Meeting Agenda

City of Kalamazoo - Zoning Board of Appeals

October 10, 2019

City Commission Chambers, City Hall, 241 W. South Street 7:00 p.m.

A. Call to Order:

B. Communications and Announcements:

C. Approval of the Meeting Minutes for September 12, 2019:

D. Public Hearings:

1. ZBA #19-10-27: 1120 and 1132 S. Burdick Street. VanderSalm's Flower Shop and Garden Center is requesting a use variance from Chapter 9, Section 9.2 A, to authorize the enlargement or expansion of a nonconforming use (flower shop and garden center) to expand the greenhouses by 2,300 square feet, 900 square feet more indoor storage and expand the outdoor sales area by 3,250 square foot.

2. ZBA #19-10-28: 3825 Stadium Drive. Spartan Partners Services, LLC, is requesting the following variances:
   1) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H.1, to authorize the development proposed to encroach into a protected slope which has a grade greater than 20%.
   2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H.3, to authorize the development proposed to encroach into the protected slope setback of 10 feet require from the top and toe of all protected slopes.
   3) A dimensional variance from the Zoning Ordinance, Chapter 7, Section 7.4, to authorize the placement of an off-premises sign on the existing sign structure at 3821 Stadium Drive to advertise the proposed medical marihuana provisioning center.

E. Other Business:

F. Adjournment:

MINUTES
CITY OF KALAMAZOO
ZONING BOARD OF APPEALS
September 12, 2019 - 7:00 p.m.
CITY COMMISSION CHAMBERS

Members Present: Matt Lager, Dick Skalski, Reed Youngs, Chris Flach, Christina Doane, Jeff Carroll, Beth van den Hombergh (Alternate)

Members Absent:

City Staff: Pete Eldridge, Assistant City Planner; Clyde Robinson, City Attorney; Deanna Benthin, Recording Secretary

Chair Youngs called the meeting to order at 7:00 p.m.

MINUTES:

Mr. Skalski, moved to approve the minutes of September 12, 2019 as submitted, seconded by Mr. Lager.

Motion approved by voice vote unanimously.

NEW BUSINESS:

PUBLIC HEARINGS: Chair Youngs summarized the process and explained the Zoning Board of Appeals public hearing rules of procedures stating that a full board consists of six members and that approval requires four affirmative votes. If only four members are present the applicants would have the option to hold their requests over to the next meeting or present their requests with the hopes of getting all four affirmative votes.

Mr. Carroll read the application for 1116 Lake Street, Parcel #06-23-304-147:

ZBA#19-09-24: 1116 Lake Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by J & J Property Investments, LLC. The request concerns the property at 1116 Lake Street, which is situated in Zone RM-15, Residential – Multi Dwelling District. The applicant is requesting a use variance from Chapter 4, Section 4.1, to authorize the reuse of the nonconforming ground floor commercial space for a small grocery store and café in this residential zone district.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were eighty-six notices of public hearing sent and zero responses were received.

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Jackie Mitchell, the applicant for the variance, stated the property was initially zoned commercial with a residential use upstairs. She proposes a micro grocery store and café with a sustainability program. She purchased the property in 2017 with her daughter. They want to upgrade the property stating she lives in the area also. She proposes to provide healthy food services and indoor farming.

Chair Youngs questioned if they'd grow produce outside also. Ms. Mitchell stated only indoor on one side of the building.

Mr. Flach clarified when she purchased the property it was originally zoned for her intended use as a grocery store? Ms. Mitchell stated she intended to provide programming for the community for healthy living options. She personally grows produce at home also and has been through the KVCC Farming program.

Mr. Skalski clarified there was a party store nearby, but it doesn't sell any fresh produce. Ms. Mitchell stated no they didn't sell fresh produce there.

Mr. Flach questioned the zoning ordinance change. Mr. Eldridge stated it's a multi dwelling zone district. He didn't believe there was a change; the building was built commercially with an apartment above. The Upholstery Store was the last operating business. It's zoned residential, but had a commercial use for decades, there's been no zoning change.

Mr. Lager questioned the intended traffic flow. Ms. Mitchell thought around ten to fifteen people expected, they are more focused on the micro grocery side than the youth programming. Further down the road she would like to add a commercial kitchen in the back of the building to serve the food to the community, coffee, juice bar, items within the café. Mr. Lager asked if the neighbors were in support. She stated yes, they were.

Ms. Doane questioned the available parking. Ms. Mitchell stated in the back it's pea gravel but found out they can't use those eight parking spots for parking. They have two parking spots out front but propose to black top the back portion eventually.

Speaking in favor:

Nelson Nave, stated this is a small building next to a commercial node, there's commercial on every corner, it's always had an apartment upstairs.

Richard Stewart, 828 Portage spoke in support, it's a small business and it's a great location for it.

Jim Lighthizer, this will be a plus to the neighborhood, it will give new life to the neighborhood and be a good fit.

Anita Worfield, with the Urban Farming program at KVCC, stated Ms. Mitchell has been through the program and works well within the community.

MaryAnn Lavendar, works with the urban farms at the Veteran's Home and supports the community. Ms. Mitchell works hard and hopes the Board supports her.

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Speaking in Opposition:

Kenneth Kidulas, 1116 James St., a neighbor spoke of his concerns with loitering, having a parking lot in his back yard, lights from the parking lot going into his yard.

Mr. Eldridge commented there was no record of a zoning change, this commercial structure predates the zone district structure. It has been mixed use, Ms. Mitchell proposes to use it as mixed use with an apartment above and micro grocery store/café below. There was discussion on rezoning versus a variance, and the future land use plans doesn't call for expanding the commercial zoning in this area. Ms. Mitchell has been working with the Small Business Staff, she has a business plan completed. The building does need a lot of renovation inside and out. The site plan review would address all screening, lighting and parking issues.

Mr. Skalski asked what the hours of operations would be. Ms. Mitchell stated they hadn't been set yet, but would focus on the breakfast and lunch period. Any evening hours she would be on site tending to the plants. He had concerns with adjacent neighbors. Ms. Mitchell commented they were proposing a tall galvanized fencing to place grow boxes all around the fence, and it would block the light.

Chair Youngs closed the public hearing.

FINDING OF FACT

Mr. Flach moved the Finding of Fact as follows:

1.) The Finding of Fact for 1116 Lake St. shall include all information included in the notice of public hearing dated August 27, 2019.

2.) Eighty-six notices of public hearing were sent, and zero responses were received.

3.) A public hearing was held before the board and public comments were accepted.

4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.

5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Jacki Mitchell of J & J Properties purchased the property in 2017, bought it with the intent of commercial use, a grocery store and sustainable urban farm, farming will take place inside and growing outside, Mr. Eldridge commented the building was always mixed use and predates the City's zoning. Staff considered rezoning the property, but it did not fit with the Master Plan and they wanted to make the variance specific to the

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applicant's request. Traffic will be limited, parking will be extended in the future. Plans are subject to site plan review, potential hours are morning to lunch time, there will be screening, and fencing added. Mr. Nave, Mr. Stewart, Mr. Lighthizer, Ms. Worfield, Ms. Lavendar all spoke in favor saying it would be a perfect addition for the neighborhood, and a lot of training and time has been put into this. Mr. Kidulas spoke in opposition speaking of loitering and parking lot lights as concerns.

Mr. Lager seconded the Finding of Fact.

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

Chair Youngs moved to approve the application, seconded by Mr. Skalski.

Mr. Skalski stated he was in support, he grew up in a similar community with commercial on the lower floor, and residential upstairs. He'd walk down to the area and the City is returning to being more walkable.

Mr. Flach commented it's a mixed-use structure that's been there for a long time.

Chair Youngs reviewed the criteria conditions that must be met to qualify and stated he was in favor.

Motion approved by roll call vote unanimously.

Mr. Carroll read the application for 824 and 842 Portage Street, Parcels #06-22-286-002 and #06-22-286-001:

ZBA #19-09-25: 824 and 842 Portage Street: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Richard Stewart. The request concerns the properties at 824 and 842 Portage Street, which are situated in Zone M-1, Manufacturing – Limited District. The applicant is requesting the following: 1) A dimensional variance from Chapter 7, Section 7.2 D, to authorize an electronic changeable copy sign that is equal to 66% of the overall sign where changeable copy area is limited to 25% of the wall sign area, and 2) A use variance from Chapter, Section 4., Section 4.1, to authorize a dwelling unit on the first and second floor of the existing building in Zone M-1.

Please note that this request will not change the zoning classification of the properties. This is a request for a variance only regarding the items described above. There were thirty-nine notices of public hearing sent and zero responses were received.

Mr. Lager stated he had a conflict of interest and would be abstaining from voting.

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Richard Stewart, applicant for the variance, clarified his mailing address is 828 Portage St. He was before the Zoning Board of Appeals one year ago and presented the same floor plan drawing, he submitted to the Board. He thought the Board had approved his request to owner occupy the building, however, it was limited to the upper floors, and not the two bedrooms on the first floors. He was uncomfortable disclosing his medical reasons for wanting first floor bedrooms, but supplied the Board with a copy of his certificate of disabled business owner. A main floor bedroom would be a benefit not have to climb the stairs. It was a vacant building for approximately ten years before he purchased it, he resides in the upstairs, he's made repairs, painted, new gutters/soffits, new roof, it's an owner-occupied home office use, he runs an online real estate business. He's asking to use two downstairs bedrooms, one for personal use and one for a sibling in the future. He currently has a sign for his office, but to qualify for the sign he wants, he's asking for a smaller sign than what was approved. His intent is to use an 8' x 4' digital sign, but it requires an 8' x 12' fixed sign, he's asking for a 2' x 8' sign instead. He provided the Board with pictures of other digital signs he was told he couldn't use size wise, he didn't want a fixed sign. He showed pictures of the Piano Bar sign, the Park Trades Center sign, a school on Westnedge's sign, a digital only sign on a marihuana store and Schupan Aluminum sign. He has an unusual zoning for a real estate business with home an office in a manufacturing zone, while not using it for manufacturing use.

