



Agenda

Special Meeting of the City Commission

City of Kalamazoo

Monday, February 4, 2013

4:00 p.m.

City Hall – Community Room, Second Floor – 241 West South Street

- A. CALL TO ORDER/ROLL CALL**
- B. DISCUSSION/ACTION ITEMS**
 - 1. Executive Search Firm Interviews and Selection
- D. CITIZEN COMMENTS**
- E. MISCELLANEOUS COMMENTS AND CONCERNS BY COMMISSIONERS**
- F. ADJOURNMENT**



Agenda

Regular Meeting of the City Commission

City of Kalamazoo

Monday, February 4, 2013

7:00 p.m.

City Commission Chambers – 241 West South Street

A. CALL TO ORDER/ROLL CALL

B. OPENING CEREMONY

1. Invocation: **Reverend John McNaughton**
2. Pledge of Allegiance
3. Introduction of Guests
4. Proclamations

C. ADOPTION OF FORMAL AGENDA

D. COMMUNICATIONS

1. The public is invited to attend the following meetings of boards and commissions:
 - a. The **Parks and Recreation Advisory Board** will meet on Tuesday, February 5, 2013 at 5:20 p.m., in the Parks and Recreation Community Room at Mayors' Riverfront Park, located at 251 Mills Street.
 - b. The **Dangerous Buildings Board** will meet on Thursday, February 7, 2013 at 2:00 p.m., in the City Commission Chambers at City Hall.
 - c. The **Kalamazoo Historic Preservation Commission** will meet on Tuesday, February 12, 2013 at 7:00 p.m., in the Third Floor Conference Room at City Hall.
 - d. The **Employee Retirement System Board of Trustees** will meet on Wednesday, February 13, 2013 at 8:00 a.m. on the Third Floor Conference Room at City Hall.
 - e. The **Friends of Recreation Board** will meet on Thursday, February 14, 2013 at 8:15 a.m., Parks and Recreation Community Room at Mayors' Riverfront Park, located at 251 Mills Street.

- f. The **Traffic Board** will meet on Thursday, February 14, 2013 at 2:00 p.m., in the Public Services Conference Room, located at 415 Stockbridge Avenue.
 - g. The **Community Development Act Advisory Committee** will meet on Thursday, February 14, 2013 at 6:30 p.m., in the Community Room at City Hall.
 - h. The **Zoning Board of Appeals** will meet on Thursday, February 14, 2013 at 7:00 p.m., in the in the City Commission Chambers at City Hall.
 - i. The **Downtown Development Authority** will meet on Monday, February 18, 2013 at 3:00 p.m., in the Community Room at City Hall.
2. The City is accepting applications for appointment to various city Commission advisory boards and commissions. Interested citizens are encouraged to contact the City Clerk's Office at 337-8792 to request an application form or to obtain additional information on board vacancies.

E. PUBLIC HEARINGS

F. CONSENT AGENDA

(Action: Motion to approve items "1-5 and hold items "6-7" until February 18, 2013)

1. Consideration of a recommendation to approve a one-year contract extension with Rieth-Riley Construction Company for the purchase of asphalt paving materials in the amount of \$341,780.
2. Consideration of a recommendation to adopt a RESOLUTION recognizing Irish Rocket Football as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.
3. Consideration of a recommendation to authorize the City Clerk to sign *Election Coordinating Committee Reports and Agreements* between the City of Kalamazoo, the Kalamazoo County Clerk, Kalamazoo Public Schools, Comstock Public Schools, Portage Public Schools, Parchment Public Schools, Kalamazoo Valley Community College, and Kalamazoo Regional Educational Service Agency for the conduct of elections for these school districts.
4. Consideration of a recommendation to approve the release of the 2013 Draft Action Plan for a 30-day public comment period beginning on February 11, 2013 as required by the U.S. Department of Housing and Urban Development.

5. Consideration of a recommendation to approve the minutes from the following City Commission meetings: the Special Meeting on December 3, 2012; the Neighborhood Meeting on December 17, 2012; and the Business Meetings on December 3, 2012, December 17, 2012, and January 7, 2013.
6. Consideration of a recommendation to approve the sale of 718 Elizabeth Street to Deborah Woodward for \$40,000 and authorize the City Manager to sign all related documents.
7. Consideration of a recommendation to approve the sale of 906 Reed Avenue to Susan Morales Reyes for \$7,300 and authorize the City Manager to sign all related documents.

G. REGULAR AGENDA

H. REPORTS AND LEGISLATION

1. City Manager's Report

I. UNFINISHED BUSINESS

1. Consideration of a recommendation to adopt an ORDINANCE to rezone 1718 S. Park Street from Zone RS-5 (Residential, Single-Dwelling District) to Zone CO (Commercial, Office District). **(Action: Motion to adopt the ordinance)**

J. POLICY ITEMS

1. City Manager Search Update

K. NEW BUSINESS

L. CITIZEN COMMENTS

M. MISCELLANEOUS COMMENTS AND CONCERNS BY COMMISSIONERS

N. CLOSED SESSION

O. ADJOURNMENT

ADDITIONAL INFORMATION

Questions regarding agenda items may be answered prior to the meeting by contacting the City Manager's Office at 269.337.8047.

Persons with disabilities who need accommodations to effectively participate in City Commission meetings should contact the City Clerk's Office at 337-8792 a week in advance to request mobility, visual, hearing or other assistance.

Agendas for the regular meetings of the Kalamazoo City Commission are available on the Internet at: **www.kalamazoocity.org**

The Kalamazoo City Commission meetings are held the first, third Mondays at 7:00 p.m. and are shown live on the Public Media Network on Channel 98. The meetings are rebroadcast on Tuesday at 1:00 a.m. and 2:00 p.m., Saturday at 11:00 a.m. and Sunday at 8:00 p.m. on Channel 98.

GUIDELINES FOR PUBLIC PARTICIPATION AT CITY COMMISSION MEETINGS

Welcome to the Kalamazoo City Commission meeting, and thank you for your participation in Kalamazoo local government. The City Commission recognizes that citizens who make the effort to attend a Commission meeting often feel passionately about an issue. The following guidelines are not meant to discourage individual expression; rather, they exist to facilitate the orderly conduct of business and to ensure that all citizens who wish to address the City Commission are able to do so in an atmosphere of civility and respect, without fear or intimidation.

1. Out of respect for business being conducted during the meeting, please turn off all cell phones and pagers prior to the start of the meeting.
2. In an effort to maintain order and to allow a respectful discussion, please do not make comments from the audience area. Audience members should also refrain from applause or other audible noise at times not formally recognized as appropriate by the meeting chair.
3. Citizens have opportunities to address the Commission at the following times during a meeting:
 - a. Consideration of Regular Agenda items. Citizens are permitted to speak to the Commission on Regular Agenda and Unfinished Business prior to the City Commission voting, except those votes setting a public hearing. (Note: The Consent Agenda is a list of items proposed for City Commission approval to be voted upon all at one time. This is a time-saving procedure as most Consent Agenda items are housekeeping measures. A citizen may request an item be removed from the Consent Agenda for individual consideration or discussion.) Comments must be germane to the specific item under consideration.
 - b. The Citizen Comment period near the end of the meeting is for comment on Agenda or Non-Agenda items.

4. To address the City Commission, please sign in at the podium near the Clerk's station and then proceed to the podium directly in front of the dais when invited by the meeting chair. Before beginning your comments, please clearly state your name for the record and whether you reside within the city limits. Comments are limited to four minutes.
5. Citizen comment periods are a time for citizens to make comments; they are not intended as a forum for debate or to engage in question-answer dialogues with the Commission or staff. Commissioners are encouraged not to directly respond to speakers during citizen comment periods. At the conclusion of a speaker's remarks, the Mayor or individual Commissioners may refer a question to City staff, if appropriate. Also, individual Commissioners may choose to respond to speakers during "Miscellaneous Comments and Concerns of Commissioners."
6. Signs, placards and banners are permitted in Chambers during open meetings but only along the perimeter of the room (side and back walls) and only if they do not obstruct the vision of others.

If you have any questions, please feel free to contact the City Clerk's Office at 269.337.8792



Commission Agenda Report

Date: **02/04/13**

Item **F1**

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

FROM: Kenneth P. Collard, City Manager, ICMA-CM, P.E.
Reviewed By: Sue Foune, Public Services Deputy Director
Prepared By: Douglas Nord, Financial Services Manager

DATE: January 18, 2013

SUBJECT: Purchase of Asphalt Paving Materials

RECOMMENDATION

It is recommended that the City Commission approve a one year contract extension with Rieth-Riley Construction Company for the purchase of asphalt paving materials in the amount of \$341,780.

BACKGROUND

On March 1, 2012 the Purchasing Division solicited bids for asphalt paving materials. This bid provided for a one year contract with four possible contract extensions. In December 2012, Rieth- Riley Construction was asked to provide pricing for 2013. They have agreed to provide this material in 2013 at a 2.0% increase in cost.

COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

FISCAL IMPACT

Funds for this expenditure have been budgeted within the adopted 2013 budget for major and local streets as well as within the Water and Wastewater budgets.

ALTERNATIVES

The City could purchase asphalt manufacturing equipment and supplies to produce their own paving materials. However, purchasing this type of equipment and training employees in the specific skills necessary to successfully manufacture this material would result in an initial investment of approximately \$2,750,000. Therefore, this alternative would not be recommended.

ATTACHMENTS

There are no attachments.



Commission Agenda Report

City of Kalamazoo

Date: **02/04/13**

Item **F2**

TO: Mayor Hopewell, Vice Mayor McKinney and City Commissioners

FROM: Scott A. Borling, City Clerk

DATE: January 28, 2013

SUBJECT: Resolution of Non-Profit Status for Charitable Gaming License

RECOMMENDATION

It is recommended that the City Commission adopt a RESOLUTION recognizing Irish Rocket Football as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.

BACKGROUND

Irish Rocket Football (IRF) is a Michigan non-profit organization that was incorporated in 2011. Its purpose is to operate a youth football program in Kalamazoo for students in first through eighth grades, with a primary focus on students who are enrolled in the two Catholic grade schools in Kalamazoo. The IRF teams play in an organized league with other teams comprised of youths from the same grade levels from nearby communities, as well as teams organized by the Kalamazoo Christian Schools. IRF plans to conduct several events (texas hold'em, millionaire parties, etc...) during the year to raise funds for scholarships, regular expenses, and improvements to athletic facilities. In order to hold these events, IRF must obtain a charitable gaming license from the Michigan Gaming Control Board. As part of the licensing process, the State requires the local unit of government to establish and verify the applicant's non-profit status through the adoption of a *Local Governing Body Resolution for Charitable Gaming Licenses*. The City Clerk has reviewed IRF's articles of incorporation and has verified the organization's 501(c)(3) status.

FISCAL IMPACT

There is no fiscal impact.

ALTERNATIVES

The City Commission could deny the request. However, since Irish Rocket Football has submitted sufficient documentation to show its non-profit status, denial is not recommended.

ATTACHMENTS

Local Governing Body Resolution for Charitable Gaming License



Charitable Gaming Division
 Box 30023, Lansing, MI 48909
 OVERNIGHT DELIVERY:
 101 E. Hillsdale, Lansing MI 48933
 (517) 335-5780
 www.michigan.gov/cg

RESOLUTION _____

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES
 (Required by MCL.432.103(9))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

at _____ a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from _____ of _____,
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining a charitable

gaming license, be considered for _____.
APPROVAL/DISAPPROVAL

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____.
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

COMPLETION: Required.
 PENALTY: Possible denial of application.



Commission Agenda Report

City of Kalamazoo

Date: **02/04/13**

Item **F3**

TO: Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

FROM: Scott A. Borling, City Clerk

DATE: January 25, 2013

SUBJECT: Election Consolidation Coordinating Committee Agreements

RECOMMENDATION

It is recommended that the City Commission authorize the City Clerk to sign *Election Coordinating Committee Reports and Agreements* between the City of Kalamazoo, the Kalamazoo County Clerk, Kalamazoo Public Schools, Comstock Public Schools, Portage Public Schools, Parchment Public Schools, Kalamazoo Valley Community College, and Kalamazoo Regional Educational Service Agency for the conduct of elections for these school districts.

BACKGROUND

In 2004 a series of 24 bills known as "election consolidation bills" were signed into law, effecting sweeping changes in Michigan's election system. The election consolidation laws transferred the authority and responsibility for conducting school elections from public school districts to county and local clerks. In order to establish clear roles and responsibilities with respect to the conduct of school district elections, the law requires school districts, county clerks, and local clerks to enter into *Election Coordinating Committee Reports and Agreements* every four years. The current agreements were executed in January 2011 and expired on December 31, 2012. There are no essential differences between the 2011-2012 agreements and the agreements now under consideration for 2013-2016. As the current arrangement has proved to be satisfactory, the City Clerk will sign the new agreements if authorized to do so.

COMMUNITY RESOURCES CONSULTED

The agreements were reviewed and discussed at an open meeting of the school district election coordinating committees on Wednesday, January 16th.

FISCAL IMPACT

In 2011 legislation was passed that forced school districts to hold their board member elections in the Novembers of even-years. With this change, the board member elections

will coincide with the Gubernatorial and Presidential elections and will not create additional costs for the City. If a school district holds a special election where only school candidates or questions are on the ballot, the district must reimburse the City for the full cost of running the election. If school candidates or issues appear on a ballot with candidates or questions from the city, the county, or a local taxing authority, the school districts are bound to pay only those expenses that can be directly attributed to the presence of their items on the ballot. This amount would be a relatively small portion of the total cost of the election.

ALTERNATIVES

Under the election consolidation statutes the City Commission could direct the City Clerk to perform only those school election duties required by law. In this scenario, the City Clerk would only be required to receive absentee ballot requests and to provide the County Clerk with voting equipment and a list of potential election inspectors. However, if the City Clerk's Office does not conduct school elections within the City, the responsibility for conducting these elections would fall to the County Clerk. This option is not recommended as it would create two sets of processes and procedures depending on the type of election (school elections vs. all other types of elections), which would confuse voters and foster skepticism toward the voting process.

It should also be noted that *the Election Coordination Committee Reports and Agreements* expire in four years, at which time they can be changed. Also, if the terms and conditions prove to be unsatisfactory during this two-year period, the agreements can be amended at any time if all the parties agree.

ATTACHMENTS

None



Commission Agenda Report

City of Kalamazoo

Date: **02/04/13**

Item **F4**

TO: Mayor Hopewell, Vice Mayor McKinney and City Commissioners

FROM: Kenneth P. Collard, City Manager, ICMA-CM, P.E.
Reviewed By: Jeff Chamberlain, Director, CP&D and Laura Lam, Deputy Director, CP&D
Prepared By: Julie Johnston, Community Development Compliance Specialist

DATE: February 4, 2013

SUBJECT: Release the DRAFT 2013 HUD Action Plan for 30-day public comment

RECOMMENDATION

It is recommended that the City Commission approve the release of the draft of the 2013 Action Plan for a 30-day public comment period to begin on February 11, 2013 as required by U.S. Department of Housing and Urban Development (HUD).

BACKGROUND

The development of the City of Kalamazoo 2013 Program Year (PY) Action Plan requires an open process in which citizens can provide input in to the development of the Plan. The steps to ensure public involvement include a 30-day comment period and then public hearings with both the Community Development Act Advisory Committee (CDAAC) and the City Commission. This is the first step in the process, providing citizens 30 days to comment on the draft Plan and more specifically, the activities proposed for funding. It is anticipated that the City Commission will take action on the PY2013 budget in April.

As this is the beginning of the public process, changes may still occur to the draft Action Plan. If the City Commission desires an alternative to the activities recommended within this report, direction can be provided to CDAAC for consideration prior to the public hearing which is planned to occur on March 14, 2013. The complete recommendations from CDAAC are located under **Attachment A** of this report. The remainder of this section will provide background on available funding and the process CDAAC utilized to reach these recommendations.

Available Funding

The final allocation from HUD has not yet been provided to the City of Kalamazoo. Therefore, the draft recommendations for funding were based on PY2012 funding levels. When HUD provides the final allocation for PY2013, CDAAC recommends that each subrecipient receive their proportional share of the increase or decrease in federal funding.

The City is expected to receive approximately \$2,253,540 from HUD under three federal entitlement programs: Community Development Block Grant (CDBG) - \$1,570,300; HOME Investment Partnerships Program (HOME) - \$538,240; and, the Emergency Solutions Grant Program (ESG) - \$145,000. These funds may be used for eligible activities during PY2013 (July 1, 2013 – June 30, 2014).

There are a few projects that have received CDBG funding in the past that generate program income on an annual basis. Program income is defined as “any gross income received that was directly generated from the use of federal funds.” As part of the action plan process, any anticipated program income must be identified and assigned to an eligible project. Typically, the activity that generates the program income is allowed to retain the funds to assist in the continuation of that activity. The estimated program income in PY2013 is:

Table 2: Program Income Estimated for PY2013

Organization	Activity	Program Income
CP&D	Small Business Revolving Loan Fund	\$10,000
CP&D	Code Enforcement Fees	\$10,000
CP&D	Housing Revolving Loan Fund*	\$5,000
Kalamazoo Neighborhood Housing Services	Core Neighborhood Revitalization	\$100,000
Total Program Income:		\$125,000

*This is an older fund from a past housing rehabilitation program. Program income is only generated if properties are sold that were purchased with CDBG funds.

Finally, the HOME program has some unobligated funds from the 2012 program year. Unobligated funds are defined as HOME dollars that have not been specifically allocated to a program or activity. These unobligated funds total \$324,760 and have been obligated as part of the PY2013 application process.

Based on all of these sources, the anticipated total funding to be allocated to PY2013 activities is \$2,703,300. The following table provides these totals by federal program:

Table 3: Total PY2013 Anticipated Funding

	CDBG	HOME	ESG	TOTAL
Entitlement	\$1,570,300	\$538,240	\$145,000	\$2,253,540
Program Income (anticipated)	\$125,000	\$0	\$0	\$125,000
Unobligated (PY2012)	\$0	\$324,760	\$0	\$324,760
Total:	\$1,695,300	\$863,000	\$145,000	\$2,703,300

Process Changes

Prior to the start of the PY2013 application process, CP&D staff made the decision to shorten the current City of Kalamazoo Consolidated Plan by one year. As a reminder, the Consolidated Plan outlines the City's strategy for a five-year period to address housing and community development needs. The Plan is a prerequisite of HUD for distribution of funds.

The current five-year Plan was expected to run through PY2014 which would have ended on June 30, 2015. However, based on recent changes to HUD regulations, a larger community discussion related to housing and community development needs, and the departmental changes taking place at the City level, CP&D staff feels that a new plan is warranted.

The current Consolidated Plan will now end on June 30, 2014. This means that the PY2013 application process will be the last under the current Consolidated Plan. With this in mind, CDAAC and CP&D staff reviewed the required performance outcomes listed in the Consolidated Plan. In general, the following four areas will likely fall short of meeting their planned performance goals by the end of our current program year:

- Youth Education and Mentoring
- Homeownership
- Streetscape Enhancements (beyond just sidewalks)
- Business and Job Development

To address this short-fall during the PY2013, CDAAC placed a higher priority on CDBG and HOME applications that met one of the aforementioned Consolidated Plan goals. Those applications that helped the City meet the outcomes of the four deficient Consolidated Plan goals received 10 extra points. This focus was communicated as part of the outreach efforts for the application process, as well as during the mandatory pre-application submission training sessions that were offered in August of 2012.

In addition to the Consolidated Plan focus, CDAAC and CP&D staff implemented changes to the ESG funding process. The new ESG regulations (HEARTH Act) developed by HUD include a section titled "Area-wide systems coordination requirements." These requirements detail the City's mandatory relationship with the local continuum of care (local homeless assistance planning network) on a wide range of homeless issues, which include items like policies, procedures, performance standards, outcomes, administration of funds, mainstreaming services, creating a centralized or coordinated assessment system, and the development of written standards.

Based on these new requirements, CP&D staff has determined that combining our ESG funding with the larger continuum of care in Kalamazoo, overseen by Local Initiative Support Corporation (LISC) Local Advisory Board, is the best approach to meet the coordinated systems conditions set by HUD. The PY2013 ESG funding will be awarded to the continuum of care to allocate as part of their application process. CP&D staff is

currently working with the Local Advisory Board to determine how the application process will proceed. The City will continue to be responsible for the compliance of these funds and the outcomes will still be a part of our year-end reporting to CDAAC and HUD.

Application Process

A large portion of the federal funds received from HUD are allocated through a competitive application process managed by CDAAC and CP&D staff. CP&D staff held three mandatory pre-submission application training sessions in August of 2012. A total of 67 people from 46 organizations attended the trainings. The training provided an overview of the three federal programs and the application process.

