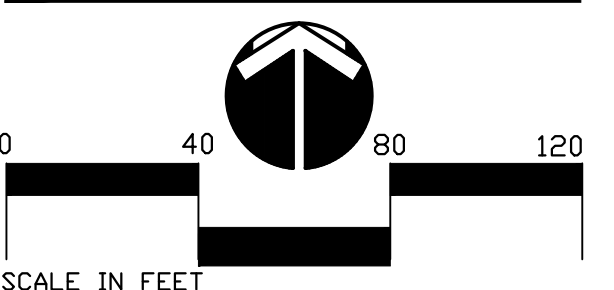
PHASE 2

IMPROVEMENTS

KALAMAZOO, MI

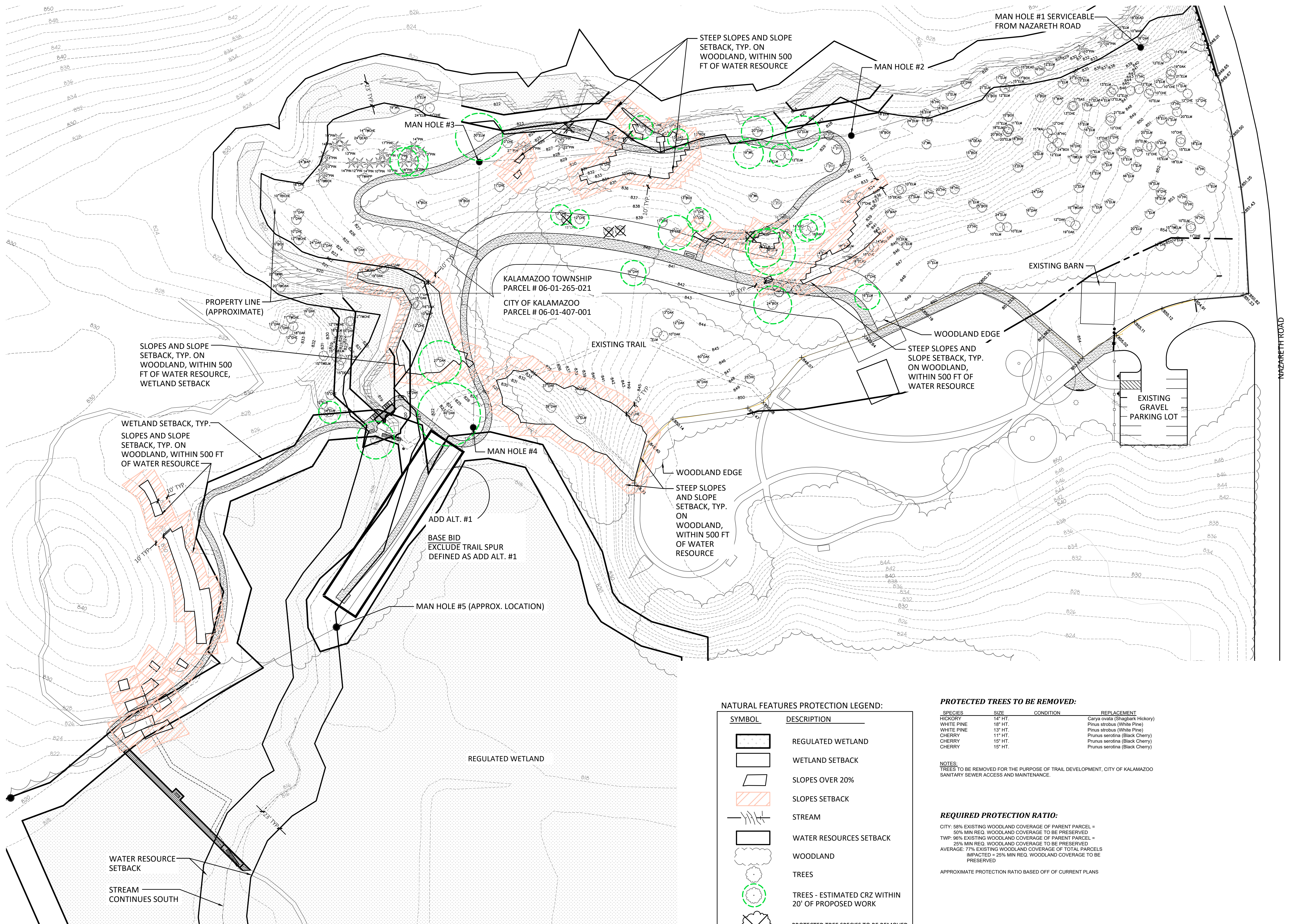
Sheet Title

NATURAL FEATURES



Job No. _____ Sheet No. _____

052367 C1.2





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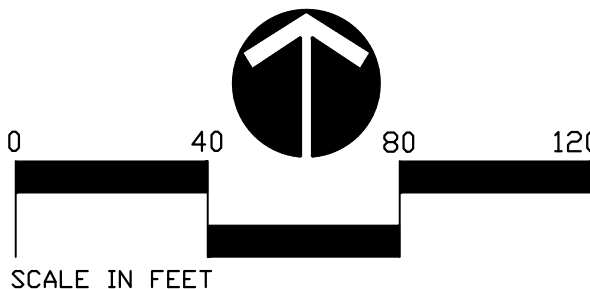
NFP REVIEW 05-14-2024

Project:
**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

KALAMAZOO, MI

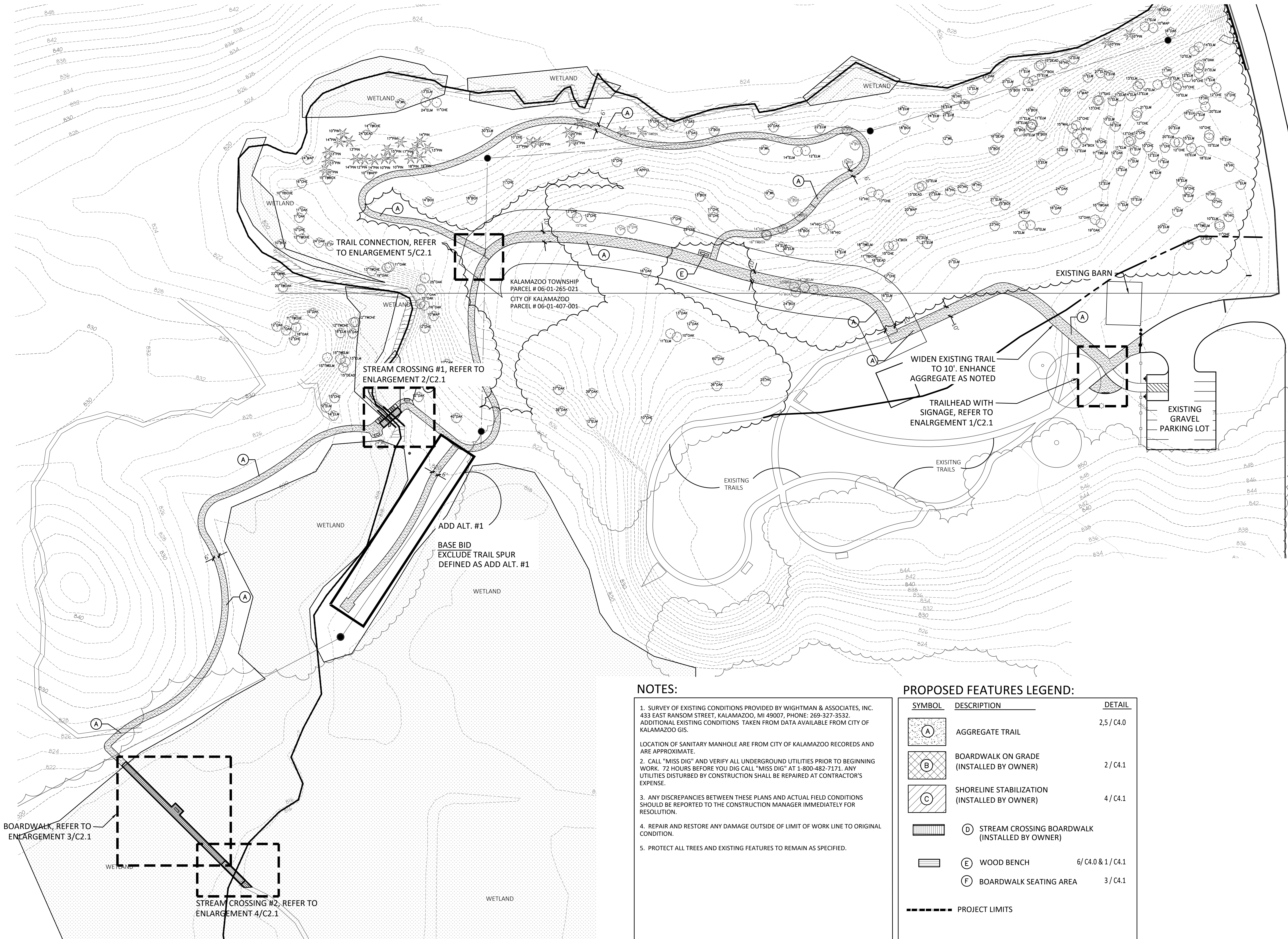
Sheet Title

**LAYOUT & MATERIALS
PLAN**



Job No. Sheet No.

052367 C2.0



NOTES:

1. SURVEY OF EXISTING CONDITIONS PROVIDED BY WIGHTMAN & ASSOCIATES, INC. 433 EAST RANSOM STREET, KALAMAZOO, MI 49007, PHONE: 269-327-3532. ADDITIONAL EXISTING CONDITIONS TAKEN FROM DATA AVAILABLE FROM CITY OF KALAMAZOO GIS.
2. CALL "MISS DIG" AND VERIFY ALL UNDERGROUND UTILITIES PRIOR TO BEGINNING WORK. 72 HOURS BEFORE YOU DIG CALL "MISS DIG" AT 1-800-482-7171. ANY UTILITIES DISTURBED BY CONSTRUCTION SHALL BE REPAIRED AT CONTRACTOR'S EXPENSE.
3. ANY DISCREPANCIES BETWEEN THESE PLANS AND ACTUAL FIELD CONDITIONS SHOULD BE REPORTED TO THE CONSTRUCTION MANAGER IMMEDIATELY FOR RESOLUTION.
4. REPAIR AND RESTORE ANY DAMAGE OUTSIDE OF LIMIT OF WORK LINE TO ORIGINAL CONDITION.
5. PROTECT ALL TREES AND EXISTING FEATURES TO REMAIN AS SPECIFIED.

PROPOSED FEATURES LEGEND:

SYMBOL	DESCRIPTION	DETAIL
	AGGREGATE TRAIL	2/5 / C4.0
	BOARDWALK ON GRADE (INSTALLED BY OWNER)	2 / C4.1
	SHORELINE STABILIZATION (INSTALLED BY OWNER)	4 / C4.1
	STREAM CROSSING BOARDWALK (INSTALLED BY OWNER)	
	WOOD BENCH	6/ C4.0 & 1/ C4.1
	BOARDWALK SEATING AREA	3 / C4.1
	PROJECT LIMITS	



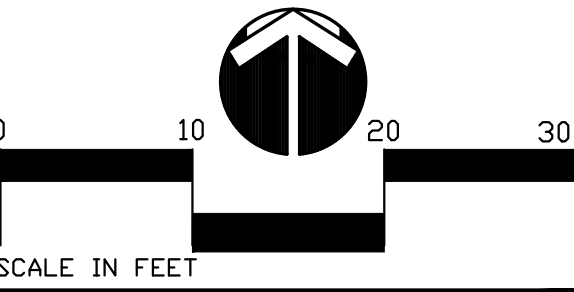
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Project:
**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

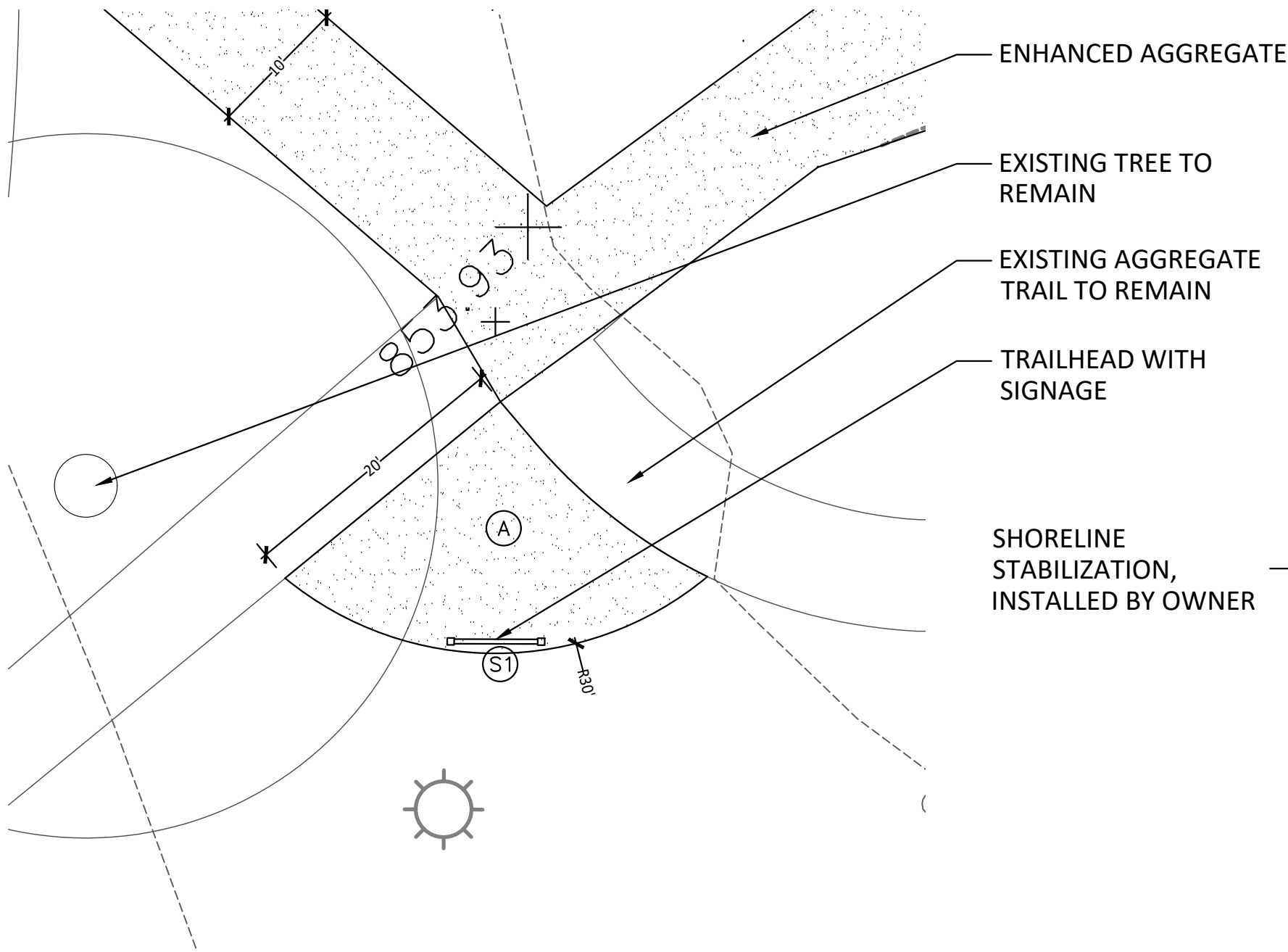
KALAMAZOO, MI

Sheet Title
**LAYOUT & MATERIALS
ENLARGEMENTS**

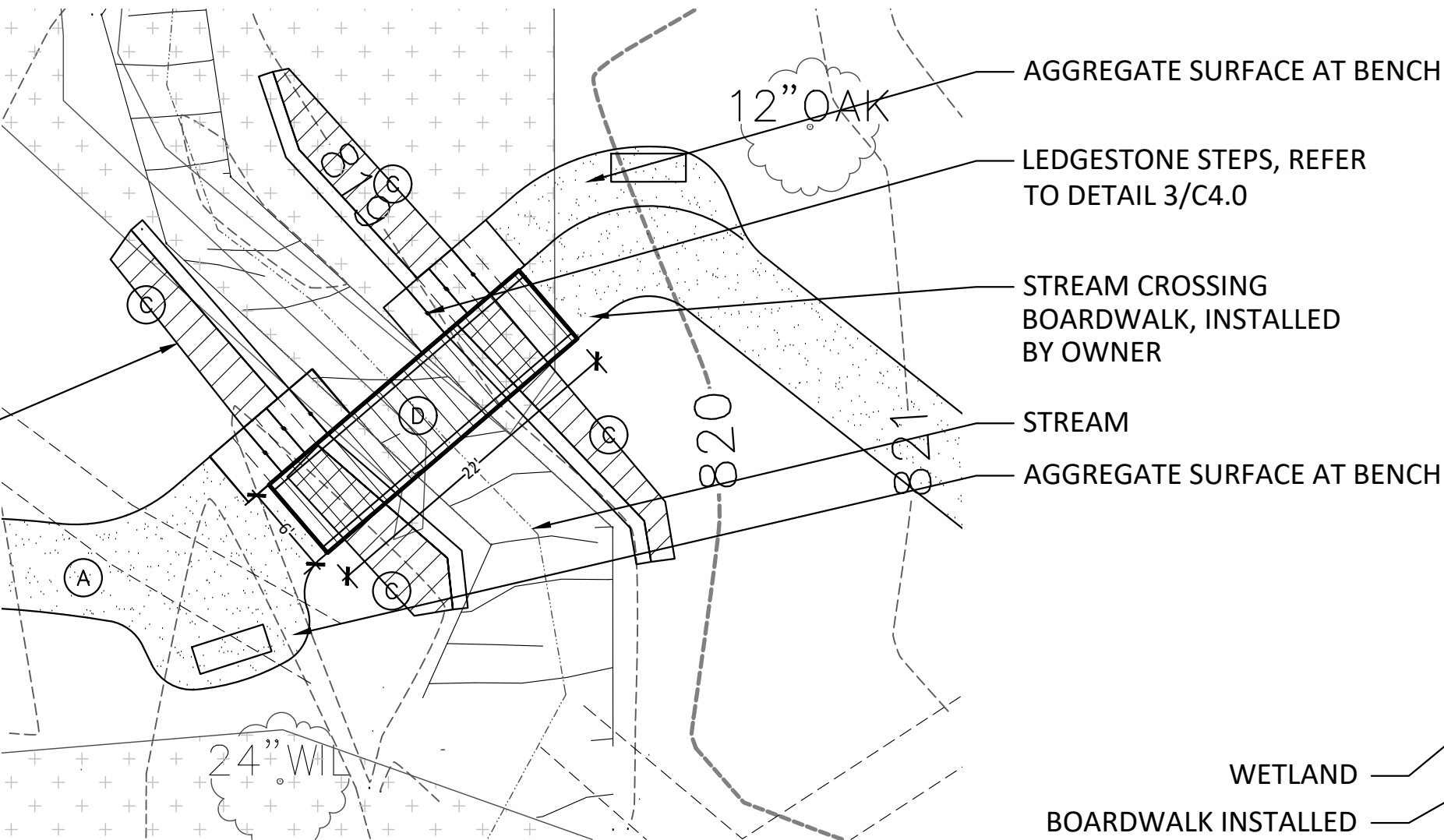


Job No. Sheet No.

