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www.oshtemo.org

**NOTICE
OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

REGULAR MEETING - VIRTUAL

(Refer to the www.oshtemo.org Home Page for Virtual Meeting Information, or page 3 of the packet)

**TUESDAY, MAY 26, 2020
3:00 p.m.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Approval of Minutes: April 28th, 2020
5. **Variance: Consumer Credit Union, 6699 W Main Street**
Universal Sign, on behalf of Consumer Credit Union, is requesting relief from the Zoning Ordinance in order to install a pole sign with 80 square feet of display area when only 60 square feet is allowed.
6. Public Comment
7. Other Updates and Business
8. 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), 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, 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 and it will be directed to the appropriate person.

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

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

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: 884 6246 2531**

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: **884 6246 2531#**

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.

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**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

DRAFT MINUTES OF A VIRTUAL MEETING HELD APRIL 28, 2020

Agenda

SITE PLAN: STADIUM AND 11TH STREETS

THE VERNON GROUP REQUESTED SITE PLAN APPROVAL TO CONSTRUCT A 18,500 SQUARE FOOT MEDICAL OFFICE BUILDING AT THE NORTHWEST CORNER OF STADIUM DRIVE AND SOUTH 11TH STREET.

VARIANCE: WINGARD, 3274 S. 6TH STREET

LOGAN WINGARD REQUESTED A 40-FOOT REDUCTION OF THE 70-FOOT REQUIRED FRONT SETBACK FROM THE 6TH STREET RIGHT-OF-WAY TO REPLACE AN OLD CARPORT THAT HAD TO BE DEMOLISHED.

VARIANCE: CONSUMER CREDIT UNION, 6699 W. MAIN STREET

UNIVERSAL SIGN, ON BEHALF OF CONSUMER CREDIT UNION, REQUESTED RELIEF FROM THE ZONING ORDINANCE IN ORDER TO INSTALL A POLE SIGN WITH 80 SQUARE FEET OF DISPLAY AREA WHEN ONLY 60 SQUARE FEET IS ALLOWED.

A virtual meeting of the Oshtemo Charter Township Zoning Board was held Tuesday, April 28, 2020, at approximately 3:00 p.m.

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

MEMBER ABSENT: Ollie Chambers

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, Ben Clark, Zoning Administrator, Josh Owens, Assistant to the Supervisor, and Martha Coash, Meeting Transcriptionist.

Guests present were three representatives for the request for the medical office site plan: Matthew Vernon, Jared VanderWeele, and Alex Frazier. Logan Wingard was present for the variance request for 3274 S. 6th Street.

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."

He read the procedures to be followed for virtual meetings from the “**Oshtemo Township Electronic Meeting Policy**” (4-14-2020) into the record:

Governor Gretchen Whitmer in response to the novel coronavirus (COVID-19) outbreak has declared a State of Emergency and issued an Executive Order temporarily suspending portions of the Michigan Open Meetings Act, MCL 15.261 et seq. requiring meetings of public bodies to be in a physical place open to the public and requiring the physical presence of members of the body.

The Township will continue to conduct public business in a manner permitting both the general public and members of the Township Board, Planning Commission, Zoning Board of Appeals (ZBA) and Downtown Development Authority (DDA) to participate by electronic means and shall do so following these rules:

Meetings Oshtemo Township public meetings may meet and conduct its regular, special and emergency meetings by electronic means using telephone conferencing or video conferencing technology without regard to the physical place and physical presence requirements of the Open Meetings Act (OMA), MCL 15.261 et seq. when the Governor has declared a statewide or local State of Emergency and has issued an Executive Order suspending provisions of the OMA. Public meetings will be held in compliance with the Governor’s Executive Order or any extension of the Executive Order by the Legislature. The Township Board may adopt rules governing the orderly conduct of electronic meetings while permitting the electronic attendance and participation of the public during the meeting.

An item on the Consent Agenda may be moved to the Regular Agenda for individual discussion and action at the request of any Board Member, or by anyone participating in the meeting. A member of the public desiring to move an item from the Consent Agenda to the Regular Agenda must so request when the Consent Agenda is introduced.

Public Comment During public meetings conducted electronically, members of the public attending the meeting, once recognized by the chair, may identify themselves for the record and whether they are a Township resident. Comments will be limited to four minutes for each speaker unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting per existing policy.

Public Comment on Non-Agenda Items

Chairperson Sikora determined there were no comments on non-agenda items.

APPROVAL OF THE MINUTES OF JANUARY 28, 2020

The Chair asked if there were any additions, deletions, or corrections to the minutes of January 28, 2020. He noted the Chair’s name was incorrectly listed under “Adjournment.”

Hearing no further comments, he asked for a motion.

Ms. Maxwell **made a motion** to approve the Minutes of January 28, 2020 as presented with the correction as noted. Ms. Smith **seconded the motion. The motion was approved unanimously by roll call vote.**

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

SITE PLAN: STADIUM AND 11TH STREETS
THE VERNON GROUP REQUESTED SITE PLAN APPROVAL TO CONSTRUCT A
18,500 SQUARE FOOT MEDICAL OFFICE BUILDING AT THE NORTHWEST
CORNER OF STADIUM DRIVE AND SOUTH 11TH STREET.

Ms. Lubbert said the applicant was requesting site plan approval for a new 18,500 square foot medical office building at the northwest corner of Stadium Drive and South 11th Street. The project site comprises three commercially-zoned parcels, with a combined area of just over 2.5 acres. Currently accommodating three single-family homes, the extant land use for the constituent parcels is legal non-conforming, and construction of a medical office building—a use permitted by right—will eliminate this legacy zoning issue.

