

**Zoning Board of Appeals  
January 27, 2021 Regular Meeting**

**STAFF REPORT**

**Subject: ZBA 20-035; 416 West Huron**

**Summary:**

West Huron Properties, LLC, property owners, are requesting a variance from planting two required street trees along West Huron due to the location of the Allen Creek Drain. The Washtenaw County Water Resources Commission (WCWRC) prohibits the planting of trees directly above a storm drain. Section 5.20.10(B) requires one street tree of the minimum size and species meeting City standards shall be provided for every 45 linear feet of public street right-of-way abutting a site plan site. The property is zoned D2, Downtown Interface District.

**Background:**

The subject property is located on the north side of West Huron, east of Chapin.

**Description:**

The site currently contains a 96-vehicle parking lot that is approximately half gravel surface and half asphalt. The parking lot is in very poor condition and the owner would like to re-construct the parking lot and formalize the vehicular use area with required landscaping elements and improved circulation. The existing parking area does not contain any landscape islands and encroaches into the adjacent railroad ROW. This encroachment will be removed and restored with vegetation. Impervious surface will be reduced overall. There are no trees being removed or affected by the proposed project.

The reconstructed parking lot will contain 75 vehicle parking spaces and 4 new Class C bicycle parking spaces. The parcel is located within the DDA district which does require a minimum number of parking spaces.

The Washtenaw County Water Resources Commission (WCWRC) reviewed the site plan because of the project location and the existing storm drains that lead directly to the Allen Creek Drain below the site.

The WCWRC prohibits planting of trees directly over the storm drain or within that easement. While the petitioner will be providing the required area for interior landscape islands and the buffer area along Huron, there will be no trees planted.

The zoning variance is being requested to address the code requirement for street tree plantings. The subject site requires five street trees and three are currently existing and will remain. The variance request would cover the requirement for the additional two trees

required. These trees are not able to be planted due to the location of the Allen Creek Drain.

The Planning Commission approved the project subject to the variance for street trees being granted by the ZBA. Staff supports the variance request which is required due to the WCWRC restrictions.

### **Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5.29.12, Application of the Variance Power from the UDC. The following criteria shall apply:

- (a). ***That the practical difficulties are exceptional and peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.***
- The variance request is a direct result of the Allen Creek drain location that runs underneath the subject site. This is not a common occurrence in the City.
- (b). ***That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***
- The approved site plan brings all other landscape requirements up to code, including all interior landscape islands. There are currently three street trees located along Huron. This variance is only requested for the area directly above the Drain.
- (c). ***That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the Practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.***
- As mentioned above, the approved site plan will bring all other aspects of the site landscaping into compliance with current City Codes. The new landscaping includes a landscape buffer adjacent to the residential uses on the west side of the site. The rights of surrounding property owners would not be impeded with this variance as it is along West Huron and three additional street trees are currently planted.

**(d). That the conditions and circumstances on which the variance request is based shall not be a self-imposed practical difficulty.**

- This is not a self-imposed difficulty. The variance request is based on the prohibition of trees over the Allen Creek Drain by the WCWRC.

