

NFP Meeting 1 (2/20/19 4:30 PM)

1: Regarding setbacks for individual trees, where is the setback for trees as defined in the ordinance?

The setback is equal to the Critical Root Zone (CRZ), which is defined in the draft. We will clarify the language in the ordinance to specifically refer to this standard as a setback.

2: Regarding the setbacks again, do the same standards that apply to single trees also apply to woodlands.

Yes, protection of the CRZ for trees within a Woodland apply.

3: When determining space allowances for trees, are the estimates based on the trees predicted adult size, or to the tree at the time when determinations are being made.

The CRZ calculations are based upon the current tree size, not the potential diameter at full maturity. There is no spacing requirement within the NFP Overlay Ordinance. Those details would be decided by the landowner at the time a site plan is developed.

4: Is the City restricted by state laws defining a wetland?

A City can regulate wetlands that are not already protected under the State's definition, but this requires a detailed program and standard be in place. This type of work is out of the scope of this Ordinance work.

5: Are setbacks based on parent parcel based on research for what can be developed there, or is it about speculation?

The 25' setback from water resources and wetlands is based upon common literature and State guidance documents. Upon testing this standard on a variety of parcel sizes, we developed a graduated setback distance to allow space for the zoned use of a parcel and to limit the number of requests for variances. The draft Ordinance refers to the parent parcel size to protect against the potential of dividing the parcel into smaller parcels to reduce the setback requirement.

6: Is the 25' setback based on research?

See (5) above.

7: What happens when there is a conflict between the woodland setback and CRZ boundaries? Do the two amounts stack?

The CRZ is the Woodlands setback which applies to all of trees along the Woodland edge. We will clarify this setback in the ordinance.

8: Does woodland lot size refer to the parent parcel size?

The woodland standard does not refer to any parcel size, rather it is based upon the current amount of woodland covering a site.

9: The setbacks for different lots can be cumbersome; would it be worth it to use the flood plain line as the setback? This would help protect the setback as well as the lot.

The floodplain is not present along all water bodies. For example, there is no floodplain around most lakes and headwater streams. The purpose of the setback along water resources and wetlands is to filter stormwater from the upland portion of the parcel before it enters the water body.

10: An educational component needs to be developed, especially for the developers in the area, to make sure that everyone is aware of the proposed rules.

This would be a great program to add in Phase III and something the City will explore.

11: Commercial and residential realtors should also be filled in.

Great suggestion. See (10) above.

12: In the NFP, examples are used of a 2 acre parcel, meaning that 25% would be saved. If the lot is bigger, will the percentage change?

The percentage does not change based on parcel size but rather it is based on current woodland coverage. The acreage of woodlands preserved would be indirectly tied to the parcel size whereby 25% of a larger parcel equates to more overall acreage.

13: Is Phase II meant to fill in the stuff missed in the master plan?

Phase II will involve a more comprehensive mapping of natural features and could result in additional parcels added to the NFP Overlay District.

14: Is Phase II prior to the initial adoption of the NFP?

No, Phase II will start immediately following adoption of the NFP Overlay Ordinance.

15: How can we be sure that stuff will be protected?

The NFP standards will be a part of the Zoning Ordinance and will be applied and enforced in the same way that all zoning standards are enforced.

16: Will staff go to the site to look at things before making decisions?

Currently, zoning inspectors and/or building department staff visit a site when there are challenges or complexity that require on site review. A similar process is expected with NFP sites.

17: Did a discussion happen about where the plants are to be bought at?

No, there was no discussion about specific plant sources or retailers.

18: Invasive species- is there anything in the NFP about dictating what kinds of fill materials are to be used, and their source?

No, there is no mention of fill materials in the ordinance. We will review current restrictions and language in our Wellhead Protection Ordinance and Performance Standards and determine how best to add restrictions into the NFP Overlay Ordinance.

19: Why is there nothing about light or noise within the NFP?

Light and noise were not discussed by staff or the technical advisory committee. We will review the existing light and noise regulations and consider additions to the site development standards in NFP.

20: Can we up the fine amount for people who violate the rules outlined here?