Mr. Eldridge stated the Board would have to vote separately on the two requests. He commented on the changeable copy sign. The zone district is Manufacturing Zone District, it is not a Commercial Zone District, a commercial zone district allows for a larger changeable copy sign, manual or digital copy. This property remains in a manufacturing zone district, it limits certain types of signs, like changeable copy signs. When Mr. Stewart approached the City, they said there are limitations, given the fact this is a wall sign, the building is extremely long, a diagram presented shows exactly what the distance from the back of the building to the front of the building is, it's in the range of 150'. Using the calculations that would allow a 200 square foot wall sign, given the size of the building that's what allowed. Mr. Stewart applied for a sign permit to balance out the percentage requirement that the changeable copy in the manufacturing zone district doesn't exceed more than 25%. It's not the City that requires Mr. Stewart to place a giant sign, it's the way the ordinance is written, the intent was you didn't have users like this in a manufacturing zone district, they typically need a larger fixed sign. There are other examples of signs around the City, the Park Trade Center sign received a variance, Schupan's sign had a variance and is near King Highway on a business loop and zoned M1. Each circumstance is looked at independently. The planning staff prefers to see smaller signs on buildings, the building is closer to the road, a 128 square foot sign isn't needed on the north and south sides of the building. Staff concurs and could provide support to reduce the size of the fixed message portion of the sign to a 2' x 8' or 16 square feet from the larger 96 square foot size required by the ordinance to offset the large changeable copy. The sign for the Piano Bar is the downtown district. The use variance when it came before the Board last year it came to the Board with traction, Mr. Stewart had put together the background of the ambulance business and how they used the second floor of the building as temporary living quarters, the intent was not to turn most of the building into residential. City Staff was specific in stating the use variance last year was for the second floor. Given the fact that Mr. Stewart is making improvements on the property and has future use for his business in the front part of the first floor and a need for bedroom on the lower level, staff can support that. It sounds like it's part of his personal living space, one dwelling unit in the building and should be clarified before being voted on.

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Chair Youngs asked for clarification on the living unit space as single or family. Mr. Eldridge suggested to clarify the use of bedrooms on the first and second floor of the existing building with the applicant.

Mr. Carroll questioned the use of the building. Mr. Stewart stated the building is not set up for a multi-unit use, the stairway is in the center of the building, he's using it as a single family with home office. Would he accept the motion with the requirement of it remaining a single-family use? Mr. Stewart replied yes. Mr. Carroll questioned DDRC letter of approval for a larger sign. Mr. Eldridge clarified that the sign review went through the DDRC approval process and zoning review process. The DDRC stated it met their requirements to be approved.

Mr. Stewart clarified the digital sign is 4' x 8' fixed, and is not an issue, the issue is an 8' x 12' sign that must go with it, he only wants a 2' x 8' one.

Chair Youngs closed the public hearing.

FINDING OF FACT

Ms. Doane moved the Finding of Fact as follows:

1.) The Finding of Fact for 824 and 842 Portage Street shall include all information included in the notice of public hearing dated August 27, 2019.

2.) Thirty-nine notices of public hearing were sent, and zero responses were received.

3.) A public hearing was held before the board and public comments were accepted.

4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter and photographs of signs.

5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Richard Stewart stated he was before the ZBA last year, he's requiring downstairs living space, he lives on site currently, and made on site improvements, it's an owner occupied home office property. The sign he wants is not the 8' x 12' fixed, he wants a 2' x 8' fixed sign. He showed examples of signs in Kalamazoo. Mr. Eldridge stated the manufacturing zone district limits allowed signage per ordinance. The Park Trades and Schupan signs were approved with variances. Planning Staff would prefer smaller signs, the building position makes larger sign unneeded, and staff would support the 2' x 8' or 16 square foot. The use

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variance last year was approved with evidence presented about the second floor living space, so the variance was approved for use per ordinance. It would still be used as single-family housing, it is not set up to be easily divided for multi-family.

Mr. Skalski seconded the Finding of Fact.

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

Mr. Carroll moved to approve the application 1) A dimensional variance from Chapter 7, Section 7.2 D, to authorize an electronic changeable copy sign that is equal to 66% of the overall sign where changeable copy area is limited to 25% of the wall sign area, seconded by Chair Youngs.

Yes: Skalski, Carroll, Youngs, Doane, Flach
No:
Abstained: Lager

Motion approved by roll call vote.

Mr. Carroll moved to approve 2) A use variance from Chapter, Section 4., Section 4.1, to authorize the use of the first floor of the dwelling unit to be used as residential and remain single family, owner occupied, and second floor of the existing building in Zone M-1, seconded by Mr. Skalski.

Mr. Eldridge clarified there are two specific bedrooms shown on the lower level, it should be stated to authorize two bedrooms on the first floor and bedrooms on the second floor for use by the residents in this building in zone M1.

Mr. Carroll amended the motion to read: 2) A use variance from Chapter, Section 4., Section 4.1, to authorize a dwelling unit which includes <u>two bedrooms</u> on the first and bedrooms on the second floor of the existing building in Zone M-1, seconded by Mr. Skalski.

Mr. Stewart wanted to clarify the wording, be can only use 10% of the building for business space. He wanted flexibility to use the upper and lower floors for residential. He stated he must install sprinklers to protect between the uses.

Mr. Carroll asked for clarification on the motion. Mr. Eldridge clarified the amended motion was to authorize two bedrooms on the first floor and bedrooms on the second floor for the residents in the building in Zone M1. This is supported by the floor plan submitted by the applicant, Mr. Stewart. He stated staff was not comfortable leaving the motion wide open. Mr. Carroll stated his motion was to leave it owner occupied and would leave the motion stand, seconded by Mr. Skalski.

Yes: Flach, Doane, Youngs, Carroll, Skalski
No:

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Abstained: Lager

Motion approved by roll call vote.

Mr. Carroll read the application for 2842 Virginia Avenue, Parcel #06-02-461-043:

ZBA #19-09-26: 2842 Virginia Avenue: An application for a variance to the provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Robert Kelly. The request concerns the property at 2842 Virginia Avenue, which is situated in Zone RS-5, Residential – Single Dwelling District. The applicant is requesting a use variance from Chapter 4, Section 4.1, to authorize the construction of a duplex on a vacant single-dwelling zoned lot.

Please note that this request will not change the zoning classification of the property. This is a request for a variance only regarding the items described above. There were thirty-two notices of public hearing sent and zero responses were received.

Robert Kelly is requesting to build a duplex, it's in a R5 zone district, the lot would be better served with a duplex than two smaller residences, it would be a two story. The duplex would be owner occupied by himself. He also currently owns the property at 2838 Virginia with a sale pending, it was condemnable when purchased, and he brought it up to all current codes. The last house built in the area was a Habitat for Humanity house.

Mr. Carroll questioned what the neighbors have said. Mr. Kelly stated they had concerns with rentals in the neighborhood. This lot has sat vacant since the 1940's, he purchased it in 2001.

Mr. Carroll questioned the residence at 2838 Virginia. Mr. Kelly stated he purchased it and it has a home on it. The property at 2842 is a vacant lot.

Mr. Lager questioned if there would be separate entrances to the duplex. Mr. Kelly stated yes, there are two doors, the look is more of a single-family appearance than a duplex to fit the neighborhood.

Mr. Flach questioned what the benefit of a duplex is to a single-family home. Mr. Kelly stated to invest in Burke Acres for a single-family home, he couldn't recoup his money. To make it affordable he needs to make it a duplex. There are other duplexes and rentals in the area.

Speaking in Opposition:

Robert Townsend, 2922 Virginia, commented he's lived in the neighborhood for over forty years. He owns the property at 2921 Virginia also, this is neighborhood of a single-family homes that attract first time home buyers and young professionals. He doesn't want a duplex in the neighborhood and asked the Board to deny the request.

Patti Townsend, 2922 Virginia, stated several other neighbors are in opposition. She's lived in the neighborhood for over forty years and is invested into the neighborhood. It's a diverse neighborhood made up of both young and older home owners, a duplex would add nothing to the neighborhood and asked the Board to deny the request.

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Mr. Eldridge referred to the handout showing the location of rentals and duplexes in the surrounding area. This block doesn't have any duplexes on it and the character of the surrounding properties, a duplex doesn't fit in. Staff didn't find a hardship either for the request.

Mr. Flach questioned the duplex and eight unit in the area how long they were there. Mr. Eldridge stated Burke Acres was a late annex into the City in the late 1950's.

Chair Youngs closed the public hearing.

FINDING OF FACT

Mr. Skalski moved the Finding of Fact as follows:

1.) The Finding of Fact for 2842 Virginia Avenue shall include all information included in the notice of public hearing dated August 27, 2019.

2.) Thirty-two notices of public hearing were sent, and zero responses were received.

3.) A public hearing was held before the board and public comments were accepted.

4.) The Zoning Board of Appeals received documents on the request including lot diagrams with boundaries and drawings, aerial photographs, site plans, elevations and a letter.

5.) The Finding of Fact shall include those documents just described and also all facts and comments made during the public hearing, which are summarized to include without limitation, the following: Robert Kelly, described the request, stating he owns the property at 2838 Virginia since 2011 and proposes a duplex on a single-family lot, a two story duplex, it would have two entrances, centered on the lot, giving it more of a setback than adjacent single-family home properties would provide, he's removed some unsightly trees, but comments in opposition from Robert Townsend at 2922 Virginia, stated there's still some trees and vegetation in the rear of the lot remaining. Patti Townsend spoke in opposition, commenting this is a single-family neighborhood and a duplex would be contrary to the existing homes in the general area.

Mr. Flach seconded the Finding of Fact.

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

Mr. Carroll moved to approve the application, seconded by Chair Youngs.

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Mr. Lager stated he was in favor of the request, looking at the standards

- *The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use identified in Sec. 4.1: Use Table, which is a right commonly enjoyed by other land in the same zone district.* He doesn't feel for all practical purposes it would not be economically rational to build a single-family home there. Under the economics of home building and the value it wouldn't be practical to build on this lot except for this purpose.

- *There is unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.* To own a property but to be unable to build on it due to economics is a hardship.

- *The special circumstances are not the result of the actions of the applicant.* This is not the result of the applicant.

- *The granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.* This is the minimum action, going from single-family houses in the neighborhood having a couple duplexes, it's the minimum that can be done.

- *The granting of the variance will not adversely affect adjacent land in a material way.* He feels this is a judgement call and respects the neighbor's opinions, it will fit the neighborhood.

- *The granting of the variance will be generally consistent with the purposes and intent of this Ordinance.* This will make sure that houses in the area meet the general character.