On the project site plan, she said the proposed office building will be oriented towards the intersection with the parking area located northwest of the structure. Although the properties to the north are also zoned for commercial use, one of the parcels still accommodates a single-family home, and the office building's location close to the intersection should mitigate any visual impact for the dwelling on the adjacent property. The applicant is further protecting this property from disturbance by erecting a privacy fence along the project site's north property line, adjacent to the parking lot.

Ms. Lubbert explained the proposed use for the property—medical office—is permitted by right in the C: Local Business District zoning classification, but site plan approval from the Zoning Board of Appeals is required. Aside from any concerns explicitly noted in this report, the project site plan complies with all relevant requirements of the Township Zoning Ordinance. This includes observance of a minimum 50-foot setback from the north property line where the subject site abuts an existing residential use. The following items need to be corrected:

- Light limits from the building mounted fixtures illuminating the building entrance exceed the permissible six foot-candle limit. Photometric modeling in the affected area indicates readings as high seven foot-candles.
- The proposed pole height for the parking lot lighting needs to be annotated on the plan.
- The property address characters need to be relocated from the proposed freestanding signs onto the building itself.
- The three parcels that comprise the project site need to be combined.

Ms. Lubbert noted each of the three constituent parcels has a residential curb cut—two on S. 11th St and one on Stadium Drive. The applicant will be closing all existing driveways and reestablishing an appropriately designed non-residential curb cut on S. 11th St, near the project site's north property line. On site, the parking layout is composed of a simple circuit, properly designed and dimensioned to accommodate two-way vehicle movement and emergency vehicle access. The number of proposed parking spaces complies with the Zoning Ordinance.

Per the Township's non-motorized plan, the applicant will be installing a six-foot wide pedestrian path along the project site's S. 11th St. frontage. From this facility an ADA-compliant pedestrian connection to the building's entrance will be constructed. An improved concrete pad for the bus stop on S. 11th St. is also being installed by the applicant. The project's design engineer is coordinating this improvement with Kalamazoo County Metro Transit. Concurrent with this development project, the Township is installing a companion pedestrian path along Stadium Drive, and the two facilities will connect at the corner of Stadium Drive and S. 11th St. Furthermore, the applicant will be installing bicycle racks near the building entrance.

She reported that a landscaping plan was reviewed by Township staff and found to be in compliance with the Zoning Ordinance. No modifications to the plan were required.

The Township's engineering representative, Prein & Newhof, reviewed the project site plan for ADA compliance, appropriate stormwater management, and proper utility layout and design. Any initial deficiencies were corrected and no further changes are needed.

The Township Fire Marshal reviewed the site plan and requested the FDC be relocated adjacent to the on-site hydrant. He noted the Oshtemo Township Fire Department prefers the Stadium Drive driveway stay open, but this preference is not supported by Township ordinance or Road Commission of Kalamazoo County regulations. In this situation the latter two determinations prevail and the curb cut will be closed.

Ms. Lubbert said the remaining items noted to be corrected pose no threat to public health, safety, and welfare; the project site plan is substantially complete. Oshtemo Township Planning Department staff recommended approval of the site plan stipulating the following conditions to be resolved prior to the issuance of a building permit for the office building:

1. A Land Combination Application, unifying the three constituent parcels, shall be submitted to and approved by the Township.
2. An updated photometric plan shall be submitted to the Township for administrative review, annotating parking lot light pole heights and indicating that the identified foot-candle overage has been corrected.

3. Updated building elevation illustrations showing relocation of the property address to the exterior of the building shall be submitted to the Township for administrative review.
4. An amended site plan shall be submitted to the Township, indicating that the FDC has been relocated adjacent to the on-site hydrant.

Chairperson Sikora thanked Ms. Lubbert for her report and asked whether Board members had any questions.

Ms. Bell asked whether zoning ordinance requires LED lights be installed.

Mr. Clark said a maximum amount of lumens are stipulated along with a few other metrics. LED lights are not mandated, but they are common. This project will employ LED lighting.

Hearing no further questions, Chairperson Sikora asked whether the applicant wished to speak.

Mr. Matt Vernon, The Vernon Group, thanked the Board for considering this project. If approved, the plan is to begin construction as soon as possible after construction restrictions are lifted by the Governor. They are excited to begin and feel the building will be a great addition to the Township. The four conditions recommended by Staff are minor and will not be an issue for compliance. The “flex concept” building will look fantastic and will include infrastructure data with a hub that will be brought to the corner that will allow many individual businesses to reside in that location.

Attorney Porter said the project will eliminate a longstanding eyesore.

Ms. Maxwell asked if there is a specific hospital connected to the plan.

Mr. Vernon said one medical facility will occupy one end of the building. The remainder can be utilized by any profession. 11 x 11 foot offices or multiples with movable partitions can be grouped together to allow flexibility depending upon need.

Ms. Bell asked if he had any comment on the increase in traffic in this area, already a difficult traffic situation, and wondered if there would be an increase to four lanes.

Mr. Vernon noted the traffic flow could be altered by MDOT if the project is approved; he would encourage turning north out of the parking lot, but felt the problem is generally during rush hour. He noted there is a dedicated turn lane east on Stadium off 11th Street.

Mr. Clark said the Road Commission was engaged during early development of the project as well as Kalamazoo County Metro Transit. The Road Commission will review the driveway permit before it is issued and will take care of future issues.