**(e). A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.**

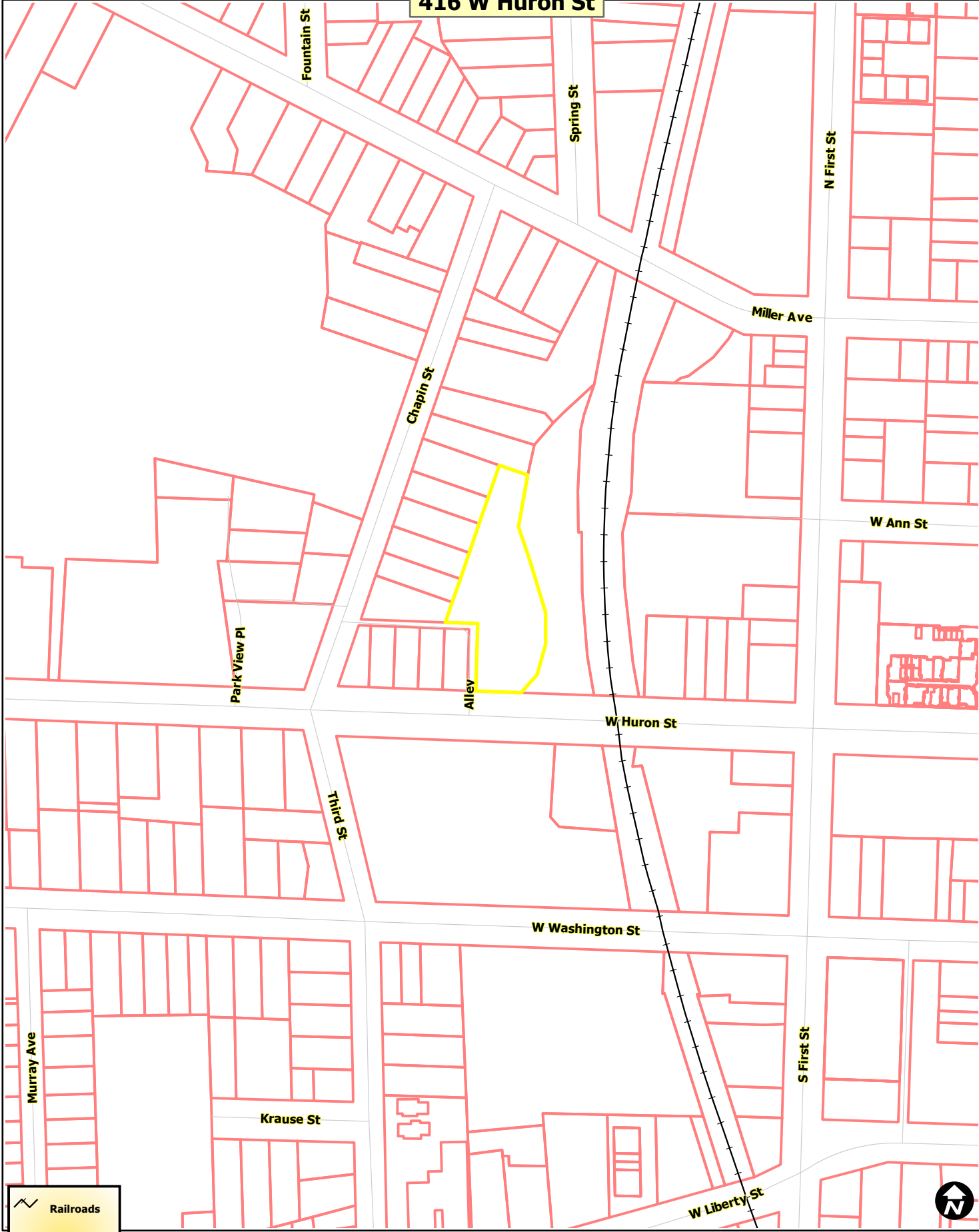
- All additional landscape requirements have been met, the street frontage would require a total of five trees and there are three currently existing. The variance request is for two trees that would be locate directly above the drain.




Respectfully submitted,



**Matt Kowalski**  
**City Planner**

416 W Huron St



-  Railroads
-  Huron River
-  Tax Parcels



Map date: 1/4/2021  
 Any aerial imagery is circa 2020  
 unless otherwise noted  
 Terms of use: [www.a2gov.org/terms](http://www.a2gov.org/terms)

416 W Huron St



- Railroads
- Huron River
- Tax Parcels



Map date: 1/4/2021  
Any aerial imagery is circa 2020 unless otherwise noted  
Terms of use: [www.a2gov.org/terms](http://www.a2gov.org/terms)






416 W Huron St

Chapin St

Alley

W Huron St

-  Railroads
-  Huron River
-  Tax Parcels



Map date: 1/4/2021  
 Any aerial imagery is circa 2020  
 unless otherwise noted  
 Terms of use: [www.a2gov.org/terms](http://www.a2gov.org/terms)





# ZONING BOARD OF APPEALS APPLICATION

City of Ann Arbor Planning Services

City Hall: 301 E Huron Street Ann Arbor, MI 48107-8647

Phone: 734-794-6265 Fax: 734-794-8460 Email: [planning@a2gov.org](mailto:planning@a2gov.org)

## PROPERTY INFORMATION

ADDRESS OF PROPERTY 416 W Huron Street		ZIP CODE 48103
ZONING CLASSIFICATION D2	NAME OF PROPERTY OWNER* <i>If different than applicant, a letter of authorization from the property owner must be provided</i> West Huron Properties, LLC	
PARCEL NUMBER 09-09-29-214-006 & 09-09-29-214-007	OWNER EMAIL ADDRESS admin@westhuronproperties.com	

## APPLICANT INFORMATION

NAME Cathy Kimmell			
ADDRESS 416 W Huron Street Suite #23	CITY Ann Arbor	STATE MI	ZIP CODE 48103
EMAIL admin@westhuronproperties.com		PHONE 734.622.8020	
APPLICANT'S RELATIONSHIP TO PROPERTY Property Manager			