Mr. Carroll stated he disagrees and feels the applicant doesn't meet any of the requirement s for the variance.

- *The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use identified in Sec. 4.1: Use Table, which is a right commonly enjoyed by other land in the same zone district.* Other people have a single-family home, they couldn't build a duplex because it isn't zoned for a duplex.

- *There is unnecessary hardship based on special circumstances or conditions that are peculiar to the land or structure for which the use variance is sought that is not applicable to other land or structures in the same zone district.* The ordinance isn't depriving him of anything, he knew the zoning when he purchased the single-family zoned property. There's no hardship, just because it's not economically feasible isn't a reason. He can build a single-family home there.

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- *The special circumstances are not the result of the actions of the applicant.* They are the result of him purchasing the property, he bought it as single-family.

- *The granting of the variance is the minimum action that will make possible the use of the land or structure that is not contrary to the public interest, and that would carry out the spirit of this Ordinance.* The minimum action is they do nothing and leave the zoning alone.
- *The granting of the variance will not adversely affect adjacent land in a material way.* The infrastructure wasn't built for multi-unit use either, and it would adversely affect adjacent land.

- *The granting of the variance will be generally consistent with the purposes and intent of this Ordinance.* It would not meet the intent of the ordinance in his opinion.

Motion denied by roll call vote.

Yes: Lager
No: Carroll, Skalski, Youngs, Doane, Flach

OTHER BUSINESS:

Mr. Eldridge stated they are going to be going to an electronic version of the Board's packet.

ADJOURNMENT:

The meeting was adjourned at 8:40 p.m.

Submitted By_____**Date**_____
Recording Secretary

Reviewed By_____**Date**_____
City Staff

Approved By _____ **Date**_____
Chair

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THE CITY OF Kalamazoo

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

NOTICE OF PUBLIC HEARING

September 24, 2019

RE: ZBA #19-10-27
1120 and 1132 S. Burdick Street
Parcel #06-22-331-010 and 06-22-331-003

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by VanderSalm's Flower Shop and Garden Center. The request concerns the properties at 1120 and 1132 S. Burdick Street which straddle three zone districts: RM-36, Residential – Multi Dwelling District; CN-1, Commercial – Neighborhood District and CC, Commercial – Community District.

The applicant is requesting a use variance from Chapter 9, Section 9.2 A, to authorize the enlargement or expansion of the nonconforming use (flower shop and garden center) to expand the greenhouses by 2,300 square feet, 900 square feet more indoor storage and expand the outdoor sales area by 3,250 square foot.

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

A public hearing will be held on **Thursday, October 10, 2019 at 7:00 p.m**. in the City Commission Chambers in City Hall (241 W. South Street), at which time you may submit your views on this matter in person, by writing, or by representative. If you should know of any interested person who has not received a copy of this letter, please inform them of the time and place of the hearing.

Further information, including property diagrams and drawings are available at the Community Planning and Economic Development Department at 415 Stockbridge Avenue. Meeting agenda packets will also be available to view on-line 10 days prior to the meeting at: www.kalamazoocity.org/boards

If you have any questions, please call (269) 337-8026 or submit by email at eldridgep@kalamazoocity.org.

Sincerely,

ZONING BOARD OF APPEALS

Peter C. Eldridge

Peter C. Eldridge, AICP
Assistant City Planner

c: Property File

THE CITY OF Kalamazoo

RECEIVED SEP 13 2019

Zoning Board of Appeals (ZBA) Application Form

Community Planning & Development Department
415 Stockbridge
Kalamazoo, MI 49001
Phone: 269-337-8026
www.kalamazoocity.org

Your fully completed application, fee, and all related documents must be submitted to the Community Planning & Development Department **at least four (4) weeks prior** to the Zoning Board of Appeals meeting.

Applicant: Name Ned VanderSalm
Address 1120 South Burdick Street
City, State, Zip Kalamazoo, MI 49001
Phone 269-343-2671 Cell
Fax Email nedvansalm@aol.com

Owner: Name Same
Address
City, State, Zip
Phone Cell
Fax Email

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Street or Street Address 1120 South Burdick Street

This property is located between Wall Street street and VanderSalm Court street, on the

north south east **X** west side of the street.

CCN# 06-22-331-010 Zone CC, CN-1, and RM-36

Type of Request

[ ] **Interpretation** of Chapter(s) _____ Sections(s) _____
Paragraph(s) _____ of the City of Kalamazoo Zoning Ordinance.

[X] **Use Variance:** Applicant must demonstrate that if the Zoning Ordinance is applied strictly, unnecessary hardship to the applicant will result. All Use Variance Requirements must be met. (See *Requirements List.*)

[ ] **Dimensional Variance:** Applicant must demonstrate that if the Zoning Ordinance is applied strictly, practical difficulties to the applicant will result. All Dimensional Variance Requirements must be met. (See *Requirements List.*)

[ ] **Appeal of an Administrative Decision**

Description VanderSalm's requests a Use Variance from Chapter 9, Section 9.2 A to authorize the expansion of the nonconforming greenhouses, a storage building, and outdoor sales area.

Attachments

[X] $495 Fee
[X] Brief narrative (less than one type-written page) describing the nature of the request (2 copies)
[X] Sketch plan of the property in questions (2 copies)
[ ] Additional attachments as needed e.g. (pictures, architectural drawings, petitions, etc. (2 copies)

Signature of Applicant Date 9-13-19

Signature of Owner (if different than applicant) Date

VanderSalm's Flower Shop and Garden Center Use Variance Request

VanderSalm's requests a Use Variance to allow improvements to the structures on site that are not permissible due to the nonconforming status of the use. Below are the responses to the standards for approval of a Use Variance:

1. *The literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant for all practical purposes from using the property for a permitted use identified in Section 4.1: Use Table, which is a right commonly enjoyed by other land in the same zone district.*

   The VanderSalm's Flower Shop and Garden Center has been located at 1120 South Burdick Street since 1940. We assume that the development of the retail store and greenhouses were permitted uses at the time of construction. At some point in the history of the parcel, the property was rezoned to the three current zoning districts of CC, CN-1, and RM-36. These zoning changes made the use legal nonconforming as greenhouses and outdoor sales are not permitted in the CN-1 District. Per the City's nonconforming ordinance, a structure may not be enlarged that accommodates a nonconforming use. This places restrictions on the property, limiting the applicant's opportunities for business growth.

   The requested changes to the site are minimal expansions based on the current square footage of the existing structures. The update to the greenhouse footprint will be approximately 2,300 additional square feet. The current greenhouses were constructed in 1986, making them 33 years old. The redevelopment of these structures is needed due to their age and to allow for a more modern design that is conducive to retail sales. The outdoor sales area is intended to be expanded by approximately 3,250 square feet. This is a seasonal operation and is located to the south of the greenhouses, closer to Crosstown Parkway and away from the single-family residential homes found to the north and west of the project site. Finally, the increase to the storage building will be approximately 900 square feet, providing more area for indoor storage of the business.

   All of these uses would be permitted within the CC District, which a portion of the site is zoned. The Use Variance is needed to ensure a legal nonconforming property can make site improvements that are minimal in nature but provide substantial improvements to an existing, long-standing business within the Kalamazoo community.

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

   The location of the VanderSalm's greenhouses, storage building, and outdoor display area are located within the 100-year floodplain. Commercial uses are permitted within a floodplain if steps are taken to ensure the lowest floor elevation is at least one-foot above the 100-year flood elevation. As stated, the current greenhouses were replaced on the project site in 1986. They are currently located below the 100-year flood elevation. The requested improvements to the site would allow these structures and the new storage building to meet the requirements of the Michigan Department of Environment,

Great Lakes, and Energy (EGLE). The location of the business within the floodplain provides a hardship to this property that is not generally applicable to other properties within the CN-1 District. In addition, the requested changes will help to mitigate any floodplain issues found on the subject property.

3. *The special circumstances are not the result of the actions of the applicant.*

   The special circumstances related to this request is the change in zoning, which has made the uses nonconforming and limits the applicant's ability to make improvements on their property.

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

   The applicant considered making a rezoning request to the CC District for the whole property. However, this opens the site to all the uses allowed in this District, which may not be appropriate at this location. For example, gas stations and repair shops are permitted uses within the CC District. The request for the Use Variance is the minimum necessary to permit the needed improvements to the site without allowing a future development that could have a greater impact on the neighborhood.