Mr. Alex Frazier, Engineer with Hurley-Stewart, indicated the Road Commission will designate the driveway be pushed as far away from Stadium Drive as possible to maximize separation to improve traffic flow and emergency access. They will evaluate what can be handled on 11th Street.

Chairperson Sikora asked if there were any questions from the Board.

Mr. Antosz asked how many parking places would be on site.

Mr. Frazier said there would be 83; Mr. Clark noted that is the amount calculated according to ordinance.

The Chair opened the meeting to public comment. As there were no public comments, he closed the public hearing and moved to board discussion.

Both Ms. Maxwell and Ms. Bell felt this was a great project and indicated their support.

Mr. Gould noted the corner is an eyesore and looked forward to seeing it improved. He commended the Vernon Group for their vision.

Ms. Bell **made a motion** to approve the site plan to construct an 18,500 square foot medical office building at the northwest corner of Stadium Drive and South 11th Street as requested with the following four conditions recommended by staff to be resolved prior to the issuance of a building permit for the office building:

1. A Land Combination Application, unifying the three constituent parcels, shall be submitted to and approved by the Township.
2. An updated photometric plan shall be submitted to the Township for administrative review, annotating parking lot light pole heights and indicating that the identified foot-candle overage has been corrected.
3. Updated building elevation illustrations showing relocation of the property address to the exterior of the building shall be submitted to the Township for administrative review.
4. An amended site plan shall be submitted to the Township, indicating that the FDC has been relocated adjacent to the on-site hydrant.

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

Chairperson Sikora moved to the next item on the agenda.

VARIANCE: WINGARD, 3274 S. 6th STREET
LOGAN WINGARD REQUESTED A 40-FOOT REDUCTION OF THE 70-FOOT
REQUIRED FRONT SETBACK FROM THE 6TH STREET RIGHT-OF-WAY TO
REPLACE AN OLD CARPORT THAT HAD TO BE DEMOLISHED.

Ms. Lubbart said the applicant is requesting a variance for relief from Section 50.60 of the Zoning Ordinance which governs setbacks for structures in residential zoning districts. On the subject property, the applicant wishes to replace an existing carport located approximately 40 feet from the public right-of-way with a similar structure in the same location. Front setbacks along S. 6th Street, that roadway being one of the Township's Designated Highways, is 70 feet from the right-of-way rather than the customary 30 feet.

In order to place the new carport in the same location of the preexisting one, the applicant requested a variance to allow a 40-foot front setback from the public right-of-way instead of the required 70 feet. This decreased distance is where the home is located, as are numerous other legal non-conforming structures along this portion of S. 6th Street. As well as improving the property in a way that matches its previous layout, the applicant also attests there are numerous site restrictions that make placing the carport in compliance with the 70-foot setback unreasonably burdensome. Following are the applicant's rationale for requesting the variance:

- Without a carport in this location, reasonable use of the driveway will be compromised due to nearby trees that occasionally drop branches that may lead to vehicle damage.
- Immediately west of the carport location there is a marked upslope and continuing the driveway up this grade would require significant regrading of the land.
- Allowing the carport in this location will not compromise public health, safety, and welfare.
- The old, legal non-conforming carport was dilapidated and had to be replaced.
- Placement of a carport in compliance with the extant 70-foot setback is further complicated due to the location of the septic system and a pole barn in the back yard. Much of the back yard also experiences periods of standing water and is composed of unstable soil. Additional earth changes and possibly engineering may be required to adequately prepare another vehicle parking area.

Ms. Lubbart explained 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 analyzed the request against these principles and Ms. Lubbert provided the following information to the Zoning Board of Appeals.

The subject property's topography does have some significant slopes, one of which begins right behind the carport location—Township resources show an eight foot rise between the driveway and the back yard. While regrading can be done to establish a usable driveway to the back yard, earth works could affect the house and septic system. New soils may also need to be brought in to provide a suitable base on which to park cars and appropriately anchor the carport.

Given the amount of earth changes that could be required to soften the grade at the end of the existing driveway, mitigate impacts on the septic system, and establish a suitable surface to relocate the carport to, it could be interpreted that conformance is unnecessarily burdensome. Although the property modifications needed to accommodate a new carport in accordance with current setbacks may be burdensome, such an accessory structure is discretionary, and overall reasonable use of the property does remain without such.

In researching past Zoning Board of Appeals decisions regarding setback relief for accessory and other residential buildings, Planning Department staff identified and provided decisions on four similar cases to provide past precedent decisions. Ms. Lubbert focused on one:

Schaap, 1640 S 4th St, 8/23/2016: Citing drastic topography changes as well as the existing single-family home's location approximately 30 feet from the S. 4th Street right-of-way, the Zoning Board of Appeals approved the applicant's variance request to build an accessory building with a 30-foot front setback, relief of 40 feet from the standard 70-foot front setback for many designated highways in the Township such as S. 4th Street.

She noted construction of a carport is discretionary, and vehicles can be parked in the driveway but when the home and original carport were constructed, the front setback affecting this parcel was different and now extends onto the property 30 feet further. Also, the applicant did not create the site conditions noted herein, so it is reasonable to say that the hardship is not self-created.

In addition, many of the existing structures along this stretch of S. 6th Street, including the single-family home and the old carport on the subject property, were constructed to previous setbacks that allowed building much closer the road than current regulations do. Allowing a new carport to replace the demolished legal non-conforming structure will not compromise public health, safety, and welfare.

