



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
269-216-5220 Fax 375-7180 TDD 375-7198  
www.oshtemo.org

**NOTICE  
OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**REGULAR MEETING – VIRTUAL**

Participate through this Zoom link:  
<https://us02web.zoom.us/j/89784374277>

Or by calling: 1-929-205-6099  
**Meeting ID: 897 8437 4277**

*(Refer to the [www.oshtemo.org](http://www.oshtemo.org) Home Page or the third page of this packet for additional Virtual Meeting Information)*

**THURSDAY, DECEMBER 10, 2020  
6:00 p.m.**

**AGENDA**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes: November 12<sup>th</sup>, 2020
6. **Public Hearing: Special Use Review – Child Caring Institution**  
Bethany Christian Services of Michigan is requesting Special Use and Site Plan approval to establish a Child Caring Institution to serve up to 12 minor children in the existing building located at 6350 W KL Avenue.
7. New Business
  - a. Code amendment discussion: pools on corner Lots (front yard setback)
  - b. Code amendment discussion: Child and Adult Care Centers
8. 2021 Meeting Dates
9. Public Comment
10. Other Updates and Business
11. Adjournment

**Policy for Public Comment  
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email ([oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org)), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)  
(revised 5/14/2013)  
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at [www.oshtemo.org](http://www.oshtemo.org), email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to [oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org) and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<b><u>Supervisor</u></b>		
Libby Heiny-Cogswell	216-5220	<a href="mailto:libbyhc@oshtemo.org">libbyhc@oshtemo.org</a>
<b><u>Clerk</u></b>		
Dusty Farmer	216-5224	<a href="mailto:dfarmer@oshtemo.org">dfarmer@oshtemo.org</a>
<b><u>Treasurer</u></b>		
Grant Taylor	216-5221	<a href="mailto:gtaylor@oshtemo.org">gtaylor@oshtemo.org</a>
<b><u>Trustees</u></b>		
Cheri L. Bell	372-2275	<a href="mailto:cbell@oshtemo.org">cbell@oshtemo.org</a>
Deb Everett	375-4260	<a href="mailto:deverett@oshtemo.org">deverett@oshtemo.org</a>
Zak Ford	271-5513	<a href="mailto:zford@oshtemo.org">zford@oshtemo.org</a>
Ken Hudok	548-7002	<a href="mailto:khudok@oshtemo.org">khudok@oshtemo.org</a>

<b>Township Department Information</b>		
<b><u>Assessor:</u></b>		
Kristine Biddle	216-5225	<a href="mailto:assessor@oshtemo.org">assessor@oshtemo.org</a>
<b><u>Fire Chief:</u></b>		
Mark Barnes	375-0487	<a href="mailto:mbarnes@oshtemo.org">mbarnes@oshtemo.org</a>
<b><u>Ordinance Enf:</u></b>		
Rick Suwarsky	216-5227	<a href="mailto:rsuwarsky@oshtemo.org">rsuwarsky@oshtemo.org</a>
<b><u>Parks Director:</u></b>		
Karen High	216-5233	<a href="mailto:khigh@oshtemo.org">khigh@oshtemo.org</a>
Rental Info	216-5224	<a href="mailto:oshtemo@oshtemo.org">oshtemo@oshtemo.org</a>
<b><u>Planning Director:</u></b>		
Iris Lubbert	216-5223	<a href="mailto:ilubbert@oshtemo.org">ilubbert@oshtemo.org</a>
<b><u>Public Works:</u></b>		
Marc Elliott	216-5236	<a href="mailto:melliott@oshtemo.org">melliott@oshtemo.org</a>

## Zoom Instructions for Participants

### Before a videoconference:

1. You will need a computer, tablet, or smartphone with a speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. If you are going to make a public comment, please use a microphone or headphones with a microphone to cut down on feedback, if possible.
3. Details, phone numbers, and links to videoconference or conference call are provided below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 11-digit Meeting ID.

### To join the videoconference:

1. At the start time of the meeting, click on this link to [join via computer](#). You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](#) on any browser and entering this **Meeting ID: 897 8437 4277**

If you are having trouble hearing the meeting or do not have the ability to join using a computer, tablet or smartphone then you can join via conference call by following instructions below.

### To join the conference by phone:

1. On your phone, dial the toll-free teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **897 8437 4277#**

### Participant controls in the lower-left corner of the Zoom screen:



Using the icons at the bottom of the Zoom screen, you can (some features will be locked to participants during the meeting):

- Participants – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand. **This will be used to indicate that you want to make a public comment.**
- Chat – opens pop-up screen that allows participants to post comments during the meeting.

If you are attending the meeting by phone, to use the “Raise Hand” feature **press \*9 on your touchtone keypad.**

**Public comments will be handled by the “Raise Hand” method as instructed above within Participant Controls.**

This page has been intentionally left blank for printing purposes.

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**DRAFT MINUTES OF A VIRTUAL MEETING HELD NOVEMBER 12, 2020**

---

**Agenda**

**PUBLIC HEARING: REZONING REQUEST**

**STORAGE RENTALS OF AMERICA REQUESTED TO REZONE 1515 S. 11<sup>TH</sup> STREET AND PARCEL NUMBER 05-24-452-010 FROM THE C: LOCAL BUSINESS DISTRICT TO THE I-1: INDUSTRIAL DISTRICT OF THE OSHTEMO CHARTER TOWNSHIP ZONING ORDINANCE.**

**PUBLIC HEARING: FUTURE LAND USE MAP AMENDMENT AND REZONING REQUEST**

**CENTERPOINT CHURCH REQUESTED TO CONDITIONALLY REZONE 2345 NORTH 10<sup>TH</sup> STREET FROM THE R-2: RESIDENCE DISTRICT TO THE R-3: RESIDENCE DISTRICT OF THE OSHTEMO CHARTER TOWNSHIP ZONING ORDINANCE. FOR THIS REZONING TO BE APPROVED THE TOWNSHIP'S ADOPTED FUTURE LAND USE MAP'S DESIGNATION FOR THIS PROPERTY NEEDED TO BE AMENDED FROM 'LOW DENSITY RESIDENTIAL' TO 'MEDIUM DENSITY RESIDENTIAL'.**

---

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, November 12, 2020, commencing at approximately 6:07 p.m.

**PRESENT:** Bruce VanderWeele, Chair  
Kizzy Bradford  
Dusty Farmer  
Micki Maxwell, Vice Chair  
Mary Smith  
Anna Versalle  
**ABSENT:** Chetan Vyas

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, and Martha Coash, Meeting Transcriptionist.

There were also several members of the public present.

**Call to Order and Pledge of Allegiance**

Chairperson VanderWeele called the meeting to order at approximately 6:07 p.m. He invited those in attendance to join in reciting the Pledge of Allegiance.

**Approval of Agenda**

Ms. Lubbert asked that proposed meeting dates for 2021 be added to “Other Updates and Business” for potential adoption. Chairperson VanderWeele amended the agenda with the requested addition.

**Approval of the Minutes of the Meeting of September 24, 2020**

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of September 24, 2020. Hearing none, he asked for a motion.

Ms. Smith **made a motion** to approve the Minutes of the Meeting of September 24, 2020 as presented. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

**PUBLIC HEARING: REZONING REQUEST  
STORAGE RENTALS OF AMERICA REQUESTED TO REZONE 1515 S. 11<sup>TH</sup>  
STREET AND PARCEL NUMBER 05-24-452-010 FROM THE C: LOCAL BUSINESS  
DISTRICT TO THE I-1: INDUSTRIAL DISTRICT OF THE OSHTEMO CHARTER  
TOWNSHIP ZONING ORDINANCE.**

Ms. Lubbert explained Storage Rentals of America was requesting to rezone 1515 S 11<sup>th</sup> Street and Parcel Number 05-24-452-010 from C: Local Business District to I-1: Industrial District. Between the two parcels, the site has a combined area of approximately 12.53 acres. Storage Rentals of America currently utilizes both sites for their self-storage facility. As part of this review, a land combination application will be required, was submitted and approved, but still needs to be recorded.

The self-storage facility was first constructed in 1975. In July of 2000, the zoning ordinance was amended so that mini warehouses and storage buildings are no longer a special use under C: Local Business District and are now only permitted with Planning Commission approval as a Special Use in the I-1: Industrial District. As such, the self-storage facility at this location is a legal- nonconforming use. The requested rezoning of 1515 S 11<sup>th</sup> Street and Parcel Number 05-24-452-010 would make the existing self-storage facility a legal conforming use. The applicant indicated an interest in expanding the self-storage facility in the future by adding possibly one or two more storage buildings. Since the request is for a rezoning, such material shall be considered at the time the applicant submits a site plan for modifying the special exception use.

She noted the currently zoned C: Local Business District, Storage Rentals of America is located on the east side of S 11<sup>th</sup> Street, between KL Avenue and W Michigan Avenue. The self-storage facility abuts US 131 to its east and the railway to its north. Adjacent to the west are zoning districts for R-1: Residence District and I-1: Industrial District. Adjacent to the south is zoned C: Local Business District. Designated

wetlands are situated within the northern section of the property. There are 15 one-story self-storage buildings on site along with one single story office building.

Ms. Lubbert referred to the Zoning Enabling Act, which allows Townships to zone property, but does not provide any required standards that a Planning Commission must consider when reviewing a rezoning request. However, there are some generally recognized factors that should be deliberated before a rezoning decision is made. She noted the considerations as follows:

1. Master Plan Designation

The Township's Future Land Use Plan categorizes this area—east of S 11<sup>th</sup> Street, west of US 131, south of W KL Avenue, and north of W Michigan Avenue as *General Industrial*, a category intended for manufacturing and other industrial development to create job opportunities and increase wages. The designation includes both light and general industrial uses, warehouse and distribution facilities, heavy commercial, and *storage facilities*. Mini warehouses and storage buildings are permissible with Special Use approval from the Planning Commission under the I-1: Industrial District. From a zoning perspective, the present land use would be consistent with the site's current activity Future Land Use Map, and the Township's Zoning Ordinance. Should approval for the rezoning be granted, it would follow the Township's vision in terms of land use for this area.

2. Consistency of the Zoning Classification in the General Area

Rezoning 1515 S 11<sup>th</sup> Street and Parcel Number 05-24-452-010 to I-1: Industrial District would be consistent with current zoning in nearby parcels. The site is currently adjacent to two other industrial uses. These uses include West Side Beer Distributing and a Consumer's Energy Company substation.

3. Consistency and Compatibility with General Land Use Patterns in the Area

A pattern already exists west of S 11<sup>th</sup> Street on the south side of W KL Avenue, where numerous industrial facilities have been established, increasing in consistency and intensity westbound while approaching S 9<sup>th</sup> Street. With there being properties to the south zoned as C: Local Business District, the existing commercial uses will act as a buffer to the properties south and west of the site. Due to there being industrial users already established in the area, and this use being in accordance with the Future Land Use map, the rezoning will allow the property to match the established character of the area.

4. Utilities and Infrastructure

Public water and sewer are available at 1515 S 11<sup>th</sup> Street and Parcel Number 05-24-452-010. Any future development on the subject site that requires such public infrastructure needs will be mandated to pay the appropriate water and sewer fees and physically connect to these systems prior to a certificate of occupancy. Regarding the transportation network, the intersection to the north at W KL Avenue and South 11<sup>th</sup> Street is well controlled by a traffic signal. The intersection to the south where S 11<sup>th</sup> Street crosses W Michigan Avenue is also

controlled by a traffic signal. This section of 11<sup>th</sup> street already supports several commercial and industrial uses; staff is of the opinion that if this rezoning is approved, and any other potential industrial use follows, it will not negatively affect the area. Furthermore, the Township's Non-Motorized Transportation Plan does identify a six foot wide Shared Use Path adjacent to the subject site. It should be noted that such facility shall be installed in accordance with Township Sidewalk/Shared Use Path Construction Standards if any expansion is proposed in the future. Three foot wide bike lanes have already been established in both northbound and southbound directions in this portion of S 11<sup>th</sup> Street.

5. Reasonable Use under Current Zoning Classification

Both 1515 S 11<sup>th</sup> Street and Parcel Number 05-24-452-010 were once regulated as a special exception use under the C: Local Business District zoning classification. However, mini warehouses and storage facilities such as this do not bring any retail value or other common business characteristics or activity you would typically find in a commercial establishment. The Township identified that mini warehouses and storage facilities were no longer suitable in the C: Local Business District zoning classification as self-storage facilities have been categorized as an industrial use for the past 20+ years. Through the rezoning, the applicant is making efforts to eliminate the legal non-conforming use and make the site comply with the Township's Zoning Ordinance and Future Land Use Plan. The rezoning achieves the Township's goals and also fits the applicant's vision for the site.

6. Effects on Surrounding Property

Rezoning these two properties to the I-1: Industrial District will not have a negative effect on surrounding properties. The applicant has indicated the site's use will not be modified in a significant way in the foreseeable future and rezoning the property will allow for further compatibility in terms of development for surrounding properties. The gradual shift from commercial to industrial from the northern portion of S 11<sup>th</sup> Street to the south side of W.KL Avenue (directly west of S 11<sup>th</sup> Street) is becoming prevalent. With an existing pattern of industrial character and uses in the area, the rezoning would complement adjacent zoning districts.

Ms. Lubbert concluded her presentation with the recommendation that the Planning Commission forward a recommendation of approval to the Township Board for the rezoning of the subject properties from the C: Local Business District to the I-1: Industrial District with the following stipulation:

1. The Approval for Land Combination and related documents shall be recorded with the Kalamazoo Register of Deeds by 12/31/2020. A copy of the recorded documents will be provided to the Planning Department.



Chairperson VanderWeele thanked Ms. Lubbert for her presentation and asked whether Commissioners had any questions for her. Hearing none, he asked whether the applicant wished to speak.

Mr. Kevin Oliver thanked the Commission for considering his request and said he would be happy to answer any questions.

Ms. Maxwell asked if the wetland shown is actually designated as a wetland and wondered whether it could be filled in.

Mr. Oliver said he is not aware of such a designation but the survey is close to complete at which point that will be known.

Ms. Lubbert noted any changes of that nature would first be required to go through site plan review.

Attorney Porter confirmed that any site changes will be carefully looked at during site plan review, but add that this type of details should not be considered with the rezoning request.

Hearing no further comments or questions, Chairperson VanderWeele moved to a Public Hearing. As there were no comments from the public, he moved to Board Deliberations.

Ms. Maxwell wondered why the zoning designation should not just be left as is?

Attorney Porter said there is a downside from a legal standpoint. For instance, if buildings on this site burned down, replacement would be impeded by the zoning ordinance. It makes sense to bring the zoning into compliance with the ordinance.

Ms. Lubbert added that the use under the current zoning designation is 'grandfathered' in so no changes to the existing site layout would be permitted. With the rezoning the use would become compliant and the applicant would be allowed to make modifications to the site.

Hearing no further comments, Chairperson VanderWeele asked for a motion.

Ms. Versalle **made a motion** to forward a recommendation of approval to the Township Board for the rezoning of the subject properties from the C: Local Business District to the I-1: Industrial District based on the staff report and with the following stipulation:

1. The Approval for Land Combination and related documents shall be recorded with the Kalamazoo Register of Deeds by 12/31/2020. A copy of the recorded documents will be provided to the Planning Department.

Ms. Maxwell **seconded the motion. The motion was approved unanimously by roll call vote.**

Chairperson VanderWeele moved to the next agenda item, recused himself due to a relationship with Centerpoint Church, and asked Vice Chairperson Maxwell to chair the meeting for this item.

Vice Chair Maxwell agreed and asked Ms. Lubbert for her presentation.

**PUBLIC HEARING: FUTURE LAND USE MAP AMENDMENT AND REZONING REQUEST**  
**CENTERPOINT CHURCH REQUESTED TO CONDITIONALLY REZONE 2345 NORTH 10<sup>TH</sup> STREET FROM THE R-2: RESIDENCE DISTRICT TO THE R-3: RESIDENCE DISTRICT OF THE OSHTEMO CHARTER TOWNSHIP ZONING ORDINANCE. FOR THIS REZONING TO BE APPROVED THE TOWNSHIP'S ADOPTED FUTURE LAND USE MAP'S DESIGNATION FOR THIS PROPERTY NEEDED TO BE AMENDED FROM 'LOW DENSITY RESIDENTIAL' TO 'MEDIUM DENSITY RESIDENTIAL'.**

Ms. Lubbert explained Centerpoint Church was requesting to conditionally rezone their 21.2 acre property located at 2345 North 10<sup>th</sup> Street, from R-2, Residence District to the R-3, Residence District. For this rezoning to be approved, the Township's adopted Future Land Use Map's designation for this property would need to be amended from 'Low Density Residential' to 'Medium Density Residential'.

She noted on April 30<sup>th</sup>, 2020 Centerpoint Church was granted Special Use approval from the Planning Commission to establish a private preschool at 2345 N 10<sup>th</sup> Street. Centerpoint Church requested this conditional rezoning in order to have a Child Care Center onsite to widen their services to care for children under the age of 30 months. She said if this rezoning was approved, the applicant would need to apply for Special Use approval for the Child Care Center - a Special Use within the R-3, Residence District.

Ms. Lubbert provided the following information for consideration.

**SUBJECT PROPERTY:** Currently located in the R-2, Residence District, the existing lot has approximately 1,400 feet of frontage on N 10<sup>th</sup> Street. Neighboring this property directly to the west and southwest are a number of Residential Subdivisions, including: West Port, Countrywood Estates, and Meadowbrook Hills. To the North, East, and southeast are a number of larger un-platted residential lots as well as other churches with frontage to this section of N. 10th Street, including: The Rock Kalamazoo Church, Immanuel Fellowship Church, Kingdom Hall of Jehovah's Witnesses, and People's Church.

**FUTURE LAND USE MAP AMENDMENT:** The Future Land Use Plan and Map were adopted as a part of the 2017 Oshtemo Charter Township Master Plan Update. The Master Plan is a vision for the future of transportation, land use, the economy, environment, and cultural stewardship of our Township. This Plan is revisited at least every five years by the Planning Commission and is the result of countless hours and

efforts of residents, business owners, Township Officials and staff, and consultants over the years. The Master Plan, the Future Land Use Plan and Map can be found at <https://oshtemo.org/master-plan/>.

The Future Land Use Plan defines the vision for land development in Oshtemo Township based on sound planning principles and community input. It builds on the historic development patterns of the community, factoring in the objective to preserve unique environmental features and to protect the rural character of the community. At the same time, the Future Land Use Plan provides direction for anticipated development within the Township in appropriate places for growth.

2345 N 10<sup>th</sup> Street is part of the 'Low Density Residential' land use category. This designation represents the majority of the neighborhoods in the Township as well as those areas planned for future neighborhood development. The Future Land Use Plan emphasizes this land use category as being primarily single-family residential in nature and notes the desire that existing neighborhoods and residential developments be preserved and protected from incompatible land uses. Oshtemo's R-1 and R-2 Residence District zones are appropriate zoning districts for this designation.

The R-3, Residence District is defined as a transitional zoning classification; which allows for three to four family dwellings, office buildings, small animal clinics, banks, etc. A complete listing of allowable uses within the R-3, Residence District can be found in Article 8 of the Townships Zoning Code. Based on the allowed higher intensity of uses, this zoning district is considered to be part of the Future Land Use designation of 'Medium Density Residential'. The West Point Condominium project is zoned R-3 and is an example of the type of uses permitted within the 'Medium Density Residential' district.

Rezoning 2345 N 10<sup>th</sup> Street to R-3, Residence District goes against the Township's adopted Future Land Use Map and Plan. As such, in order for this rezoning to be approved this lot's designation in the Future Land Use Map would need to be amended to 'Medium Density Residential' – in summary the adopted vision for the future development of this area will need to be changed to allow for a higher density zone. By changing this designation any future development considered 'Medium Density Residential' by the Future Land Use Plan would be permitted on this site.

Creating a pocket of 'Medium Density Residential' in the middle of a 'Low Density Residential' area is not appropriate and goes against the Township's and citizens' adopted vision for the area. The 'Medium Density Residential' areas are intended to be used as a transition or, in other words, a buffer between low density residential uses, i.e. single family homes, and commercial zones.

**CONDITIONAL REZONING CONSIDERATIONS:** The applicant requested a conditional rezoning. This means Centerpoint Church offered conditions as part of the request for the rezoning. These conditions are outlined below:

1. Request the conditional rezoning of Centerpoint Church at 2345 North 10<sup>th</sup> Street from the R-2, Residence District to the R-3, Residence District.
2. The facility is currently operating as a Church and a Preschool. The Church in total is 97,000 square ft. and the Preschool occupies 9,000 square ft. of that space.
3. If the property is rezoned, only the addition of a Child Care Center would be permitted. The Child Care Center would serve children under 30 months of age.
4. The total number of children between the Preschool and Child Care Center will never exceed 110.
5. If approved, the Child Care Center would become part of the Preschool's building footprint; the footprint and infrastructure of the Church will not be expanded or impacted by this use.

Ms. Lubbert noted Article 66 of the Township Code outlines the process for a conditional rezoning to be considered, which is consistent with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. The Zoning Enabling Act, which allows Townships to zone property, does not provide any required standards that a Planning Commission must consider when reviewing a rezoning request. However, she said there are some generally recognized factors that should be deliberated before a rezoning decision is made. She listed those considerations along with staff analysis, incorporating the applicant's proposed conditions, as outlined below:

1. Master Plan Designation

As described in the above 'Future Land Use Map Amendment' section of this report, this rezoning request goes against the adopted Future Land Use Plan for 'Low Density Residential' for this area. Consideration not met.

2. Consistency of the Zoning Classification in the General Area

2345 N 10<sup>th</sup> Street is located in the middle of a large span of R-2, Residence District zoning. Rezoning 2345 N 10<sup>th</sup> Street to the R-3, Residence District is considered 'spot zoning'. Spot zoning is defined as the process of singling out a small section of land for a use classification completely different from that of the surrounding area for the benefit of the owner of such property that is generally at odds with a municipalities' Master Plan and current zoning restrictions. The request to rezone this property to R-3, Residence District is not consistent with the Zoning Classification in the General Area. Consideration not met.

