

# PONTIAC ZONING BOARD OF APPEALS

MONDAY, MAY 20, 2019 7:00PM

CITY HALL – 2<sup>ND</sup> FLOOR – COUNCIL CHAMBERS  
47450 WOODWARD AVENUE – PONTIAC, MICHIGAN

## AGENDA

1. CALL TO ORDER:
2. ROLL CALL:
3. COMMUNICATIONS:
4. ADOPTION OF MINUTES: N/A
5. OLD BUSINESS:
6. NEW BUSINESS:

6.1	ZBA 19-03		
		Address	1268 N PERRY
		Parcel Number	64-14-15-351-008 64-14-15-351-004
		Applicant	BEHROUZ OSKUI
		Requested Variance	10' Rear Yard Setback Variance

PUBLIC COMMENT:

- 7 MISCELLANEOUS:
- 8 ADJOURNMENT:



**CITY OF PONTIAC**  
**Department of Building Safety & Planning**

*Mayor Deirdre Waterman*

**TO: PONTIAC ZONING BOARD OF APPEALS**

**FROM: DONOVAN O. SMITH –CITY PLANNER**  
**DIVISION OF PLANNING**

**SUBJECT: ZBA 19-03**  
**ZONING BOARD OF APPEALS**  
**1268 N PERRY**  
**PIN: 64-14-15-351-008**

**DATE: 05/14/2019**

The Planning Department is in receipt of Zoning Board of Appeals application (ZBA 19-03) submitted by Behrouz Oskui, regarding the above address 1268 N Perry. The site plan submitted by the Ziad El-Baba Engineering and dated March 14, 2019. The applicant has requested a variance from the 20 ft. rear yard setback requirement in the C-1 Local Commercial District. The proposed new construction primary building is located within 10 ft. from the rear property line, this request requires approval from the Zoning Board of Appeals to locate a building less than 20 ft. from the rear property line, a variance request of 10' from the rear yard setback. This technical review outlines the determination of practical difficulty to support the zoning variance request.