Ms. Lubbert said the chosen motion should include the findings of fact relevant to the requested variance. Based on staff analysis, she presented the following findings of fact:

- Support of variance approval
 - The property experiences unique, challenging topography, with a marked eight-foot change in elevation between the driveway in the front yard and the grade of the back yard—the only area the carport can be moved to in order to comply with the minimum front setback.
 - Further obstructions to relocating the carport in compliance with the 70-foot front setback include the locations of the septic system and a preexisting pole barn further back on the property.
 - Past ZBA decisions granting variances in similar situations has established precedence.
- Support of variance denial
 - Without relief, the property can still accommodate a single-family home, as allowed per the Zoning Ordinance
 - A carport is discretionary; the applicant can still park cars in the driveway.

She indicated possible motions regarding the applicant's request to consider should include:

1. Motion to approve. Based on the findings of fact discussed in this memo, including the presence of challenging topography, existing property features in the back yard, and past precedence, motion to approve the variance request, allowing the applicant to locate a new carport 40 feet from the S 6th Street right-of-way; a setback reduction of 30 feet.

If the ZBA 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.

2. Motion to deny: Reasonable use of the property is possible under the RR: Rural Residential zoning district allowances for a single-family home.

Chairperson Sikora thanked Ms. Lubbert for her presentation and asked whether Board Members had questions.

He asked whether staff knows for sure that the septic tank is behind the house.

Mr. Clark said staff took the applicant's word for the tank location.

The Chair asked if the house is also non-conforming regarding set back and noted the topography drop-off is not shown on the documents provided.

Mr. Clark said the house is non-conforming, as are numerous other homes in that area that predate current regulations. He said there is no visual for the drop-off, but drop-off to the south and west was confirmed by digital means. It is common to have a steep embankment on that stretch of road.

Ms. Bell asked how the project was brought to the Township's attention.

Mr. Clark indicated the old carport was demolished. Some misunderstanding occurred between the Township and the applicant, with the result that no permit was granted before the new carport was erected. Mr. Suwarsky, Ordinance Enforcement, determined a violation had occurred. Unless the variance is granted, the new structure will have to be removed.

Ms. Lubbert explained that situation was not something that should be considered in board deliberations.

Ms. Maxwell said she lives on S. 6th Street and that she would not want to park on that street without a carport as lots of branches fall down there.

Ms. Smith wondered if this could be a grandfathered situation.

Mr. Clark said the old carport was presumably non-conforming, but once non-conforming goes away upon demolition, current ordinance setbacks must be complied with or relief granted.

Hearing no more questions, the Chair asked whether the applicant wished to speak.

Ms. Logan Wingard, 3274 S. 6th St, thanked the Board for considering her request and noted she has experienced damage to her vehicles since the old carport was removed. She noted the location is the only place that will work on her property and explained it is a 2-car structure, made of steel which replaced an old wooden structure. The new carport is sturdy, stable and much more attractive than the previous one. She did not realize there had been a change in the ordinance when it was constructed.

Chairperson Sikora determined no one from the public was present to comment and moved to Board Discussion.

The Chair commented it would be very difficult to accommodate the carport to meet current ordinance requirements, if it were necessary to move it.

Ms. Bell said if a legally non-conforming structure burned down it could be replaced in the same location. There have been major changes in set-back rules in residential areas and it is understandable that someone might not realize they needed to pursue approval when replacing a structure in the same place. She said she would gladly support this variance approval.

Mr. Clark clarified that if at least 50% of the value of a non-conforming structure is lost in a fire, it has to be fully demolished and the replacement must meet current ordinance.

Ms. Maxwell **made a motion** to approve the variance as requested based on the following findings of fact:

- The property experiences unique, challenging topography, with a marked eight-foot change in elevation between the driveway in the front yard and the grade of the back yard—the only area the carport can be moved to in order to comply with the minimum front setback.
- Further obstructions to relocating the carport in compliance with the 70-foot front setback include the locations of the septic system and a preexisting pole barn further back on the property.
- Past ZBA decisions granting variances in similar situations has established precedence.

In addition, the condition suggested by Staff requiring the property owner to complete the building permit process via the Southwest Michigan Building Authority must be met. Ms. Bell **seconded the motion. The motion was approved unanimously by roll call vote.**

**VARIANCE: CONSUMER CREDIT UNION, 6699 W. MAIN STREET
UNIVERSAL SIGN, ON BEHALF OF CONSUMER CREDIT UNION, REQUESTED
RELIEF FROM THE ZONING ORDINANCE IN ORDER TO INSTALL A POLE SIGN
WITH 80 SQUARE FEET OF DISPLAY AREA WHEN ONLY 60 SQUARE FEET IS
ALLOWED.**

Ms. Lubbert indicated the applicant wished to postpone consideration of this item until a meeting could be conducted in person.

There was discussion regarding whether the date should be set in June or May for timely action and whether additional posting costs could/should be passed on to the applicant if this item were tabled to a date certain and the Governor's orders prohibiting in person meetings was still in effect at the agreed upon date.

Mrs. Maxwell **made a motion** to table consideration of this item until the June 26, 2020 regular board meeting. No one seconded the motion. The **motion died for lack of a second.**

Attorney Porter noted if the meeting is set for the regularly scheduled May 26 meeting but needs to be rescheduled again due to the Governor's order, the applicant can choose to participate in a virtual meeting on May 26, or will be asked for additional funds to pay for public notice for an in person meeting at a later date.