## REQUEST INFORMATION

<input checked="" type="checkbox"/> VARIANCE REQUEST Complete Section 1 of this application	<input type="checkbox"/> REQUEST TO ALTER A NONCONFORMING STRUCTURE Complete Section 2 of this application
--	---

## REQUIRED MATERIALS

<p>One hard copy application complete with all required attachments must be submitted. Digital copies of supportive materials included in the submitted hard copy will only be accepted in PDF format by email or accompanying the hard copy application on a USB flash drive.</p> <p><b>Required Attachments:</b></p> <p><input type="checkbox"/> Boundary Survey of the property including all existing and proposed structures, dimensions of property, and area of property.</p> <p><input type="checkbox"/> Building floor plans showing interior rooms, including dimensions.</p> <p><input type="checkbox"/> Photographs of the property and any existing buildings involved in the request.</p>	OFFICE USE ONLY
	<p>Fee Paid: _____ ZBA: _____</p> <p>DATE STAMP</p>

## ACKNOWLEDGEMENT

All information and materials submitted with this application are true and correct.

Permission is granted to City of Ann Arbor Planning Services and members of the Zoning Board of Appeals to access the subject property for the purpose of reviewing the variance request.

Property Owner Signature: Cathy Kimmell Date: 12/30/20  
Property Manager

# Section 1 City of Ann Arbor Planning Services – Zoning Board of Appeals Application

## VARIANCE REQUEST

ARTICLE(S) AND SECTION(S) FROM WHICH A VARIANCE IS REQUESTED: (Example: Article 3, Section 5.26)

Article 4, Section 5.20.10

REQUIRED DIMENSION: (Example: 40' front setback)

Feet: N/A Inches: N/A

PROPOSED DIMENSION: (Example: 32 foot 8 inch front setback)

Feet: N/A Inches: N/A

DESCRIPTION OF PROPOSED WORK AND REASON FOR VARIANCE:

Project includes parking lot improvements and additional pretreatment devices for storm water management. Reason for variance is due to no trees allowed within the Allen Creek Drain Easement running through the middle of the property.

**The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:29. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when all of the following statements are found to be true. Please provide a complete response to each of the statements below.**

The alleged practical difficulties are exceptional and peculiar to the property of the Person requesting the variance, and result from conditions that do not exist generally throughout the City.

The Washtenaw County Water Resource Commission's Office verified that the existing enclosed drain is very shallow and no trees would be permitted within the 60 foot wide easement.

The alleged practical difficulties that will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

The enclosed drain would be compromised if trees were attempted to be planted within the easement. The Pre-Application Meeting Minutes have been provided as a reference.

Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.

In efforts to conform with the landscape requirements, shrubs, perennials and grasses have been provided along the right of way.

The conditions and circumstances on which the variance request is based shall not be a self-imposed practical difficulty.

Restriction is based on the Washtenaw County Water Resource Commissioner's Rules and Guidelines for Stormwater Management Systems

A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.

N/A





## PRE-APPLICATION MEETING MINUTES

---

**PROJECT:** 081266.00 – W. Huron Properties – 416 W. Huron St.  
Pre-Application Meeting with Washtenaw County Water Resource Commission

**DATE:** May 2, 2019

**TIME:** 1:30 PM

**ATTENDEES:** Kirt Andersen, PE SME  
Hugo Ceron, PE SME  
Matthew Budds, Esq. RCO Law  
Theresa M. Marsik, PE Storm Water Engineer Water Resources Commission