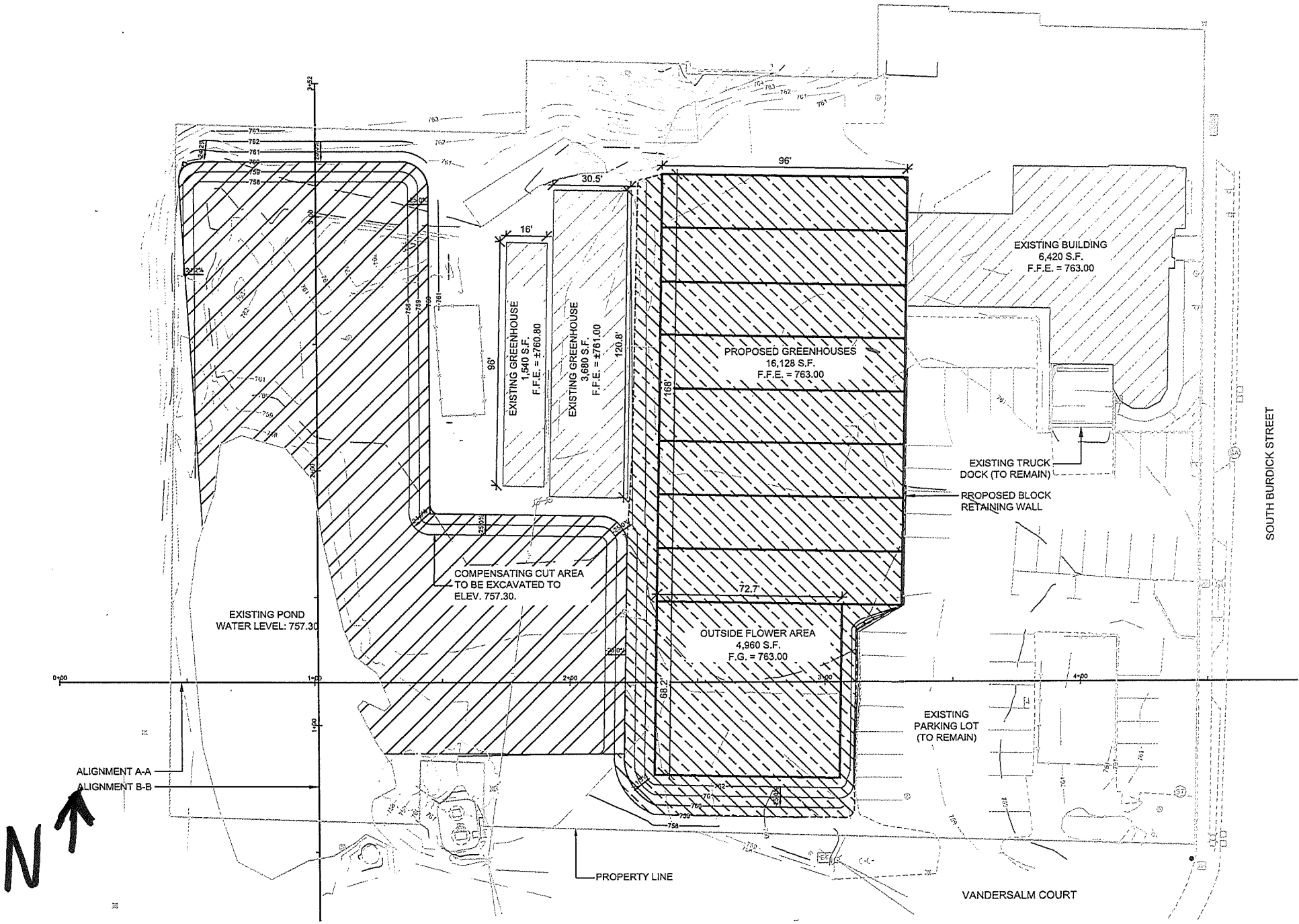
   As a long-standing business in this area, it is a known quantity and therefore compatibility issues with the adjacent urban environment are minimal. The retail use is permissible within the CN-1 District, and the Use Variance would allow the continued use of the improved greenhouses, outdoor display area, and storage building.

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

   As stated, VanderSalm's have been at this location for approximately 79 years. The requested changes to the site should not affect the adjacent neighbors in any way and may improve conditions in the area by raising the greenhouses and storage building above the flood elevation.

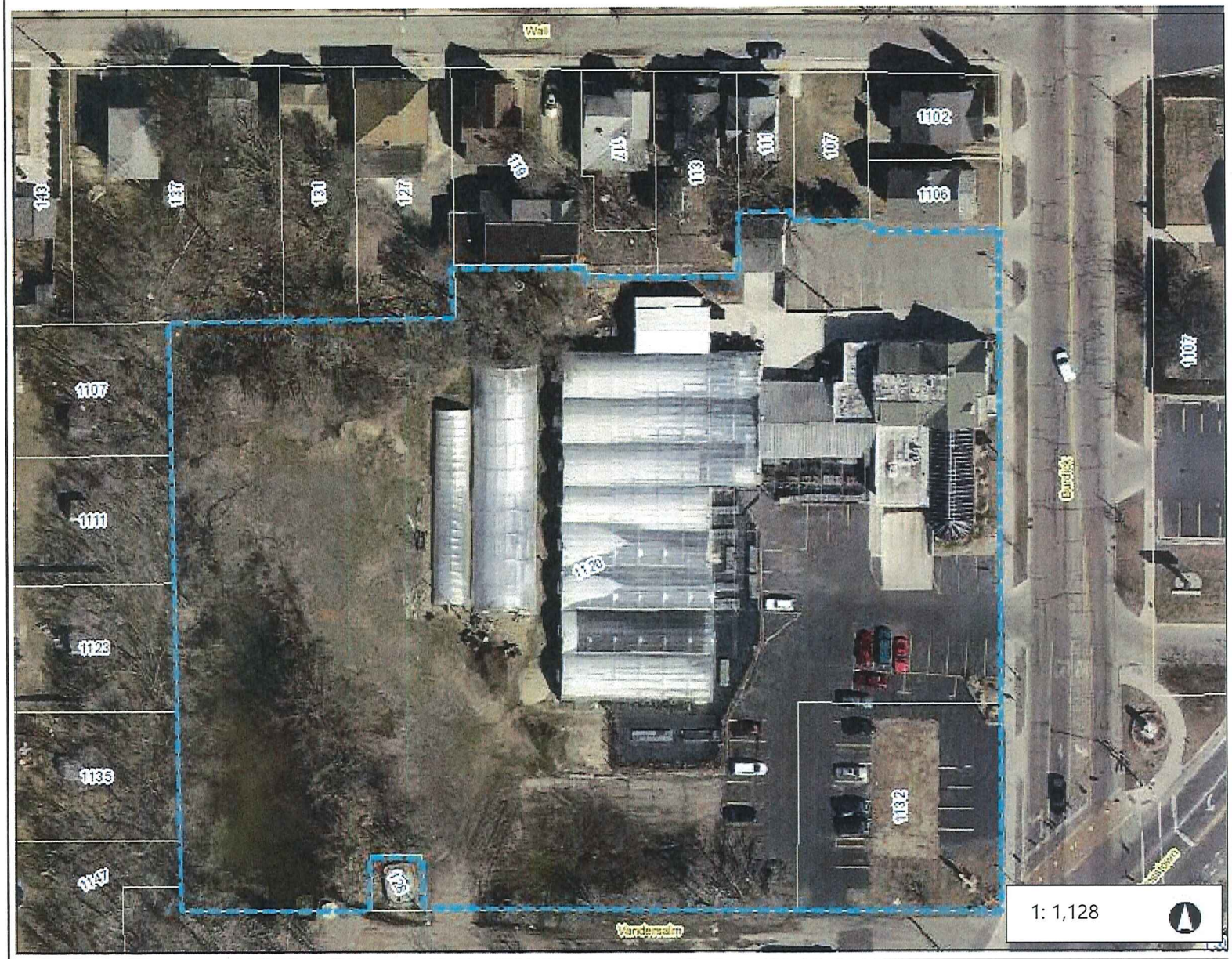
6. *The granting of the variance will be generally consistent with the purposes and intent of this Ordinance.*

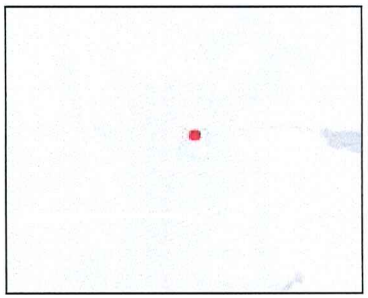
   The purpose and intent of the City of Kalamazoo Zoning Ordinance is to ensure the public health, safety, and general welfare through regulating the use and development of land. The property in question is a developed site within the CN-1 District, which allows for indoor sales of retail goods. The Use Variance for the greenhouses and outdoor sales would allow for the continued use of the property in a manner currently existing. The improvements planned for the site will enhance public health and safety by meeting EGLE requirements for construction within a flood plain. Ultimately, the use variance will allow an existing nonconforming use to make improvements that are consistent with the intent and purpose of the Ordinance.


EXISTING BUILDING
6,420 S.F.
F.F.E. = 763.00
PROPOSED GREENHOUSES
16,128 S.F.
F.F.E. = 763.00
EXISTING GREENHOUSE
1,540 S.F.
F.F.E. = ±760.80
EXISTING GREENHOUSE
3,680 S.F.
F.F.E. = ±761.00
OUTSIDE FLOWER AREA
4,960 S.F.
F.G. = 763.00
96'
30.5'
16'
96'
120.8'
168'
72.7'
68.2'
EXISTING TRUCK DOCK (TO REMAIN)
PROPOSED BLOCK RETAINING WALL
COMPENSATING CUT AREA TO BE EXCAVATED TO ELEV. 757.30.
EXISTING POND WATER LEVEL: 757.30
EXISTING PARKING LOT (TO REMAIN)
ALIGNMENT A-A
ALIGNMENT B-B
PROPERTY LINE
VANDERSALM COURT
SOUTH BURDICK STREET
N

770

VanderSalm's Flower Shop and Garden Center





Legend

- Street Names - City
- Parcels

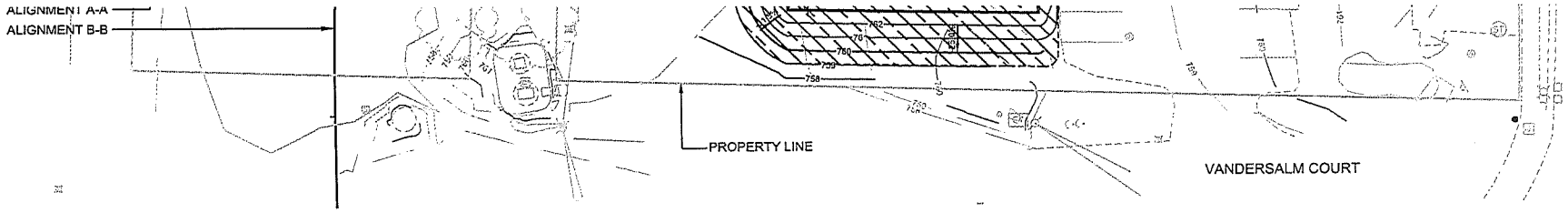
0.0 0 0.02 0.0 Miles

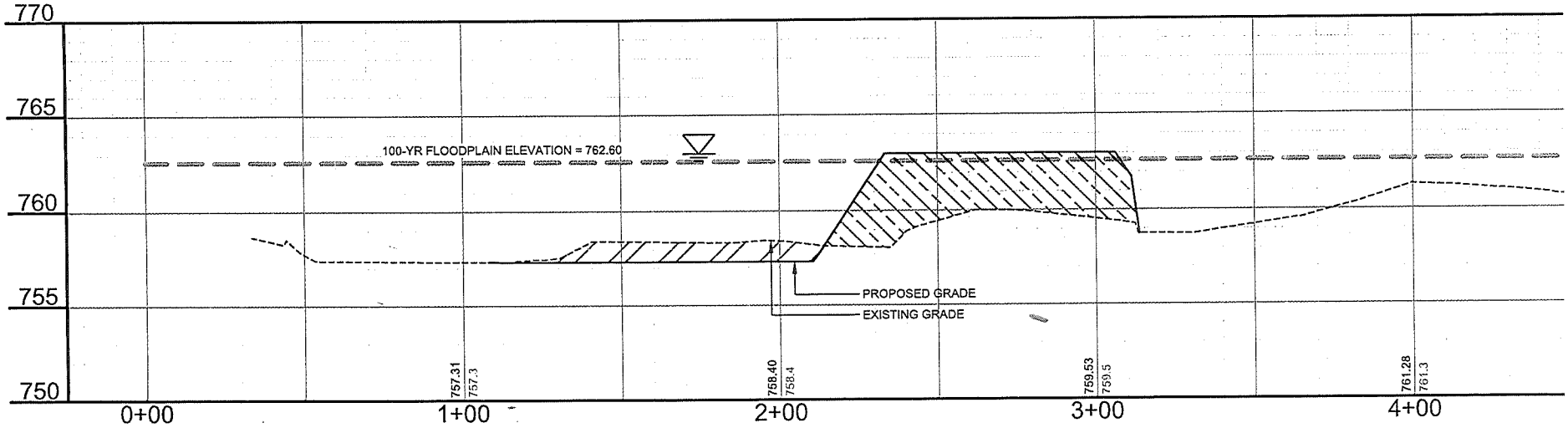
WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