Mrs. Maxwell **made a motion** to table consideration of this item until the May 26, 2020 regular board meeting. Ms. Smith **seconded the motion**. **The motion was approved unanimously by roll call vote.**

Public Comments

Chairperson Sikora determined there no one wished to comment and moved to the next item on the agenda.

Other Updates and Business

Ms. Lubbert congratulated the group on holding their first Zoom meeting and indicated the May 26 meeting would likely also be a virtual one.

Chairperson Sikora thanked everyone for their participation and asked that if anyone had suggestions for a smoother process they should share it for consideration.

Ms. Smith requested paper copies of meeting materials which would help with forming concise motions for approval or denial.

Ms. Bell wondered if there might be a way to retrieve printed meeting packets from the Township office at an agreed upon time. She prefers paper in front of her but would rather not have to print it, noting that packets can consist of many pages.

Ms. Lubbert thought packets might be able to be picked up from the Township's drop box.

Ms. Bell asked that staff discuss whether that can be done.

Adjournment

Chairperson Sikora noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, he adjourned the meeting at approximately 4:10 p.m.

Minutes prepared:
April 29, 2020

Minutes approved:
_____, 2020

April 22nd, 2020



To: Zoning Board of Appeals
From: Iris Lubbert, Planning Director
Mtg Date: May 26th, 2020
Applicant: Universal Sign, Inc
Owner: Consumers Credit Union
Property: 6699 W Main Street, parcel number 05-14-330-012
Zoning: C: Local Business District

Application Overview

The applicant is requesting relief from Section 55.80 of the Zoning Ordinance, which governs the area, type, height, and numbers of signs allowed for a commercial or office use, in order to replace an existing 20 foot tall, 60 square foot Consumers Credit Union pylon sign along West Main Street with a 19 foot tall, 80 square foot pylon sign. Section 55.80 of the Zoning Ordinance allows individual commercial establishments to have a maximum pole sign area of 60 square feet and height of 20 feet. The applicant is requesting this variance for an additional 20 square feet in sign area and argues that a variance is warranted because of the following three existing conditions unique to this site:

- the MDOT clear vision triangle at the corner of West Main and N 9th Street;
- the Consumers Energy easement in which no signs or other structures are allowed which forces this sign to be set back further than the Township's minimum requirement;
- the drastic elevation changes from the road.

In their submitted letter of intent, attached to this staff report, the applicant reasons that: "by allowing the sign to be 80 square feet it will allow the sign to appear similar in size to neighboring signs that are smaller but are set closer to the road. The larger pylon size will offset the inequality that the larger set back creates as the sign is forced to set back further from the road. The current sign is obscured from view when travelling west by neighboring vegetation and the Walgreens pylon which is located much closer to the road".

Standards of Review

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.
- If granted, the spirit of the ordinance is observed, and public safety and welfare secured.

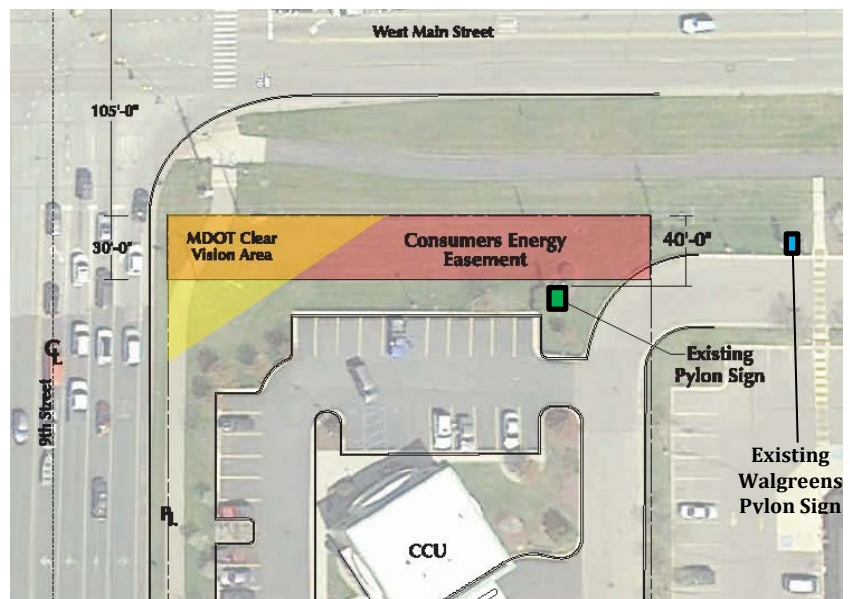
Staff Analysis

The Zoning Board Appeals (ZBA) is required by law to consider the five criteria, and only the five criteria, outlined by the Michigan Courts when deciding on an application for a nonuse variance. For the Board's use and reference please see staff's analysis below of the proposal against these criteria.

Criteria: *Unique Physical Circumstances*

Are there unique physical limitations or conditions which prevent compliance?

As illustrated in the overhead map to the right, the property under consideration does have the two placement restrictions noted by the applicant: the MDOT clear vision triangle (highlighted in yellow) and the Consumers Energy Easement (highlighted in red). Both of these restrictions force the placement of a sign further back creating a visual disadvantage for signage for this lot compared to neighboring properties. For example, the existing Walgreens pylon sign, noted in blue, is located about 18 feet closer to the road than the Consumer Credit Union's sign, noted in green.



The applicant also notes that there are elevation changes at this location that present a unique challenge for the site. Google images, see below, does show a small dip in elevation, according to Township resources there is about a three foot difference between the elevation of the center of the road and the base of the sign, circled.



Criteria: Conformance Unnecessarily Burdensome

Are reasonable options for compliance available? Does reasonable use of the property exist with denial of the variance?