We are reviewing this amount. The \$1,000 fine is an increase from the current \$77 fine for a zoning infraction. The draft NFP language also allows for court fees and replacement costs. There was another comment suggesting ordinance language be added to apply the fine per infraction, which we will look into.

21: Has light or noise been brought up yet?

See (19) above.

#### NFP Meeting 2 (2/20/19 7:00 PM)

22: You have categories within the NFP for lakes, woodlands etc. you should also put neighborhood language in. Consumers has encroached on this land, trees are not protected.

In many cases, Consumers Energy is exempt from local zoning code (including NFP). Unfortunately, this is true of tree trimming and removal.

23: Consumers has a new CEO, can we share the draft with them.

Yes, we will share the draft with Consumers Energy.

24: Are schools exempt from the NFP, are churches exempt from the NFP?

Federal and state entities are exempt from some local zoning rules (including NFP). Private schools and not-for-profits, like churches, must follow the zoning code.

25: When will the revised draft be out?

The revised draft will be released to the public on the [ImagineKalamazoo.com](http://ImagineKalamazoo.com) website prior to the Community Meeting on March 21.

26: Can you elaborate upon the NFP review board and planning commission element of this?

For sites which require a trip to the Planning Commission, the NFP Review Board will review the NFP Project Plan before it is presented to the Planning Commission at a formal public hearing. The NFP Review Board will submit a recommendation to the Planning Commission on whether they support the NFP Project Plan or not. The Planning Commission will approve or disapprove the plan.

27: What can you do to someone coming on your property?

If someone is on your property without permission, you can call Public Safety to file a trespassing complaint.

28: Does the NFP have anything to do with trees in single family zoned areas?

The Tree Standard will apply on all NFP Overlay parcels, regardless of use or the zoning.

29: Are not all woodlands Natural Heritage Areas?

In some cases, woodlands might be considered Natural Heritage Areas, but for the most part this Standard was developed to manage important habitats that are not explicitly woodlands, wetlands, or water resources.

30: Do the percentages specified in the woodlands portion of the document only kick in when the threshold designating 'woodland' has been broken?

The Woodland Standard applies whenever trees are grouped such that they meet or exceed the density definition of a woodland. If the density is such that the trees do not meet the definition of a woodland, then the Tree Standard applies.

31: Does a developer do the woodland counts?

Yes, the developer or property owner is responsible for this assessment. The woodland assessment and/or tree survey must be done by a professional with appropriate credentials/certifications.

32: Who determines habitat corridors?

Habitat corridor is a general term meant to capture the importance of connected habitat of wildlife. The NFP Review Committee will consider habitat corridors during site plan review.

33: If there is a corridor for animals, like a deer path, are these corridors?

Yes, but it is not a requirement that wildlife usage be observed or documented. Any connected habitat is considered a corridor.

34: How do you define habitat?

The natural home or environment of an animal, plant, or other organism. This definition or similar will be added to the ordinance list of definitions.

35: Is there a definition for slope? Grade values or something to do with a tier system?

See Section (5)(a). Protected slopes in the NFP Overlay Ordinance are those 20% or greater in slope angle that also intersect with other Natural Features (wetlands, water resources, or woodlands) or continue onto adjacent properties.

36: Does the city have a plan to slow the purchase of the properties included within the NFP?

No.

37: Consider changing the definition of development to something more than just based upon the structure(s) on the site.

We will review the definition of development and redevelopment to include all activities that trigger the need for a permit.

38: Any consideration for fees on storm water discharge?

The City has not considered developing a storm water utility. In many cases, judges have struck down stormwater utilities in Michigan. There is support within the industry to develop new legislation to allow stormwater utilities in Michigan, but no bills have been passed out of committee at this point.

39: Are the people on the board appointed?

Yes, the members of the NFP Review Board would be appointed by the Mayor and confirmed by the City Council. This is very similar to other boards for the City.

40: Must the people on the board be community stakeholders?

The NFP Review Board bylaws will be developed by the initial board members. The ordinance does not require board members be a resident of the City, in part to avoid having vacancies that cannot be filled by residents in specific scientific disciplines.

41: Can resumes be prioritized for residents of Kalamazoo?

Yes.

42: Will properties that do not conform to the NFP standards be considered Non-Conforming?

Yes. The City is reviewing language around this issue for a future draft.