---

## TOPICS DISCUSSED

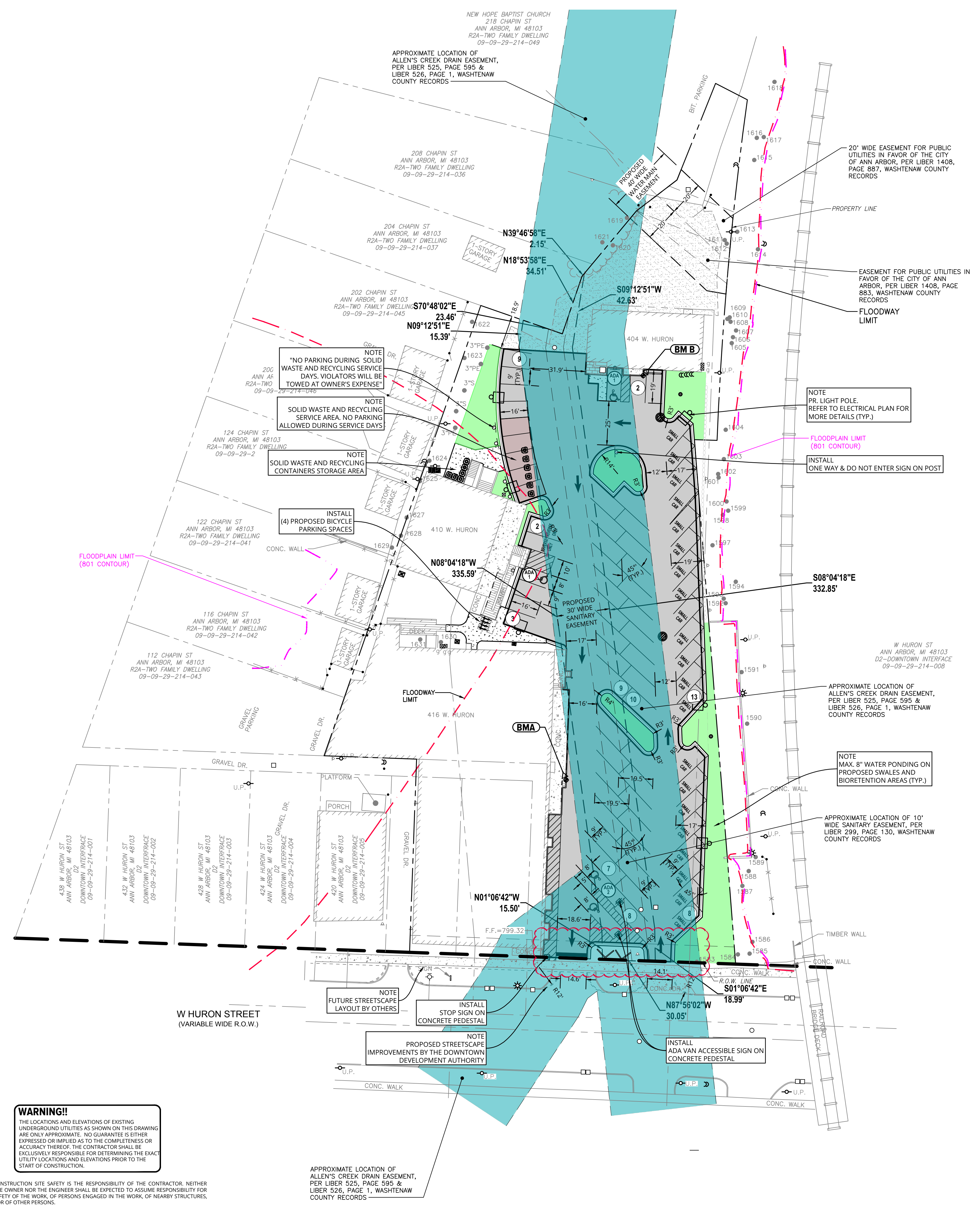
### STORM WATER MANAGEMENT

#### INTRODUCTIONS & PROJECT OVERVIEW

- Introductions were made for all the people at the meeting.
- The project improvements were outlined by SME including the pavement removal and resurfacing of the existing parking lot with revised striping to improve flow and traffic space count. Additional improvements discussed included paving the gravel areas within the floodway. Angled parking lot and revised geometry were discussed in detail.
- Initial Washtenaw County Water Resource Commission (WCWRC) feedback from the improvements included the following:
  - Traditionally, storm water treatment and attenuation would be required for this type of improvements to the site. Since improvements are within a county drain easement, the MDEQ floodway and floodplain, the WCWRC is willing to waive the 100 year detention/retention requirement for this site due to this hardship. Additionally, the overall drainage system would benefit from an early direct discharge into the Allen Creek avoiding the later flood stages. Storm water quality treatment will be required for the site improvements. This will need to be carefully designed by the design professional to incorporate natural water quality items (bio-swale/rain garden) or a mechanical treatment device.
  - A hydraulics and hydrology study will need to be performed on the Allen Creek Drain in order to make the case for early discharge to the drain. This is a key study items that will be required as part of preliminary submittal. SME will follow up on who did the recent upstream study and see if the data is available. The designer must prove that the early discharge is a benefit to the overall water sheds. Based on feedback from the City and WCWRC, no detention / retention is likely the best option for the site.
  - Landscape Islands that will be required to break up the parking spaces could be used as part of our storm water management plan. The use of recessed or depressed island areas could be an option for a treatment Best Management Practice (BMPs) device. No trees will be allowed to be installed within the easement.