3. Consistency and Compatibility with General Land Use Patterns in the Area

When a property is rezoned, that property is permitted to have any of the uses outlined in that zoning district as long as it follows appropriate review procedures. By requesting a rezoning that would allow for only one of the outlined particular uses within the R-3, Residence District the applicant seeks to alleviate the concern of what potential higher intensity use would ultimately

come forward on the site in question. This approach is uncommon but makes sense accompanied by a site plan in areas of the Township that have a specific adopted vision for development that may not be appropriately captured in the current Zoning Code yet. However, in this case there is a distinctive pattern and established vision for the area under consideration to be 'Low Density Residential'. This request goes against the adopted vision of the area. The uses permitted in each zoning district of the code were placed there for a reason by Oshtemo's Planning Commission and citizens in order to control the character and intent of certain areas. If approved, this request would set a precedent that discredits the intent of the Township's Future Land Use Map and planning efforts. Consideration not met.

4. Utilities and Infrastructure

One of the applicants' offered conditions is that the Child Care Center that would result from the rezoning would utilize the existing infrastructure and space within 2345 N 10<sup>th</sup> Street – there would be no new building or addition. This would decrease the impact of the use to the surrounding area. Although no operating times were offered for this use, Staff assumes it would operate the same hours as the approved Preschool. The Preschool was approved to operate Monday through Friday offering full day programs for all Preschool age children with a half-day option. Its earliest available drop off time is 8 a.m. with the latest available pick up time of 6 p.m. If this is the case, the traffic generated by the preschool and in effect the Child Care Center would not conflict with, nor be as impactful as, the traffic generated by the Church. It appears that the site has the infrastructure in place to support this use. If the rezoning is approved, this plan can be further analyzed with the required Special Use approval review. Consideration met.

However, it should be noted that a rezoning to a higher density district is equated with higher intensities in both utility and infrastructure use. Staff cautions that if this conditional rezoning is approved and a precedent is set, then other similar conditional rezoning requests might follow that will put a strain on the infrastructure of the area; which in this case was intended and designed to support only 'Low Density Residential' uses.

5. Reasonable Use under Current Zoning Classification

Under the R-2, Residence District zoning the property is currently successfully operating as a place of worship. The owners also recently gained approval to operate a Preschool for up to 110 children from this location. There is reasonable use under the current zoning classification of R-2. 2345 N 10<sup>th</sup> Street does not need to be rezoned to R-3, Residence District in order for it to be reasonably used. Consideration not met.

6. Effects on Surrounding Property

Although this specific conditional rezoning tied to a Child Care Center may not have direct negative impacts on surrounding properties, as noted in

previous sections of this report, approving this change in the Future Land Use Map and approving this conditional rezoning will set a precedent permitting 'spot zoning' that goes against the intent of the Future Land Use Plan. In essence, it would open the door to other rezoning requests of this nature; not only for other Churches that may want to follow suite and expand their services but also to any property within the Township that wishes to utilize this 'out' from standard zoning practice. Approving this request would in the long term negatively impact Oshtemo as the Planning efforts and vision of the community would be undermined. Consideration not met.

Ms. Lubbert noted the request from Centerpoint Church meets only one of the six considerations and indicated both Legal Counsel and the Planning Department recommended the Planning Commission deny both the request to amend the Future Land Use Map and the conditional rezoning of 2345 N 10<sup>th</sup> Street from the R-2, Residence District to the R-3, Residence District.

She noted that the applicant and other representatives from Centerpoint Church were present and that two letters were received, one from Glynis Fenn and one earlier today from James Palmitessa.

Vice Chairperson Maxwell asked if there were questions for Ms. Lubbert from Commissioners.

Ms. Smith did not understand the need to rezone this property to R-3.

Ms. Lubbert explained that a Child Care Center is not allowed under current zoning.

Hearing no further questions, Vice Chair Maxwell asked if the applicant wished to speak.

Mr. Larry Harper, Director of Operations at Centerpoint, 2345 N. 10<sup>th</sup> Street spoke and said if approved the hours would not change, would stay within current parameters. He said there would be no change in the number of children to be served. 110 children would be the maximum shared between the Private Preschool and Child Care Center and would have the same impact on the infrastructure. The only change would be the ages of the children. They are trying to impact families currently enrolled and noted more than 60 children being served now also have children under 30 months in the home. The change requested would not have additional impacts on the community. The church sees this change as positive for families and the community. He referred to the letter from Glynis Fenn, included in the PC packet, who said 110 children are too many - he noted that number is not changing. He said he understood the need to protect the community and appreciates that as well as the effort that goes into it.

Vice Chair Maxwell asked if there were questions for Mr. Harper from Commissioners. Hearing none she moved to public hearing and asked if there were comments. Several attendees spoke.

Tara (no last name given), a new church staff member, said she was shocked to find daycare could be offered at the church for such a reasonable price. If the request is approved she would be able to take advantage of daycare for her two year old. The available scholarship opportunity that Centerpoint Church is offering is rare. She thanked the Commission for their consideration.

Jill (no last name or address given), a 40+ year resident who lives behind the church, said she would have welcomed daycare in the neighborhood as a young mother rather than having to travel across town for expensive daycare. That Centerpoint wants to control the rate they charge is a wonderful thing as well as their desire to include the neighborhood in their positive vision for the community. They are always trying to reach out to the community and noted the many free meals they have provided to those in need during the pandemic. Providing daycare for younger children is another opportunity for outreach.

Melanie Ahrens, director at the private preschool, noted families with children currently enrolled are inquiring since they also have children younger than 30 months. She said the pandemic has made it more difficult to find childcare. She read letters and comments from several local families who were supportive of the request for rezoning and agreed to provide them to Ms. Lubbert.

James Palmitessa, 2504 Ramblewood Drive, spoke against the proposal. He recapped the comments he provided in his letter, appended to the minutes.

Ms. Lubbert read the letter from Glynis Fenn, 2300 Ramblewood Drive, who also opposed the request for rezoning. Her letter is also appended to the minutes.

Hearing no further comments from the public, Vice Chair Maxwell moved to Board Deliberations.

Ms. Smith said she felt it was wonderful to want to bring daycare into the neighborhood as she knows the problems in finding preschool and daycare, but the Commission has to be careful and thoughtful about what can be done. The considerations for a rezoning are not met by the request. Other properties in the area also must be considered. Spot zoning for one church, no matter how admirable their intentions, is problematic.

Vice Chair Maxwell asked why Child Care is permitted in a different zoning classification than a Preschool.

Ms. Lubbert said the focus of preschool is on education. Child Care is more of a transactional nature. She gave the comparison to an Adult Day Care or Pet Day Care which are also more akin to a commercial/office type of use.

Attorney Porter agreed that is as good an explanation available. The difficulty isn't the use in and of itself, it is that the conditional rezoning request does not meet zoning ordinance requirements and does not fit within the Land Use Plan. If allowed it would require opening the Land Use Plan for changes along 10<sup>th</sup> Street, looking at restructuring on zoning principles.

Vice Chair Maxwell asked whether there might be a different avenue to accommodate including a Child Care in the R-2 zoning, perhaps as a special use.

Attorney Porter said an R-2 ordinance change within the zoning context would be controversial. If it were just the church it would likely go unnoticed, if a standalone private daycare were proposed it could be problematic. It is the Planning Commission's prerogative to request that a study be done by the Planning Department regarding a possible text change for future consideration to accommodate a Child Care without a zoning change.

Ms. Farmer said many people would be happy to have Child Care available in and around the neighborhood.

Vice Chair Maxwell said Child Care is needed where the children are.

Ms. Smith asked what other uses could be allowed if a change was made to R-3.

Attorney Porter listed a number of uses including offices, 3-4 family developments, banks, credit unions, gravel pits and others. He said there are other possibilities even with conditional rezoning. If allowed, what would we tell other property owners?

Vice Chair Maxwell said she understands why we cannot re-zone as requested.

Ms. Farmer thanked everyone for their comments, noting it is important to hear from the community. She said Centerpoint Church is a fantastic partner with the Township, providing excellent services to the Oshtemo community. She completely understands the struggle. If questioned she would say we should allow Child Care, but that is not what is being considered. Everyone understands the need for affordable and trustworthy Child Care, which is a problem country wide. The Planning Commission should be able to consider ways to allow that activity but it cannot be done with the rezoning request before the Commission. Spot zoning is illegal. The Commission has a greater duty to the community than to push it into litigation to create a precedent. The community created the Master Plan. She would like to explore allowing Child Care in the same places that provide education.



Vice Chair Maxwell agreed and suggested the Commission take up that challenge.

Ms. Versalle also agreed that a discussion that might lead to Child Care is extremely important, but she shared the concerns about the can of worms that could be opened regarding the request before them. She would like to look at other ways to support Child Care where educational opportunities are supported.

Hearing no further discussion, Vice Chair Maxwell asked for a motion.

Ms. VerSalle made a motion to deny the request to conditionally rezone 2345 North 10<sup>th</sup> street from the R-2: Residence district to the R-3: Residence district of the Oshtemo Charter Township zoning ordinance and the subsequent change to the Future Land Use Map based on staff and legal counsel's recommendation due to the fact that the request meets only one of the six rezoning considerations. Ms. Smith seconded the motion. The motion was approved 5-0 by roll call vote, with one abstention (VanderWeele).

Ms. Farmer said the motion for denial should not be an indication that this is the end of discussion for Child Care at Centerpoint Church. We should be able to figure this out.

Attorney Porter felt this issue provided a good discussion and that maybe another avenue can be provided. With the Commission's request for an investigation into a possible text change there is no need for the church to initiate a request.

Ms. Farmer said because of the Covid pandemic, the quicker an investigation can be done the better. Since a textual change would not require rezoning or a change to the Future Land Use Map it should be able to be accomplished a little more quickly.

Mr. Harper said he feels great about everything that has been said. Keeping children together in one facility is even more important during a pandemic.

Vice Chair Maxwell said communication will be kept open.

Ms. Lubbert said she had an amendment idea that could address this issue and will talk about it with Attorney Porter.

Ms. Bradford asked how educational criteria would be handled.

Attorney Porter said that Child Care Centers and Preschools are different under state law and tend to line up with zoning classifications. The question is whether to bring them together or allow them in other zones.

## **PUBLIC COMMENT**

Chairperson VanderWeele resumed the chair and asked for public comment.

Reverend Jeff Porte, lead pastor at Centerpoint Church, thanked Commissioners for their work and candid conversation. He looks forward to continuing to work together to work to make Oshtemo the best area in the city.

Elizabeth (no last name given) said she was impressed with the thoughtfulness and thoroughness of the Commissioners. She loved hearing they believe Child Care is needed and urged that profit vs. nonprofit be considered.

## **OTHER UPDATES AND BUSINESS**

Ms. Lubbert provided a draft of meeting dates for 2021 which will be considered and adopted at the December, 10th Planning Commission meeting.

She also reported Governor Whitmer has extended virtual meeting requirements through December 31st. This will likely be extended again.

Chairperson VanderWeele welcomed the new Planning Commissioner Kizzy Bradford and said the group looks forward to meeting her in person when that becomes possible.

## **ADJOURNMENT**

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 7:37 p.m.

Minutes prepared:  
November 14, 2020

Minutes approved:  
\_\_\_\_\_, 2020

December 07, 2020



**Mtg Date:** December 10, 2020

**To:** Oshtemo Township Planning Commission

**From:** Colten Hutson, Zoning Administrator

**Applicant:** Jim Hoekstra, Bethany Christian Services of Michigan  
Kyle Visker, Land and Resource Engineering

**Owner:** Trifound Holdings LLC

**Property:** 6350 W KL Avenue, Parcel ID: 05-23-255-021

**Zoning:** R-2: Residence District  
9<sup>th</sup> Street and W Main Overlay Zone

**Request:** Site Plan and Special Use approval of a Child Caring Institution

**Section(s):** Section 35: 9<sup>th</sup> Street and West Main Overlay Zone  
Section 49: Requirements for Special Uses

**PROJECT SUMMARY:**

Bethany Christian Services of Michigan is requesting Special Use and Site Plan approval to establish a Child Caring Institution to serve up to 12 minor children in the existing building located at 6350 W KL Avenue. The applicant is proposing to provide housing services, offices, and conference/training rooms throughout the facility for children and staff. Currently occupied by a financial consulting firm, the 14,722 SF one-story building would allow the youth to receive counseling, learn life lesson and management skills, along with other critical services. The project area under consideration is outlined in light blue on the map to the right.



6350 W KL Avenue falls within both the R-2 Residence District and the 9<sup>th</sup> Street and West Main Overlay Zone. An overlay zone is a type of zoning district that is applied over one or more previously established zoning districts, in this case the R-2 district, which provides additional standards and criteria for the properties located within the overlay. The 9<sup>th</sup> Street and West Main Overlay Zone is designed to allow for

commercial and residential development along the 9th Street corridor and West Main Street corridor that are in keeping with the goals, objectives, and standards of the 9th Street Sub-Area Plan and the West Main Street Sub-Area Plan. Copies of these two plans can be found at <https://oshtemo.org/master-plan/> The proposed Child Caring Institution is a permitted Special Use within the 9th Street and West Main Overlay Zone listed under *Larger Facilities for Child and Adult Foster Care*. Any proposed Special Uses require review and approval from the Planning Commission. The office component of this proposal is a permitted use within the 9th Street and West Main Overlay Zone.

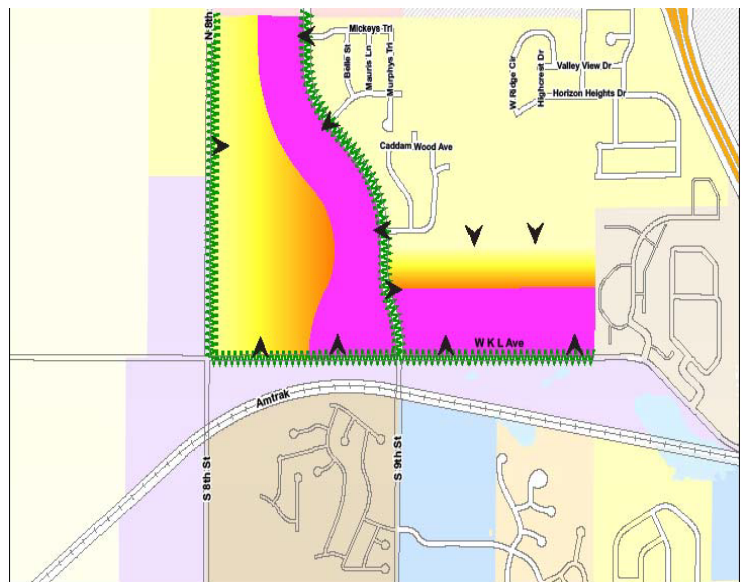
**ANALYSIS:**

When reviewing this Special Use request, there are three sets of criteria that need to be considered: the general Special Use review criteria outlined in Section 65.30, the specific requirements for *Larger Facilities for Child and Adult Foster Care* (including Child Care Institutions) outlined under Section 49.140, and the 9th Street and West Main Overlay Zone review and development criteria outlined in Article 35. Below is an analysis of the proposal against these three Sections. Overall, most of the requirements of Section 65.30, Section 49.140, and Article 35 have been met.

**Section 65.30: Special Use Review Criteria**

- A. Master Plan/Zoning Ordinance:**  
**The proposed use will be consistent with the purpose and intent of the Master Plan and Zoning Ordinance, including the District in which the use is located.**

The 9th Street Sub-Area Plan is one of five designated sub-area plans incorporated within the Township’s adopted 2011 Master Plan. The 9th Street Sub-Area Plan allows for both commercial and residential uses, with the primary focus of commercial uses being situated near the corridor and then slowly transitioning into medium to low density residential (see map to the right). The proposed project falls within the district’s 9th Street Commercial designation. This designation reflects a commercial vision along 9th Street that complements the rural nature of the Township as a whole. Uses outlined as permitted in the plan for this land use designation consist of office buildings and low intensity commercial uses. The overall intent for the 9th Street Sub-Area, however, is to maintain the capacity and function of the corridor by having an efficient transportation system (encouraging an internal road network and shared access system), to maintain the existing rural character of the area, including the protection of existing natural



DRAFT November 01, 2011

**9th Street Sub Area Plan**  
Oshtemo Charter Township, Kalamazoo County, Michigan



- Transitional Residential
- Medium Density Residential
- 9th Street Commercial
- Green Corridor
- Access Points
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Transitional Mixed Use
- General Commercial
- Sub Area

Data Source: Michigan Geographic Framework, Michigan Center for Geographic Information, Version 10a  
Aerial Source: Kalamazoo County, 2009  
Data Source: Oshtemo Township, 2009; McKenna Associates, 2011

features, and to improve the quality of life in and around the Sub-Area. Enhancing the quality of life in the surrounding area is a crucial component to the 9<sup>th</sup> Street Sub-Area Plan. Establishing a widespread road network through implementation of non-motorized facilities such as bike lanes and trialways will be important, as it would provide public amenities to the residents and businesses within the area. Additionally, preserving the existing topography and natural resources provides for a healthier wildlife habitat in the surrounding area. As population continues to increase, it is important to make efforts to keep as much open space as possible through low impact development and coordinated planning. The existing building is setback approximately 430 Ft with much vegetative cover between the building and roadway. No tree clearing is being proposed as the existing natural features will be kept intact. Additionally, Oshtemo's adopted Future Land Use Map shows the property in question within the 9<sup>th</sup> Street Sub-Area. The proposed Child Caring Institution use meets the intent of the Township's Master Plan documents for this area.

From a zoning perspective, the subject property is located within the 9<sup>th</sup> Street and West Main Overlay Zone, within which Child Caring Institutions are permissible with Special Use approval from the Planning Commission within the 9<sup>th</sup> Street and West Main Overlay Zone.

**B. Site Plan Review: The Site Plan Review Criteria of Section 64**

A site plan has been provided. See evaluation under [Section 64: Site Plan Review](#).

**C. Impacts:**

- 1. The proposed use would be compatible, harmonious and appropriate with the existing or planned character and uses of adjacent properties; meaning the proposed use can coexist with neighboring uses in a stable fashion over time such that no neighboring use is unduly negatively impacted.**

Other than a single-family residence and a site condominium adjacent to the project area, all other surrounding properties within the 9<sup>th</sup> Street Overlay Zone are undeveloped. An established commercial use already exists on site. With the proposed use continuing to operate as a commercial space with minimal to no site changes proposed, and being in accordance with both the Master Plan and the Zoning Ordinance, staff has no concerns that the proposed use will negatively affect neighboring uses.

- 2. Potentially adverse effects arising from the proposed use on adjacent properties would be minimized through the provision of adequate parking, the placement of buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.**

Staff does not foresee a significant impact of the proposed use on neighboring properties. The site layout is not changing as the applicant is not proposing any additions to the building. Minor additions of an outdoor basketball court and soccer field are being proposed north of the principal building (rear yard). The applicant is proposing to utilize the existing parking on the property. The proposed site plan exceeds the amount of parking required, exceeds minimum setbacks, and has satisfactory landscaping. Parking and fencing will be discussed in detail in the Site Plan Review section of this staff report.

**3. The proposed use would not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, or visual clutter.**

Staff anticipates that the proposed project will not generate such negative impacts on adjacent properties as a commercial use has already been established on this site. A commercial use has occupied the building on site since the date of its construction in 2001. The applicant will be utilizing the existing building on site for its operations.

**D. Environment: The natural features of the subject property shall only be cleared or altered to the extent necessary to accommodate site design elements, particularly where the natural features assist in preserving the general character of the area.**

The proposed project will be occupying the existing building on site. The applicant is proposing the addition of an outdoor basketball court and soccer field; however, the site modifications that are proposed would not disturb any natural landscaping or natural features. The current percentage of open space on this site will remain at approximately 88.7%.

**E. Public Facilities: Adequate public and/or private infrastructure and services already exist or would be provided, and will safeguard the health, safety, and general welfare of the public.**

The building located at 6350 W KL Avenue is connected to public water and public sanitary sewer and is currently being billed for said services. Regarding the transportation network, the intersection to the east at W KL Avenue and S 11<sup>th</sup> Street is well controlled by a traffic signal. The intersection to the west where W KL Avenue crosses N 9<sup>th</sup> Street is also controlled by a traffic signal. W KL Avenue already supports several commercial and industrial uses. If the Special Use request is granted, it will not negatively affect the area as the proposed use will not generate noise (aside from children playing outside), pollution, traffic, smoke, or odors. Impacts from this proposed use would not exceed the impacts of the commercial/office uses that have been established on this site since 2001.

The Township's Non-Motorized Transportation Plan does identify a 10 Ft wide Shared Use Path adjacent to the subject site on the north side of W KL Avenue. **The applicant has requested a deferment for the 10 Ft wide Shared Use Path and has agreed to file a Shared Use Path SAD form with the Township as a condition of Site Plan and Special Use approval.** This means that when the Township deems it appropriate to install the path and implement a Special Assessment District to fund the installation of the path, the owners and future owners of this site cannot oppose it. It should be noted that three Ft wide bike lanes have already been established in both westbound and eastbound directions in this portion of W KL Avenue.

**F. Specific Use Requirements: The Special Use development requirements of Article 49.**  
See evaluation under Section 49.140.

Section 49.140 Larger Facilities for Child and Adult Foster Care

**1. Shall not be located closer than 1,500 feet to any of the following:**

**a. Another licensed group childcare home or Child Caring Institution;**

Location of site satisfies this requirement.

**b. An adult foster care small group home or large group home;**

Location of site satisfies this requirement.