43: Will developers be given information on the impact they are going to make?

No. The City will not be providing environmental impact assessments or statements to developers. This may be discussed during Site Plan Review as it relates to the intent of the ordinance.

44: How does the NFP change zoning.

The NFP Overlay does not change the base zoning of a property; it is an additional set of standards placed on a parcel.

45: Is the ½ acre setback set in stone?

This document is in the draft phase; none of the standards are set in stone. Please send your comments and suggestions to City Staff via [ImagineKalamazoo.com](http://ImagineKalamazoo.com) or directly at [mccarthyja@kalamazoo.org](mailto:mccarthyja@kalamazoo.org) or [andersonc@kalamazoo.org](mailto:andersonc@kalamazoo.org).

46: Is a community garden considered development under the new ordinance?

Typically gardening does not require a permit and would not trigger administrative or other zoning compliance review, although all NFP parcels must follow the NFP standards and other zoning codes.

47: When is the board to be formed?

Staff will begin work to form the NFP Review Board this spring.

48: Do developers have to do the things in this plan? If not, what will persuade them to do so?

The NFP Overlay standards will be a part of the City's Zoning Ordinance and will be applied and enforced on parcels within the NFP Overlay District.

49: If the NFP passes, but there is no board, what happens?

Staff will begin work to form the NFP Review Board this spring. The review steps of the Ordinance require the NFP Board to be in place.

50: What happens if city staff wants to be on the board?

City staff typically does not serve on review boards, such as Planning Commission, Zoning Board of Appeals, Historic District Commission, etc.

#### NFP Meeting # 3 2/27/19 KENA

51: (comment) Regarding water reservoirs, removal of trees, when work was done on Humphry, none of the considerations outlined in the proposed NFP were taken, and now the water which collects during storms floods the neighborhood.

52: This (NFP) does not necessarily protect wildlife since habitats are not arbitrarily defined by one of the features described in the document. Is there any chance that site specific inventories, like those used in some areas of New Hampshire, could be used to better address unique issues?

We will take a look for the New Hampshire examples. The NFP Ordinance does require a site specific inventory when the Michigan Natural Features Inventory (MNFI) notes a rare species within the vicinity.

#### NFP Meeting # 4 2/28/19 City Hall

53: Is the list of permitted plant or tree species limited to those listed, or can adaptive species be substituted?

It is a recommended list rather than a use only this list. Staff is reviewing including a list of what not to plant as well.

54: Are tree replacement standards based on parent parcel size?

No. Tree replacement requirements are based on the size of the tree removed, the size of the trees proposed for replanting, and the species of the tree selected for replanting.

55: Are there any parcels with NFP, DDRA and HPD designations?

There does not appear to be any overlap with the Historic Districts; there are a few parcels in the Design Review Districts and the proposed NFP.

56: Will the boundaries of the NFP Map change?

Phase 2 of NFP – a city-wide map exercise of natural features in Kalamazoo – could impact the NFP Overlay District Map. Any changes to the Zoning Map require a community process, including review by both the Planning Commission and City Commission.

57: During site plan review, would there be any wiggle room for the CRZ?

No, Critical Root Zone (CRZ) has a set definition for how it is measured.

58: What is the definition of a qualified professional?

This definition varies a bit based upon the Natural Feature; we tried to provide a wide range of options to give even the smallest projects a reasonable option for performing the required analysis.

59: How was the Proposed Overlay District Map created?

The Overlay District Map will be a part of the City's Zoning Ordinance. Zoning regulations are applied to whole parcels and not pieces of a parcel. The 2025 Master Plan Future Land Use Map located many of the Natural Features in Kalamazoo. The Proposed Overlay District Map was created by selecting the parcels on which the 2025 Master Plan Future Land Use Plan noted an existing Natural Feature..

60: Do projects in the 3<sup>rd</sup> review track still go through Site Plan Review?

Yes. The NFP Board will review and make a recommendation on how a project applies the rules of this Overlay on a parcel to the Planning Commission. The Planning Commission will then review and approves NFP Plan. This does not replace the required review and approval of a project's site plan. The Site Plan Review process is still required after all zoning approvals have been obtained and before any permits have been requested.