The next step in the application process was to provide a Letter of Intent and Needs Worksheet which asked applicants very specific information on the activity they wished to have funded and the clientele they intended to serve. The Letter of Intent and Needs Worksheet were due by Monday, September 10, 2012 and a total of 40 were submitted. CP&D staff reviewed these documents and contacted applicants with any concerns regarding activity eligibility. This allowed applicants an opportunity to modify their applications if necessary before the next phase of the process.

Applications were available beginning Monday, September 17, 2012 and were due by 5:00 p.m. to the CP&D office on Friday, October 26, 2012. CP&D staff offered to review applications for completeness if submitted by Monday, October 8, 2012. Only five applicants requested a pre-submittal review. A total of 35 applications were received; 14 CDBG Public Service, 13 CDBG All Other, and eight HOME. Five applicants from the Letter of Intent phase chose not to continue with the application process.

CDAAC developed a system to review the applications which included a set of requirements and criteria. The requirements were reviewed by CP&D staff as they related to eligibility of the application based on federal regulations. The criteria were reviewed by the three subcommittees established by CDAAC. Each criterion was given a 10-point value for a total of 100 possible points per application. Each application was assessed against six general evaluation questions, as well as four specific questions based on the individual funding sources. The evaluation criteria including the following:

General Evaluation Criteria

- 1. Management capability of applicant/organization*
- 2. Leveraging of funds and budget*
- 3. Clearly defined need*
- 4. Clearly defined and measurable accomplishments*
- 5. Past performance*
- 6. Consolidated Plan focus*

CDBG Evaluation Criteria

1. *Timeliness of CDBG fund expenditure*
2. *Strengthening outcomes through partnerships*
3. *Project resources and leveraging*
4. *Long range plans*

HOME Evaluation Criteria*

1. *Capacity of developer/subrecipient*
2. *Project/activity readiness*
3. *Financial viability of applicant*
4. *Financial project/activity feasibility*

**For HOME applications that did not involve construction or are more public service oriented, the CDBG evaluation criteria were used.*

Prior to the subcommittees ranking applications and assigning funding, staff outlined those City projects that receive federal dollars on an annual basis to support internal programs. These totals were subtracted from the available funding for the competitive process. The activities are:

Table 4: City Funded Activities – Outside the Competitive Application Process

Department	Activity	Source	Funding
CP&D	Admin Support ¹	CDBG Admin Funds	\$314,000
CP&D	Admin Support ²	HOME Admin Funds	\$53,000
CP&D	Housing / Anti-Blight	CDBG	\$400,000
Parks and Recreation	Youth Program	CDBG Public Service	\$19,000
Public Safety	Neighborhood Officers	CDBG Public Service	\$150,000
Total:			\$936,000

¹HUD permits 20 percent of the CDBG grant to be allocated to administration.

²HUD permits 10 percent of the HOME grant to be allocated to administration.

The 35 competitive applications requested \$4,519,549 in federal funds, which was a decrease of \$147,549 from the 47 applications received in PY2012. The amounts available for the competitive application process (minus City funded projects) are shown in the table on the next page:

Table 5: Total Applications and Funding Requests from the Competitive Process

Category	Number of Applications	Amount Requested	Amount Available
CDBG – Public Service*	14	\$569,149	\$66,500
CDBG – All Other	13	\$2,053,772	\$620,800
HOME	8	\$1,896,628	\$810,000
Totals:	35	\$4,519,549	\$1,497,300

*Capped at 15 percent of CDBG funds per HUD regulations

As the amount of requested funding was significantly higher than the available funding, CDAAC was required to make some extremely difficult funding decisions.

The three subcommittees met in November and December of 2012 to review the applications and make funding recommendations. CP&D staff was present at each of the subcommittee meetings to serve as a resource and to answer any specific questions. Draft recommendations were presented at the regularly-scheduled CDAAC meeting held on January 10, 2013. The recommendations are found in **Attachment A** of this report.

COMMUNITY RESOURCES CONSULTED

CDAAC is an important component in the City of Kalamazoo's citizen participation plan and is made up of thirteen (13) volunteer members. Six (6) are nominated by the CDBG-eligible neighborhood associations, Eastside, Edison, Fairmont, Northside, Stuart, and Vine, and seven (7) are members-at-large. In addition to the City of Kalamazoo Consolidated Plan 2010 – 2014 priorities, CDAAC also used City Commission priorities, agency performance, capacity and leveraging in the decision-making process.

The City of Kalamazoo's 2010 – 2014 Consolidated Plan was developed by an independent planning consultant using a process which included extensive citizen input including neighborhood meetings throughout the City, in-depth discussions with service providers and two public hearings held in conjunction with CDAAC.

FISCAL IMPACT

The CDAAC recommendations provide a benefit to the City's general fund, allowing for support of City staff from CP&D, Public Safety and Parks and Recreation. All recommendations utilize the annual federal allocation received by HUD or monies generated by that allocation. Through the award of these federal dollars in the manner recommended, the City of Kalamazoo's general fund is not required to address many of the community needs supported by the City and by outside nonprofit organizations.

The administration and monitoring of the projects will be conducted by the CP&D. Funding for the City of Kalamazoo activities is detailed in Table 4.

ALTERNATIVES

The City Commission may elect not to release the draft Action Plan with the activities described in this report for a 30-day public comment period from February 11 through March 12, 2013. However, a postponement in the 30-day public comment period would delay the required public hearings with CDAAC and the City Commission which are currently planned to occur in March and April. These public hearing dates are necessary to meet the required 45-day HUD public comment period before the start of the program year on July 1, 2013. This alternative is not recommended.

ATTACHMENTS

Attachment A – Draft Funding Recommendations

PY2013 DRAFT RECOMMENDATIONS - FEBRUARY 4, 2013

Organization	Activity Name	Requested Funding	Area of Focus	DRAFT Recommended Funding
CDBG PUBLIC SERVICE				
City of Kalamazoo Public Safety	Crime Prevention	\$150,000		\$150,000
City of Kalamazoo Parks and Recreation	Summer Youth Program	\$19,000	Y	\$19,000
Catholic Charities Diocese of Kalamazoo	The Ark Shelter: Services for Youth	\$15,000	Y	\$15,000
Kalamazoo Drop-In Child Care Center	Free Child Care for Low-Income Families	\$11,500	Y	\$10,000
New Genesis, Inc.	New Genesis Success Academy (Youth Program)	\$50,000	Y	\$12,500
YWCA Kalamazoo	Domestic Assault Shelter	\$40,000		\$20,000
Legal Aid of SW Michigan	Homelessness Prevention	\$17,649		\$9,000
Douglass Community Association	Douglass REACH Program (Youth Program)	\$125,000	Y	\$0
Edison Neighborhood	Light Up Edison - Post Light Project	\$50,000		\$0
Fair Housing Center of Southwest Michigan	Fair Housing Services	\$20,000		\$0
Girls Scouts Heart of MI	Girl Scouts Outreach Program	\$10,000	Y	\$0
Kalamazoo Learning Center	No Child Left Behind (Youth Education)	\$65,000	Y	\$0
Local Initiatives Support Corp	Sustainable Communities Initiative	\$50,000		\$0
Open Roads and IDEA Association	Earn-A-Bike and Fix-A-Bike Program	\$30,000	Y	\$0
Urban Alliance	Employment Opportunities (Job Training/Facilitation)	\$75,000	E	\$0
Kalamazoo County Land Bank	Side Lot/Adopt a Lot Staffing	\$10,000		\$0
CDBG Public Service Total:		\$738,149		\$235,500
CDBG ADMINISTRATION				
City of Kalamazoo CP&D	Administration	\$314,000		\$314,000
CDBG ALL OTHER				
City of Kalamazoo CP&D	Code Enforcement	\$400,000		\$400,000
Kalamazoo Valley Habitat for Humanity	Neighborhood Revitalization Initiative	\$150,000	H	\$150,000
Fair Food Matters	Can-Do Kitchen – Food Business Incubator Scholarships	\$60,260	E	\$60,260
Housing Resources, Inc.	Tenant Based Rental Assistance Administration	\$125,000		\$125,000
Senior Services, Inc.	Home Repair for the Elderly	\$135,000		\$135,000
Kalamazoo Neighborhood Housing Services	Deferred Maintenance Program	\$250,000		\$75,540
GFM the Synergy Center	Lifeline to Recovery (Acquisition)	\$75,000		\$75,000
Community Homeworks	Emergency Home Repair	\$120,000		\$0
The H.O.P.E. Ranch	Rebuilding of Youth and Community (Housing Rehab)	\$100,000	Y	\$0
Douglass Community Association	Don Jackson Home Repair	\$100,000		\$0
Latter Rain Outreach	Abigail's Palace (Acquisition)	\$60,000		\$0
Douglass Community Association	Gym Roof Replacement	\$78,512		\$0
Big Dog	Deconstruction Project and Job Training	\$300,000		\$0
Kalamazoo County Land Bank	Repurposing Vacant Parcels for Commercial Reinvestment	\$500,000		\$0
CDBG All Other Total:		\$2,453,772		\$1,020,800
CDBG PROGRAM INCOME				
City of Kalamazoo CP&D	Small Business Revolving Loan			\$10,000
City of Kalamazoo CP&D	Code Enforcement Fees			\$10,000
City of Kalamazoo CP&D	Housing Revolving Loan Fund			\$5,000
Kalamazoo Neighborhood Housing Services	Core Neighborhood Revitalization			\$100,000
CDBG Program Income Total:				\$125,000
CDBG TOTAL:		\$3,505,921		\$1,695,300
HOME				
City of Kalamazoo CP&D	Administration	\$53,000		\$53,000
Kalamazoo County Land Bank	Rehab of Vacant Properties for Home Ownership	\$596,200	H	\$250,280
Kalamazoo Valley Habitat for Humanity	Affordable Homeownership for Vulnerable Families	\$250,000	H	\$250,000
Northside Association for Community Development	Family Stabilization Program – Senior Apartment Complex	\$140,000		\$140,000
Housing Resources, Inc.	Tenant Based Rental Assistance	\$250,000		\$125,000
Catholic Charities Diocese of Kalamazoo	Tenant Based Rental Assistance for Young Families	\$44,720		\$44,720
College Town Properties	South Street Apartments	\$100,000		\$0
Kalamazoo Neighborhood Housing Services	Lease/Purchase Program	\$300,000	H	\$0
Urban Alliance/His Kingdom Housing	Transforming Edison II - 2 Blocks at a Time	\$215,708		\$0
HOME TOTAL:		\$1,949,628		\$863,000
ALL PROGRAMS TOTAL:		\$5,455,549		\$2,558,300

E = Economic Development
H = Home Ownership
Y = Youth Mentoring and Education

Roll Call

A special meeting of the Kalamazoo City Commission was held on Monday, December 3, 2012 at 5:30 p.m. in the Community Room at City Hall, 241 W. South Street.

COMMISSIONERS PRESENT:

Vice Mayor Hannah McKinney
David Anderson
Robert Cinabro
Don Cooney
Barbara Miller

COMMISSIONERS ABSENT:

Mayor Bobby Hopewell
Stephanie Moore*

Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Commissioners
Excused

Commissioner Cinabro, seconded by Commissioner Anderson, moved to excuse the absences of Mayor Hopewell and Commissioner Moore. With a voice vote the motion passed.

Miscellaneous
Communications

An opportunity was given for communications, but no communications were offered.

Review of
Proposed FY2013
Budget

Human Resources and Labor Relations Director Jerome Post delivered a PowerPoint presentation entitled *City of Kalamazoo Health Care Cost Strategy and the Impact of PA 152 or 2011*.

*Commissioner Moore arrived at 5:32 p.m.

City Manager Collard delivered a PowerPoint presentation entitled *Proposed FY2013-14 Budget Overview*. City Manager Collard encouraged Commissioners to read the Budget Transmittal Letter and to ask questions prior to the December 10th work session.

In response to a question from Commissioner Anderson, City Manager Collard stated the budget review work sessions would take place on Monday, December 10th at 6:00 p.m. and Saturday, December 15th at 8:00 a.m.

Citizen Comments

Next, when an opportunity was given for citizen comments, the following people addressed the City Commission:

Asha Khazad, City resident, stated he was glad the City Charter required the City Commission to adopt a balanced budget.

Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments and concerns of City Commissioners, but no comments were offered.

Adjournment

The meeting adjourned at 6:07 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on February 4, 2013

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: February 4, 2013

Roll Call	<p>A neighborhood meeting of the Kalamazoo City Commission was held on Monday, December 17, 2012 at 6:00 p.m. in the Community Room at City Hall, 241 W. South Street.</p>
	<p>COMMISSIONERS PRESENT: Mayor Bobby Hopewell David Anderson Robert Cinabro Don Cooney Barbara Miller</p>
	<p>COMMISSIONERS ABSENT: Vice Mayor Hannah McKinney Stephanie Moore</p>
	<p>Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.</p>
Commissioners Excused	<p>Commissioner Cinabro seconded by Commissioner Anderson, moved to excuse the absences of Vice Mayor McKinney and Commissioner Moore. With a voice vote the motion passed.</p>
Communications	<p>When an opportunity was given for miscellaneous communications, City Manager Collard announced Management Services Director Tom Skrobola and his wife had welcomed a new baby into the family.</p>
Presentation and Tentative Approval of the Proposed FY2013 DDA Budget	<p>Steve Diesler, Executive Director of Downtown Kalamazoo, Inc., presented the FY2013 proposed operating budget for the Downtown Development Authority (DDA). Mr. Diesler reported the budget included a reduction of staffing from nine to five and stated 2014 would be the "trough" year from a budgetary perspective. Mr. Diesler announced \$55,000 in private donations had been raised to fund a Community Police Officer for the downtown area, and he expressed confidence the position would be retained in 2013.</p>
	<p>In response to a question from Commissioner Cinabro, Mr. Diesler stated the downtown development organizations would be developing a 3- or 5-year financial plan.</p>
	<p>In response to a question from Commissioner Anderson, Mr. Diesler stated the transfer of funds from the Downtown Kalamazoo Incorporated (DKI) fund balance to the DDA was not sustainable beyond 2014.</p>
	<p>When an opportunity was given for citizens to comment on the proposed DDA budget, the following people addressed the City Commission:</p>
	<p>Ryan Reedy, non-resident and owner of Reedy Corp., asked for a third-party evaluation of the Parking System to see if costs and charges were valid. Mr. Reedy stated DKI needed to do a better job of communicating with all stakeholders.</p>
	<p>Commissioner Anderson, seconded by Commissioner Miller, moved to tentatively approve the FY2013 Proposed DDA TIF and 2-Mill Operating Budget</p>

In response to a question from Commissioner Anderson, Mr. Diesler stated the lease and sublease agreement for the Parking System identified the DDA as the body that approved the Parking System budget.

In response to a question from Commissioner Cinabro, Mr. Diesler took exception to some of Mr. Reedy's statements and indicated a total review of the parking system could be done.

In response to a question from Commissioner Miller, Mr. Diesler stated the DKI Board of Directors appointed the members of the Parking Committee, and there was a member on the Committee from the entertainment sector.

Commissioner Miller stated it was sad that DKI was significantly reducing its staff.

Mr. Diesler presented as informational the FY2013 proposed Parking System budget and noted the proposed budget included a 5% fee increase for ramp and lot users. Mr. Diesler reported the DDA had turned down a recommendation to increase the operating hours at ramps and lots until midnight.

Mayor Hopewell stated community leaders needed to move strategy differently for the downtown area. Mayor Hopewell thanked DKI for developing a 5-year plan several years ago. We have had hearings, but we have not aggressively engaged the community.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Mayor Hopewell

NAYS: None

Neighborhood communications were received next.

Representatives from the following neighborhood associations were present and addressed the City Commission:

Northside Neighborhood Association

Shirley Gordon, President
Mattie Jordan-Woods, Executive Director

The Gateway Coalition/Southside Historic District

Kim Cummings, Co-Chair

The Northside Neighborhood Association representatives:

- thanked the Public Works Division for keeping the neighborhood clean.
- stated there was an ongoing complain from a resident on Burdick Street regarding criminal activity, and she was working with the Public Safety Department on a long-term plan.

Presentation and Tentative Approval of the Proposed FY2013 DDA Budget (cont'd)

Neighborhood Communications

Northside Neighborhood

Northside
Neighborhood
(cont'd)

- expressed a desire to see Public Safety partner with the Association for driving classes for low-income young people.
- reported the low-income senior apartment project was scaled back due to rising costs.
- stated Neighborhood residents were supportive of the housing demolitions that had taken place through the Neighborhood Stabilization Plan 2 program.
- invited Commissioners to a meeting on January 24th regarding the development of a housing plan for the Northside. The houses being build are not affordable for low-income residents.
- reported the Park Street Market had agreed to a 5-year lease extension, but the property taxes were scheduled to increase \$34,000 in 2016. Ms. Jordan-Woods requested that the City look at some type of neighborhood enterprise zone for this property.

Gateway
Coalition/South
Street Historic
District

The Gateway Coalition/South Street Historic District representative:

- thanked the City for its continued support for maintenance of the West Gateway colonnades.
- thanked the City for picking up 170 cubic yards of trash and debris from the Building Blocks program.

Citizen Comments

An opportunity was given for citizen comments, but no comments were offered.

Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments by City Commissioners.

Adjournment

The meeting adjourned at 6:51 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on February 4, 2013

Approved by: _____

Bobby J. Hopewell, Mayor

Dated: February 4, 2013

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	<p>A business meeting of the Kalamazoo City Commission was held on Monday, December 3, 2012 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 W. South Street.</p>
Roll Call	<p>COMMISSIONERS PRESENT: Vice Mayor Hannah McKinney David Anderson Robert Cinabro Don Cooney Barbara Miller Stephanie Moore</p> <p>COMMISSIONERS ABSENT: Mayor Bobby Hopewell</p>
	<p>Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.</p>
Commissioners Excused	<p>Commissioner Anderson, seconded by Commission Miller, moved to excuse the absence of Mayor Hopewell.</p>
Invocation	<p>The invocation, given by Pastor Bill Abernathy, Berean Baptist Church, was followed by the Pledge of Allegiance.</p>
Presentation of City Manager All Star Awards	<p>City Manager Collard recognized the following City employees and groups of employees as the 2012 "All Stars":</p> <p><u>Community Planning & Development Department</u> Dorla Bonner, Code Compliance Specialist</p> <p><u>Economic Development Department</u> Jerome Kisscorni, Economic Development Director</p> <p><u>Human Resources Department</u> John Buchtrup, Benefits Specialist Jeanne Doonan, Senior Human Resources Advisor Gene Fellings, Senior Human Resources Advisor Erica Hicks, Human Resources Assistant Ryan Jackson, Human Resources Temp Ron Markan, Labor Relations Specialist Julie Milowe, Human Resources Advisor Jerome Post, H/R Labor Relations Director Patricia Vargas, Human Resources Secretary</p> <p><u>Management Services Department</u> Melissa Fuller, Financial Services Manager</p> <p><u>Public Safety Department</u> -- Active Duty Military Paul Bianco, (currently deployed)</p> <p><u>Public Services Department</u> Johnnie Ballard, Water Operator/Maintainer</p>

Linda Wiener and Gary Wager presented the Kalamazoo Neighborhoods Coalition City Employee of the Year Award to Community Planning and Development Director Jeff Chamberlain.

Neighborhoods
Coalition Award

By unanimous consent the City Commission adopted its meeting agenda as presented.

Adoption of the Agenda

City Manager Collard invited the public to attend meetings of various boards and commissions.

Communications

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize for the City Manager to sign on behalf of the City:

Consent Agenda

- approval of the purchase of Self Contained Breathing Apparatus and Face Pieces from West Shore Fire, Inc. in the amount of \$434,226.
- approval of a Service Agreement between the Kalamazoo County Transportation Authority (KCTA), the City of Kalamazoo, and the Kalamazoo Transit Authority Board for CY2012. This Service Agreement calls for the KCTA to reimburse Metro Transit \$3,030,122 for public transit service provided in CY2012.
- adoption of a **RESOLUTION** setting a public hearing to consider the proposed Fiscal Year 2013 Budget for the City of Kalamazoo.
- adoption of a **RESOLUTION** authorizing the issuance of Tax Anticipation Notes in the amount of \$3,000,000 for fiscal year 2013.
- adopt a **RESOLUTION** setting a public hearing to consider an application from Cytec Industries, Inc. for a PA 198 Industrial Facilities Exemption Certificate for six years for real property valued at \$4,844,603 and new personal property valued at \$9,130,472 in existing Industrial Development District No. 6 located at 2715 Miller Road.
- adopt a **RESOLUTION** from the Michigan Department of Licensing and Regulatory Affairs, Liquor Control Commission to allow Mac Enterprises Inc. to transfer ownership and location of a Class C-SS liquor license from 592 Portage Street to 2941 Howard Street and requesting a new dance and entertainment permit and outdoor service area.
- approval of the following actions regarding the City Commission's regular meeting schedule: a) the amendment of the 2012 meeting schedule to cancel the Committee of the Whole meeting on December 28, 2012; and b) the adoption of a **RESOLUTION** setting the schedule of regular City Commission meetings for the 2013 calendar year.