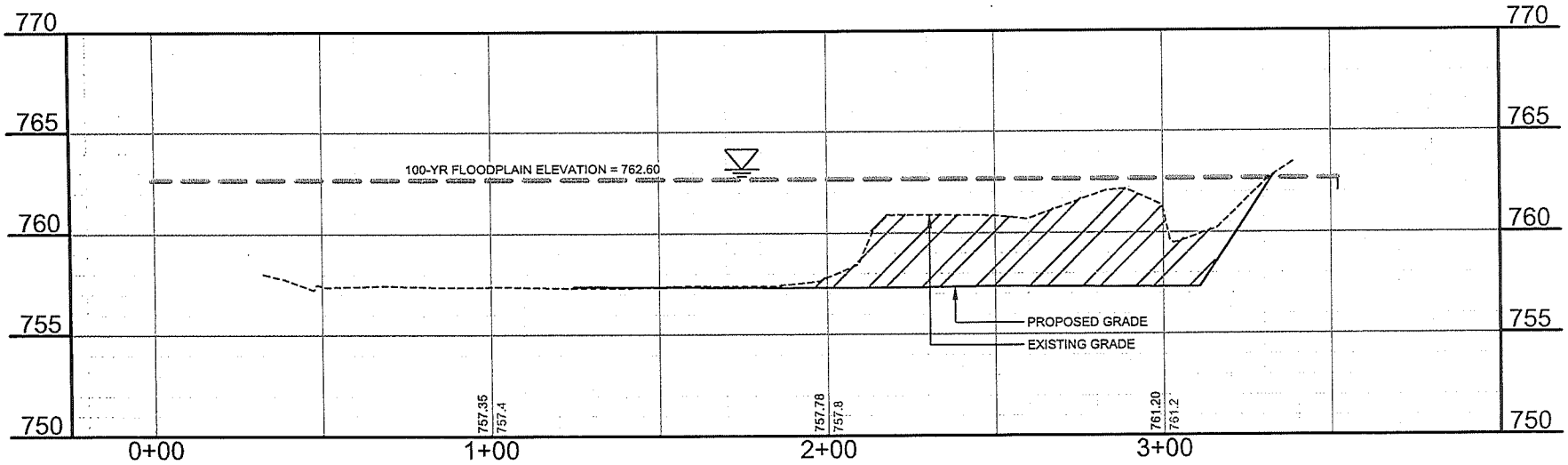
THIS MAP IS NOT TO BE USED FOR NAVIGATION

THE CITY OF Kalamazoo





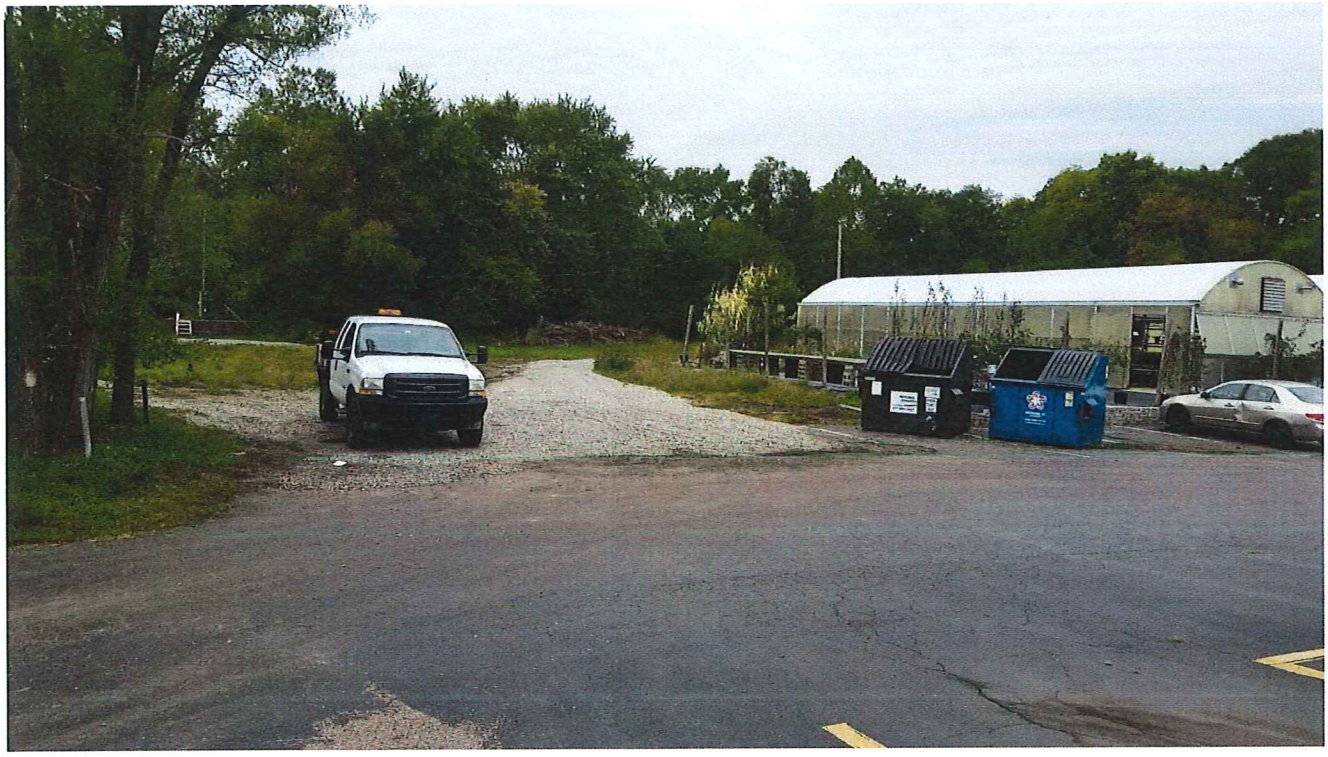
SECTION A-A
SCALE: 1" = 30' H, 5'V

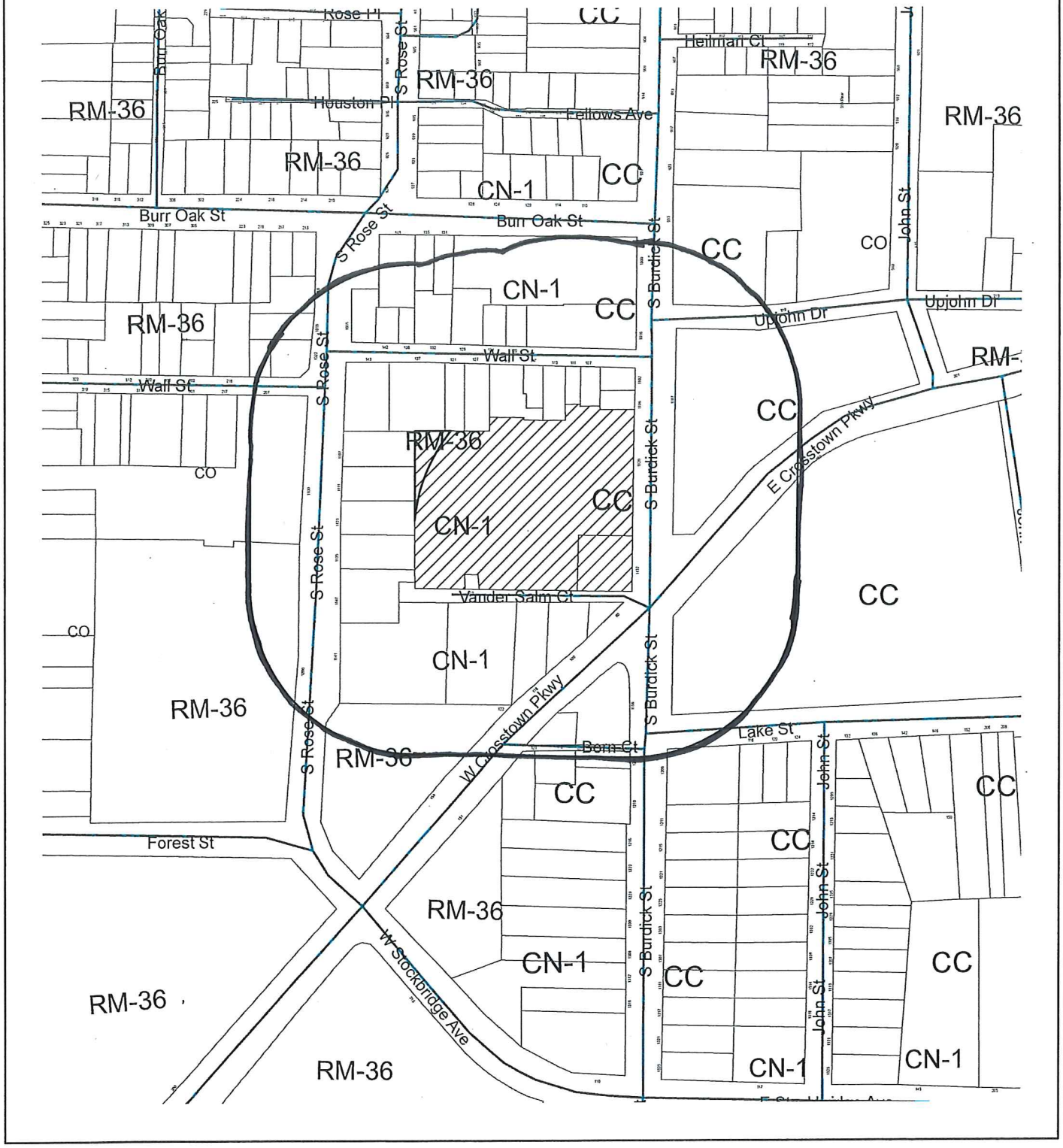


SECTION B-B
SCALE: 1" = 30' H, 5'V

VanderSalm's Flower Shop and Garden Center
S. Burdick Street
September 27, 2019

GARDEN CENTER





300' Mailing Boundary
1120 and 1132 S. Burdick St.