**Determine Practical Difficulty:**

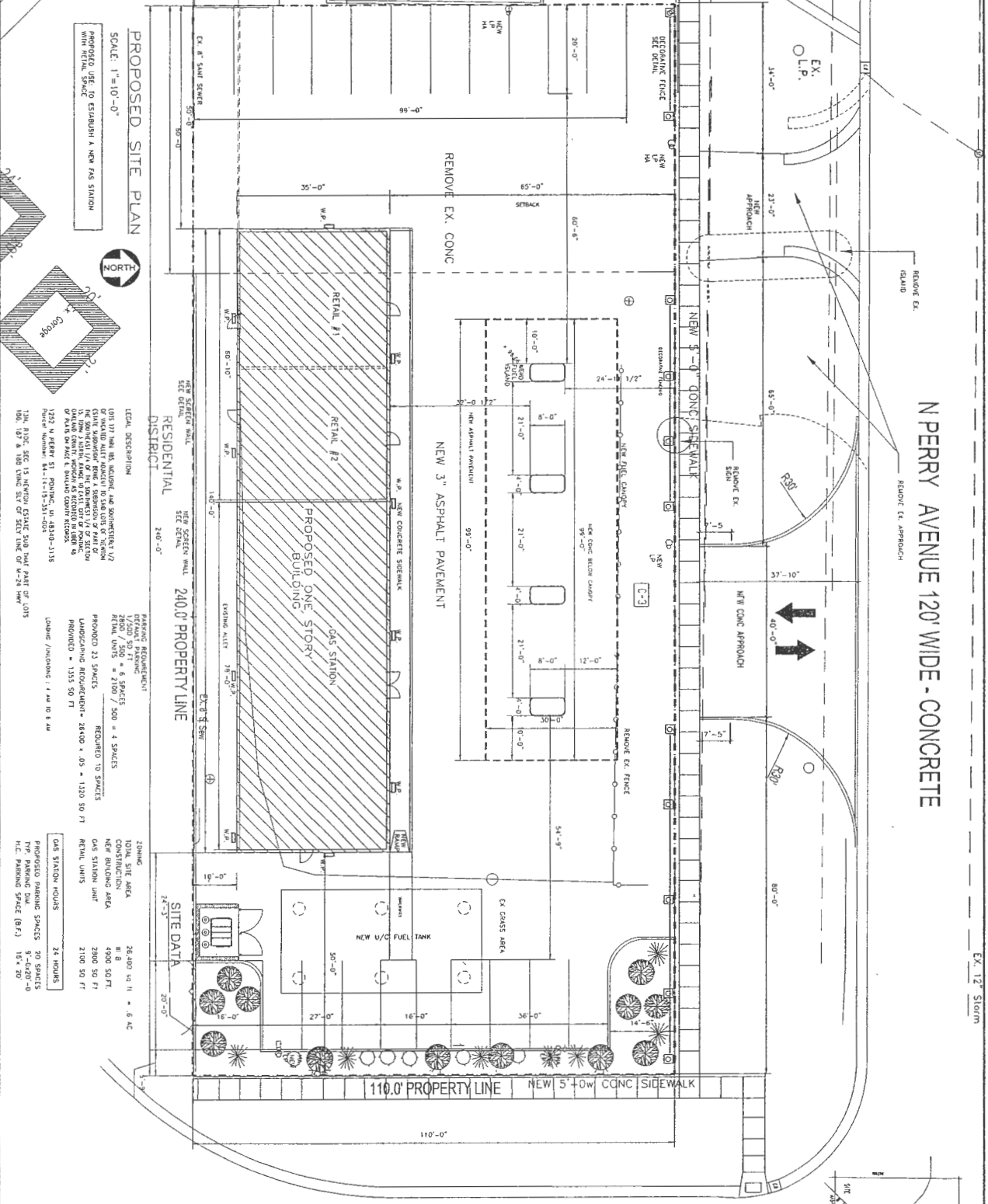
The City Zoning Board of Appeals may grant a dimensional variance upon a finding that a practical difficulty exists in the way of carrying out the strict letter of the ordinance (see Section 6.407, B). In determining whether a practical difficulty exists, the Zoning Board of Appeals must find seven conditions do exist (see Section 6.407, B, 1-7). These conditions are presented below:

- 1. Compliance with the strict letter of the restriction governing setback will unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restriction unnecessarily burdensome.*  
Compliance with the strict letter of the setback requirements, does not allow for the proper and appropriate turn radius and space between the gas station pumps, maneuvering lanes, and primary building.
- 2. A grant of the variance would do substantial justice to the applicant as well as to other owners in the district, and a lesser variance will not give substantial relief to the applicant as well as be more consistent with justice to other owners in the zoning district.*  
*Granting the request variance would allow for greater access and maneuverability around the site.*

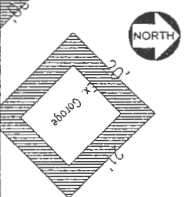
3. *The plight of the applicant is due to the unique circumstances of the property.*  
The applicant's variance request attempts to utilize the site to operate more efficiently, maximizing maneuverability and access for customers.
4. *The problem is not self-created.*  
The applicant's necessity for the rear yard variance is not a problem created from actions on the developer's behalf.
5. *The spirit of the ordinance will be observed, public safety and welfare secured, and substantial justice done.*  
Granting of the dimension rear yard variance would not compromise the integrity of the zoning ordinance, and will maintain the spirit of the ordinance regarding public safety, welfare, and substantial justice.
6. *There is compliance with the standards set forth in Section 6.401 B (proposal will not impair adequate supply of light and air to adjacent parcels, increase existing congestion or increase danger of fire, endanger public safety, or diminish or impair property values within the surrounding area).*  
The application will be required to comply with the City of Pontiac Zoning ordinance regarding site lighting, air, pollution, congestion, and nuisances as defined in the zoning ordinance, as part of the site plan review.
7. *There is compliance with the standards for discretionary decisions as contained in Section 6.303.*  
The petition for a Dimension Variance request does not conflict with the review standards of Section 6.303 of the Zoning Ordinance.