- Off-site drainage was discussed and if there is an opportunity to treat or detain this runoff, it should be included within the design.
- WCWRC would like to see as much infiltration options available for this site.
- Once the locations of these BMPs have been identified by the designer, an infiltration test will be required prior to final approval of the design. Infiltration will need to be designed to a minimum of 3 feet in depth. If ground water is high on the site, additional design concerns will need to be considered. Boring Logs were requested to be submitted as well.
- Theresa mentioned a drainage structure repair that was made by the County on-site due to the concern it would impact the large 96 inch drain sewer.
- No permanent structures will be allowed within the Allen Creek Easement on the site.
- Fire truck access throughout the parking lot.
- Solid Waste / Garbage truck access throughout the parking lot.
- The parking count will be reduced from what is currently on-site to address the comments received from the City.
- As part of the site plan submittal, proof of correspondence with the WCWRC will be required.
- There is a \$400 fee for the preliminary submittal and additional County Staff work will be billed at \$115 per hour.
- Any type of work within the easement will require a permit.
- Any pavement improvements beyond a partial mill and overlay will trigger engineering review.
- Matt to provide Tom's information to Theresa per her request.
- Theresa will be out of the office and unavailable from May 8<sup>th</sup> through May 13<sup>th</sup>.



**SOLID WASTE NOTE**

NO DUMPSTER ENCLOSURE IS PROPOSED FOR THIS PROJECT DUE TO PROPERTY BEING WITHIN THE FLOODWAY.

(4) 96 GALLON SOLID WASTE CONTAINERS AND (2) 96 GALLON RECYCLING CONTAINERS WILL BE PICKED UP 3 TIMES A WEEK IN LIEU OF A 6 CYD CONTAINER ONCE A WEEK.

OWNER IS RESPONSIBLE FOR MOVING CONTAINERS ON SERVICE DAYS. TRASH AND RECYCLING VOLUMES WILL NOT CHANGE DUE TO THESE PARKING LOT IMPROVEMENTS

**TRANSPORTATION STATEMENT**

PROPOSED SITE IMPROVEMENTS DO NOT INCREASE THE TRAFFIC FLOW. THE TOTAL PARKING COUNT HAS BEEN REDUCED FROM 96 TO 82 WHILE MAINTAINING SIMILAR PAVED PARKING LAYOUT.

**NOTES**

- PER CHAPTER 49, SECTION 4:58 OF THE CITY CODE, ALL SIDEWALKS SHALL BE KEPT AND MAINTAINED IN GOOD REPAIR BY THE OWNER OF THE LAND ADJACENT TO AND ABUTTING THE SAME. PRIOR TO THE ISSUANCE OF THE FINAL CERTIFICATE OF OCCUPANCY FOR THIS SITE, ALL EXISTING SIDEWALKS IN NEED OF REPAIR MUST BE REPAIRED IN ACCORDANCE WITH CITY STANDARDS.
- THERE ARE NO EXISTING NOR PROPOSED FIREWALLS WITHIN SITE.

**SITE DATA**

**SITE ZONING:** D2 - DOWNTOWN INTERFACE

**ZONING NORTH:** D2 - DOWNTOWN INTERFACE  
**ZONING SOUTH:** D2 - DOWNTOWN INTERFACE  
**ZONING EAST:** D2 - DOWNTOWN INTERFACE  
**ZONING WEST:** R2A - TWO-FAMILY DWELLING