N

Feet
0 3570 140

THE CITY OF Kalamazoo

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

NOTICE OF PUBLIC HEARING

September 24, 2019

RE: ZBA #19-10-28
3825 Stadium Drive
Parcel #06-30-256-001

Dear Property Owner:

An application for a variance for provisions of the Zoning Ordinance has been filed with the Zoning Board of Appeals by Spartan Partners Services, LLC. The request concerns the property at 3825 Stadium Drive which is located in Zone CC, Commercial – Community District.

The applicant is requesting the following variances:

1) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H.1, to authorize the development proposed to encroach into a protected slope which has a grade greater than 20%.
2) A variance from the Natural Features Protection Ordinance, Chapter 50, Section 50-6.2 H.3, to authorize the development proposed to encroach into the protected slope setback of 10 feet require from the top and toe of all protected slopes.
3) A dimensional variance from the Zoning Ordinance, Chapter 7, Section 7.4, to authorize the placement of an off-premises sign on the existing sign structure at 3821 Stadium Drive to advertise the proposed medical marihuana provisioning center.

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

A public hearing will be held on **Thursday, October 10, 2019 at 7:00 p.m**. in the City Commission Chambers in City Hall (241 W. South Street), at which time you may submit your views on this matter in person, by writing, or by representative. If you should know of any interested person who has not received a copy of this letter, please inform them of the time and place of the hearing.

Further information, including property diagrams and drawings are available at the Community Planning and Economic Development Department at 415 Stockbridge Avenue. Meeting agenda packets will also be available to view on-line 10 days prior to the meeting at: www.kalamazoocity.org/boards

If you have any questions, please call (269) 337-8026 or submit by email at eldridgep@kalamazoocity.org.

Sincerely,
ZONING BOARD OF APPEALS

Peter C. Eldridge, AICP
Assistant City Planner

c: Property File

Zoning Board of Appeals (ZBA) Application Form

Community Planning & Development Department
415 Stockbridge
Kalamazoo, MI 49001
Phone: 269-337-8026
www.kalamazoocity.org

Your fully completed application, fee, and all related documents must be submitted to the Community Planning & Development Department **at least four (4) weeks prior** to the Zoning Board of Appeals meeting.

Applicant:
Name Spartan Partners Services, LLC
Address 14208 Lakeside Blvd. N.
City, State, Zip Shelby Twp, MI, 48315
Phone 248-361-0012 Cell N/A
Fax N/A Email AFakhouri@plunkettcooney.com

Owner:
Name Spartan Partners Properties, LLC
Address 14208 Lakeside Blvd. N.
City, State, Zip Shelby Twp, MI, 48315
Phone 248-361-0012 Cell N/A
Fax N/A Email AFakhouri@plunkettcooney.com

(If the applicant is not the property owner, a letter signed by the owner agreeing to the variance must be included with the application.)

Property Information

Street or Street Address 3825 Stadium Drive

This property is located between S Drake Road street and Howard street, on the

☐ north ☒ south ☐ east ☐ west side of the street.

CCN# PID: 06-30-256-001 Zone CC - Community Commercial District

Type of Request

[ ] **Interpretation** of Chapter(s) _____ Sections(s) _____

Paragraph(s) _____ of the City of Kalamazoo Zoning Ordinance.

[ ] **Use Variance:** Applicant must demonstrate that if the Zoning Ordinance is applied strictly, unnecessary hardship to the applicant will result. All Use Variance Requirements must be met. (See *Requirements List.*)

[X] **Dimensional Variance:** Applicant must demonstrate that if the Zoning Ordinance is applied strictly, practical difficulties to the applicant will result. All Dimensional Variance Requirements must be met. (See *Requirements List.*)

[ ] **Appeal of an Administrative Decision**

Description Requesting a dimensional variance for the propsed development encroaching on protected slope and into the required slope setbackbacks. Requesting a variance for an off-premises sign.

Attachments

[X] $ 275 Fee (Sent via USPS 9/12) Pd. PCE
[X] Brief narrative (less than one type-written page) describing the nature of the request (2 copies)
[X] Sketch plan of the property in questions (2 copies)
[ ] Additional attachments as needed e.g. (pictures, architectural drawings, petitions, etc. (2 copies)

Signature of Applicant — Date 9/12/2019

Signature of Owner (if different than applicant) — Date

Rev 2/2016

STONEFIELD
engineering & design

September 12, 2019

Peter Eldridge
City of Kalamazoo - Community Planning & Development
415 Stockbridge
Kalamazoo, MI 49001

RE: Zoning Board of Appeals Approval
Proposed Provisioning Center
PARCEL ID: 06-30-256-001
3825 Stadium Drive
City of Kalamazoo, Kalamazoo County, MI

Peter:

Stonefield Engineering & Design, LLC is pleased to submit documents for Zoning Board of Appeals Approval for the above refenced property. A total of three (3) variances are being requested:

1. **§ 50-6.2.H.1** Encroachment into protected slopes
   a. Slopes greater than 20% are to be protected. These slopes account for approximately 0.40 acres of the site – running the width of the Northern most (front) portion of the site.
2. **§ 50-6.2.H.3** Encroachment into protected slope setbacks
   a. A 10' setback is required from the top and toe of all protected slopes. The proposed development encroaches each side of the protected slope setbacks.
3. **§ 7-4** Off-premises sign
   a. The site is located on a private drive and does not have frontage on Stadium Drive. An off-premises sign is required and being requested to adequately direct traffic from Stadium Drive to the site. The existing gas station sign located 4' from the right-of-way is proposed to be refurbished and reused.

Please find the following items enclosed for review:

ITEM DESCRIPTION	*DATED*	*COPIES*	*PREPARED BY*
Site Development Plans	09-12-2019	1	Stonefield Engineering & Design, LLC
A check for $275.00 (Sent via USPS)	09-12-2019	1	Spartan Partners Services, LLC

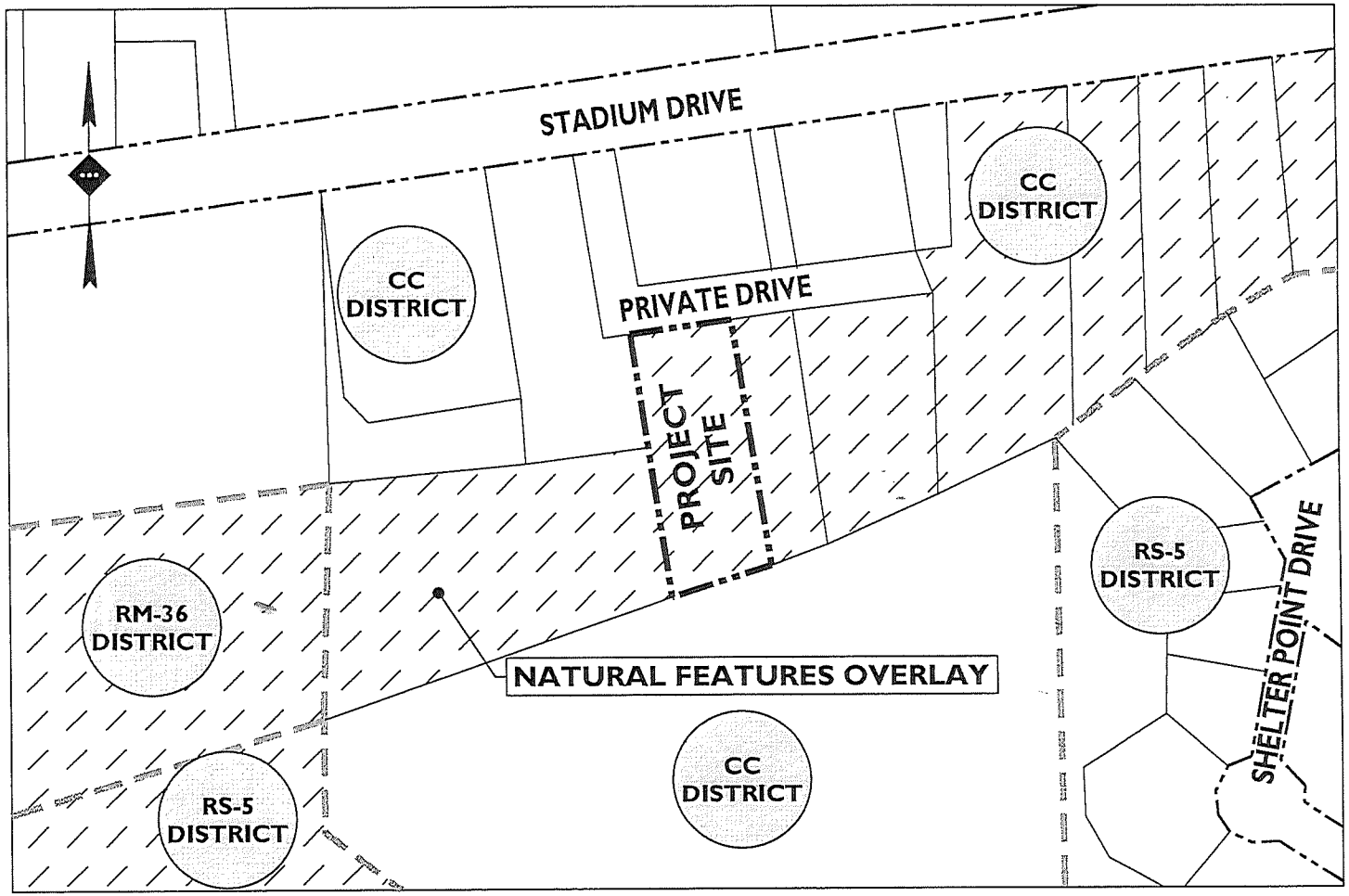
Should you have any questions, please do not hesitate to contact our office.