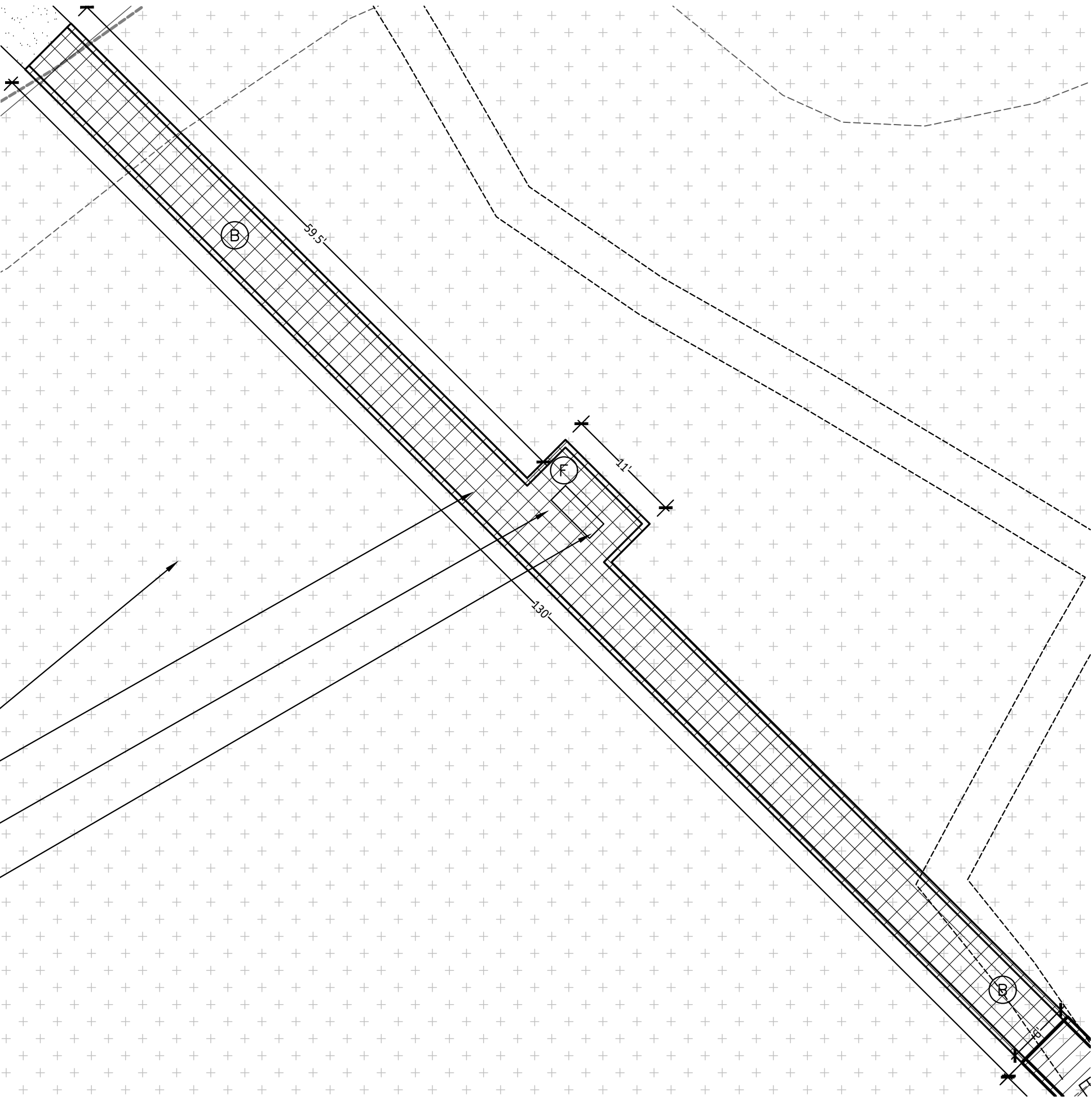
052367 C2.1



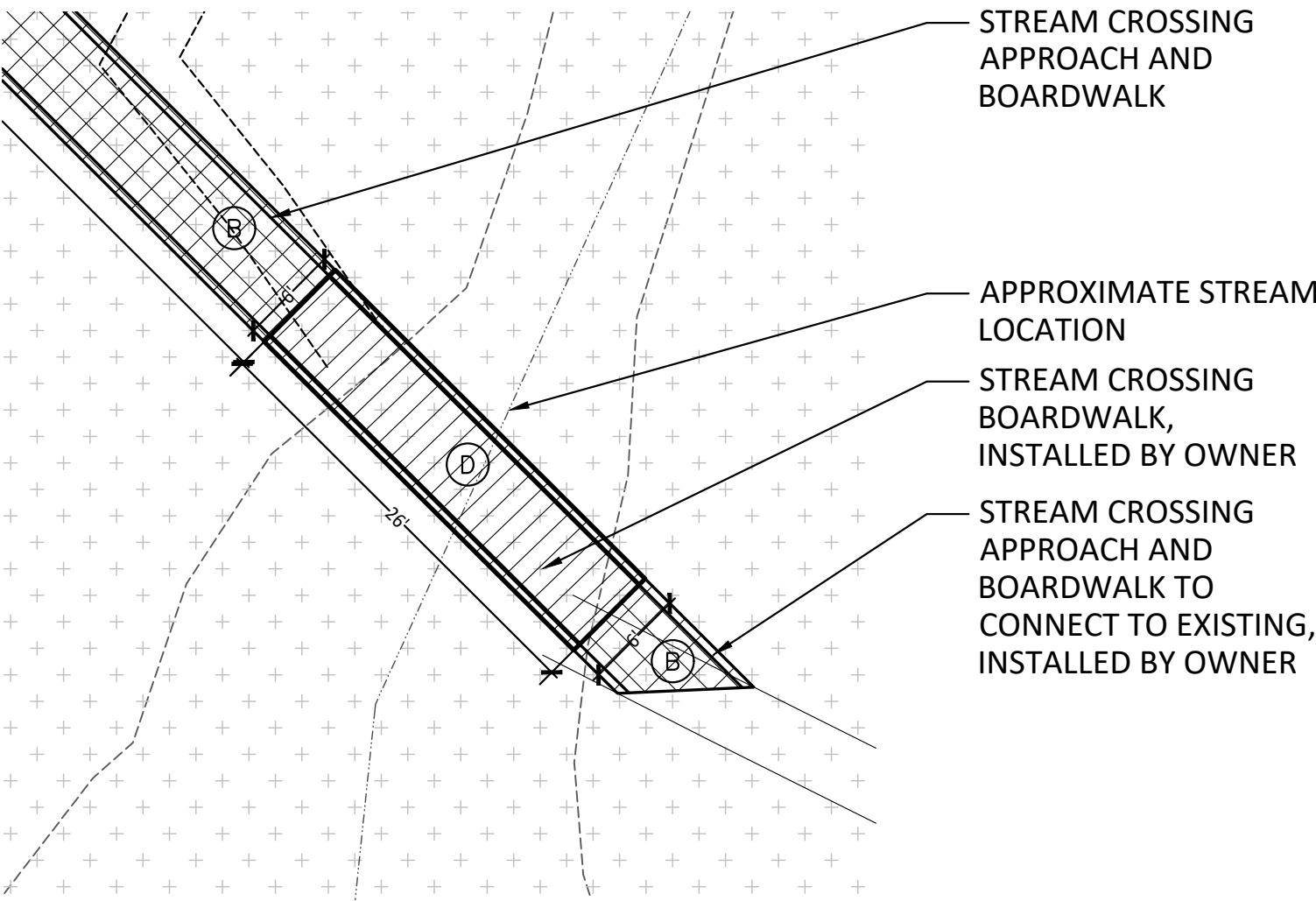
1 Trailhead Enlargement Plan
SCALE : 1" = 10'-0"



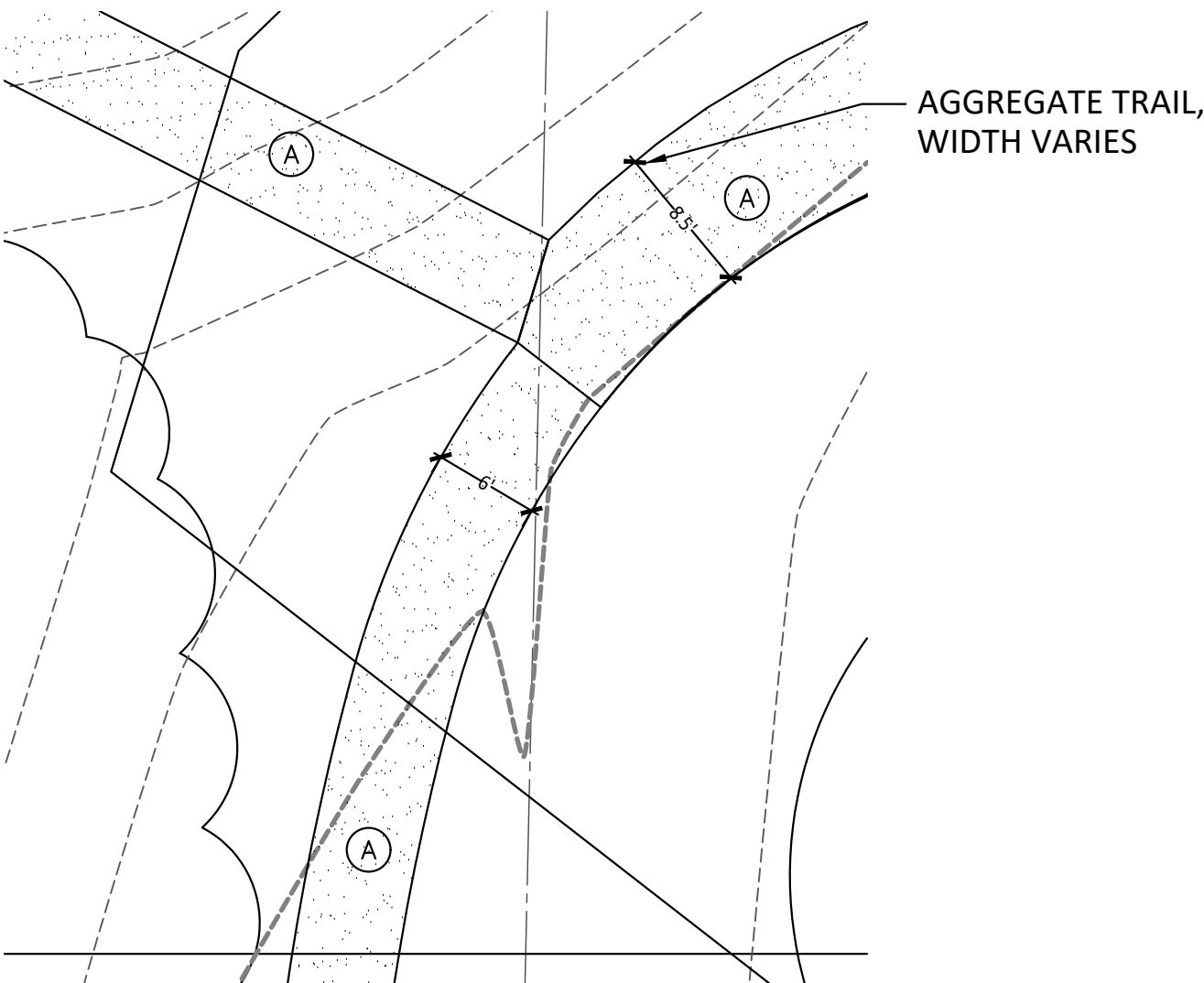
2 Stream Crossing #1 Enlargement Plan
SCALE : 1" = 10'-0"



3 Boardwalk Enlargement Plan
SCALE : 1" = 10'-0"



4 Stream Crossing Boardwalk #2 Enlargement Plan
SCALE : 1" = 10'-0"



5 Trail Enlargement Plan
SCALE : 1" = 10'-0"

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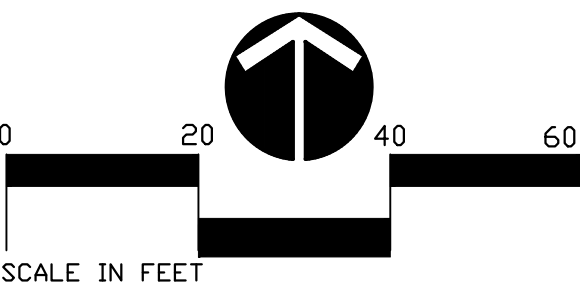
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Project:
**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

KALAMAZOO, MI

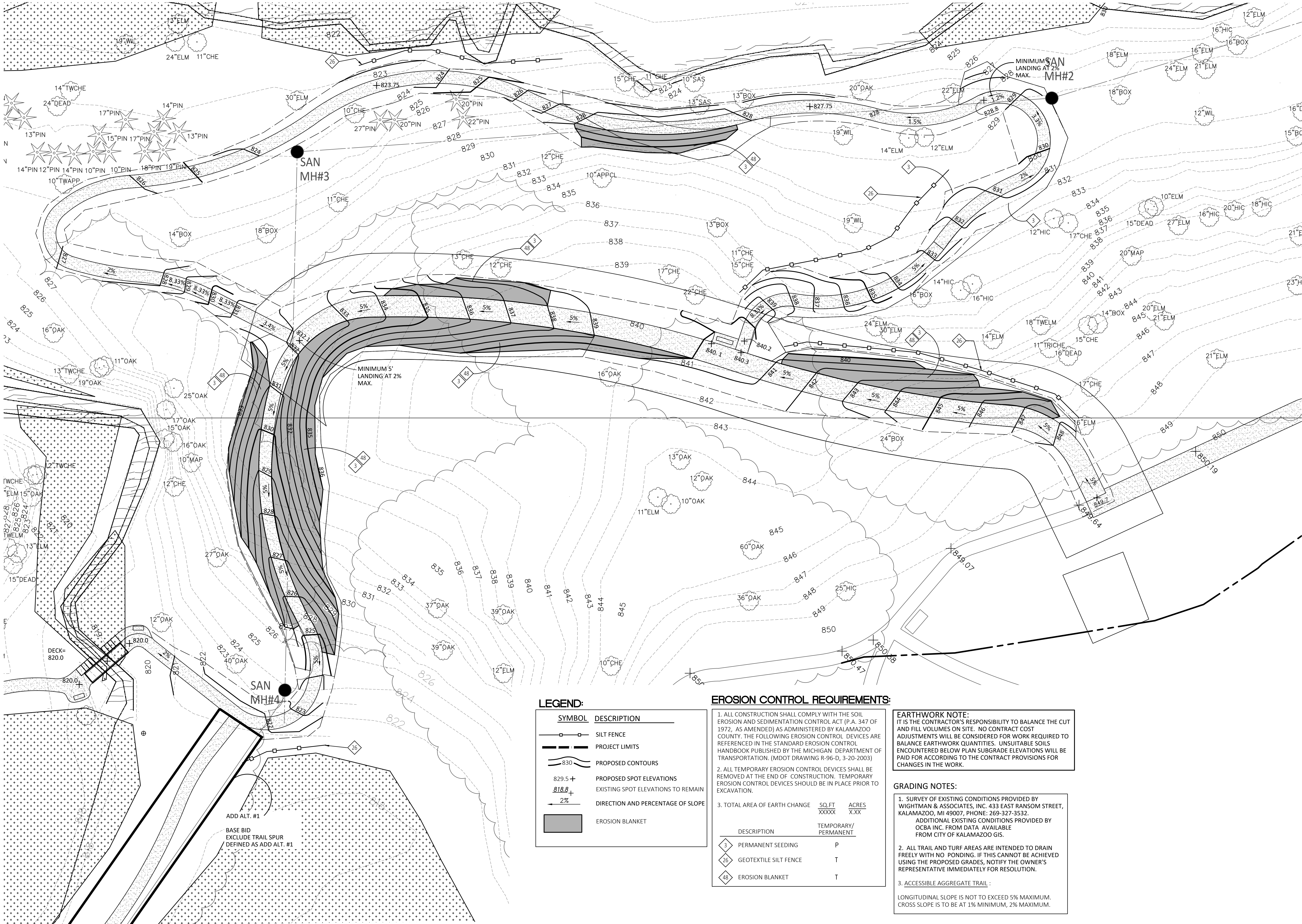
Sheet Title

**NORTH GRADING AND
SESC PLAN**



Job No. Sheet No.