Resolution 12-89

Resolution 12-90

Resolution 12-91

Resolution 12-92

Resolution 12-93

Consent Agenda
(cont'd)

- approval of the acceptance of funds from the Sarah (Sally) J. Appleyard trust fund for parks and recreation activities in the amount of \$38,650.
- approval of a recommendation to hold until December 17, 2012 consideration of the sale of 1113 James Street to Gloria Gervacio for \$120.00 and authorization for the City Manager to sign all related documents.
- approval of a recommendation to hold until December 17, 2012 consideration of the sale of 1206 Lake Street to Christopher and Maria Vogt for \$30.00 and authorization for the City Manager to sign all related documents.
- approval of a recommendation to hold until December 17, 2012 consideration of a quit claim deed transferring ownership of the vacant lot at 1218 Knollwood to Western Michigan University.

Commissioner Cinabro, seconded by Commissioner Cooney, moved to approve the consent agenda requests.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Vice Mayor McKinney

NAYS: None

Citizen Comments

Next, an opportunity was given for general citizen comments.

George Johnson, City resident, expressed disappointment at the closure of the Rave Theatre.

Alfonso Harris, City resident, spoke about being profiled at the Radisson Hotel.

Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Moore spoke about the following items: the women's groups sponsored by Mothers of Hope; the Gay and Lesbian Resource Center's Winter Gala on December 15th; the Across the Ages multi-generational mentoring program at the Douglas Community Center; and the Northside Ministerial Alliance's annual Martin Luther King, Jr. program.

Commissioner Cinabro thanked Transportation Director Bill Schomisch and Sean McBride, Executive Director of the Kalamazoo County Transportation Authority (KCTA) for their work on the service agreement between the City and the KCTA. Commissioner Cinabro commended City Manager Collard for providing an excellent introduction to the 2013 Budget during the work session earlier that night.

Commissioner Miller invited people to attend Art Hop on Friday, December 7th, and she encouraged people to read an article on Phyllis Marsh in the Kalamazoo College magazine.

Commissioner
Comments (cont'd)

Commissioner Cooney remarked on presentations made by young people who were in the City's Street Academy.

The meeting adjourned at 7:33 p.m.

Adjournment

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on January 7, 2012

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: December 7, 2012

	<p>A business meeting of the Kalamazoo City Commission was held on Monday, December 17, 2012 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 W. South Street.</p>
Roll Call	<p>COMMISSIONERS PRESENT: Mayor Bobby Hopewell David Anderson Robert Cinabro Don Cooney Barbara Miller Stephanie Moore</p> <p>COMMISSIONERS ABSENT: Vice Mayor Hannah McKinney</p>
	<p>Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.</p>
Commissioners Excused	<p>Commissioner Cinabro, seconded by Commission Anderson, moved to excuse the absence of Vice Mayor McKinney. With a voice call vote the motion passed.</p>
Invocation	<p>The invocation, given by Pastor Bill Abernathy, Berean Baptist Church, was followed by the Pledge of Allegiance.</p>
Introduction of Guests	<p>Mayor Hopewell recognized the presence of County Commissioners Phil Stinchcomb and Jack Urban.</p>
Adoption of the Agenda	<p>By unanimous consent the City Commission adopted its meeting agenda as presented.</p>
Communications	<p>City Manager Collard invited the public to attend meetings of various boards and commissions.</p>
Public Hearing re: a Tax Abatement for Cytec Industries	<p>At 7:06 p.m. Mayor Hopewell opened a public hearing to receive comments regarding a RESOLUTION to approve the application from Cytec Industries, Inc. for a PA 198 Industrial Facilities Exemption Certificate for six years for real property valued at \$4,844,603 and three years for personal property valued at \$9,130,472 in existing Industrial Development District No. 6 located at 2715 Miller Road.</p> <p>At 7:07 p.m. Mayor Hopewell closed the public hearing.</p>
Resolution 12-94 Approving a Tax Abatement for Cytec Industries	<p>Commissioner Miller, seconded by Commissioner Anderson, moved to adopt a RESOLUTION to approve the application from Cytec Industries, Inc. for a PA 198 Industrial Facilities Exemption Certificate for six years for real property valued at \$4,844,603 and three years for personal property valued at \$9,130,472 in existing Industrial Development District No. 6 located at 2715 Miller Road.</p> <p>With a roll call vote this motion passed.</p> <p>AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Mayor Hopewell</p> <p>NAYS: None</p>

Budget Director Patsy Moore presented a brief overview of the Proposed FY2013 Budget.

Public Hearing re:
the Proposed
FY2013 Budget

At 7:11 p.m. Mayor Hopewell opened a public hearing to receive comments on the Proposed Fiscal Year 2013 Budget for the City of Kalamazoo.

Phil Stinchcomb, non-resident, expressed opposition to the new tax collection administrative fee.

Jeff Weisman, City resident, stated the City needed to come up with new sources of revenue like assessing a fee to non-profit organizations for City services.

Anthony Dugal, City resident, expressed opposition to the new tax collection administrative fee.

Patti Owens, City resident, expressed opposition to the new tax collection administrative fee and suggested the City reduce its repayment to the pension system and use those funds to replace the estimated revenue from the fee.

Garrylee McCormick, City resident and Chair of the Parks and Recreation Advisory Board (PRAB), expressed support for the Parks and Recreation Department budget on behalf of PRAB.

At 7:19 p.m. Mayor Hopewell closed the public hearing.

Commissioner Anderson thanked citizens for their comments and discussed funding for the Poverty Reduction Initiative, the tax collection fee the negative budget projections facing the City over the next five years, and the need to have serious discussions about new revenue sources and how the community supported basic functions of government.

Commissioner Cooney commented on poverty in the City and the need to support the Poverty Reduction Initiative.

Commissioner Miller thanked staff for their work on the budget and offered remarks on the tax collection fee, areas for possible budget savings, and the process for approving funding for non-profit organizations like the Poverty Reduction Initiative.

Commissioner Moore thanked the City Manager and staff for their work on the budget and commented on poverty in the Kalamazoo community, the City's role in addressing poverty, the need to be creatively seek additional resources, and the tax collection fee. Commissioner Moore expressed support for the budget as presented.

Commissioner Cinabro thanked the City Manager and his staff for their work on the budget and expressed support for the budget as presented. Commissioner Cinabro commented on the need to have conversations about repaying the pension system for the Early Retirement Initiative, the

Public Hearing re:
the Proposed
FY2013 Budget

need to discuss contributions from non-profit organizations for City services, and the need to talk about a Headley Override.

Mayor Hopewell remarked on the reduction in State Shared Revenue payments, the need to look at both expenditures and revenue in the City's budget, and the City's failure to engage citizens about the tax collection fee. Mayor Hopewell stated dialogue with the community and discussion of major issues needed to take place in the first quarter of 2013.

Consent Agenda

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize for the City Manager to sign on behalf of the City:

- approval of a contract with Lakeland Asphalt Corporation for the purchase of 1,200 tons of asphalt patching material in the amount of \$100,740.
- approval of a 12-month maintenance contract with Intergraph Public Safety, Inc. in the amount of \$151,383.60 for the continued maintenance of the City's computer-aided dispatching, records management systems and mobile data computing systems.
- approval of a two-year contract with Mercer for health care and benefits consulting and brokerage services in the amount of \$165,384, for the period January 1, 2013 through December 31, 2014.
- approval of a one-year contract extension for Cationic Emulsion Polymer with Polydyne Incorporated in the amount of \$187,110.
- approval of a one-year contract with the Michigan Municipal Risk Management Authority through Ibox Insurance Agency for property and casualty insurance at an annual premium of \$620,672.

Resolution 12-95

- the repeal RESOLUTION No. 1215 and adoption of a **RESOLUTION** granting a Payment in Lieu of Taxes to South Mall Limited Dividend Housing Association Limited Partnership for 204 units of affordable rental housing at 105 E. Walnut Street, (06-22-137-004), also known as the Skyrise, pursuant to Section 35-4 of the Kalamazoo City Code.

Resolutions 12-96,
12-97, 12-98, and
12-99

- adoption of **RESOLUTIONS** approving five applications for Neighborhood Enterprise Zone certificates in the Vine Neighborhood Enterprise Zone, as well as three applications for certificate transfers in the Edison Neighborhood Enterprise Zone.

Resolution 12-100

- adoption of a **RESOLUTION** approving the removal of Building 267 from the Pharmaceutical Recovery Renaissance Zone, approving the Restated Pharmaceutical Recovery Renaissance Zone Agreement with MPI Research, Inc., and to authorizing the City Manager to sign the agreement and any other documents necessary for its implementation and performance.

- adoption of a **RESOLUTION** recommending Michigan Liquor Control Commission approval of a Temporary Dance Permit for Houz Enterprises, Inc. (dba Main Street Pub) for a public dance on December 31, 2012, and authorizing the City Clerk to sign the permit application on behalf of the City.
- approval of an agreement between the Kalamazoo Department of Public Safety and the State of Michigan for inspection delegation for consumer fireworks sales facilities.
- approval of an agreement with AP Wireless, Inc. to buy out the existing lease agreement between Verizon Wireless, Inc. and the City of Kalamazoo for the cell tower located at the Eastern Hills Golf Course, in the amount of \$150,000 (plus closing costs), to be paid by December 31, 2012 in exchange for granting AP Wireless revenue streams from the lease agreement with Verizon Wireless for a period of 50 years.
- approval of a request from New Year's Fest of Kalamazoo, to publicly display fireworks from the Epic Center Parking Structure on Monday, December 31, 2012 at midnight as part of the annual New Year's Fest event.
- acceptance of funding from Milwood Elementary for \$3,923.84 and Woods Lake Elementary for \$1,162.62 to fund a Lunch n Learn program at each of these schools from January 21 – May 31, 2013.
- acceptance of funding from Oakwood Neighborhood Association for up to \$3147.47 to fund the after school tutoring program 3 days per week from January 7, 2013 – June 7, 2013 at Oakwood Neighborhood Association.
- approval of the sale of 1113 James Street to Gloria Gervacio for \$120.00 and authorize the City Manager to sign all related documents.
- approval of the sale of 1206 Lake Street to Christopher and Maria Vogt for \$30.00 and authorize the City Manager to sign all related documents.
- authorization for the City Manager to sign a Quit Claim Deed transferring ownership of the vacant lot at 1218 Knollwood to Western Michigan University.
- approval of the following appointments to advisory boards and commissions:
 - the appointment of **Michael Anderson** to the Board of Review for a term expiring on January 31, 2016.
 - the reappointment of **William Gladstone** to the Board of Review for a term expiring on January 31, 2016.

Resolution 12-101

Consent Agenda
(cont'd)

- the appointment of **Terry Nelson** to the Board of Review for a term expiring on January 31, 2016.
- the reappointment of **Linda Servis** to the Board of Review for a term expiring on January 31, 2016. This recommendation includes a recommendation to waive City Commission Rule 12k. regarding dual board memberships.
- the appointment of **Travis Bell** to the Parks and Recreation Advisory Board for a term expiring on January 1, 2016.
- the reappointment of **John Johnson** to the Parks and Recreation Advisory Board for a term expiring on January 1, 2016.
- the reappointment of **Michael Markel, Jr.** to the Parks and Recreation Advisory Board for a term expiring on January 1, 2016.

Commissioner Cinabro, seconded by Commissioner Cooney, moved to approve the consent agenda requests.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Mayor Hopewell

NAYS: None

City Manager's Report

City Manager Collard provided the following reports and updates:

- Departmental Reports and Project Updates
- *Inside the City* newsletter, December 2012 edition

Appointment of
Evaluation Panel to
Review Executive
Search Firm
Proposals

Mayor Hopewell reviewed the City Manager search process to date and recommended the City Commission appoint him, Vice Mayor McKinney, and Commissioner Cooney to an Evaluation Panel to review the 11 proposals that had been received from executive search firms and to recommend to the City Commission no more than 3 firms for final consideration. Mayor Hopewell indicated the Evaluation Panel would meet in open session and, the panel could meet on January 10th if the City Commission approved the recommendation. Mayor Hopewell stated the City Attorney, City Clerk, and Internal Auditor would assist the Panel, and the City Manager had made available the Human Resources Director as an additional resource.

In response to a question from Commissioner Anderson, Mayor Hopewell stated he and Commissioner Cooney would like to have a recommendation for the City Commission by its last meeting in January or for consideration at a special work session. Mayor Hopewell stated he

would work with staff on a location for the Evaluation Panel meeting, but he thought the Community Room was a likely venue.

In response to a question from Commissioner Miller, Mayor Hopewell clarified the Evaluation Panel would only review the search firm proposals and bring a recommendation to the entire City Commission.

Commissioner Miller expressed a preference for a special meeting to deal with the City Manager search process and suggested January 14th for this meeting. Commissioner Miller stated the process seemed to be taking a long time, and she urged the City Commission to develop a timeline for the entire search process out of respect to City Manager Collard.

Commissioners indicated they would be available for a meeting on January 14th. Mayor Hopewell stated Commissioners should tentatively plan on a meeting for that date and acknowledged the need for a long-range timeline.

An opportunity was given for citizens to comment on the appointment of an Evaluation Panel and use of the City's standard evaluation process to select the consultant to act in the City's best interest while conducting the executive search to fill the vacancy of City Manager, but no comments were offered.

Commissioner Moore, seconded by Commissioner Cooney, moved to appoint Mayor Hopewell, Vice Mayor McKinney, and Commissioner Cooney to an Evaluation Panel and direct the Panel to use the City's standard evaluation process to select and recommend no more than three executive search consultants to the City Commission for final consideration.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Next, an opportunity was given for general citizen comments.

Frank Warren, City resident, offered comments on a pro-union rally that took place at the State Capitol regarding right-to-work legislation.

Alfonso Harris, City resident, spoke about being profiled at the Radisson Hotel.

An unidentified City resident stated there would need to be give-and-take on the City's budget with all demographic segments of the community.

Appointment of
Evaluation Panel to
Review Executive
Search Firm
Proposals (cont'd)

Citizen Comments

Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Moore thanked Public Safety Officer Del Luther for assisting her when some items were stolen recently.

Commissioner Cinabro wished everyone "happy holidays."

Commissioner Miller expressed condolences to the family of Steve Tyler, former golf director of the Kalamazoo Municipal Golf Association, who passed away recently.

Commissioner Cooney expressed condolences to the families of children who were killed by a gunman in Newtown, Connecticut. Commissioner Cooney expressed support for the City's work with David Kennedy to reduce violence in the community.

Mayor Hopewell remarked on recent shootings in Kalamazoo and other parts of the country. Mayor Hopewell noted Frances Jewell was attending her last City Commission meeting as the Parks and Recreation Director, and he wished her well.

Closed Session

Commissioner Cinabro, seconded by Commissioner Anderson, moved that the City Commission go into closed session to discuss pending litigation and a City Attorney's opinion.

Prior to a vote on the motion, Mayor Hopewell indicated the City Commission would return to open session following the closed session.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Mayor Hopewell

NAYS: None

At 8:43 p.m. the City Commission went into closed session.

At 9:04 p.m. the City Commission returned to open session.

Recommendation re:
Evans v Magnan

Commissioner Anderson, seconded by Commissioner Cooney, moved to authorize the City Attorney to implement his recommendation regarding the possible settlement of the Evans v Magnan matter pending in federal court.

An opportunity was given for citizens to comment on this motion but no comments were offered.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Mayor Hopewell

NAYS: None

The meeting adjourned at 9:05 p.m.

Adjournment

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on February 4, 2013

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: February 4, 2013

	<p>A business meeting of the Kalamazoo City Commission was held on Monday, January 7, 2013 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 W. South Street.</p>
Roll Call	<p>COMMISSIONERS PRESENT: Mayor Bobby Hopewell Vice Mayor Hannah McKinney David Anderson Robert Cinabro Don Cooney Barbara Miller</p> <p>COMMISSIONERS ABSENT: Stephanie Moore</p> <p>Also present were City Manager Ken Collard, City Attorney Clyde Robinson, and City Clerk Scott Borling.</p>
Commissioner Excused	<p>Commissioner Cinabro, seconded by Commission Cooney, moved to excuse the absence of Commissioner Moore. With a voice vote the motion passed.</p>
Invocation	<p>The invocation, given by Reverend Ruth Moerdyk, Christian Church – Disciples of Christ, was followed by the Pledge of Allegiance.</p> <p>*Commissioner Moore arrived at 7:03 p.m.</p>
Adoption of the Agenda	<p>By unanimous consent the City Commission adopted its meeting agenda with the following change:</p> <ul style="list-style-type: none"> - a citizen requested that Item F2, first reading of an ordinance rezoning 1718 South Park Street, be moved to the Regular Agenda.
Communications	<p>City Manager Collard invited the public to attend meetings of various boards and commissions.</p>
Consent Agenda	<p>Consent Agenda items were presented as follows with a recommendation to approve the items and authorize for the City Manager to sign on behalf of the City:</p> <ul style="list-style-type: none"> - approval of a one-year contract extension with Gillig, LLC in the amount of \$114,000 for the purchase of bus parts.
Resolution 13-01	<ul style="list-style-type: none"> - adoption of a RESOLUTION setting a public hearing on January 22, 2013 to consider an application from Graphic Packaging International, Inc. for a PA 198 Industrial Facilities (Tax) Exemption Certificate for three years for personal property valued at \$15,700,000 in existing Industrial Development District No. 1 and Plant Rehabilitation District No. 3 located at 1500 North Pitcher Street.
Resolution 13-02	<ul style="list-style-type: none"> - adoption of a RESOLUTION from the Michigan Department of Licensing and Regulatory Affairs, Liquor Control Commission (MLCC) to approve a request from B&E Lounge 4, Inc. to transfer ownership and location of a Class C Liquor License with a dance

permit from 3939 Stadium Drive (former Ground Round Restaurant) to the new location of 2804 West Michigan (former Y Bar).

- adoption of a **RESOLUTION** recognizing Wellspring-Cori Terry and Dancers as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.
- adoption of a **RESOLUTION** recognizing Community Homeworks as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.
- acceptance of a Cities of Impact Volunteering Fund Grant in the amount of \$25,000 and authorization for the Mayor to sign all documents related to the grant.

Resolution 13-03

Resolution 13-04

Commissioner Cooney, seconded by Commissioner Miller, moved to approve the consent agenda requests and authorize the City Manager to sign on behalf of the City.

With a roll call vote this motion passed.

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore, Vice Mayor McKinney, Mayor Hopewell

NAYS: None

Regular Agenda items were considered next.

Regular Agenda

When an opportunity was given for citizens to comment on the first reading of an ordinance to rezone 1718 S. Park Street, the following people addressed the City Commission:

First Reading of an Ordinance to Rezone 1718 S. Park Street

Mark Daneman, an attorney representing Ashley and Benjamin Daneman of 1719 S. Park Steet, stated the rezoning would take place across the street and noted Rx Optical owned property at their current site where they could expand without going into residential areas.

Commissioner Moore, seconded by Commissioner Cinabro, moved to offer for first reading an ordinance to rezone 1718 S. Park Street from Zone RS-5 (Residential, Single-Dwelling District) to Zone CO (Commercial, Office District), and set a public hearing on the rezoning for January 22, 2013.

Prior to a vote on the motion, Mayor Hopewell requested that staff provide an explanation on January 22nd of how this rezoning fit with the City's Comprehensive Plan.

With a roll call vote this motion passed.

Adoption of the
FY2013 Budget

AYES: Commissioners Anderson, Cinabro, Cooney, Miller, Moore,
Vice Mayor McKinney, Mayor Hopewell

NAYS: None

When an opportunity was given for citizens to comment on the Proposed FY2013 Budget for the City of Kalamazoo, the following people addressed the City Commission:

Andrew Worden, City resident, asked that the 1% tax collection fee be removed from the budget.

Frank Warren, City resident, stated the City needed to cut its expenses, not raise revenue.