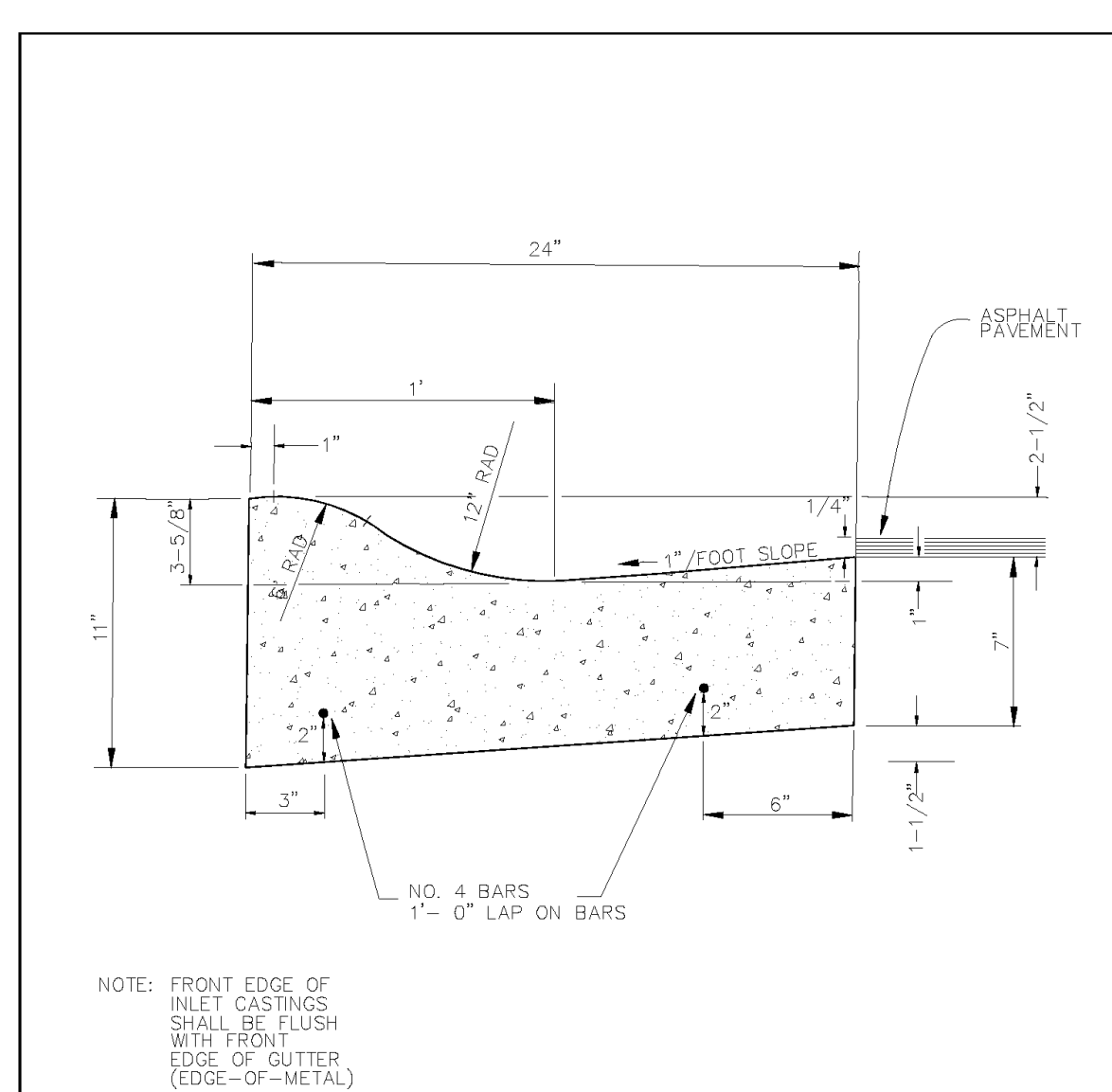
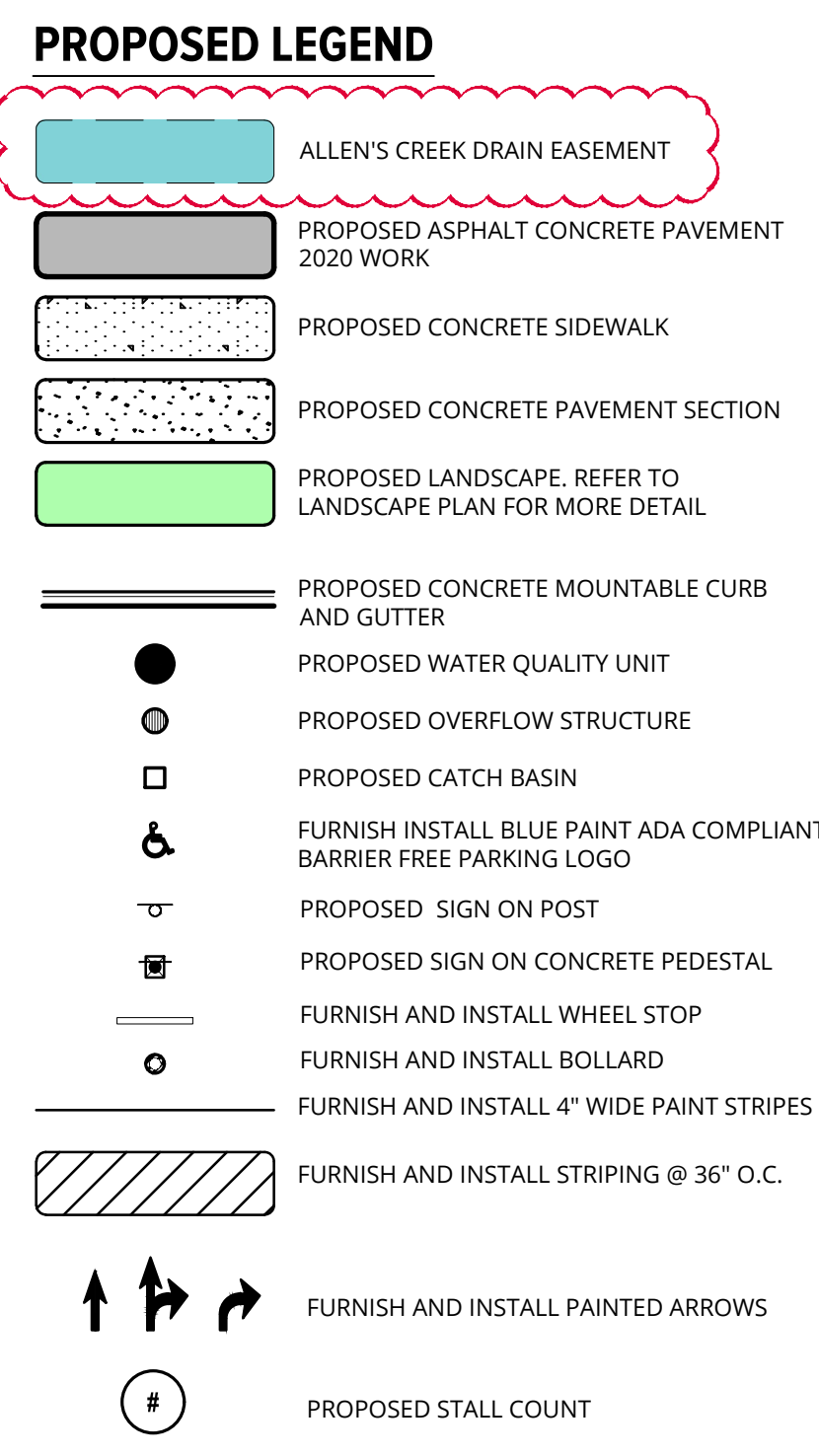