It is the recommendation of the Planning Division that the Zoning Board of Appeals approve the dimensional variance request of Behrouz Oskui, ZBA 19-03. A dimensional variance of 10' in the rear yard, to permit the location of the primary structure within the 20' rear yard setback.

N PERRY AVENUE 120' WIDE - CONCRETE



**PROPOSED SITE PLAN**  
 SCALE: 1" = 10'-0"  
 PROPOSED SEC. TO ESTABLISH A NEW GAS STATION WITH RETAIL SPACES



**LEGAL DESCRIPTION**  
 0.013 (7) HALL HAS INTEREST AND ADJACENT 1/2 OF TRACT 144,275 ACRES TO THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 17 N OF RANGE 51 W OF SECTION 04 AND CORNER NE 1/4 OF SECTION 04 AND CORNER NE 1/4 OF SECTION 04 AND CORNER NE 1/4 OF SECTION 04 OF PLAT OF HALL & DAVLAND COUNTY RECORDS. PLAT NUMBER: 81-1-13-21-024

1232 N PERRY ST, P.O. BOX 48340-3115 DENVER, CO 80232  
 PLAT NUMBER: 81-1-13-21-024

124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

**PARKING REQUIREMENTS**  
 2000 SQ. FT. = 6 SPACES  
 RETAIL UNITS = 2100 / 500 = 4 SPACES  
 PROPOSED 23 SPACES  
 REQUIRED TO SPACES  
 PROPOSED 23 SPACES  
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 PROPOSED 23 SPACES  
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**ZONING**  
 TOTAL SITE AREA 28,400 SQ. FT. = .6 AC  
 CONSTRUCTION AREA 110,000 SQ. FT.  
 GAS STATION UNIT 2980 SQ. FT.  
 RETAIL UNITS 2100 SQ. FT.

**GAS STATION HOURS**  
 PROPOSED PARKING SPACES 20 SPACES  
 TYP. PARKING DIM 9'-0" x 20'-0"  
 H.C. PARKING SPACE (B.F.) 18' x 20'

**SITE DATA**

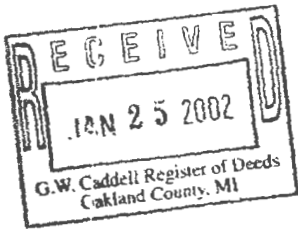
DATE	11/13
OWNER	BEH
DESIGNED BY	JR
CHECKED BY	128
PROJECT	PROPOSED
DRAWING TITLE	PROPOSED SITE PLAN
SCALE	1" = 10'-0"

**KEY PLAN**

**ZIAD 674 ENGINEERING**  
 674 E. TECHNICAL CENTER  
 DENVER, CO 80202  
 CELL: 303.733.8888

**PROJECT:** NEW 128 P  
**OWNER:** BEH  
**DESIGNED BY:** JR  
**CHECKED BY:** 128  
**PROJECT:** PROPOSED  
**DRAWING TITLE:** PROPOSED SITE PLAN  
**SCALE:** 1" = 10'-0"

40522  
LIBER 24631 PAGE 741  
\$11.00 MISC RECORDING  
\$2.00 REMUNERATION  
01/25/2002 03:21:59 P.M. RECEIPT# 7395  
PAID RECORDED - OAKLAND COUNTY  
G.WILLIAM CADDELL, CLERK/REGISTER OF DEEDS



STATE OF MICHIGAN)  
SS  
COUNTY OF OAKLAND)  
CITY OF PONTIAC

RESOLUTION

Whereas, the Pontiac City Council is in receipt of the Planning Commission's findings and recommendation regarding said Alley Vacations; and  
Whereas, the Pontiac City Council finds that the proposed Vacation of said Alleys will not prevent access nor prevent necessary service to the abutting properties; and  
Whereas, the ownerships of the Alleys will be divided equally.  
Now, Therefore, Be It Resolved, that the request to vacate the following Alleys, legally described as:

- Alley No. 2 - abutting Lots 12-17 & Lot 501 of Walton Boulevard Park Subdivision. *47037*  
*14-17-132-019-Lots 12-17*  
*Pt 14-17-132-017-Lot 501*
- Alley No. 3 - abutting Lots 659-667, 788 & 789 of LeBaron Farms Subdivision No. 1. *47039-7P*  
*14-21-205-001-Lots 659-667*  
*14-2-205-014-Lot 788 Pt 14-21-205-002-Lot 789*
- Alley No. 5 - abutting Lots 174-191 of Newton Estates Subdivision. *48006*  
*14-15-351-006-Lots 175+176 14-15-351-001-Lot 177*  
*007-Lot 174 002-Lot 178*
- Alley No. 6 - abutting Lots 32-44 of Newton Estates Subdivision. *48006*  
*14-15-378-017-Lot 32 14-15-378-001-Lot 33*
- Alley No. 7 - abutting Lots 1-3 of Assessor's Plat No. 192. *48015*  
*14-16-253-002-Lot 1 14-16-253-003-Lot 1 14-16-253-001-Lot 2*  
*004-Lot 2*
- Alley No. 8 - abutting Lots 90-92 of Assessor's Plat No. 192. *48015*  
*14-16-251-006-Lots 91+92 14-16-251-007-Lots 91+92*

is hereby Approved by the Pontiac City Planning Commissions on this 16 Day of August 1988. *14-16-251-033-Pt Lot 90 14-16-251-033-Pt Lot 90*

Be It Further Resolved, that the City of Pontiac, pursuant to the provisions of State Law (Act 288, Public Acts of 1967, Section 257), for the use and benefit of the City of Pontiac, and any lawfully franchised utility company

- Alley no 5 - *14-15-351-003-Lots 179-185*  
*14-15-351-004-Lots 186-188*  
*005-Lots 189-191*
- Alley no 6 - *14-15-378-002-Lots 34-43*  
*Pt 14-15-378-003-Lot 44*

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doing business in the City having the right to use public rights-of-way, their successors, licensees, or assigns and their agents and employees, does hereby reserve an easement for public utility purposes for the benefit of the City of Pontiac, and any lawfully franchised utility company doing business in the City having the right to use public rights-of-way, giving them the right to construct and maintain, and to repair, remove, replace, improve, and enlarge sewers, drains, or water or gas mains, cables, wires, conduits, poles and towers, and other supports, and all the necessary appurtenances thereto, including branks, guys, anchors, manholes and transformers, and to enter upon said property at any time for the purpose of constructing, maintaining, repairing, removing, replacing, improving, enlarging, or inspecting same, and to trim or remove any trees or roots that may at any time interfere with or threaten to interfere with said public utility installation. Said reserved easement shall cover all of the above vacated alley.

Be It Further Resolved, that no building or structure shall be placed over or upon said easement without the express consent of the City of Pontiac, and upon said easment without the express consent of the City of Pontiac, and any lawfully franchised utility company doing business in the City having the right to use public rights-of-way, or their successors, licensees, or assigns. Such consent of the City of Pontiac shall be obtained in writing from the Engineering Department of the City after submission of complete plans for the proposed construction, and the issuance of a building permit for any such building or structure shall not constitute such consent. The non-use or limited use of this easement right by the holders thereof shall not prevent later use thereof to the full extent provided herein.

Be It Further Resolved, that a copy of this resolution be recorded with the Register of Deeds for Oakland County and sent to the State Treasurer.

Given under my hand and seal of  
 The City of Pontiac, Michigan  
 This 25<sup>th</sup> day of January A.D., 2002.

Return to:

PONTIAC City Clerk's  
 47450 Woodward

PONTIAC, MI. 48342

  
 VIVIAN SPANN, CMC

CITY CLERK

# 1268 N Perry



-  2 Foot Contours
-  5 Foot Contours
-  FEMA Base Flood Elevations
-  FEMA Cross Sections
-  100 yr - FEMA Floodplain
-  100 yr (detailed) - FEMA Floodplain
-  500 yr - FEMA Floodplain
-  FLOODWAY - FEMA Floodplain

Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.

**OAKLAND COUNTY**  
 ECONOMIC DEVELOPMENT & COMMUNITY AFFAIRS  
**L. Brooks Patterson**  
 Oakland County Executive

Date Created: 5/15/2019  
  
 NORTH  
 1 inch = 200 feet