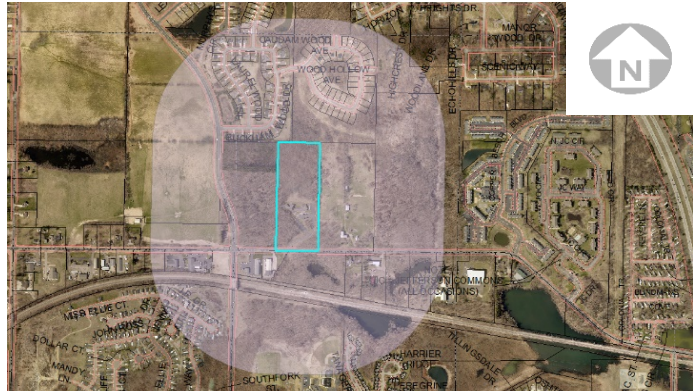
**c. A facility offering substance use disorder services to seven or more people;**

Location of site satisfies this requirement.

**d. Community correction center, Half-way house, or similar facility**

Location of site satisfies this requirement.

Using GIS software, staff created a map illustrating a 1,500 Ft buffer surrounding the property lines of the subject project area. After analyzing the properties within the 1,500 Ft buffer, staff was able to determine that the placement of the site is feasible and satisfies the specific requirements in terms of distance from other similar services.



**2. Outside play or social areas are appropriately fenced for the safety of the residents.**

Regarding the requirement for fencing, the applicant has made the following request:

“Bethany is requesting that fencing not be required for this site for the following reasons: (1) the site provides a natural barrier around the outside play area with the existing trees / forested area, (2) the site is very large (15 acres) and the play area is in the middle of the property. (3) the closest property line to the play area is over 90 feet in distance through a densely wooded area, (4) the children often come from refugee camps which are fenced. This property can provide a safe natural barrier for the children without the negative connotations of fencing.”

It should be noted that the requirement for fencing is to provide safety and security, not only to the children, but to surrounding properties as well. It is true that there is a considerable amount of wooded area between the side property lines and outdoor play areas in which can act as a buffer. The applicant’s argument has merit. However, staff is not fully convinced that the surrounding wooded area meets the safety intent of the fencing required by this section. **As this is a new section of the code and this is the first request of this nature, Staff recommends the Planning Commission discuss this request to determine its validity.**

**3. The residential character of the property shall be preserved and maintained. Any building must be compatible in size, height, external design, landscaping, and surrounding open space as other residential buildings in the area.**

Requirements have been satisfied. The existing building meets the requirements in terms of size due to the footprint of the single-story building not exceeding 25,000 SF in floor area. The building is also oriented correctly facing the interior drive and parking lot. The property has approximately 88.7% of open space.

**4. No signs are permitted.**

The applicant is proposing to utilize the existing monument sign near the entrance off of W KL Avenue and the existing directional sign along the interior drive near the parking lot. The applicant would also like to add one incidental sign near the main entrance. The applicant has expressed that the existing monument sign would advertise Bethany Christian Services in terms of the office services they provide. The applicant has acknowledged that the signage cannot advertise the Child Caring Institutions use on premises. Directional signs are to be 2 SF or less. The incidental sign they are proposing to place near the main entrance door to the building is 9 SF. Per Section 55.130, incidental signs are to be a maximum of 6 SF or less. The proposed signage will need to be altered accordingly. Signage will be reviewed again in detail at time of the sign permit application submission.

**5. One parking space, in accordance with Article 52, shall be provided for each non-resident employee working on site at any one time.**

Child Caring Institutions require one parking space per employee and one parking space per every five children. There are 14 employees and 12 children being proposed. This would require a total of 17 parking spaces for the Child Caring Institution aspect of the facility. There are currently a total of 84 parking spaces onsite.

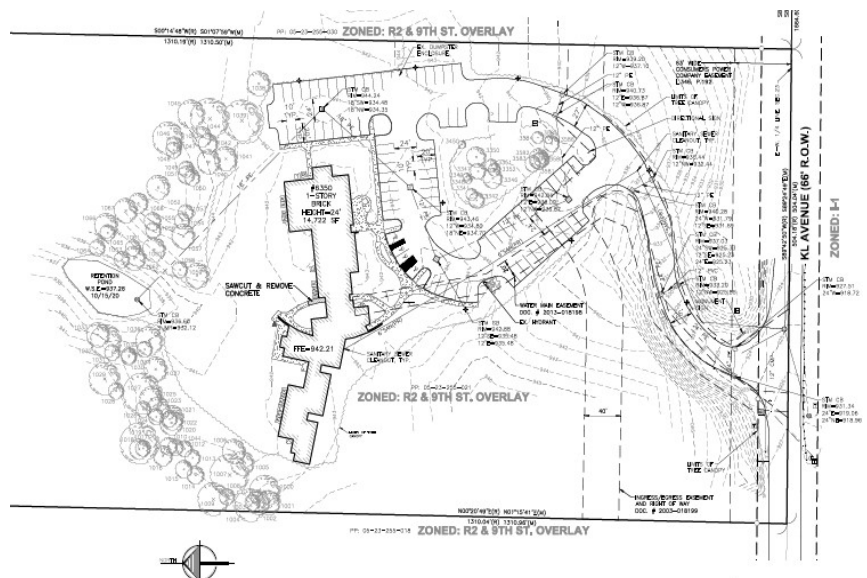
**Section 64: Site Plan Review**

**General Zoning Compliance:**

*Zoning:* 6350 W KL Avenue is zoned R-2: Residence District and falls within the 9<sup>th</sup> Street and West Main Overlay Zone. The proposed Child Caring Institution and Office abuts an undeveloped wooded parcel to its west, two site condominiums to its north, and a single-family home to its east. All of the above are zoned R-2: Residence District and are within the 9<sup>th</sup> Street and West Main Overlay Zone with the exception of one site condominium. Adjacent to the south is an auto collision center zoned I-1: Industrial District. The proposed Child Caring Institution is permitted as a Special Use within the 9<sup>th</sup> Street and West Main Overlay Zone. Additionally, the percentage of land on the proposed site covered by buildings is 2.2%. The percentage of land reserved for open space purposes is 88.7% (5% minimum is required by the overlay code).

**Access and Circulation**

*Access:* The proposed site already has an established access drive adjacent to W KL Avenue. All aisles within the proposed site plan are 24 Ft wide and have safe turning radii. Fire engines and other vehicles have ample space and circulation if emergency response is needed. Oshtemo’s Fire Marshal has reviewed the proposed layout and has no concerns. An access easement is also already in place though the





site that would allow for the installation an internal access drive when the neighboring sites develop.

*Parking:* In terms of parking, the site currently has 84 parking spaces in total, four of which being ADA accessible. All existing spaces are 10' x 20'. The application proposed 5,415 SF of the existing building to be used as Office and the remainder for the Child Caring Institution. Child Caring Institutions require one parking space per employee and one parking space per every five children. There are 14 employees and 12 children being proposed. Meaning that 17 spaces would be needed to support this use. Business and General Offices require one parking space per each 150 SF of net floor area. There is 5,415 SF being proposed as office space. Meaning that 36 parking spaces are required for this use and 53 parking spaces for the entire site. Therefore, the site will have approximately 160% of the minimum required parking spaces necessary. To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of stormwater runoff, Oshtemo's off street parking code only allows parking lots to have parking spaces totaling no more than 110% of the minimum parking spaces required, unless otherwise approved by the reviewing body (Section 52.50 (H)). These proposed uses would put the site out of compliance in terms of the number of spaces. It should be noted the applicant has indicated that there would be quarterly gatherings of up to 100 people for training/volunteer services as a part of their office operations. The existing impervious surfaces onsite are not being altered whatsoever, with the exception of the addition of a 45 Ft x 33 Ft basketball court in the rear yard. Per Section 52.140, the reviewing body may grant a deviation in the parking requirement and provide an exception to an existing developed property if practical difficulties or unnecessary hardship are presented. As the parking lot is existing, no significant changes are being made the site, and the additional parking spaces would support the mentioned training conferences, it could be argued that a deviation would be appropriate. **Staff recommends that the Planning Commission grant the requested deviation to permit the applicant to keep the existing parking.**

**It should also be noted that the site was established prior to the Township requiring all ADA spaces to be made of concrete. Given standard practice in this type of situation the current asphalt ADA parking spaces can remain, contingent upon passing cross-slopes and other pertinent ADA requirements.**

*Easements:* There is an existing 20 Ft easement in place for the municipal water on site and a 63 Ft wide easement in place for Consumer's Power Company. There is also a 40 Ft wide ingress/egress easement which is located west and east of the parking lot and access drive. All easement requirements are met.

*Shared Use Path:*

Per Section 57.90, sidewalks indicated on the Township's Non-motorized Plan shall be installed by the developer when properties adjacent to planned nonmotorized facilities receive site plan approval from the municipality. The Township's adopted Non-motorized Plan shows a 10 Ft wide path along this section of W KL Avenue. **The applicant has requested a deferment for the 10 Ft wide Shared Use Path and has agreed to file a Shared Use Path SAD form with the Township as a condition of Site Plan and Special Use approval.**

*Sidewalk:*

Part of section 57.90 sidewalks requires that an interior sidewalk network be provided at the time of a site plan review unless the reviewing body grants a deviation from this provision as such a sidewalk connection from the building to the road would enhance accessibility of the overall non-motorized network. The applicant is requesting the Planning Commission grant them a deviation from this requirement for the following reasons: the sidewalk would be approximately between 400-500 Ft long and may present grading challenges. **Staff recommends the Planning Commission discuss this request to determine its validity. If the Planning Commission grant the deviation, staff recommends the Planning Commission add a stipulation of approval that said sidewalk connection be installed when the 10 Ft wide path along the north side of W KL Avenue is constructed.**

### **Building Design**

#### *Building Information:*

The 14,722 SF, one-story building was constructed in 2001. The height of the building is 24 Ft tall and has a first floor elevation of 942.21. See image of the building on the right. As this is not new construction, this requirement is not applicable at this time.



*Lot Dimensions:* The site under consideration is about 15.13 Acres (659,062 SF) and has approximately 504 Ft of road frontage along W KL Avenue and is 1,300 Ft deep. No lot dimension requirements are outlined in the 9<sup>th</sup> Street and West Main Overlay Zone. Therefore, lot requirements in the underlying zoning district must be met. The parcel exceeds in both property area (50,000 SF min.) and frontage (200 Ft min.) in the R-2: Residence District.

*Setbacks:* Properties within the 9<sup>th</sup> Street and West Main Overlay Zone have a minimum front yard setback of 100 Ft. The building is setback approximately 430 Ft from the front yard property line. The minimum setback distance between any building and any interior side property line shall be 10 Ft. The minimum setback distance between any building and any rear property line shall be 15 Ft. However, if the height of the building exceeds said measurements, the height of the building from grade level of the property line to the building's highest point shall be used as the appropriate setback measurement (Section 50.60). The proposed building is 24 Ft in height on an overall flat terrain, requiring a 24 Ft side and rear yard setback. Based on the scale provided on the site plan, the proposed building is setback 133.6 Ft from the eastern property line and setback 51.6 Ft from the western property line. The building is setback from the rear property line approximately 750 Ft.

*Fencing:* See discussion under Section 49.140 Larger Facilities for Child and Adult Foster Care (2) of this staff report. This item will require discussion.

*Lighting:* *No changes to current onsite lighting is proposed. This portion of the review is not applicable.*

*Signs:* See discussion under Section 49.140 Larger Facilities for Child and Adult Foster Care (2) of this staff report. The proposed signage will need to be altered accordingly. Signage will be reviewed again in detail at time of the sign permit application submission.

#### **Landscaping and Photometric Plan**

No additional landscaping is required with this Special Use request because of the ample existing vegetation onsite and because neither the building nor the parking area are increasing in size. Landscaping requirements have been satisfied.

#### **Engineering**

The applicant is proposing to utilize the existing drainage basin on the property. Prein & Newhof and the Oshtemo Public Works Department have reviewed the project site plan and have noted that all of the onsite engineering concerns have been addressed. As a condition of approval, Engineering requested that **a Soil Erosion and Sedimentation Control Permit from the Kalamazoo County Drain Commissioner's Office be obtained prior to any site modifications.**

#### **Fire Department**

The Township Fire Marshal is satisfied with the overall design of the site; however, the Fire Marshal has requested that **as conditions of approval: (1) all commercial kitchens are required to have hood and fire suppression systems and (2) will be required to upgrade the current alarm system to meet the Oshtemo Township Fire Alarm Ordinance and current code requirements prior to occupancy.**

#### Section 35: 9<sup>th</sup> Street and West Main Overlay Zone and Development

- A. Section 35.70 Review CriteriaThe overall design shall be consistent with the goals and objectives of the 9<sup>th</sup> Street Sub-Area Plan, the West Main Street Sub-Area Plan and the specific design standards set forth herein.**

The proposed Child Care Institution and Office uses are consistent with the 9<sup>th</sup> Street Sub-Area Plan and meet the design development standards and specifications. See Section 65.30 A for more details.

- B. The proposed use shall be serviced by the necessary public facilities to ensure the public health, safety and general welfare of the users of the facility and the residents of the surrounding area.**

The existing building is connected to municipal water and municipal sanitary sewer.

- C. The proposed use shall be designed to minimize the impact of traffic generated by the development on the surrounding land uses and road network.**

The project area already exists as Bethany Christian Services will be occupying an existing office building. The building footprint will not change. The building will remain as a commercial use, and once active, it will be generating a similar traffic flow to the previous financial institution, or even less.

**D. The proposed use shall be designed so as to be in character with surrounding conditions as they relate to bulk and location of structures, pedestrian and vehicular circulation, landscaping and amenities.**

The proposed use will operate out of the existing building on site, no changes in the building's footprint or the site layout are proposed. This site plan was originally approved for a commercial/office use in 2001 under the standards of that time. As no substantial changes are being proposed, most of the considerations of this section do not apply. See Section 52.50 regarding pedestrian and vehicular circulation. Setbacks meet current standards.

**E. The proposed development shall be designed and constructed so as to protect the integrity of the existing on- and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies and groundwater resources.**

The proposed use will not be making any significant modifications to the site. All existing open space and natural features will be kept intact. The rural character of the W KL Avenue corridor will be preserved as dense vegetative cover exists between the building and roadway.

**F. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, and/or visual impact.**

The existing site is surrounded by dense vegetative cover. Additions of a basketball court and a soccer field will be low impact site modifications and will not disturb any existing wildlife habitats. 88.7% of the site will remain reserved for open space.

Section 35.50: 9<sup>th</sup> Street and West Main Overlay Zone Development Standards.

The standards of this section reiterate the requirements outlined in the previous sections covered in this staff report or are not applicable as this is not new construction. In summary: the proposed use of a Child Care Institution and Office meet the intent of the 9<sup>th</sup> Street Sub-Area Plan, setback and buffer requirements have been met, circulation has been met, the existing building is being utilized (new building requirements are not applicable), the proposed parking and pedestrian pathways will need to meet ordinance requirements, landscaping and open space requirements have been met, review of lighting is not applicable at this time as existing lighting will not be altered, appropriate utilities are in place, and signage will need to comply with current zoning standards.

RECOMMENDATION:

Planning Department staff recommend that the Planning Commission approve the proposed Special Use and Site Plan for the Bethany Christian Services Child Caring Institution with the following deviations and conditions.

- 1) FENCING DEVIATION: The Planning Commission will need to grant or deny the applicant's deviation request from Section 49.140(2). If approved, fencing will not be required for this Special Use.

- 2) **PARKING DEVIATION:** The Planning Commission will need to grant or deny the applicant's deviation request from Section 55.100. If approved, parking on-site may remain as it exists.
- 3) **SIDEWALK DEVIATION:** The Planning Commission will need to grant or deny the applicant's deviation request from Section 57.90. If approved, the sidewalk connection from the roadway to the building will not need to be put in at this time. If approved, staff recommends the Planning Commission add a stipulation of approval that said sidewalk connection be installed when the 10 Ft wide path along the north side of W KL Avenue is constructed and the site plan is updated to illustrate this future sidewalk connection prior to building permit issuance.
- 4) A Shared Use Path SAD form shall be submitted to the Township prior to issuing a Certificate of Occupancy.
- 5) Applicant to submit an updated application with property owner signature or proof of purchase prior to building permit issuance.
- 6) Applicant to update signage plan and to submit and receive approval from the Planning Department prior to occupancy.
- 7) A Soil Erosion and Sedimentation Control Permit from the Kalamazoo County Drain Commissioner's Office be obtained prior to building permit issuance.
- 8) All commercial kitchens shall be required to have hood and fire suppression systems prior to occupancy.
- 9) The current alarm system shall be updated to meet the Oshtemo Township Fire Alarm Ordinance and current code prior to occupancy.

Attachments: Application, Letter of Intent, Site Plan, Floor Plan, Photos of Existing Building, Additional Descriptions and Deferral Requests

This page has been intentionally left blank for printing purposes.



7275 W. Main Street, Kalamazoo, Michigan 49009-9334  
 Phone: 269-216-5223 Fax: 269-375-7180

**PLEASE PRINT**

PROJECT NAME & ADDRESS Bethany Christian Services 6350 W KL Avenue, Kalamazoo, MI 49009

**PLANNING & ZONING APPLICATION**

Applicant Name : Jim Hoekstra  
 Company Bethany Christian Services of Michigan  
 Address 880 Grand  
Grand Rapids, MI 49501  
 E-mail jhoekstra@bethany.org  
 Telephone (616) 260-5500 Fax \_\_\_\_\_  
 Interest in Property Owner

THIS  
 SPACE  
 FOR  
 TOWNSHIP  
 USE  
 ONLY

**OWNER\*:**

Name \_\_\_\_\_  
 Address \_\_\_\_\_ Fee Amount \_\_\_\_\_  
 \_\_\_\_\_ Escrow Amount \_\_\_\_\_  
 Email \_\_\_\_\_  
 Phone & Fax \_\_\_\_\_

**NATURE OF THE REQUEST:** (Please check the appropriate item(s))

- |  |   |
|--|---|
| <input type="checkbox"/> Planning Escrow-1042                  | <input type="checkbox"/> Land Division-1090           |
| <input checked="" type="checkbox"/> Site Plan Review-1088      | <input type="checkbox"/> Subdivision Plat Review-1089 |
| <input type="checkbox"/> Administrative Site Plan Review-1086  | <input type="checkbox"/> Rezoning-1091                |
| <input checked="" type="checkbox"/> Special Exception Use-1085 | <input type="checkbox"/> Interpretation-1082          |
| <input type="checkbox"/> Zoning Variance-1092                  | <input type="checkbox"/> Text Amendment-1081          |
| <input type="checkbox"/> Site Condominium-1084                 | <input type="checkbox"/> Sign Deviation-1080          |
| <input type="checkbox"/> Accessory Building Review-1083        | <input type="checkbox"/> Other: _____                 |

**BRIEFLY DESCRIBE YOUR REQUEST** (Use Attachments if Necessary): \_\_\_\_\_

See Attached Description of Use.

---



---



---

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

See Attached Plans.

**PARCEL NUMBER:** 3905- 23-255-021

**ADDRESS OF PROPERTY:** 6350 W KL Avenue, Kalamazoo, MI 49009

**PRESENT USE OF THE PROPERTY:** Offices / Financial Consultant

**PRESENT ZONING** R-2 & 9th Street Overlay District **SIZE OF PROPERTY** 15 Acres

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS  
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)

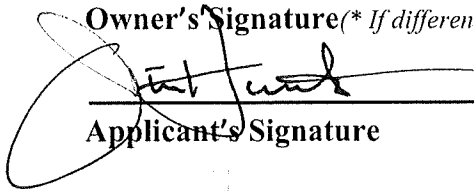
Address(es)

**SIGNATURES**

*I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.*

\_\_\_\_\_  
**Owner's Signature**(\* If different from Applicant)

\_\_\_\_\_  
**Date**

  
\_\_\_\_\_  
**Applicant's Signature**

10-27-20

**Date**

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

\*\*\*\*

**PLEASE ATTACH ALL REQUIRED DOCUMENTS**



**KL Property Description of Use:**

The building space will be providing housing for up to 14 youth in a residential type setting. The youth will receive case management services and therapy services on site. This will include up to 14 youth total, with program staff on-site at all times. The space will allow youth to work on coping skills and work through trauma while learning life skills and attending school services.

The building will also provide office space to other program staff including case managers, supervisors, therapists, social workers and administrative staff. These teams will provide employment services, case management services, counseling, family case management services, independent living skills programs, coordination of volunteers and mentors for the programs and youth. ESL and tutoring services will be on site for youth and families to attend.

The office space will also accommodate large team meetings, orientations for foster parents, events for youth, staff, and foster parent appreciation. There will be trainings held in this location as well – offering smaller group and larger group trainings.

The building space offers a large recreation type space allowing for large events, meetings, and other gatherings. There is a classroom space allowing for smaller trainings, ESL classes, tutoring, and computer use for families within case management or employment services.

This page has been intentionally left blank for printing purposes.