Commissioner Moore, seconded by Vice Mayor McKinney, moved to approve the City's Proposed FY2013 Budget, various fee schedules and component unit budgets:

- adopt the Annual Appropriation **RESOLUTION** for the year 2013, set forth the number of mills to be levied, approve an interim appropriation for the year 2014 and establish policies for the administration of the budget.
- approve the proposed FY2013 Brownfield Redevelopment Authority budget as submitted by the BRA Board.
- approve the proposed FY2013 Economic Development Corporation budget as submitted by the EDC Board.
- approve the proposed FY2013 Local Development Finance Authority budget as submitted by the LDFA Board.
- approve the Kalamazoo Historic Preservation Commission's budget for 2013.
- approve the Kalamazoo Municipal Golf Association FY2013 proposed budget and fee schedule.
- approve the proposed FY2013 Downtown Development Authority Operating Budget as submitted by the DDA Board and approve a two-mill tax levy.
- adopt a **RESOLUTION** to establish the fees to be charged in 2013 for the Community Planning and Development Department.
- adopt a **RESOLUTION** to establish Department of Parks and Recreation fees and charges for 2013.
- adopt a **RESOLUTION** establishing the fees to be charged in 2013 for special event applications, late fees and service fees.

Prior to a vote on the motion, Commissioners offered comments on the FY2013 Budget, the need for the City to address long term funding issues, and the difficult choices that would need to be made in 2014 and beyond. Mayor Hopewell and Commissioner Anderson indicated their intentions to vote "no" and stated there had not been enough discussion among Commissioners or with the public regarding the difficult situation facing the City beyond 2013.

With a roll call vote this motion passed 5-2.

AYES: Commissioners Cinabro, Cooney, Miller, Moore, Vice Mayor McKinney

NAYS: Commissioner Anderson, Mayor Hopewell

Community Planning and Development Director Jeff Chamberlain reported Adams Outdoor Advertising had applied to the Zoning Board of Appeals for permission to convert four existing billboards into digital billboards and remove 10 other billboards in the City. Director Chamberlain stated the ZBA, at its December meeting, had voted to table this request until February, as there were many questions. Director Chamberlain also reported the City had just received permit applications for the installation of four new digital billboards in other parts of the City. Director Chamberlain stated he had met with planning staff and City Attorney Robinson, and they had agreed a moratorium on digital billboards would be helpful. Director Chamberlain indicated he would present language to the City Commission on January 22nd that would implement a limited moratorium that would allow time for planning staff to examine the existing sign ordinance and to have a dialogue with the community on this issue.

In response to a question from Commissioner Miller, Director Chamberlain stated the digital billboard on Gull Road was in the township, not the City.

Commissioner Cinabro commended Director Chamberlain and stated a moratorium was a measured and tempered response to the situation.

Next, an opportunity was given for general citizen comments.

Christopher Wright, City resident, asked the City Commission to place a moratorium on the approval of led billboards. Mr. Wright's written remarks were filed with the papers for this meeting.

Susan Beute, City resident, expressed opposition to LED billboards.

Natalie Patchell, City resident expressed opposition to LED billboards and requested the City Commission place a moratorium on the approval of such signs. Documents submitted by citizens concerned about LED billboards were filed with the papers for this meeting.

Adoption of the
FY2013 Budget
(cont'd)

Report on Digital
Billboards

Citizen Comments

Citizen Comments

Fred Farrer, City resident, asked the City to enforce its existing sign ordinance and to discuss amending the ordinance to possibly ban LED billboards. Mr. Farrer's written remarks were filed with the papers for this meeting.

Jeff Newman, City resident, requested that the City Commission update the sign ordinance to include language addressing LED billboards. Mr. Newman's written remarks were filed with the papers for this meeting.

Commissioner Comments

Finally, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Moore invited people to attend the Martin Luther King Jr. commemoration event on January 20th and to participate in the Martin Luther King, Jr. Communitywide Day of Service on January 21st.

Commissioner Miller congratulated Zazio's restaurant for celebrating 100 months in business.

Adjournment

The meeting adjourned at 8:36 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on February 4, 2013

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: February 4, 2013

Date: **02/04/13**

Item **F6**



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

FROM: Kenneth P. Collard, City Manager, ICMA-CM, P.E.
Reviewed By: Jeff Chamberlain, Director, CP&D
Prepared By: Dorla Bonner, CD Compliance Specialist, CP&D

DATE: January 23, 2013

SUBJECT: Sale of 718 Elizabeth Street through the Neighborhood Stabilization Program 1

RECOMMENDATION:

It is recommended that the City Commission approve the sale of 718 Elizabeth Street to Deborah Woodward for \$40,000, and authorize the City Manager to sign all related documents.

BACKGROUND

Under the Housing and Economic Recovery Act (HERA) of 2008, Congress appropriated \$3.94 billion for Neighborhood Stabilization Program 1 (NSP1) funding. Based on a formula developed by the U.S. Department of Housing and Urban Development (HUD), the City of Kalamazoo received \$1,700,000 of NSP1 funding through the Michigan State Housing Development Authority (MSHDA).

The overall purpose of the Neighborhood Stabilization Program is to address the negative effects of abandonment and foreclosure on neighborhoods through demolition, acquisition, rehabilitation and homebuyer assistance. Community Planning and Development (CP&D) staff have utilized NSP1 funds to acquire and rehabilitate tax-foreclosed properties for sale to moderate to low income households.

Following the extensive rehabilitation of 718 Elizabeth Street, including lead abatement and energy efficiency upgrades, the property appraised at \$48,000. The house was listed at this price on July 22, 2011. MSHDA recommends a price reduction after 180 days, which occurred on February 24, 2012. The broker for this property did a comparable study and suggested the price be lowered to \$40,000. Ms. Woodward's purchase offer is for \$40,000.

COMMUNITY RESOURCES CONSULTED

The City of Kalamazoo's NSP1 application was based on the City's 2005 – 2009 Consolidated Plan, which analyzed community housing and development needs and which was developed in conjunction with the 13-member Community Development Act Advisory Committee (CDAAC). A Public Hearing was held on the NSP1 program during CDAAC's regularly scheduled meeting of May 14, 2009.

FISCAL IMPACT

Proceeds from the sale are considered NSP1 Program Income. HUD requires that grantees utilize program income on NSP1 eligible activities. CP&D staff anticipates using NSP1 program income to demolish blighted homes in the NSP1 targeted areas.

ALTERNATIVES

The City Commission may elect to deny the request to sell 718 Elizabeth Street. This alternative is not recommended as a key outcome of NSP1 is to transform dilapidated, foreclosed properties into quality housing opportunities for moderate to low income individuals and families.

ATTACHMENTS

Purchase Agreement



AUTHORIZED BUY & SELL AGREEMENT ("Agreement") OF THE GREATER KALAMAZOO ASSOCIATION OF REALTORS®



Date 1.3, 2013 2:00 A.M. (P.M.) (TIMES ARE KALAMAZOO, MICHIGAN TIME.) MLS No. 12047954

AGENCY

The undersigned Buyer and Seller each acknowledge that they have read and signed the Real Estate Agency Disclosure.

The agency relationships at the time of execution of this Agreement are as follows: Listing Broker represents: JAGDA, Selling Broker represents: JAGDA, Listing Salesperson represents: Andrew De Vaule, Selling Salesperson represents: Andrew De Vaule

OFFER

- 1. PRIOR OFFERS: This offer terminates any prior offers or counteroffers between the parties for The Property.
2. PROPERTY DESCRIPTION: Buyer agrees to buy from Seller The Property located at 718 Elizabeth Street in the VILLAGE/TWP. of Kalamazoo, Michigan, and legally described as: Austin Tomlinson Addition: The South 92' of the West 32' of the East...
3. SALE PRICE: FORTY THOUSAND + NO/100 (\$40,000) Dollars

The Property shall include all buildings, improvements, appurtenances, fixtures and, if now in or on the property, the following: antennas and/or satellite dishes including all accessories and complete rotor equipment (unless rented); all landscaping, including all plantings; landscape lighting; ceiling fans; lighting fixtures, light bulbs and their shades; built-in sound system wiring and built-in speakers; security systems; fireplace doors, screens and grates; wood burners and fireplace inserts; drapery and curtain hardware; window shades and blinds; wall-to-wall carpeting; screens, storm windows and doors; stationary laundry tubs; all water conditioning equipment (unless rented); water heaters (unless rented); sump pumps; heating and air conditioning equipment (excluding window units); LP tanks (unless rented); water pump and pressure tank; underground sprinkling systems; built-in kitchen appliances; awnings; mail boxes; garage door openers and transmitters; attached work benches; all attached shelving; stationary outdoor grills; storage sheds; pool and pool equipment; fencing; affixed outdoor play equipment; affixed: smoke/fire detectors, carbon monoxide detectors, thermostats, timers, and under-cabinet appliances; invisible fencing and controllers; hot tub and/or spa and all related equipment, and

wyngerefer, range, washer + dryer

but shall exclude RENTED ITEMS and

- 4. CLOSING: Sale shall be closed on a day and time mutually agreeable to Buyer and Seller, but not earlier than AS SOON AS POSSIBLE and not later than AS SOON AS POSSIBLE...
5. POSSESSION: Buyer shall be entitled to possession of The Property as follows: (Check one box)
[X] At the completion of closing. OR
[] Seller shall pay to Buyer at closing, a non-refundable delayed possession fee of \$... and shall have the right to possession of The Property until 11:59 p.m. on the... day after the day of closing.

Seller shall not be entitled to possession after the time agreed above. Unless otherwise provided in writing and signed by Buyer and Seller, Seller shall provide possession of The Property free from the rights of any other person or entity, including, but not limited to, tenants.

At the time of transfer of possession of The Property, Seller shall have removed all personal property (unless otherwise stated in this or an additional written agreement), made arrangements for final payment on all utilities, and shall deliver all keys to Selling Broker or Buyer.

The Property shall be free and clear of trash and debris; buildings and improvements shall be left in broom-clean condition. Seller shall maintain The Property in its present condition until time of possession in this transaction, normal and reasonable wear excepted. Seller shall pay for utilities and for any repairs due to damage caused by the Seller to the Property after closing and before transfer of possession. Seller is responsible for obtaining any insurance Seller deems necessary covering Seller to the time of transfer of possession.

If Seller fails to give possession to Buyer as provided, Seller shall pay Buyer \$... for each day that Seller retains The Property beyond the agreed time and shall be liable for all court costs and reasonable attorney fees incurred by Buyer in obtaining possession and collecting the amount due.

- 6. ATTACHMENTS: [X] No [] Yes Attachments and/or addendum #:

* 64 of Lot 65

7. **DISCLAIMER:** Buyer understands and agrees that the real estate Brokers and Salespersons do not warrant: (i) The Property's boundaries, the size of the land, the size of the buildings and improvements; (ii) the condition of The Property; or (iii) that appropriate permits were obtained for repairs or other work performed on buildings or improvements. Buyer understands and agrees that the real estate Brokers and Salespersons also do not assume any responsibility for the representations made by Seller. It is further understood that no representations or promises have been made to Buyer by the real estate Brokers or Salespersons, or by Seller other than those contained in this Agreement or as otherwise made or given by Seller to Buyer in the written disclosure statement(s). Buyer and Seller both understand that Brokers and Salespersons are not environmental experts. Unless expressly contained in a written instrument signed by the Brokers, Brokers and Salespersons have no knowledge of, and make no representations regarding (a) the environmental condition of The Property, (b) the existence of underground storage tanks at The Property now, or in the past, (c) whether The Property is, has been or may be listed as a site of environmental contamination, or (d) whether any such sites are located in the proximity of The Property. If Buyer or Seller requests the Brokers or Salespersons to recommend inspectors, repairmen or other professionals, Buyer and Seller agree that the Brokers and Salespersons shall not be liable for errors or omissions made by said inspectors, repairmen or other professionals.

8. **BUYER INVESTIGATIONS:** Buyer acknowledges that Buyer has been advised to carefully evaluate The Property to determine its condition. Buyer is aware that inspectors and inspection services are available to aid Buyer in these evaluations. Items Buyer should evaluate include, but are not limited to, the following: structural integrity; condition of mechanical systems; infestation by termites or other wood-destroying insects; environmental concerns such as underground storage tanks or abandoned uncapped wells; health or safety issues, including radon and mold.

Buyer further acknowledges that Buyer has been advised to carefully investigate The Property to determine its suitability for Buyer's intended use. Items that Buyer should investigate include, but are not limited to: zoning; assessed valuation, including the Principal Residence Exemption status and any possible changes to that status; the size of the land; the size of the buildings and improvements; the availability of utilities, including the cost to extend or hook-up; soil erosion or settling; the existence of wetlands; the availability of homeowner's insurance or flood insurance at a cost acceptable to Buyer.

Buyer shall have 10 days from the last dated acceptance of this Agreement ("Investigation Period") to investigate The Property. During the Investigation Period, Buyer and Buyer's representatives shall have reasonable access to The Property to conduct investigations as Buyer deems necessary. Buyer agrees to defend, indemnify and hold Seller harmless from any physical damage to persons or property resulting from such investigations. To the extent The Property is damaged due to any of Buyer's investigations or investigators, Buyer agrees to restore The Property to its original condition. Buyer is solely responsible for ordering and paying for any inspections and evaluations, except, if Buyer has elected to use VA financing, Seller shall pay for the wood destroying insect inspection at closing.

If any inspection reveals conditions unacceptable to Buyer, Buyer shall deliver to Seller a written request for corrective action(s) along with a copy of any applicable documentation/report(s) AND ANY APPLICABLE WRITTEN COST ESTIMATE(S). These must be delivered to Seller or Listing Broker within the Investigation Period. Seller shall respond in writing to Buyer or Selling Broker within five (5) days as to whether Seller will agree to pay for and/or perform said requested corrective action(s). If Seller does not accept Buyer's request, or fails to respond, Buyer shall have three (3) days from receipt of Seller's written refusal, if any, or from the expiration of Seller's allowed time, to terminate this Agreement in writing.

Alternatively, if any evaluation or investigation reveals a condition unacceptable to Buyer, Buyer may terminate this Agreement in writing provided that such termination identifies the unacceptable condition and is delivered to Seller or Listing Broker within the Investigation Period. If requested by Seller, Buyer shall provide Seller with a copy of any inspection report or documentation of unacceptable condition.

BUYER AGREES THAT THE CONTINGENCIES IN THIS PARAGRAPH SHALL BE DEEMED TO HAVE BEEN WAIVED IF (1) BUYER FAILS TO DELIVER WRITTEN NOTICE OF BUYER'S PROPOSED RESOLUTION TO SELLER OR SELLER'S AGENT WITHIN THE INVESTIGATION PERIOD OR (2) BUYER FAILS TO TERMINATE THIS AGREEMENT IN WRITING AS PROVIDED ABOVE.

IF THESE CONTINGENCIES ARE WAIVED, OR IF BUYER ELECTS TO CLOSE THIS TRANSACTION, BUYER SHALL BE DEEMED TO HAVE ACCEPTED THE PROPERTY IN ITS "AS-IS" CONDITION AS OF THE DATE OF CLOSING.

9. **LOCATION OF BOUNDARIES AND IMPROVEMENTS:** Buyer may at Buyer's expense, obtain a survey or mortgage report of The Property. If the survey or mortgage report: (1) reveals material differences in The Property's boundaries or land area from that which was represented by Seller in writing, or (2) reveals encroachments, setback violations, or matters which would interfere with Buyer's intended use of The Property ("Survey Defects"), Buyer shall furnish Seller with a copy of the survey or mortgage report, along with a written request that Seller correct the Survey Defect(s). These must be received by Seller no later than fifteen (15) days after delivery of the title commitment referenced in Paragraph 14 to Buyer or Selling Broker. Seller shall respond in writing to Buyer within five (5) days as to whether or not Seller will correct the Survey Defect(s). If Seller does not agree to do so or fails to respond, Buyer shall have three (3) days from receipt of Seller's written refusal (if any) or from the expiration of Seller's allowed time, to terminate this Agreement in writing.

BUYER AGREES THAT THIS CONTINGENCY SHALL BE DEEMED WAIVED IF (1) BUYER FAILS TO PROVIDE SELLER WITH A SURVEY OR MORTGAGE REPORT OR (2) BUYER FAILS TO TERMINATE THIS AGREEMENT IN WRITING AS PROVIDED ABOVE. IF THIS CONTINGENCY IS WAIVED AND BUYER ELECTS TO CLOSE THIS TRANSACTION, BUYER SHALL BE DEEMED TO HAVE ACCEPTED THE LOCATION OF THE PROPERTY BOUNDARIES AND IMPROVEMENTS, "AS IS".

10. **WELL/WATER/SEPTIC SYSTEM EVALUATIONS:** If The Property is serviced by a water well, Seller agrees to order within five (5) days of the last dated acceptance of this Agreement and promptly provide to Buyer and/or Selling Broker, at Seller's expense, an evaluation report from the County Health Department or the private well evaluation company listed in Paragraph 11, covering the well and tests for nitrates and bacteria in the water by either the County Health Department or other government approved laboratory. Any water evaluation beyond tests for nitrates and bacteria shall be Buyer's responsibility and Buyer's expense. If The Property is serviced by a septic system, Seller agrees to order within five (5) days of the last dated acceptance of this Agreement and promptly provide to Buyer and/or Selling Broker, at Seller's expense, an evaluation report covering the condition of the septic system by the local County Health Department or the private septic evaluation company named in Paragraph 11. Seller further agrees to have the septic tank pumped if required by the local County Health Department.

If the evaluation report(s) in any of the above circumstances disclose(s) a condition which Buyer reasonably deems unacceptable, Buyer shall notify Seller or Listing Broker of such condition and requested corrective action in writing within five (5) days of the date Buyer has received the applicable report(s). If Seller does not agree or fails to respond within fifteen (15) days of Buyer's requested corrective action, Buyer shall have the right to terminate this Agreement by providing written notice to Seller or Listing Broker within three (3) days from receipt of Seller's written refusal (if any) or from the expiration of Seller's allowed time.

BUYER AGREES THAT THE CONTINGENCY PROVIDED BY THIS PARAGRAPH SHALL BE DEEMED TO HAVE BEEN WAIVED IF (1) BUYER FAILS TO PROVIDE WRITTEN NOTICE OF A CONDITION DEEMED UNACCEPTABLE WITHIN FIVE (5) DAYS AFTER BUYER HAS RECEIVED THE APPLICABLE REPORT(S) OR (2) BUYER FAILS TO TERMINATE THIS AGREEMENT IN WRITING AS PROVIDED ABOVE.

IF THESE CONTINGENCIES ARE WAIVED, OR IF BUYER ELECTS TO CLOSE THIS TRANSACTION, BUYER SHALL BE DEEMED TO HAVE ACCEPTED THE PROPERTY IN ITS "AS IS" CONDITION AS OF THE DATE OF CLOSING.

11. PRIVATE WELL AND/OR SEPTIC EVALUATION COMPANIES: Buyer and Seller agree that the following shall be used to evaluate the well/water/septic system per Paragraph 10: For evaluation of the well and water: NA. For evaluation of the septic system: NA. A blank line shall indicate the agreement of Buyer and Seller to use the local County Health Department.

12. SOURCE OF FUNDS: This Agreement:

A. IS NOT CONTINGENT on the sale or exchange of any real or personal property by Buyer. BUYER REPRESENTS THAT THE FUNDS NECESSARY TO COMPLETE THIS AGREEMENT (ON THE TERMS SPECIFIED) ARE CURRENTLY AVAILABLE TO BUYER IN CASH OR AN EQUALLY LIQUID EQUIVALENT.

B. IS CONTINGENT ON:

(1) THE CLOSE OF THE PENDING SALE OF BUYER'S PROPERTY located at _____ . A copy of the agreement(s) to sell or exchange Buyer's property is being delivered to Seller or Listing Broker along with this offer. Buyer shall notify Seller or Listing Broker in writing within 48 hours of any changes in the terms or progress of said agreement(s) that will delay or materially affect the consummation of this Agreement. In such an event, Seller may terminate this Agreement by written notice to Buyer or Selling Broker within 48 hours of receipt of said notice from Buyer. Failure of Buyer to notify Seller of such changes, or a default by Buyer in said agreement(s), shall be considered a default in this Agreement.

(2) OTHER: _____

13. METHOD OF PAYMENT: All moneys must be paid in US funds by cash, certified check, cashier's check, or money order. The sale will be completed upon Seller's delivery of a warranty deed conveying marketable title by the following method:

A. CASH. Buyer will pay the sales price by cash, certified check, cashier's check or money order. *personal confidential*

B. NEW MORTGAGE. This Agreement is contingent upon Buyer's ability to obtain a(n) rate or (type) mortgage loan in the amount of \$ 10,000.00 or _____ % of the purchase price. Buyer shall apply for the loan from City of Lubbock *resources* (name of financial institution - Lender) within 1 days of the last dated acceptance of this Agreement. Loan application shall include the payment of any appraisal fee, application fee, and all other costs customarily charged by Lender for loan approval. Buyer acknowledges that failure to complete the loan application as agreed shall constitute a default by Buyer. Buyer shall take no action that would impair Buyer's credit or ability to obtain the loan and shall accept such loan if offered. Buyer may waive this mortgage loan contingency by written notice to Seller or Listing Broker and pay cash as provided in sub-Paragraph A above.