Consumers Credit Union currently has a freestanding sign at this location that meets the Ordinance requirements. The existing sign size is the same as other existing signs in the area. It can be argued that conformance is not unnecessarily burdensome, and denial of the variance would not take away from the reasonable use of the property.

Criteria: 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).

In researching past Zoning Board of Appeals decisions regarding sign size relief for commercial uses, Planning Department staff identified the following two cases that may help the ZBA consider past precedence:

1. West Main Mall, Parcel # 3905-13-430-036, 4/09/2004: The applicant requested a sign deviation to allow an increase in the sign area and height for a free-standing sign on West Main Street to service a multi-tenant commercial center. The applicant requested to increase the total height of the existing sign from 25 feet to 30 feet, and to expand the sign area by an additional 67 square feet. Based on variances approved in the late 1990's for West Century Center and Maple Hill Mall, the Zoning Board of Appeals approved the request to allow the applicant the same larger sign square footage that was permitted to his competitors. The property's limited visibility from West Main Street was also considered a reason for approval.
2. Value Place Hotel, 1647 South 11th Street, 10/24/2006: The applicant requested a sign deviation to allow the proposed freestanding and wall signs to exceed the Ordinance's height and sign area limitations. The code permitted a 60 square foot free-standing sign with a height of 20 feet for a hotel/motel. The applicant's request was for a 250 square foot and 30 foot tall freestanding sign. Recognizing that larger signs in the area outdated the Ordinance and the property's elevation in relation to the interstate, the Zoning Board of Appeals did not grant the request as made but approved to allow an increase to 105 square feet so the sign could be more compatible with existing signs in the area. The request to allow an increase in the freestanding sign's height was denied as well as the request to increase the size of the wall signs.

Criteria: Self-Created Hardship

Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

The Consumers Credit Union at 6699 W Main Street was built in 2005. The Consumers Energy Easement was acquired by the Consumers Tower Company in 1929 according to the County Clerk's records. The applicant did not create the site condition, so it is reasonable to say that the hardship is not self-created.

Criteria: Public Safety and Welfare

If granted, will the spirit of the ordinance be observed, and public safety and welfare secured?

Article 55, Signs And Billboards of the Zoning Ordinance was adopted to regulate the type, number, physical dimensions, erection, placement, and maintenance of signs within the Township. Section 55.10 outlines the various intents that these requirements were established around:

- A. Promote the public peace, health, and safety of residents and visitors;
- B. Protect the natural beauty and distinctive character of Oshtemo Charter Township;
- C. Protect commercial districts from visual chaos and clutter;
- D. Provide an environment which fosters growth and development of business;
- E. Protect property values;
- F. Eliminate distractions which are hazardous to motorists and pedestrians;
- G. Protect the public's ability to identify establishments and premises;
- H. Protect the public's interest in public buildings, streets, roads and highways and open spaces; and
- I. Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

Through reviewing the outlined intentions of the code and considering the request at hand, it can be argued that approving this request would be in keeping with the intent of the Ordinance. Due to a unique easement created in 1929, the signage for this property is forced to be set back further than other similar signs in the Township. In the spirit of promoting development, keeping a balance in allowing property owners to advertise and the public to identify establishments, permitting a slightly larger sign to help offset the locational disadvantage could be deemed reasonable. Approving this request would not compromise public health, safety, or welfare.

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 staff analysis, the following findings of fact are presented:

- Support of variance approval:
 - The property under consideration has a unique easement that forces any signage or structures to be placed further back from the road than other similar properties within the Township. This is not a self-created hardship.
 - There is precedence that variances have been granted to allow for increased signage area to permit a business to compete fairly with other businesses in the area.
 - Approving this request would not compromise public health, safety, or welfare.
- Support of variance denial:
 - Without relief, the property can continue to advertise its use as it has in the past. Conformance with the Zoning Ordinance is not unnecessarily burdensome.

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

1. Approve the applicant's request based on the findings of fact discussed in this memo, **motion to approve the variance request**, allowing the applicant to increase the square footage of the sign to 80 square feet; a sign deviation increase of 20 square feet.

If the ZBA 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 and the sign permit process via the Township Planning & Zoning Department.

2. **Motion to deny the variance request** because reasonable use of the property is possible under the current Ordinance standards.

Thank you.

Attachments: Application and Applicant's statement
Aerial maps
Images of proposed sign size in relation to surroundings (*please note that these images are meant to show size and not a final representation of sign design*).

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

PLEASE PRINT

PROJECT NAME & ADDRESS Consumers Credit Union - 6699 W. Main St.

PLANNING & ZONING APPLICATION

Applicant Name : Jack Vos
Company Universal Sign, Inc.
Address 5001 FalconView Ave., SE
Grand Rapids, MI 49512
E-mail jackv@universalsignsystems.com
Telephone (616)540-1166 Fax (616)554-9922
Interest in Property Sign Contractor

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

Fee Amount _____
Escrow Amount _____

OWNER*:

Name Consumers Credit Union
Address PO Box 525
Oshtemo, MI 49077
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 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 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 checked="" type="checkbox"/> Sign Deviation-1080 |
| <input type="checkbox"/> Accessory Building Review-1083 | <input type="checkbox"/> Other: _____ |

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): _____

Consumers Credit Union is requesting a variance to allow a larger pylon sign.