# BETHANY CHRISTIAN SERVICES

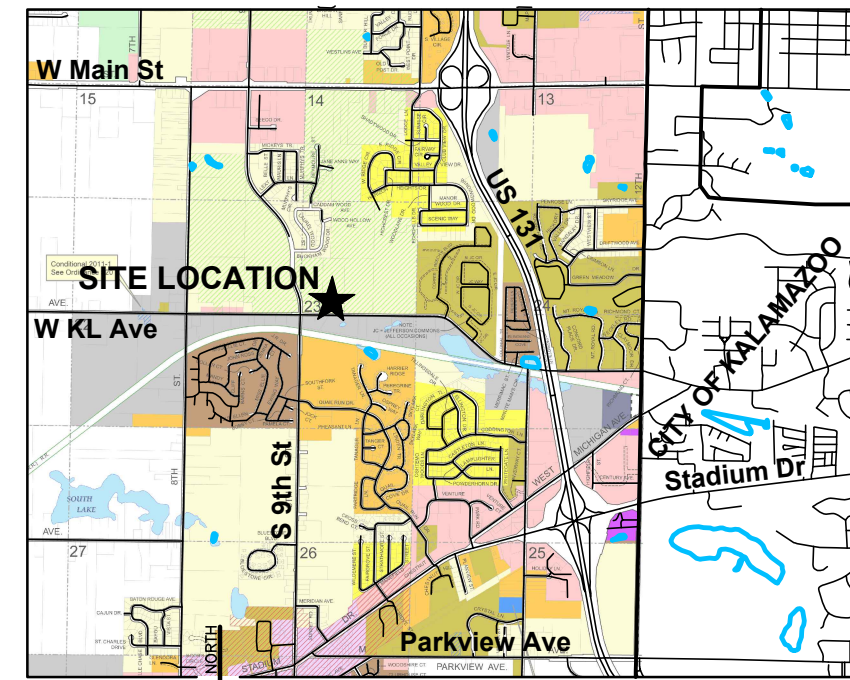
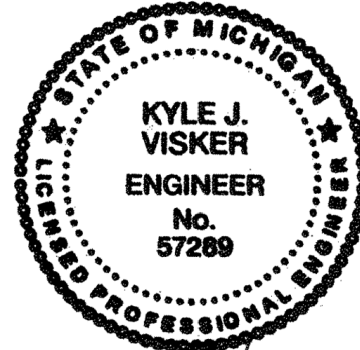
OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN

## INDEX OF SHEETS

**C1 - TOPOGRAPHIC, BOUNDARY SURVEY & REMOVALS**

**C2 - SITE PLAN**

**C3 - GRADING & SESC PLAN**



**VICINITY MAP**  
NOT TO SCALE

### ZONING LEGEND

- AG - AGRICULTURAL DISTRICT
- RR - RURAL RESIDENTIAL DISTRICT
- R1 - RESIDENCE DISTRICT
- R2 - RESIDENCE DISTRICT
- R3 - RESIDENCE DISTRICT
- R4 - RESIDENCE DISTRICT
- R5 - RESIDENCE DISTRICT
- VC - VILLAGE COMMERCIAL DISTRICT
- C-R - LOCAL BUSINESS DISTRICT RESTRICTED
- C - LOCAL BUSINESS DISTRICT
- I-R - INDUSTRIAL DISTRICT RESTRICTED
- I-1 - INDUSTRIAL DISTRICT MANUFACTURING & SERVICE
- I-2 - INDUSTRIAL DISTRICT MANUFACTURING & SERVICE
- I-3 - INDUSTRIAL DISTRICT SPECIAL
- CONDITIONAL (See Notes On Map)
- 9TH STREET AND WEST MAIN STREET OVERLAY ZONE
- HISTORICAL OVERLAY ZONE
- NEIGHBORHOOD COMMERCIAL OVERLAY ZONE
- VILLAGE FORM BASED CODE OVERLAY ZONE

### LEGEND

- ▲ - WELL
- ◊ - BENCHMARK
- - MONUMENT
- - FOUND IRON STAKE
- - SET IRON STAKE
- - - - - SIGN
- RR - RR SIGN
- - GUY POLE
- - - - - GUY ANCHOR
- - UTILITY POLE
- - POST
- - SOIL BORING
- MB - MAILBOX
- AC - AC UNIT
- \* - CONIFEROUS TREE
- - FIRE HYDRANT
- ◊ - WATER VALVE
- TR - ELECTRIC TRANSFORMER
- G - GAS METER
- W - WATER METER
- T - TELEPHONE RISER
- E - ELECTRIC METER
- CB - CATCH BASIN
- - ROUND CATCH BASIN
- - UTILITY MANHOLE
- - STM MANHOLE
- △ - FLARED END SECTION
- - SANITARY MANHOLE
- - ELECTRIC MANHOLE
- - TELEPHONE MANHOLE
- - SHRUB
- - DECIDUOUS TREE

### REMOVAL LEGEND

- ▨ - CONC REMOVAL
- ▨ - BIT. REMOVAL
- ▨ - BLDG. REMOVAL
- \* - TREE REMOVAL
- - - - - UTILITY REMOVAL
- - - - - SAWCUT

### PROPERTY DESCRIPTION

Land situated in the Township of Oshtemo, Kalamazoo County, Michigan:  
Part of the Southwest quarter of the Northeast quarter of Section 23, Town 2 South, Range 12 West, described as commencing at the East quarter post of said Section 23; thence South 89 degrees 42 minutes 50 seconds West on the East and West quarter line of said Section 23, a distance of 1664.60 feet to the place of beginning of the land herein described; thence continuing South 89 degrees 42 minutes 50 seconds West on said quarter line 504.18 feet (recorded as 504.12 feet) to the West line of the East half of the East half of the West half of the Southwest quarter of the Northeast quarter of said Section 23; thence North 00 degrees 20 minutes 49 seconds East (recorded as North 00 degrees 20 minutes 10 seconds East) on said West line 1310.04 feet to the North line of the South half of the Northeast quarter of said Section 23; thence North 89 degrees 41 minutes 37 seconds East on said North line 501.89 feet; thence South 00 degrees 14 minutes 48 seconds West (recorded as South 00 degrees 14 minutes 15 seconds West) 1310.19 feet to the place of beginning

Containing 15.12 Acres

### PROPERTY INFORMATION

PARCEL NUMBER:  
05-23-255-021

ADDRESS:  
6350 W. KL AVE.  
KALAMAZOO, MI 49009

ZONING:  
R-2 W/ 9TH ST. OVERLAY

ACREAGE: 15.12 ACRES

### BENCHMARK INFORMATION

BM#1) ELEVATION: 943.30  
NORTH FLANGE BOLT UNDER "E"  
THE ELEVATIONS ARE BASED ON NAVD88

### NOTES

- CONTRACTOR TO FIELD VERIFY HORIZONTAL & VERTICAL LOCATION OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION AND MUST NOTIFY ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.
- TREES GREATER THAN 12" DIA. SURVEYED WITHIN PROJECT AREA
- NUMBER OF WORKERS PER SHIFT =

### TREE INVENTORY

NO.	ISSUED FOR	DATE
1.	OWNER REVIEW	10/23/2020
2.	SITE PLAN SUBMITTAL	10/27/2020
3.	REVISED SITE PLAN SUBMITTAL	11/17/2020

NO.	DATE	DESCRIPTION
1000	24" OAK	
1001	18" OAK	
1002	18" MAPLE	
1003	12" DEC	
1004	24" MAPLE	
1005	18" DEC	
1006	18" OAK	
1007	36" OAK	
1008	12" DEC	
1009	24" DEC	
1010	14" DEC	
1011	12" DEC	
1012	12" DEC	
1013	12" DEC	
1014	14" DEC	
1015	14" MAPLE	
1016	16" DEC	
1017	12" DEC	
1018	16" DEC	
1019	20" DEC	
1020	18" DEC	
1021	18" DEC	
1022	12" DEC	
1023	18" DEC	
1024	12" DEC	
1025	18" DEC	
1026	12" DEC	
1027	30" DEC	
1028	12" DEC	
1029	20" DEC	
1030	12" DEC	
1031	12" DEC	
1032	24" DEC	
1033	18" DEC	
1034	12" DEC	
1035	12" DEC	
1036	26" DEC	
1037	18" DEC	
1038	24" DEC	
1039	18" DEC	
1040	18" DEC	
1041	18" DEC	
1042	16" DEC	
1043	16" DEC	
1044	30" DEC	
1045	26" DEC	
1046	24" DEC	
1047	12" DEC	
1048	12" DEC	
1049	12" DEC	
1050	12" DEC	
1051	14" DEC	
1052	18" DEC	
1053	12" DEC	
1054	12" DEC	
1055	14" DEC	
1056	12" DEC	
1057	18" DEC	
1058	12" DEC	
1059	D18 H12S	
1060	18" DEC	
1061	12" DEC	
1062	18" DEC	
1063	12" DEC	
1064	12" DEC	
1065	12" DEC	
1066	18" DEC	
1067	18" MAPLE	
1068	16" MAPLE	
1069	12" DEC	
3351	10" DEC	
3352	10" DEC	
3342	12" DEC	
3347	12" DEC	
3580	12" DEC	
3581	12" DEC	
3583	12" DEC	
3586	12" DBL DEC	
3346	16" DEC	
3350	16" DEC	
3582	16" DEC CLUMP	
3348	6" DEC	
3349	6" DEC	
3450	6" DEC	
3585	6" DEC	
3341	8" DEC	
3584	8" DEC	

ZONED: R2 & 9TH ST. OVERLAY

ZONED: R2

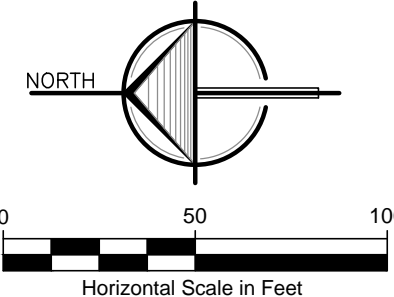
3 WORKING DAYS  
BEFORE YOU DIG  
CALL MISS DIG  
1-800-482-7171

S00°14'48"W(R) S01°07'59"W(W) 1310.19'(R) 1310.50'(M) PP: 05-23-255-030 ZONED: R2 & 9TH ST. OVERLAY

PP: 05-23-255-021

PP: 05-23-255-021 ZONED: R2 & 9TH ST. OVERLAY

N00°20'49"E(R) N01°15'41"E(M) 1310.04'(R) 1310.96'(M) PP: 05-23-255-018 ZONED: R2 & 9TH ST. OVERLAY



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

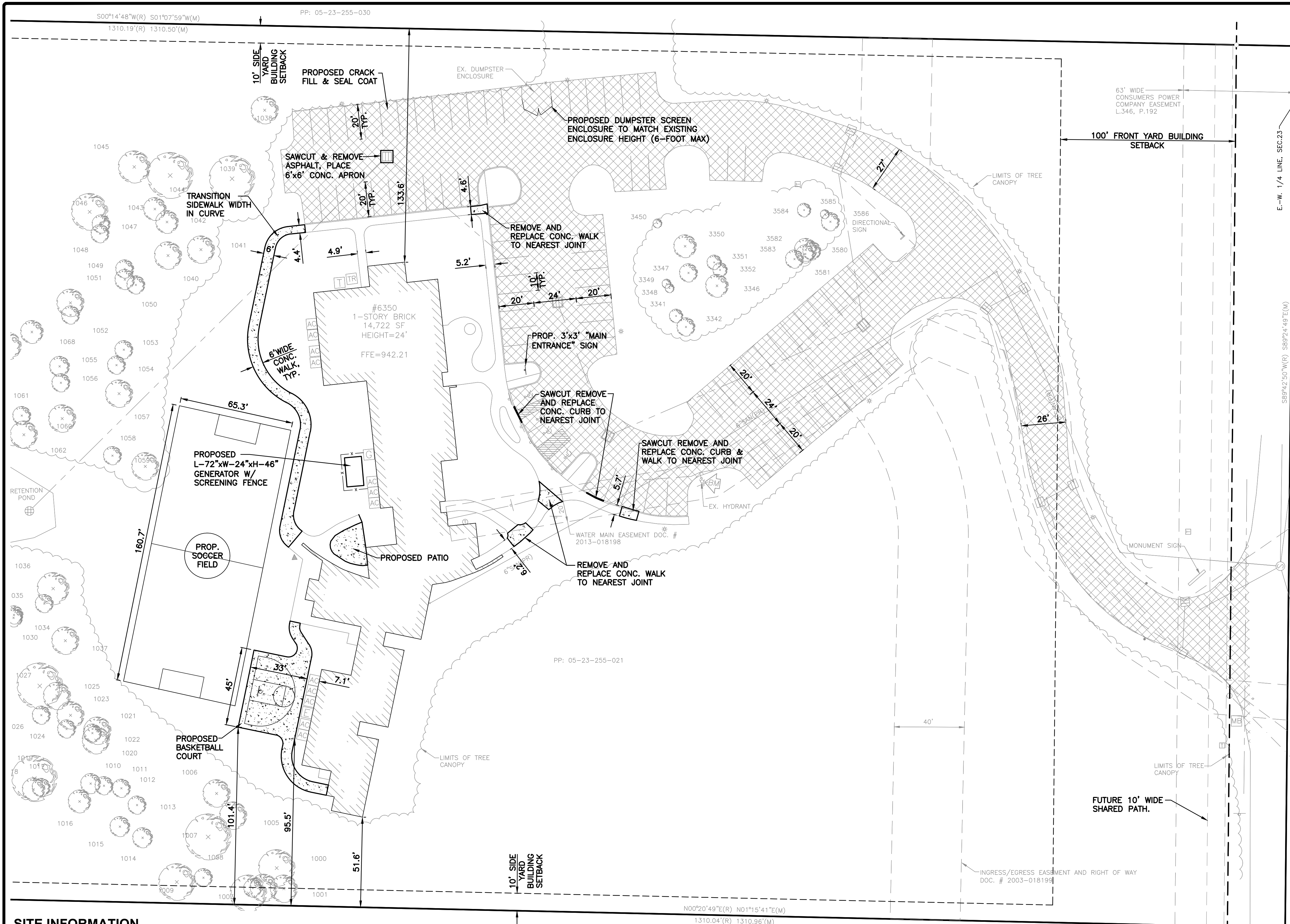
2121 3 Mile Rd. NW  
Walker, MI 49544  
Ph: 616-301-7888  
www.LREMI.com

NO.	ISSUED FOR	DATE
1.	OWNER REVIEW	10/23/2020
2.	SITE PLAN SUBMITTAL	10/27/2020
3.	REVISED SITE PLAN SUBMITTAL	11/17/2020

PROJECT: THE ARCHITECTURAL GROUP, INC.  
3100 PRAIRIE STREET SW, GRANDVILLE, MI 49418  
CLIENT: BETHANY CHRISTIAN SERVICES  
6350 W. KL AVE., KALAMAZOO, MI 49009

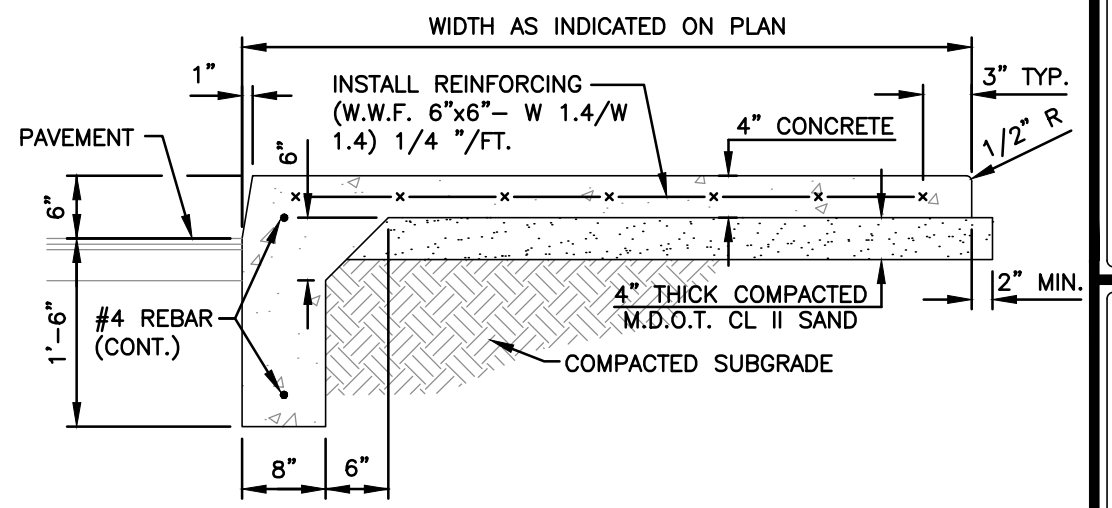
PROJECT NUMBER:	DATE	BY
20-29	10/20/20	RLB
	10/20/20	KJV
	10/20/20	KJB
	10/20/20	QAOCC, NDJ

SHEET NAME: TOPOGRAPHIC & BOUNDARY SURVEY  
SHEET NUMBER: C1

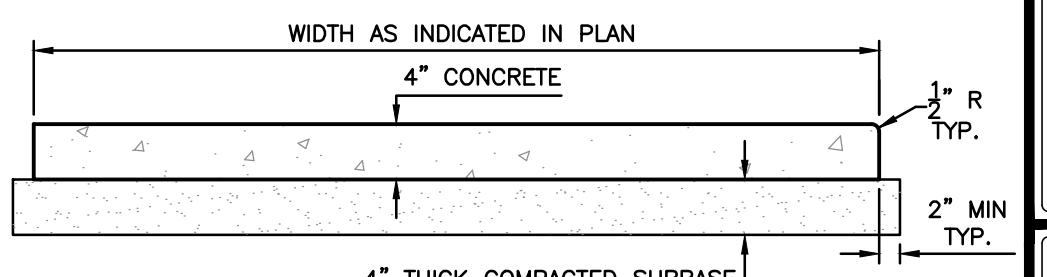


**LEGEND**

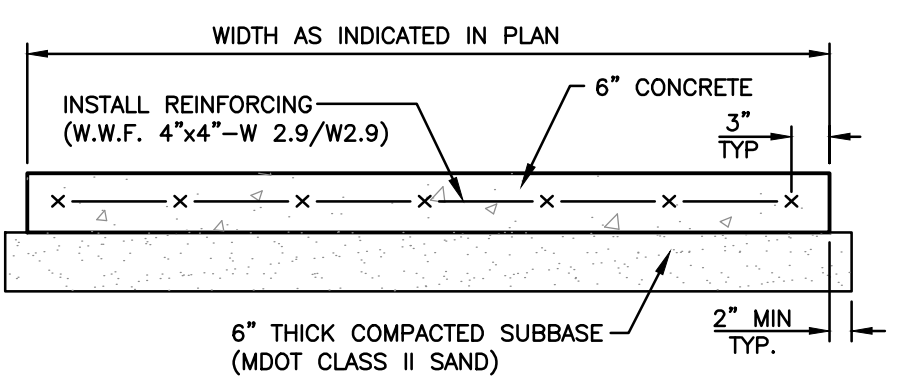
- PROPOSED CONCRETE WALKS & SURFACES
- THICKENED EDGE CONCRETE SIDEWALK
- CRACK FILL & SEAL COAT
- STRAIGHT CURB



**THICKENED EDGE SIDEWALK**  
NOT TO SCALE

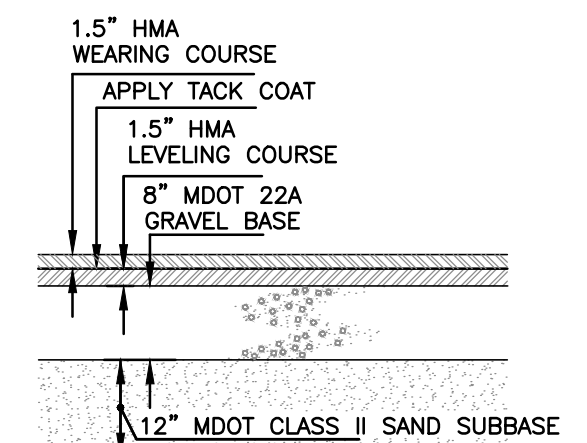


**STANDARD SIDEWALK**  
NOT TO SCALE

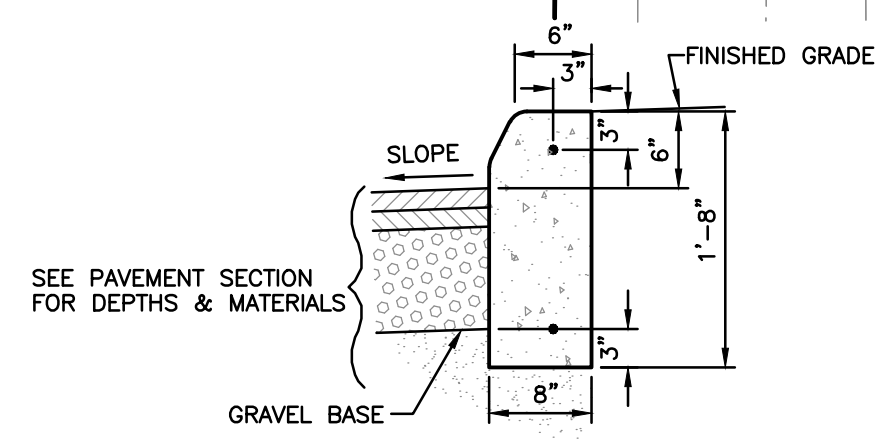


**CONCRETE APRON SECTION**  
NOT TO SCALE

**MATERIAL TYPES:**  
HMA WEARING COURSE MDOT HMA 13A (165#/SYD)  
HMA LEVELING COURSE MDOT HMA 13A (165#/SYD)  
ALL MATERIAL DESIGNATIONS REFER TO M.D.O.T. STANDARD SPECIFICATIONS FOR CONSTRUCTION, 2012 EDITION AND SUPPLEMENTAL SPECIFICATIONS



**STANDARD PAVEMENT SECTION**  
NOT TO SCALE



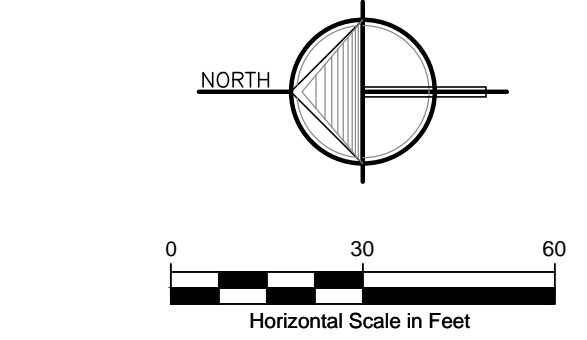
**STRAIGHT CONCRETE CURB**  
NOT TO SCALE

**SITE INFORMATION**  
PARKING REQUIREMENTS:  
CHILD CARE: 14 EMPLOYEES+12 CHILDREN 17 SPACES  
1 PER EMPLOYEE + 1 PER 5 CHILDREN  
BUSINESS & GENERAL OFFICE: 3959 NET SQUARE FEET 27 SPACES  
1 PER 150 SF OF NET FLOOR AREA  
ASSEMBLY: 97 OCCUPANTS @ 1 PERSON/15 SF (1,456 SF NET) 33 SPACES  
1 PER 3 OCCUPANTS AS DETERMINED BY CODE 77 SPACES  
TOTAL SPACES REQUIRED 117 SPACES  
MAXIMUM SPACES = 110% OF REQUIRED = 128 SPACES  
EXISTING AND PROPOSED PARKING 85 SPACES  
EXISTING SITE LIGHTING TO REMAIN AS PREVIOUSLY APPROVED  
EXISTING LANDSCAPING TO BE PRESERVED TO MEET ZONING ORDINANCE REQUIREMENTS  
OPEN SPACE PROVIDED 88.7%

- NOTES**
- DIMENSIONS ARE TO FACE OF CURB UNLESS INDICATED OTHERWISE ON PLANS.
  - RADI ARE 5 FEET UNLESS INDICATED OTHERWISE ON PLANS.
  - CONTRACTOR TO FIELD VERIFY HORIZONTAL & VERTICAL LOCATION OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION AND MUST NOTIFY ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.
  - PROPOSED DEVELOPMENT IS FOR A CHILD & ADULT FOSTER CARE FACILITY WITH BEDROOMS, OFFICES & TRAINING/CONFERENCE ROOMS.
  - EXISTING MONUMENT SIGN & EXISTING DIRECTIONAL SIGN TO REMAIN.