052367 C3.0



LEGEND:

SYMBOL	DESCRIPTION
	SILT FENCE
	PROJECT LIMITS
	PROPOSED CONTOURS
	PROPOSED SPOT ELEVATIONS
	EXISTING SPOT ELEVATIONS TO REMAIN
	DIRECTION AND PERCENTAGE OF SLOPE
	EROSION BLANKET

EROSION CONTROL REQUIREMENTS:

- ALL CONSTRUCTION SHALL COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ACT (P.A. 347 OF 1972, AS AMENDED) AS ADMINISTERED BY KALAMAZOO COUNTY. THE FOLLOWING EROSION CONTROL DEVICES ARE REFERENCED IN THE STANDARD EROSION CONTROL HANDBOOK PUBLISHED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION. (MDOT DRAWING R-96-D, 3-20-2003)
- ALL TEMPORARY EROSION CONTROL DEVICES SHALL BE REMOVED AT THE END OF CONSTRUCTION. TEMPORARY EROSION CONTROL DEVICES SHOULD BE IN PLACE PRIOR TO EXCAVATION.
- TOTAL AREA OF EARTH CHANGE

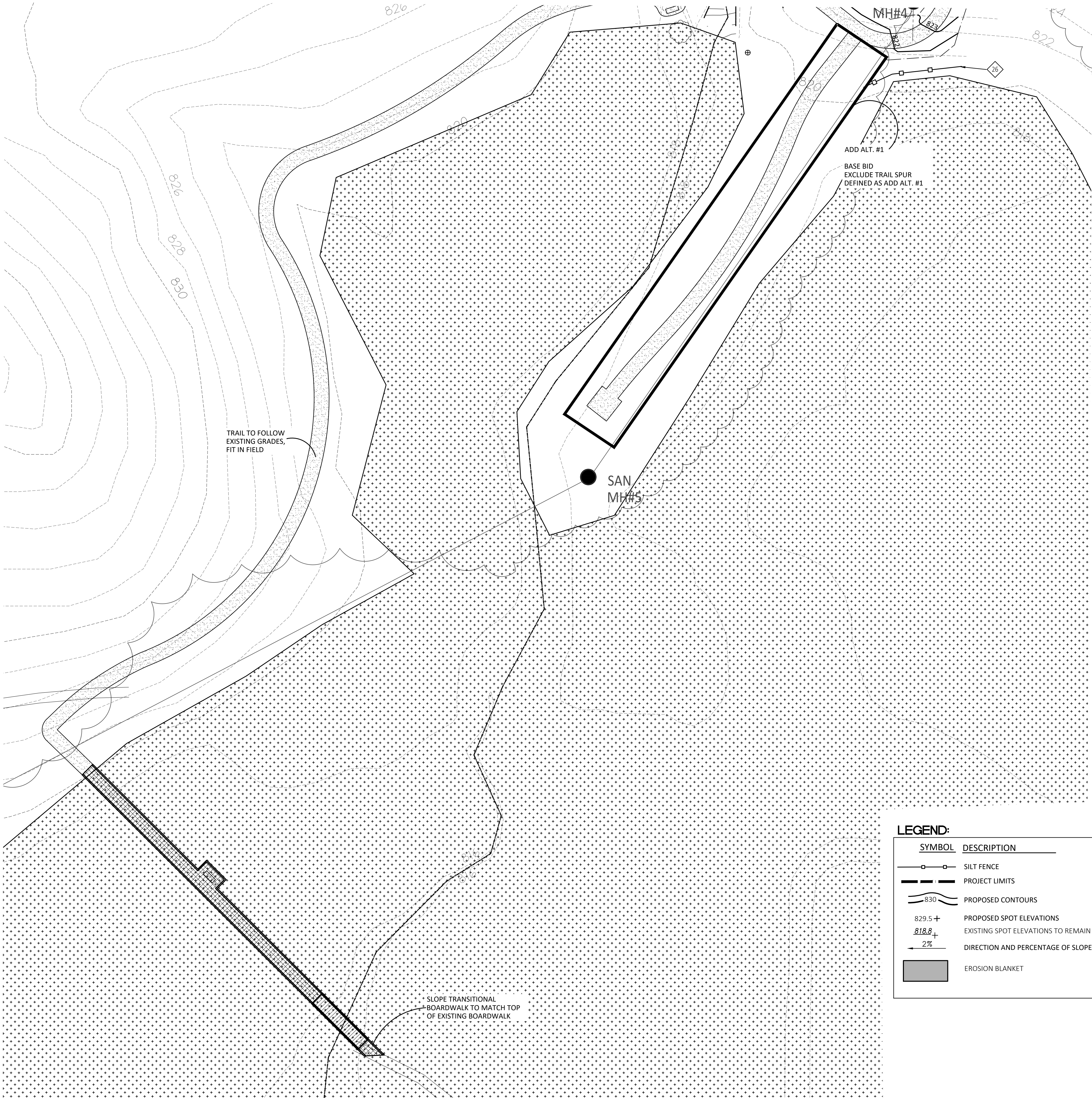
DESCRIPTION	SO.FT XXXXX	ACRES X.XX
PERMANENT SEEDING		P
GEOTEXTILE SILT FENCE		T
EROSION BLANKET		T

EARTHWORK NOTE:

IT IS THE CONTRACTOR'S RESPONSIBILITY TO BALANCE THE CUT AND FILL VOLUMES ON SITE. NO CONTRACT COST ADJUSTMENTS WILL BE CONSIDERED FOR WORK REQUIRED TO BALANCE EARTHWORK QUANTITIES. UNSUITABLE SOILS ENCOUNTERED BELOW PLAN SUBGRADE ELEVATIONS WILL BE PAID FOR ACCORDING TO THE CONTRACT PROVISIONS FOR CHANGES IN THE WORK.

GRADING NOTES:

- SURVEY OF EXISTING CONDITIONS PROVIDED BY WIGHTMAN & ASSOCIATES, INC. 433 EAST RANSOM STREET, KALAMAZOO, MI 49007, PHONE: 269-327-3532. ADDITIONAL EXISTING CONDITIONS PROVIDED BY OCBA INC. FROM DATA AVAILABLE FROM CITY OF KALAMAZOO GIS.
- ALL TRAIL AND TURF AREAS ARE INTENDED TO DRAIN FREELY WITH NO PONDING. IF THIS CANNOT BE ACHIEVED USING THE PROPOSED GRADES, NOTIFY THE OWNER'S REPRESENTATIVE IMMEDIATELY FOR RESOLUTION.
- ACCESSIBLE AGGREGATE TRAIL :
LONGITUDINAL SLOPE IS NOT TO EXCEED 5% MAXIMUM.
CROSS SLOPE IS TO BE AT 1% MINIMUM, 2% MAXIMUM.



1 Grading Plan
SCALE : 1" = 20'-0"

LEGEND:	
SYMBOL	DESCRIPTION
	SILT FENCE
	PROJECT LIMITS
	PROPOSED CONTOURS
	PROPOSED SPOT ELEVATIONS
	EXISTING SPOT ELEVATIONS TO REMAIN
	DIRECTION AND PERCENTAGE OF SLOPE
	EROSION BLANKET

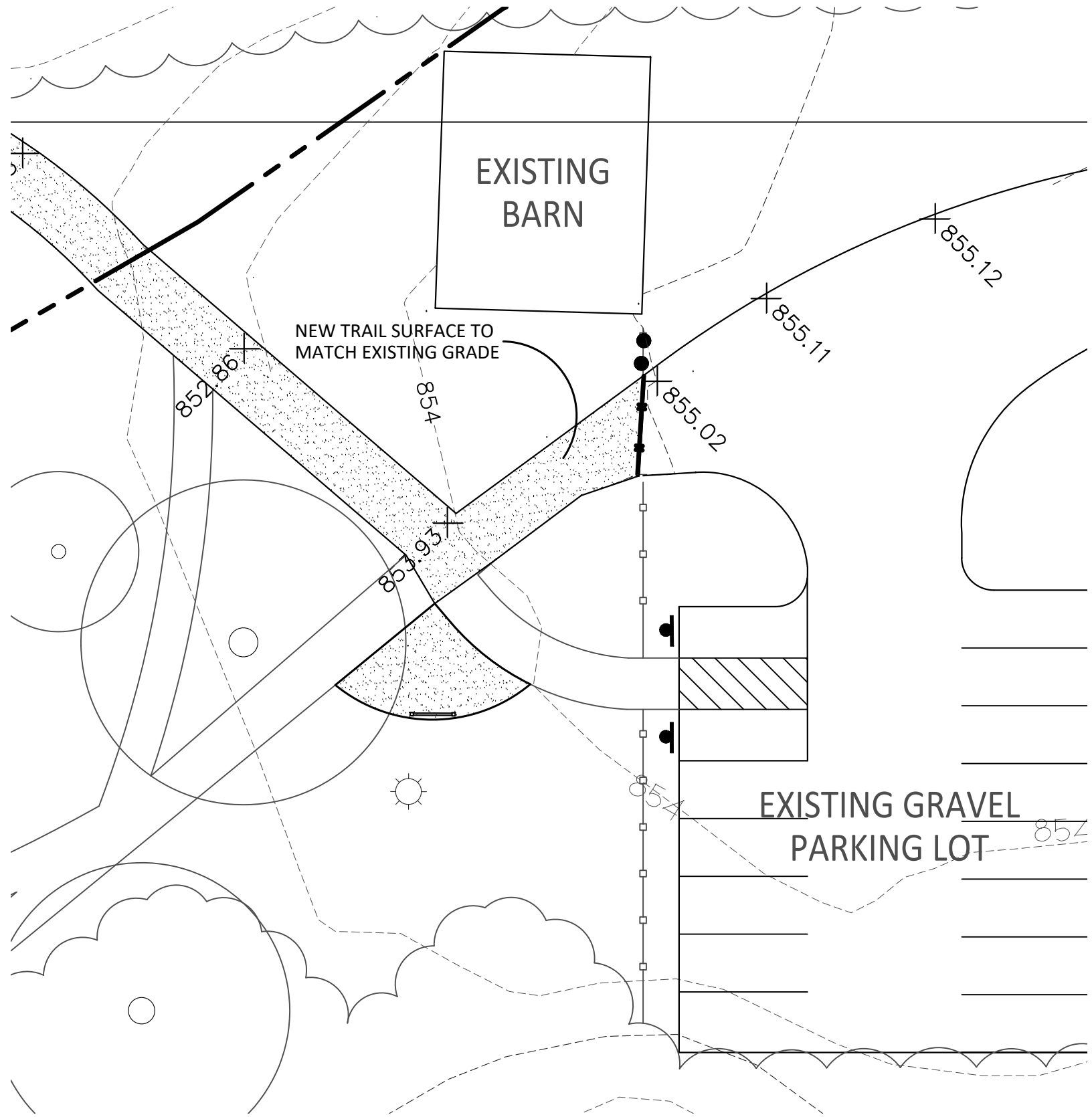
EROSION CONTROL REQUIREMENTS:

1. ALL CONSTRUCTION SHALL COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ACT (P.A. 347 OF 1972, AS AMENDED) AS ADMINISTERED BY KALAMAZOO COUNTY. THE FOLLOWING EROSION CONTROL DEVICES ARE REFERENCED IN THE STANDARD EROSION CONTROL HANDBOOK PUBLISHED BY THE MICHIGAN DEPARTMENT OF TRANSPORTATION. (MDOT DRAWING R-96-D, 3-20-2003)		
2. ALL TEMPORARY EROSION CONTROL DEVICES SHALL BE REMOVED AT THE END OF CONSTRUCTION. TEMPORARY EROSION CONTROL DEVICES SHOULD BE IN PLACE PRIOR TO EXCAVATION.		
3. TOTAL AREA OF EARTH CHANGE		
	SQ.FT XXXXX	ACRES X.XX
DESCRIPTION		TEMPORARY/ PERMANENT
3	PERMANENT SEEDING	P
26	GEOTEXTILE SILT FENCE	T
48	EROSION BLANKET	T

EARTHWORK NOTE:
IT IS THE CONTRACTOR'S RESPONSIBILITY TO BALANCE THE CUT AND FILL VOLUMES ON SITE. NO CONTRACT COST ADJUSTMENTS WILL BE CONSIDERED FOR WORK REQUIRED TO BALANCE EARTHWORK QUANTITIES. UNSUITABLE SOILS ENCOUNTERED BELOW PLAN SUBGRADE ELEVATIONS WILL BE PAID FOR ACCORDING TO THE CONTRACT PROVISIONS FOR CHANGES IN THE WORK.

GRADING NOTES:

1. SURVEY OF EXISTING CONDITIONS PROVIDED BY WIGHTMAN & ASSOCIATES, INC. 433 EAST RANSOM STREET, KALAMAZOO, MI 49007, PHONE: 269-327-3532. ADDITIONAL EXISTING CONDITIONS PROVIDED BY OCBA INC. FROM DATA AVAILABLE FROM CITY OF KALAMAZOO GIS.
2. ALL TRAIL AND TURF AREAS ARE INTENDED TO DRAIN FREELY WITH NO PONDING. IF THIS CANNOT BE ACHIEVED USING THE PROPOSED GRADES, NOTIFY THE OWNER'S REPRESENTATIVE IMMEDIATELY FOR RESOLUTION.
3. ACCESSIBLE AGGREGATE TRAIL :
LONGITUDINAL SLOPE IS NOT TO EXCEED 5% MAXIMUM. CROSS SLOPE IS TO BE AT 1% MINIMUM, 2% MAXIMUM.



2 Trailhead Grading Plan
SCALE : 1" = 20'-0"

141 E. Michigan Avenue, Suite 500
Kalamazoo Michigan 49007
Phone (269) 381-3357
Fax (269) 381-2944

Landscape Architecture
Urban Planning
Parks & Recreation
Campus & Institutional Planning
Camp Planning & Design



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Not For Construction

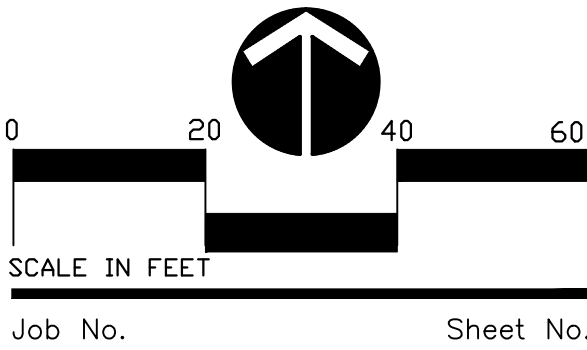
HARD COPY IS INTENDED TO BE 24"X36" WHEN PLOTTED. SCALE(S) INDICATED AND GRAPHIC QUALITY MAY NOT BE ACCURATE FOR ANY OTHER SIZES.

Issued For: Date
NFP REVIEW 05-14-2024

Project:
**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

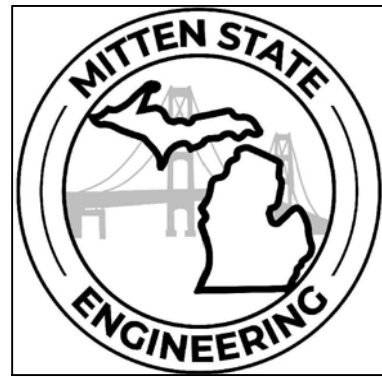
KALAMAZOO, MI
Sheet Title

**SOUTH GRADING AND
SESC PLANS**



Job No. Sheet No.