Seller may terminate this Agreement by written notice to Buyer or Selling broker if Buyer fails to provide Seller or Listing Broker with evidence of loan approval by 5:00 p.m. Feb 4, 2013 ("Loan Approval Deadline Date"). If Buyer is unable to obtain written verification of Lender's approval, Buyer may provide oral verification from Lender to Seller or Listing Broker. If said loan approval is acceptable to Seller, no response shall be necessary.

If Seller reasonably determines that the evidence of loan approval is inadequate or unacceptable and if Seller therefore wishes to terminate, Seller must deliver written notice of termination of this Agreement by 5:00 p.m. on the third day after the Loan Approval Deadline Date. If Seller so terminates, Buyer may waive this mortgage contingency and void the termination by delivering written notice of such waiver to Seller or Listing Broker by 5:00 p.m. on the third day after Seller's delivery of termination. If Buyer waives this mortgage contingency and subsequently fails to close due to Buyer's failure to secure financing, Buyer shall be considered in default in this Agreement.

BUYER HEREBY INSTRUCTS LENDER TO RELEASE TO SELLING BROKER AND SELLER OR LISTING BROKER INFORMATION CONCERNING COMPLETION OF LOAN APPLICATION AND STATUS OF LOAN APPROVAL.

C. LAND CONTRACT. Buyer shall pay \$ _____ upon execution and delivery of Land Contract Form No. 2020. The balance of \$ _____ shall be payable in monthly installments of \$ _____ or more including interest at _____ percent per annum, computed monthly. The first payment shall be due thirty (30) days after closing. Buyer shall pay the entire balance, which may require a balloon payment, within _____ years after closing. Buyer shall: pay taxes and insurance directly; or add one-twelfth of estimated annual taxes and insurance to monthly principal and interest and Seller shall pay taxes and insurance. Land contract preparation costs shall be paid by Seller.

This Agreement is contingent upon Seller's review and acceptance of credit and financial information on Buyer. Buyer agrees to provide such information to Seller or Listing Broker within five (5) days of the last dated acceptance of this Agreement. Seller may rescind this Agreement by delivering written notice to Buyer or Selling Broker within ten (10) days of the last dated acceptance of this Agreement if Buyer has not furnished evidence acceptable to Seller, in Seller's sole discretion, of Buyer's credit and capacity to purchase The Property. Seller understands that the Brokers and Salespersons make no representations concerning Buyer's financial qualifications.

D. OTHER FINANCING. As per attached addendum # _____.

14. SELLERS DISCLOSURE STATEMENT: BUYER HAS HAS NOT RECEIVED A COMPLETED AND SIGNED COPY OF THE SELLER'S DISCLOSURE STATEMENT # _____ DATED OR REVISED _____. SELLER HEREBY CERTIFIES THAT, TO THE BEST OF SELLER'S KNOWLEDGE, THE INFORMATION CONTAINED IN SUCH SELLERS DISCLOSURE STATEMENT IS CURRENT AS OF THE DATE OF THIS AGREEMENT. FURTHER, SELLER AGREES TO INFORM BUYER IN WRITING OF ANY CHANGES IN THE CONDITION OF THE PROPERTY RELATING TO THE INFORMATION CONTAINED IN SUCH DISCLOSURE STATEMENT.

15. LEAD BASED PAINT DISCLOSURE STATEMENT: BUYER HAS HAS NOT RECEIVED AN EPA PAMPHLET "PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME" AND A COMPLETED AND SIGNED COPY OF THE SELLER'S LEAD BASED PAINT DISCLOSURE STATEMENT # NA.

If the Property was constructed prior to January 1, 1978, Buyer will not be obligated to the terms of this Agreement unless the above documents are received by Buyer. If the above documents are received after the last dated acceptance of the Agreement, Buyer shall have the right to terminate this Agreement within 72 hours after Buyer's receipt of the above documents if the Seller's Lead Based Paint Disclosure Statement indicates any condition unacceptable to Buyer. If Buyer fails to terminate this Agreement within said 72 hours, Buyer's right to terminate under this provision shall be considered waived. BUYER WAIVES OR REQUESTS LEAD BASED PAINT INSPECTIONS TO BE PERFORMED PER LEAD-BASED PAINT ADDENDUM # _____, WHICH IS ATTACHED HERETO.

16. **TITLE EVIDENCE:** Seller agrees to convey marketable title to The Property subject to conditions, limitations, building and use restrictions and easements of record ("Exceptions"). As evidence of marketable title, Seller shall furnish Buyer, at Seller's expense, an ALTA 98 Owner's Policy of Title Insurance, if available, in the amount of the purchase price. Seller shall order the commitment for such policy, along with copies of the Exceptions, and shall deliver same to Buyer or Selling Broker within ten (10) days after the last dated acceptance of this Agreement. If a survey or mortgage report is required by the title commitment, it shall be completed at Buyer's expense in accordance with Paragraph 9 LOCATION OF BOUNDARIES AND IMPROVEMENTS. If an ALTA 98 policy is not available or if Buyer declines the ALTA-required survey or mortgage report cost, Seller agrees to provide and Buyer agrees to accept an Owner's Policy of Title Insurance with standard exceptions.

If the title insurance commitment discloses any title defect(s) or anything in the Exceptions which would interfere with Buyer's intended use of The Property, Buyer must notify Seller or Listing Broker, in writing, of Buyer's objections within five (5) days of Seller's delivery of the title insurance commitment and Exceptions. Further, if, prior to closing, Buyer shall become aware of new title defect(s), Buyer must notify Seller or Listing Broker, in writing, within five (5) days of Buyer becoming aware of such defect(s).

If Seller receives any such notification, Seller shall have either thirty (30) days from Buyer's delivery of written objection(s) or until the latest closing date set forth in Paragraph 3 of this Agreement, whichever first occurs, to resolve Buyer's objection(s). If Seller is unable to cure the title defect(s), or unable or unwilling to resolve Buyer's objection(s) to Exceptions, within this time period, Buyer may terminate this Agreement in writing and receive a full refund of the earnest money deposit or proceed to closing, accepting the status of the title "AS IS".

17. **PRORATIONS:** Items normally prorated in real estate transactions, including association fees, rental income, taxes as discussed below, interest on any existing land contract, mortgage, or lien assumed by Buyer shall be adjusted to the date of closing in accordance with the calendar year. All rental security deposits shall be paid to Buyer at closing.

18. **REAL ESTATE TAXES:** Current real estate taxes shall be prorated to the date of closing and shall be deemed to cover the calendar year in which they become due and payable. Taxes shall be deemed due and payable as follows: Summer taxes - July 1st or August 1st; Winter taxes - December 1st. If the actual tax bill(s) for the year have not been determined by the municipality at the time of closing, taxes shall be estimated by multiplying the current taxable value by the most recently available tax rate. If The Property's Principal Residence Exemption ("PRE") status for the calendar year in which the closing occurs will change as a result of the closing, the tax rate associated with the new PRE status shall be used.

If the current PRE percentage claimed by Seller is greater than zero, Seller represents that such claim by Seller is accurate and lawful. Such representations shall survive the closing. Seller shall defend, indemnify and hold harmless Buyer from any loss, claim or damage resulting from any inaccuracy in such representations. Such loss, claim or damage shall include, but shall not be limited to, any loss, claim or damage resulting subsequently to Buyer from the tax proration calculation made at the time of closing or from the change in PRE status by the municipality for any prior years. Seller shall also be responsible for actual, reasonable attorney fees incurred by Buyer in enforcing the provisions of this paragraph, regardless of whether suit is actually filed. The representations and obligations under this paragraph may only be terminated by a separate written document signed by Buyer and Seller specifically referring to this paragraph by number.

19. **SPECIAL ASSESSMENTS:** The outstanding balance of the amount owing of the lien of any special assessments shall be paid by Seller at the time of closing, except that special assessments becoming a lien after the last dated acceptance of this Agreement shall be paid by Buyer.

20. **WATER/SEWER CHARGES:** Seller shall be responsible for water and sewer charges until date of possession. The cost of water and sewer hookups after closing shall be paid by Buyer. If The Property is not presently served by these utilities, Buyer is advised to consult with the local units of government for information regarding when and if such hookup is or may be required, feasibility and cost of such hookup, and whether any assessment will be imposed at that time.

21. **LIQUID FUEL:** Seller agrees that the existing supply of liquid heating and cooking fuel shall be depleted only in the course of normal usage. Buyer shall be entitled to all such fuel owned by Seller and located or stored upon The Property at the time of possession. Buyer acknowledges Buyer has been advised to determine whether any existing supply of L.P. is owned by Seller or the supplier.

22. **SELLER'S REPRESENTATIONS:** The following representations shall survive the closing and, except as otherwise disclosed in writing, Seller represents to the best of Seller's knowledge and belief that:

- A. There are no existing violations of any laws, statutes, ordinances, regulations, orders or requirements of any governmental authority affecting The Property.
- B. There is no pending or threatened litigation, administrative action or claim relating to The Property.
- C. The Seller is the owner of title to The Property in the condition required for performance hereunder.

If The Property is rented to tenants:

- D. As referenced in paragraph 5, Seller shall notify Buyer or Selling Broker in writing of the possession rights of any person or entity, including, but not limited to, tenants. Seller shall provide copies of all leases and security deposit information to Buyer or Selling Broker within three days of the last dated acceptance of this Agreement. This Agreement is contingent upon Buyer's written acceptance of such possession rights, leases and security deposit information within five days of receipt of such notice and copies. If Seller does not provide such notice and copies within such three days, Seller warrants that no other person or entity has possession rights. If Buyer receives such notice and copies and neither accepts nor rejects such items within the five days, Buyer shall be deemed to have accepted them and this contingency shall be deemed satisfied.
- E. Notice of the tenants occupying The Property shall be entitled to any concessions, rebates, allowances or free rent for any period after the Closing Date.
- F. After the date hereof, the Seller will not enter into any agreement pertaining to The Property or any modification of, or release from, an existing lease or rental agreement, without the prior written consent of Buyer.

23. **FINAL INSPECTION:** Buyer shall have the right to inspect The Property within seventy-two (72) hours prior to closing to make sure that the real estate and personal property are in place and in a condition that is not substantially different from the condition at the time of Buyer's offer per this Agreement, or as improved by any agreed-upon corrective action. If substantial differences have occurred, then Buyer shall immediately notify Seller and/or Listing Broker in writing, of said differences and Buyer's requested corrective action. The parties shall be deemed to have settled such differences as of close of sale. Broker(s) and/or Salesperson(s) have no responsibility for the condition of The Property.

24. **DISCLOSURE:** Buyer acknowledges Buyer has been advised that Seller and Seller's agent may not consider the existence of or terms of Buyer's offer to be confidential. Buyer and Seller further acknowledge that the sale price and terms will be disclosed to the Greater Kalamazoo Association of REALTORS[®] MLS/KARIN/SWMRIC, who may use it in the ordinary course of business.
25. **UNPLATTED LANDS:** Seller represents that this Property is not a new land division under the Land Division Act and Seller owns no other contiguous, unplatted land unless otherwise disclosed in writing. Seller is transferring to Buyer all available divisions, if any, under Section 108 of the Land Division Act but makes no representations as to the number. Buyer has not relied on any information or opinions of the Broker(s) or Salesperson(s) on this matter.
26. **LEGAL COUNSEL:** Buyer acknowledges that Broker(s) and/or Salesperson(s) have recommended that Buyer retain an attorney to pass upon the marketability of title to The Property. Both Seller and Buyer acknowledge that Broker(s) and/or Salesperson(s) have recommended that they each retain an attorney to ascertain that the requirements of this Agreement have been met.
27. **DUE ON SALE: SELLER UNDERSTANDS THAT SELLING OR TRANSFERRING THE PROPERTY DOES NOT RELIEVE SELLER OF ANY MORTGAGE OBLIGATION OR OTHER INDEBTEDNESS TO WHICH THE PROPERTY IS SUBJECT, UNLESS OTHERWISE AGREED TO BY THE LENDER OR REQUIRED BY LAW OR REGULATION.**
28. **CONSENT TO FEES:** Buyer and Seller acknowledge that Brokers may be offered placement fees, finder's fees or other consideration from others who become involved in the sale of The Property. Buyer and Seller hereby grant Broker(s) permission to receive such fees and/or consideration, unless otherwise agreed in writing.
29. **CASUALTY:** In the event that, on or before the closing date, any buildings or other improvements on The Property shall be damaged by fire, storm or other casualty, and the cost to repair same is in excess of 10% of the sales price, either party shall have the right to rescind this Agreement by written notice to the other party within seven (7) days after receiving notice of such casualty, and Buyer shall be entitled to a refund of any earnest money.
30. **ARBITRATION:** Seller and Buyer acknowledge that they have been informed that any claim or dispute between them over the disposition of any earnest money deposits, or arising out of or related to the physical condition of The Property or brokerage fees covered by this Agreement, may be arbitrated by separate agreement of the parties. Arbitration Agreement forms may be obtained from the Greater Kalamazoo Association of REALTORS[®].
31. **EARNEST MONEY RESOLUTION:** If this Agreement is not closed in the time and manner provided, the Selling Broker shall have the right, but is not obligated, to propose a final disposition of the earnest money deposit in writing to Buyer or Buyer's Salesperson and to Seller or Seller's Salesperson. Unless Broker, within thirty (30) days of the date of giving such notice, receives different instructions in a written instrument signed by both parties, or is furnished written evidence that a lawsuit has been filed relating to enforcement or termination of this Agreement or disposition of the earnest money deposit, all parties shall be deemed to have agreed to Broker's proposed disposition of the earnest money deposit. If a party objects and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by the parties. In the event of litigation involving the deposit, in whole or in part, the non-prevailing Buyer or Seller, as determined by the court, shall reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and shall reimburse Broker for any reasonable attorney's fees and expenses incurred in connection with the interpleader action instituted.
32. **COUNTERPARTS/SIGNATURES:** This Agreement may be signed in one or more counterparts each of which will be deemed to be an original copy of this Agreement and all of which, when taken together will be deemed to constitute one Agreement. The exchange of copies of this Agreement and signature by facsimile or other similar electronic device shall constitute effective execution and delivery of this Agreement as to the parties, and may be used in lieu of the original Agreement for all purposes. Copies shall be deemed to mean any duplicate, reproduction or similar or exact imitation of the original executed Agreement. Signatures of the parties transmitted by facsimile or other similar device shall be deemed to be their original signatures for all purposes and shall be deemed valid and binding upon the parties as if their original signatures, initials and modifications were present on the documents in the handwriting of each party. Neither Buyer nor Seller shall assert the statute of frauds or non-enforceability or validity of this Agreement because of facsimile or similar electronic device copies being used, and both parties specifically waive and relinquish any such defense. Each party agrees to provide an original signed document to the other upon request.
33. **HOME PROTECTION PLAN:** Buyer and Seller have been informed that home protection plans are available. Such plans may provide additional protection and benefit to the parties.

34. OTHER PROVISIONS: Purchaser is eligible for \$30,000 grant.
Letter attached.

Seller to professionally write proof basement prior to closing. Seller also to complete repairs to condition prior to recent incidence of vandalism. Back yard light to be functioning.

35. DEFAULT: If Buyer defaults, Seller may enforce this Agreement, or may declare Buyer's right to purchase terminated, retain the deposit, and pursue Seller's legal remedies. If Seller defaults, Buyer may enforce this Agreement, or may demand return of the earnest money and pursue Buyer's legal remedies. Broker(s) and Salesperson(s) have no responsibility for the performance of this Agreement by the parties.

36. EARNEST MONEY: Buyer is depositing \$ 500- (cash) (check) (note) with Broker as earnest money evidencing good faith. Broker is required by law to deposit the earnest money in a separate custodial or trust account within two (2) banking days after this Agreement is signed by all parties. If the offer made is not accepted or if the sale is not closed due to a failure to satisfy a contingency specified herein for a reason other than the fault of Buyer, the earnest money shall be refunded to Buyer. The earnest money will be applied to the purchase price at closing.

ACCEPTANCE

WHEN SIGNED BY BOTH PARTIES, BUYER AND SELLER AGREE THAT THIS SHALL BE A BINDING AGREEMENT FOR THE SALE AND PURCHASE OF THE PROPERTY. DELIVERY OF ACCEPTANCE OF THIS OFFER AFTER SIGNING BY THE PARTIES IS NOT NECESSARY TO CREATE A BINDING AGREEMENT.

37. TIME IS OF THE ESSENCE: TIME IS OF THE ESSENCE WITH RESPECT TO THIS AGREEMENT. TIME LIMITS SHALL BE STRICTLY OBSERVED.

38. AUTHORIZATION: Buyer gives Broker until 2/4, 2013 5:00 AM to obtain Seller's written acceptance of Buyer's offer.

39. FINAL AGREEMENT: THIS AGREEMENT EXPRESSES THE ENTIRE UNDERSTANDING BETWEEN BUYER AND SELLER CONCERNING THIS TRANSACTION AND SUPERCEDES ALL PREVIOUS UNDERSTANDINGS, WHETHER ORAL, WRITTEN OR ELECTRONIC, INCLUDING ANY PROMOTIONAL MATERIALS OR LISTING DESCRIPTIONS. No modifications of this Agreement shall be binding unless in writing and signed by Buyer and Seller. In signing below, Buyer and Seller acknowledge that they have read the Agreement carefully before signing and have received copies of pages 1, 2, 3, 4, 5 & 6 as well as any attachments.

40. FUTURE NOTICES: Buyer and Seller authorize Broker(s) to use the contact information set forth below for notices after the last dated acceptance of this Agreement. During the term of this Agreement, Buyer and Seller agree to notify Broker(s) of any contact information changes. The contact information set forth below shall not constitute a material part of this Agreement and any addition or modification of the same shall not constitute a rejection of an offer, the creation of a counteroffer or an amendment to this Agreement. Any future notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given: (i) at the time of personal delivery; or (ii) at the time sent by facsimile (with a successful facsimile confirmation sheet); or (iii) at the time sent by electronic mail. Future notices shall be given to Buyer's or Seller's Broker and shall constitute notice given to Buyer or Seller, respectively. If Buyer or Seller is not represented by a Broker, future notices shall be given to such Buyer or Seller directly.

Salesperson Name (print): Andrew DeVault Buyer: Deborah E. Woodward
Salesperson Phone: 269-3411 Fax: 269-5677710 Print Legal Name (as you wish it to appear on final papers)
Salesperson Email: adevau11@jagarealtors.com X Buyer
Buyer Street Address: 805 Stuart Avenue X Buyer
City: Kalamazoo State: MI Zip: 49007 Print Legal Name (as you wish it to appear on final papers)

SELLER'S RESPONSE: (Date/Time) Jan 4, 2013, 11:30 AM P.M.

41. THE ABOVE TERMS OF SALE ARE (Check one) ACCEPTED AS OFFERED SUBJECT TO COUNTEROFFER NO. _____

Salesperson Name (print): _____ X Seller: Dorla Bonner for City of Kalamazoo
Salesperson Phone: _____ Fax: _____ Dorla Bonner
Salesperson Email: _____ Print Legal Name (as you wish it to appear on final papers)
Seller Street Address: _____ X Seller
City: _____ State: _____ Zip: _____ Print Legal Name (as you wish it to appear on final papers)



Promissory Note

\$ 500 —

Dated 1.3.13

For value received, I / we jointly and severally promise to pay to the order of JAQUA REALTORS (Broker)
at 221 South Drake Road (Broker's Address)
Five hundred + no/100 Dollars
on or before FINAL ACCEPTANCE

This Note is made in the State of Michigan and shall be governed and construed in accordance with its laws and the maker hereof acknowledges that the Courts of the State of Michigan shall have jurisdiction over the enforcement of the terms of this Promissory Note and that the proper venue for the enforcement of same shall lie with the appropriate Court within the County of Kalamazoo, Michigan.

The undersigned acknowledges that failure to pay this Note on time constitutes a default under a certain Greater Kalamazoo Association of Realtors Buy & Sell Agreement Form No. 125876 for property located at (address) 713 Elizabeth City/ Twp., MI, upon which this Note constitutes the Earnest Deposit and that in addition to any other remedies that may exist, the Seller may declare a default and may terminate the undersigned's rights in the Buy and Sell Agreement.

This Promissory Note does not bear interest.

In the event of default, in addition to any remedies or rights of holder, the undersigned shall pay to the holder, holder's reasonable and actual attorney's fees and expenses incurred by holder in enforcement of any of its rights hereunder.