Best regards,

Erin McMachen
emcmachen@stonefieldeng.com
Stonefield Engineering and Design, LLC

\\seddetfs01\ShareTwo\M\2018\M-18413-Terra Capital Industries-3825 Stadium Drive, Kalamazoo, MI_Submissions\2019-09-12 ZBA Submission Letter.docx

EL ID: 06-30-256-001
STADIUM DRIVE
O, KALAMAZOO COUNTY, MICHIGAN



SOURCE: CITY OF KALAMAZOO GIS AND ZONING MAPS

TAX & ZONING MAP

SCALE: 1" = 150'±

D BY:

ONEFIELD

PLAN REFERENCE MATERIALS:

1. THIS PLAN SET REFERENCES THE FOLLOWING DOCUMENTS INCLUDING, BUT NOT LIMITED TO:
   - TOPOGRAPHIC SURVEY PREPARED BY KEM-TEC & ASSOCIATES DATED 09/03/2019

NOT APPR

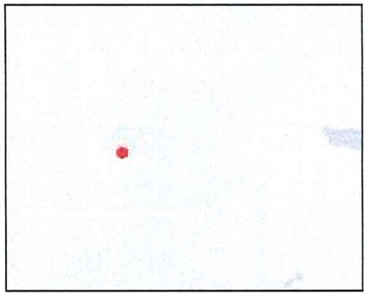
STONEFIELD

SITE DEVELOPMENT PLANS

PROPOSED PROVISIONING

JAK

3825 Stadium Drive (10' Contour Lines)



Legend

Street Names - City

Parcels

Contours - 10' Index

1: 1,128

0.0 0 0.02 0.0 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere

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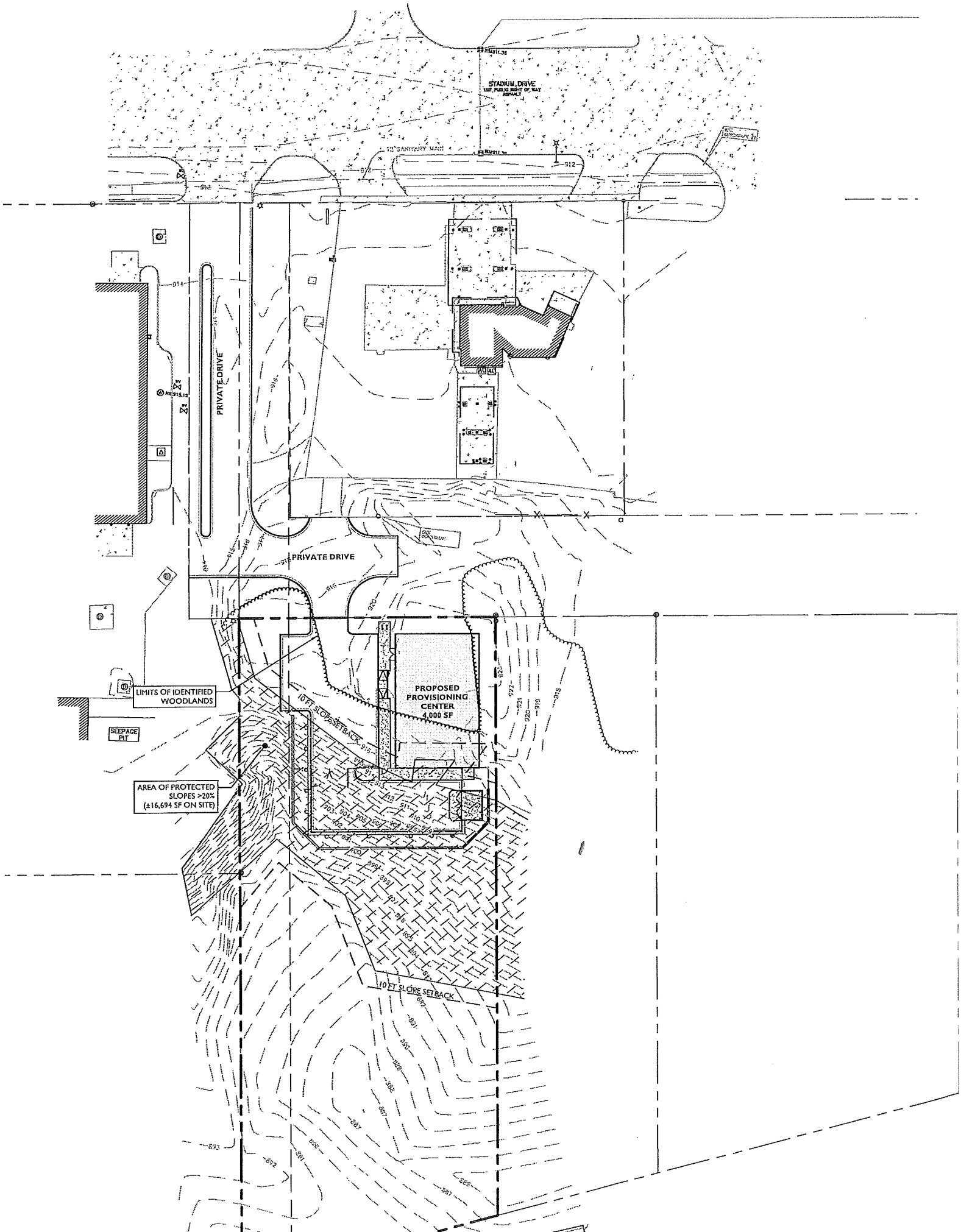
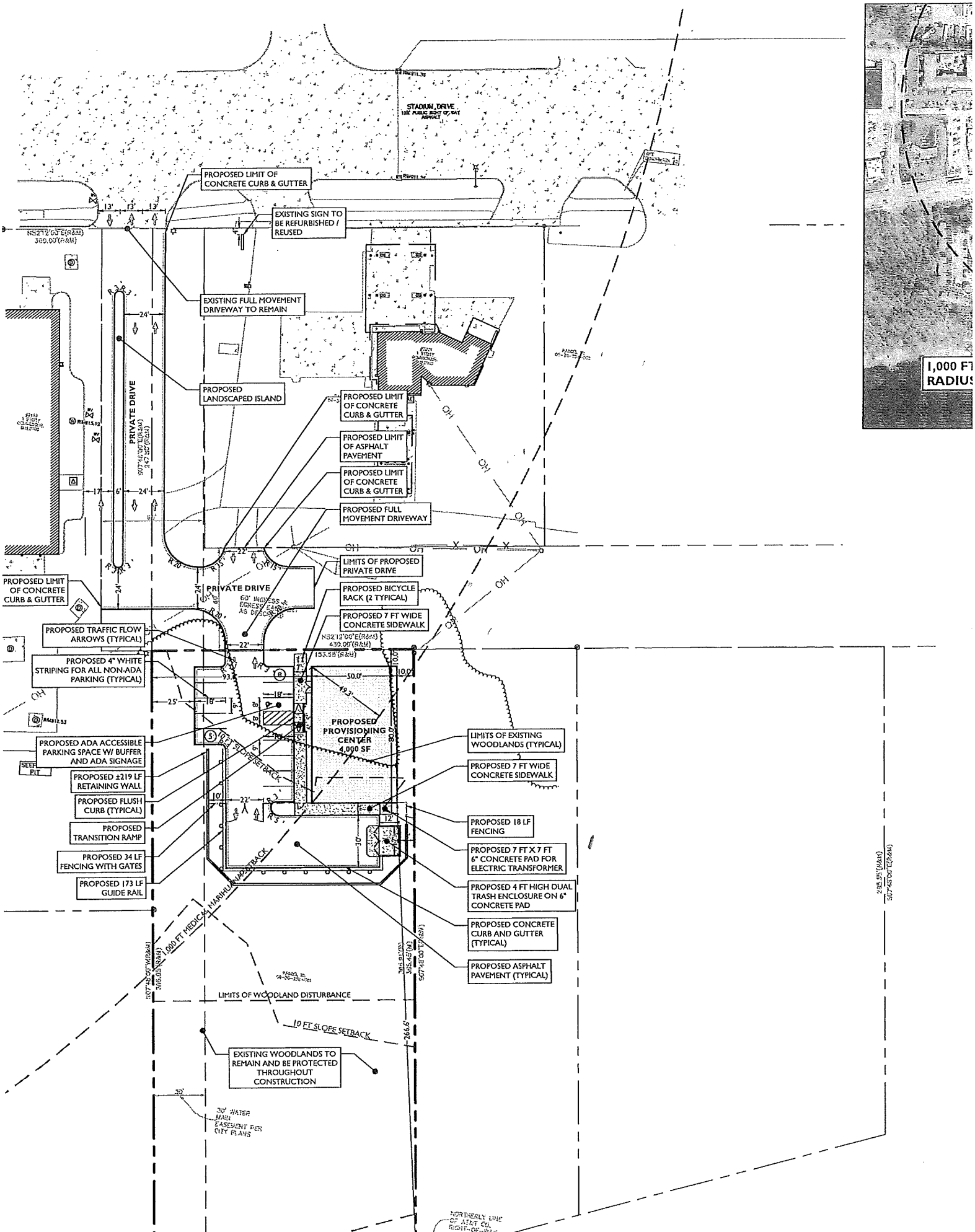
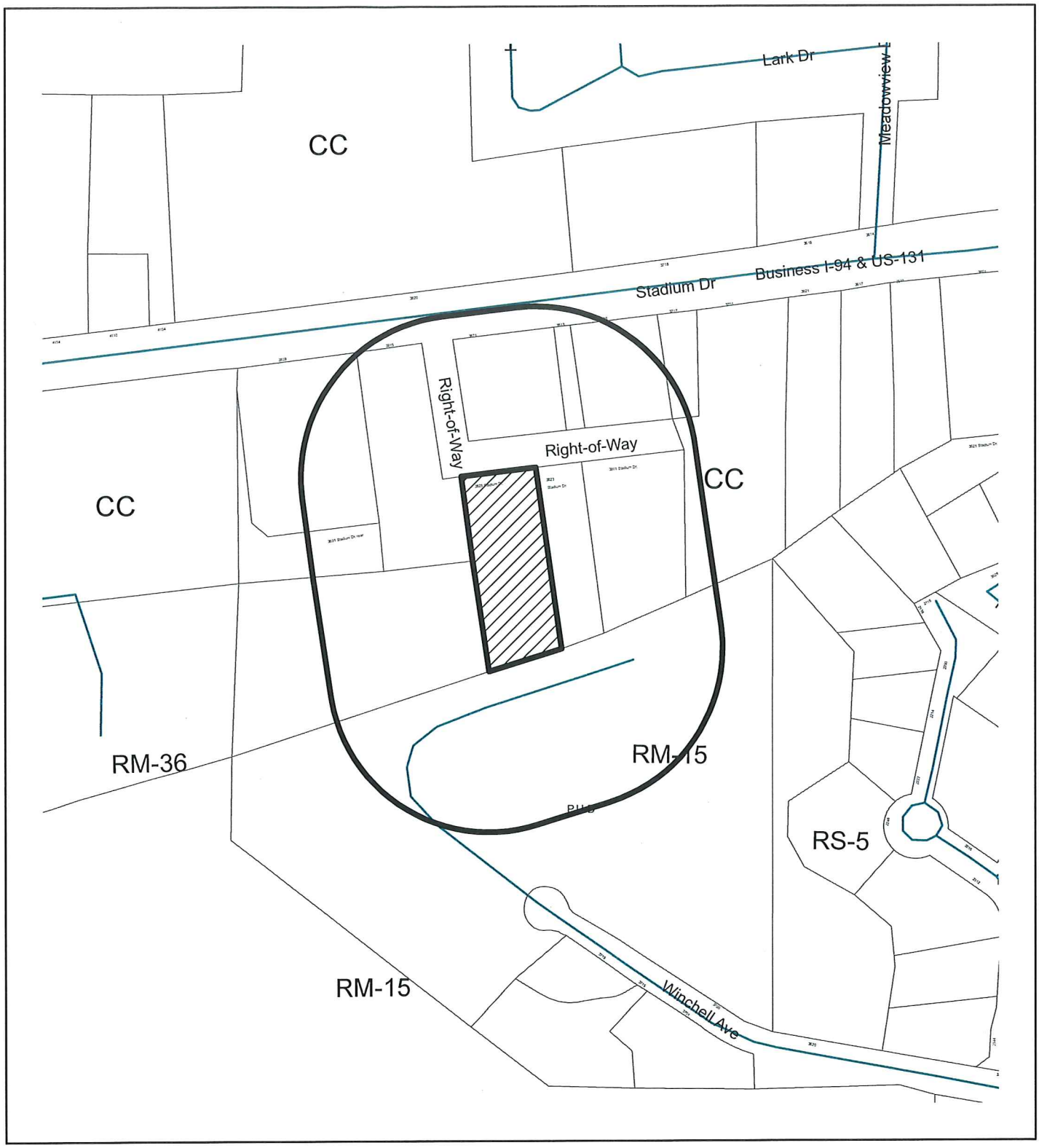
THE CITY OF Kalamazoo