052367 C3.1



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Not For Construction

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Issued For: Date
NFP REVIEW 05-14-2024

Project:
**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

KALAMAZOO, MI

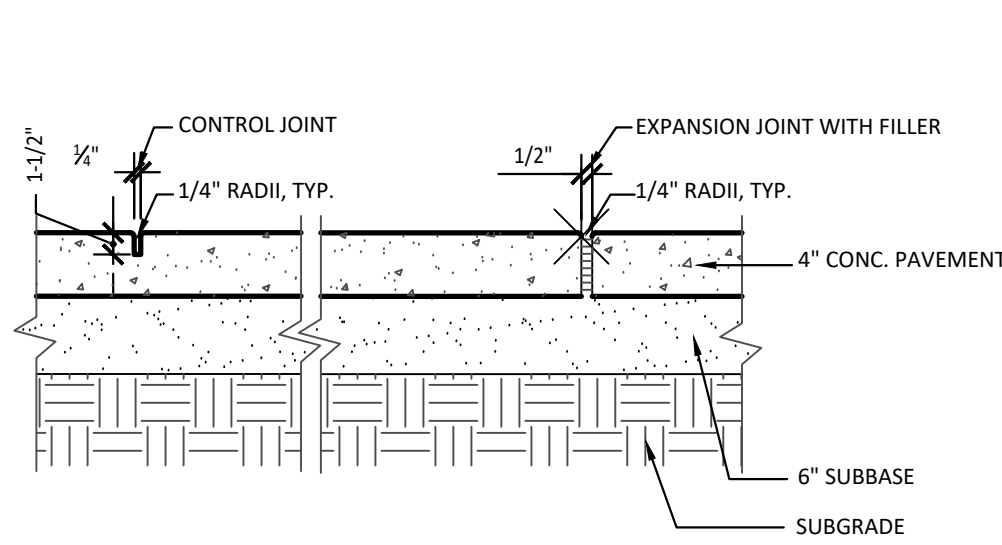
Sheet Title

SITE DETAILS

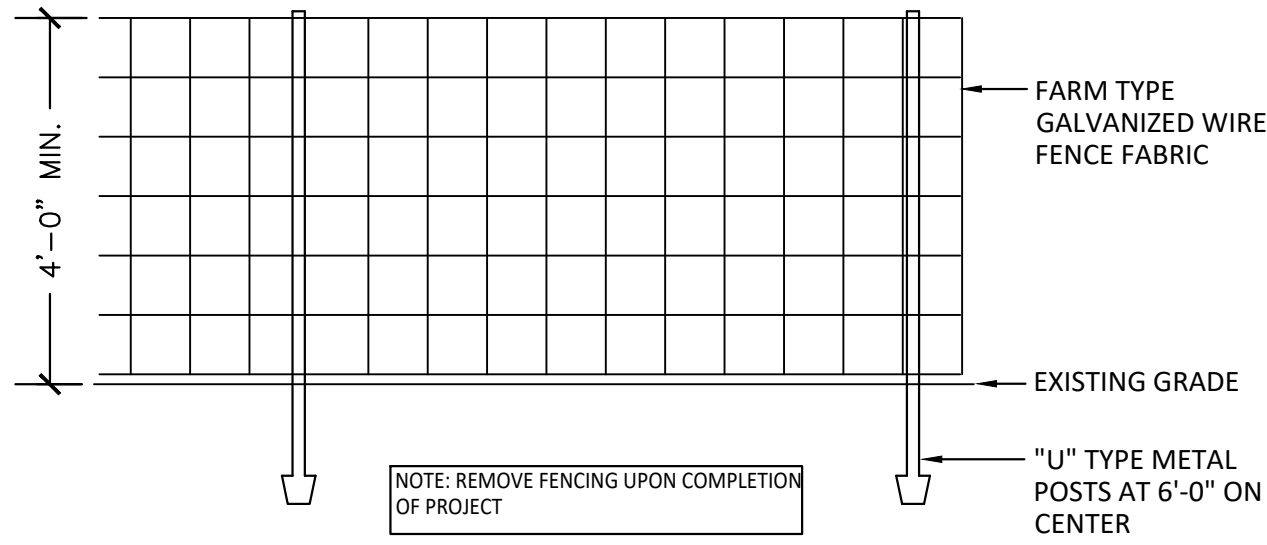
Job No. Sheet No.

052367

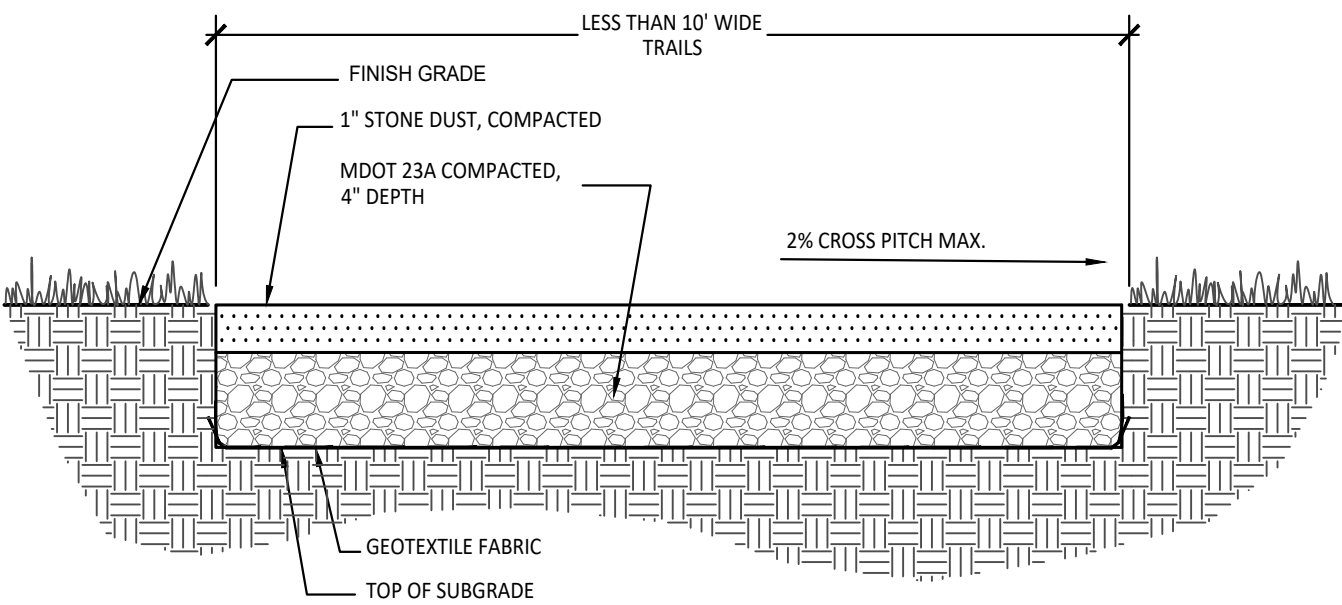
C4.0



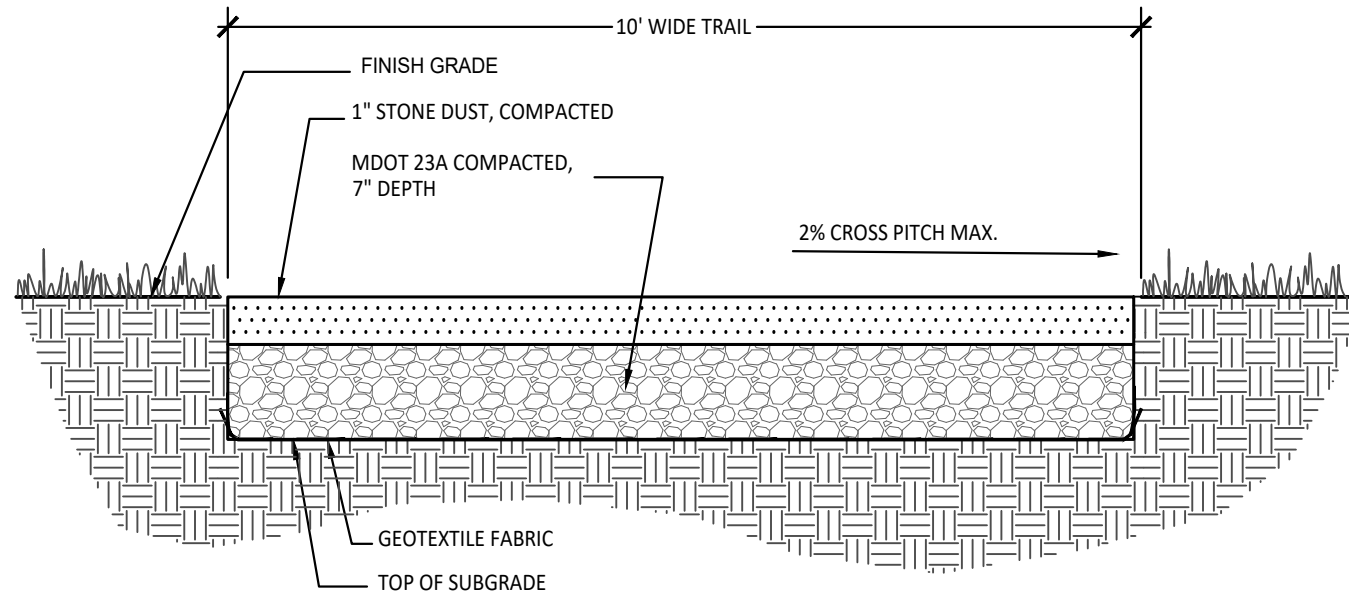
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NOT TO SCALE