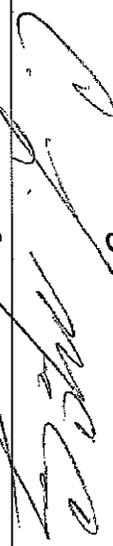
Robert E. W...

Kalamazoo Neighborhood Housing Services, Inc.

*Homebuyers Education
Certificate of Completion*

*Awarded To
Deborah Woodard*

*Presented this 21st Day of May, 2012
Presented By: Kalamazoo Neighborhood Housing Services, Inc.*


*Corinthia McCoy
MSHDA Certified Counselor*



Community Planning and Development

415 Stockbridge Avenue
Kalamazoo, MI 49001
PH: (269) 337-8044
FAX (269) 337-8429
www.kalamazoocity.org

July 10, 2012

Deborah Woodward
805 Stuart Ave.
Kalamazoo, MI 49007

Dear Ms. Woodward,

Congratulations on your eligibility approval for the Kalamazoo Homeownership Opportunity Program. We are so excited that you have chosen to participate in the Kalamazoo Homeownership Opportunity Program (KHOP). I hope that you are just as excited. Your next steps are to:

- Secure financing for your mortgage
- Select your new home
- Complete the Homebuyer Education Program

I am enclosing a letter explaining the amount of subsidy you are eligible for as well as the maximum mortgage amount that the Michigan State Housing Development Association recommends for continued affordability. The goal of KHOP is to not only help you buy a nice home, but to make sure you are able to remain in that home a long time without any financial strains.

Your initial eligibility remains valid for six months from the date you signed the application. If you have not purchased a home within those six months you will have to recertify with KNHS. Any changes in your income may affect the amount of subsidy you are eligible for.

Let me know if you would like a tour of any of the completed homes and I will connect you with the realtor. Call me if you have questions and need further explanations. Sometimes government programs can sound very complicated, but we will help you get through this.

Again congratulations and hope to hear from you soon.

Dorla Bonner

Compliance Specialist
Neighborhood Stabilization Program
(269) 337-8339
(269) 337-8429 Fax
Bonnerd@kalamazoocity.org



Community Planning and Development
415 Stockbridge Avenue
Kalamazoo, MI 49001
PH: (269) 337-8044
FAX (269) 337-8429
www.kalamazoocity.org

To Whom It May Concern:

Deborah Woodward is eligible to purchase a home from the Kalamazoo Homeownership

Opportunities Program. She is eligible for:

_____ \$1,000 toward mortgage + \$2,000 in fees, points and closing costs.*

_____ 15% of list price + \$2,000 in fees, points and closing costs.*

_____ 20% of list price to a maximum of \$30,000 to close affordability gap. (This includes fees, points and closing costs.*

 x \$30,000 or greater depending on selected home to close the affordability gap. (This includes fees, points and closing costs.*

Their approved mortgage amount must be equal to or less than

\$98,680 or,

35% of the list price of the selected home.

**Subsidy amounts are based on the homebuyers' income.*

*** Mortgage amount is based on Michigan State Housing Development Authority guidelines and proforma. This amount may change depending on the interest rate and amount of buyer down payment. A 5% interest rate was used for this calculation.*

**The program does not pay down payments for FHA loans per FHA regulations.*

If you have questions regarding the KHOP or how the subsidy works, please call (269) 337-8339

Dorla Bonner
Neighborhood Stabilization Program
Compliance Specialist I
Community Planning and Development
(269) 337-8339
bonnerd@kalamazoocity.org



Commission Agenda Report

Date: **02/04/13**

Item **F7**

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

FROM: Kenneth P. Collard, City Manager, ICMA-CM, P.E.
Reviewed By: Jeff Chamberlain, Director, C. P. & D.
Prepared By: Pete Eldridge, Project Coordinator, C. P. & D.

DATE: January 23, 2013

SUBJECT: Sale of City-owned developed property located at 906 Reed Avenue

RECOMMENDATION

It is recommended that the City Commission approve the sale of the city-owned property at 906 Reed Avenue to Susana Morales Reyes for \$7,300 and authorize the City Manager to sign all related documents.

BACKGROUND

The property at 906 Reed Avenue is a vacant 1,671 square foot duplex.

In 2009, the property was acquired by the Community Planning & Development Department after tax foreclosure. The Community Planning and Development Department obtained the tax foreclosed property with the intent to rehabilitate it. However, City rehabilitation was determined to not be feasible after cost estimates were obtained. The property was then made available for purchase for private rehabilitation.

Susana Morales Reyes approached the Community Planning & Development Department with the intent to purchase the property and rehabilitate the dwelling in December of 2012. There has been no other such inquires for acquisition of this property.

COMMUNITY RESOURCES CONSULTED

The property has been marketed on the City's website since March of 2012.

FISCAL IMPACT

There have been boarding costs to keep this structure secured and also seasonal mowing costs. This sale will remove these properties from the City's inventory.

ALTERNATIVES

The City Commission may elect to deny the request to sell 906 Reed Avenue. This alternative is not recommended as a key outcome of this marketing effort is to facilitate rehabilitation of these dilapidated dwelling units.

ATTACHMENTS

Purchase Agreement

PURCHASE AGREEMENT

This Agreement is entered into between SUSANA MORALES REYES, a single woman, whose address is 1519 Olmstead Road, Lot 54, Kalamazoo, Michigan, 49048 ("Purchaser"), and the CITY OF KALAMAZOO, a Michigan municipal corporation, whose address is 241 West South Street, Kalamazoo, Michigan 49007 ("the City"), and

Recitals:

- A. In 2009, through the delinquent tax reversion process of the state, the City acquired real estate, identified as Parcel No. 06-26-101-002, with the address of 906 Reed Avenue ("Property").
- B. The City has been unsuccessful in its efforts to sell the Property on terms, conditions or other circumstances that were acceptable. Continued ownership of the Property is not cost effective for the City. In these circumstances, and considering the number of vacant, abandoned or foreclosed homes throughout the community, the City adopted a policy to offer such properties for a price that reflects a recoupment of the costs the City incurred in acquiring the Property plus costs incurred in maintaining it.
- C. Purchaser has expressed a desire to purchase the Property from the City for her eventual residence after necessary rehabilitation of the Property is completed. The sale will serve the best interests of the City.
- I. Purchaser and the City desire to enter into this Purchase Agreement ("Agreement") for the mutual benefit of both parties, subject to the following terms and conditions.

NOW, THEREFORE, the parties agree as follows:

1. DESCRIPTION OF THE PROPERTY. The Property, as described above, is located in the RD-19 zoning district and covers approximately .11 acres. The legal description for the Property is as follows:

Parcel No. 06-26-101-002: Beginning on the south line of Reed Street (now Avenue) 221.67 feet West of the west line of Race Street; thence South 7 rods parallel with said west line; thence West 41.34 feet; thence North 7 rods to said south line; thence East 41.34 feet to place of beginning.
2. CONSIDERATION. Purchaser agrees to purchase the Property from the City for the sum of Seven Thousand Three Hundred Dollars (\$7,300.00) (the "Purchase Price"), and other good and valuable consideration as set forth in this Agreement. The City agrees to convey the Property by a covenant deed, in which the City covenants that it has not done or suffered anything that would have encumbered the Property during its ownership, to Purchaser simultaneously upon receipt of the Purchase Price.

3. TITLE INSURANCE. At the sole option and expense of Purchaser she may obtain a commitment to issue an owner's title insurance policy insuring Purchaser ("Title Commitment"). The Title Commitment must be acceptable to Purchaser in the reasonable exercise of her sole discretion. The City shall provide any surveys, affidavits and certificates required by the title insurance company if Purchaser elects to have the title policy without exceptions or with additional endorsements. Purchaser is responsible for paying the premium for the title policy and any added premium charged for a policy without exceptions and any such additional endorsements.

If Purchaser has obtained a Title Commitment, she shall notify the City within twenty (20) days after Purchaser's receipt of the Title Commitment whether there are any unacceptable issues ("Defects") regarding title for which City is responsible. The City shall remove each Defect for which it is responsible at its expense on or before the closing date. If the City fails or refuses to remove any Defect, then Purchaser may: (i) proceed to closing, waiving the Defect at issue; or (ii) terminate this Agreement by a written notice to City, and neither City nor Purchaser shall have any further liability to the other under this Agreement.

City agrees not to take any action between the time of execution of this Agreement and the closing that will cause any lien or encumbrance to the Property.

4. INSPECTION. Purchaser and its agents, consultants, and designees ("Purchaser's Agents") may from time to time inspect the Property prior to the closing, and may enter the Property to perform the inspections referenced in this Agreement. Promptly upon City's acceptance of this Offer, City shall provide to Purchaser, or make available for review by Purchaser and/or Purchaser's agents, copies of any prior environment assessments, title commitments or surveys for the Property.
5. CITY'S REPRESENTATIONS AND WARRANTIES. To the best of its knowledge, the City represents and warrants to Purchaser, now and through the closing date, as follows:
 - A. There are no claims, legal proceedings or investigations by governmental entities relating to the Property, other than any lien against the Property for the costs incurred by the City in acquiring or improving the Property, which will be waived at closing.
 - B. There are no agreements, contracts, or leases, written or oral, which affect the Property in any manner other than this Agreement;
 - C. There is no pending or proposed special assessment affecting or which may affect the whole or any part of the Property.
6. CONTINGENCIES. The obligation of Purchaser to close the purchase of the Property is contingent upon:

- A. Purchaser's reasonable satisfaction with the results of any inspections, environment assessments/reports or other due diligent activities done on her behalf regarding the Property;
- B. All representations and warranties of the City set forth in this Agreement being true as of the closing date;
- C. The City having timely performed its obligations by the date of closing.

If any contingency is not satisfied by the date of closing, including any extension permitted under Paragraph 10, then Purchaser may terminate this Agreement by written notice to City.

- 7. ENVIRONMENTAL ASSESSMENT. Within 30 days from the effective date of this Agreement, Purchaser may, at her own expense and for her own benefit, conduct all appropriate inquiry within the meaning of Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, (Act 451). If such inquiry identifies the Property as a facility, Purchaser shall complete and submit a Baseline Environmental Assessment ("BEA") to the Michigan Department of Environmental Quality ("MDEQ") as provided under Act 451 (collectively, Due Diligence Activities). Purchaser shall also maintain on file a Due Care Plan.

If Purchaser undertakes Due Diligence Activities, Purchaser shall have 5 days following completion of such activities to give written notice to the City of her election to terminate the Agreement. If written notice is not timely given to the City, Purchaser is considered to have accepted the Property in its "AS IS" condition. The closing shall then occur within the next 30 days (or within 60 days of the effective date of this Agreement), provided however, that all other contingencies under this Agreement have been met or completed. If the Purchaser notifies the City of her intent to terminate this Agreement in accordance with this Paragraph 7, neither party shall have any further rights or obligations under this Agreement.

- 8. CITY COMMITMENTS. The City agrees to complete the following:
 - A. Provide copies of all available environmental reports for the Property. If there are any facts or conditions contained in the reports which are unacceptable to Purchaser, she shall have the right to terminate this Agreement by giving written notice to the City as provided in Paragraph 7.
 - B. No official, board member, officer or employee of the City or the City is personally liable to Purchaser or its successor in interest upon a breach or default by the City for any amount payable to Purchaser or its successor or any obligation under this Agreement.

- 9. PURCHASER COMMITMENTS AND CITY'S RIGHTS OF REVERSION. As additional consideration for this Agreement Purchaser agrees that within 18 months

of closing date she will complete a rehabilitation of the Property as her owner-occupied residence so that the City can issue her a Certificate of Occupancy. Purchaser shall not commence any work on the Property without obtaining the requisite building permits; the latter to be obtained within 6 months of the closing date.

If Purchaser fails to complete the rehabilitation of the Property within 18 months following closing date, the City retains the right, at its option, to reacquire the Property by paying to Purchaser the original Purchase Price, plus an amount above the Purchase Price that reflects the fair market value of the Property considering any improvements Purchaser may have made. If Purchaser and City cannot agree on this added value within 30 days, then City shall, at its expense, have the Property appraised by a licensed real estate appraisal. The appraised value of the Property shall determine what amount, if any, over the Purchase Price is owed Purchaser for such improvements to the Property.

10. CLOSING. Subject to Paragraph 7, the closing shall occur on a date mutually agreeable to the parties, but in no event later than 60 days from the effective date of this Agreement. Regardless of the preceding, Purchaser shall have the right to extend the closing date for an additional 30 days to complete necessary Due Diligence Activities or to attempt to satisfy contingencies.
11. POSSESSION. Purchaser shall be entitled to sole and exclusive possession upon payment of the purchase price and receipt of the covenant deed to the Property.
12. TAXES. The Property is currently exempt from the payment of taxes. Beginning with December 31 of the year in which Purchaser acquired the Property, Purchaser shall be responsible for the taxes, if any, levied against the Property and the personal property located within the Property.
13. ENVIRONMENTAL CONCERNS. Purchaser, having the opportunity to conduct Due Diligence Activities regarding the Property, accepts the Property in "AS IS" condition. The City makes no representations regarding environmental hazards or liabilities on or relating to the Property. The City is under no obligation to perform any cleanup or other remedial action.
14. CITY APPROVAL. The approval by the City Commission for the City of Kalamazoo is required before this Agreement is effective and binding. If such approval is not made within 90 days after Purchaser has signed this Agreement, it shall be deemed null and void and of no force and effect.
15. SURVEY. Purchaser, at her option and expense, may obtain an ALTA survey of the Property ("Survey"). If there are any facts or conditions related to the Survey that adversely impact the Project, Purchaser shall provide notice to the City within 10 days after receipt of the survey, identifying in detail any unacceptable facts or conditions that Purchaser requests the City to cure. If the City is unable or unwilling to cure these facts or conditions within 30 days after receipt of the notice from

Purchaser, she shall have the option to either (i) waive such defects and proceed to closing; or (ii) terminate this Agreement.

16. TIME IS OF THE ESSENCE. The parties agree that in all matters relating to this Agreement, time is of the essence.

17. MAINTENANCE AND CLOSURE. As long as Purchaser, or any entity in which Purchaser has a controlling interest, owns the Property, Purchaser agrees to continue to maintain the property in accordance with all applicable federal, state or local laws, ordinances, specifically to include building, housing or zoning codes.

18. NOTICES. Any notice or other communication under this Agreement by one party to the other shall be in writing, signed by an authorized representative and delivered in person or by certified mail, postage prepaid with return receipt requested to the following:

Purchaser:

Susana Morales Reyes
Prior to closing
1519 Olmstead Rd., Lot 54
Kalamazoo, MI 49048

Subsequent to closing
906 Reed Avenue
Kalamazoo, MI 49001

City:

City of Kalamazoo
ATTN: City Manager
241 West South Street
Kalamazoo, MI 49007

w/copies to the City Attorney at above address

Each party shall notify the other of any changes in the address for the receipt of notices.

19. Real Estate Brokers. Neither party has retained the services of a real estate broker regarding this transaction. If a broker makes a claim for remuneration in connection with the Purchase, the party against whom the claim is made is responsible for paying any commission or other compensation for which the broker is entitled to receive.

20. Miscellaneous.

A. This Agreement shall bind and benefit the City, Purchaser and their respective successors or assigns.

- B. This Agreement may not be amended, altered or modified unless done in writing and signed by representatives of the parties who are so authorized.
- C. This Agreement may be signed in counterparts, which together shall comprise a single agreement.
- D. This Agreement and the exhibits to this Agreement contain all of the representations and statements by the City and Purchaser to one another and express the entire understanding between them with respect to the Purchase. All prior and contemporaneous communications concerning the Purchase are merged in and replaced by this Agreement.

Dated: _____

City of Kalamazoo

By: _____

Kenneth P. Collard

Its: City Manager

Dated: 01-04-12

By: *Susana Morales Reyes*
Susana Morales Reyes

Prepared by:
John W. Kneas
Assistant City Attorney
241 W. South Street
Kalamazoo, MI 49007-4707

K:Attydocs\JOHN\906 Reed Ave. Sales Agmt. - Reyes
12/21/12



Commission Agenda Report

City of Kalamazoo

Date: **02/04/13**

Item **11**

TO: Mayor Hopewell, Vice Mayor McKinney, and City Commissioners

FROM: Kenneth P. Collard, City Manager, ICMA-CM, P.E.
Reviewed By: Jeff Chamberlain, CP&D Director
Prepared By: Rob Bauckham, Assistant City Planner

DATE: January 16, 2013

SUBJECT: Rezoning request for 1718 S. Park Street

RECOMMENDATION

It is recommended that the City Commission adopt an ordinance to rezone 1718 S. Park Street from Zone RS-5 (Residential, Single-Dwelling District) to Zone CO (Commercial, Office District).

BACKGROUND

This rezoning request is from the Rx Optical Company. The company would like to construct an approximately 5,000-square-foot addition onto the east side of its headquarters building, which is located at 1725 S. Park Street. The addition would extend onto the subject property. The rezoning is needed to allow the addition to be built, since the subject property is in a residential zone. Office uses are not permitted in the residential zones. The subject property contains a two-story, single-family home that was constructed in 1921, and it includes a detached garage. The property owner is Matthew Fletcher, who is affiliated with Rx Optical. The house is currently occupied.

If the rezoning is approved, the house and garage on the subject property would either be removed or relocated to a different site. The city Historic Preservation Coordinator is evaluating the house to see if it could feasibly be relocated, and if it has any historic significance. The current driveway access to the subject property from old S. Park Street would be closed off for this building addition project. No vehicular traffic would be allowed from the subject property or from the current Rx Optical property onto old S. Park Street. The construction work would likely not take place until 2014, but the applicant would like to have the new zoning in place before that time. It is anticipated that between 8 and 15 new employees would be hired by Rx Optical to occupy the expanded building. The applicant has contacted the adjacent neighbors regarding the rezoning request for the subject property and planned building expansion, and reportedly did not receive any objections from them.

A preliminary site plan for the building addition is attached. It identifies the proposed footprint of the building addition. Twelve new parking spaces are also shown to the south of the addition, on the adjacent site to the south. This adjacent property is also owned by the applicant and is already in the Commercial Office zoning district. If the rezoning of the subject property is approved, the applicant will need to provide a final site plan of the project for the review and approval of the Site Plan Review Committee. The plan will need to meet the regulations of the Zoning Ordinance, including proper screening for the adjacent home to the north.

The subject property is in the Core Residential 1 future land use category. It is bordered on two sides by property zoned Commercial Office and in the Neighborhood Commercial future land use category. Three existing office buildings are located immediately to the west of the subject property. The categories identified on the future land use map are typically “painted with a broad brush” and are not generally intended to be applied to individual parcels. The applicant owns the property to the south of the subject property, which is also in the Commercial Office district. They hope to develop it in the future with additional office-type facilities and uses. Given the adjacent office uses and zones, and the office development planned for the property to the south, the Planning staff believes this is an appropriate rezoning for the subject property.

COMMUNITY RESOURCES CONSULTED

Notices were mailed to all property owners and occupants located within a 300-foot radius of the subject property to inform them of the public hearing for the request scheduled before the Planning Commission, and to encourage their attendance at the meeting. A notice of the hearing was also published in the *Kalamazoo Gazette* prior to the meeting. The same notification process will be conducted for the public hearing to be held by the City Commission. Normally, notification of rezoning requests is also provided to the neighborhood association in which the property is located. In this case, the Southside Neighborhood, where the property is located, does not currently have a neighborhood association.

Planning Commission

At its regular meeting of December 6, 2012, the Planning Commission held a public hearing on the rezoning request. One resident commented that she was not opposed to the request, but wanted some conditions placed on it pertaining to design. It was indicated to her that design issues would be addressed during the site plan review process if the rezoning is approved. One other citizen asked for clarification of the proposed zone. There were no other comments. The Planning Commission voted unanimously to recommend to the City Commission to approve the rezoning request.

FISCAL IMPACT

The current rental house on the subject property generates approximately \$600 annually in tax revenue for the city. The proposed building addition has been estimated to be valued at \$1,250,000, which will generate approximately \$27,500 annually in tax revenue for the city.

ALTERNATIVES

The City Commission has the option of not approving the rezoning request. If the request is not approved, the building addition will not take place. There is no available space on the existing property for the addition to occur, and the applicant needs to expand its business. It is recommended that the City Commission approve the rezoning request.