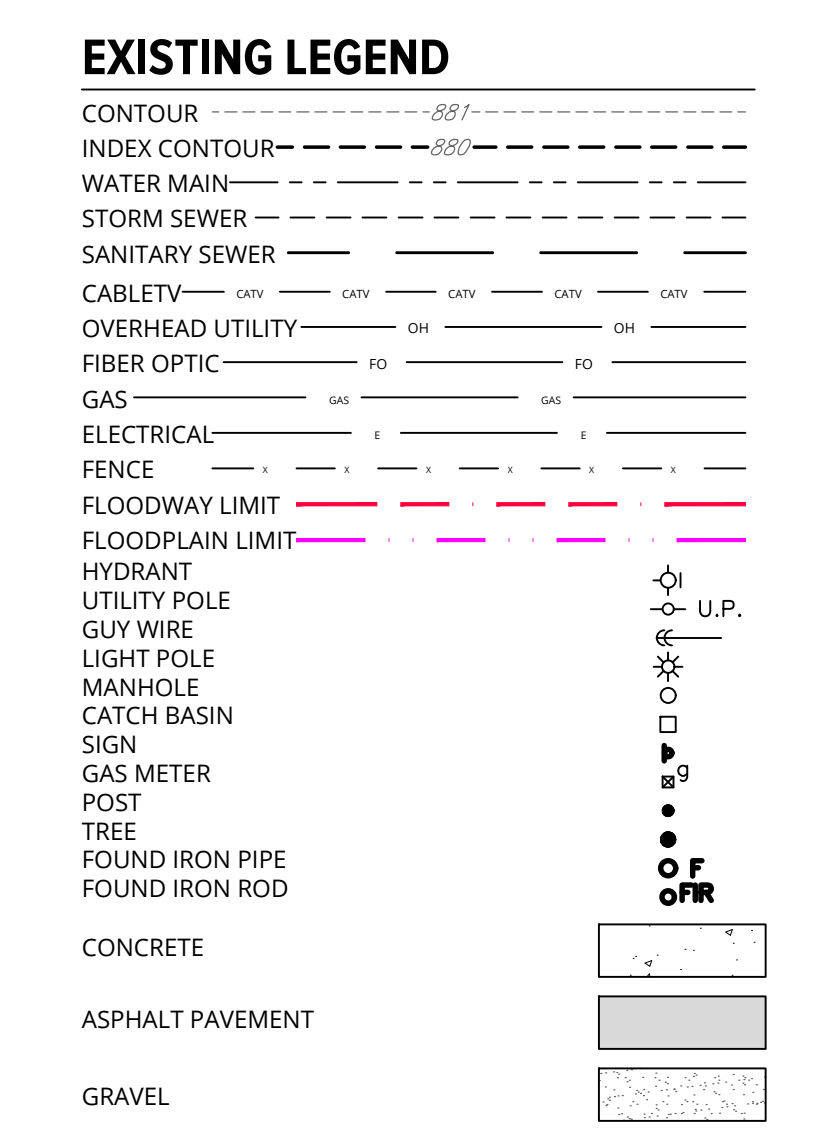
**MINIMUM LOT AREA:** NONE  
**MINIMUM LOT WIDTH:** NONE