**BUILDING INFORMATION:**  
BUILDING COVERAGE = 2.2% OF PROPERTY  
# OF DWELLING UNITS = 14 RESIDENTS (8 ROOMS)  
BUILDING HEIGHT = 24 FT.  
BUILDING SF = 14,722 SF  
ADDRESS:  
6350 W. KL AVE.  
KALAMAZOO, MI 49009

**BUILDING SETBACKS:**  
FRONT YARD: 100 FT.  
SIDE YARD: 10 FT.  
REAR YARD: 15 FT.



3 WORKING DAYS  
**BEFORE YOU DIG**  
CALL MISS DIG  
1-800-482-7171

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

2121 3 Mile Rd. NW  
Walker, MI 49544  
Ph: 616-301-7888  
www.LREMI.com

**LRE**  
ENGINEERS & SURVEYORS

NO.	ISSUED FOR	DATE
1.	OWNER REVIEW	10/23/2020
2.	SITE PLAN SUBMITTAL	10/27/2020
3.	REVISED SITE PLAN SUBMITTAL	11/17/2020

CLIENT: THE ARCHITECTURAL GROUP, INC.  
3100 PRAIRIE STREET SW, GRANDVILLE, MI 49418

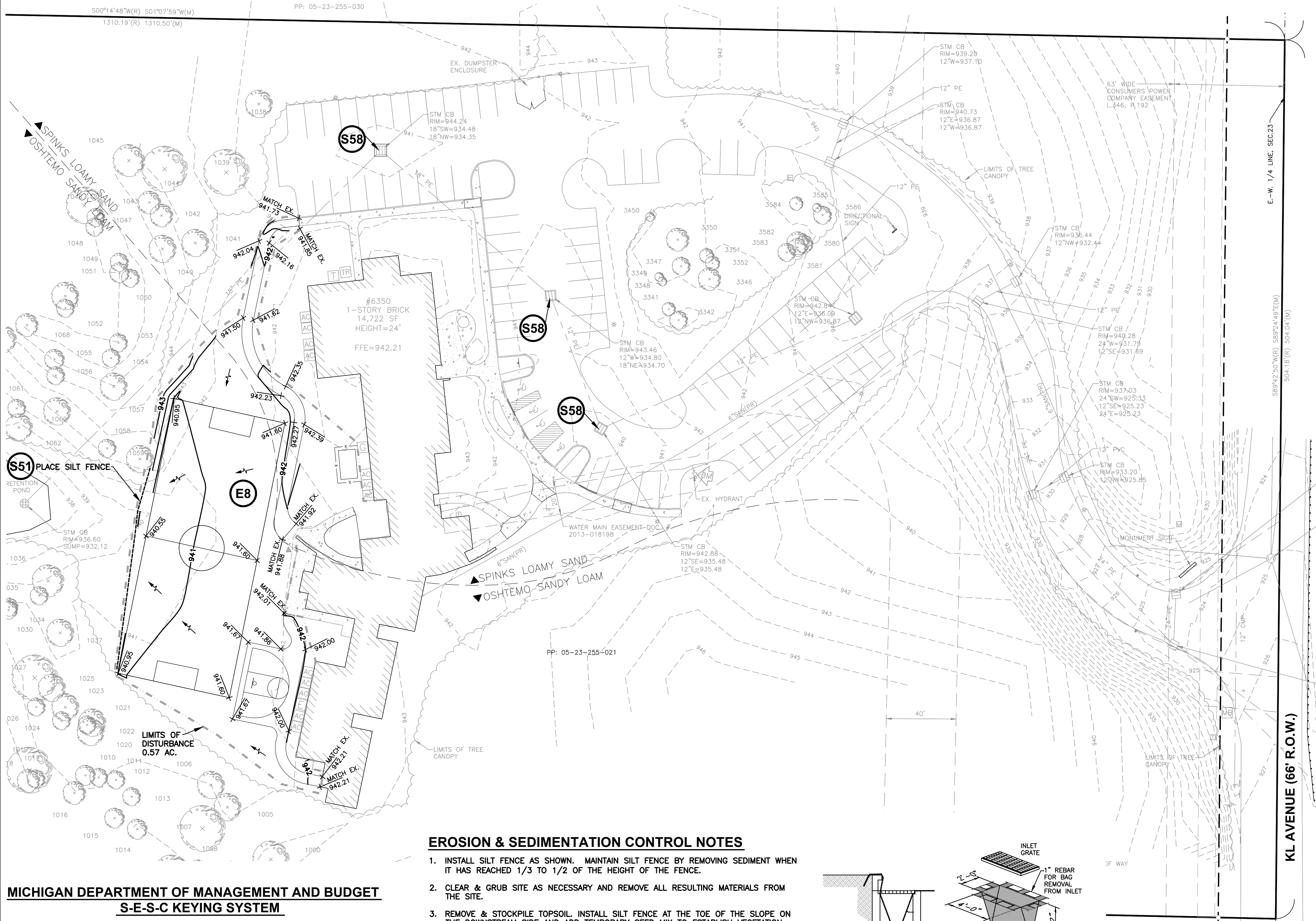
PROJECT: BETHANY CHRISTIAN SERVICES  
6350 W. KL AVE., KALAMAZOO, MI 49009

PROJECT NUMBER: 20-29  
DATE: 10/2020  
SURVEYED BY: RLB  
DESIGNED BY: KJV  
DRAFTED BY: KJB  
QA/QC: NDJ

**SITE PLAN**

SHEET NUMBER: **C2**

S00°14'48"W(R) S01°07'59"W(M)  
1310.19'(R) 1310.50'(M)  
PP: 05-23-255-030



**BENCHMARK INFORMATION**

BM#1) ELEVATION: 943.30  
NORTH FLANGE BOLT UNDER "E"  
THE ELEVATIONS ARE BASED ON NAVD88

**NOTES**

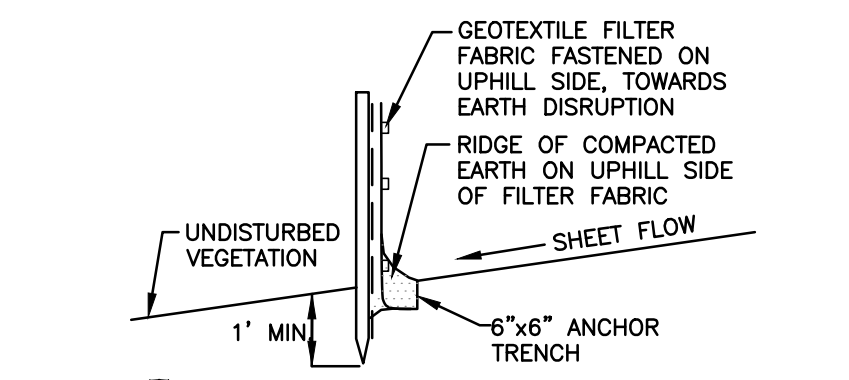
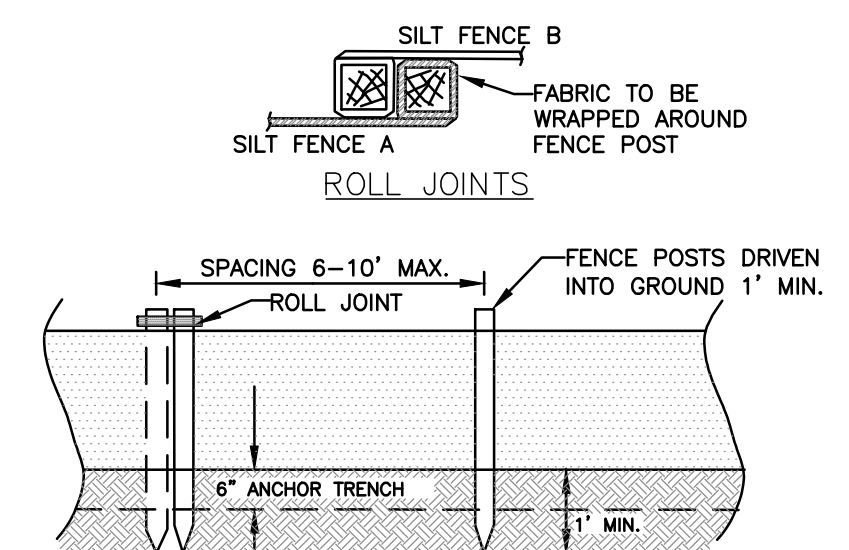
- CONTRACTOR TO FIELD VERIFY HORIZONTAL & VERTICAL LOCATION OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION AND MUST NOTIFY ENGINEER IMMEDIATELY OF ANY DISCREPANCIES.
- SOIL TYPE: OSSTEMO SANDY LOAM & SPINKS LOAMY SAND FROM U.S. SOIL CONSERVATION SERVICE.

**LEGEND**

- (ELEV) PROPOSED CONTOURS
- (ELEV) EXISTING CONTOURS
- TOP OF CURB ELEVATION
- GUTTER/SPOT ELEVATION
- DIRECTION OF DRAINAGE FLOW
- SWALES, PARKING LOT LOW POINTS
- AREA OF DISTURBANCE

**CONSTRUCTION SCHEDULE**

	1	2	3	4
INSTALL TEMP. SESC MEASURES				
SITE GRADING				
PAVING				
RESTORATION				
REMOVAL OF TEMP SESC MEASURES				



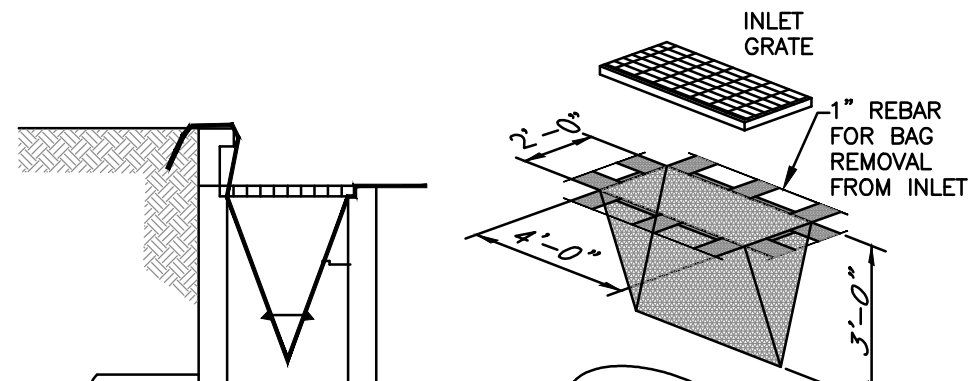
**S51 SILT FENCE DETAIL**  
NOT TO SCALE



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

**EROSION & SEDIMENTATION CONTROL NOTES**

- INSTALL SILT FENCE AS SHOWN. MAINTAIN SILT FENCE BY REMOVING SEDIMENT WHEN IT HAS REACHED 1/3 TO 1/2 OF THE HEIGHT OF THE FENCE.
- CLEAR & GRUB SITE AS NECESSARY AND REMOVE ALL RESULTING MATERIALS FROM THE SITE.
- REMOVE & STOCKPILE TOPSOIL. INSTALL SILT FENCE AT THE TOE OF THE SLOPE ON THE DOWNSTREAM SIDE AND ADD TEMPORARY SEED MIX TO ESTABLISH VEGETATION.
- NO SOIL WILL BE ALLOWED TO ACCUMULATE OFF SITE. ANY SOIL TRACKED OFF SITE WILL BE IMMEDIATELY REMOVED.
- PERMANENT CONTROL MEASURES MUST BE COMPLETED 15 CALENDAR DAYS AFTER THE FINAL EARTH CHANGE IS COMPLETED FOR EACH AREA DISTURBED. THIS INCLUDES BLANKETS, SEEDING, MULCHING & HYDROMULCHING.
- FOR ALL AREAS TO BE SEEDDED, THE MULCH MUST BE APPLIED IMMEDIATELY AFTER SEED APPLICATION.
- CONTRACTOR SHALL CLEAN AND MAINTAIN THE STORM SEWER INLETS AND PIPES DURING THE COURSE OF CONSTRUCTION AND SHALL CLEAN THE SYSTEM OF ALL DEBRIS UPON COMPLETION AND STABILIZATION OF THE PROJECT.
- REMOVE TEMPORARY CONTROLS SUCH AS SILT FENCE, INLET PROTECTION AND NETTING ONCE VEGETATION IS ESTABLISHED AND THE SITE HAS BEEN STABILIZED.



**S58 INLET PROTECTION - FABRIC DROP**  
NOT TO SCALE

**E8 PERMANENT SEEDING NOTE:**  
ALL PROPOSED LAWN AREAS AND ALL AREAS DISTURBED BY CONSTRUCTION SHALL RECEIVE A MINIMUM OF 4" OF TOPSOIL AND LAWN SEED MIX AS INDICATED ON PLANS AND AS FOLLOWS:

PROPORTION	CLASS "A" SEED TYPE
10%	CANNON KENTUCKY BLUEGRASS
10%	GOLDRUSH KENTUCKY BLUEGRASS
20%	RONDE KENTUCKY BLUEGRASS
20%	SR5100 CHEWINGS FESCUE
20%	SR5200 CREEPING RED FESCUE
10%	SR4400 PERENNIAL RYEGRASS
10%	SR4500 PERENNIAL RYEGRASS

SEEDING RATE SHALL BE 4 TO 6 lbs. PER 1000 SQ. FEET.

**MICHIGAN DEPARTMENT OF MANAGEMENT AND BUDGET  
S-E-S-C KEYING SYSTEM**

KEY	BEST MANAGEMENT PRACTICES	SYMBOL	WHERE USED
<b>EROSION CONTROLS</b>			
E8	PERMANENT SEEDING		Stabilization method utilized on sites where earth change has been completed (final grading attained).
<b>SEDIMENT CONTROLS</b>			
S58	INLET PROTECTION FABRIC DROP		Use at stormwater inlets, especially at construction sites.
S51	SILT FENCE		Use adjacent to critical areas, to prevent sediment laden sheet flow from entering these areas.

2121 3 Mile Rd. NW  
Walker, MI 49844  
Ph: 616-301-7888  
www.LREMI.com

**LRE**  
ENGINEERS & SURVEYORS

NO.	ISSUED FOR	DATE
1.	OWNER REVIEW	10/23/2020
2.	SITE PLAN SUBMITTAL	10/27/2020
3.	REVISED SITE PLAN SUBMITTAL	11/17/2020

THE ARCHITECTURAL GROUP, INC.  
3100 PRARIE STREET SW, GRANDVILLE, MI 49418  
CLIENT: PROJECT:

BETHANY CHRISTIAN SERVICES  
6350 W. KL AVE., KALAMAZOO, MI 49009

PROJECT NUMBER:	DATE
20-29	10/20/20
SURVEYED BY: RLB	10/20/20
DESIGNED BY: KJV	10/20/20
DRAFTED BY: KJB	10/20/20
QA/QC: NDJ	10/20/20

**GRADING & SESC PLAN**

SHEET NUMBER  
**C3**

The  
Architectural  
Group, Inc.

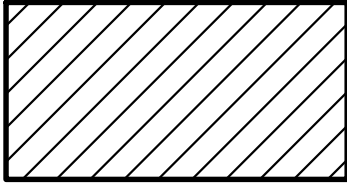
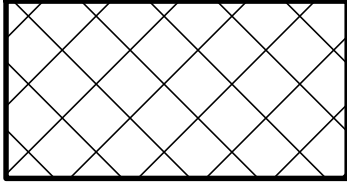
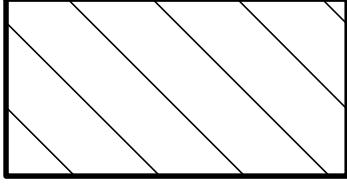
Architects  
Planners

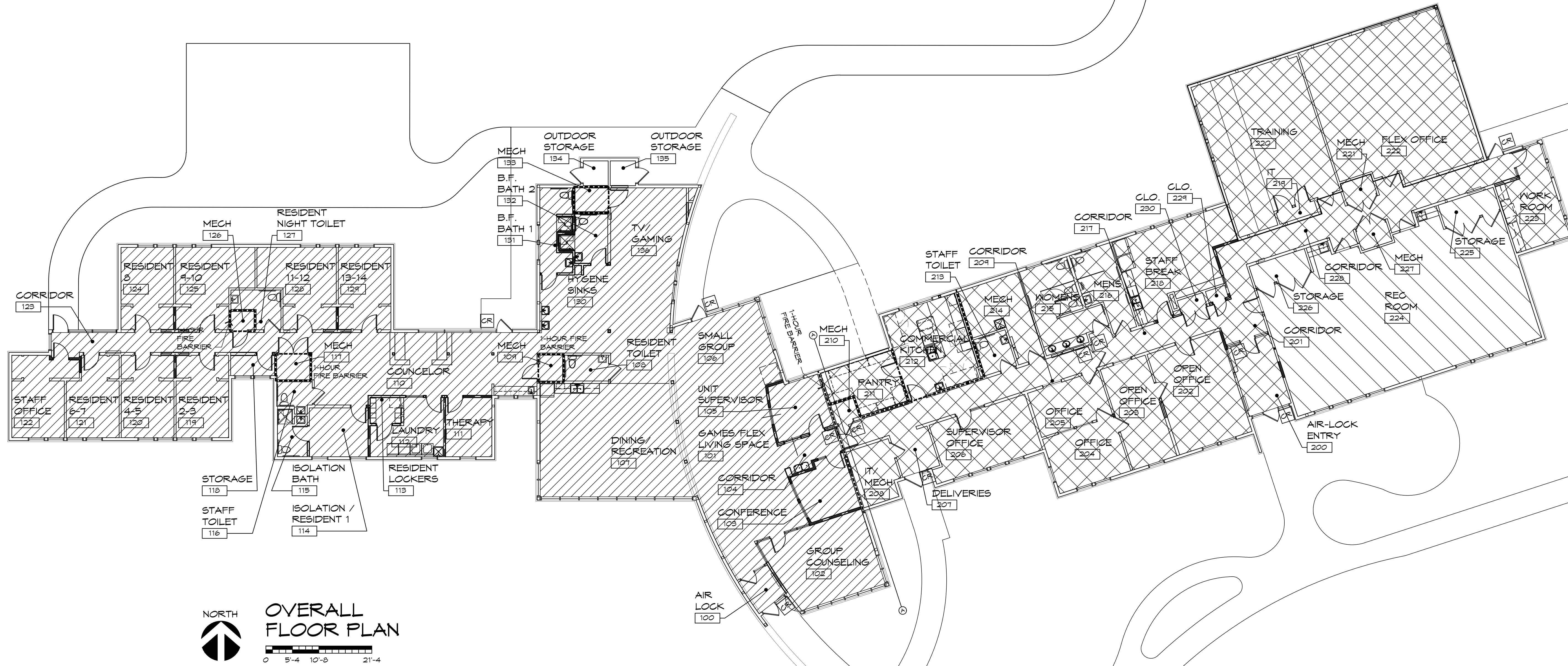
3100 Prairie S.W.  
Grandville, MI 49418

Phone: 616.531.7040

Fax: 616.531.0221

www.TheArchitecturalGroup.com

-  RESIDENTIAL USE- 6557 SF GROSS
-  BUSINESS USE- 5667 SF GROSS  
3959 SF NET
-  ASSEMBLY USE- 1576 SF GROSS  
1456 SF NET



Proposed Renovations for:  
**Bethany Christian Services**  
**6350 KL Avenue**  
Kalamazoo, MI 49009

Dr. JLF  
Ap. DJB

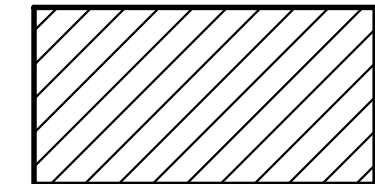
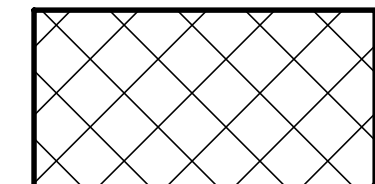
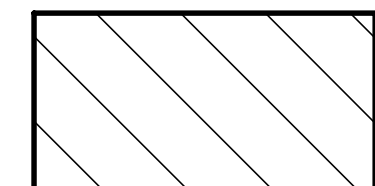
Date Issued For  
11.17.2020 SITE SUBMITTAL