4 Tree Protection Fencing
NOT TO SCALE

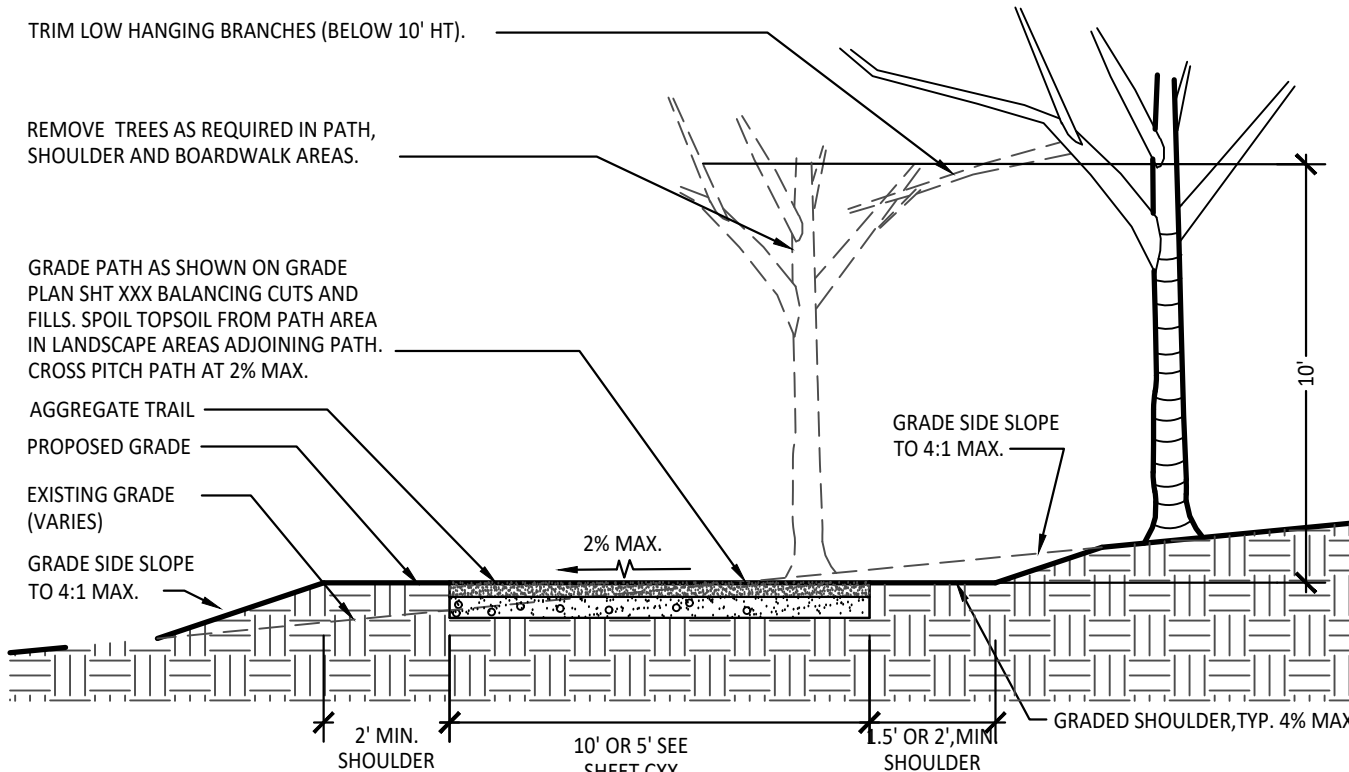


Section Detail



Section Detail

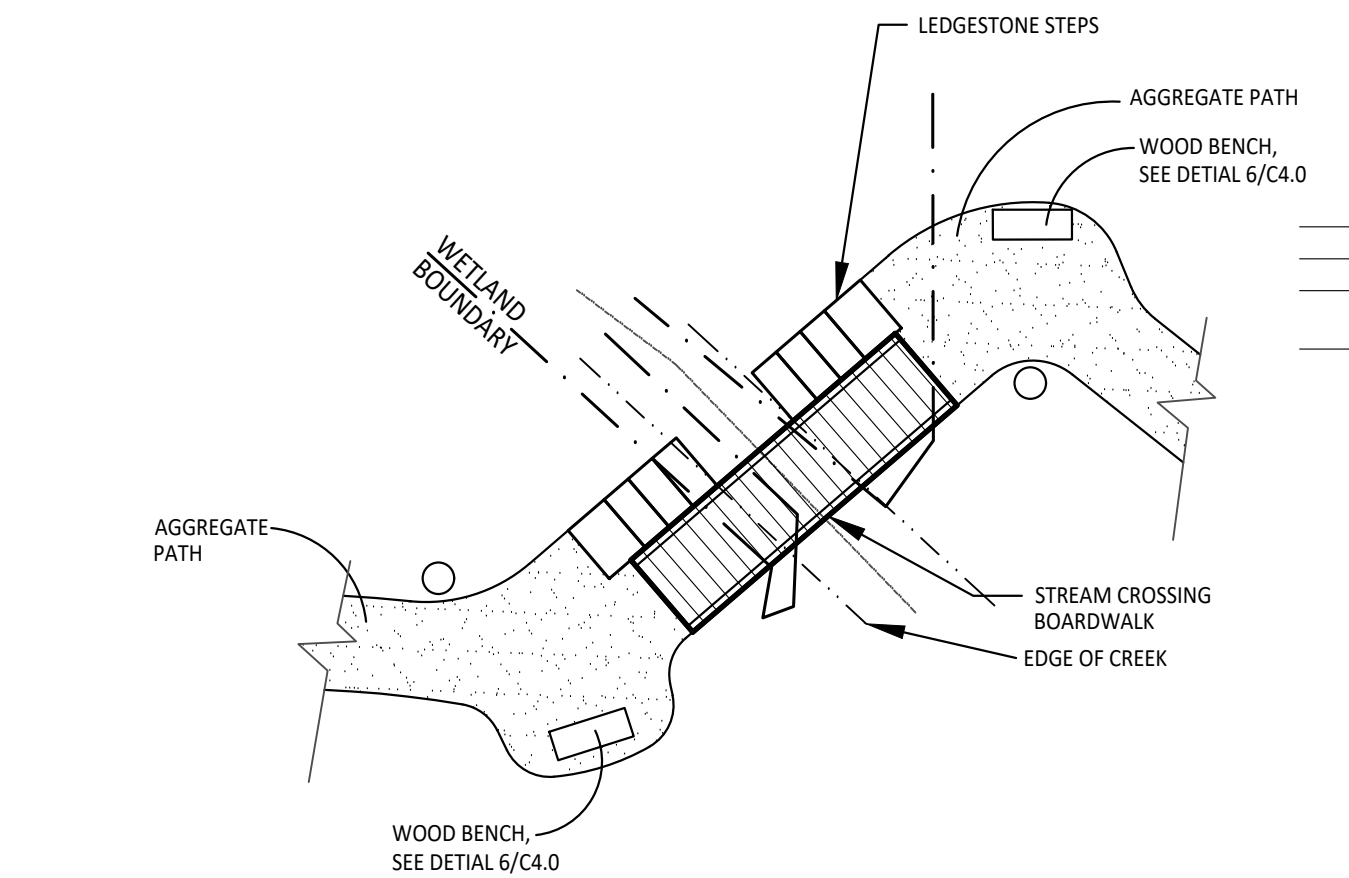
5 10' Wide Aggregate Trail
NOT TO SCALE



Section - Typical

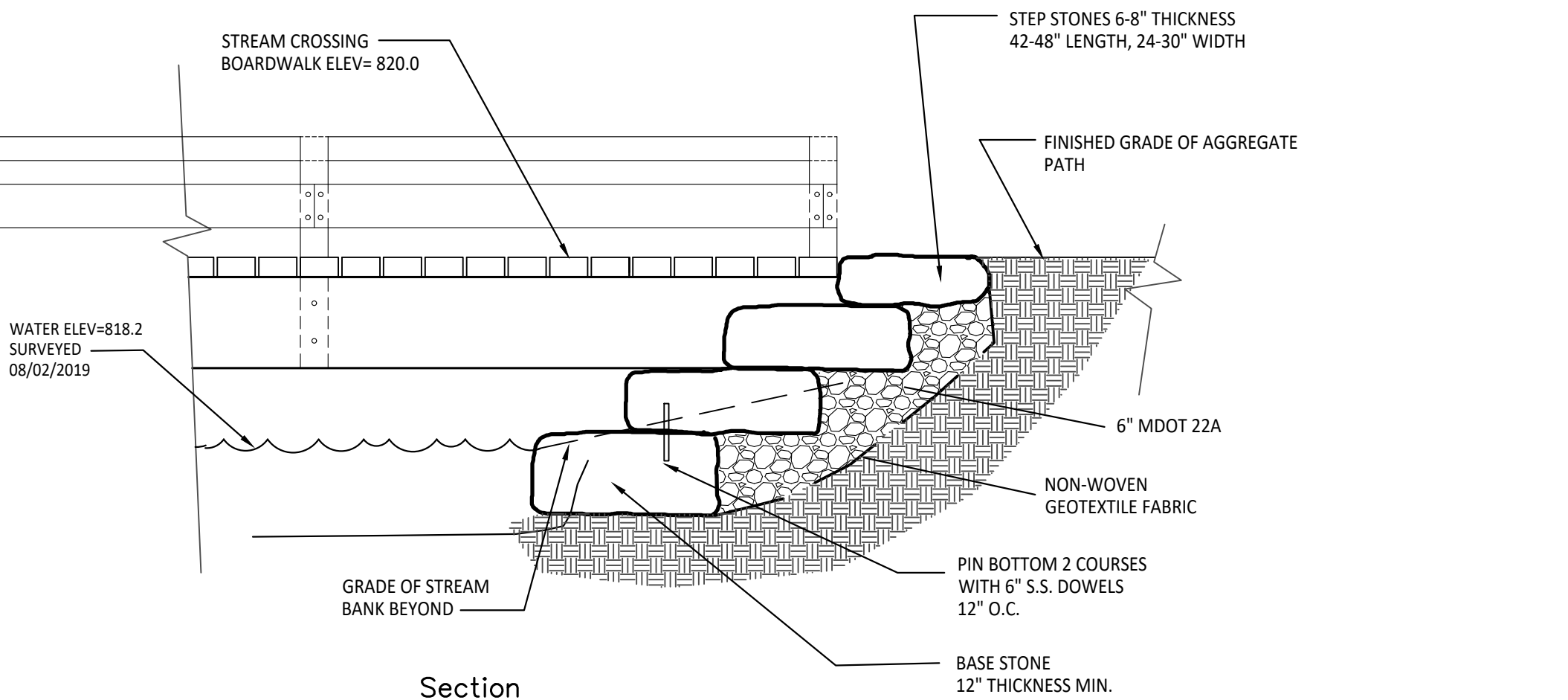
2 Aggregate Trail
NOT TO SCALE

6 Bench on Aggregate Trail
NOT TO SCALE

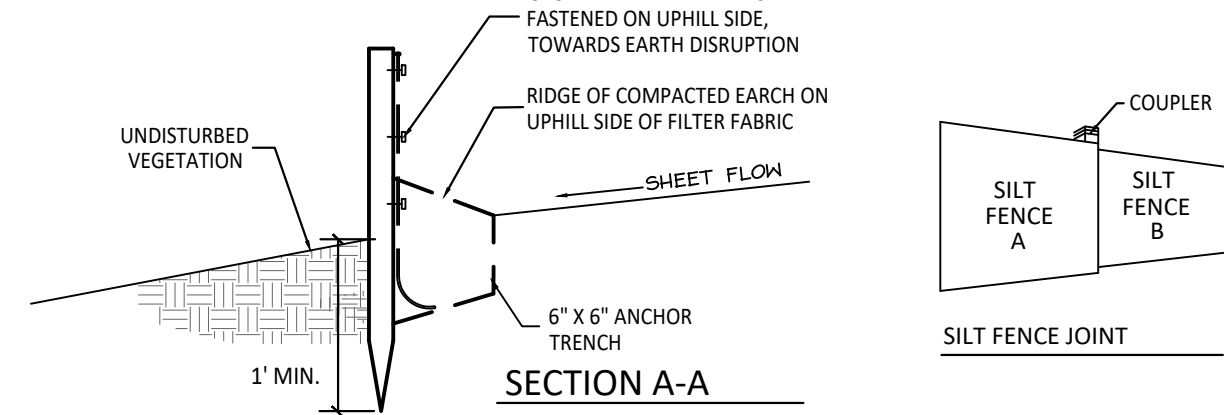
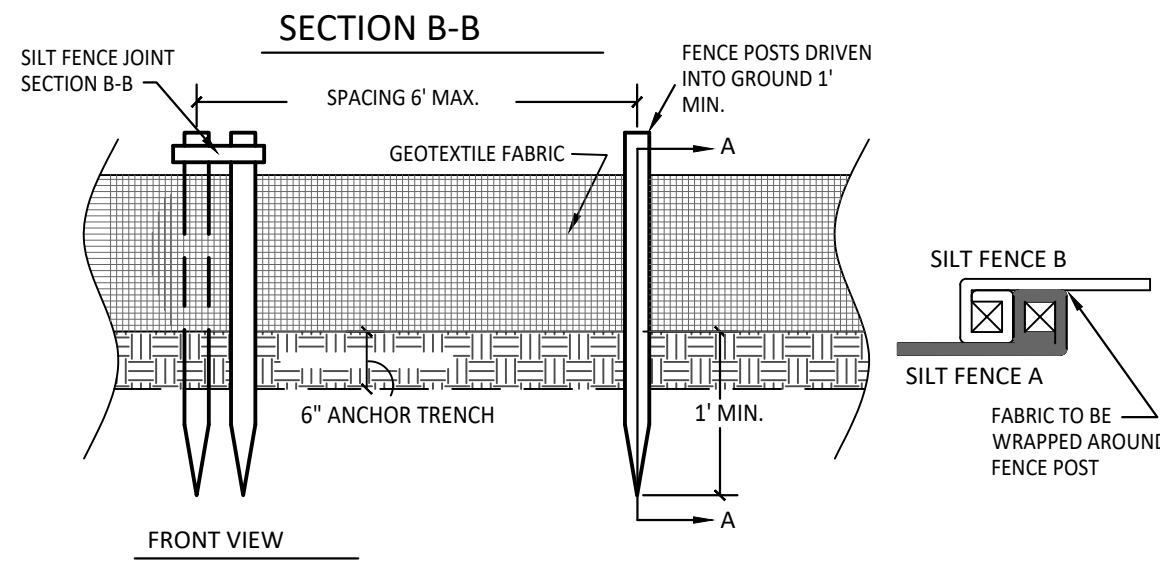


Plan
NOT TO SCALE

3 Ledge stone Steps
NOT TO SCALE



Section
NOT TO SCALE



7 Silt Fence Detail
NOT TO SCALE



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BE 24"x36" WHEN PLOTTED.
SCALE(S) INDICATED AND
GRAPHIC QUALITY MAY NOT
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OTHER SIZES.

Issued For: Date

NFP REVIEW 05-14-2024

Project:

**BOW IN THE CLOUDS
SWMLC
PHASE 2
IMPROVEMENTS**

KALAMAZOO, MI

Sheet Title

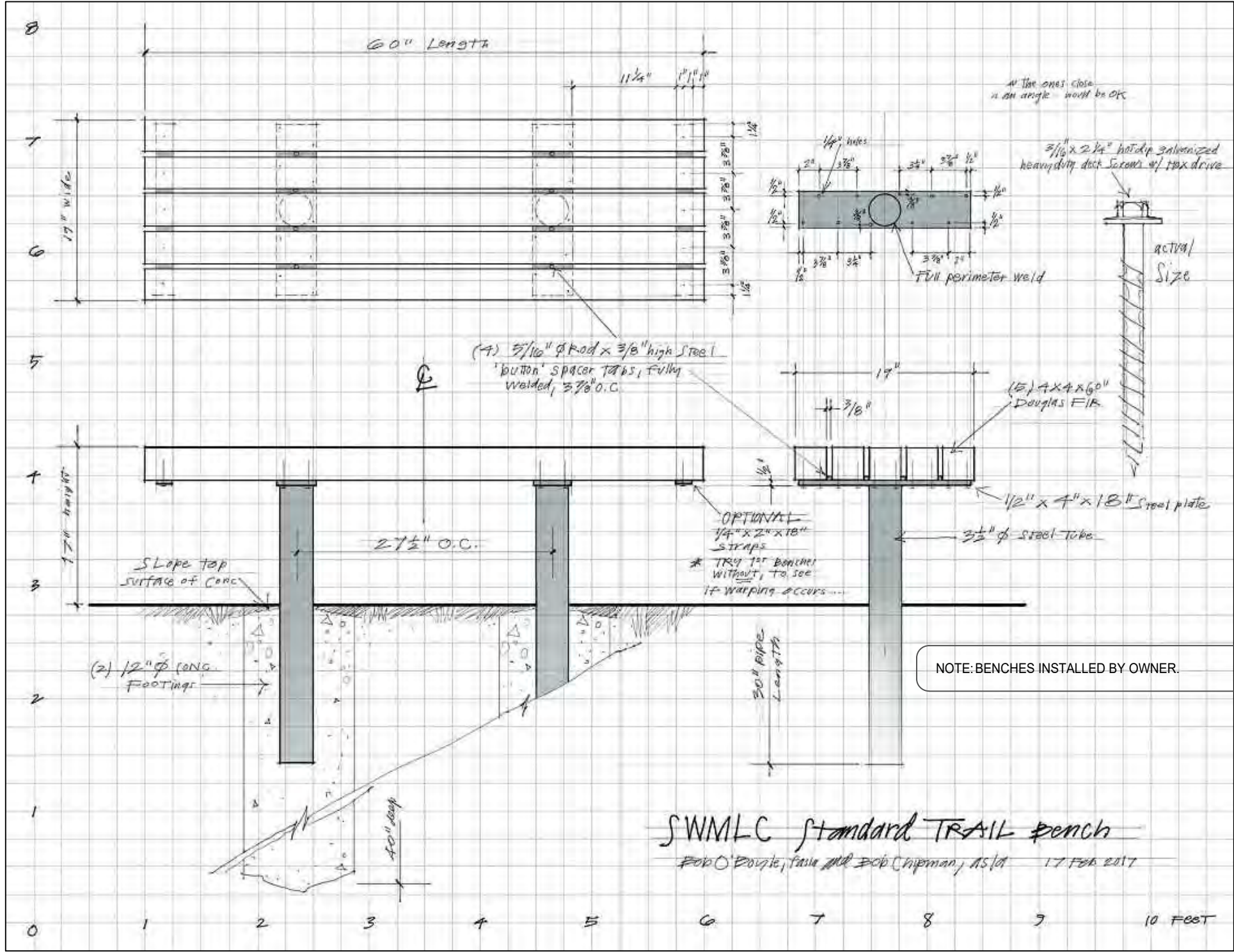
SITE DETAILS

Job No.

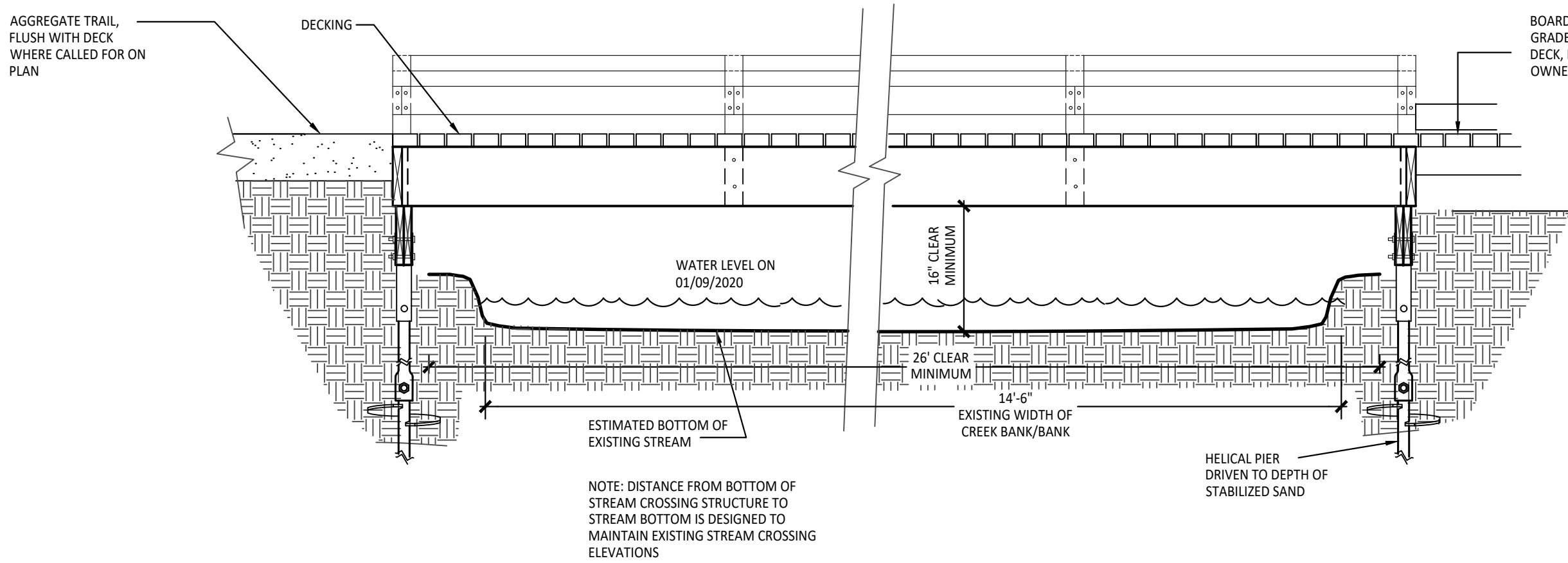
Sheet No.