ATTACHMENTS

Ordinance
Aerial photograph
Existing and proposed zoning maps
Existing land use map
Preliminary plan
Planning Commission meeting minutes (December 6, 2012)

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 1.8.A. ZONE DISTRICT MAP OF THE ZONING ORDINANCE, BEING APPENDIX A OF THE KALAMAZOO CODE

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Under Section 1.8.E. the Zone District Map described in Section 1.8.A. is amended as follows:

The land area hereinafter described to be rezoned from Zone RS-5 (Residential, Single-Dwelling District) to Zone CO (Commercial, Office District)

That area of land in Section 22 of the City of Kalamazoo, County of Kalamazoo, State of Michigan, commonly referred to as 1718 S. Park Street, more fully described as:

That part of the Northwest Quarter of Section 22, Township 2 South, Range 11 West, City of Kalamazoo, Kalamazoo County, Michigan, described as commencing at the Southwest corner of Park and Emerson Streets; thence South 0 degrees, 50 minutes, 0 seconds West on the West right-of-way line of said Park Street 181.50 feet to the point of beginning of the land herein described; thence continuing South 0 degrees, 50 minutes, 0 seconds West on said right-of-way line a distance of 74.25 feet; thence North 88 degrees, 32 minutes, 0 seconds West 33 feet; thence North 86 degrees, 47 minutes, 0 seconds West 40 feet; thence North 76 degrees, 47 minutes, 0 seconds West 32 feet; thence North 63 degrees, 12 minutes, 0 seconds West 30.83 feet; thence North 59 degrees, 34 minutes, 0 seconds West 0.07 feet (deeded 0.31 feet) to a point 132 feet West of said West right-of-way line; thence North 0 degrees, 50 minutes, 0 seconds East parallel with said West right-of-way line 53.28 feet to a point 181.50 feet South of the South right-of-way line of said Emerson Street; thence South 88 degrees, 32 minutes, 0 seconds East 132 feet to the point of beginning, containing approximately 0.21 of an acre

A map identifying the land area is attached.

Section 2. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

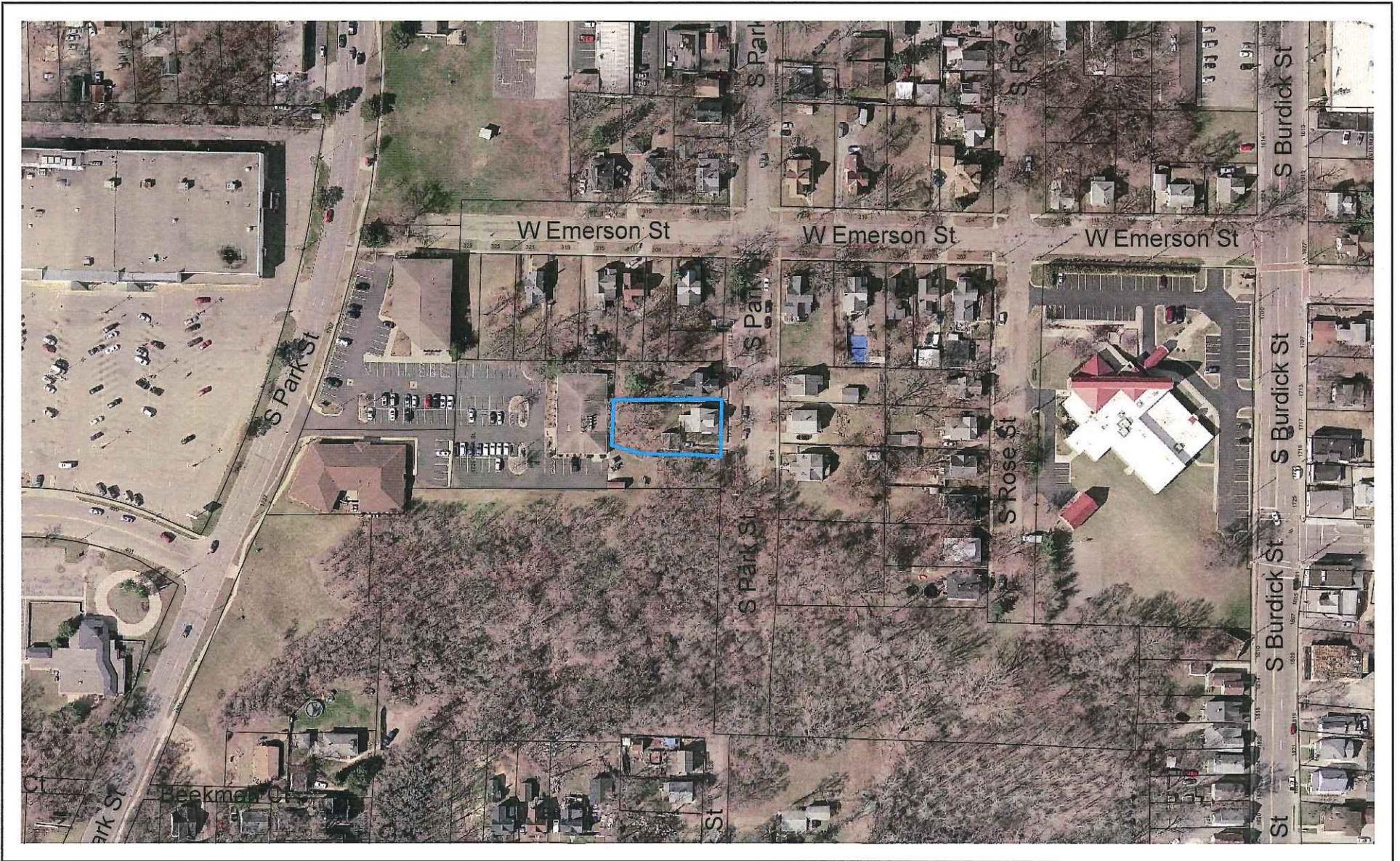
CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2013, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been available as required by said Act, and furthermore, said ordinance was duly recorded, posted, and authenticated by the Mayor and City Clerk as provided by the Charter of said City.

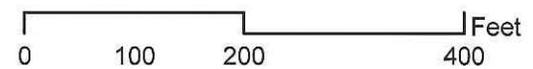
Bobby J. Hopewell, Mayor

Scott A. Borling, City
Clerk

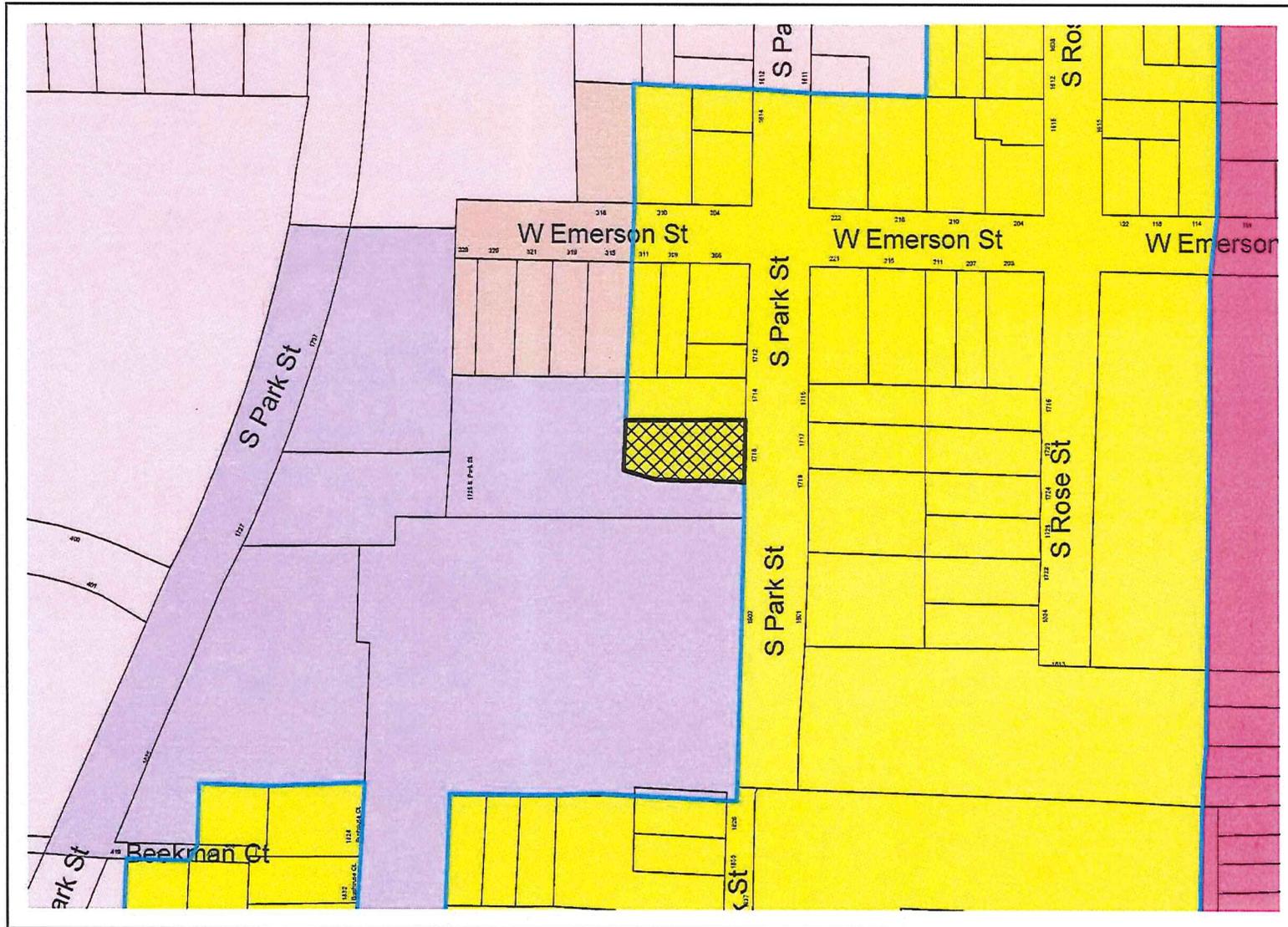
P.C. #2012.12: 1718 S. Park Street
Rezone from Zone RS-5 to Zone CO



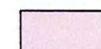
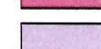
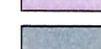
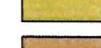
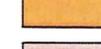
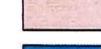
AREA PROPOSED FOR REZONING



P.C. #2012.12: 1718 S. Park Street Rezone from Zone RS-5 to Zone CO

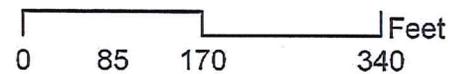


EXISTING ZONING

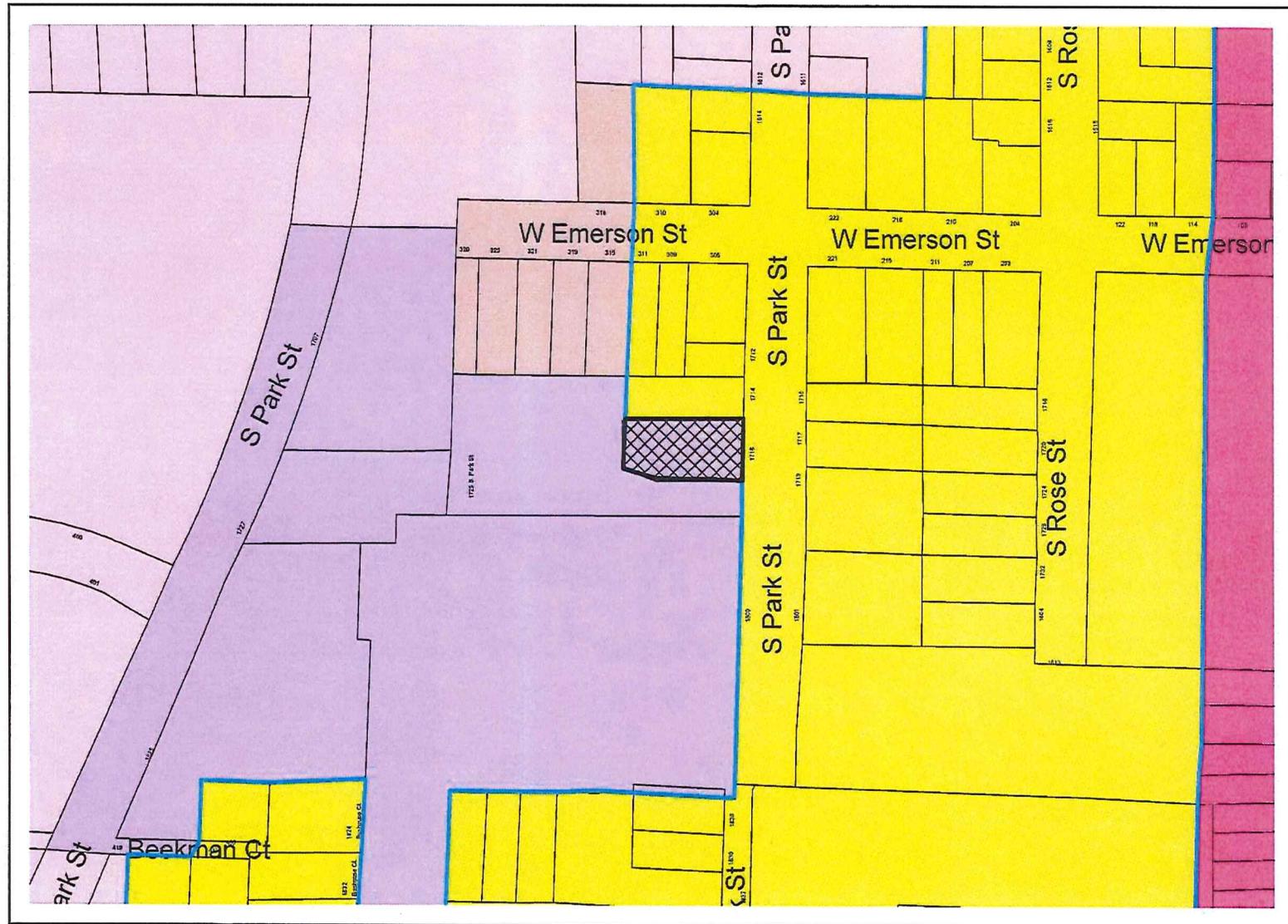
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-  CC
-  CCBD
-  CMU
-  CN-1
-  CO
-  M-1
-  M-2
-  PUD
-  RD-19
-  RM-15
-  RM-15C
-  RM-36
-  RMU
-  RS-5
-  RS-7



AREA PROPOSED FOR REZONING



P.C. #2012.12: 1718 S. Park Street Rezone from Zone RS-5 to Zone CO

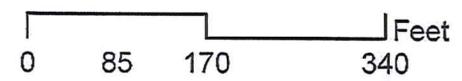


PROPOSED ZONING

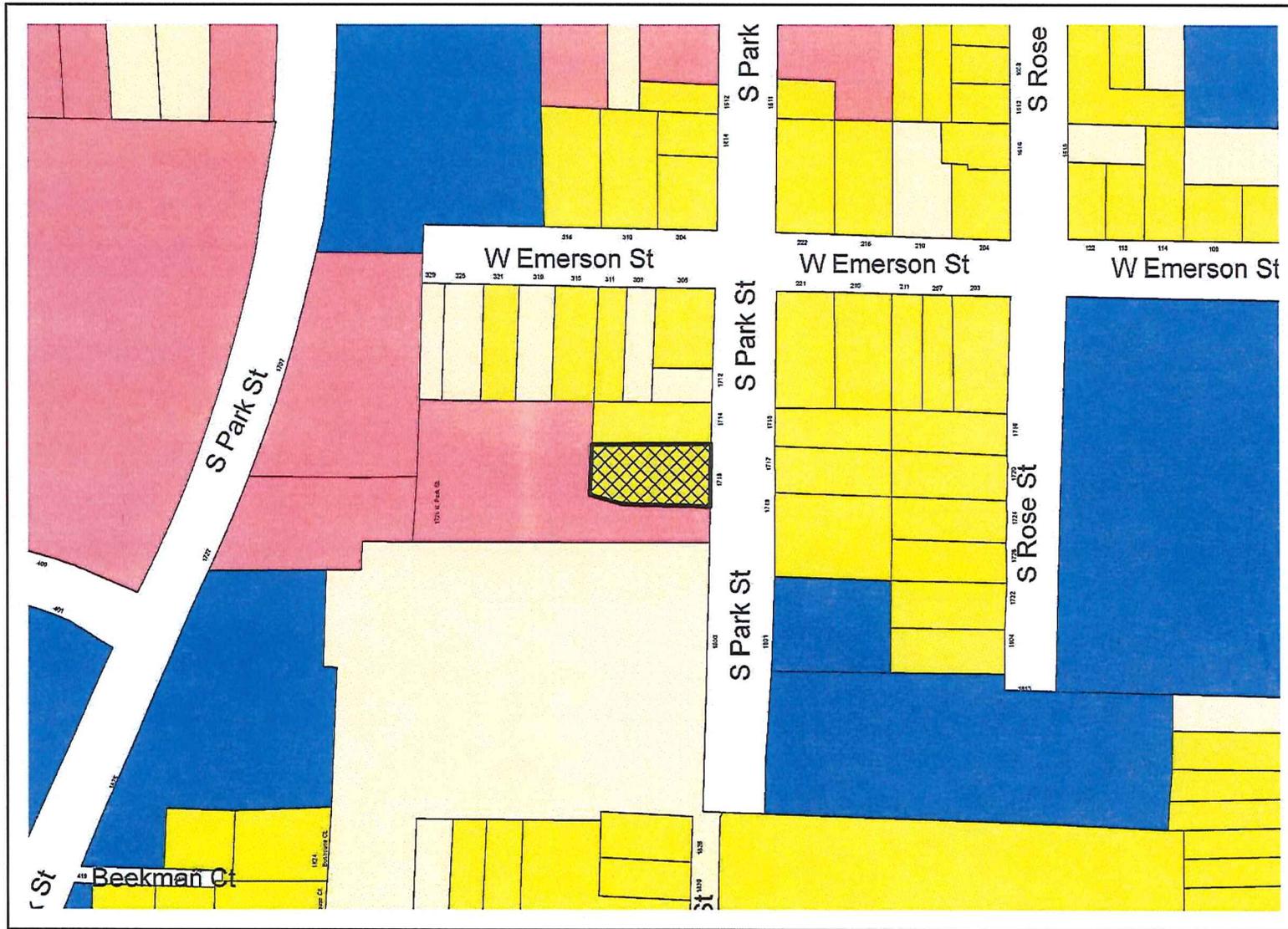
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-  CN-1
-  CO
-  M-1
-  M-2
-  PUD
-  RD-19
-  RM-15
-  RM-15C
-  RM-36
-  RMU
-  RS-5
-  RS-7



AREA PROPOSED FOR REZONING



P.C. #2012.12: 1718 S. Park Street
 Rezone from Zone RS-5 to Zone CO

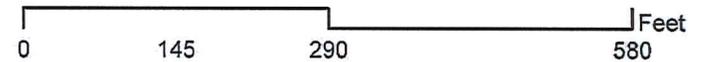


LAND USE

-  COMMERCIAL
-  VACANT
-  TAX EXEMPT
-  INDUSTRIAL
-  RESIDENTIAL



AREA PROPOSED FOR REZONING

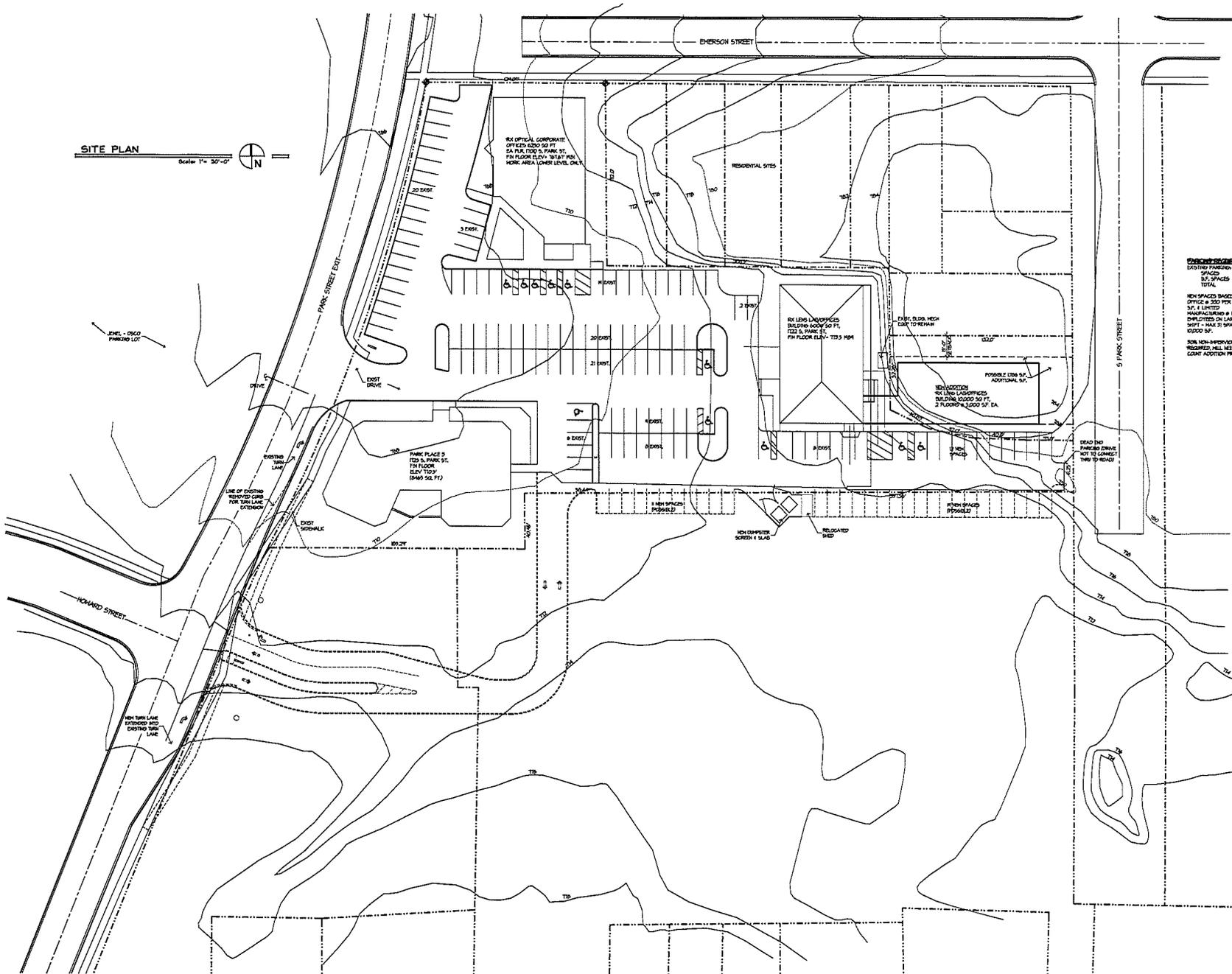




531 South RiverView Drive
Kalamazoo, Michigan 49004
PH: 269.381.4311 FAX: 269.381.3399
www.locumarchitects.com

SITE PLAN

Scale: 1" = 30'-0"



SPACES REQUIRED
 EXISTING PARKING SPACES = 24
 NEW SPACES = 14
 TOTAL = 38

NEW SPACES BASED ON OFFICE @ 300 PER GROUP 5, 4 LIMITED MANUFACTURING @ 1 PER 5 EMPLOYED ON LARGE SHOP - MAX 21 SPACES ON 10000 S.F.