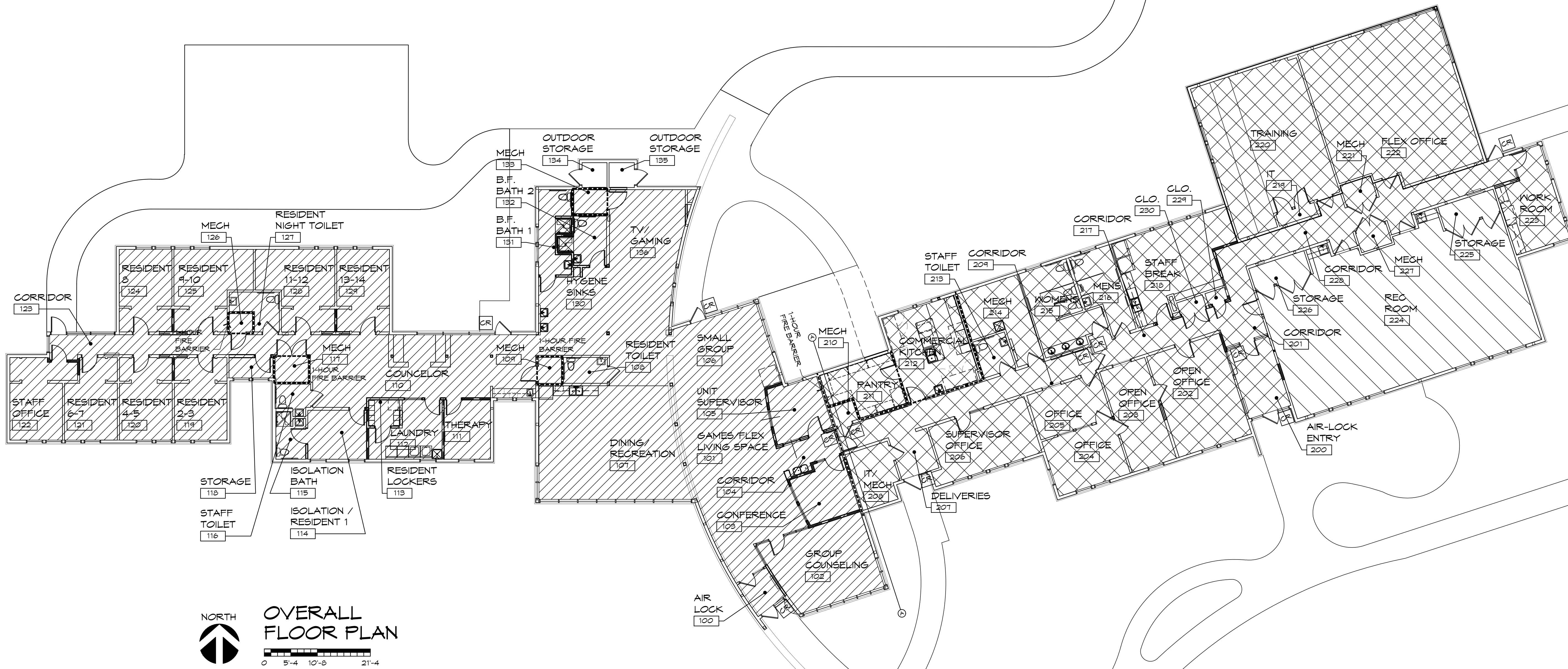
File No. 2020-35

Drawing

**A**

The Architectural Group, Inc.  
 Architects  
 Planners  
 3100 Prairie S.W.  
 Grandville, MI 49418  
 Phone: 616.531.7040  
 Fax: 616.531.0221  
 www.TheArchitecturalGroup.com

-  RESIDENTIAL USE- 6557 SF GROSS
-  BUSINESS USE- 5667 SF GROSS  
3959 SF NET
-  ASSEMBLY USE- 1576 SF GROSS  
1456 SF NET



NORTH  
**OVERALL FLOOR PLAN**  
 0 5'-4 10'-8 21'-4

Proposed Renovations for:  
**Bethany Christian Services**  
**6350 KL Avenue**  
 Kalamazoo, MI 49009

Dr. JLF  
 Ap. DJB  
 Date Issued For  
 11.17.2020 SITE SUBMITTAL  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 File No. 2020-35  
 Drawing  
**A**

c:\users\james\myfiles\the architectural group\tag files - documents\2020\2020-35 bethany group home - kalamazoo\drawings\2020\35 a 1.1 floor plan 11/17/2020 11:31 AM

This page has been intentionally left blank for printing purposes.



November 17, 2020

Mr. Colten Hutson  
Zoning Administrator  
Oshtemo Charter Township  
7275 W. Main Street  
Kalamazoo, MI 49009

**Re: Bethany Christian Services – Site Plan Resubmittal  
6350 W. KL Ave., Kalamazoo, MI**

Dear Mr. Hutson:

We are writing on behalf of Bethany Christian Services to summarize the changes made to the Site Plan Application for 6350 W. KL Avenue. We received your review comments via email on Friday, November 6, 2020. Below are your review comments followed by our responses in **BOLD** text:

1. General Requirements:

- a. In accordance to the Township's Zoning Ordinance, the definition of 'Child Caring Institution' only allows for more than four, but less than 13 minor children on a 24-hour basis. Please reduce the number of children.

**The program is designed to serve up to 12 youth with an extra 2 beds available for when a youth is required to change programs, allowing said youth to remain in the facility as next steps are implemented. This is in the youth's best interests as it would allow for smooth transition into the new program and new placement. As an example, under a 12-bed facility: a youth that has been approved for a new program would be required to move out immediately/same day that the approval was made (including after hours). This can cause more trauma and harm to the emotional well-being of a youth to suddenly have to move. If the facility is licensed for 14, this would allow flexibility by allowing the youth a more planned, trauma informed, smooth transition into their next placement and program.**

**The proposed capacity of this small child caring institution license is 14; however, the program is designed for 12 youth. The extra two beds would only be utilized as a temporary next step for a youth to transition into a new placement and only as it is in the best interests of that youth. It is not planned to have a daily capacity of 14 youth.**

- b. A floorplan showing the SF of proposed uses within the building is required.

**A floorplan is provided on drawing A showing the three areas of proposed use being residential, business/office and Meeting / Assembly.**

- c. Civil plan sets are required to have the architect, engineer, surveyor or landscape architect's seal. Please provide. **An engineering seal has been added to the cover sheet of the civil plans.**
- d. Have vicinity map updated to display zoning districts surrounding the site.  
**The vicinity map is on sheet C1 with the zoning districts.**
- e. Add the percentage of land covered by buildings and percentage of land reserved for open spaces.

**The percentages have been added to sheet C2.**

2. Access and Circulation:

- a. Please provide the dimensions for parking spaces and circulation aisles.  
**The parking and aisles dimensions have been added to sheet C2.**
- b. Provide the number of non-resident employees at the child care center working at one time (example: # of workers per shift).

**The maximum number of non-resident employees per shift for the child care center is 14, broken down as follows:**

- i. **1 Unit Supervisor**
  - ii. **2 Case Managers**
  - iii. **1 Therapist**
  - iv. **4 Youth Specialists**
  - v. **4 Interns**
  - vi. **2 Kitchen Staff**
- c. The current site is an office use and parking is designed accordingly. Staff was unable to calculate the required parking for the proposed uses. Offices require: 1 per each 150 s.f. of net floor area. Child care centers require: One parking space, shall be provided for each non-resident employee working on site at any one time. Assembly and convention halls require: 1 space for each 3 persons allowed within the maximum occupancy load as established by the Township building code . Please update plan and provide information accordingly.

**The following parking calculation was added to sheet C2:**

**CHILD CARE: 14 EMPLOYEES + 12 CHILDREN**

**1 PER EMPLOYEE + 1 PER 5 CHILDREN = 17 SPACES**

**BUSINESS & GENERAL OFFICE: 3959 NET SQUARE FEET**

**1 PER 150 SF OF NET FLOOR AREA = 27 SPACES**

**ASSEMBLY: 97 OCCUPANTS @ 1 PERSON / 15 SF (1,456 SF NET)**

**1 PER 3 OCCUPANTS AS DETERMINED BY CODE = 33 SPACES**

**TOTAL SPACES REQUIRED: 77**

**MAXIMUM SPACES = 110% OF REQUIRED = 85**

**SPACES PROVIDED = 84**

- d. Oshtemo's Non-Motorized Plan shows a 10' wide Shared Use Path adjacent to the parcel on the north side of KL Avenue. An updated site plan showing the 10' wide path will be required along with a sidewalk connection from the path to the principal building. (Due to the site's location, the installation of the

path will not be required at this time. An SAD Agreement will be required if deferred).

**The shared use path has been added to the plan and labeled as “Future”. Bethany would like to defer the construction of the path at this time and sign a SAD agreement.**

**Bethany is also requesting that the sidewalk connection from the path to the building not be required for several reasons. The distance from the building to the street is a long distance (450’). The steep entrance drive and surrounding grades make it impossible for the sidewalk to be ADA compliant without significant grading and removal of large trees / forested areas.**

### 3. Buildings and Structures:

- a. Please add setbacks for the existing building and proposed basketball court to the updated site plan. Also add dimensions of the generator, soccer field, basketball court, existing and proposed sidewalk widths, and any other exterior additions.

**Setbacks and dimensions have been added to sheet C2.**

- b. Please be sure to add fencing to the site plan as outside play or social areas must be appropriately fenced for the safety of the residents.

**Bethany is requesting that fencing not be required for this site for the following reasons:**

1. **The site provides a natural barrier around the outside play area with the existing trees / forested area.**
2. **The site is very large (15 acres) and the play area is in the middle of the property.**
3. **The closest property line to the play area is over 90 feet in distance through a densely wooded area.**
4. **The children often come from refugee camps which are fenced. This property can provide a safe natural barrier for the children without the negative connotations of fencing.**

- c. Please demonstrate a smoother transition for the proposed sidewalk on the northeast side of the building as the sidewalk appears to be shown at different widths.

**The sidewalk transition has been added and labeled on sheet C2**

- d. If possible, please provide photographs of the front, side and rear building elevations.

**The attached document includes photographs of the front, side, and rear building elevations.**

- e. Provide elevation measurements for the proposed screened dumpster.

**The attached document includes a picture of the existing dumpster enclosure. The gate is missing and will be replaced with a new gate matching the existing fence height of 6 feet. A note has also been added to sheet C2.**

- f. Please provide the location of new proposed signs, if any. Will the existing monument sign be replaced or kept? Please note signs cannot advertise the foster care facility.

**There are two existing signs and one proposed directional sign for the property. The Monument sign at the road is to remain. This sign will be generic nature based on other Bethany sites and not advertise the child**

**caring institution. The existing directional sign will remain. A proposed 3'x3' directional sign for the Main Entrance is proposed and included on sheet C2.**

4. Engineering:

- a. Please clearly label the fire hydrant on-site. Staff is uncertain what 'BM' stands for.

**The existing hydrant has been labeled on all sheets. BM stands for Benchmark.**

- b. An SESC Permit will be required and can be obtained from the Kalamazoo County Drain Commissioner's Office.

**A SESC permit will be obtained prior to construction.**

- c. Staff is concerned whether the change in use can be supported by the existing septic system on-site. It is recommended that the existing septic system be evaluated. Please contact the Kalamazoo County Environmental Health Department to confirm the size of the existing septic system is acceptable.

**The existing site is connected to the public sanitary sewer system in the road. Based on record drawings the sanitary lateral from the building to the street has been added to the plans.**

5. Lighting:

- a. Is there any new or modified proposed lighting on-site? If so, a lighting plan will be required. See requirements by following the link: <http://online.encodeplus.com/regs/oshtemo-mi/doc-viewer.aspx#secid-2250>

**No changes in site lighting are proposed. The existing, previously approved site lights will remain.**

6. Additional Requirements/Comments for Assembly and Convention Halls: <http://online.encodeplus.com/regs/oshtemo-mi/doc-viewer.aspx#secid-2580>

- a. Are there any proposed outdoor spaces to host events? Floorplan will be needed showing what parts of the building and/or outside spaces will be used for what. Please note that any outdoor event space will need to be clearly delineated on the site plan.

**Bethany does not propose to have any outdoor events.**

- b. Provide location of all restrooms within the building and portable facilities (if any) in the floorplan.

**See the floorplan provided.**

- c. Please provide a letter of intent, including information on how the event space will be used, maximum number of people to be hosted, the hours of operation, and a breakdown of the site's maximum occupancy capacity for the indoor and outdoor event spaces. Note that the 9th Street and West Main Overlay Zone has a maximum capacity of 200 people.

**Currently, Bethany Christian Services rents out churches on a quarterly basis for their all team (staff) meetings. The floor plan provided shows a REC ROOM (224) that will be used for all quarterly team meetings. The number of team members is estimated to be around 100. The meetings will take place between 8 am and 5 pm Mondays through Fridays.**

- d. Be sure that the placement of vehicles, trailers, and all other equipment for outdoor events is shown on the plan with setbacks and placed away from adjoining residentially used properties.

**No outdoor events are proposed for this site.**

- e. Traffic lanes and additional on-site parking to service outdoor event space to be provided at the rate of 1 space for each 3 persons allowed within the maximum occupancy.

**No outdoor events are proposed for this site.**


We have included the following documents for your consideration:

1. Electronic set of site plans with a professional seal.
2. Photos of building elevations and dumpster enclosure

Bethany Christian Services feels that they have provided the required information necessary for the Planning Commission to consider their request at the **December 10, 2020** Planning Commission meeting. Please review the enclosed information and contact our office if there are any questions or comments. We look forward to working with you through the course of this project.

Sincerely,

**Land & Resource Engineering**



Kyle J. Visker, P.E.  
Project Manager

This page has been intentionally left blank for printing purposes.

November 17, 2020

**Bethany Christian Services – Site Photos**  
**6350 W. KL Ave., Kalamazoo, MI**



**South (Front) Building Elevation**





**North (Rear) Building Elevation**





**East (Side) Building Elevation**



**Dumpster Enclosure**



December 4, 2020

**Mtg Date:** December 10, 2020  
**To:** Planning Commission  
**From:** Iris Lubbert, AICP, Planning Director  
**Subject:** Introduction and Discussion: Pools on Corner Lots (front yard setback)

---

Objective:

Planning Director Iris Lubbert will introduce this proposed text amendment to the Planning Commission at their December 10<sup>th</sup> meeting. The Planning Commission is asked to discuss the proposed language and provide feedback to staff.

Background:

On November 17<sup>th</sup> the Zoning Board of Appeals reviewed a variance request to permit an in-ground pool to protrude 20 feet into the required 30-foot front yard setback. The property in question, 5359 Sweet Briar Drive, is a small corner lot located within Rose Arbor plat No. 2. After review and discussion, the Zoning Board of Appeals approved the request. A copy of the staff report and draft meeting Minutes are attached. This was not the first variance approved to allow an in-ground pool to protrude into a corner lot's front yard. However, it should be noted that this variance was the first of its type approved under the current setback code adopted in 2011. As a result of this meeting, the Zoning Board of Appeals requested that a request be sent to the Planning Commission to consider an update to the code that provides some flexibility to in ground pools on corner lots.

The current setbacks for pools are outlined in section 50.60 Setback Provisions of the code. In this section, pools are given a side yard setback of 10 feet and a rear yard setback of 15 feet. As the code sets forth a side and rear setback for pools but does not mention a front setback, the generally accepted interpretation is that no pools are permitted in front of a house. However, corner lots, as they have frontage on two streets, have two front yards. Assuming the house is built up to the two 30-foot front yard setbacks, this means that, a 30-foot front setback is required for a potential pool along each street frontage (at minimum to line up with the house). This is a larger setback area than is required of properties not located on a corner, where only a 10 foot side yard setback is required on each side; meaning that usable rear yard space is reduced at least by approximately 20 feet' along the corner lots' side with street frontage. The Zoning Board of Appeals felt that this unique hardship of corner lots should be taken into consideration and in-ground pools should be treated differently than the standard primary or accessory structure. It should be noted that only public comments in support of the variance request were received.

Proposal:

Based on input from the Zoning Board of Appeals and past precedence of approved pools within Oshtemo Township, staff and legal counsel are recommending a code amendment that would provide additional guidance and flexibility for pools on corner lots. The amendment includes adding a definition of a corner lot, differentiating between what is considered a corner lot's front and side street frontage, and allowing a 10' front yard setback for in-ground pools on corner lots in subdivisions or site condominiums if it is along the Side Street Frontage of the lot, provides the required fencing, and is screened from the road with landscaping. This proposed amendment also clearly notes that any other pools are not permitted in a front yard.

Attached: Proposed Pools on Corner Lots (front yard setback) Text Amendment Document; 5359 Sweet Briar Drive Variance Staff Report; Images of existing pools on corner lots that encroach into the front yard; November 17<sup>th</sup> ZBA DRAFT Meeting Minutes

This page has been intentionally left blank for printing purposes.

## Article 2 – Construction of Language and Definitions

### 2.20 Definitions

**Corner Lot:** A Lot located at the intersection of two or more streets.

**FRONTAGE, FRONT STREET.** A corner Lot has a Front Street and a Side Street Frontage, with the Front Street Frontage being the frontage onto which the front of the building faces.

**FRONTAGE, SIDE STREET.** A corner Lot has a Front Street and a Side Street Frontage, with the Side Street Frontage being the frontage onto which the side of the building faces.

## Article 50 – Schedule of Regulations:

### 50.60 Setback Provisions:

...

B. Agricultural and Residence Districts, which shall include the “AG” Agricultural District, “RR” Rural Residential District, “R-1” Residence District, “R-2” Residence District, “R-3” Residence District, “R-5” Residence District, “R-C” Residential, Conservation District and buildings having two stories or less in “R-4” Residence District.

#### 1. Front yard setbacks for primary structures.

- a. A setback of 30-feet shall be required from all street rights-of-way and outlots and/or planned future public street extensions unless a larger setback is otherwise required.
- b. If a new primary structure is constructed within 300 feet of a building existing on the effective date of this Ordinance (December 24, 1966) which is closer than the 30-foot setback requirement, the setback may be decreased according to the schedule set forth in Section 50.60.A.
- c. If a new primary structure is constructed within 100 feet of a building existing on the effective date of this Ordinance which is further than the 30-foot setback requirement, the minimum setback requirement shall be equal to the average of the closest existing buildings on either side of the new building.
- d. On corner lots in subdivisions or site condominiums inground pools are permitted to have a ten-foot front yard setback along the Side Street Frontage of the lot. In addition to the required fencing, these pools shall be screened from the road with landscaping. Pools are otherwise not allowed in the front yard.

#### 2. Interior side and rear yard setbacks for primary structures.

- a. "AG" Agricultural District, "RR" Rural Residential District, "R-1" Residence District, "R-2" Residence District, "R-3" Residence District, and "R-C" Residential, Conservation District:
  1. i. The minimum setback distance between any primary structure, pool, or associated decks whether attached or detached and any interior side property shall be ten feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
  2. ii. The minimum setback distance between any primary structure, pool, or associated decks whether attached or detached and any rear property shall be 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
- b. "R- 5" Residence District, and buildings having two stories or less in "R-4" Residence District:

1. i. The minimum setback distance between any building and any rear or interior side property line shall be ten feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater.
- c. The setbacks for buildings exceeding two stories in the "R-4" Residence District are set forth in Section 50.60.C.
- d. The rear and interior side property line setbacks for nonresidential buildings in the above zoning districts shall satisfy the requirements of Section 50.60.C.

November 4th, 2020



**Mtg Date:** November 17th, 2020

**To:** Zoning Board of Appeals

**From:** Karen High, Zoning Administrator

**Applicant:** Frank H. and M. Jamie Jeremy  
**Owner:** Frank H. and M. Jamie Jeremy

**Property:** 5359 Sweet Briar Drive, parcel number 05-36-475-010

**Zoning:** R2: Residence District

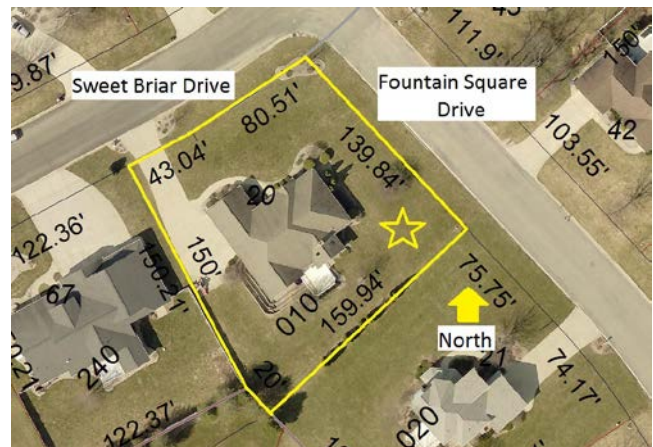
**Request:** A variance to permit a pool which will protrude 20 feet into the required 30-foot front yard setback

**OVERVIEW:**

The applicant is requesting relief from Section 50.60 of the Zoning Ordinance which governs setbacks for structures in residential zoning districts in order to construct an 18 foot x 36 foot in-ground pool and associated concrete decking in the required front yard.

Section 50.60 of the Zoning Ordinance requires that all primary structures located within the R-2 district have a 30 foot front yard setback. Required side setback is 10 feet and required rear setback is 15 feet.

5359 Sweet Briar Drive is a 0.50-acre corner lot in Rose Arbor plat No. 2. The lot is approximately 150 feet wide by 150 feet long and also fronts Fountain Square Drive. Though the required front setbacks are 30 feet, the house, built in 2002, is approximately 44 feet from each right of way line. The side and rear yards are somewhat narrow, at approximately 35 foot and 40 foot wide respectively. The lot is outlined in yellow in the aerial photo to the right. Approximate location of the proposed pool is starred.



The applicant has submitted a property sketch showing the proposed layout in more detail. (See attachments.) Though not shown on the plan, they state that required fencing will meet all ordinance requirements. The applicant has provided the following rational for this variance request:

- The entire pool structure will be built below grade, with nothing above ground to impede the character of the neighborhood except enhanced landscape and plantings.