052367

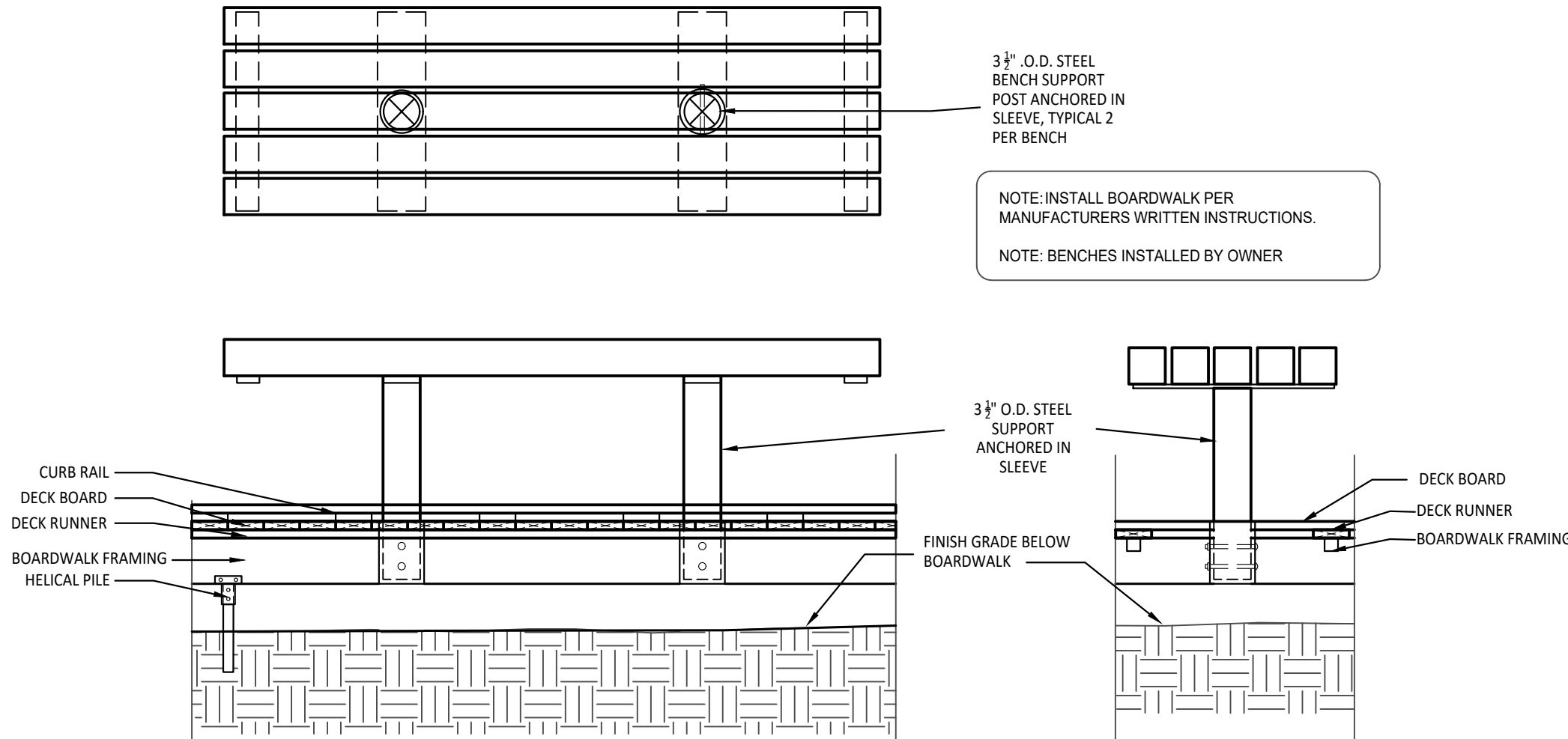
C4.1



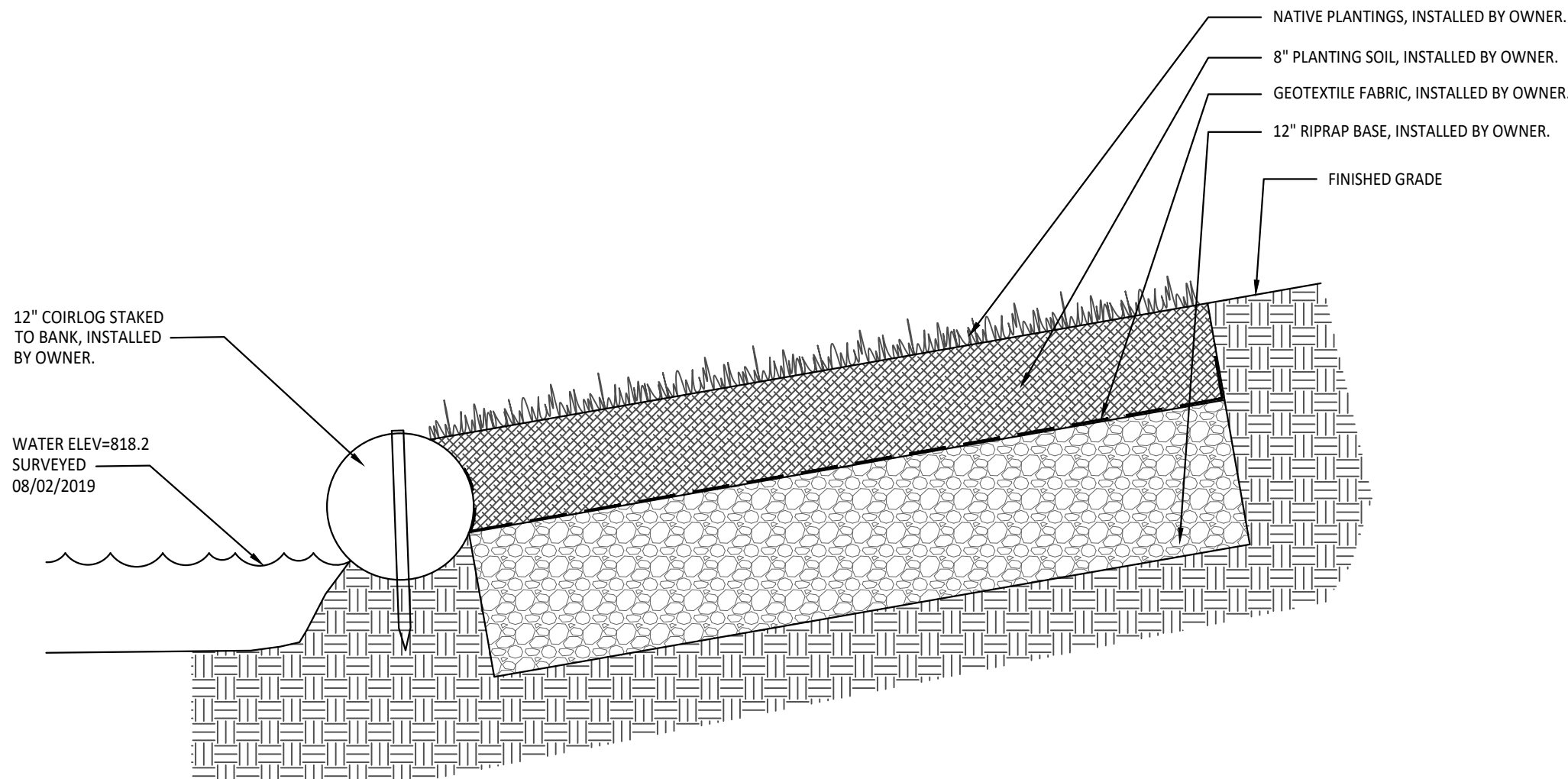
1 Wood Bench
NOT TO SCALE



2 Stream Crossing Boardwalk Section
NOT TO SCALE



3 Bench on Boardwalk - Typical
NOT TO SCALE



4 Shoreline Stabilization
NOT TO SCALE



**MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
WATER RESOURCES DIVISION
PERMIT**

Issued To:

**Mitch Lettow
Southwest Michigan Land Conservancy
8395 E. Main St.
Galesburg, MI 49053**

**Permit No: WRP024430 v.1
Submission No.: HNZ-WXA1-2H29M
Site Name: SWMLC-Bow in the Clouds WRP-Kalamazoo: 13-39-0036-P
Issued: August 24, 2020
Revised:
Expires: August 24, 2025**

This permit is being issued by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division, under the provisions of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); specifically:

- | | |
|--|--|
| ☒ Part 301, Inland Lakes and Streams | ☐ Part 323, Shorelands Protection and Management |
| ☒ Part 303, Wetlands Protection | ☐ Part 325, Great Lakes Submerged Lands |
| ☐ Part 315, Dam Safety | ☐ Part 353, Sand Dunes Protection and Management |
| ☒ Part 31, Water Resources Protection (Floodplain Regulatory Authority) | |

Permission is hereby granted, based on permittee assurance of adherence to State of Michigan requirements and permit conditions, to:

Authorized Activity:

Replace 2 existing clear span footbridges and part of an on-grade boardwalk and install new universal access boardwalk and seating areas over wetland which connect to new upland trails. On-grade boardwalk shall impact approximately 0.07 acre of emergent wetland, and measure approximately 560 feet long and 6 feet wide. Three diamond shaped seating areas shall be constructed along the boardwalk, each measuring approximately 12 feet per side. Two timber clear-span bridges shall each measure approximately 18 feet along the stream, and 6 feet in width, and include removal of two existing narrower bridges. Installation of stone steps at stream crossing #1 shall also include removal and replacement of approximately 1 cubic yard of floodplain wetland with new stone steps at each end of the new bridge. All work shall be in accordance with the attached plans and permit specifications.

Waterbody Affected: Spring Valley Creek and wetlands
Property Location: Kalamazoo County, City of Kalamazoo, Town/Range/Section 02S11W01
Property Tax No. 06-01-407-001

Authority granted by this permit is subject to the following limitations:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this permit.
- B. The permittee, in exercising the authority granted by this permit, shall not cause unlawful pollution as defined by Part 31 of the NREPA.
- C. This permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the approved plans and specifications submitted with the application and/or plans and specifications attached to this permit.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of this permit that the permittee give notice to public utilities in accordance with 2013 PA 174 (Act 174) and comply with each of the requirements of Act 174.
- G. This permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights, nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. This permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his rights.
- I. Permittee shall notify EGLE within one week after the completion of the activity authorized by this permit by completing and forwarding the attached preaddressed postcard to the office addressed thereon.
- J. This permit shall not be assigned or transferred without the written approval of EGLE.
- K. Failure to comply with conditions of this permit may subject the permittee to revocation of permit and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. All dredged or excavated materials shall be disposed of in an upland site (outside of floodplains, unless exempt under Part 31 of the NREPA, and wetlands).
- M. In issuing this permit, EGLE has relied on the information and data that the permittee has provided in connection with the submitted application for permit. If, subsequent to the issuance of a permit, such information and data prove to be false, incomplete, or inaccurate, EGLE may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- N. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representative of the permittee, undertaken in connection with this permit. The permittee's obligation to indemnify the State of Michigan applies only if the state: (1) provides the permittee or its designated representative written notice of the claim or cause of action within 30 days after it is received by the state, and (2) consents to the permittee's participation in the proceeding on the claim or cause of action. It does not apply to contested case proceedings under the Administrative Procedures Act, 1969 PA 306, as amended, challenging the permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- O. Noncompliance with these terms and conditions and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, EGLE may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- P. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from EGLE. Such revision request shall include complete

documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by EGLE prior to being implemented.

- Q. This permit may be transferred to another person upon written approval of EGLE. The permittee must submit a written request to EGLE to transfer the permit to the new owner. The new owner must also submit a written request to EGLE to accept transfer. The new owner must agree, in writing, to accept all conditions of the permit. A single letter signed by both parties that includes all the above information may be provided to EGLE. EGLE will review the request and, if approved, will provide written notification to the new owner.
- R. Prior to initiating permitted construction, the permittee is required to provide a copy of the permit to the contractor(s) for review. The property owner, contractor(s), and any agent involved in exercising the permit are held responsible to ensure that the project is constructed in accordance with all drawings and specifications. The contractor is required to provide a copy of the permit to all subcontractors doing work authorized by the permit.
- S. Construction must be undertaken and completed during the dry period of the wetland. If the area does not dry out, construction shall be done on equipment mats to prevent compaction of the soil.
- T. Authority granted by this permit does not waive permit requirements under Part 91, Soil Erosion and Sedimentation Control, of the NREPA, or the need to acquire applicable permits from the County Enforcing Agent (CEA).
- U. Authority granted by this permit does not waive permit requirements under the authority of Part 305, Natural Rivers, of the NREPA. A Natural Rivers Zoning Permit may be required for construction, land alteration, streambank stabilization, or vegetation removal along or near a natural river.
- V. The permittee is cautioned that grade changes resulting in increased runoff onto adjacent property is subject to civil damage litigation.
- W. Unless specifically stated in this permit, construction pads, haul roads, temporary structures, or other structural appurtenances to be placed in a wetland or on bottomland of the water body are not authorized and shall not be constructed unless authorized by a separate permit or permit revision granted in accordance with the applicable law.
- X. For projects with potential impacts to fish spawning or migration, no work shall occur within fish spawning or migration timelines (i.e., windows) unless otherwise approved in writing by the Michigan Department of Natural Resources (MDNR), Fisheries Division.
- Y. Work to be done under authority of this permit is further subject to the following special instructions and specifications:
1. Authority granted by this permit does not waive permit or program requirements under Part 91 of the NREPA or the need to acquire applicable permits from the CEA. To locate the Soil Erosion Program Administrator for your county, visit https://www.michigan.gov/documents/deq/wrd-sesc-agency-list_539870_7.pdf
 2. The authority to conduct the activity as authorized by this permit is granted solely under the provisions of the governing act as identified above. This permit does not convey, provide, or otherwise imply approval of any other governing act, ordinance, or regulation, nor does it waive the permittee's obligation to acquire any local, county, state, or federal approval or authorization necessary to conduct the activity.
 3. No fill, excess soil, or other material shall be placed in any wetland, floodplain, or surface water area not specifically authorized by this permit, its plans, and specifications.
 4. This permit does not authorize or sanction work that has been completed in violation of applicable federal, state, or local statutes.
 5. The permit placard shall be kept posted at the work site in a prominent location at all times for the duration of the project or until permit expiration.

6. This permit is being issued for the maximum time allowed and no extensions of this permit will be granted. Initiation of the construction work authorized by this permit indicates the permittee's acceptance of this condition. The permit, when signed by EGLE, will be for a five-year period beginning on the date of issuance. If the project is not completed by the expiration date, a new permit must be sought.
7. Prior to the initiation of any permitted construction activities, a sedimentation barrier shall be constructed immediately down gradient of each construction site. Sedimentation barriers shall be specifically designed to handle the sediment type, load, water depth, and flow conditions of each construction site throughout the anticipated time of construction and unstable site conditions. The sedimentation barrier shall be maintained in good working order throughout the duration of the project. Upon project completion, the accumulated materials shall be removed and disposed of at an upland (non-wetland, non-floodplain) site and stabilized with seed and mulch. The sedimentation barrier shall then be removed in its entirety and the area restored to its original configuration and cover.
8. All raw areas in uplands resulting from the permitted construction activity shall be effectively stabilized with sod and/or seed and mulch (or other technology specified by this permit or project plans) in a sufficient quantity and manner to prevent erosion and any potential siltation to surface waters or wetlands. Temporary stabilization measures shall be installed before or upon commencement of the permitted activity, and shall be maintained until permanent measures are in place. Permanent measures shall be in place within five (5) days of achieving final grade.
9. All raw earth within 100 feet of a lake, stream, or wetland that is not brought to final stabilization by the end of the active growing season shall be temporarily stabilized with mulch blankets in accordance with the following dates: September 20th for the Upper Peninsula, October 1st for the Lower Peninsula north of US-10, and October 10th for the Lower Peninsula south of US-10.
10. All fill/backfill shall consist of clean inert material that will not cause siltation nor contain soluble chemicals, organic matter, pollutants, or contaminants. All fill shall be contained in such a manner so as not to erode into any surface water, floodplain, or wetland. All raw areas associated with the permitted activity shall be stabilized with sod and/or seed and mulch, riprap, or other technically effective methods as necessary to prevent erosion.
11. If the project, or any portion of the project, is stopped and lies incomplete for any length of time other than that encountered in a normal work week, every precaution shall be taken to protect the incomplete work from erosion, including the placement of temporary gravel bag riprap, temporary seed and mulch, or other acceptable temporary protection.
12. No work shall be done in the stream during periods of above-normal flows except as necessary to prevent erosion.
13. This permit is limited to authorizing the construction as specified above and carries with it no assurances or implications that associated lake, stream, wetland or floodplain areas can be developed and serviced by the structures authorized by this permit.
14. The project is located within a community that participates in the National Flood Insurance Program (NFIP). As a participant in the NFIP, the community must comply with the Michigan Building Code (including Appendix G and listed supporting materials); the Michigan Residential Code; and Title 44 of the Code of Federal Regulations, Part 60, Criteria for Land Management and Use. The community is also responsible to ensure that its floodplain maps and studies are maintained to show changes to flood elevations and flood delineations as described in 44 CFR, Part 65, Identification and Mapping of Special Hazard Areas.
15. All structures constructed within the floodplain or floodway shall be firmly anchored to prevent flotation or lateral movement.
16. Any other filling, grading, or construction within the 100-year floodplain will require a separate EGLE permit before starting the work.

17. No work should be conducted in the water from March 1 through June 30 to protect fish spawning.



Issued By:

Michelle DeLong
Kalamazoo District Office
Water Resources Division

cc: City of Kalamazoo Clerk
Comstock Township Clerk
Kalamazoo County Drain Commissioner
Kalamazoo County Clerk
Kalamazoo CEA
Brad Yocum, Agent
Matthew Diana, MDNR, Fisheries Division



WETLAND DELINEATION REPORT

FOR

**PROPOSED HANDICAP ACCESSIBLE TRAIL
BOW IN THE CLOUDS PRESERVE
KALAMAZOO, MICHIGAN**

DECEMBER 5, 2019

Prepared for:

**Southwest Michigan Land Conservancy
8395 E. Main Street
Galesburg, Michigan 49053**

Prepared by:

**ENVIROLOGIC TECHNOLOGIES, INC.
2960 Interstate Parkway
Kalamazoo, Michigan 49048
(269) 342-1100**

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WETLAND REGULATORY DEFINITIONS	1
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WETLAND HYDROLOGY	2
WETLAND VEGETATION	3
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APPENDICES

APPENDIX A: *Figures*

Figure 1. Location Map

Figure 2. Wetland Delineation

APPENDIX B: *Soil Survey Information*

APPENDIX C: *Published Wetland Maps*

APPENDIX D: *Historic Aerial Photographs*

APPENDIX E: *Preliminary Trail Layout and Topography*

APPENDIX F: *Site Photographs*

APPENDIX G: *Wetland Data Sheets*

INTRODUCTION

Envirologic prepared this report at the request of Mitch Lettow of the Southwest Michigan Land Conservancy for the proposed handicap accessible trail at the Bow in the Clouds Preserve in the City of Kalamazoo Township (Appendix A, Figure 1). The purpose of the investigation was to conduct a wetland delineation to identify and mark the boundary of wetlands in the project area at the property. The Bow in the Clouds Preserve is approximately 56 acres on the west side of Nazareth Road. Spring Valley Creek runs from Stears Lake northeast of the property, across the property, and into Averill Lake. The Southwest Michigan Land Conservancy maintains a small network of trails at Bow in the Clouds for public access including a recently added handicap accessible trail just west of the parking lot. Approximately 2,200 feet of trail and 250 feet of boardwalk exist within the current project area, but these are not handicap accessible. The land conservancy seeks to add 2,200 feet of handicap accessible trail (some of which would replace existing trail), add 515 feet of new boardwalk, and replace two existing bridges. These trail improvements would increase the usability of the preserve for people with disabilities as the current conditions prevent them from safely accessing the area. In addition to providing increased access to the preserve, the proposed trail upgrade and addition would allow the City of Kalamazoo sewer department to access several sanitary sewer manholes on the property for maintenance purposes. No easy access is currently available to these manholes which are on an aging section of sewer.

This report identifies the wetlands within the project boundaries based on Envirologic's understanding of the *1987 US Army Corps of Engineers Wetland Manual* and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* (January 2012). These manuals are used by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for determining wetland boundaries in the majority of the state including the project area. The methodology consisted of the characterization of hydric soils, hydrology, and hydrophytic vegetation.

WETLAND REGULATORY DEFINITIONS

Wetlands require the presence of hydric soils, wetland hydrology, and hydrophytic vegetation.

Hydric soils

Hydric soil indicators, many developed specifically for wetland delineation purposes, are described in the U.S. Army Corps of Engineers' Interim Regional Supplement as well as the *Field*

Indicators of Hydric Soils in the United States (USDA 2018). These soils are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the root zone, thereby influencing the vegetation the area can support. These conditions must generally persist for a minimum of 21 days when soil temperature in the root zone is above freezing. These anaerobic conditions result in permanent changes in soil color and chemistry that are used to distinguish between hydric and non-hydric soils.

Soil colors are described using the Munsell notation system (Munsell 1994), which involves separate notations for hue, value, and chroma. The number for the hue indicates the relation to the colors of the spectrum (i.e., red, yellow, blue, etc.) and is followed by the letter abbreviation for the color. The value notation indicates the relative lightness and ranges from 0 for black to 10 for white. The chroma number indicates the saturation or departure from neutral for the same lightness. Hydric soils can also be identified by iron and manganese reduction or translocation, sulfate reduction, and organic matter accumulation. Soil texture can also influence the hydric soil indicators relied upon for making a determination of the hydric status of a soil. Certain hydric soil indicators may be combined if all requirements of the individual indicators are met except for thickness.