**USE/AREA:** 404 W HURON ST - OFFICE/WAREHOUSE/INDUSTRIAL (2,066 SF)  
 410 W HURON ST - OFFICE, THEATER AND STORAGE (BASEMENT 2,133 SF) (1ST FLOOR 2,722 SF) (2ND FLOOR 1,432 SF)  
 416 W HURON ST - OFFICE/WAREHOUSE/INDUSTRIAL (BASEMENT 603 SF) (1ST FLOOR 15,376 SF) (2ND FLOOR 7,825 SF)

**PARKING LOT:** A MAXIMUM OF 15 PARKING SPACES ARE ALLOWED IN A PARKING ROW WITHOUT A LANDSCAPE ISLAND BREAK

**PARKING:**

EXISTING STANDARD STALLS	92
ADA STALLS	4
TOTAL	96
PROPOSED REQUIRED STALLS	N/A (D2 ZONING)
STANDARD STALLS	50
SMALL CAR STALLS	21
ADA REQUIRED	4 (1 VAN)
ADA PROVIDED	4 (1 VAN)
TOTAL	75



REV. NO.	DATE	BY	CHK BY

**PUBLIC SERVICES DEPARTMENT**  
**CITY OF ANN ARBOR**  
 MOUNTABLE CURB & GUTTER

DR. BY	DP	CHK BY	ESS	DRAWING NO.
SCALE	NONE	DATE	11-6-92	SD-R-2
INCH	0	1	1	SHEET NO. OF

**ISSUED FOR SITE PLAN APPROVAL**

www.sme-usa.com

**Orientation**  
 NORTH

**Scale**  
 GRAPHIC SCALE: 1" = 30'

**Project**  
**WEST HURON PROPERTIES, LLC**  
**PAVEMENT IMPROVEMENTS**

**Project Location**  
**416, 410 & 404 W. HURON ST.**  
**ANN ARBOR, MI 48103**

**Sheet Name**  
**SITE LAYOUT PLAN**

**Engineer's Seal**  
 HUGO J. CERON  
 ENGINEER  
 67351

**Revisions**

REV	ISSUED FOR	DATE	BY
01	SITE PLAN SUBMITTAL	09/26/2019	MMA
02	SITE PLAN SUBMITTAL	05/19/2020	JAS
03	SITE PLAN PER CITY COMMENTS	07/22/2020	JAS
04	SITE PLAN WCVRC SUBMITTAL	10/08/2020	HJC
05	SITE PLAN PER CITY COMMENTS	10/26/2020	HJC
06	SITE PLAN PER CITY COMMENTS	11/11/2020	HJC
07	SITE PLAN PER CITY COMMENTS	12/11/2020	HJC
08	ZBA REVIEW	12/30/2020	HJC

**Date**  
 08-26-2019

**SME Project No.**  
 081266.00

**Project Manager:**  
 JAS

**Designer:**  
 HJC

**CADD:**  
 HJC

**Checked By:**  
 BH

**Sheet No.**  
 C-500

**WARNING!**

THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

CONSTRUCTION SITE SAFETY IS THE RESPONSIBILITY OF THE CONTRACTOR. NEITHER THE OWNER NOR THE ENGINEER SHALL BE EXPECTED TO ASSUME RESPONSIBILITY FOR SAFETY OF THE WORK, OR PERSONS ENGAGED IN THE WORK, OR NEARBY STRUCTURES, NOR OF OTHER PERSONS.

APPROXIMATE LOCATION OF ALLEN'S CREEK DRAIN EASEMENT, PER LIBER 525, PAGE 595 & LIBER 526, PAGE 1, WASHTENAW COUNTY RECORDS

1:\sme-inc\pwp\081266.00\CAD\DWG\SSPA\rev1\081266.00.SiteLayout.dwg  
 Dec 29, 2020 - 6:21pm - hugo.ceron file location: **PLT DATE:**