- A 10 foot side and 15 foot rear setback is provided. This shows a good faith effort to meet the side and rear setback requirements for lots not located on a corner.
- There is no other practical or safe location for a conventional pool on the property.
- A house in the neighborhood, also on a corner lot, was permitted to have a pool in the front yard.
- Several houses in the neighborhood have pools in the side and rear yards. Many of these pools would not be permitted if on our corner lot.

Public input was received from six residents of the neighborhood. There were no objections to the variance request. Copies of their statements are attached.

#### STANDARDS OF REVIEW - STAFF ANALYSIS

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

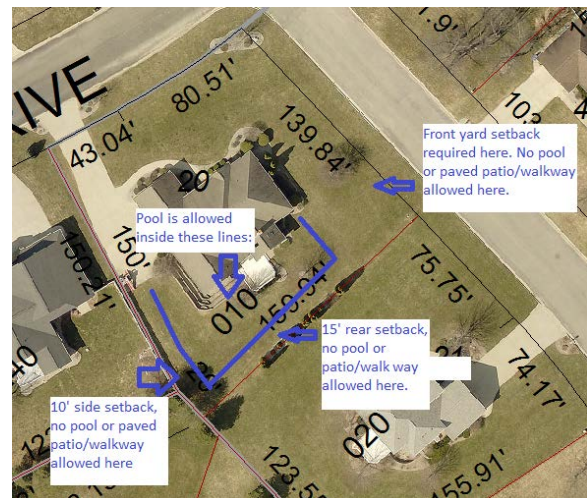
- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.

Staff has analyzed the request against these principles and offer the following information to the Zoning Board of Appeals.

#### Standards of Approval of a Nonuse Variance (practical difficulty):

**Standard:** *Unique Physical Circumstances*  
*Are there unique physical limitations or conditions which prevent compliance?*

**Comment:** The topography around this site is flat. Because it is located on a corner, a 30 foot front setback is required along each street frontage. This is a larger setback than is required of properties not located on a corner, where a 10 foot side yard setback is required on each side. Usable yard space is reduced by approximately 20 feet' along the Fountain Square Drive street frontage.



**Standard:** *Conformance Unnecessarily Burdensome*  
*Are reasonable options for compliance available?*  
*Does reasonable use of the property exist with denial of the variance?*



Comment: It is the applicant's desire for a pool that triggered this variance request. A pool is not a required nor necessary amenity. A smaller or differently shaped pool might fit on the property without the need for a variance.

*Standard: Minimum Necessary for Substantial Justice  
Applied to both applicant as well as to other property owners in district.  
Review past decisions of the ZBA for consistency (precedence).*

Comment: In researching past Zoning Board of Appeals decisions regarding setback relief for a pool in a front yard setback, Planning Department staff identified one comparable case. Further research revealed that interpretation of required setbacks for pools has varied over time. In a cursory review of the Township using aerial photos, staff found two inground pools in front yards. In addition, it should be noted that the zoning ordinance was amended in 2011 to require a setback for pools in the side and rear yard. These findings are described below.

1. Latoskewski, 405 Clubview, 10/20/1997: The applicant sought relief from the Zoning Board of Appeals to allow for the construction of a 17 foot x 35 foot pool in the required 40 foot front setback of Shadywood Drive. Located on a corner lot, the property also fronted Club View Drive. The Zoning Board of Appeals approved the variance request of 40 feet based on the following reasons: that conformance was unnecessarily burdensome in that the pool could not be located in compliance with all setbacks, that substantial justice would be served by the variance, and that the spirit and intent of the Ordinance would be met because the pool would be below ground and included no pool house or other structure. (See meeting minutes and aerial photo attached.)
2. 4970 Fountain Square, 10/9/01: A building permit for an inground pool in the required front yard was approved with no setback. This property is also on a corner lot. A letter in the file from Planning Department staff indicated that "placement of an inground pool is not subject to setbacks from the abutting streets." The letter and an aerial photo are attached to this staff report. This is consistent with statements in meeting minutes from that time period that 'buildings' were required to meet setback requirements but 'structures' were not.
3. 6488 Killington Drive, 2008: A building permit was issued for an inground pool at this address, also on a corner lot. The pool is located approximately 15 feet from the right of way line. Planning Department staff approved the building permit application. (See aerial photo attached.)
4. Zoning Code text amendment to Section 64 – Setback and Side Line Spacing, 2/24/2011: The zoning ordinance was amended to require a minimum front yard setback of 30 feet rather than 40 feet. Minimum rear yard setback, formerly 10 feet, was increased to 15 feet. In addition, text was added requiring that pools and decks (attached or detached) conform to applicable rear and interior side setbacks. According to the staff report, reasoning was that "this will prevent decks and pools from being too close to property lines." Added text for pools and decks follows in bold:
  - a. "The minimum setback distance between any building and any interior side property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-

1" Residence Districts, "R-2" Residence Districts, and "R-3" Residence Districts shall be ten feet for all buildings, **pools, and associated decks whether attached or detached** unless a larger setback is otherwise required in the Township Zoning Ordinance.

- b. The minimum setback distance between any building, **pools, and associated decks whether attached or detached** and any rear property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, and "R-3" Residence Districts shall be not less than 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance."

Text adopted in 2011 for front yard setbacks was as follows: "there shall be a setback from all street right of way lines and outlots and/or planned future public street extensions of not less than 30 feet for all buildings unless a larger setback is otherwise required."

This is essentially the same as language in the current ordinance, which states "front yard setbacks for primary structures: a setback of 30-feet shall be required from all street rights-of-way and outlots and/or planned future public street extensions." Because the code sets forth a side and rear setback for pools but does not mention a front setback, the generally accepted interpretation is that no pools are permitted in front of a house.

*Standard: Self-Created Hardship*  
*Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?*

*Comment:* The home at 5359 Sweet Briar Drive was built near the center of the property. The lot lines and setbacks for the property have not changed since its construction. There may be room in the rear yard for a much smaller or irregularly shaped pool that meets setback requirements. It is the applicant's desire for a pool that has triggered this variance request. A pool is not a required or necessary amenity.

#### POSSIBLE ACTIONS

The Zoning Board of Appeals may take the following possible actions:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
  - The corner lot places additional restrictions on this property – is a unique physical circumstance.
  - A variance was approved for a similar request in 1997.

- Pools were previously allowed to be constructed in the Township with no required front setback.
- Support of variance denial
  - Without relief, the property can still accommodate a single-family home, as allowed per the Zoning Ordinance. A pool is not a required nor a necessary amenity.
  - The variance request for this 18' x 36' pool is a self-created hardship, as a smaller pool could be built.

Possible motions for the Zoning Board of Appeals to consider include:

1. Applicant's Request

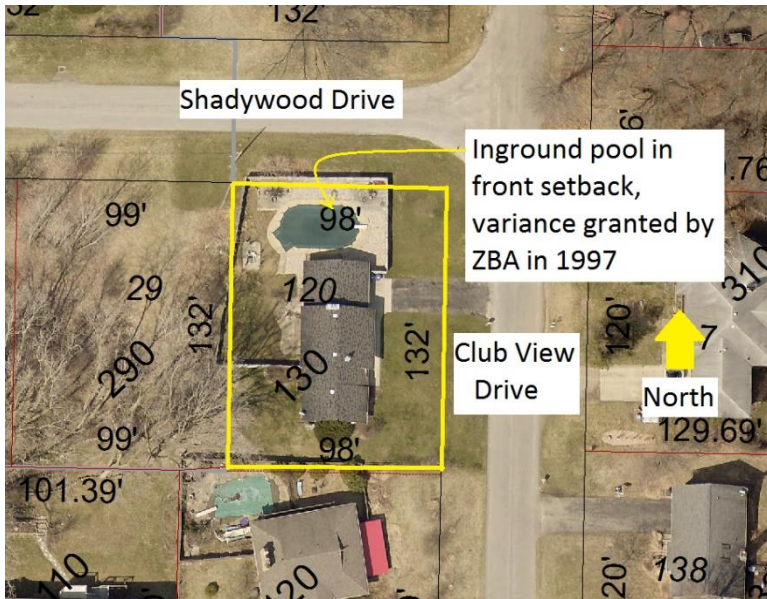
Based on past precedence presented in this memo, motion to approve the variance request, allowing the applicant to construct an 18 foot x 36 foot in ground pool with a 10-foot front yard setback.

If the Zoning Board of Appeals chooses this motion, staff request that a condition be attached requiring the property owner to complete the building permit process via the Southwest Michigan Building Authority.

If the Zoning Board of Appeals chooses this motion, staff also requests that a request be sent to the Planning Commission to consider an update to the code that provides some flexibility to pools on corner lots.

2. Motion to deny the requested variance based on the findings of fact presented under 'Support of variance denial' in this memo.

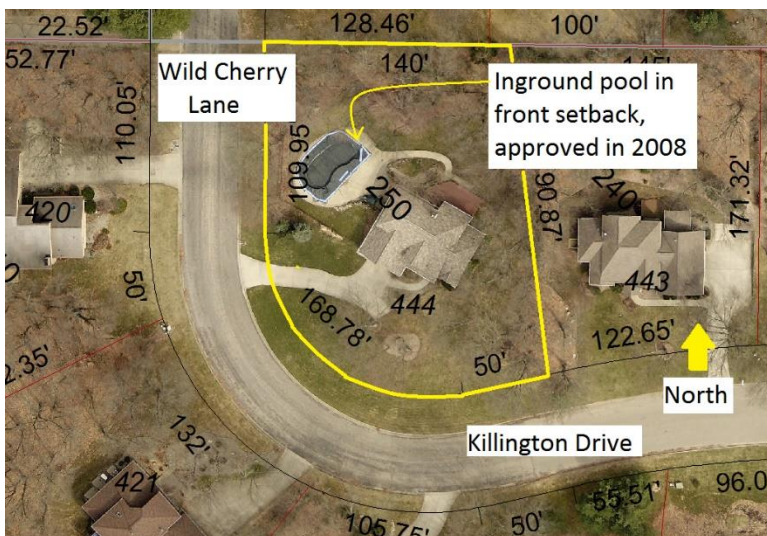
Attachments: Application, Letter from Applicant, Property sketch, Public input received as of 11/9/2020, 10/09/2001 Planning Dept letter, 10/20/1997 ZBA minutes, Aerial photos of existing inground pools in front setback.



**Aerial photo of  
405 Club Drive**



**Aerial photo of  
4970 Fountain Square Drive**



**Aerial photo of  
6488 Killington Drive**

**OSHTEMO CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS**

**DRAFT MINUTES OF A VIRTUAL MEETING HELD NOVEMBER 17, 2020**

---

**Agenda**

**VARIANCE: JEREMY, 5359 SWEET BRIAR DRIVE**  
**FRANK H. AND M. JAMIE JEREMY REQUESTED RELIEF FROM SECTION 50.60 OF THE ZONING ORDINANCE WHICH GOVERNS SETBACKS FOR STRUCTURES IN RESIDENTIAL ZONING DISTRICTS IN ORDER TO CONSTRUCT AN 18 FOOT X 36 FOOT IN-GROUND POOL AND ASSOCIATED CONCRETE DECKING IN THE REQUIRED FRONT YARD.**

---

A virtual meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, November 17, 2020, called to order at approximately 3:02 p.m.

PRESENT: Neil Sikora, Chair  
Fred Antosz  
Cheri Bell  
Fred Gould  
Anita Smith, Vice Chair

ABSENT: Ollie Chambers  
Micki Maxwell

Also present were Iris Lubbert, Planning Director, Karen High, Zoning Administrator, James Porter, Township Attorney and Martha Coash, Meeting Transcriptionist.

One guest, applicant M. Jamie Jeremy was present.

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairperson Sikora called the meeting to order and invited those present to join in reciting the "Pledge of Allegiance."

**APPROVAL OF AGENDA**

Chairperson asked if there were changes to the agenda. Hearing none, he asked for a motion.

Ms. Smith **made a motion** to approve the agenda as presented. Mr. Gould **seconded the motion. The motion was approved unanimously.**

## **APPROVAL OF THE MINUTES OF AUGUST 25, 2020**

The Chair asked if there were any additions, deletions or corrections to the minutes of August 25, 2020. Hearing none, Chairperson Sikora asked for a motion.

Ms. Bell **made a motion** to approve the Minutes of August 25, 2020 as presented. Ms. Smith **seconded the motion**. **The motion was approved unanimously.**

Chairperson Sikora moved to the next agenda item and asked Ms. Lubbert for her presentation. Ms. Lubbert indicated Ms. Karen High, Zoning Administrator would be presenting to the Board.

### **VARIANCE: JEREMY, 5359 SWEET BRIAR DRIVE FRANK H. AND M. JAMIE JEREMY REQUESTED RELIEF FROM SECTION 50.60 OF THE ZONING ORDINANCE WHICH GOVERNS SETBACKS FOR STRUCTURES IN RESIDENTIAL ZONING DISTRICTS IN ORDER TO CONSTRUCT AN 18 FOOT X 36 FOOT IN-GROUND POOL AND ASSOCIATED CONCRETE DECKING IN THE REQUIRED FRONT YARD.**

Ms. High indicated the applicant was requesting relief from Section 50.60 of the Zoning Ordinance which governs setbacks for structures in residential zoning districts in order to construct an 18 foot x 36 foot in-ground pool and associated concrete decking in the required front yard.

Section 50.60 of the Zoning Ordinance requires that all primary structures located within the R-2 district have a 30 foot front yard setback. Required side setback is 10 feet and required rear setback is 15 feet.

She explained 5359 Sweet Briar Drive is a 0.50-acre corner lot in Rose Arbor plat No. 2. The lot is approximately 150 feet wide by 150 feet long and also fronts Fountain Square Drive. Though the required front setbacks are 30 feet, the house, built in 2002, is approximately 44 feet from each right of way line. The side and rear yards are somewhat narrow, at approximately 35 foot and 40 feet wide respectively.

The applicant submitted a property sketch showing the proposed layout in more detail. Though not shown on the plan, they state that required fencing will meet all ordinance and building code requirements. The applicant provided the following rationale for this variance request:

- The entire pool structure will be built below grade, surrounded by a fence with nothing above ground to impede the character of the neighborhood except enhanced landscaping and plantings. The pool will not be readily visible to anyone driving by; it will appear to be a fenced-in yard.

- A 10 foot side and 15 foot rear setback is provided, which shows a good faith effort to meet the side and rear setback requirements for lots not located on a corner.
- There is no other practical or safe location for a conventional pool on the property.
- A house in the neighborhood, also on a corner lot, was permitted to have a pool in the front yard.
- Several houses in the neighborhood have pools in the side and rear yards. Many of these pools would not be permitted if on our corner lot.

Ms. High indicated public input was received from six residents of the neighborhood, none of which objected to the variance request. Copies of their statements are attached to these minutes.

She urged the board to consider the larger picture. Does the Township wish to allow in-ground pools within required front yard setbacks? Should corner lots be considered differently? Should other structures be allowed as well? This is the first case of this nature under the current ordinance. By approving this case, a precedent would be set allowing in-ground pools or structures in a front yard, which could have negative impacts if not properly justified.

#### STANDARDS OF REVIEW - STAFF ANALYSIS

Ms. High noted the Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.
- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.

Staff analyzed the request against these principles and Ms. High offered the following comments.

#### Standards of Approval of a Nonuse Variance (practical difficulty):

*Standard: Unique Physical Circumstances  
Are there unique physical limitations or conditions which prevent compliance?*

*Comment: The topography around this site is flat. Because it is located on a corner, a 30 foot front setback is required along each street frontage. This is a*

larger setback than is required of properties not located on a corner, where a 10 foot side yard setback is required on each side. Usable yard space is reduced by approximately 20 feet' along the Fountain Square Drive street frontage.

*Standard: Conformance Unnecessarily Burdensome  
Are reasonable options for compliance available?  
Does reasonable use of the property exist with denial of the variance?*

**Comment:** It is the applicant's desire for a pool that triggered this variance request. A pool is not a required or necessary amenity. A smaller or differently shaped pool might fit on the property without the need for a variance.

*Standard: Minimum Necessary for Substantial Justice  
Applied to both applicant as well as to other property owners in district.  
Review past decisions of the ZBA for consistency (precedence).*

**Comment:** In researching past Zoning Board of Appeals decisions regarding setback relief for a pool in a front yard setback, Planning Department staff identified one comparable case. Further research revealed that interpretation of required setbacks for pools has varied over time. In a cursory review of the Township using aerial photos, staff found two in-ground pools in front yards. In addition, it should be noted that the zoning ordinance was amended in 2011 to require a setback for pools in the side and rear yard. These findings are described below.

1. Latoskewski, 405 Clubview, 10/20/1997: The applicant sought relief from the Zoning Board of Appeals to allow construction of a 17 foot x 35 foot pool in the required 40 foot front setback of Shadywood Drive. Located on a corner lot, the property also fronted Club View Drive. The Zoning Board of Appeals approved the variance request of 40 feet based on the following reasons: that conformance was unnecessarily burdensome in that the pool could not be located in compliance with all setbacks, that substantial justice would be served by the variance, and that the spirit and intent of the Ordinance would be met because the pool would be below ground and included no pool house or other structure.
2. 4970 Fountain Square, 10/9/01: A building permit for an in-ground pool in the required front yard was approved with no setback. This property is also on a corner lot. A letter in the file from Planning Department staff indicated that "placement of an in-ground pool is not subject to setbacks from the abutting streets." This is consistent with statements in meeting minutes from that time period that 'buildings' were required to meet setback requirements but 'structures' were not.
3. 6488 Killington Drive, 2008: A building permit was issued for an in-ground pool at this address, also on a corner lot. The pool is located



approximately 15 feet from the right of way line. Planning Department staff approved the building permit application.

4. Zoning Code text amendment to Section 64 – Setback and Side Line Spacing, 2/24/2011: The zoning ordinance was amended to require a minimum front yard setback of 30 feet rather than 40 feet. Minimum rear yard setback, formerly 10 feet, was increased to 15 feet. In addition, text was added requiring that pools and decks (attached or detached) conform to applicable rear and interior side setbacks. According to the staff report, reasoning was that “this will prevent decks and pools from being too close to property lines.” Added text for pools and decks follows in bold:
  - a. “The minimum setback distance between any building and any interior side property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, and "R-3" Residence Districts shall be ten feet for all buildings, **pools, and associated decks whether attached or detached** unless a larger setback is otherwise required in the Township Zoning Ordinance.
  - b. The minimum setback distance between any building, **pools, and associated decks whether attached or detached** and any rear property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, and "R-3" Residence Districts shall be not less than 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance.”

Text adopted in 2011 for front yard setbacks was as follows: “there shall be a setback from all street right of way lines and outlots and/or planned future public street extensions of not less than 30 feet for all buildings unless a larger setback is otherwise required.”

This is essentially the same as language in the current ordinance, which states “front yard setbacks for primary structures: a setback of 30-feet shall be required from all street rights-of-way and outlots and/or planned future public street extensions.” Because the code sets forth a side and rear setback for pools but does not mention a front setback, the generally accepted interpretation is that no pools are permitted in front of a house.

*Standard: Self-Created Hardship*  
*Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?*

**Comment:** The home at 5359 Sweet Briar Drive was built near the center of the property. The lot lines and setbacks for the property have not changed since its construction. There may be room in the rear yard for a much smaller or irregularly shaped pool that meets setback requirements. It is

the applicant's desire for a pool that has triggered this variance request. A pool is not a required or necessary amenity.

Ms. High indicated approving the requested variance would not negatively affect safety and welfare.

She indicated possible motions for consideration:

1. Based on past precedence, **motion to approve** the variance request, allowing the applicant to construct an 18 foot x 36 foot in ground pool with a 10-foot front yard setback.

If the Zoning Board of Appeals were to choose this motion, staff requested a condition be attached requiring the property owner to complete the building permit process via the Southwest Michigan Building Authority. In addition staff also suggested a request be sent to the Planning Commission to consider an update to the code to provide some flexibility to pools on corner lots.

2. **Motion to deny** the requested variance based on the findings of fact presented under 'Support of variance denial.'

Chairperson Sikora thanked Ms. High for her presentation and asked if there were questions from Board Members.

Mr. Sikora asked about required fencing.

Ms. High said a fence is required by building code for all pools. The applicant has stated fencing will meet zoning requirements, with no variance needed.

Hearing no further questions from Board Members, Chairperson Sikora asked if the applicant wished to speak.

Ms. Jamie Jeremy, 5359 Sweet Briar Drive, thanked Township staff for their guidance through the variance request process, ZBA members for their service to the Township and their consideration of the request, and her neighbors for their support.

She said when their house was built in 2003, they never dreamed they would want a pool, and if they had they would have positioned the house differently. Now, 17 years later, they very much want to add a pool. They were unaware of the second "front" yard with much greater setback requirements than for a normal yard. They wish to commit to undertaking a project that will not detract from their or their neighbors' homes. They will follow the example of the landscaping done at 4970 Fountain Square so that you will hardly know there is a pool there.

The Chair thanked Ms. Jeremy for her comments and asked if there were questions for her from Board Members.

Ms. Smith asked why the pool could not be located west of the deck.

Ms. Jeremy said there is a retaining wall there at a 15 foot setback from the property line. A pool would have to be located very close to it. The landscaper who installed the retaining wall said that could impact the integrity of the wall.

Ms. Smith wondered how a pool located west of the deck would impact a retaining wall.

Ms. Jeremy said the retaining wall is dug down underground at the basement level and holds land back from the lower level windows. Another alternative would have to be figured out. She also noted the pool would not be a part of the yard visually off the sun porch and that a traffic pattern from the house to the pool from the deck flows as it is designed. There is no access currently from that part of the yard. The retaining wall is an eight-foot drop and a safety factor. The fence would need to be closer than if dealing with the property lines.

Ms. High noted she measured using the GIS feature and that a pool this size would not meet the setback requirements if located in the rear corner to the west. It might still require a different type of variance.