Wetland hydrology

Wetland hydrology is the presence of water for a significant duration at or near the surface within the root zone during the growing season. Wetland hydrology provides evidence that a site has a continuing wetland hydrologic regime and that hydric soils and vegetation are not remnants of historical hydrologic conditions. Hydrology is controlled by seasonal and long-term precipitation patterns, local geology, and topography. Some hydrology indicators are seasonal, such as visual observations of flooding, ponding, or shallow water tables. The four main groups of hydrology indicators include (1) observation of surface water or saturated soils, (2) evidence of recent inundation, (3) evidence of current or recent soil saturation, and (4) evidence from other site conditions or data. These main groups are further separated into primary and secondary categories. Examples of primary indicators include inundation, soil saturation or a water table within the upper 12 inches of the soil, and water-stained leaves. Secondary indicators include drainage patterns, dry season water table between 12 and 24 inches of the soil surface, geomorphic position, and shallow aquitard.



Wetland vegetation

Wetland or hydrophytic vegetation is defined as those plants occurring in areas where inundation or soil saturation is permanent or of sufficient frequency and duration such that it exerts an influence on the presence of plants species. The wetland indicator status assigned to a plant species is based on the estimated probability that each species occurs in wetland conditions within a given region. The indicator categories are:

OBL = obligate wetland, occurs almost always (estimated probability 99%) under natural conditions in wetlands

FACW = facultative wetland, usually occurs in wetlands (estimated probability 67–99%) but occasionally found in non-wetlands

FAC = facultative, equally likely to occur in wetlands or non-wetlands (estimated probability 34–66%)

FACU = facultative upland, usually occurs in non-wetlands (estimated probability 67–99%) but occasionally found on wetlands (estimated probability 1–33%)

NI = no indicator, insufficient information available to determine an indicator status

Three vegetation strata (i.e., trees, saplings and shrubs, and herbaceous) are normally characterized, although not all three are always present at a wetland. The percentage of the dominant wetland species in each of the vegetation strata in the sample area determines the hydrophytic status of the plant community.

The four indicators of the presence of hydrophytic vegetation used in a stepwise fashion are: the Rapid Test for Hydrophytic Vegetation, the Dominance Test, the Prevalence Test, and Morphological Adaptions. The first three indicators rely upon some measure of the absolute percent cover of the dominant species in all three vegetation strata. Dominant species are those that account for more than 50% of the total coverage in a given stratum plus any species that, by itself, accounts for at least 20% of the total coverage. If the requirements are not met, the next indicator test is applied.

INITIAL DATA SOURCES

Prior to conducting the fieldwork, the west site and east site were examined using various sources, which include:

- U.S. Geologic Survey's (USGS) Kalamazoo, Michigan, topographic quadrangle map (1995)

- U.S. Department of Agriculture's (USDA) Web Soil Survey (accessed October 31, 2019; <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>)
- U.S. Fish and Wildlife Service's (USFWS) National Wetland Inventory (NWI) map (accessed October 31, 2019; <http://www.fws.gov/wetlands/Data/Mapper.html>)
- EGLE Final Wetland Inventory map (accessed October 31, 2019; <http://www.mcgi.state.mi.us/wetlands/mapBasic.aspx>)
- Various digital aerial photographs from 1938 to 2018 available from the Kalamazoo County Conservation District, USDA Soil Survey, as well as those on Google Earth, Bing Maps, and the Kalamazoo County GIS Viewer
- Preliminary trail layout including a topographic survey provided by O'Boyle, Cowell, Blalock & Associates (OCBA) for the project area

The USGS topographic map shows wetland and waterbody symbols on or along the areas considered part of the project site. According to the USDA Soil Survey, the soils within these wetlands at the project sites are classified as Houghton and Sebewa soils that are ponded. Houghton muck is a deep organic soil layer entirely hydric where it is found while Sebewa soils are very poorly drained loam and very frequently meet the criteria for a hydric soil (Appendix B). Soils surrounding the wetland and situated in a higher position on the landscape are Oshtemo sandy loams (6–18% slopes) and Urban land-Kalamazoo complex (0–12% slopes) that are also commonly loam, but neither of these soil types are considered a hydric soil.

The EGLE final wetland inventory map is consistent with the NWI map. The NWI map shows an area of palustrine emergent wetland (PEM1C) along the creek and at the toe of the slope south of the ridge where the handicap trails currently exist. This wetland type is seasonally flooded. The remainder of the wetland south of the ridge is palustrine deciduous scrub-shrub wetland that is also seasonally flooded. Spring Valley Creek, a perennial riverine wetland, is the only other wetland depicted on the NWI map within the project area and extends all the way upstream from the aforementioned wetland to Nazareth Road. The NWI Maps and EGLE Final Wetland Inventory Maps for the project area are provided in Appendix C.

The 1938 aerial photo shows a farmstead at the bend in Nazareth Road where the current parking lot is and several ditches across the wetland south and southwest of there, but Spring Valley Creek is not large enough to be visible north and west of the farmstead. The 1960 and 1967 aeriels show a slight increase in shrub cover in parts of the wetland but no other significant changes to the wetland were evident. The topographic survey provided by OCBA shows one

remaining barn from the farmstead and a series of five sanitary sewer manhole covers for the sewer line extending from Nazareth Road west across the project area. The aerial photo provided in the print version of the soil survey shows a bright stripe of bare soil that appears to correspond to the location of the sanitary sewer across the project area. The same feature is apparent on the 1974 aerial photo from the Kalamazoo County Conservation District. The historic aerial photos are provided in Appendix D, and the Preliminary Trail Layout with the current topography as surveyed is provided in Appendix E.

FIELD INVESTIGATION

Brad Yocum, Project Biologist for Envirologic, conducted the site visits on November 22 and 25, 2019, for an inspection and delineation of wetlands within or along the project boundaries. Weather conditions consisted of partly to mostly cloudy skies with temperatures in the 30s °F. Precipitation for the year-to-date has been about 8 to 12 inches above average.

A general reconnaissance of the property shows the ridge where the existing handicap accessible trail lies about 30 feet above the wetland shown on the NWI map. A narrow dirt path leads downhill from the ridge to the first bridge that is proposed to be replaced across the creek. The narrow dirt path continues around the west side of the wetland depicted on the NWI map. Plots 1 and 2 near the west edge of the project area were established to delineate the wetland boundary in this area. Saturated soil at the surface and obligate or facultative wet vegetation dominating the area were obvious. A sixth sewer manhole cover was found at the very west edge of the project area and the toe of a slope up a steep hill on the northwest part of the project area. The wetland extends northeast to the first bridge and roughly corresponds with an approximate elevation of 820 feet on the topo survey provided by OCBA.

The trail becomes a boardwalk across the wetland from the end of the narrow dirt path near Plots 1 and 2 to the second bridge that will be replaced. The boardwalk continues meandering south across the wetland and out of the project area. A short distance southeast of this bridge, the proposed boardwalk would extend north across the wetland to a low ridge identified just east of the creek. This low ridge extends approximately 200 feet further northeast from the area around manhole #5 to the first bridge and manhole #4. Additional investigation of the low ridge was conducted at Plot 3. Due to the site visit outside of the growing season, all of the vegetation coverage estimates are best approximations of the absolute cover of the vegetation as if it were conducted during the growing season.

Plot 4 was installed just upstream from the first bridge in a flat terrace along Spring Valley Creek. This area had saturated soil just 9 inches below the ground surface and a water table at 18 inches deep. Loamy soil at the surface met the criteria for Redox Dark Surface based on the prominent redox features observed in the soil matrix. Several small flat terraces along Spring Valley Creek were also observed upstream from this location and flagged as wetland but were not investigated in detail because the soil type, hydrology, and vegetation were all very similar to the area of Plot 4. None of these areas appear to be impacted by the proposed trail layout, but some portions of the trail come close to the wetland boundary.

The wetland boundaries were delineated using neon pink plastic flagging or pin flags bearing the printed words “wetland delineation.” The position of each wetland delineation flag was recorded using a Trimble Global Positioning System (GPS) unit. Not all wetland types within the wetland boundary were delineated, but wetland classification according to the *Classification of Wetlands and Deepwater Habitats of the United States System* (Cowardin et al 1979) was noted. Appendix F contains photos of representative areas from the project area taken during the site inspection. These photos are intended only to provide visual information about the project area and the wetland features. The wetland data sheets completed during the site inspection provide written documentation supporting the designation as wetland and are presented in Appendix G.

RESULTS

Multiple wetland areas were identified in the area investigated. Hydric soils were generally consistent with the soil survey and obligate or facultative wetland plants were readily identified in the areas mapped as wetlands on the NWI and EGLE wetland maps (Figure 2, Appendix A). The main wetland is approximately 4.4 acres within the project area. Portions of the main body of the large wetland have had conservation work done to remove invasive shrubs such as glossy buckthorn (*Frangula alnus*) and common buckthorn (*Rhamnus cathartica*). Stubs of these shrubs were treated with herbicide to prevent resprouting, and many dead stubs remain. Much of the wetland has also had prescribed burning to reduce the invasive shrub coverage and stimulate resprouting and germination of native wetland plants. The vegetation appears to be very diverse with herbaceous plant including a sedge (*Carex aquatilis*) and bluejoint grass (*Calamagrostis canadensis*) being dominant in parts along with broadleaf cattail (*Typha latifolia*) in others. Some shrubs including silky dogwood (*Cornus amomum*) and glossy buckthorn are more dominant in other areas. The muck soil was flooded in small areas and saturated at the soil surface across the main wetland area. This wetland is considered a fen, a rare type of wetland, but has been impacted by historic agricultural use including artificial drainage.

Smaller wetland areas on low terraces along Spring Valley Creek were also identified and delineated. These areas total approximately 0.4 acres. These small wetland areas have dark mineral soil with redox features indicative of hydric conditions and herbaceous or shrubby wetland vegetation beneath a tree canopy largely provided by nearby trees in upland areas. Some invasive shrub removal has also occurred along the creek near these wetlands but not to the extent that it has in the main wetland.

All of the wetlands identified in the project area would be considered regulated by EGLE because the size is greater than 5 acres and/or adjacent to Spring Valley Creek. A permit from EGLE is required for the proposed project. Southwest Michigan Land Conservancy is aware that fens can support rare and threatened/endangered plants, and careful selection of the final boardwalk path through the fen should avoid such areas.



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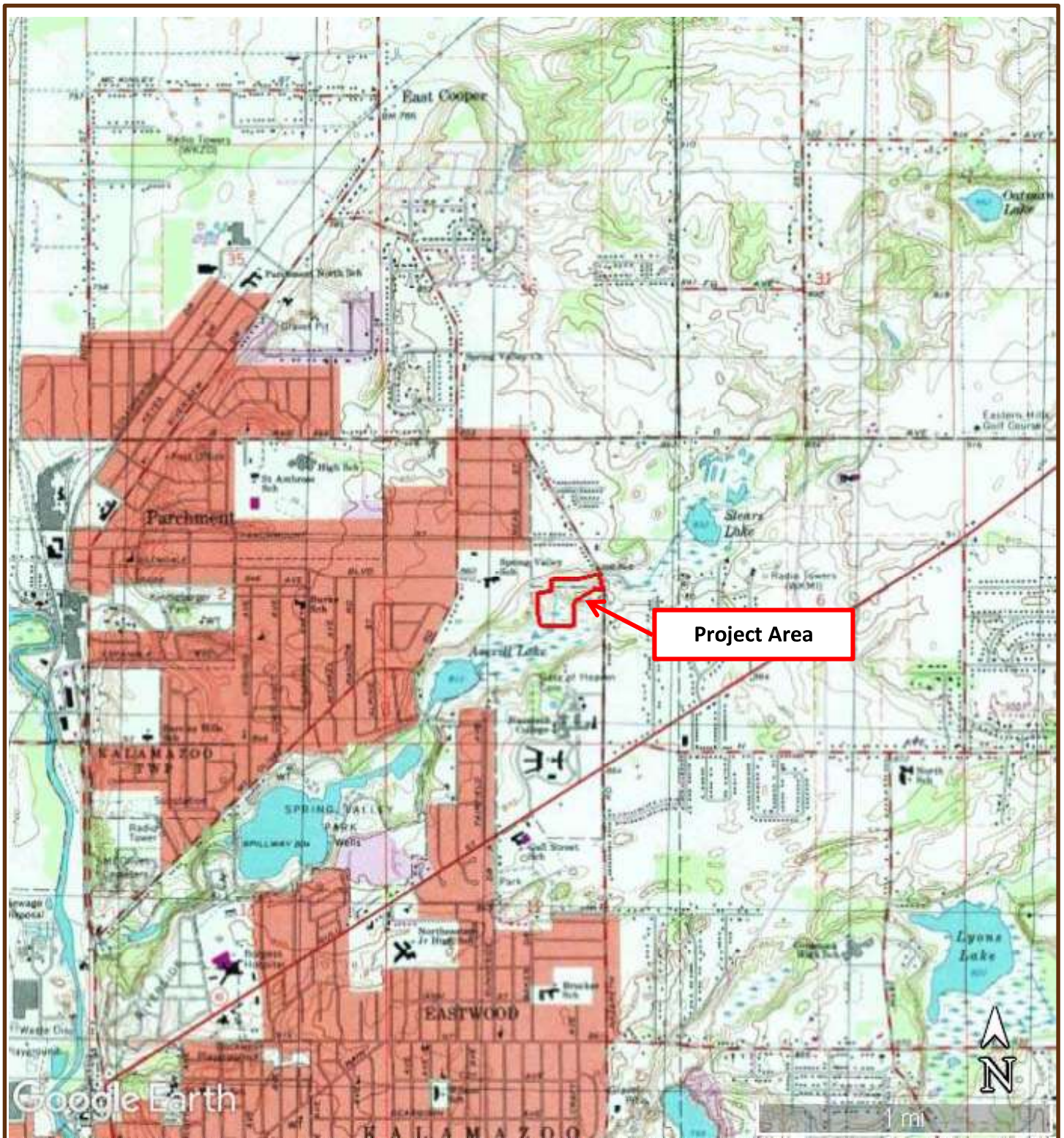
APPENDIX A

FIGURES

Figure 1. Location Map

Figure 2. Wetland Delineation





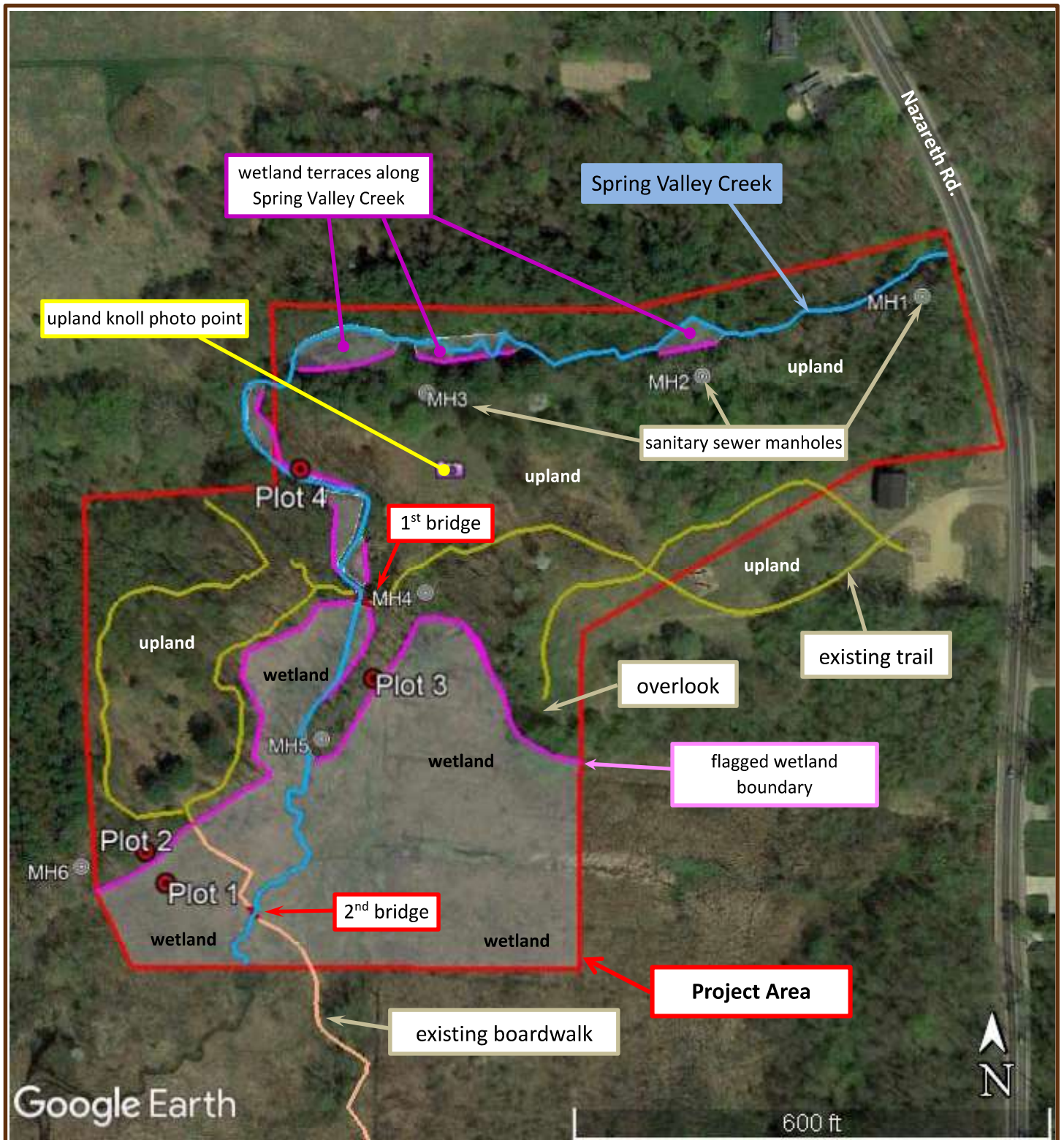
2960 Interstate Parkway | Kalamazoo, MI 49048
 P 269.342.1100 | F 269.342.4945 | W envirollogic.com