SOME NON-APPROVED SPACE REQUIRED, WILL NEED TO GOVT. ACTION PROPERTY.

**ADDITION TO:
 RX OPTICAL SURFACING & FINISHING LAB EXPANSION**

1722 Stern Foxe Street
 Kalamazoo, MI

SHEET TITLE
SITE PLAN

FILE NAME
 E28_C100.P10

ISSUED

PRELIMINARY

JOB NUMBER
 1218

C100

**City of Kalamazoo
PLANNING COMMISSION
Minutes
December 6, 2012
*Draft***

2nd Floor, City Hall
City Commission Chambers
241 W. South Street, Kalamazoo, MI

Members Present: Mark Fricke, Chair; Casey Fawley, Vice Chair; Charley Coss; Rachel Hughes-Nilsson; Rico White; Reed Youngs

Members Excused: Todd Hamilton; Geoffrey Cripe

Members Absent: Angela Reynolds

City Staff: Andrea Augustine, City Planner; Robert Bauckham, Assistant City Planner; John Kneas, Assistant City Attorney; Amy Thomas, Recording Secretary

A. CALL TO ORDER

Commissioner Fricke called the meeting to order at 7:00 p.m.

B. ROLL CALL

Planner Augustine completed roll call and determined that the aforementioned members were present.

C. ADOPTION OF FORMAL AGENDA

There were no changes to the agenda.

Commissioner Youngs, supported by Commissioner Coss, moved approval of the December 6, 2012 Planning Commission agenda as submitted. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES (October 4, 2012)

There were no changes to the minutes.

Commissioner Youngs, supported by Commissioner White, moved approval of the October 4, 2012 Planning Commission minutes as submitted. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

None

F. PUBLIC HEARINGS

1. P.C. 2012: Consideration of a request from Park Place of Kalamazoo, LLC to rezone 1718 S. Park Street from Zone RS-5 (Residential, Single-Dwelling District) to Zone CO (Commercial, Office District).

The staff report is included in these minutes by reference hereto. Planner Bauckham advised that the subject property is on old South Park Street, north of Crane Park and south of Emerson Drive in the Southside Neighborhood. There is two-story, single-family house on the site and a detached garage. The property is owned by Matthew Fletcher who is affiliated with the applicant. The house is currently rented and occupied. The applicant owns the adjacent property to the west, which contains three office buildings, including the headquarters for the Rx Optical Company. They would like to construct a 5,000-square-foot addition on the east end of the Rx Optical building. The building addition would extend onto the subject property, which creates the need for the property to be rezoned from the residential zone to the commercial/office zone. The house will either be relocated to a different site or it will be razed. The current driveway to the house on old South Park Street would be removed for this project, so there would be no access from this site onto that street.

The applicant also owns the property directly to the south and he wants to create parking there for the building addition. The property to the south is currently in the commercial/office zone, so rezoning is not needed for that parcel. It is anticipated that between eight and fifteen jobs would be created for this project. The construction would not likely begin until 2014, but the applicant would like to have the rezoning in place before that time. The applicants spoke to their neighbors regarding this request and reportedly did not receive any objections from them. Given the adjacent office uses and zoning of adjacent parcels, city staff is recommending that the Planning Commission recommend to the City Commission to approve the request.

Commissioner Fricke inquired if the addition would span both the currently zoned land and land to be rezoned; Planner Bauckham responded in the affirmative. Commissioner Fricke commented that it looks like there will be a significant amount of asphalt on this site. Planner Bauckham referred to the preliminary site plan and advised that a small parking lot is proposed to serve the addition and it will extend onto the property to the south. The required amount of open space will need to be met with this project.

Commissioner Fricke mentioned that the plan refers to “new space possible.” He inquired if that is due to the fact that there is uncertainty as to how many new jobs will be created. The plan shows 12 new spaces on the north part of the lot and there is a notation about a possible 14 additional spaces. He inquired if that area would be paved. Planner Bauckham advised that it would have to be paved. There is a wooded site to the south, which is also owned by the

applicant. The applicant has future plans to develop that as an additional office complex. Part of the proposed parking may be used for the future office building.

Matt Fletcher, Managing Member of Park Place of Kalamazoo, stated that his Grandfather started Rx Optical in 1947. The building on Park Street is the world headquarters for the company. Rx Optical just opened its 51st store in southwestern Michigan; two more stores are planned for the near future. The applicant owns 1800 S. Park Street, which is the 3.5 acres of undeveloped land to the south, and they would like to add a fifteen-thousand-square-foot building there in four or five years. There would be no added traffic to old South Park Street. There are currently three renters in the house, so there would be less traffic after the house is gone. Mr. Fletcher advised that he spoke with six homeowners in the Southside Neighborhood about the project. All of those neighbors were interested in whether or not there would be more traffic on old South Park Street. He told them all traffic will flow to west onto new South Park Street. The construction would not begin until 2014. The applicant hopes to create approximately 15 new jobs ranging in pay from \$15 to \$20 per hour with benefits. The applicant pays about \$100,000 in property taxes just for the three buildings that are there, that does not include personal property taxes.

Commissioner Fricke inquired as to the exterior lighting that will be used for the proposed project. Mr. Fletcher stated that he thought one more pole light, about 60 feet high, would be added. There are already two pole lights on the existing parking lot. A brick wall will probably be added at the east side of the addition. He is working with the neighbors right now to clean up 1500 South Park Street to the south of this project. Many of the smaller weed trees have been removed so the parcel will be more park-like until the applicant can build on it. Mr. Fletcher is working with four neighbors to the south to funnel pedestrians away from the parking lot and the neighbors' yards. People walk through this area on their way to the grocery store. Commissioner Fricke inquired if that is a problem now. Mr. Fletcher stated that he picks up garbage in that area every day; the short-cuts are an issue.

(7:20 p.m. – Commissioner Fawley arrived.)

Mr. Fletcher advised that his company makes optics in the laboratory on the site, which does not generate any noise. The EPA tested the air and water and advised that it came out cleaner than when it was received due to the ionization process that is utilized.

Commissioner Fricke stressed the importance of making sure the lighting is adequate and that it doesn't bother the neighbors. If a barrier is created to prevent people from using the short-cut, it is important to make sure that those people are not herded into the neighbors' back yards. Mr. Fletcher advised that the brick wall would be along the eastern end of the property. The wall would also extend to the south. Landscaping would also be used between the subject property and the neighbors to help discourage the cut-through traffic. Mr. Fletcher advised that the neighbors were happy when the applicants cleaned up the 3.5 acres. It is not his intention to put fences all over the site and push people into the neighbors' back yards.

Corine Foster, advised that she lives on the southwest corner of Emerson and Park Street. She stated that she knew nothing about the applicant's plans until she received a notice in the mail. She was concerned that there would be a driveway onto old Park Street for the new project. Ms. Foster mentioned that in 2004, the subject property was rezoned to Zone 8. It is her understanding that Zone 8 is now Zone 5. Commissioner Fricke advised that Ms. Foster's concerns would be addressed at the end of her comments, since she only has four minutes to speak. Ms. Foster inquired if there are plans to make Park Street longer to the south. Commissioner Fricke advised that the diagram shows an undeveloped right-of-way rather than pavement.

Planner Augustine advised that in 2004, the property was rezoned from Zone 7 (former residential, multi-family) to Zone 8 (former single-family zone). In 2005, the zones were renamed. Zone 8 is now Zone RS-5. It is the same zoning classification, but the names of the zones were changed to make them more illustrative. For example, Zone RS-5 is for residential, single-family uses at 5 units per acre.

Ashley Daneman is the occupant of 1719 S. Park Street, which is directly across from the proposed parking lot. She is concerned about how this will change the character of the neighborhood. She commented on the importance of keeping the green space. She requested the following: 1. That this request be designated as a conditional zoning approval to protect the neighborhood; 2. That more than the basic buffering and landscape required in the zoning ordinance should be provided; 3. The barrier wall should be placed as far back as the homes that are on the west side of Park Street, or the minimum front setback standard in the zoning ordinance, which is 25 feet from the house side; 4. That a low maintenance wall be required as a barrier; 5. That plantings be required in front of the barrier; 6. No structure should extend closer to S. Park Street than the back of the homes on the west side of S. Park St.; and, 7. No signage or lighting should be visible from the residential zone. Since the woods have been cut down, the neighbors can see a lot more light and hear more noise than before. Ms. Daneman would like to work with Mr. Fletcher, whom she has not met, regarding the barrier. She wants to make sure this area remains a family neighborhood, that it is separate from the commercial area, and that it is a safe place for her kids to grow up.

There were no further public comments and the public hearing was closed.

Commissioner Youngs advised that the second speaker brought up issues that will be addressed during site plan review. Parking and other details will be addressed. Right now this is just a rezoning of the property.

Planner Augustine confirmed that the items that were discussed would come up in site plan review. The applicants are requesting a rezoning to allow the proposed project to occur. The Planning Commission does not have final say as to the approval of this project. The Planning Commission will be making a recommendation to the City Commission. If the City Commission approves the application and the applicant submits a full site plan, the details of the site plan, including landscaping, buffering, lighting, etc., will be addressed. Planner Augustine advised

that the site plan review meetings are not public meetings but the public is welcome to look at the site plans.

Commissioner Youngs, supported by Commissioner Hughes-Nilsson, moved approval of P.C. #2012.12, consideration of a request from Park Place of Kalamazoo, LLC to rezone 1718 S. Park Street from Zone RS-5 (Residential, Single-Dwelling District) to Zone CO (Commercial, Office District). With a roll call vote, the motion carried unanimously.

Commissioner Fricke commented that he is hesitant to approve the rezoning of a property if it is unclear what will happen to the property. In this case, there are more details about what will be happening with this property.

G. CITIZENS' COMMENTS ON NON-AGENDA ITEMS

None

H. OLD BUSINESS

Planner Augustine referred to a discussion at a prior Planning Commission meeting with regard to the need to appoint a new Planning Commission Secretary. The State Planning Enabling Act requires the Planning Commission to have a secretary to review the minutes before they are forwarded in the agenda packet. The Planning Commission Secretary is different than the Recording Secretary, which is a position occupied by city staff. Commissioner Cripe advised city staff that he would be willing to accept the position of Planning Commission Secretary.

Commissioner Fawley, supported by Commissioner Youngs, moved to nominate Commissioner Cripe as Secretary of the Planning Commission. With a voice vote, the motion carried unanimously.

I. NEW BUSINESS

1. Presentation of the 2013 Capital Improvement Plan.

Planner Augustine introduced Patsy Moore, Director of Budget and Accounting, to discuss the CIP. The CIP is a work list for the city in 2013 and is part of the 2013 budget. The CIP shows projected expenditures for the city five years in advance. The current CIP shows proposed projects through 2018. It is roughly a year-long process to get the CIP to the point where it is ready for approval. The Planning Commission chair has attended some of the CIP meetings. The city charter requires the Planning Commission to review and make recommendations on the CIP.

Ms. Moore advised that there is a Project Coordination Team to coordinate capital projects and make recommendations on projects for the proposed budget. The Project Coordination Team is comprised of department directors and project managers. Projects are reviewed and scored according to established criteria. There are nine categories that are used for scoring the projects. If a project is fully funded, it is moved to the top of the list. Some projects are required by state

legislature or federal agencies and must be completed for the city to be in compliance. Those projects are also moved to the top of the list. Plans are evaluated to determine if they are consistent with the city's strategic objectives and commitments. Projects are also scored based on whether or not they would preserve an existing city asset. Health and safety aspects of proposed projects are evaluated. Public and private initiatives are also evaluated, as well as the possibility for leveraging of funds. Points are awarded based on the ratio of leveraged funds. The benefit or liability of a project is considered, as well as how much it will cost or how much it will save. For FY 2013, there is \$924,000 in proposed projects from the general fund. The largest single budget item for the upcoming year is proposed updates to fire apparatus in the amount of \$300,000. Other projects being proposed include improvements to technology at the Public Safety Department, improvements to Hayes Park, and various improvements to facilities around the city. The total maintenance improvement program is \$4.8 million dollars, which would include \$1 million in local street improvements and \$3.8 million in major street improvements. From the Enterprise Fund, which includes wastewater and water, \$3.1 and \$2.5 million, respectively, will be invested to improve those systems. The total capital improvement investment being proposed for the FY 2013 budget is \$11.3 million dollars. Planning Commission approval for the proposed budget is being sought at this time. The City Commission will be in deliberation regarding budget issues over the coming weeks.

Commissioner Fricke commented that the city seems to be doing a good job at projecting the budgetary needs. It appears there were not many projects this year which did not come to fruition. Ms. Moore advised that the planning is paying off. Commissioner Fricke commented that some items that did not make the cut this year; he inquired if Ms. Moore expected those projects to be on the plan for next year. Ms. Moore advised that all of the projects planned for 2013 made it into the CIP, but some have been pushed to future years to be completed.

Commissioner Hughes-Nilsson, supported by Commissioner Coss, moved to recommend to the City Commission to approve the 2013 Capital Improvement Plan. With a voice vote, the motion carried unanimously.

J. CITIZENS' COMMENTS

None

K. CITY PLANNER'S REPORT

Planner Augustine distributed a memo regarding medical marijuana, which was drafted by City Attorney Clyde Robinson. On November 6th, the City of Kalamazoo voted on a charter amendment to allow for three medical marijuana dispensaries in the City of Kalamazoo. It was passed by the voters. The purpose of the charter amendment was to implement the goal and intent of the Michigan Medical Marijuana Act, which was passed several years ago. There is a provision in the zoning ordinance pertaining to medical marijuana, which allows for medical marijuana caregivers and patients to interact as a home occupation; it did not allow for dispensaries. City staff's rationale for not allowing dispensaries was that the Michigan Medical Marijuana Act does not actually allow for medical marijuana dispensaries. Because of the

charter amendment, there are some gray areas that now need to be addressed. There have been several appeals cases related to dispensaries in the state, the most common of which is the McLean case. The Michigan Court of Appeals found in that case that medical marijuana dispensaries are not considered a legal use. The court held that medical use of marijuana does not permit patient to patient sales of marijuana, neither does it permit the sale of marijuana. Defendants therefore had no authority under the MMNA to operate a marijuana dispensary, or to actively engage in or carry out patient to patient sales of marijuana. This case was heard by the Michigan Supreme Court. They have not yet issued a ruling but will probably do so during the first part of 2013.

The city's opinion is that until such time that the courts rule that medical marijuana dispensaries are a legal use, we cannot enforce the charter amendment that was voted on. There are a couple of options that the courts may use when they issue a ruling on this case: 1. They may say medical marijuana dispensaries in all forms are illegal. 2. They may say medical marijuana dispensaries are legal and the city can implement the charter amendment. 3. The court may say the medical marijuana dispensary model the defendants used in this case is not legal. If that is the case, the city will have to re-evaluate its stance on this issue.

Depending on the nature of the Supreme Court decision, city staff will probably take steps to create a zoning ordinance amendment to allow for dispensaries. The way the charter amendment was written, it says that medical marijuana dispensaries should be in appropriate commercial zones, but they didn't specify what the appropriate zones would be. It would be the job of city staff, the Planning Commission and the City Commission to determine what the appropriate commercial zones would be and to create medical marijuana dispensary zoning.

Commissioner Youngs inquired if medical marijuana zoning districts were set up, would they be spot zoning and would they be more of a commercial enterprise or agricultural. Planner Augustine advised that the city doesn't have agriculture zones. The charter amendment did discuss appropriate commercial zones. It is her understanding that zoning cannot be mandated by charter amendment, so it was a suggestion rather than a rule. Commercial areas would not be an inappropriate space for it. As an example, when some municipalities deal with adult-regulated uses, there have been disbursement methods. This means that the adult-regulated use can only be in a particular zone and they have to be a certain number of feet from various uses. Or a zone could be created where the dispensaries would be congregated. In the City of Kalamazoo, most growers tend to grow marijuana indoors. The Michigan Medical Marijuana Act requires that it be in an enclosed, locked area. The voter initiated charter amendment is at odds with the law.

Commissioner White referred to a facility near Howard and Park Street. Planner Augustine advised that facility is a doctor's office. They see patients and determine if patients are eligible for medical marijuana. Commissioner White inquired as to where the patients would get medical marijuana if they are approved to receive it. Planner Augustine advised that there are caregivers operating within the confines of the Michigan Medical Marijuana Act who would be allowed to provide medical marijuana to patients who have been approved to receive it. If they operate within the confines of the Michigan law, they don't need to provide their name or address to the

city. The Act forbids public safety from keeping a list of people who have medical marijuana cards. If someone got a prescription for medical marijuana, they would be put in touch with a care giver or they could grow their own. There are also compassion centers and compassion clubs that help patients connect with caregivers. The law does not allow for commercial operation where patients can buy medical marijuana.

Commissioner Fricke inquired if the city would still be in violation of federal law even if the Michigan Supreme Court rules in favor of medical marijuana dispensaries. Planner Augustine advised that anyone who is using medical marijuana would be in violation of federal law. Marijuana is a schedule 1 narcotic and is illegal at the federal level. Just this past week, the U.S. Attorney General reiterated that it is illegal.

Planner Bauckham referred to the project spreadsheet that was provided in the Planning Commission packets and advised that three more site plans have been received by city staff. One of the site plans was for a barber shop on Riverview Drive, which will be in a new building north of Gull Road. Another barber shop has been proposed for an existing building at Mills and Lake Street. A site plan was also submitted for the new Washington Writers' Academy School on Lay Blvd. and Portage Rd.

Also, improvements are being planned for Woods Lake Park. A new pavilion will be added, as well as trails, a fishing deck and an observation deck. The Community Promise Federal Credit Union will be locating near Portage and Washington, near the former adult book store. The site plan for that project is nearing approval. The Fastenal Company on Miller Rd. is nearing completion of its building. The landscaping should be completed in the spring. There have been a total of 45 site plans received this year.

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

None

M. ADJOURNMENT

Commissioner Coss, supported by Commissioner Fricke, moved to adjourn the December 6, 2012 meeting of the Planning Commission.

The meeting adjourned at 7.57 p.m.

Respectfully submitted,

Andrea Augustine, AICP
City Planner
Community Planning and Development