STADIUM DRIVE
12" SANITARY MAIN
PRIVATE DRIVE
PRIVATE DRIVE
LIMITS OF IDENTIFIED WOODLANDS
SEEPAGE PIT
AREA OF PROTECTED SLOPES >20% (±16,694 SF ON SITE)
10 FT SLOPE SETBACK
PROPOSED PROVISIONING CENTER 4,000 SF
10 FT SLOPE SETBACK


STADIUM DRIVE
PROPOSED LIMIT OF CONCRETE CURB & GUTTER
EXISTING SIGN TO BE REFURBISHED / REUSED
EXISTING FULL MOVEMENT DRIVEWAY TO REMAIN
PROPOSED LANDSCAPED ISLAND
PRIVATE DRIVE
PROPOSED LIMIT OF CONCRETE CURB & GUTTER
PROPOSED LIMIT OF ASPHALT PAVEMENT
PROPOSED LIMIT OF CONCRETE CURB & GUTTER
PROPOSED FULL MOVEMENT DRIVEWAY
LIMITS OF PROPOSED PRIVATE DRIVE
PROPOSED LIMIT OF CONCRETE CURB & GUTTER
PRIVATE DRIVE
PROPOSED BICYCLE RACK (2 TYPICAL)
PROPOSED 7 FT WIDE CONCRETE SIDEWALK
PROPOSED TRAFFIC FLOW ARROWS (TYPICAL)
PROPOSED 4" WHITE STRIPING FOR ALL NON-ADA PARKING (TYPICAL)
PROPOSED PROVISIONING CENTER 4,000 SF
PROPOSED ADA ACCESSIBLE PARKING SPACE W/ BUFFER AND ADA SIGNAGE
PROPOSED ±219 LF RETAINING WALL
PROPOSED FLUSH CURB (TYPICAL)
PROPOSED TRANSITION RAMP
PROPOSED 34 LF FENCING WITH GATES
PROPOSED 173 LF GUIDE RAIL
LIMITS OF EXISTING WOODLANDS (TYPICAL)
PROPOSED 7 FT WIDE CONCRETE SIDEWALK
PROPOSED 18 LF FENCING
PROPOSED 7 FT X 7 FT 6" CONCRETE PAD FOR ELECTRIC TRANSFORMER
PROPOSED 4 FT HIGH DUAL TRASH ENCLOSURE ON 6" CONCRETE PAD
PROPOSED CONCRETE CURB AND GUTTER (TYPICAL)
PROPOSED ASPHALT PAVEMENT (TYPICAL)
1,000 FT MEDICAL MARIJUANA SETBACK
LIMITS OF WOODLAND DISTURBANCE
10 FT SLOPE SETBACK
EXISTING WOODLANDS TO REMAIN AND BE PROTECTED THROUGHOUT CONSTRUCTION
30' WATER MAIN EASEMENT PER CITY PLANS
1,000 FT RADIUS

3825 Stadium Drive
September 27, 2019



300' Mailing Boundary
3825 Stadium Dr.

N

Feet
0 3570 140

City of Kalamazoo

INTER-OFFICE*MEMO*

To: Zoning Board of Appeals

From: Jamie McCarthy, staff liaison to Natural Features Protection (NFP) Review Board on behalf of Mitchell Lettow, NFP Review Board Chair

Date: September 27, 2019

Subject: Recommendation to approve Spartan Services Partners, LLC request for NFP Overlay District dimensional variances at 3825 Stadium Drive

RECOMMENDATION

It is recommended that the ZBA approve both dimensional variance requests by Spartan Services Partners, LLC for the property at 3825 Stadium Drive. The applicant requested a variance from the slope setback and slope encroachment standards in Chapter 50-6.2(H).

BACKGROUND

Stonefield Engineering, representing the applicant Spartan Services Partners, LLC appeared before the NFP Review Board on Tuesday, September 24, 2019 for a public hearing on two (2) dimensional variance requests related to the slope standards from Chapter 50-6.2(H). City staff provided the NFP Review Board with a presentation and the attached staff report which supports the request.

The consultant gave a presentation about the property, including the challenging site characteristics. A steep slope is present across a large portion of the of the site closer to the northern part of the property which is the frontage. This slow makes it not possible to place a commercial development on the property without some degree of encroachment onto the "protected" slope according to the definitions in Chapter.

The NFP Review Board discussed the case and the constraints at the site and evaluated the conditions for granting relief, as described in Chapter 50-6.2(L). The NFP Review Board determined the request met the conditions by seeking the minimum relief required for reasonable use, it will not cause substantial detriment to the public good or substantially impair the intent of NPF ordinance, and the relief is balanced by preserving more woodland than is required under the NFP standards.

ATTACHMENTS

Staff report

Natural Features Protection Review Board
Staff Report
City of Kalamazoo

Project Address:	3825 Stadium Drive
Meeting Date:	September 24, 2019
Applicant:	Spartan Partners Services, LLC
Owner:	Spartan Partners Services, LLC
Public Hearing:	Yes
Notice Date:	September 10, 2019

Summary:

Spartan Partners Services, LLC is proposing to construct a 4,000 square foot medical marihuana provisioning center on the parcel located at 3825 Stadium Drive. The site currently has a residential single-dwelling unit that would be demolished to build an improved driveway, upgraded utilities, retail provisioning center, and parking lot.

Details:

Property Size:

1.345 acres

Description of Current Use of Property:

The existing structure is an unoccupied residential single-dwelling unit.

Location and Current Zoning District:

The parcel is zoned CC (Commercial – Community).

Project Description:

The current owner has been authorized at the state and city levels to operate a medical marihuana provisioning center at the parcel location. The site must be redeveloped from a single-dwelling residential site into a commercial provisioning center. The owner's consultant has been working with the city staff since the NFP moratorium was lifted in June 2019. The proposed conceptual site plan was reviewed by the Site Plan Review Team on August 14, 2019. During this meeting staff and consultant discussed the setback requirement for the water main that runs along the western parcel boundary from north to south. Staff also discussed the woodland survey, MNFI rare species survey, and the slope on the site.

To accommodate the 4,000 square foot commercial building, parking standards, water main setback, and delivery security requirements the site plan has been modified several

times. The most recent conceptual plan is shown in the attached document. This plan requires a variance from the NFP slope protection standard.

Review Criteria:

Site Plans must meet all City ordinances and regulations. According to Chapter 50 of the Zoning Code, relief from the NFP Overlay District standards may be granted when all of the following are satisfied: (1) the parcel cannot be used reasonably used for its zoned use, (2) the minimum amount of relief is requested to permit reasonable use, and (3) the granted relief will not cause substantial detriment to the public good and/or substantially impair the intent and purpose of the NFP Overlay District.

Recommendation:

The Planning Division requests that the NFP Review Board review the variance request and provide a recommendation to the Zoning Board of Appeals. Based on the review by the Planning Division, staff support the request for a variance.

Attachments:

1. NFP Review Checklist
2. Conceptual Site Plan
3. Woodland Assessment Report
4. MNFI Rare Species Review Letter and On-site Survey Report
5. Variance Application