Hearing no more questions, the Chair asked if there were any comments from the public. He determined there were no members of the public present and moved to Board Deliberations.

The Chair asked why in the summary of review this particular corner lot is considered a “unique physical circumstance?”

Ms. High said all corner lots are constrained because there is less usable space which puts corner lots at a disadvantage.

Chairperson Sikora said the 1997 variance was approved partially because the pool placement was restricted due to drainage and the septic system location.

Ms. High agreed that was one of the factors discussed in 1997.

Chairperson Sikora said this is the first time since the ordinance was changed in 2011 that a variance has been sought for this purpose and wondered if the circumstances are different. Frontage on two streets comes into play for other cases, such as how assessments are determined for two front yards.

Attorney Porter said sewer and water assessments for corner lots (two front streets) are capped so that a corner lot is not penalized. They cannot be taxed at a different rate; assessment is based on fair market value. A corner lot may be seen as

worth more, but there is no disparity in rates between corner and interior lots. That would be improper.

Ms. Bell noted the 1997 variance for a pool at 405 Clubview was granted prior to the ordinance change in 2011. The similar in-ground pools for 4970 Fountain Square in 2001 and for 6488 Killington Drive in 2008 were approved without variance.

Ms. High noted the 1997 variance granted by the ZBA included language suggesting the Planning Commission should look at and consider amending the ordinance regarding front yard setbacks for pools, but she was unable find any evidence that had occurred.

Attorney Porter said that could have happened as an unintended difference in interpretation.

Ms. High noted the same people signed off on the building permits in 2001 and 2008, but that interpretations evolve and change over time and that may be what occurred.

Ms. Smith wondered how much smaller the pool would need to be if built to the west without encroaching on the retaining wall.

Ms. Lubbert did a rough calculation and thought it could be about 12 feet wide by 15 feet, not including the cement apron decking needed.

Mr. Gould said he has been a pool owner for more than 50 years in two locations. He said 18' x 36' is basically the ideal size for a pool for entertaining, especially for children, who jump, run and need enough space on the deck and around the pool for activities. He heard no opposition to the variance request from neighbors. The ZBA has granted 3-4 site exceptions. He would like to see the Jeremys be able to use and enjoy their property to the fullest. His only question would be concern for anyone moving in later and not finding the variance a problem, though he did not see that as a concern. He cited past precedent and neighbor approval as positives for approval of the variance.

Ms. Bell said she appreciates the tough questions posed by Board Members. There is ambiguity regarding the interpretation of what is and what is not a structure, which should go to the Planning Commission for consideration. Variance was allowed for similarly situated pools in the past which would provide substantial justice in this case and there is strong neighborhood support. Once a variance is granted there will be no problem with later owners. This is a unique circumstance as it is a corner lot. She said she could support approval of the variance request.

Chairperson Sikora was not convinced the criteria for setback relief has been met. He did not feel conformance was burdensome, setbacks granted in the past were

under different circumstances, apples were not being compared to apples, substantial justice doesn't apply with a corner lot, and the problem is self-created.

Attorney Porter said the Board must make a motion and decision as a body whether to grant or deny the variance. If it is felt there is inconsistency in the ordinance regarding corner lot definitions of side and front yards and the definition of "structures," the issue can be referred to the Planning Commission for their consideration.

The Chair said he would support suggesting the Planning Commission consider defining front and side yards for corner lots.

Ms. Smith said she feels the request for variance in this case is a self-created hardship, but would also like to have the Planning Commission look at the side/front yard issue for corner lots which would provide a better opportunity to get the pool where it is wanted.

Ms. Bell asked Attorney Porter whether all five criteria need to be met in order to grant the variance.

Attorney Porter said some would say yes, but he does not agree. Courts do not agree nor does the statute. Practical difficulties are not defined; case law is not clear. People view things differently. It comes down to how ZBA members determine the facts. The ZBA is the jury – you determine the facts.

Chairperson Sikora said he was trying to stick to the variance request form. Sending a request to the Planning Commission will take time. He asked Ms. Jeremy what the timeline is for installing the pool.

Ms. Jeremy said they were looking at the spring of 2021.

Chairperson Sikora asked if someone wished to make a motion.

Ms. Bell **made a motion** to approve the variance as requested, based on the fact that the two front lots are a unique physical circumstance, previous decisions have not been treated in the same way – two pools in the front yard were approved without variance, one with variance, substantial justice is met, reasonable use is not available to place a pool in the rear yard, fencing and screening will maintain safety and welfare.

Per Staff request, a condition will be attached requiring the property owner to complete the building permit process via the Southwest Michigan Building Authority.

A request will be sent to the Planning Commission to consider an update to the code that provides some flexibility to pools on corner lots, particularly addressing side vs. front lots for corner properties and the definition of "structures."

Mr. Antosz **seconded the motion. The motion was approved 3-2 by roll call vote, with Chairperson Sikora and Vice Chairperson Smith dissenting.**

### **Public Comment**

Chairperson Sikora determined there were no members of the public present and moved to the next agenda item.

### **Other Updates and Business**

Ms. Lubbert provided a schedule of meeting dates for 2021 consideration.

Zoning Board of Appeals  
Fourth Tuesday of every month @ 3:00 p.m.  
**2021 Meeting Dates**

1/26  
2/23  
3/23  
4/27  
5/25  
6/22  
7/27  
8/24  
9/28  
10/26  
11/16\*  
12/14\*  
1/25/2022

\*Dates shifted to avoid holidays or for consistency with the Development Schedule of Applications

Mr. Gould **made a motion** to approve the Zoning Board of Appeals Meeting Date Schedule as presented. Ms. Smith **seconded the motion. The motion was approved unanimously.**

Ms. Lubbert told the Board public meetings will continue to be held virtually through December by order of the governor. It is likely that order will be extended further. She will keep the Board updated as more information is known.

She indicated she expects there to be two site plans for consideration at the December 15 meeting.

Attorney Porter said he felt the variance request discussion was one of the best the Board has had. It included tough questions and members focused on the issues at

hand, debating head to head on the facts, which is exactly what the ZBA should be doing. He said “the facts are what you say they are.”

Ms. Bell said the new Township Board will be sworn in Friday, November 20 at noon and will include two new Trustees and a new Treasurer. She encouraged Board Members to introduce themselves and welcome Trustees as they look forward to getting to work.

**Adjournment**

Hearing no further comments, Chairperson Sikora noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, he adjourned the meeting at approximately 4:15 p.m.

Minutes prepared:  
November 18, 2020

Minutes approved:  
\_\_\_\_\_, 2020

DRAFT

This page has been intentionally left blank for printing purposes.





December 4, 2020

**Mtg Date:** December 10, 2020  
**To:** Planning Commission  
**From:** Iris Lubbert, AICP, Planning Director  
**Subject:** Introduction and Discussion: Child and Adult Care Centers

---

Objective:

Planning Director Iris Lubbert will introduce this proposed text amendment to the Planning Commission at their December 10<sup>th</sup> meeting. The Planning Commission is asked to discuss the proposed language and provide feedback to staff.

Background:

Recently the Planning Commission reviewed a conditional rezoning request that asked to rezone a property to a higher intensity in order for the site to have a Child Care Center. Although the rezoning request was denied as it was considered spot zoning, the topic of Child Care Centers peaked both the Planning Commission's and Public's interest. There was a general agreement that child care options are important and more flexibility was needed that would allow for more of this type of service. Planning Staff was asked to review the code and see if there was a way to appropriately allow for more Child Care Centers in Oshtemo.

Coincidentally, around the same time as the rezoning discussion, a site plan for initial discussion was submitted to staff that entailed an Adult Care Center. After reviewing the code, staff found that it was unclear where and if this use was permitted. After discussion with legal counsel it was determined that this use was comparable to a Child Care Center and that a code amendment would be appropriate. For the sake of efficiency, staff has incorporated language to address deficiencies in the code regarding Adult Care Centers with the proposed Child Care Center code amendment discussion.

Proposal:

**Child Care Centers:** There are three different intensities of child care uses that are permitted by the code within Oshtemo: Family day care home (allowing up to 6 children), Group day care home (allowing up to 12 children), and Child Care Center (with no maximum number of children permitted via zoning). All three of these uses provide child care for periods less than 24 hours a day. Family day cares and Group day cares are permitted in all agricultural and residential zoning districts. This is appropriate as they are small in scale, are required to utilize private residential residences, and must preserve the residential character of the area. Child Care Centers are allowed in the R-3, Residence zoning district and higher. This is appropriate as they are more institutional in scale and nature. Child Care Centers are often equated to a commercial/office type use. Staff believes the current placement of these three types of child care uses is appropriate and would not recommend altering the current groupings or placements in the code.

However, the rezoning request that brought this topic to the forefront was unique as the site in question was a large church that has a private preschool. In this case the facility already has accepted characteristics that stand out from a standard low-density residential area: a large parking area, a large nonresidential building, obvious traffic flow, and the regular presence of multiple children onsite. One of the comments that residents in support of the rezoning kept bringing up was their desire to have one location where they could drop off

their children for the day. Parents that had children enrolled in the private preschool elaborated on how being able to also drop off their preschool age child at this same location would be advantageous to them. Given the nature of public and private schools, staff does not see a reason why schools could also not support a Child Care Center. With the scale of schools, their already providing services to children, site design/layout, general appropriateness in residential areas, and already established traffic patterns - allowing Child Care Centers at these sites as an accessory use is logical. The addition of a Child Care Center to a school would have little to no negative impact on the surrounding residences. The attached proposed text amendment would allow all private and public schools in Oshtemo to have Child Care Centers as an accessory use.

**Adult Care Centers:** Adult Day Care Centers are non-residential facilities, properly registered or licensed with the State, that supports the health, nutritional, social, and daily living needs of adults in a professionally staffed group setting for periods less than 24 hours a day. These facilities typically provide adults with transitional care and short-term rehabilitation following hospital discharge. Currently in the code the only area that lists Adult Care Centers as an allowed use is the - Neighborhood Overlay zone (Article 37). In this overlay “Child or Adult day care centers” are a special use. It should be noted that no areas of Oshtemo are currently part of this overlay (staff will do research on this at a later date). Adult Care Centers are comparable to Child Care Centers – the only real difference is that they are providing care for a different age group. Both planning staff and legal counsel recommend allowing Adult Care Centers as a primary use in the same zoning districts as Child Care Centers. The attached proposed text amendment does this.

**Other:** In addition to the above code amendments, staff recommends adding and amending some definitions in the code to help clarify what Child Care Centers and Adult Care Centers are. These proposed definitions are included in the attached proposed text amendment document.

Attached: Proposed Child and Adult Care Centers Text Amendment document

## Article 2 – Construction of Language and Definitions

Adult Care Center: a non-residential facility, properly registered or licensed with the State, that supports the health, nutritional, social, and daily living needs of adults in a professionally staffed group setting for periods less than 24 hours a day. These facilities typically provide adults with transitional care and short-term rehabilitation following hospital discharge.

**Child care center** - A facility, other than a private residence, properly registered or licensed under 1973 Public Act 116, as amended, receiving one or more ~~preschool or school-age~~ children for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two consecutive weeks per year. The facility is generally described as a child care center, day care center, day nursery, ~~preschool, nursery school, parent cooperative preschool~~, play group, or drop-in center. Child care center does not include any of the following:

- a. A Sunday school, a vacation bible school, or a religious instruction class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a two-month period.
- b. A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

School – an educational institution that is properly registered or licensed with the State.

## Article 5 – RR, Rural Residential

### 5.40 SPECIAL USES

---

- A. Golf courses, parks, and outdoor recreational areas.
- B. Use of existing buildings formerly utilized in the daily operation of a farm (on or before March 12, 2003) on a parcel that is no longer operated as a functioning farm, as defined in the Michigan Right to Farm Act, for a landscaping contractor business or large-item storage subject to a finding by the Building Official that said building is suitable for the proposed use. No outdoor storage of equipment or items such as snow plows, lawn mowers, trailers or boats may occur unless expressly approved during the Special Use and Site Plan review process.
- C. Public and private schools; **may have a Child Care Center as an accessory use.**
- D. Veterinarian clinics.
- E. Kennels, in unplatted areas, for the breeding, raising and/or boarding of dogs or cats.
- F. Shooting ranges and private clubs operating in connection therewith.
- G. Buildings and regulator stations for essential services.
- H. Group day care home.
- I. Temporary outdoor events (lasting more than one day).
- J. Bed and Breakfast Inns.
- K. Communication towers.

- L. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- M. Wind energy conversion systems.
- N. Agritourism, Category 2
- O. Agritourism, Category 3

## Article 7 – R2, Residence District

### 7.40 SPECIAL USES

---

- A. Golf courses, parks, and outdoor recreational areas.
- B. Buildings and regulator stations for essential services.
- C. Public and private schools; **may have a Child care center as an accessory use.**
- D. Group day care home.
- E. Temporary outdoor events (lasting more than one day).
- F. Communication towers.
- G. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- H. Wind energy conversion systems.

## Article 8 – R-3, Residence District

### 8.40 SPECIAL USES

---

- A. Three or four-family dwellings.
- B. Buildings and regulator stations for essential services.
- C. Golf courses, parks, and outdoor recreational areas.
- D. Office buildings.
- E. Veterinary, small animal clinics.
- F. Banks, credit unions, and savings and loan offices.
- G. Public and private schools.
- H. Child care centers **and Adult care centers.**
- I. Group day care home.
- J. Beauty parlors or barber shops.
- K. Temporary outdoor events (lasting more than one day).
- L. Communication towers.
- M. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- N. Wind energy conversion systems.
- O. Larger Facilities for Child and Adult Foster Care, including: Child Caring Institutions, Foster Family Group Home, Adult Foster Care Small Group Home, and Adult Foster Care Large Group Home.

## Article 9 – R-4, Residence District

### 9.20 PERMITTED USES

---

- A. Any permitted use in the "R-2" Residence District.
- B. Child care centers and Adult care centers, ~~nursing, handicapped, convalescent, senior citizens' and foster homes.~~
- C. Funeral homes.
- D. Accessory buildings and uses customarily incidental to the foregoing.
- E. Family day care home.
- F. Adult Foster Care Facility.
- G. Foster Family Home.
- H. ~~Nursing, convalescent, handicapped, or senior citizens' homes.~~

### 9.40 SPECIAL USES

---

- A. Private clubs, fraternities, sororities, lodges, except those of which the chief activity is a service customarily carried on as a business.
- B. Buildings and regulator stations for essential services.
- C. Golf courses, parks, and outdoor recreational areas.
- D. Public and private schools.
- E. Group day care home.
- F. Rehabilitation and/or redevelopment of a multiple-family legal nonconforming use where the existing density exceeds the density limitations of Section 48.100. This may not be construed as allowing an increase in density.
- G. Temporary outdoor events (lasting more than one day).
- H. Communication towers.
- I. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- J. Wind energy conversion systems.
- K. Larger Facilities for Child and Adult Foster Care, including: Child Caring Institutions, Foster Family Group Home, Adult Foster Care Small Group Home, and Adult Foster Care Large Group Home.

## Article 11 RC, Residential Conservation District

### 11.40 SPECIAL USES

---

- A. Clustered "hamlet" residential development for the purpose of conserving open space, preserving sensitive resources, and reducing impermeable surface area.
- B. Parks, equestrian trails, and outdoor recreational areas.
- C. Public and private schools; ~~libraries~~ may have a Child care center as an accessory use.
- D. Fire stations and other Township buildings.

- E. Buildings and regulator stations for essential services.
- F. Group day care home.
- G. Cemeteries, excluding crematories.
- H. Houses of worship.
- I. Communication towers.
- J. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- K. Wind energy conversion systems.
- L. **Libraries**

## Article 18, C Local Business District

### 18.40 SPECIAL USES

---

- A. Assembly and Convention Halls.
- B. Child care centers and **Adult care centers**.
- C. Funeral homes.
- D. Private clubs.
- E. Parks of ten acres or less in size, subject to the conditions and limitations set forth at Section [49.100](#) of this Ordinance.
- F. Nursing, convalescent, handicapped, or senior citizens' homes.
- G. Drive-in service window or drive-through services for businesses.
- H. Retail lumber yards.
- I. New and/or used car sales lots; recreational vehicle sales lots; mobile home sales lots outside of mobile home parks; farm machinery and other equipment sales lots; boat sales lots; and other businesses involving substantial outdoor sales or activities connected with retail sales.
- J. Crematories.
- K. Skating rinks, bowling alleys, indoor recreational facilities and health clubs.
- L. Filling stations, carwashes, public garages or service stations, excluding auto body and auto paint shops.
- M. Drive-in theatres.
- N. Buildings and regulator stations for essential services.
- O. Temporary outdoor events (lasting more than one day).
- P. Brewpub.
- Q. Microbrewery.
- R. Wine Tasting Room.
- S. Craft food and beverage production facility, limited to 8,000 square feet gross floor area.
- T. Communication towers.
- U. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- V. Private streets.

W. Wind energy conversion systems.

## Article 19 – VC, Village Commercial District

### 19.50 SPECIAL USES

---

- A. All new construction, additions, conversions of buildings to nonresidential use, and exterior facade changes other than routine maintenance.
- B. Outdoor sales or activities accessory to permitted retail uses.
- C. Filling stations, Mini-Food-Mart Stations, and auto glass repair shops, excluding body and engine repair and service garages.
- D. Pet shops, veterinarians.
- E. Child care centers ~~or adult day care centers~~ and Adult care centers.
- F. Public and Private Schools
- G. Indoor recreational facilities and health clubs.
- H. Drive-in service window or drive-through service for businesses, not to include restaurants.
- I. Other uses which are determined by the Planning Commission to be similar to those uses permitted in Section 19.20 through 19.40.
- J. Mixed uses allowing both residential and nonresidential uses within the same building.
- K. Buildings and regulator stations for essential services.
- L. Temporary outdoor events (lasting more than one day).
- M. Brewpub.
- N. Microbrewery.
- O. Wine tasting room.
- P. Craft food and beverage production facility, less than 8,000 square feet gross floor area.
- Q. Communication towers.
- R. Private streets.
- S. Wind energy conversion systems.

## Article 20 – BRP, Business and Research Park

### 20.40 SPECIAL USES

---

- A. Printing, lithographic, blueprinting and similar uses.
- B. Child care centers and Adult care centers.
- C. Banks, credit unions, and similar financial institutions with drive-through service windows.
- D. Conference center facilities.
- E. Solar, wind, and other renewable energy systems (refer to Section 49.290 regarding Wind Energy Conversion Systems).
- F. Temporary outdoor events (lasting more than one day).
- G. Drive through service and/or windows.

- H. Communication towers.
- I. Earth removal, quarrying, gravel processing, mining, related mineral extraction businesses, and landfill gas recovery processing facilities.
- J. Private streets.
- K. Wind energy conversion systems.

## Article 35 – 9<sup>th</sup> Street and West Main Overlay Zone

### 35.40 SPECIAL USES

---

#### A. Residential

The following uses may be located within the 9th Street Residential and the West Main Street Residential section of the Overlay District subject to Special Use approval:

1. Group day care home.
2. Residential planned unit development subject to [Article 41](#).
3. Golf courses, parks, and outdoor recreational areas.
4. Buildings and regulator stations for essential services.
5. Public and private schools.
6. Larger Facilities for Child and Adult Foster Care, including: Child Caring Institutions, Foster Family Group Home, Adult Foster Care Small Group Home, and Adult Foster Care Large Group Home.

#### B. Commercial

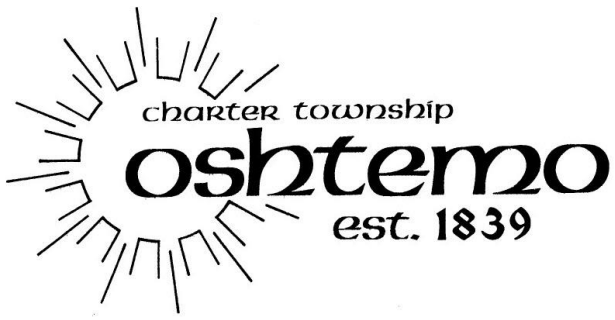
The following uses may be located within the 9th Street Commercial and the West Main Street Commercial section of the Overlay District subject to Special Use approval:

1. Assembly and Convention Halls.
2. Brewpub.
3. Buildings and regulator stations for essential services.
4. Child care centers and Adult care centers.
5. Commercial planned unit developments subject to [Article 41](#).
6. Craft food and beverage production facility.
7. Crematories.
8. Drive-in service window or drive-through service for businesses, not to include restaurants.
9. Funeral homes.
10. Golf courses, parks, and outdoor recreational areas.
11. Group day care home.
12. Hotels, motels.
13. Indoor theaters.
14. Microbrewery.
15. Nursing, convalescent, handicapped, assisted living, or senior citizens' homes.
16. Private clubs.



17. Public and private schools.
18. Skating rinks, bowling alleys, indoor recreational facilities and health clubs.
19. Temporary outdoor events.
20. Veterinary clinics.
21. Wine Tasting Room.
22. Temporary outdoor event (lasting more than one day)

This page has been intentionally left blank for printing purposes.



7275 W. MAIN STREET, KALAMAZOO, MI 49009  
 269-216-5220 Fax 375-7180 TDD 375-7198  
[www.oshtemo.org](http://www.oshtemo.org)

**Planning Commission**

**Second and Fourth\* Thursdays of every month @ 6PM**

**2021 Meeting Dates**

<i>2<sup>nd</sup> Thursday of the Month</i>	<i>4<sup>th</sup> Thursday of the Month</i>
1/14	1/28
2/11	2/25
3/11	3/25
4/8	4/29*
5/13	5/27
6/10	6/24
7/8	7/29*
8/12	8/26
9/9	9/30*
10/14	10/28
No meeting	11/18*
No meeting	12/16*
1/13/2022	1/27/2022

\*Dates shifted to avoid holidays or for consistency with the Development Schedule of Applications.