May 19, 2020

Oshtemo Charter Township
Zoning Board of Appeals
7275 West Main Street
Kalamazoo, MI 49009-9334

RE: Consumers Credit Union
6699 West Main Street

Dear Board of Appeals Member:

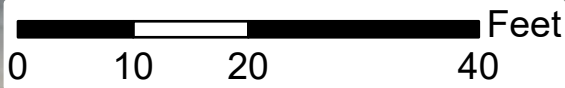
Consumers Credit Union is requesting a variance to allow a larger pylon sign. The ordinance would allow a 60 square foot sign, at 20' tall. Due to three unique existing conditions, they are requesting a 80 square foot pylon, at 19' tall. The existing conditions unique to this site are the drastic elevation changes from the road, the existing MDOT ROW on the corner, and the Consumers Energy easement which forces this sign to be set back further than any of the other neighboring signs. This variance will do substantial justice to Consumers Credit Union, by allowing the sign to be 80 square feet it will allow the sign to appear similar in size to neighboring signs that are smaller but are set closer to the road. The larger pylon size will offset the inequality that the larger set back creates as the sign is forced to set back further from the road. The current sign is obscured from view when travelling west by neighboring vegetation and the Walgreens pylon which is located much closer to the road.

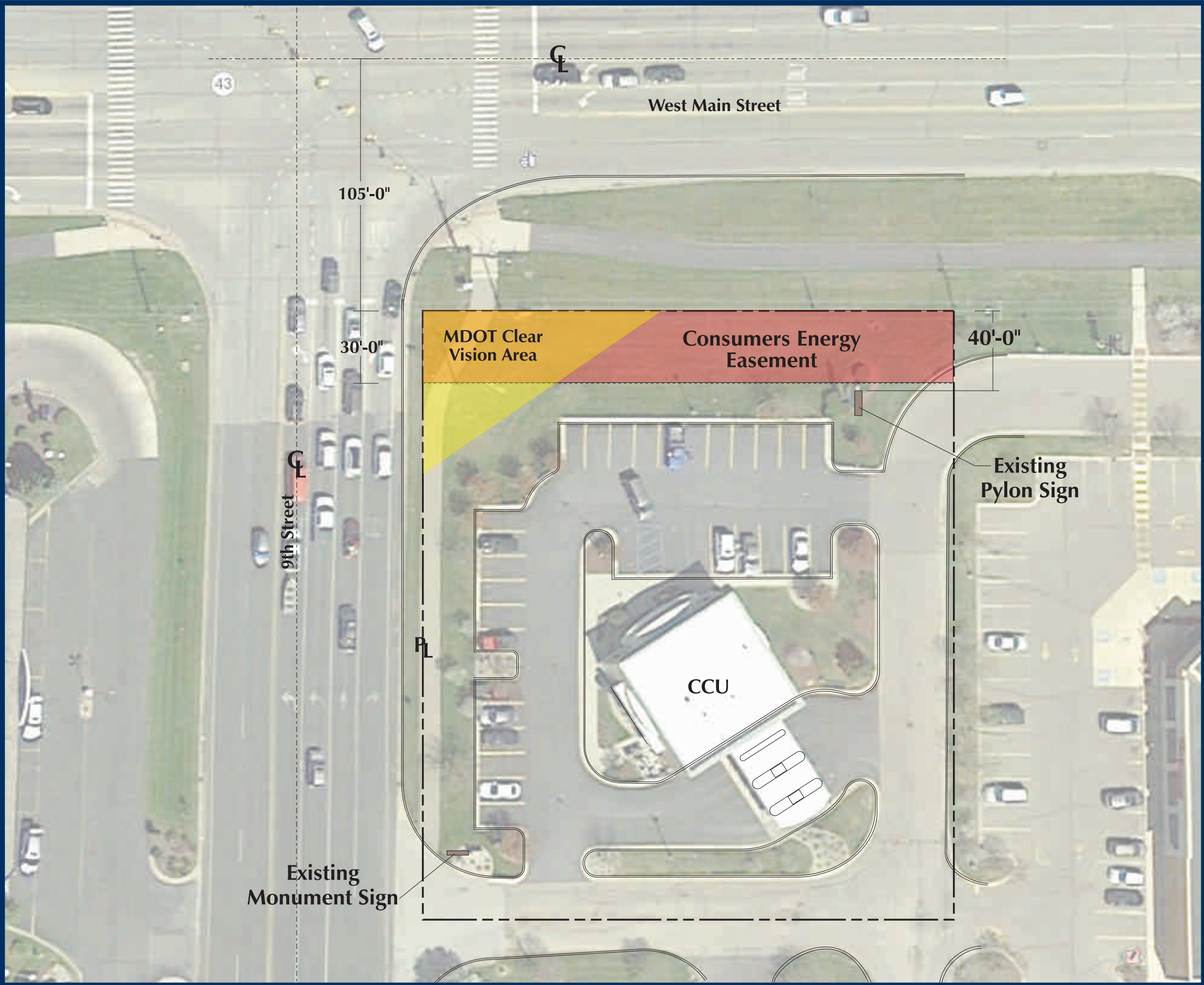
The need to make the sign larger so it appears similar in size to the neighboring signs is not self-created but is unique to the properties (3) unique conditions; elevation from road, MDOT ROW and Consumers Energy easement. The granting of this variance to allow the sign to be larger will allow Consumers Credit Union to be properly identified to assure that the branch can be easily identified and egressed safely.

Thank you for your consideration on this matter.