PROPOSED HANDICAP ACCESSIBLE TRAIL BOW IN THE CLOUDS PRESERVE Kalamazoo, Michigan LOCATION MAP

Kalamazoo County T2S, R11 W, Sec 1

Project No.
190230

1

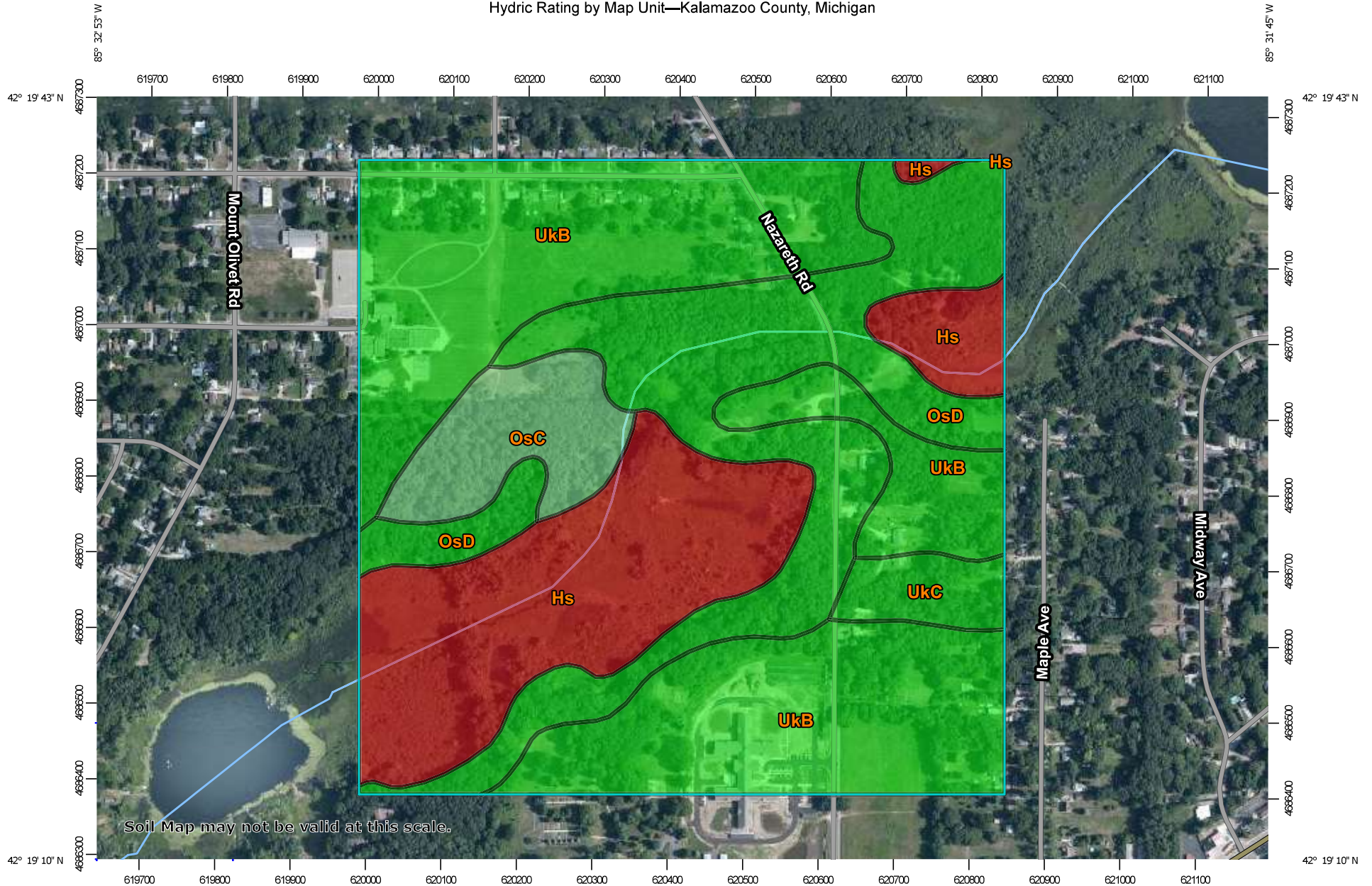


APPENDIX B

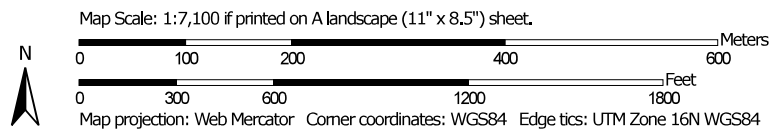
SOIL SURVEY INFORMATION



Hydric Rating by Map Unit—Kalamazoo County, Michigan



Soil Map may not be valid at this scale.



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

Soil Rating Polygons

 Hydric (100%)
 Hydric (66 to 99%)
 Hydric (33 to 65%)
 Hydric (1 to 32%)
 Not Hydric (0%)
 Not rated or not available

Soil Rating Lines

 Hydric (100%)
 Hydric (66 to 99%)
 Hydric (33 to 65%)
 Hydric (1 to 32%)
 Not Hydric (0%)
 Not rated or not available

Soil Rating Points

 Hydric (100%)
 Hydric (66 to 99%)
 Hydric (33 to 65%)
 Hydric (1 to 32%)
 Not Hydric (0%)
 Not rated or not available

Water Features

 Streams and Canals

Transportation

 Rails
 Interstate Highways
 US Routes
 Major Roads
 Local Roads

Background

 Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:15,800.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Kalamazoo County, Michigan

Survey Area Data: Version 14, Sep 16, 2019

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 5, 2018—Sep 4, 2018

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydric Rating by Map Unit

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
Hs	Houghton and Sebewa soils, ponded	100	40.0	22.5%
OsC	Oshtemo sandy loam, 6 to 12 percent slopes	1	11.6	6.5%
OsD	Oshtemo sandy loam, 12 to 18 percent slopes	0	44.6	25.1%
UkB	Urban land-Kalamazoo complex, 0 to 6 percent slopes	0	76.9	43.2%
UkC	Urban land-Kalamazoo complex, 6 to 12 percent slopes	0	4.8	2.7%
Totals for Area of Interest			177.9	100.0%

Description

This rating indicates the percentage of map units that meets the criteria for hydric soils. Map units are composed of one or more map unit components or soil types, each of which is rated as hydric soil or not hydric. Map units that are made up dominantly of hydric soils may have small areas of minor nonhydric components in the higher positions on the landform, and map units that are made up dominantly of nonhydric soils may have small areas of minor hydric components in the lower positions on the landform. Each map unit is rated based on its respective components and the percentage of each component within the map unit.

The thematic map is color coded based on the composition of hydric components. The five color classes are separated as 100 percent hydric components, 66 to 99 percent hydric components, 33 to 65 percent hydric components, 1 to 32 percent hydric components, and less than one percent hydric components.

In Web Soil Survey, the Summary by Map Unit table that is displayed below the map pane contains a column named 'Rating'. In this column the percentage of each map unit that is classified as hydric is displayed.

Hydric soils are defined by the National Technical Committee for Hydric Soils (NTCHS) as soils that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (Federal Register, 1994). Under natural conditions, these soils are either saturated or inundated long enough during the growing season to support the growth and reproduction of hydrophytic vegetation.

The NTCHS definition identifies general soil properties that are associated with wetness. In order to determine whether a specific soil is a hydric soil or nonhydric soil, however, more specific information, such as information about the depth and duration of the water table, is needed. Thus, criteria that identify those estimated soil properties unique to hydric soils have been established (Federal Register, 2002). These criteria are used to identify map unit components that normally are associated with wetlands. The criteria used are selected estimated soil properties that are described in "Soil Taxonomy" (Soil Survey Staff, 1999) and "Keys to Soil Taxonomy" (Soil Survey Staff, 2006) and in the "Soil Survey Manual" (Soil Survey Division Staff, 1993).

If soils are wet enough for a long enough period of time to be considered hydric, they should exhibit certain properties that can be easily observed in the field. These visible properties are indicators of hydric soils. The indicators used to make onsite determinations of hydric soils are specified in "Field Indicators of Hydric Soils in the United States" (Hurt and Vasilas, 2006).

References:

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Rating Options

Aggregation Method: Percent Present

Component Percent Cutoff: None Specified

Tie-break Rule: Lower

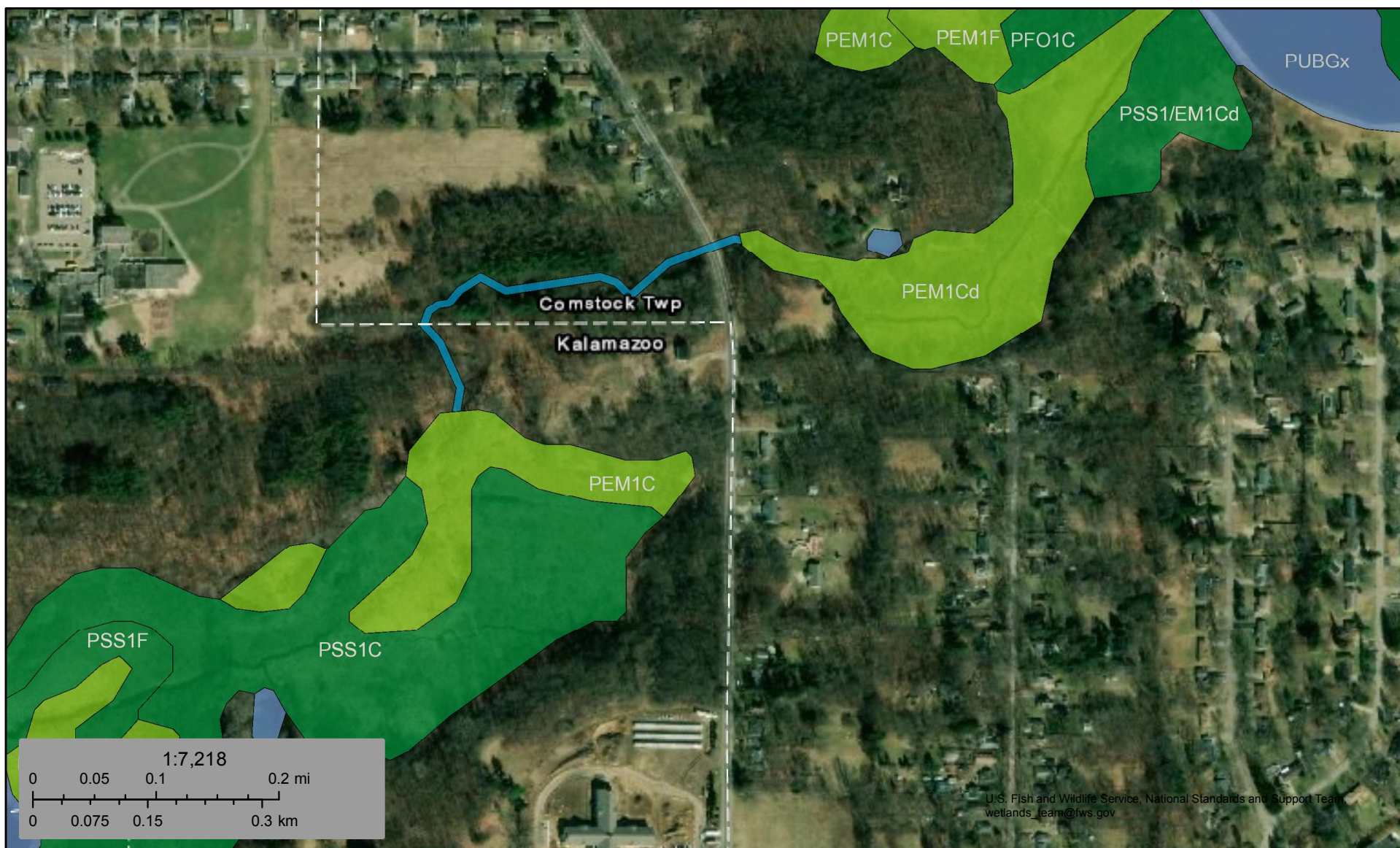
APPENDIX C

PUBLISHED WETLAND MAPS





Bow in the Clouds



October 31, 2019

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland

- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond

- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

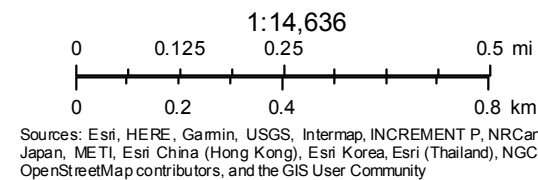
Wetlands Map Viewer

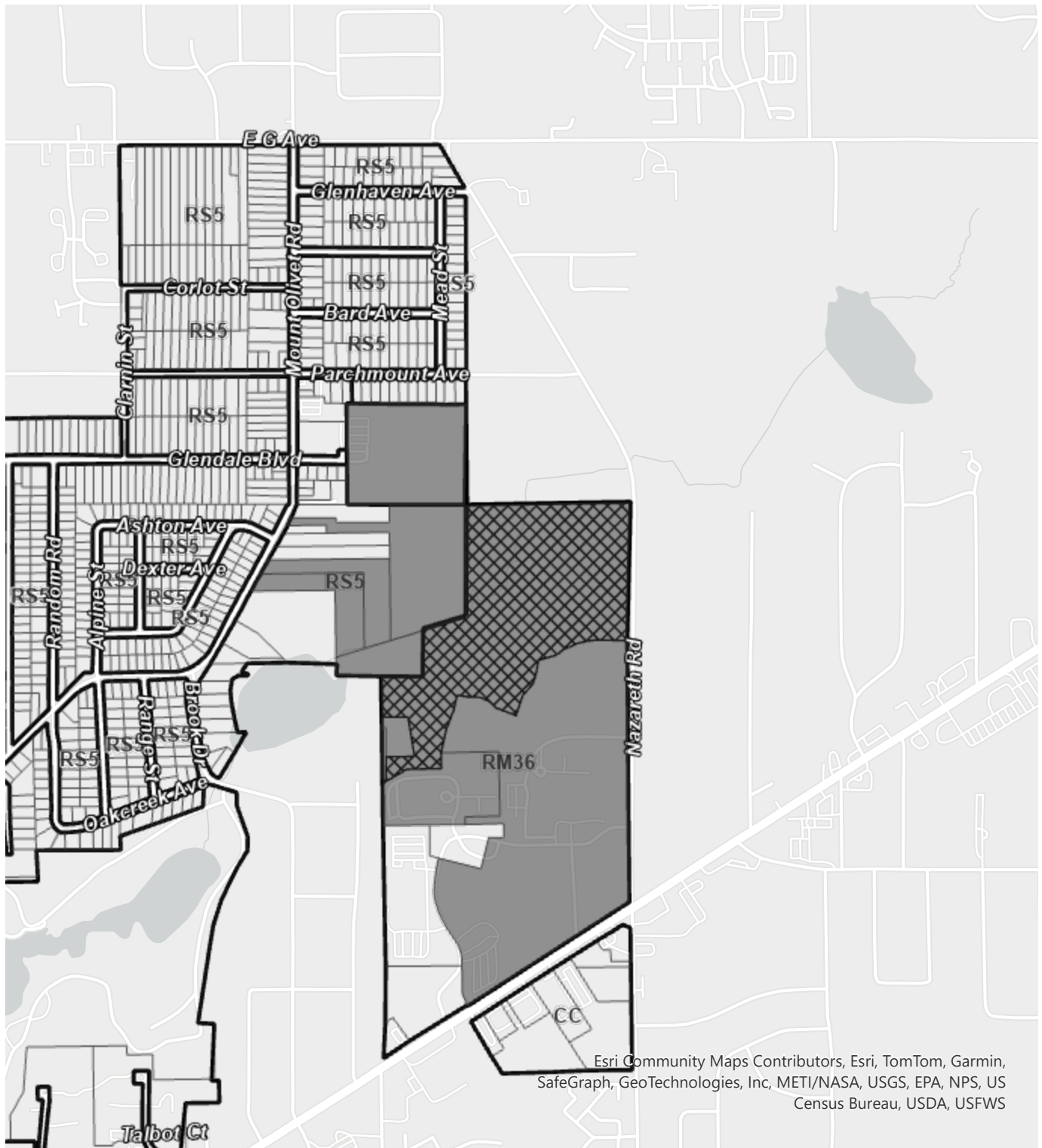


Part 303 Final Wetlands Inventory

- Wetlands as identified on NWI and MIRIS maps
- Soil areas which include wetland soils
- Wetlands as identified on NWI and MIRIS maps and soil areas which include wetland soils

Disclaimer: This map is not intended to be used to determine the specific locations and jurisdictional boundaries of wetland areas subject to regulation. More information regarding this map, including how to obtain a copy can be accessed at www.michigan.gov/wetlands.





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 3401 Nazareth Rd

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



0 420 840 1,680 ft