Kind Regards,

Jack Vos





Consumers Credit Union — 6699 W. Main St., Kalamazoo, MI 49009

Project:

Location:

Date: **3.5.20 B**

Revision:

A _____

B _____

C _____

D _____

E _____

F _____

G _____

H _____

Approval:

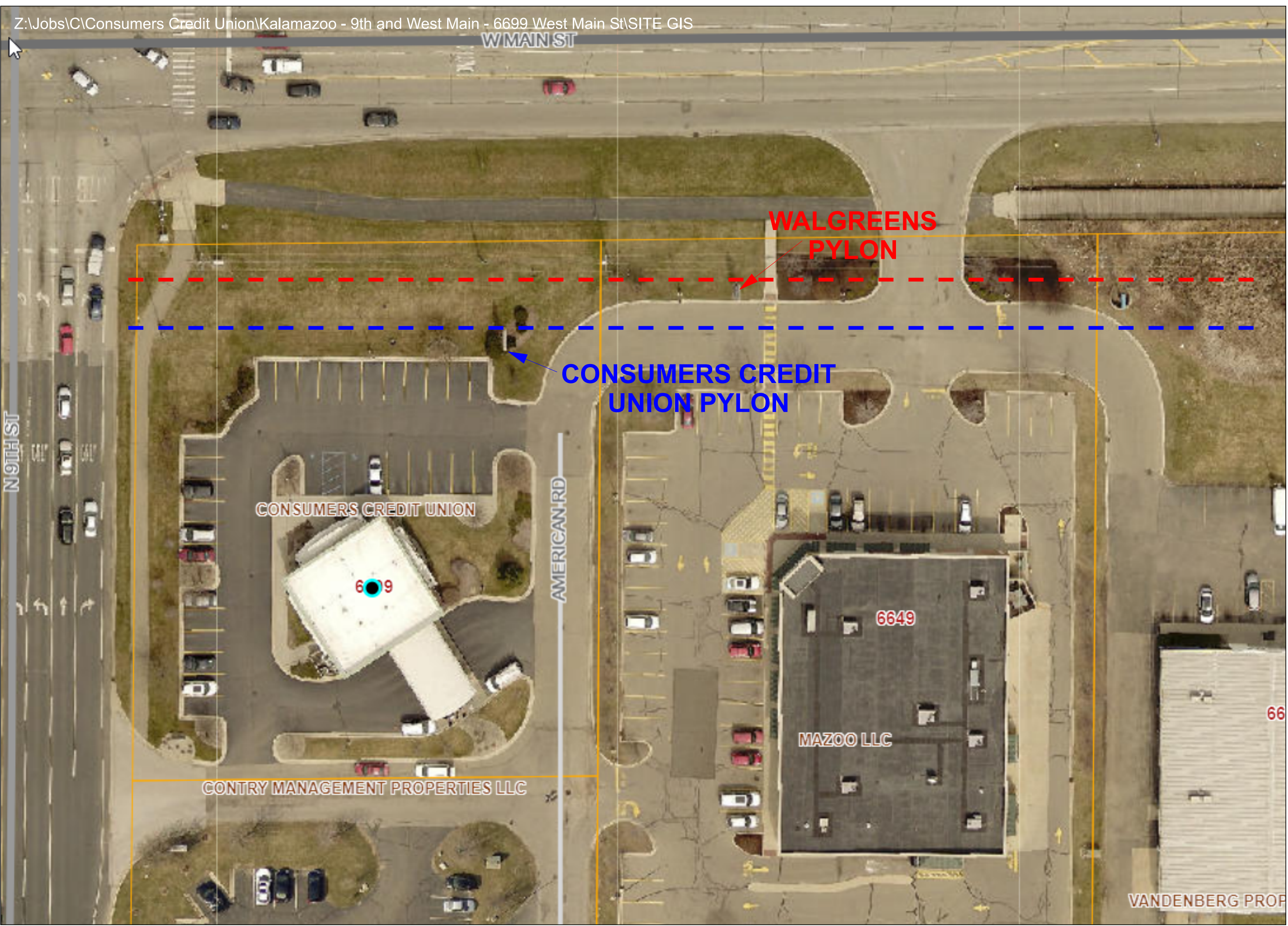
Name: _____

Sales: **JV**

USS Logo Yes No

Notes:





Project:

Location:

Date: 3.5.20 B

- Revision:
- A
 - B
 - C
 - D
 - E
 - F
 - G
 - H

Approval:

Name:

Sales: JV

USS Logo Yes No

Notes:

Notes section with multiple horizontal lines for text entry.


UNIVERSAL
SIGN SYSTEMS
5001 Falcon View SE, Grand Rapids MI 49512
www.universalsignsystems.com
Ph 616.554.9999 Fx 616.554.9922

NEW SIGN IN SAME LOCATION DUE TO CONSUMERS EASMENT. SIGN SET-BACK PLACES SIGN BACK FARTHER BEHIND OTHER SIGNS.



9th and West Main - 6699 West Main St

Project: _____
Location: _____

Date: 3.5.20 B
Revision: _____
A _____
B _____
C _____
D _____
E _____
F _____
G _____
H _____

Approval: _____
Name: _____
Sales: **JV**
USS Logo Yes No

Notes:

NEW SIGN IN SAME LOCATION DUE TO CONSUMERS EASMENT. SIGN SET-BACK PLACES SIGN BACK FARTHER BEHIND OTHER SIGNS.



9th and West Main - 6699 West Main St

Project: _____

Location: _____

Date: 3.5.20 B

Revision:

A _____

B _____

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E _____

F _____

G _____

H _____

Approval:

Name: _____

Sales: **JV**

USS Logo Yes No

Notes:
