



CITY MANAGER
Elaine Leven
CITY CLERK
August Gitschlag

City of Fraser

CENTENNIAL COMMUNITY

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MAYOR PRO-TEM
Dana Sutherland
COUNCIL
Amy Baranski
Patrick O'Dell
Kenny Perry
Patrice Schornak
Sherry Stein

AGENDA
CITY OF FRASER ZONING BOARD OF APPEALS
August 15, 2024 @ 7:00 P.M.
COUNCIL CHAMBERS, 33000 GARFIELD; FRASER, MI 48026

- 1. Call Meeting to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of Agenda – August 15, 2024**
- 5. Approval of Minutes – May 2, 2024**
- 6. Formal Statement by Chair**
- 7. New Business of the Board**
 - a. Public Hearings**
 - i. ZBA #24-04: Variance Request – Meijer / Location: 34835 Utica Road**

To obtain a variance from zoning ordinance standards to reduce the number of required off-street parking for a commercial business from 1,079 parking spaces to 999 parking spaces, with the current requirement being 1,608 parking spaces.
 - ii. ZBA #24-05: Variance Request – Sunbelt Rentals / Location: 31253 and 31285 Utica Road**

To obtain a variance from zoning ordinance standards to allow a 10 ft greenbelt planting strip along the north property line of 31285 Utica road in the IC district, which requires a 20 ft greenbelt planting strip.
- 8. Old Business (Postponed Cases)**
- 9. Unfinished Business of the Board**

10. Monthly Report

- a. July Monthly Reports
- b. Action items Update - None

11. Planning Commission Liaison

12. Public to be Heard

13. Adjournment.

Posted: August 1, 2024



CITY MANAGER
Elaine Leven
CITY CLERK
Cynthia Greenia

CENTENNIAL COMMUNITY

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DRAFT MINUTES
CITY OF FRASER ZONING BOARD OF APPEALS
MAY 2, 2024 @ 7:00 P.M.
COUNCIL CHAMBERS, 33000 GARFIELD, FRASER, MI 48026

I. CALL MEETING TO ORDER

A regular meeting of the City of Fraser Zoning Board of Appeals was held on Thursday, May 2, 2024 at 7:00 pm in City Council Chambers. The meeting was called to order by Chairman Farina at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

Chairman Farina led the Pledge of Allegiance.

III. ROLL CALL

PRESENT: Burley, Chimenti, Farina, Green, Menendez, Stasek
ABSENT:

OTHERS: City Attorney Hayley Tomich, City Planner Lauren Sayre, City Clerk Cindi Greenia

IV. APPROVAL OF AGENDA – May 2, 2024

Motion by Menendez, supported by Burley, to approve the agenda as written.

AYES: Burley, Chimenti, Farina, Green, Menendez, Stasek
NAYS: None

Motion Carried

V. APPROVAL OF MINUTES – April 4, 2024

Motion by Menendez, supported by Green, to approve the minutes as presented.

AYES: Burley, Chimenti, Farina, Green, Menendez, Stasek
NAYS: None

Motion Carried

VI. FORMAL STATEMENT BY CHAIR

Chairman Farina gave a formal statement relative to the powers of the Zoning Board of Appeals and the facts and conditions for granting appeals.

VII. NEW BUSINESS OF THE BOARD

A. Public Hearings

- i. ZBA #24-02: Variance Request – Sunbelt Rentals / Location: 31253 and 31285 Utica Road the request is to obtain three variances from zoning ordinance standards including to allow a front setback for parking of 87.13 ft and a 51.6 ft front setback for a storage area in the IC District, which requires a 110 ft parking setback. And, to obtain a variance from the zoning ordinance to allow a front

setback for a fence of 51.6 ft in the IC District, which requires a 110 ft parking setback.

Planner Sayre presented the review and purpose for the request and answered administration questions from the Board.

Civil Engineers for the site were present to represent the property and answer any questions from the Board that included screening, lighting, and how much storage they are proposing on site.

Chair Farina opened the public hearing at 7:30 pm. No one wished to be heard. Chair Farina closed the public hearing at 7:31 pm.

VIII. OLD BUSINESS (POSTPONED CASE)

IX.

- A. VARIANCE REQUEST ZBA #24-02: Sunbelt Rentals / Location: 31253 and 31285 Utica Road to obtain three variances from zoning ordinance standards including to allow a front setback for parking of 87.13 ft. and a 51.6 ft. front setback for a storage area in the IC District, which requires a 110 ft. parking setback. And, to obtain a variance from the zoning ordinance to allow a front setback for a fence of 51.6 ft. in the IC District, which requires a 110 ft. parking setback.

Planner Lauren Sayre presented the case for the variance request.

Discussion with applicant regarding Captain John Gillies, Fraser Department of Public Safety's, concerns dated 3/25/24 regarding this development:

The FDC for the building is located on the North wall of Building, roughly 20 ft from the north/east corner. If a fence is proposed for this corner, it will block their access to the FDC. If there is no fence, it appears the Northern most parking spot would still need to be eliminated to provide access to the FDC. Additionally, there are gate and lock requirements. These issues are to be addressed in sight plan review. Applicant stated they will make the area fully accessible and want to work with Public Safety to find a solution so they are fully compliant. Planning Commission will have to approve final sight plan.

Motion by Burley, supported by Chimenti, to approve three variance requests ZBA 24-02 Sunbelt Rentals, 31253 and 31285 Utica Road in the IC District from zoning ordinance standards to allow a front setback for parking of 87.13 ft. where 110 ft. is required, for a variance of 22.87 ft. A 51.6 ft front setback for gravel storage area which requires a 110 ft. setback for a variance of 58.4 ft. Lastly, to obtain a variance from the zoning ordinance to allow a front setback for a fence located 20 ft from the front property line, 51.6 ft from the centerline of the roadway, which requires a 110 ft. setback for a variance of 58.4 feet.

AYES: Burley, Chimenti, Farina, Green, Menendez, Stasek

NAYS: None

Motion Carried

- B. VARIANCE REQUEST ZBA #24-03: Foundation Solutions 360 / Location: 34400 Klein Road to obtain a variance from zoning ordinance standards to increase the existing nonconforming front parking setback from 63 feet to 51 feet in the IR District, which does not allow parking in the required front or side yard setbacks. And, to modify to the approved variance conditions of ZBA 22-03, approved on October 6, 2022, to allow the storage of gravel outside in the IR District. The applicant is seeking to remove condition 4 of ZBA 22-03 approval, which requires a shared parking agreement with the adjacent property owner in recordable form is provided to and approved by the city attorney.

Planner Lauren Sayre presented the case for the variance request including the revised site plan with suggestions from the board from last month's meeting.

Joe Marth, applicant for the project, was present to answer questions from the board.

Motion by Farina, supported by Chimenti, approve the variance from the zoning ordinance standards to increase the existing nonconforming front parking setback from 63 feet to 51 feet in the IR District. And, to modify the previously approved variance conditions of ZBA 22-03 in the IR District, approved on October 6, 2022, to allow the outside storage of loose gravel, limited to 10 yards, but to remove condition 4 only. The previously approved variance, which required a condition of a shared parking agreement with the adjacent property owner is removed for reasons stated in the recommendation section of the staff report that the applicant indicated they no longer need the same level of parking (4/18/2024).

We find that Sweeney Drain provides a practical difficulty in developing the property. Additionally, we do not anticipate any detrimental impacts to neighboring properties.

AYES: Burley, Chimenti, Farina, Green, Menendez, Stasek

NAYS: None

Motion Carried

X. UNFINISHED BUSINESS OF THE BOARD

Driveway Expansion Discussion

Planner Sayre presented the driveway expansion discussion and how the Zoning Ordinance can be amended or corrected to include the allowance of expansion. City Attorney Tomich also held discussion on interpretation of the ordinance for the Board members.

The board thinks that the correction should come with the Zoning Ordinance re-write that is planned to begin in the Fall 2024, prior to City Council approval.

XI. MONTHLY REPORT

A. April Monthly Reports

Planner Sayre provided an update on activity for the month of April. Including Big Boy/Hockeyland property, 32660 Utica proposed car wash, Sheetz development, Sign Ordinance, and other small items.

B. Action Items Update

None at this time.

XII. PLANNING COMMISSION LIAISON REPORT

Chair Farina summarized the May Planning Commission meeting items including 34575 Commerce and sign ordinance.

XIII. PUBLIC TO BE HEARD

None at this time.

XIV. ADJOURNMENT

Motion by Green, supported by Farina to adjourn at 8:26 pm

All Ayes

Motion Carried

Respectfully Submitted:

Cindi Greenia, Clerk
City of Fraser



July 9, 2024

Hon. Members of the Zoning Board of Appeals
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

**SUBJECT: ZBA REPORT #1
#24-04 VARIANCE REQUEST / MEIJER**

APPLICANTS: MEIJER, INC.

SECTION: SECTION 32-93, PROVISIONS PERTAINING TO MINIMUM NUMBER OF OFF-STREET PARKING SPACES.

LOCATION: 34835 UTICA ROAD, FRASER, MICHIGAN 48026

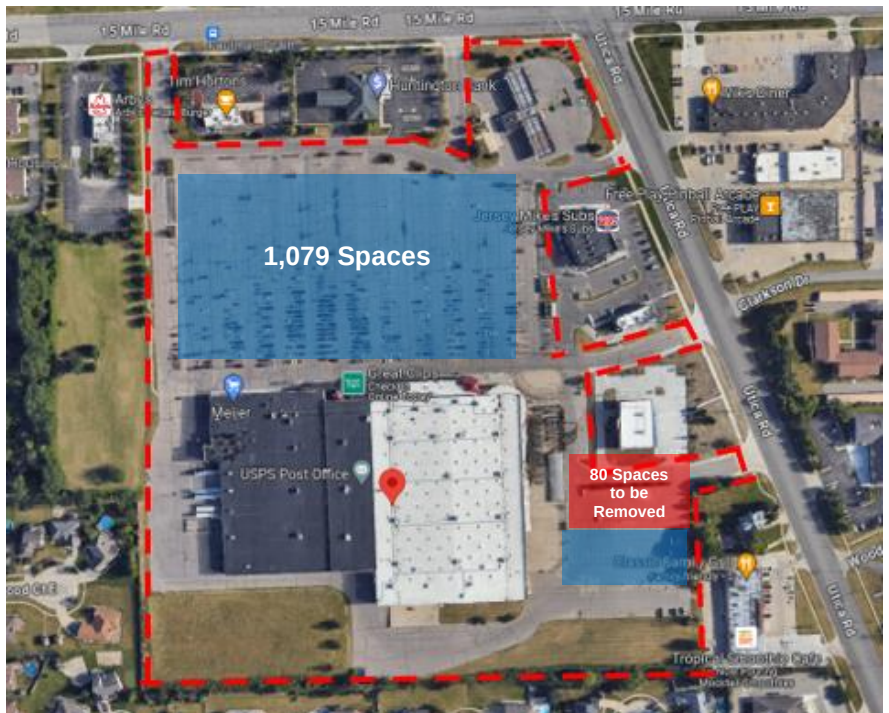
REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING FOR A COMMERCIAL BUSINESS FROM 1,079 PARKING SPACES TO 999 PARKING SPACES, WITH THE CURRENT REQUIREMENT BEING 1,608 PARKING SPACES.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above application for a parking reduction and have prepared the following report. The report identifies the relevant facts about the property and the proposal. The report also provides our professional opinion about how the relevant sections of the ordinance that guide the ZBA's decisions apply to this requested variance.

ADMINISTRATIVE STATEMENT OF FACTS

The applicant, Meijer, Inc., is looking to reduce their parking space requirements. The current zoning ordinance requirement is 1,608 spaces; however, the applicant has been approved for 1,079 parking spaces, which is the number they currently possess. The applicant is requesting to remove 80 parking spaces which would bring the count to 999 parking spaces. The applicant indicated that the actual parking need is only 500 spaces.



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Below is a summary of previous parking modifications for 34835 Utica (Meijer). The complete minutes are included in the Memo following this report.

- *January 3, 2019 / ZBA / #01-19 ZBA / Required parking reduced from 1,608 to 1,179 spaces.*
- *January 16, 2020 / ZBA / #19-07 ZBA / Required parking reduced from 1,179 to 1,149 spaces.*
- *August 7, 2020 / PC / PSP 20-005 / Required parking reduced from 1,149 to 1,079 spaces.*

The City approved a zoning ordinance amendment, section 39-98, Modification of commercial parking requirements, on February 13, 2020, that allows the planning commission to permit an alternative off-street parking standard for a particular use based upon its type, scale, or intensity where the applicant has demonstrated that such modification is appropriate.

Because the parking reduction was also granted as a site plan amendment, the current approved site plan for 34835 Utica would need to be amended if the variance for a parking reduction is granted.

ZONING BOARD OF APPEALS VARIANCES AND BOARD ACTION RESTRICTIONS

The ZBA is a body of limited powers. §32-228 explains how Fraser administers variance requests. Where there are practical difficulties or unnecessary hardships in the way of strict enforcement of the zoning ordinance, the ZBA may grant appeals to vary or modify any zoning provisions that apply to dimensional standards like construction, structural changes in equipment, or alteration of buildings or structures. The ZBA's actions must uphold the zoning ordinance, secure public safety, and provide substantial justice for all property owners.

The ZBA must consider whether the property in question exhibits practical difficulty, like geographical or topographical conditions that impair its improvements without the modifications requested.

As described in §32-228(a)(2), the ZBA must find evidence of evidence that:

- all the facts and conditions of a. thru d. exists,
 - or e. or f. exists independently,
- to grant a variance.

Our comments related to the proposal follow each clause in **bold**.

- *That there are exceptional or extraordinary circumstances or conditions applying to the property in question or as to the intended use of the property that do not apply generally to other properties in the same zoning district.*

The applicant states the property is much larger than surrounding properties with significantly more parking than needed, and that the parking reduction could be utilized for new development.

34835 Utica (Meijer) is the largest Commercial General (CG) parcel in Fraser, making it a unique case.

- *That such variance is necessary for the preservation and enjoyment of a substantial property right like that possessed by other properties in the same vicinity. The possibility of increased financial return shall not of itself be deemed enough to warrant a variance.*

The applicant did not provide any substantive evidence (that was not related to increased financial return) that the variance is necessary for the preservation and enjoyment of a substantial property right. But, we note that there have been parking reductions in the CG district and in the vicinity of the subject site, as well as previous parking reductions to the subject site, which is indicative that a reduction would allow the subject site to enjoy the same property right as nearby



parcels. 01-19 ZBA reduced a Meijer outlot from 103 to 69 spaces and Fraser Hockeyland received a variance for a parking reduction from 958 to 525 spaces.

- *That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.*

We do not find any evidence that approving this variance will negatively impact adjacent properties or the public interest.

We do note that the reduction of parking in the proposed location will ‘orphan’ several parking spaces making them functionally unusable. We defer to the applicant to indicate if they have any plans for the parking area south of the proposed parking reduction area.

- *That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation.*

We believe the variance will not cause a general rule as there is no other properties of this size in the CG, Commercial General district.

OR

- *That the modification to setback, location, site or building requirements is sponsored by the Planning Commission for a specific proposal that benefits the City by providing better design or efficient use of the site or results in a more creative development (all fees to be paid by the applicant).*

The Planning Commission did not sponsor this proposal as a part of a site plan and/or special land use approval.

OR

- *That phasing of required site plan improvements may be warranted because the cost of such improvements is relatively high in relation to the total cost of the applicant's development or addition. Planning Commission recommendations shall be required, together with a financial security in the amount of the deferred improvements.*

The applicant cannot meet the zoning ordinance’s standards through phasing or deferment; therefore, the scenario does not apply.



CONCLUSION

Since the applicants have met the Ordinance standards for obtaining a variance, we recommend that the ZBA grant their request.

Please let me know if you have any questions.

Respectfully Submitted,

Alicia Warren
Assistant Planner

Lauren Sayre, AICP
Associate Planner

Cc: Applicant
City Manager
Building Official
City Attorneys



Memorandum

TO: Fraser Zoning Board of Appeals
FROM: Lauren Sayre, AICP
SUBJECT: 35835 Utica Road - Meijer // Previous Parking Reduction Approvals
DATE: July 18, 2024

Below are the minutes from the PC and ZBA meetings regarding previous parking reduction approvals. Note that in 2020, zoning text amendments were adopted that allows PC to modify parking reductions.

ZONING BOARD OF APPEAL: THURSDAY, JANUARY 3, 2019

#01-19 ZBA, VERUS DEVELOPMENT GROUP, LLC ON BEHALF OF MEIJER CORPORATION – WEST OF UTICA ROAD AND SOUTH OF 15 MILE ROAD TO ALLOW 1,179 OFF-STREET PARKING SPACES WHERE A TOTAL NUMBER OF 1,608 OFF-STREET PARKING SPACES IS REQUIRED.

Motion by Member: STIMAC

Support by Member: MENENDEZ

TO APPROVE #01-19 ZBA, VERUS DEVELOPMENT GROUP, LLC ON BEHALF OF MEIJER CORPORATION – WEST OF UTICA ROAD AND SOUTH OF 15 MILE ROAD TO ALLOW 1,179 OFF-STREET PARKING SPACES WHERE A TOTAL NUMBER OF 1,608 OFF-STREET PARKING SPACES IS REQUIRED.

For the following reasons:

1. Based on the fact that historical observation on the site indicates that there is more than sufficient parking for the use of the facility and a reduction of the spaces for this out lot will not be of detriment to the use and development of this piece or the adjacent properties in the vicinity.

AYES 7

NAYS 0

MOTION CARRIED

ZONING BOARD OF APPEAL: THURSDAY, JANUARY 16, 2020

#19-07 ZBA / Verus Development Group, LLC on behalf of Meijer Corporation

TO ALLOW 1,149 PARKING SPACES WHERE 1,608 SPACES ARE REQUIRED (SECTION 32-93 (6) j.)
(Reduced to 1,179 required by 2019 variance)

Applicants Present: Reid Cooksey, Stonefield Engineering & Design, 607 Shelby Street, Detroit, MI

PLACHCINSKI explained the variance request.

QUESTIONS FOR THE ADMINISTRATION: FARINA inquired about the status of the revised zoning ordinance parking requirements and the impact that the updated requirements would have, if any, for this variance. STIMAC inquired about the purpose and nature of the grassy areas located at the south end of the parent site with regard to whether or not these are open space, retention, required green space, or unpaved areas at the very southwest corner of the Meijer site. STIMAC requested confirmation about whether the Meijer site would be able to utilize these open spaces for additional parking in the event that there is a change in shopping habits and the need for more parking spaces increases significantly. PLACHCINSKI confirmed that Meijer site would be able to utilize this space and that the site could accommodate additional parking.



PETITIONER STATEMENT: COOKSEY noted that this variance is only affecting the Meijer parcel. COOKSEY provided a letter in member's packets which details the actual parking requirements that the Meijer store needs. COOKSEY stated that the Meijer store only need about 600 parking spaces – not the 1,600 that is required by the City. COOKSEY further added that the granting of this variance will allow Meijer to ease maintenance requirements and provide positive economic benefits to the City of Fraser.

BOARD QUESTIONS FOR THE PETITIONER: MENENDEZ inquired about how the 1,337 figures for parking spaces came about. COOKSEY explained that this was in Meijer's original plan and was changed.

STIMAC inquired about whether this was an actual sale of land. COOKSEY responded affirmatively. STIMAC asked if there is an agreement in place. COOKEY indicated that there is an agreement between Meijer and the owner of parcel B however the owner owns both of these parcels.

STIMAC asked if the applicant obtained site plan approval for this portion of the project. COOKSEY responded affirmatively. STIMAC inquired about whether or not site plan approval is contingent on ZBA approval. COOKSEY responded affirmatively to this question.

Public Hearing OPENED: 7:24 pm

PUBLIC COMMENT: None

WRITTEN CORRESPONDENCE FROM PUBLIC HEARING NOTICES: None

Public Hearing CLOSED: 7:25 pm

Motion by Member: FARINA (TO APPROVE)

Support by Member: MENENDEZ

To: To approve variance #19-07 ZBA / Verus Development Group, LLC on behalf of Meijer Corporation to obtain a variance to zoning ordinance parking standards to allow 1,149 parking spaces where 1,608 are required by ordinance.

Further Discussion on the Motion: MENENDEZ noted that Meijer successfully applied for and was granted a similar request in 2019 and suffers no adverse impacts due to the small dimensions on the parcel

AYES 7 NAYS 0 MOTION CARRIED.

PLANNING COMMISSION: MONDAY, AUGUST 17, 2020

PSP 20-005 Meijer Site Plan Amendment

DISCUSSION: PLACHCINSKI presented the site plan amendment for the Meijer store located at 34835 Utica Road. The proposed project is to amend the site plan for the Meijer store to remove 85 parking spaces and divide land from the Meijer site, and replace the 15 spaces for Meijer. The net parking loss to the Meijer development is 70 parking spaces, for 1,079 remaining parking spaces.

PLACHCINSKI presented a communication from a Meijer property sales manager, dated January 17, 2020 stating that Meijer is aiming to construct 3 parking spaces per 1,000 square feet of building. However, their current store prototype has recently been reduced from 210,000 square foot building to a 158,000 square foot building, therefore they aim to have approximately 475 spaces.

PLACHCINSKI also presented the following findings as part of the Meijer site plan amendment review:

- The location and design of driveways providing vehicular access to the Meijer retail development are arranged to promote the safety and convenience of vehicles and pedestrians and to provide access in a manner that promotes proper internal circulation.



- The Meijer development features are arranged to minimize the potential of any negatively impact upon surrounding property. The development does not channel excessive traffic onto local residential streets. Parking and service areas within the Meijer retail development are adequately screened. The Meijer development does not impede emergency vehicle access.
- All buildings, driveways, parking lots and site improvements for the Meijer retail development are compatible with the physical characteristics of the site, including, but not limited to, woodlands, wetlands, slopes, floodplains and soil suitability. The Meijer retail development does not have an adverse impact on the natural environment of the site or the surrounding area.
- The proposed required parking modification for this Meijer development site is appropriate based upon its type, scale, or intensity where the applicant has demonstrated that such modification is appropriate and does not create adverse impacts.

Motion by Member: KEIL Supporting Member: FARINA

To: Approve PSP 20-005 Meijer Site Plan Amendment with the condition that:

1. The applicant must provide a reserve parking agreement for the City Planner and City Attorney to review prior to execution and recording at the Macomb County Register of Deeds that accommodates the 70-parking space reduction beyond previous variances granted for the development. The reserve parking agreement shall specify the zoning ordinance conditions required to construct the reserve parking spaces.

AYES 6

NAYS 0

MOTION CARRIED

A banked parking agreement was submitted and approved by the City on August 26, 2021 (attached).

ZONING ORDINANCE TEXT AMMENDMENT: FEBRUARY 13, 2020

The following Section was adopted on 2/13/20 and allows Planning Commission to make parking modifications.

Sec. 32-98. - Modification of commercial parking requirements by planning commission.

Limited modifications to the minimum off-street parking requirements may be approved by the planning commission in accordance with the following:

(1) The planning commission may permit an alternative off-street parking standard for a particular use based upon its type, scale, or intensity where the applicant has demonstrated that such modification is appropriate based upon an affirmative finding that one (1) of the following criteria has been satisfied (in order of importance):

- a. Documentation of other instances of similar land uses in comparable settings within the Detroit metropolitan area and the appropriateness of those parking conditions. If the evidence and data presented under this evidence category is based upon local data that conflicts with evidence and data from a national source, the local evidence and data under this category shall take precedence.
- b. Statistical information documenting parking demand for the site during the immediately preceding two-year period, any evidence of parking congestion or a need for parking in excess of the amount being proposed, or any projections regarding anticipated increased parking needs arising from any changes to the site arising from the pending request. If the evidence and data presented under this



evidence category is based upon site specific information that conflicts with evidence and data from a national source, the site specific information under this category shall take precedence.

c. Additional data supporting the proposed parking requirement modification, as deemed appropriate in the discretion of the planning commission and after receiving input from the city planner.

d. The average parking demand for the subject use set forth in the most current version of "Parking Generation" by the Institute of Transportation Engineers or, if that document has not been updated within the preceding two (2) years, the most current version or an equivalent authoritative source on the subject of average parking demand.

(2) If the planning commission modifies off-street parking requirements for the particular site by reducing the number of required spaces in accordance with this section and if there is sufficient land to reserve future parking in compliance with all requirements of this article, the planning commission shall require an area to be reserved on the site plan for deferred installation of additional parking. The reserve parking must be shown on the final site plan submitted for approval and set aside as landscaped open space until the time such parking is required by the city. Additional parking spaces in the reserved parking area shall be constructed by the then current property owner in accordance with the approved site plan within ninety (90) days of a written request from the city after the city has received three (3) complaints of insufficient parking within a one (1) year period of time which are documented by the city's code enforcement officers.

(3) If the planning commission has previously modified the off-street parking standard for a particular site by reducing the minimum number of required spaces in accordance with this section, and the use for which the off-street parking reduction was granted is terminated, the following shall apply:

a. If a new proposed use for the property for which a parking reduction was previously approved requires more parking spaces than the previously approved minimum number, the planning commission may consider a new request to modify off-street parking requirements in accordance with the substantial evidence criteria found in subsection (1)a of this section. In the event that a future parking area was previously reserved under subparagraph (2) of this section, the planning commission may require the owner/operator of the new proposed use to install additional parking spaces sufficient for the new proposed use as a condition of obtaining site plan approval if the owner/operator's request to modify the off-street parking standard is denied by the planning commission.

b. If the new use of the property requires parking equal to or less than the number of parking spaces previously installed under a parking reduction approved under this section, the previously granted modification may remain in place.

(4) In all instances where the planning commission approves a modification of the minimum parking requirements, the owner of the property and the operator of the business on the site (if different) shall execute and deliver to the city a reserve parking agreement in form and substance satisfactory to the city planner and city attorney which requires such owner and/or operator to install additional parking spaces in the future if the city requests it based upon the criteria set forth above. The owner and/or operator shall be responsible for paying for the costs of negotiation, preparation, and recording of such agreement, which shall be completed prior to the final issuance of site plan approval [or issuance of a certificate of occupancy]. The city may require that the owner and/or operator pay a deposit with the city treasurer to cover the costs of the negotiation, preparation, and recording of such agreement at the time the request is made. The city shall refund any excess deposit over the actual costs of document negotiation, preparation, and recording, and the owner and/or operator shall pay any deficiency prior to issuance of any occupancy approval if the deposit is insufficient to cover the actual costs of document negotiation, preparation, and recording.

DECLARATION OF BANKED PARKING RESERVATION

This Declaration of Banked Parking Reservation ("Declaration") is made this _____ day of _____, 2021, by **MEIJER, INC.**, a Michigan corporation, whose address is 2929 Walker Avenue N.W., Grand Rapids, Michigan 49544, ("**Meijer**"), which, with the **CITY OF FRASER**, a Michigan municipal corporation ("**City**"), shall be referred to as "**Parties**."

RECITALS

A. Meijer is the owner of a certain parcel of property containing approximately 27 acres of land commonly known as 34835 Utica Road, in the City of Fraser, Macomb County, Michigan (the "**Meijer Parcel**"), more particularly described on attached **Exhibit A**, upon which it operates a large grocery, pharmacy, and general merchandise superstore ("**Meijer Store**").

B. AutoZone Development, LLC, a Nevada limited liability company, entered into an agreement with Meijer to purchase approximately 1.29 acres of the Meijer Parcel ("**AutoZone Parcel**"), which requires a land division of the 1.29 acre of land from the Meijer Parcel.

C. As a result of the proposed sale of the AutoZone Parcel by Meijer, the overall size of the Meijer Parcel is reduced as described on **Exhibit B** ("**Meijer Resultant Parcel**"), and the number of available parking spaces on the Meijer Parcel for Meijer Store customer and employee parking is reduced.

D. The City Planner has required that Meijer obtain approval of an amendment to the site plan for the Meijer Store ("**Amended Site Plan Approval**") to (i) revise the description of the Meijer Parcel resulting from the land division, and (ii) reflect a reduced number of parking spaces for the Meijer Store.

E. On August 17, 2020, the Planning Commission of the City of Fraser ("**Planning Commission**") approved an amendment to the Meijer Store site plan conditioned upon, among other requirements, that Meijer provide a reserve parking agreement satisfactory to the City Attorney that requires Meijer to (i) designate a reserved parking area of the Meijer Resultant Parcel ("**Banked Parking Area**") for the future installation of up to 70 space parking spaces in the future if the City reasonably determines as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property that additional parking is needed; (ii) restrict any construction or improvement on the Banked Parking Area (except for landscaping approved by the City), and (iii) prohibit the sale of the Banked Parking Area or approved part thereof separate from the Meijer Resultant Parcel.

F. Meijer is willing to (i) agree to install additional parking on the Meijer Resultant Parcel in the future if the City reasonably determines, after providing sufficient evidence to Meijer that the Additional Parking (as defined below) is required, as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property that Meijer's use of the Meijer Resultant Parcel for the Meijer Store or otherwise requires additional parking in the reasonable discretion of the City Planner, and (ii) to execute and deliver a declaration of banked parking to the City so that Meijer will have the benefit of the amended site plan.

NOW, THEREFORE, Meijer makes the following declaration as a condition of obtaining the benefits of the Amended Site Plan:

1. **Declaration.** Meijer declares and agrees that it will reserve and bank the Banked Parking Area and refrain from using such area which is sufficient to accommodate the installation of seventy (70) additional parking spaces for the installation of additional parking ("**Additional Parking**") to be installed if the City Planner reasonably determines that additional parking spaces are required to service Meijer's use of the Meijer Resultant Parcel as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property ("**Changed Site Conditions**"). Meijer agrees that the Banked Parking Area will not be used for other purposes (other than landscaping approved by the City), including the building of structures, without the prior written consent of the City. The Amended Site Plan shall clearly identify the boundaries of the Banked Parking Area.

2. **Notice of Additional Required Parking Spaces; Installation of Additional Parking Spaces.**

a. ***Notice to Install Additional Parking in Banked Parking Area.*** In the event that the City Planner reasonably determines that any Changed Site Conditions require the installation of the Additional Parking, the City Planner shall notify Meijer or its successor-in-interest in writing of the specified number of additional parking spaces which must be installed in the Banked Parking Area.

b. ***Submission of Revised Parking Plan; Installation of Additional Parking.*** Upon receipt of such notice, Meijer or the successor-in-interest, as the case may be, shall submit to the Fraser Building Department ("**Building Department**"), a plan showing the specific placement of the required additional parking spaces to be installed within the Banked Parking Area as shown on the attached **Exhibit C**. Meijer shall be required to submit an application to amend its site plan and pay any customary application and review fees then in effect for such review by the planning consultant or consultant city engineer, plus an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time, provided, however, in no event shall that additional administrative fee exceed eight (8) percent. Meijer or its successor-in-interest shall install such additional parking spaces in the approved location within one hundred twenty (120) days of receipt of the City Planner's notice that additional parking spaces must be installed (unless the City Planner and Meijer, or the successor-in-interest, agree in writing to a longer time period for such installation). Such parking shall be installed in accordance with a site plan approved by City.

c. ***Amendment of Banked Parking Area Exhibit C.*** In addition, Meijer or its successor-in-interest shall submit to the City Planner for approval an amended **Exhibit C** depicting and describing any part of the "Banked Parking Area," if any, that still remains after installation of the required additional parking spaces. An amendment to this Declaration satisfactory to the City Planner and City Attorney shall be executed by Meijer or the successor-in-interest and recorded to reflect the remaining area of the Banked Parking Area.

3. **Declaration for Benefit of City and Future Owners of the Property.** Meijer makes this Declaration as a condition to the City approving an Amended Site Plan for the Meijer Store on the Meijer Resultant Parcel with seventy (70) fewer parking spaces for the Meijer Resultant Parcel with a banked parking arrangement in accordance with the terms of this Declaration. Meijer acknowledges that City would not approve the reduced parking and banked parking arrangement if Meijer had not executed this Declaration or a similar agreement for the benefit of City and Meijer's successors-in-interest, and future owners of the Meijer Resultant Parcel. City shall be entitled to enforce the terms of this Declaration for the benefit of City, City's successors and assigns, and future owners of the Meijer Resultant Parcel.

4. **Remedies for Non-Compliance.**

a. ***City Preparation of Plans for Required Additional Parking.*** If Meijer, or its successor-in-interest fails to (i) submit revised plans depicting the required additional parking spaces to be installed within the Banked Parking Area, then the City may prepare such plans (or have such plans prepared by a qualified planning and/or engineering professional), for the required additional parking spaces at the approved location within the Banked Parking Area, and the reasonable, documented costs and expenses incurred by the City for such plan preparation, plus an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time but not to exceed eight (8) percent, shall be paid by Meijer (or its successor-in-interest) within thirty (30) days of invoicing by the City.

b. ***City Installation of Additional Parking.*** If Meijer, or its successor-in-interest fails to install the required additional parking within the time period specified in this Declaration (including any extensions granted in writing by the City Planner for good cause), City shall provide Meijer with written notice of default and Meijer shall have thirty (30) days to remedy the default by beginning the work required by this Declaration and diligently pursuing it to completion. If Meijer or its successor-in-interest fails to begin the required work and diligently pursue it to completion after receiving the required notice of default by City within the required time set forth in this paragraph, Meijer and its successors-in-interest authorize City, at its discretion, to enter and cross the Meijer Resultant Parcel to get to the Banked Parking Area to install the required number of additional parking spaces within the Banked Parking Area in accordance with the requirements of the Zoning Ordinance. Such entry and access rights shall include the right to bring in necessary personnel, vehicles and equipment, materials, safety barriers, and other items customarily utilized to safely complete paving in a busy commercial area, including the right to store such vehicles and equipment, materials, safety barriers, and/or other items during the time the paving is installed, hardened and cured. City will provide Meijer or its successor-in-interest with a minimum of seven (7) days written notice in advance of performing such work and City or its contractors will make commercially reasonable efforts to not unnecessarily disturb or interrupt ongoing business operations of Meijer or its successor-in-interest.

c. ***Selection of Contractor for Parking Space Installation; Payment of Contractor; Invoicing of Successor Parties; Payment of Invoice by Successor Parties.*** In the event of Meijer's non-compliance, City shall secure a qualified contractor for such work in accordance with the provisions of the City's purchasing ordinance. City shall pay the contractor for the installation of the additional parking spaces on the Meijer Resultant Parcel and shall, thereafter, invoice Meijer or its successor-in-interest for the expense of such installation, based upon the actual cost (with submission of receipts for material and labor if available from its contractor) of such installation, plus any inspection, monitoring, or contract administration fees incurred by the City for inspection, monitoring or construction contract administration, and an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time but in no event shall the additional administrative fee exceed eight (8) percent. Meijer, or its successor-in-interest, shall pay the invoice within thirty (30) days of the date of the invoice. If not paid within such time period, City shall record a lien against the Meijer Resultant Parcel, and such lien and assessment shall be treated the same as tax assessments, including the imposition of the same penalties and interest, remedies and collection procedures. This remedy shall be in addition to other legal remedies available to the City as provided by law.

d. ***Reimbursement of Attorney Fees and Other Expenses.*** In the event of Meijer's non-compliance, Meijer shall be responsible for reimbursement to the City for reasonable attorney fees incurred by the City in connection with (i) the negotiation and preparation of this Declaration, (ii) any enforcement action against Meijer or its successor-in-interest as a result of Meijer or its successor-in-interest failing to install the required Additional Parking, paying the invoice for such installation, or otherwise abiding by the terms of this Declaration.

5. **Amendment or Termination of Declaration.** This Declaration shall not be amended or terminated by Meijer or any successor-in-interest without the written consent of the City, which modification or termination shall be set forth in a written document to be recorded.

6. **Binding Effect.** This Declaration shall be binding upon Meijer, its successors-in-interest, its assigns, transferees of the Meijer Resultant Parcel, and other parties with an interest in the Meijer Resultant Parcel.

7. **Entire Agreement.** This Declaration contains the entire agreement and understanding of the Parties, and there are no additional premises or terms of agreement between the Parties other than those written in this Declaration.

8. **Joint Preparation of Declaration; Interpretation; Governing Law.** All Parties and their counsel had input into the preparation of this Declaration, and it shall be interpreted as if drafted jointly by the Parties. This Declaration is made in the State of Michigan and shall be governed by and construed in accordance with its laws without regard to the application of rules of conflicts of law. The Parties acknowledge that they are subject to personal jurisdiction in Michigan for the sole and limited purposes of any litigation relating to this Declaration or its enforcement.

9. **Additional Documents.** The Parties agree to cooperate fully and execute any and all documents and to take all additional actions which may be necessary and appropriate to give full force and effect to the terms and intent of this Declaration.

10. **Execution by City.** This Declaration is executed by the City Manager on behalf of the City to acknowledge its acceptance of its terms to satisfy the conditions of the Planning Commission with respect to approval of the Amended Site Plan to allow the current reduction of parking spaces.

The Parties have executed this Declaration as of the Effective Date set forth above.

[Signature and Acknowledgment of Meijer follows on next page]

Meijer:

MEIJER, INC., a Michigan corporation

By: [Signature]

Michael Flickinger

Its: Vice President-Real Estate

Legal [Signature]
Bus. [Signature]

STATE OF MICHIGAN)

)ss

COUNTY OF KENT)

The foregoing Declaration was acknowledged before me this 24th day of August, 2021 by Michael Flickinger, the Vice President-Real Estate of Meijer, Inc., a Michigan corporation, for and on behalf of said corporation.

[Signature], Notary Public

Ottawa County, Michigan

Acting in Kent County

My Commission Expires: 2-17-23

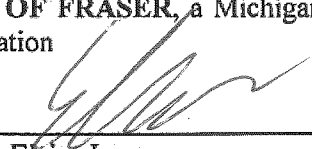
LARAE B STEIGENGA
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OTTAWA
My Commission Expires February 17, 2023
Acting in Kent County, MI

(Signatures continue on following page)

ACCEPTANCE BY CITY

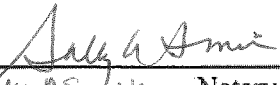
City of Fraser accepts the terms of this Declaration to satisfy the conditions of the Planning Commission with respect to allowing an amendment of the site plan with reduced parking on the Resultant Property.

CITY OF FRASER, a Michigan municipal corporation

By: 
Elaine Leven
Its: City Manager

The foregoing Declaration was acknowledged before me this 26 day of August, 2021 by Elaine Leven, City Manager of the City of Fraser, a Michigan municipal corporation, on behalf of the municipal corporation.




Sally A. Smith, Notary Public
Oakland County, Michigan
Acting in Oakland County
My Commission Expires: 11-01-2025

DRAFTED BY:

Clark A. Andrews, Esq.
O'Reilly Rancilio P.C.
12900 Hall Road, Suite 350
Sterling Heights, Michigan 48313

WHEN RECORDED, RETURN TO:

City Clerk
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

EXHIBIT A
(Legal Description of the Meijer Parcel)

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, 184.68 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 21 DEGREES 47 MINUTES 00 SECONDS EAST, 367.21 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 41 SECONDS WEST, 247.92 FEET; THENCE SOUTH 00 DEGREES 25 MINUTES 20 SECONDS EAST, 339.18 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 43 SECONDS EAST, 98.70 FEET; THENCE NORTH 85 DEGREES 55 MINUTES 32 SECONDS EAST, 42.61 FEET; THENCE NORTH 77 DEGREES 24 MINUTES 57 SECONDS EAST, 55.82 FEET; THENCE NORTH 69 DEGREES 23 MINUTES 27 SECONDS EAST, 58.07 FEET; THENCE NORTH 22 DEGREES 05 MINUTES 42 SECONDS WEST, 15.00 FEET; THENCE NORTH 67 DEGREES 54 MINUTES 18 SECONDS EAST, 31.00 FEET; THENCE SOUTH 22 DEGREES 05 MINUTES 42 SECONDS EAST, 15.00 FEET; THENCE NORTH 67 DEGREES 54 MINUTES 18 SECONDS EAST, 13.03 FEET; THENCE 5.47 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, RADIUS OF 24.16 FEET, CHORD BEARING OF NORTH 58 DEGREES 11 MINUTES 37 SECONDS EAST, 5.46 FEET; THENCE NORTH 68 DEGREES 13 MINUTES 00 SECONDS EAST, 60.00 FEET; THENCE SOUTH 21 DEGREES 47 MINUTES 00 SECONDS EAST, 159.67 FEET; THENCE SOUTH 21 DEGREES 21 MINUTES 55 SECONDS EAST, 210.94 FEET; THENCE SOUTH 82 DEGREES 18 MINUTES 46 SECONDS WEST, 184.59 FEET; THENCE SOUTH 00 DEGREES 37 MINUTES 09 SECONDS EAST, 357.53 FEET; THENCE SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, 1,124.40 FEET; THENCE NORTH 1,334.67; THENCE NORTH 89 DEGREES 24 MINUTES 07 SECONDS EAST, 115.41 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 107.68 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 28.84 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 98.42; THENCE 39.53 FEET ALONG A CURVE TO THE NORTHWEST, RADIUS OF 25.00 FEET, CHORD BEARING OF SOUTH 45 DEGREES 17 MINUTES 57 SECONDS EAST, 35.54 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 07 SECONDS EAST, 213.58 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 13 SECONDS EAST, 160.43 FEET; THENCE 76.75 FEET ALONG A CURVE TO THE SOUTHEAST, RADIUS OF 200.00 FEET, CHORD BEARING OF SOUTH 79 DEGREES 24 MINUTES 31 SECONDS EAST, 76.28 FEET; THENCE SOUTH 68 DEGREES 24 MINUTES 56 SECONDS EAST, 46.22 FEET; THENCE 49.26 FEET ALONG A CURVE TO THE NORTHEAST, RADIUS OF 25.00 FEET, CHORD BEARING OF NORTH 55 DEGREES 08 MINUTES 01 SECONDS EAST, 41.67 FEET; THENCE NORTH 01 DEGREE 19 MINUTES 02 SECONDS WEST, 156.30 FEET; THENCE NORTH 18 DEGREES 29 MINUTES 03 SECONDS WEST, 24.89 FEET; THENCE NORTH 60.00 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 07 MINUTES EAST, 298.79 FEET TO THE POINT OF BEGINNING.

EXCEPT PREMISES TAKEN FOR WIDENING OF UTICA ROAD DESCRIBED IN THE STATEMENT OF NECESSITY RECORDED AT LIBER 5860, PAGE 503, BEING THE EASTERLY 60.00 FEET THAT RUNS PARALLEL AND PERPENDICULAR TO THE CENTERLINE OF UTICA ROAD.

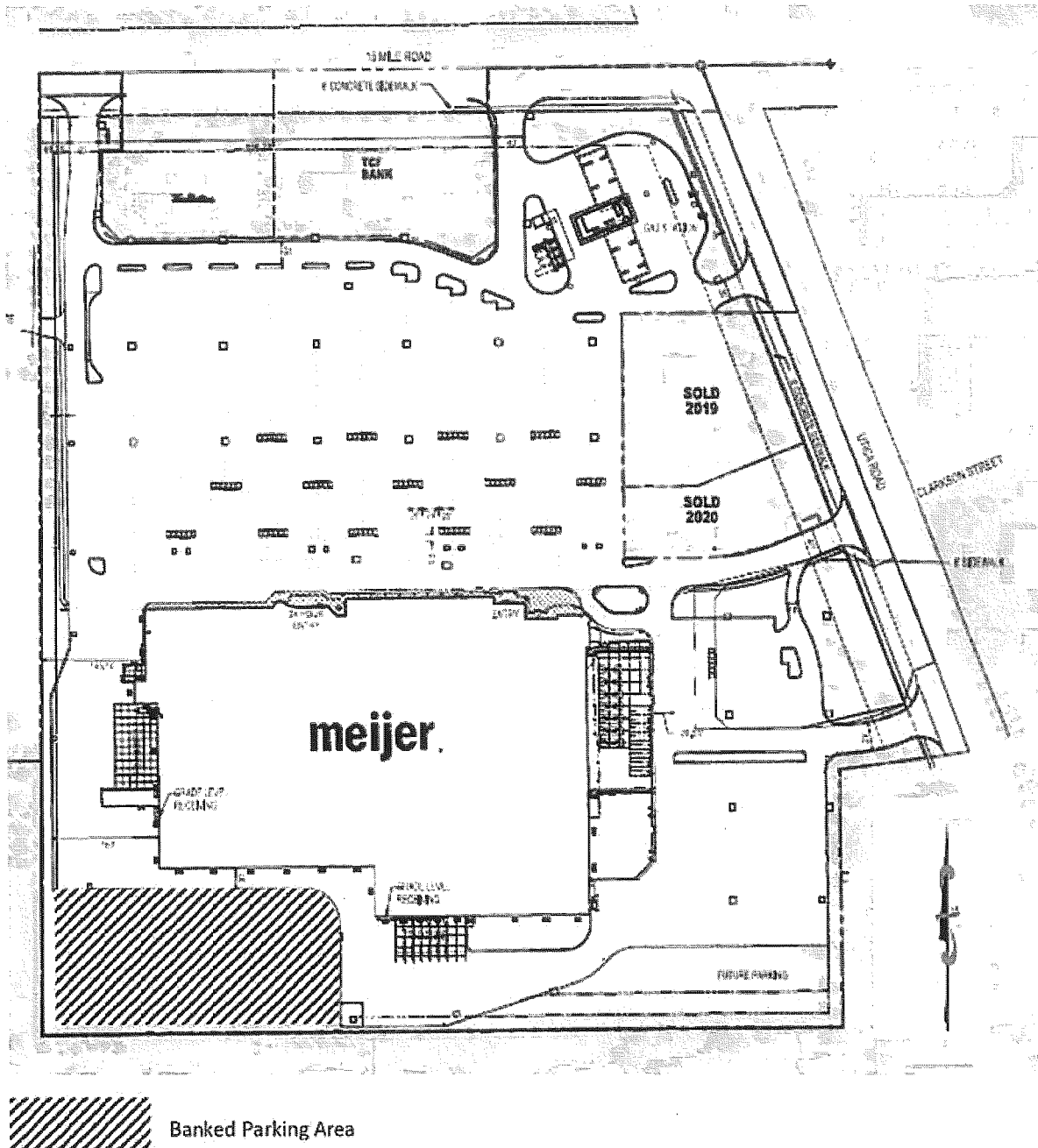
Tax Parcel Number: 03-11-31-100-045
Address: 34835 Utica Road, Fraser, Michigan

EXHIBIT B
(Legal Description of Meijer Resultant Parcel)

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY), S89°24'07"W, 184.68 FEET TO THE POINT OF BEGINNING OF PARCEL TO BE REDESCRIBED;
THENCE S21°47'00"E, 64.35 FEET;
THENCE S89°24'07"W, 64.35 FEET TO THE WEST RIGHT-OF-WAY LINE OF UTICA ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY);
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 302.71 FEET;
THENCE S89°31'41"W, 183.52 FEET;
THENCE S00°25'20"E, 339.18 FEET;
THENCE S89°31'43"E, 98.70 FEET;
THENCE N85°55'32"E, 42.61 FEET;
THENCE N77°24'57"E, 55.82 FEET;
THENCE N69°23'27"E, 58.07 FEET;
THENCE N22°05'42"W, 15.00 FEET;
THENCE N67°54'18"E, 31.00 FEET;
THENCE S22°05'42"E, 15.00 FEET;
THENCE N67°54'18"E, 13.03 FEET;
THENCE 5.47 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 24.16 FEET, A CENTRAL ANGLE OF 12°58'34", AND A CHORD WHICH BEARS N58°11'37"E AT A DISTANCE OF 5.46 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 50.79 FEET;
THENCE N62°42'07"W, 12.25 FEET;
THENCE S69°11'13"W, 33.95 FEET;
THENCE 179.94 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 418.95 FEET, A CENTRAL ANGLE OF 24°36'33", AND A CHORD WHICH BEARS S76°21'20"W AT A DISTANCE OF 178.56 FEET;
THENCE S00°25'36"E, 195.76 FEET;
THENCE N89°10'55"E, 151.42 FEET;
THENCE 148.46 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 338.34 FEET, A CENTRAL ANGLE OF 25°08'24", AND A CHORD WHICH BEARS N77°11'21"E AT A DISTANCE OF 147.27 FEET;
THENCE N16°37'43"E, 3.75 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°21'55"E, 83.39 FEET;
THENCE S82°18'46"W, 122.84 FEET;
THENCE S00°37'09"E, 357.53 FEET;
THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, S89°24'07"W, 1124.46 FEET;
THENCE N00°00'00"E, 1334.67 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD;
THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 115.41 FEET;
THENCE S00°00'00"E, 107.68 FEET;
THENCE N90°00'00"W, 28.84 FEET;
THENCE S00°00'00"E, 98.42 FEET;
THENCE 39.53 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°36'00", AND A CHORD WHICH BEARS S45°17'57"E AT A DISTANCE OF 35.54 FEET;
THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 213.58 FEET;
THENCE N89°27'13"E, 160.43 FEET;
THENCE 76.75 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF 21°59'14", AND A CHORD WHICH BEARS S79°24'31"E AT A DISTANCE OF 76.28 FEET;
THENCE S68°24'56"E, 46.22 FEET;
THENCE 49.26 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 112°53'57", AND A CHORD WHICH BEARS N55°08'01"E AT A DISTANCE OF 41.67 FEET;
THENCE N01°19'02"W, 156.30 FEET;
THENCE N18°29'03"W, 24.89 FEET;
THENCE N00°00'00"E, 60.00 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD;
THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 298.85 FEET TO THE POINT OF BEGINNING, CONTAINING 26.935 ACRES.
SUBJECT TO THE RIGHTS OF THE PUBLIC OVER 15 MILE ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY), ALSO SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

Tax Parcel No.: 03-11-31-100-045; Address: 34835 Utica Road, Fraser, MI 48026

EXHIBIT C
(Description and Depiction of Banked Parking Area)





**CITY OF FRASER
APPLICATION FOR APPEAL
ZONING BOARD OF APPEALS**

Office Use Only

APPEAL # _____
DATE OF MTG. _____
DATE REC'D _____
RECEIPT #: _____

CIRCLE ALL THAT APPLY:

VARIANCE

APPEAL

TEMPORARY

INTERPRETATION

GENERAL LOCATION OF PROPERTY:

ADDRESS 34835 Utica Rd, Fraser, MI 48026 CROSS STREETS: 15 Mile Road and Utica Road

LEGAL DESCRIPTION (Lot number, subdivision, metes/bounds or attach on a separate sheet):

Lot Number: 11-31-100-049

See Attached for Legal Description

BASIS FOR REQUEST: (Hardship or practical difficulty imposed by Ordinance):

Minimum number of off street parking required by the Zoning Ordinance is 1608, while the current parking provided
are 1079 spaces there will be a reduction of 80 spaces to 999 spaces

SECTION OR ORDINANCE INVOLVED: 32-93

ZONING DISTRICT OF PROPERTY: General Commerical District (CG)

APPLICANT

NAME AND ADDRESSES OF PARTIES OF INTEREST AND/OR APPLICANT SETTING FORTH THE LEGAL INTEREST IN SAID PREMISES:

APPLICANT: Meijer, Inc.

ADDRESS: 2929 Walker Ave. NW, Grand Rapids, MI 49544

PHONE: 586-254-0900 (Verus); 616-791-3621 (Meijer) INTEREST: Owner

APPLICANT: Verus Development Group, LLC

ADDRESS: 950 S Old Woodward Ave, Suite 220, Birmingham MI 48009

I (We) hereby request a hearing on the above-mentioned matter before the City of Fraser Zoning board of Appeals. The undersigned swear(s) the foregoing statements and answers herein contained and accompanied information and data are in all respects true and complete. I (we) grant permission to Members of the Zoning Board of Appeals and to the City of Fraser Administration to enter the land in order to view the outside premises in preparation for hearing our case.

Signature of Applicant: _____

Date: 6-24-2024

Signature of legal property owner (if not applicant): Kurt Adams

Date: Jun-19-2024

MEIJER, INC.

Kurt Adams, Director of Property Management



REAL ESTATE DEPARTMENT

Kurt Adams
Phone: (616) 791-3621
Kurt.Adams@meijer.com

June 19, 2024

VIA EMAIL: frank.arcori@verusdg.com

Mr. Frank Arcori
Verus Development
950 S Old Woodward Ave, Suite 220
Birmingham, MI 48009

Re: Meijer 145 Fraser
Parking Counts

Dear Mr. Arcori:

It is my understanding that there may be questions from the City of Fraser regarding the number of remaining parking stalls for the Meijer store at 15 Mile & Utica Rds, including whether the remaining number of spaces would be sufficient for Meijer.

For Meijer, a key driver in our desire to sell this outlot is that very reduction in parking stalls. Meijer's current prototype is to have approximately 500 parking spaces for a new store. The Meijer store in Fraser currently has 1,079 parking spaces, more than double our preferred amount. The excess parking is unused, is not aesthetically pleasing, and is a significant cost to Meijer to maintain. We have found that parking reductions through outlot development offers municipalities the opportunity to see those seas of asphalt reduced, increased commercial development in what is already a commercial corridor or focal point, as well as offer the community additional dining and shopping opportunities that might not be possible should excess asphalt remain.

In summary, Meijer would very much like to see the number of parking spaces further reduced for several reasons and would hope that the community agrees with our evaluation while seeing the benefits to the City and its citizens. Please let me know if you or the City has any further questions on this or any other matter.

Sincerely,
MEIJER

Kurt Adams

Kurt Adams
Director of Property Management



June 27, 2024

Laurne Sayre
Office of Planning and Zoning
City of Fraser
33000 Garfield Road
Fraser, MI 48026

**RE: City of Fraser Zoning Board of Appeals Approval
Proposed Multi-tenant Retail
PARCEL ID: 11-11-100-044
34835 Utica Road
Macomb County, Michigan**

Lauren:

Stonefield Engineering & Design, LLC is pleased to submit documents for the Zoning Board of Appeals Approval for the above referenced property. Please find the following items enclosed for review:

ITEM DESCRIPTION	DATED	COPIES	PREPARED BY
Zoning Board of Appeals Application	06-24-2024	1	Verus Development Group, LLC
Legal Description	06-21-2024	10	Verus Development Group, LLC
Check for \$800.00	06-24-2024	1	Verus Development Group, LLC
Meijer Parking Exhibit	06-18-2024	10	Stonefield Engineering & Design
Meijer Parking Reduction Letter	06-19-2024	10	Meijer

Below are the variance conditions being addressed:

- a. *That there are exceptional or extraordinary circumstances or conditions applying to the property in question or as to the intended use of the property that do not apply generally to other properties in the same zoning district.*
This property is much larger than any surrounding property with significantly more available parking that could be used for potential development. This property is encumbered by more parking than required by the tenant.
- b. *That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.*
Granting this variance will allow for new development within the city providing greater financial return and more enjoyment and preservation of the commercial area than excessive parking.
- c. *That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.*
The reduction of parking for a new development provide improvement to adjacent properties and provide greater public interest in this area.
- d. *That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation*
The parking reduction is specific to this tenant needs as the parking being removed is excessive and in an area of the site that does not necessitate parking for customers or employees.



Should you have any questions, please do not hesitate to contact our office.

Best regards,

J. Reid Cooksey
jcooksey@stonefieldeng.com
Stonefield Engineering and Design, LLC

Erin McMachen
emcmachen@stonefieldeng.com
Stonefield Engineering and Design, LLC



PROPERTY INFORMATION

ADDRESS: 34835 UTICA ROAD, CITY OF FRASER, MACOMB COUNTY, MICHIGAN

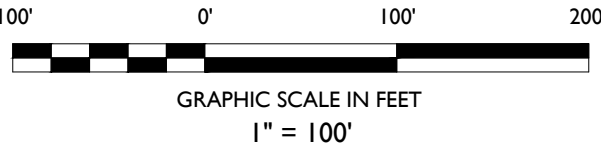
EXISTING ZONE: GENERAL COMMERCIAL ZONE (GC)

PROPOSED PARCEL AREA: ±1.4 ACRES

BUILDING FOOTPRINT: 6,539 SF

MEIJER SUMMARY (STORE # 145)			
MEIJER		OUTLOT PARCEL	
CURRENT STALL COUNT	1,079	BUILDING SIZE	6,539 SF
STALLS BEING REMOVED	80	PARCEL SIZE	1.4 ACRES
REMAINING STALLS	999	STALLS PROPOSED	18

* MEIJER PARKING REQUIREMENT:
1 SPACE PER 150 SF OF FLOOR AREA
(241,230 SF) / (150 SF) = 1,608 SPACES



STONEFIELD
engineering & design

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Princeton, NJ • Tampa, FL • Boston, MA
www.stonefieldeng.com
607 Shelby Suite 200, Detroit, MI 48226
Phone 248.247.1115

VARIANCE EXHIBIT

FRASER MEIJER OUTLOT
PROPOSED PARKING REDUCTION

PARCEL ID: 03-11-31-100-045
34835 UTICA ROAD
CITY OF FRASER
MACOMB COUNTY, MICHIGAN

J. REID COOKSEY
MICHIGAN LICENSE No. 6201069428
LICENSED PROFESSIONAL ENGINEER

STONEFIELD
engineering & design

SCALE: 1" = 100' PROJECT ID: DET-220253

TITLE:
MEIJER ZBA
PARKING EXHIBIT

DRAWING:
E-1

APPROVED FOR CONSTRUCTION

01	06/18/2024	JRC	FOR ZONING BOARD OF APPEALS APPROVAL
		BY	DESCRIPTION



City of Fraser

Building & Code Enforcement Department

NOTICE OF ZONING BOARD OF APPEALS HEARING

NOTICE IS HEREBY GIVEN that the City of Fraser Zoning Board of Appeals will meet on **Thursday, August 15, 2024**, at 7:00 p.m. in the Fraser City Hall Council Chambers at 33000 Garfield Road, located at the southeast corner of Fourteen Mile and Garfield Roads, Fraser, Michigan for the purpose of conducting a Public Hearing and making a decision on the following request:

APPEAL #24-02: **VARIANCE REQUEST / MEIJER, INC.**

BY REASON OF: SECTION 32-93, PROVISIONS PERTAINING TO MINIMUM NUMBER OF OFF-STREET PARKING SPACES.

PURPOSE OF REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING FOR A COMMERCIAL BUSINESS FROM 1,079 PARKING SPACES TO 999 PARKING SPACES, WITH THE CURRENT REQUIREMENT BEING 1,608 PARKING SPACES.

PROPERTY IN QUESTION: 34835 UTICA ROAD, FRASER MICHIGAN, 48026
PARCEL ID: 11-31-100-049

NOTICE IS FURTHER GIVEN that any interested person may appear and comment upon the proposed request in person, or by agent or attorney during the public hearing to be held on the date and time of the meeting. Pertinent information relating to the application may be reviewed at the Fraser Building Department during regular business hours which are 8:00 a.m. to 4:30 p.m., Monday through Friday at the Fraser City Hall, 33000 Garfield Road, Fraser, Michigan. Questions regarding the requested variance can be directed to the Planner, c/o Building Department at 586-293-3100. Written comments may be submitted to the Fraser Building Department at 33000 Garfield Road, Fraser, Michigan 48026, or email to the Building Department at zoning@micityoffraser.com up to 4:30 p.m. of the meeting date.

The City of Fraser will provide necessary, reasonable auxiliary aids and services to individuals with disabilities at the meeting upon four (4) days' notice to the Building Department at the phone number set forth above.



Memorandum

TO: Fraser Zoning Board of Appeals
FROM: Lauren Sayre, AICP
SUBJECT: 35835 Utica Road - Meijer // Previous Parking Reduction Approvals
DATE: July 18, 2024

Below are the minutes from the PC and ZBA meetings regarding previous parking reduction approvals. Note that in 2020, zoning text amendments were adopted that allows PC to modify parking reductions.

ZONING BOARD OF APPEAL: THURSDAY, JANUARY 3, 2019

#01-19 ZBA, VERUS DEVELOPMENT GROUP, LLC ON BEHALF OF MEIJER CORPORATION – WEST OF UTICA ROAD AND SOUTH OF 15 MILE ROAD TO ALLOW 1,179 OFF-STREET PARKING SPACES WHERE A TOTAL NUMBER OF 1,608 OFF-STREET PARKING SPACES IS REQUIRED.

Motion by Member: STIMAC

Support by Member: MENENDEZ

TO APPROVE #01-19 ZBA, VERUS DEVELOPMENT GROUP, LLC ON BEHALF OF MEIJER CORPORATION – WEST OF UTICA ROAD AND SOUTH OF 15 MILE ROAD TO ALLOW 1, 179 OFF-STREET PARKING SPACES WHERE A TOTAL NUMBER OF 1,608 OFF-STREET PARKING SPACES IS REQUIRED.

For the following reasons:

1. Based on the fact that historical observation on the site indicates that there is more than sufficient parking for the use of the facility and a reduction of the spaces for this out lot will not be of detriment to the use and development of this piece or the adjacent properties in the vicinity.

AYES 7

NAYS 0

MOTION CARRIED

ZONING BOARD OF APPEAL: THURSDAY, JANUARY 16, 2020

#19-07 ZBA / Verus Development Group, LLC on behalf of Meijer Corporation

TO ALLOW 1,149 PARKING SPACES WHERE 1,608 SPACES ARE REQUIRED (SECTION 32-93 (6) j.)
(Reduced to 1,179 required by 2019 variance)

Applicants Present: Reid Cooksey, Stonefield Engineering & Design, 607 Shelby Street, Detroit, MI

PLACHCINSKI explained the variance request.

QUESTIONS FOR THE ADMINISTRATION: FARINA inquired about the status of the revised zoning ordinance parking requirements and the impact that the updated requirements would have, if any, for this variance. STIMAC inquired about the purpose and nature of the grassy areas located at the south end of the parent site with regard to whether or not these are open space, retention, required green space, or unpaved areas at the very southwest corner of the Meijer site. STIMAC requested confirmation about whether the Meijer site would be able to utilize these open spaces for additional parking in the event that there is a change in shopping habits and the need for more parking spaces increases significantly. PLACHCINSKI confirmed that Meijer site would be able to utilize this space and that the site could accommodate additional parking.



PETITIONER STATEMENT: COOKSEY noted that this variance is only affecting the Meijer parcel. COOKSEY provided a letter in member's packets which details the actual parking requirements that the Meijer store needs. COOKSEY stated that the Meijer store only need about 600 parking spaces – not the 1,600 that is required by the City. COOKSEY further added that the granting of this variance will allow Meijer to ease maintenance requirements and provide positive economic benefits to the City of Fraser.

BOARD QUESTIONS FOR THE PETITIONER: MENENDEZ inquired about how the 1,337 figures for parking spaces came about. COOKSEY explained that this was in Meijer's original plan and was changed.

STIMAC inquired about whether this was an actual sale of land. COOKSEY responded affirmatively. STIMAC asked if there is an agreement in place. COOKEY indicated that there is an agreement between Meijer and the owner of parcel B however the owner owns both of these parcels.

STIMAC asked if the applicant obtained site plan approval for this portion of the project. COOKSEY responded affirmatively. STIMAC inquired about whether or not site plan approval is contingent on ZBA approval. COOKSEY responded affirmatively to this question.

Public Hearing OPENED: 7:24 pm

PUBLIC COMMENT: None

WRITTEN CORRESPONDENCE FROM PUBLIC HEARING NOTICES: None

Public Hearing CLOSED: 7:25 pm

Motion by Member: FARINA (TO APPROVE) **Support by Member:** MENENDEZ

To: To approve variance #19-07 ZBA / Verus Development Group, LLC on behalf of Meijer Corporation to obtain a variance to zoning ordinance parking standards to allow 1,149 parking spaces where 1,608 are required by ordinance.

Further Discussion on the Motion: MENENDEZ noted that Meijer successfully applied for and was granted a similar request in 2019 and suffers no adverse impacts due to the small dimensions on the parcel

AYES 7 NAYS 0 MOTION CARRIED.

PLANNING COMMISSION: MONDAY, AUGUST 17, 2020

PSP 20-005 Meijer Site Plan Amendment

DISCUSSION: PLACHCINSKI presented the site plan amendment for the Meijer store located at 34835 Utica Road. The proposed project is to amend the site plan for the Meijer store to remove 85 parking spaces and divide land from the Meijer site, and replace the 15 spaces for Meijer. The net parking loss to the Meijer development is 70 parking spaces, for 1,079 remaining parking spaces.

PLACHCINSKI presented a communication from a Meijer property sales manager, dated January 17, 2020 stating that Meijer is aiming to construct 3 parking spaces per 1,000 square feet of building. However, their current store prototype has recently been reduced from 210,000 square foot building to a 158,000 square foot building, therefore they aim to have approximately 475 spaces.

PLACHCINSKI also presented the following findings as part of the Meijer site plan amendment review:

- The location and design of driveways providing vehicular access to the Meijer retail development are arranged to promote the safety and convenience of vehicles and pedestrians and to provide access in a manner that promotes proper internal circulation.



- The Meijer development features are arranged to minimize the potential of any negatively impact upon surrounding property. The development does not channel excessive traffic onto local residential streets. Parking and service areas within the Meijer retail development are adequately screened. The Meijer development does not impede emergency vehicle access.
- All buildings, driveways, parking lots and site improvements for the Meijer retail development are compatible with the physical characteristics of the site, including, but not limited to, woodlands, wetlands, slopes, floodplains and soil suitability. The Meijer retail development does not have an adverse impact on the natural environment of the site or the surrounding area.
- The proposed required parking modification for this Meijer development site is appropriate based upon its type, scale, or intensity where the applicant has demonstrated that such modification is appropriate and does not create adverse impacts.

Motion by Member: KEIL Supporting Member: FARINA

To: Approve PSP 20-005 Meijer Site Plan Amendment with the condition that:

1. The applicant must provide a reserve parking agreement for the City Planner and City Attorney to review prior to execution and recording at the Macomb County Register of Deeds that accommodates the 70-parking space reduction beyond previous variances granted for the development. The reserve parking agreement shall specify the zoning ordinance conditions required to construct the reserve parking spaces.

AYES 6

NAYS 0

MOTION CARRIED

A banked parking agreement was submitted and approved by the City on August 26, 2021 (attached).

ZONING ORDINANCE TEXT AMMENDMENT: FEBRUARY 13, 2020

The following Section was adopted on 2/13/20 and allows Planning Commission to make parking modifications.

Sec. 32-98. - Modification of commercial parking requirements by planning commission.

Limited modifications to the minimum off-street parking requirements may be approved by the planning commission in accordance with the following:

(1) The planning commission may permit an alternative off-street parking standard for a particular use based upon its type, scale, or intensity where the applicant has demonstrated that such modification is appropriate based upon an affirmative finding that one (1) of the following criteria has been satisfied (in order of importance):

- a. Documentation of other instances of similar land uses in comparable settings within the Detroit metropolitan area and the appropriateness of those parking conditions. If the evidence and data presented under this evidence category is based upon local data that conflicts with evidence and data from a national source, the local evidence and data under this category shall take precedence.
- b. Statistical information documenting parking demand for the site during the immediately preceding two-year period, any evidence of parking congestion or a need for parking in excess of the amount being proposed, or any projections regarding anticipated increased parking needs arising from any changes to the site arising from the pending request. If the evidence and data presented under this



evidence category is based upon site specific information that conflicts with evidence and data from a national source, the site specific information under this category shall take precedence.

c. Additional data supporting the proposed parking requirement modification, as deemed appropriate in the discretion of the planning commission and after receiving input from the city planner.

d. The average parking demand for the subject use set forth in the most current version of "Parking Generation" by the Institute of Transportation Engineers or, if that document has not been updated within the preceding two (2) years, the most current version or an equivalent authoritative source on the subject of average parking demand.

(2) If the planning commission modifies off-street parking requirements for the particular site by reducing the number of required spaces in accordance with this section and if there is sufficient land to reserve future parking in compliance with all requirements of this article, the planning commission shall require an area to be reserved on the site plan for deferred installation of additional parking. The reserve parking must be shown on the final site plan submitted for approval and set aside as landscaped open space until the time such parking is required by the city. Additional parking spaces in the reserved parking area shall be constructed by the then current property owner in accordance with the approved site plan within ninety (90) days of a written request from the city after the city has received three (3) complaints of insufficient parking within a one (1) year period of time which are documented by the city's code enforcement officers.

(3) If the planning commission has previously modified the off-street parking standard for a particular site by reducing the minimum number of required spaces in accordance with this section, and the use for which the off-street parking reduction was granted is terminated, the following shall apply:

a. If a new proposed use for the property for which a parking reduction was previously approved requires more parking spaces than the previously approved minimum number, the planning commission may consider a new request to modify off-street parking requirements in accordance with the substantial evidence criteria found in subsection (1)a of this section. In the event that a future parking area was previously reserved under subparagraph (2) of this section, the planning commission may require the owner/operator of the new proposed use to install additional parking spaces sufficient for the new proposed use as a condition of obtaining site plan approval if the owner/operator's request to modify the off-street parking standard is denied by the planning commission.

b. If the new use of the property requires parking equal to or less than the number of parking spaces previously installed under a parking reduction approved under this section, the previously granted modification may remain in place.

(4) In all instances where the planning commission approves a modification of the minimum parking requirements, the owner of the property and the operator of the business on the site (if different) shall execute and deliver to the city a reserve parking agreement in form and substance satisfactory to the city planner and city attorney which requires such owner and/or operator to install additional parking spaces in the future if the city requests it based upon the criteria set forth above. The owner and/or operator shall be responsible for paying for the costs of negotiation, preparation, and recording of such agreement, which shall be completed prior to the final issuance of site plan approval [or issuance of a certificate of occupancy]. The city may require that the owner and/or operator pay a deposit with the city treasurer to cover the costs of the negotiation, preparation, and recording of such agreement at the time the request is made. The city shall refund any excess deposit over the actual costs of document negotiation, preparation, and recording, and the owner and/or operator shall pay any deficiency prior to issuance of any occupancy approval if the deposit is insufficient to cover the actual costs of document negotiation, preparation, and recording.

DECLARATION OF BANKED PARKING RESERVATION

This Declaration of Banked Parking Reservation ("Declaration") is made this _____ day of _____, 2021, by **MEIJER, INC.**, a Michigan corporation, whose address is 2929 Walker Avenue N.W., Grand Rapids, Michigan 49544, ("**Meijer**"), which, with the **CITY OF FRASER**, a Michigan municipal corporation ("**City**"), shall be referred to as "**Parties**."

RECITALS

A. Meijer is the owner of a certain parcel of property containing approximately 27 acres of land commonly known as 34835 Utica Road, in the City of Fraser, Macomb County, Michigan (the "**Meijer Parcel**"), more particularly described on attached **Exhibit A**, upon which it operates a large grocery, pharmacy, and general merchandise superstore ("**Meijer Store**").

B. AutoZone Development, LLC, a Nevada limited liability company, entered into an agreement with Meijer to purchase approximately 1.29 acres of the Meijer Parcel ("**AutoZone Parcel**"), which requires a land division of the 1.29 acre of land from the Meijer Parcel.

C. As a result of the proposed sale of the AutoZone Parcel by Meijer, the overall size of the Meijer Parcel is reduced as described on **Exhibit B** ("**Meijer Resultant Parcel**"), and the number of available parking spaces on the Meijer Parcel for Meijer Store customer and employee parking is reduced.

D. The City Planner has required that Meijer obtain approval of an amendment to the site plan for the Meijer Store ("**Amended Site Plan Approval**") to (i) revise the description of the Meijer Parcel resulting from the land division, and (ii) reflect a reduced number of parking spaces for the Meijer Store.

E. On August 17, 2020, the Planning Commission of the City of Fraser ("**Planning Commission**") approved an amendment to the Meijer Store site plan conditioned upon, among other requirements, that Meijer provide a reserve parking agreement satisfactory to the City Attorney that requires Meijer to (i) designate a reserved parking area of the Meijer Resultant Parcel ("**Banked Parking Area**") for the future installation of up to 70 space parking spaces in the future if the City reasonably determines as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property that additional parking is needed; (ii) restrict any construction or improvement on the Banked Parking Area (except for landscaping approved by the City), and (iii) prohibit the sale of the Banked Parking Area or approved part thereof separate from the Meijer Resultant Parcel.

F. Meijer is willing to (i) agree to install additional parking on the Meijer Resultant Parcel in the future if the City reasonably determines, after providing sufficient evidence to Meijer that the Additional Parking (as defined below) is required, as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property that Meijer's use of the Meijer Resultant Parcel for the Meijer Store or otherwise requires additional parking in the reasonable discretion of the City Planner, and (ii) to execute and deliver a declaration of banked parking to the City so that Meijer will have the benefit of the amended site plan.

NOW, THEREFORE, Meijer makes the following declaration as a condition of obtaining the benefits of the Amended Site Plan:

1. **Declaration.** Meijer declares and agrees that it will reserve and bank the Banked Parking Area and refrain from using such area which is sufficient to accommodate the installation of seventy (70) additional parking spaces for the installation of additional parking ("**Additional Parking**") to be installed if the City Planner reasonably determines that additional parking spaces are required to service Meijer's use of the Meijer Resultant Parcel as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property ("**Changed Site Conditions**"). Meijer agrees that the Banked Parking Area will not be used for other purposes (other than landscaping approved by the City), including the building of structures, without the prior written consent of the City. The Amended Site Plan shall clearly identify the boundaries of the Banked Parking Area.

2. **Notice of Additional Required Parking Spaces; Installation of Additional Parking Spaces.**

a. ***Notice to Install Additional Parking in Banked Parking Area.*** In the event that the City Planner reasonably determines that any Changed Site Conditions require the installation of the Additional Parking, the City Planner shall notify Meijer or its successor-in-interest in writing of the specified number of additional parking spaces which must be installed in the Banked Parking Area.

b. ***Submission of Revised Parking Plan; Installation of Additional Parking.*** Upon receipt of such notice, Meijer or the successor-in-interest, as the case may be, shall submit to the Fraser Building Department ("**Building Department**"), a plan showing the specific placement of the required additional parking spaces to be installed within the Banked Parking Area as shown on the attached **Exhibit C**. Meijer shall be required to submit an application to amend its site plan and pay any customary application and review fees then in effect for such review by the planning consultant or consultant city engineer, plus an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time, provided, however, in no event shall that additional administrative fee exceed eight (8) percent. Meijer or its successor-in-interest shall install such additional parking spaces in the approved location within one hundred twenty (120) days of receipt of the City Planner's notice that additional parking spaces must be installed (unless the City Planner and Meijer, or the successor-in-interest, agree in writing to a longer time period for such installation). Such parking shall be installed in accordance with a site plan approved by City.

c. ***Amendment of Banked Parking Area Exhibit C.*** In addition, Meijer or its successor-in-interest shall submit to the City Planner for approval an amended **Exhibit C** depicting and describing any part of the "Banked Parking Area," if any, that still remains after installation of the required additional parking spaces. An amendment to this Declaration satisfactory to the City Planner and City Attorney shall be executed by Meijer or the successor-in-interest and recorded to reflect the remaining area of the Banked Parking Area.

3. **Declaration for Benefit of City and Future Owners of the Property.** Meijer makes this Declaration as a condition to the City approving an Amended Site Plan for the Meijer Store on the Meijer Resultant Parcel with seventy (70) fewer parking spaces for the Meijer Resultant Parcel with a banked parking arrangement in accordance with the terms of this Declaration. Meijer acknowledges that City would not approve the reduced parking and banked parking arrangement if Meijer had not executed this Declaration or a similar agreement for the benefit of City and Meijer's successors-in-interest, and future owners of the Meijer Resultant Parcel. City shall be entitled to enforce the terms of this Declaration for the benefit of City, City's successors and assigns, and future owners of the Meijer Resultant Parcel.

4. **Remedies for Non-Compliance.**

a. ***City Preparation of Plans for Required Additional Parking.*** If Meijer, or its successor-in-interest fails to (i) submit revised plans depicting the required additional parking spaces to be installed within the Banked Parking Area, then the City may prepare such plans (or have such plans prepared by a qualified planning and/or engineering professional), for the required additional parking spaces at the approved location within the Banked Parking Area, and the reasonable, documented costs and expenses incurred by the City for such plan preparation, plus an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time but not to exceed eight (8) percent, shall be paid by Meijer (or its successor-in-interest) within thirty (30) days of invoicing by the City.

b. ***City Installation of Additional Parking.*** If Meijer, or its successor-in-interest fails to install the required additional parking within the time period specified in this Declaration (including any extensions granted in writing by the City Planner for good cause), City shall provide Meijer with written notice of default and Meijer shall have thirty (30) days to remedy the default by beginning the work required by this Declaration and diligently pursuing it to completion. If Meijer or its successor-in-interest fails to begin the required work and diligently pursue it to completion after receiving the required notice of default by City within the required time set forth in this paragraph, Meijer and its successors-in-interest authorize City, at its discretion, to enter and cross the Meijer Resultant Parcel to get to the Banked Parking Area to install the required number of additional parking spaces within the Banked Parking Area in accordance with the requirements of the Zoning Ordinance. Such entry and access rights shall include the right to bring in necessary personnel, vehicles and equipment, materials, safety barriers, and other items customarily utilized to safely complete paving in a busy commercial area, including the right to store such vehicles and equipment, materials, safety barriers, and/or other items during the time the paving is installed, hardened and cured. City will provide Meijer or its successor-in-interest with a minimum of seven (7) days written notice in advance of performing such work and City or its contractors will make commercially reasonable efforts to not unnecessarily disturb or interrupt ongoing business operations of Meijer or its successor-in-interest.

c. ***Selection of Contractor for Parking Space Installation; Payment of Contractor; Invoicing of Successor Parties; Payment of Invoice by Successor Parties.*** In the event of Meijer's non-compliance, City shall secure a qualified contractor for such work in accordance with the provisions of the City's purchasing ordinance. City shall pay the contractor for the installation of the additional parking spaces on the Meijer Resultant Parcel and shall, thereafter, invoice Meijer or its successor-in-interest for the expense of such installation, based upon the actual cost (with submission of receipts for material and labor if available from its contractor) of such installation, plus any inspection, monitoring, or contract administration fees incurred by the City for inspection, monitoring or construction contract administration, and an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time but in no event shall the additional administrative fee exceed eight (8) percent. Meijer, or its successor-in-interest, shall pay the invoice within thirty (30) days of the date of the invoice. If not paid within such time period, City shall record a lien against the Meijer Resultant Parcel, and such lien and assessment shall be treated the same as tax assessments, including the imposition of the same penalties and interest, remedies and collection procedures. This remedy shall be in addition to other legal remedies available to the City as provided by law.

d. ***Reimbursement of Attorney Fees and Other Expenses.*** In the event of Meijer's non-compliance, Meijer shall be responsible for reimbursement to the City for reasonable attorney fees incurred by the City in connection with (i) the negotiation and preparation of this Declaration, (ii) any enforcement action against Meijer or its successor-in-interest as a result of Meijer or its successor-in-interest failing to install the required Additional Parking, paying the invoice for such installation, or otherwise abiding by the terms of this Declaration.

5. **Amendment or Termination of Declaration.** This Declaration shall not be amended or terminated by Meijer or any successor-in-interest without the written consent of the City, which modification or termination shall be set forth in a written document to be recorded.

6. **Binding Effect.** This Declaration shall be binding upon Meijer, its successors-in-interest, its assigns, transferees of the Meijer Resultant Parcel, and other parties with an interest in the Meijer Resultant Parcel.

7. **Entire Agreement.** This Declaration contains the entire agreement and understanding of the Parties, and there are no additional premises or terms of agreement between the Parties other than those written in this Declaration.

8. **Joint Preparation of Declaration; Interpretation; Governing Law.** All Parties and their counsel had input into the preparation of this Declaration, and it shall be interpreted as if drafted jointly by the Parties. This Declaration is made in the State of Michigan and shall be governed by and construed in accordance with its laws without regard to the application of rules of conflicts of law. The Parties acknowledge that they are subject to personal jurisdiction in Michigan for the sole and limited purposes of any litigation relating to this Declaration or its enforcement.

9. **Additional Documents.** The Parties agree to cooperate fully and execute any and all documents and to take all additional actions which may be necessary and appropriate to give full force and effect to the terms and intent of this Declaration.

10. **Execution by City.** This Declaration is executed by the City Manager on behalf of the City to acknowledge its acceptance of its terms to satisfy the conditions of the Planning Commission with respect to approval of the Amended Site Plan to allow the current reduction of parking spaces.

The Parties have executed this Declaration as of the Effective Date set forth above.

[Signature and Acknowledgment of Meijer follows on next page]

Meijer:

MEIJER, INC., a Michigan corporation

By: [Signature]

Michael Flickinger

Its: Vice President-Real Estate

Legal [Signature]
Bus. [Signature]

STATE OF MICHIGAN)

)ss

COUNTY OF KENT)

The foregoing Declaration was acknowledged before me this 24th day of August, 2021 by Michael Flickinger, the Vice President-Real Estate of Meijer, Inc., a Michigan corporation, for and on behalf of said corporation.

[Signature], Notary Public

Ottawa County, Michigan

Acting in Kent County

My Commission Expires: 2-17-23

LARAE B STEIGENGA
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OTTAWA
My Commission Expires February 17, 2023
Acting in Kent County, MI

(Signatures continue on following page)

ACCEPTANCE BY CITY

City of Fraser accepts the terms of this Declaration to satisfy the conditions of the Planning Commission with respect to allowing an amendment of the site plan with reduced parking on the Resultant Property.

CITY OF FRASER, a Michigan municipal corporation

By: [Signature]
Elaine Leven
Its: City Manager

The foregoing Declaration was acknowledged before me this 26 day of August, 2021 by Elaine Leven, City Manager of the City of Fraser, a Michigan municipal corporation, on behalf of the municipal corporation.



[Signature]
Sally A. Smith, Notary Public
Oakland County, Michigan
Acting in Oakland County
My Commission Expires: 11-01-2025

DRAFTED BY:

Clark A. Andrews, Esq.
O'Reilly Rancilio P.C.
12900 Hall Road, Suite 350
Sterling Heights, Michigan 48313

WHEN RECORDED, RETURN TO:

City Clerk
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

EXHIBIT A
(Legal Description of the Meijer Parcel)

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, 184.68 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 21 DEGREES 47 MINUTES 00 SECONDS EAST, 367.21 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 41 SECONDS WEST, 247.92 FEET; THENCE SOUTH 00 DEGREES 25 MINUTES 20 SECONDS EAST, 339.18 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 43 SECONDS EAST, 98.70 FEET; THENCE NORTH 85 DEGREES 55 MINUTES 32 SECONDS EAST, 42.61 FEET; THENCE NORTH 77 DEGREES 24 MINUTES 57 SECONDS EAST, 55.82 FEET; THENCE NORTH 69 DEGREES 23 MINUTES 27 SECONDS EAST, 58.07 FEET; THENCE NORTH 22 DEGREES 05 MINUTES 42 SECONDS WEST, 15.00 FEET; THENCE NORTH 67 DEGREES 54 MINUTES 18 SECONDS EAST, 31.00 FEET; THENCE SOUTH 22 DEGREES 05 MINUTES 42 SECONDS EAST, 15.00 FEET; THENCE NORTH 67 DEGREES 54 MINUTES 18 SECONDS EAST, 13.03 FEET; THENCE 5.47 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, RADIUS OF 24.16 FEET, CHORD BEARING OF NORTH 58 DEGREES 11 MINUTES 37 SECONDS EAST, 5.46 FEET; THENCE NORTH 68 DEGREES 13 MINUTES 00 SECONDS EAST, 60.00 FEET; THENCE SOUTH 21 DEGREES 47 MINUTES 00 SECONDS EAST, 159.67 FEET; THENCE SOUTH 21 DEGREES 21 MINUTES 55 SECONDS EAST, 210.94 FEET; THENCE SOUTH 82 DEGREES 18 MINUTES 46 SECONDS WEST, 184.59 FEET; THENCE SOUTH 00 DEGREES 37 MINUTES 09 SECONDS EAST, 357.53 FEET; THENCE SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, 1,124.40 FEET; THENCE NORTH 1,334.67; THENCE NORTH 89 DEGREES 24 MINUTES 07 SECONDS EAST, 115.41 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 107.68 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 28.84 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 98.42; THENCE 39.53 FEET ALONG A CURVE TO THE NORTHWEST, RADIUS OF 25.00 FEET, CHORD BEARING OF SOUTH 45 DEGREES 17 MINUTES 57 SECONDS EAST, 35.54 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 07 SECONDS EAST, 213.58 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 13 SECONDS EAST, 160.43 FEET; THENCE 76.75 FEET ALONG A CURVE TO THE SOUTHEAST, RADIUS OF 200.00 FEET, CHORD BEARING OF SOUTH 79 DEGREES 24 MINUTES 31 SECONDS EAST, 76.28 FEET; THENCE SOUTH 68 DEGREES 24 MINUTES 56 SECONDS EAST, 46.22 FEET; THENCE 49.26 FEET ALONG A CURVE TO THE NORTHEAST, RADIUS OF 25.00 FEET, CHORD BEARING OF NORTH 55 DEGREES 08 MINUTES 01 SECONDS EAST, 41.67 FEET; THENCE NORTH 01 DEGREE 19 MINUTES 02 SECONDS WEST, 156.30 FEET; THENCE NORTH 18 DEGREES 29 MINUTES 03 SECONDS WEST, 24.89 FEET; THENCE NORTH 60.00 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 07 MINUTES EAST, 298.79 FEET TO THE POINT OF BEGINNING.

EXCEPT PREMISES TAKEN FOR WIDENING OF UTICA ROAD DESCRIBED IN THE STATEMENT OF NECESSITY RECORDED AT LIBER 5860, PAGE 503, BEING THE EASTERLY 60.00 FEET THAT RUNS PARALLEL AND PERPENDICULAR TO THE CENTERLINE OF UTICA ROAD.

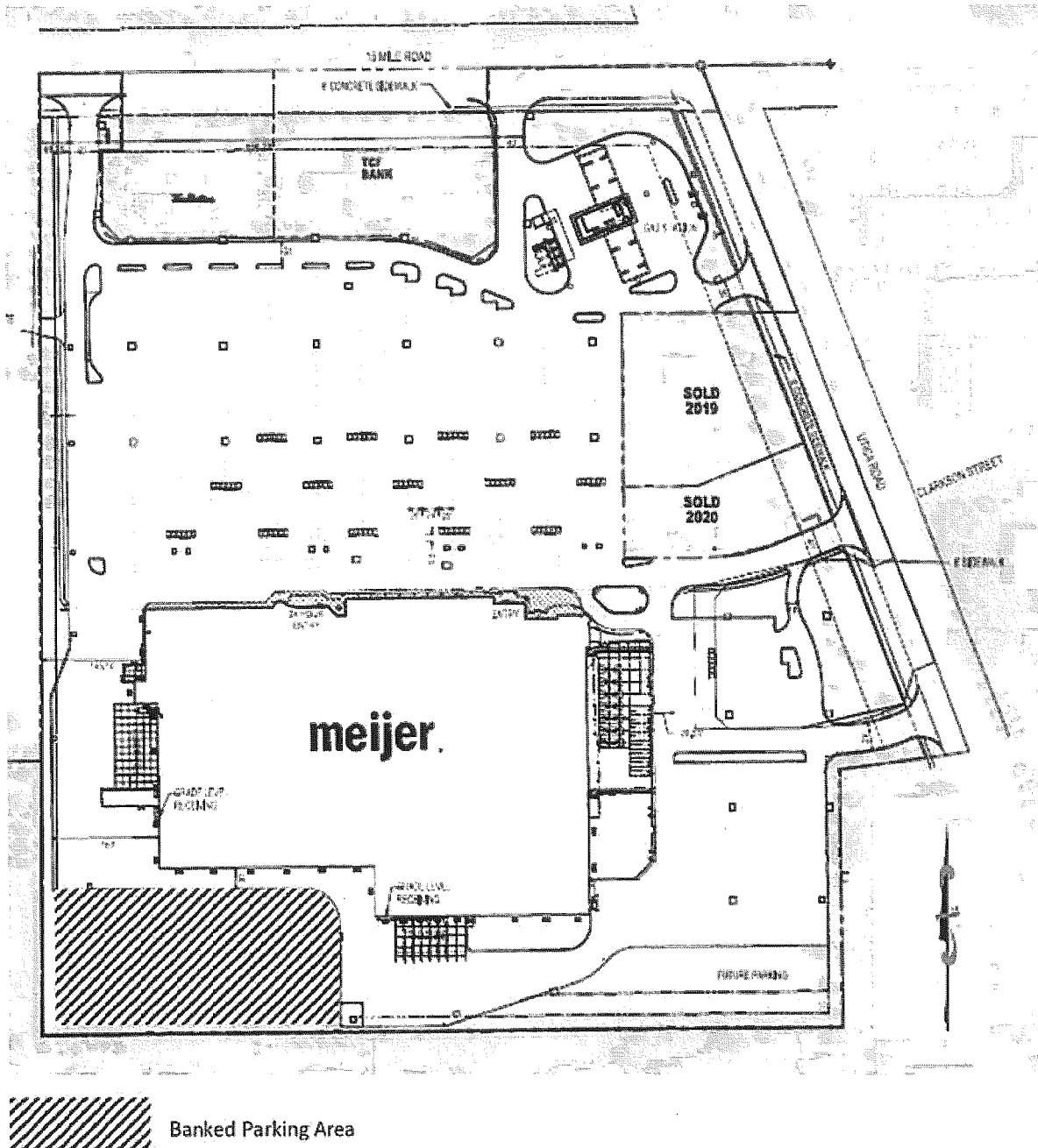
Tax Parcel Number: 03-11-31-100-045
Address: 34835 Utica Road, Fraser, Michigan

EXHIBIT B
(Legal Description of Meijer Resultant Parcel)

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY), S89°24'07"W, 184.68 FEET TO THE POINT OF BEGINNING OF PARCEL TO BE REDESCRIBED;
THENCE S21°47'00"E, 64.35 FEET;
THENCE S89°24'07"W, 64.35 FEET TO THE WEST RIGHT-OF-WAY LINE OF UTICA ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY);
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 302.71 FEET;
THENCE S89°31'41"W, 183.52 FEET;
THENCE S00°25'20"E, 339.18 FEET;
THENCE S89°31'43"E, 98.70 FEET;
THENCE N85°55'32"E, 42.61 FEET;
THENCE N77°24'57"E, 55.82 FEET;
THENCE N69°23'27"E, 58.07 FEET;
THENCE N22°05'42"W, 15.00 FEET;
THENCE N67°54'18"E, 31.00 FEET;
THENCE S22°05'42"E, 15.00 FEET;
THENCE N67°54'18"E, 13.03 FEET;
THENCE 5.47 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 24.16 FEET, A CENTRAL ANGLE OF 12°58'34", AND A CHORD WHICH BEARS N58°11'37"E AT A DISTANCE OF 5.46 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 50.79 FEET;
THENCE N62°42'07"W, 12.25 FEET;
THENCE S69°11'13"W, 33.95 FEET;
THENCE 179.94 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 418.95 FEET, A CENTRAL ANGLE OF 24°36'33", AND A CHORD WHICH BEARS S76°21'20"W AT A DISTANCE OF 178.56 FEET;
THENCE S00°25'36"E, 195.76 FEET;
THENCE N89°10'55"E, 151.42 FEET;
THENCE 148.46 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 338.34 FEET, A CENTRAL ANGLE OF 25°08'24", AND A CHORD WHICH BEARS N77°11'21"E AT A DISTANCE OF 147.27 FEET;
THENCE N16°37'43"E, 3.75 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°21'55"E, 83.39 FEET;
THENCE S82°18'46"W, 122.84 FEET;
THENCE S00°37'09"E, 357.53 FEET;
THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, S89°24'07"W, 1124.46 FEET;
THENCE N00°00'00"E, 1334.67 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD;
THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 115.41 FEET;
THENCE S00°00'00"E, 107.68 FEET;
THENCE N90°00'00"W, 28.84 FEET;
THENCE S00°00'00"E, 98.42 FEET;
THENCE 39.53 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°36'00", AND A CHORD WHICH BEARS S45°17'57"E AT A DISTANCE OF 35.54 FEET;
THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 213.58 FEET;
THENCE N89°27'13"E, 160.43 FEET;
THENCE 76.75 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF 21°59'14", AND A CHORD WHICH BEARS S79°24'31"E AT A DISTANCE OF 76.28 FEET;
THENCE S68°24'56"E, 46.22 FEET;
THENCE 49.26 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 112°53'57", AND A CHORD WHICH BEARS N55°08'01"E AT A DISTANCE OF 41.67 FEET;
THENCE N01°19'02"W, 156.30 FEET;
THENCE N18°29'03"W, 24.89 FEET;
THENCE N00°00'00"E, 60.00 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD;
THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 298.85 FEET TO THE POINT OF BEGINNING, CONTAINING 26.935 ACRES.
SUBJECT TO THE RIGHTS OF THE PUBLIC OVER 15 MILE ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY), ALSO SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

Tax Parcel No.: 03-11-31-100-045; Address: 34835 Utica Road, Fraser, MI 48026

EXHIBIT C
(Description and Depiction of Banked Parking Area)



DECLARATION OF BANKED PARKING RESERVATION

This Declaration of Banked Parking Reservation ("Declaration") is made this _____ day of _____, 2021, by **MEIJER, INC.**, a Michigan corporation, whose address is 2929 Walker Avenue N.W., Grand Rapids, Michigan 49544, ("**Meijer**"), which, with the **CITY OF FRASER**, a Michigan municipal corporation ("**City**"), shall be referred to as "**Parties**."

RECITALS

A. Meijer is the owner of a certain parcel of property containing approximately 27 acres of land commonly known as 34835 Utica Road, in the City of Fraser, Macomb County, Michigan (the "**Meijer Parcel**"), more particularly described on attached **Exhibit A**, upon which it operates a large grocery, pharmacy, and general merchandise superstore ("**Meijer Store**").

B. AutoZone Development, LLC, a Nevada limited liability company, entered into an agreement with Meijer to purchase approximately 1.29 acres of the Meijer Parcel ("**AutoZone Parcel**"), which requires a land division of the 1.29 acre of land from the Meijer Parcel.

C. As a result of the proposed sale of the AutoZone Parcel by Meijer, the overall size of the Meijer Parcel is reduced as described on **Exhibit B** ("**Meijer Resultant Parcel**"), and the number of available parking spaces on the Meijer Parcel for Meijer Store customer and employee parking is reduced.

D. The City Planner has required that Meijer obtain approval of an amendment to the site plan for the Meijer Store ("**Amended Site Plan Approval**") to (i) revise the description of the Meijer Parcel resulting from the land division, and (ii) reflect a reduced number of parking spaces for the Meijer Store.

E. On August 17, 2020, the Planning Commission of the City of Fraser ("**Planning Commission**") approved an amendment to the Meijer Store site plan conditioned upon, among other requirements, that Meijer provide a reserve parking agreement satisfactory to the City Attorney that requires Meijer to (i) designate a reserved parking area of the Meijer Resultant Parcel ("**Banked Parking Area**") for the future installation of up to 70 space parking spaces in the future if the City reasonably determines as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property that additional parking is needed; (ii) restrict any construction or improvement on the Banked Parking Area (except for landscaping approved by the City), and (iii) prohibit the sale of the Banked Parking Area or approved part thereof separate from the Meijer Resultant Parcel.

F. Meijer is willing to (i) agree to install additional parking on the Meijer Resultant Parcel in the future if the City reasonably determines, after providing sufficient evidence to Meijer that the Additional Parking (as defined below) is required, as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property that Meijer's use of the Meijer Resultant Parcel for the Meijer Store or otherwise requires additional parking in the reasonable discretion of the City Planner, and (ii) to execute and deliver a declaration of banked parking to the City so that Meijer will have the benefit of the amended site plan.

NOW, THEREFORE, Meijer makes the following declaration as a condition of obtaining the benefits of the Amended Site Plan:

1. **Declaration.** Meijer declares and agrees that it will reserve and bank the Banked Parking Area and refrain from using such area which is sufficient to accommodate the installation of seventy (70) additional parking spaces for the installation of additional parking ("**Additional Parking**") to be installed if the City Planner reasonably determines that additional parking spaces are required to service Meijer's use of the Meijer Resultant Parcel as a result of a material change in a traffic pattern on the site, a change in use, an increase in intensity of a use, or an additional use on the Property ("**Changed Site Conditions**"). Meijer agrees that the Banked Parking Area will not be used for other purposes (other than landscaping approved by the City), including the building of structures, without the prior written consent of the City. The Amended Site Plan shall clearly identify the boundaries of the Banked Parking Area.

2. **Notice of Additional Required Parking Spaces; Installation of Additional Parking Spaces.**

a. ***Notice to Install Additional Parking in Banked Parking Area.*** In the event that the City Planner reasonably determines that any Changed Site Conditions require the installation of the Additional Parking, the City Planner shall notify Meijer or its successor-in-interest in writing of the specified number of additional parking spaces which must be installed in the Banked Parking Area.

b. ***Submission of Revised Parking Plan; Installation of Additional Parking.*** Upon receipt of such notice, Meijer or the successor-in-interest, as the case may be, shall submit to the Fraser Building Department ("**Building Department**"), a plan showing the specific placement of the required additional parking spaces to be installed within the Banked Parking Area as shown on the attached **Exhibit C**. Meijer shall be required to submit an application to amend its site plan and pay any customary application and review fees then in effect for such review by the planning consultant or consultant city engineer, plus an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time, provided, however, in no event shall that additional administrative fee exceed eight (8) percent. Meijer or its successor-in-interest shall install such additional parking spaces in the approved location within one hundred twenty (120) days of receipt of the City Planner's notice that additional parking spaces must be installed (unless the City Planner and Meijer, or the successor-in-interest, agree in writing to a longer time period for such installation). Such parking shall be installed in accordance with a site plan approved by City.

c. ***Amendment of Banked Parking Area Exhibit C.*** In addition, Meijer or its successor-in-interest shall submit to the City Planner for approval an amended **Exhibit C** depicting and describing any part of the "Banked Parking Area," if any, that still remains after installation of the required additional parking spaces. An amendment to this Declaration satisfactory to the City Planner and City Attorney shall be executed by Meijer or the successor-in-interest and recorded to reflect the remaining area of the Banked Parking Area.

3. **Declaration for Benefit of City and Future Owners of the Property.** Meijer makes this Declaration as a condition to the City approving an Amended Site Plan for the Meijer Store on the Meijer Resultant Parcel with seventy (70) fewer parking spaces for the Meijer Resultant Parcel with a banked parking arrangement in accordance with the terms of this Declaration. Meijer acknowledges that City would not approve the reduced parking and banked parking arrangement if Meijer had not executed this Declaration or a similar agreement for the benefit of City and Meijer's successors-in-interest, and future owners of the Meijer Resultant Parcel. City shall be entitled to enforce the terms of this Declaration for the benefit of City, City's successors and assigns, and future owners of the Meijer Resultant Parcel.

4. **Remedies for Non-Compliance.**

a. ***City Preparation of Plans for Required Additional Parking.*** If Meijer, or its successor-in-interest fails to (i) submit revised plans depicting the required additional parking spaces to be installed within the Banked Parking Area, then the City may prepare such plans (or have such plans prepared by a qualified planning and/or engineering professional), for the required additional parking spaces at the approved location within the Banked Parking Area, and the reasonable, documented costs and expenses incurred by the City for such plan preparation, plus an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time but not to exceed eight (8) percent, shall be paid by Meijer (or its successor-in-interest) within thirty (30) days of invoicing by the City.

b. ***City Installation of Additional Parking.*** If Meijer, or its successor-in-interest fails to install the required additional parking within the time period specified in this Declaration (including any extensions granted in writing by the City Planner for good cause), City shall provide Meijer with written notice of default and Meijer shall have thirty (30) days to remedy the default by beginning the work required by this Declaration and diligently pursuing it to completion. If Meijer or its successor-in-interest fails to begin the required work and diligently pursue it to completion after receiving the required notice of default by City within the required time set forth in this paragraph, Meijer and its successors-in-interest authorize City, at its discretion, to enter and cross the Meijer Resultant Parcel to get to the Banked Parking Area to install the required number of additional parking spaces within the Banked Parking Area in accordance with the requirements of the Zoning Ordinance. Such entry and access rights shall include the right to bring in necessary personnel, vehicles and equipment, materials, safety barriers, and other items customarily utilized to safely complete paving in a busy commercial area, including the right to store such vehicles and equipment, materials, safety barriers, and/or other items during the time the paving is installed, hardened and cured. City will provide Meijer or its successor-in-interest with a minimum of seven (7) days written notice in advance of performing such work and City or its contractors will make commercially reasonable efforts to not unnecessarily disturb or interrupt ongoing business operations of Meijer or its successor-in-interest.

c. ***Selection of Contractor for Parking Space Installation; Payment of Contractor; Invoicing of Successor Parties; Payment of Invoice by Successor Parties.*** In the event of Meijer's non-compliance, City shall secure a qualified contractor for such work in accordance with the provisions of the City's purchasing ordinance. City shall pay the contractor for the installation of the additional parking spaces on the Meijer Resultant Parcel and shall, thereafter, invoice Meijer or its successor-in-interest for the expense of such installation, based upon the actual cost (with submission of receipts for material and labor if available from its contractor) of such installation, plus any inspection, monitoring, or contract administration fees incurred by the City for inspection, monitoring or construction contract administration, and an additional administrative fee to the City in accordance with the City Fee Schedule in effect at that time but in no event shall the additional administrative fee exceed eight (8) percent. Meijer, or its successor-in-interest, shall pay the invoice within thirty (30) days of the date of the invoice. If not paid within such time period, City shall record a lien against the Meijer Resultant Parcel, and such lien and assessment shall be treated the same as tax assessments, including the imposition of the same penalties and interest, remedies and collection procedures. This remedy shall be in addition to other legal remedies available to the City as provided by law.

d. ***Reimbursement of Attorney Fees and Other Expenses.*** In the event of Meijer's non-compliance, Meijer shall be responsible for reimbursement to the City for reasonable attorney fees incurred by the City in connection with (i) the negotiation and preparation of this Declaration, (ii) any enforcement action against Meijer or its successor-in-interest as a result of Meijer or its successor-in-interest failing to install the required Additional Parking, paying the invoice for such installation, or otherwise abiding by the terms of this Declaration.

5. **Amendment or Termination of Declaration.** This Declaration shall not be amended or terminated by Meijer or any successor-in-interest without the written consent of the City, which modification or termination shall be set forth in a written document to be recorded.

6. **Binding Effect.** This Declaration shall be binding upon Meijer, its successors-in-interest, its assigns, transferees of the Meijer Resultant Parcel, and other parties with an interest in the Meijer Resultant Parcel.

7. **Entire Agreement.** This Declaration contains the entire agreement and understanding of the Parties, and there are no additional premises or terms of agreement between the Parties other than those written in this Declaration.

8. **Joint Preparation of Declaration; Interpretation; Governing Law.** All Parties and their counsel had input into the preparation of this Declaration, and it shall be interpreted as if drafted jointly by the Parties. This Declaration is made in the State of Michigan and shall be governed by and construed in accordance with its laws without regard to the application of rules of conflicts of law. The Parties acknowledge that they are subject to personal jurisdiction in Michigan for the sole and limited purposes of any litigation relating to this Declaration or its enforcement.

9. **Additional Documents.** The Parties agree to cooperate fully and execute any and all documents and to take all additional actions which may be necessary and appropriate to give full force and effect to the terms and intent of this Declaration.

10. **Execution by City.** This Declaration is executed by the City Manager on behalf of the City to acknowledge its acceptance of its terms to satisfy the conditions of the Planning Commission with respect to approval of the Amended Site Plan to allow the current reduction of parking spaces.

The Parties have executed this Declaration as of the Effective Date set forth above.

[Signature and Acknowledgment of Meijer follows on next page]

Meijer:

MEIJER, INC., a Michigan corporation

By: [Signature]

Michael Flickinger

Its: Vice President-Real Estate

Legal [Signature]
Bus. [Signature]

STATE OF MICHIGAN)

)ss

COUNTY OF KENT)

The foregoing Declaration was acknowledged before me this 24th day of August, 2021 by Michael Flickinger, the Vice President-Real Estate of Meijer, Inc., a Michigan corporation, for and on behalf of said corporation.

[Signature], Notary Public

Ottawa County, Michigan

Acting in Kent County

My Commission Expires: 2-17-23

LARAE B STEIGENGA
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF OTTAWA
My Commission Expires February 17, 2023
Acting in Kent County, MI

(Signatures continue on following page)

ACCEPTANCE BY CITY

City of Fraser accepts the terms of this Declaration to satisfy the conditions of the Planning Commission with respect to allowing an amendment of the site plan with reduced parking on the Resultant Property.

CITY OF FRASER, a Michigan municipal corporation

By: [Signature]
Elaine Leven
Its: City Manager

The foregoing Declaration was acknowledged before me this 26 day of August, 2021 by Elaine Leven, City Manager of the City of Fraser, a Michigan municipal corporation, on behalf of the municipal corporation.



[Signature]
Sally A. Smith, Notary Public
Oakland County, Michigan
Acting in Oakland County
My Commission Expires: 11-01-2025

DRAFTED BY:

Clark A. Andrews, Esq.
O'Reilly Rancilio P.C.
12900 Hall Road, Suite 350
Sterling Heights, Michigan 48313

WHEN RECORDED, RETURN TO:

City Clerk
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

EXHIBIT A
(Legal Description of the Meijer Parcel)

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, 184.68 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 21 DEGREES 47 MINUTES 00 SECONDS EAST, 367.21 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 41 SECONDS WEST, 247.92 FEET; THENCE SOUTH 00 DEGREES 25 MINUTES 20 SECONDS EAST, 339.18 FEET; THENCE SOUTH 89 DEGREES 31 MINUTES 43 SECONDS EAST, 98.70 FEET; THENCE NORTH 85 DEGREES 55 MINUTES 32 SECONDS EAST, 42.61 FEET; THENCE NORTH 77 DEGREES 24 MINUTES 57 SECONDS EAST, 55.82 FEET; THENCE NORTH 69 DEGREES 23 MINUTES 27 SECONDS EAST, 58.07 FEET; THENCE NORTH 22 DEGREES 05 MINUTES 42 SECONDS WEST, 15.00 FEET; THENCE NORTH 67 DEGREES 54 MINUTES 18 SECONDS EAST, 31.00 FEET; THENCE SOUTH 22 DEGREES 05 MINUTES 42 SECONDS EAST, 15.00 FEET; THENCE NORTH 67 DEGREES 54 MINUTES 18 SECONDS EAST, 13.03 FEET; THENCE 5.47 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, RADIUS OF 24.16 FEET, CHORD BEARING OF NORTH 58 DEGREES 11 MINUTES 37 SECONDS EAST, 5.46 FEET; THENCE NORTH 68 DEGREES 13 MINUTES 00 SECONDS EAST, 60.00 FEET; THENCE SOUTH 21 DEGREES 47 MINUTES 00 SECONDS EAST, 159.67 FEET; THENCE SOUTH 21 DEGREES 21 MINUTES 55 SECONDS EAST, 210.94 FEET; THENCE SOUTH 82 DEGREES 18 MINUTES 46 SECONDS WEST, 184.59 FEET; THENCE SOUTH 00 DEGREES 37 MINUTES 09 SECONDS EAST, 357.53 FEET; THENCE SOUTH 89 DEGREES 24 MINUTES 07 SECONDS WEST, 1,124.40 FEET; THENCE NORTH 1,334.67; THENCE NORTH 89 DEGREES 24 MINUTES 07 SECONDS EAST, 115.41 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 107.68 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 28.84 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 98.42; THENCE 39.53 FEET ALONG A CURVE TO THE NORTHWEST, RADIUS OF 25.00 FEET, CHORD BEARING OF SOUTH 45 DEGREES 17 MINUTES 57 SECONDS EAST, 35.54 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 07 SECONDS EAST, 213.58 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 13 SECONDS EAST, 160.43 FEET; THENCE 76.75 FEET ALONG A CURVE TO THE SOUTHEAST, RADIUS OF 200.00 FEET, CHORD BEARING OF SOUTH 79 DEGREES 24 MINUTES 31 SECONDS EAST, 76.28 FEET; THENCE SOUTH 68 DEGREES 24 MINUTES 56 SECONDS EAST, 46.22 FEET; THENCE 49.26 FEET ALONG A CURVE TO THE NORTHEAST, RADIUS OF 25.00 FEET, CHORD BEARING OF NORTH 55 DEGREES 08 MINUTES 01 SECONDS EAST, 41.67 FEET; THENCE NORTH 01 DEGREE 19 MINUTES 02 SECONDS WEST, 156.30 FEET; THENCE NORTH 18 DEGREES 29 MINUTES 03 SECONDS WEST, 24.89 FEET; THENCE NORTH 60.00 FEET; THENCE NORTH 89 DEGREES 24 MINUTES 07 MINUTES EAST, 298.79 FEET TO THE POINT OF BEGINNING.

EXCEPT PREMISES TAKEN FOR WIDENING OF UTICA ROAD DESCRIBED IN THE STATEMENT OF NECESSITY RECORDED AT LIBER 5860, PAGE 503, BEING THE EASTERLY 60.00 FEET THAT RUNS PARALLEL AND PERPENDICULAR TO THE CENTERLINE OF UTICA ROAD.

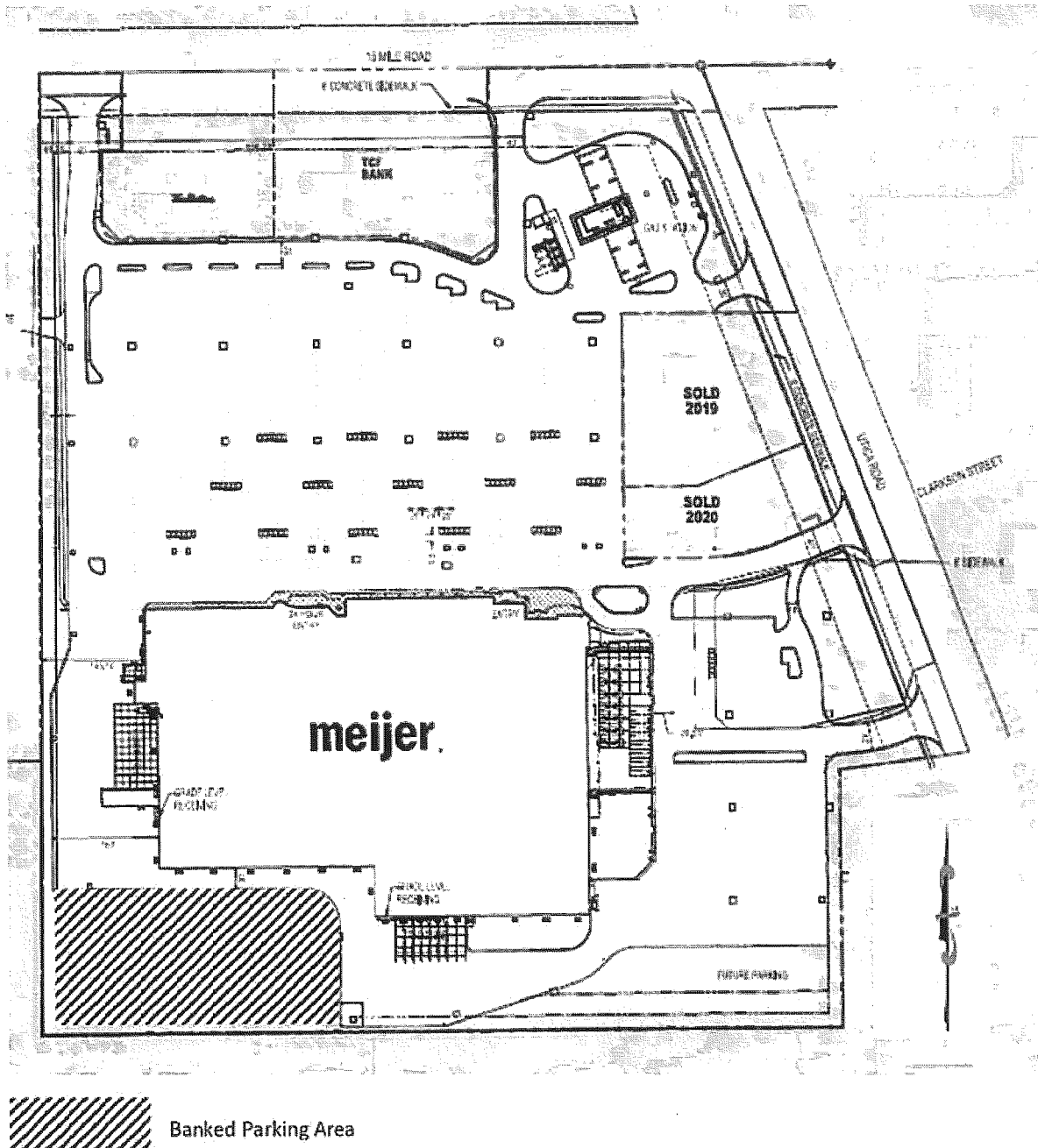
Tax Parcel Number: 03-11-31-100-045
Address: 34835 Utica Road, Fraser, Michigan

EXHIBIT B
(Legal Description of Meijer Resultant Parcel)

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY), S89°24'07"W, 184.68 FEET TO THE POINT OF BEGINNING OF PARCEL TO BE REDESCRIBED;
THENCE S21°47'00"E, 64.35 FEET;
THENCE S89°24'07"W, 64.35 FEET TO THE WEST RIGHT-OF-WAY LINE OF UTICA ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY);
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 302.71 FEET;
THENCE S89°31'41"W, 183.52 FEET;
THENCE S00°25'20"E, 339.18 FEET;
THENCE S89°31'43"E, 98.70 FEET;
THENCE N85°55'32"E, 42.61 FEET;
THENCE N77°24'57"E, 55.82 FEET;
THENCE N69°23'27"E, 58.07 FEET;
THENCE N22°05'42"W, 15.00 FEET;
THENCE N67°54'18"E, 31.00 FEET;
THENCE S22°05'42"E, 15.00 FEET;
THENCE N67°54'18"E, 13.03 FEET;
THENCE 5.47 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 24.16 FEET, A CENTRAL ANGLE OF 12°58'34", AND A CHORD WHICH BEARS N58°11'37"E AT A DISTANCE OF 5.46 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 50.79 FEET;
THENCE N62°42'07"W, 12.25 FEET;
THENCE S69°11'13"W, 33.95 FEET;
THENCE 179.94 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 418.95 FEET, A CENTRAL ANGLE OF 24°36'33", AND A CHORD WHICH BEARS S76°21'20"W AT A DISTANCE OF 178.56 FEET;
THENCE S00°25'36"E, 195.76 FEET;
THENCE N89°10'55"E, 151.42 FEET;
THENCE 148.46 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 338.34 FEET, A CENTRAL ANGLE OF 25°08'24", AND A CHORD WHICH BEARS N77°11'21"E AT A DISTANCE OF 147.27 FEET;
THENCE N16°37'43"E, 3.75 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD;
THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°21'55"E, 83.39 FEET;
THENCE S82°18'46"W, 122.84 FEET;
THENCE S00°37'09"E, 357.53 FEET;
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THENCE N00°00'00"E, 1334.67 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD;
THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 115.41 FEET;
THENCE S00°00'00"E, 107.68 FEET;
THENCE N90°00'00"W, 28.84 FEET;
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THENCE 39.53 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°36'00", AND A CHORD WHICH BEARS S45°17'57"E AT A DISTANCE OF 35.54 FEET;
THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 213.58 FEET;
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THENCE 76.75 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF 21°59'14", AND A CHORD WHICH BEARS S79°24'31"E AT A DISTANCE OF 76.28 FEET;
THENCE S68°24'56"E, 46.22 FEET;
THENCE 49.26 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 112°53'57", AND A CHORD WHICH BEARS N55°08'01"E AT A DISTANCE OF 41.67 FEET;
THENCE N01°19'02"W, 156.30 FEET;
THENCE N18°29'03"W, 24.89 FEET;
THENCE N00°00'00"E, 60.00 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD;
THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE 15 MILE ROAD, N89°24'07"E, 298.85 FEET TO THE POINT OF BEGINNING, CONTAINING 26.935 ACRES.
SUBJECT TO THE RIGHTS OF THE PUBLIC OVER 15 MILE ROAD (120 FOOT WIDE - PUBLIC - RIGHT-OF-WAY), ALSO SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

Tax Parcel No.: 03-11-31-100-045; Address: 34835 Utica Road, Fraser, MI 48026

EXHIBIT C
(Description and Depiction of Banked Parking Area)





City of Fraser

Building & Code Enforcement Department

NOTICE OF ZONING BOARD OF APPEALS HEARING

NOTICE IS HEREBY GIVEN that the City of Fraser Zoning Board of Appeals will meet on **Thursday, August 15, 2024**, at 7:00 p.m. in the Fraser City Hall Council Chambers at 33000 Garfield Road, located at the southeast corner of Fourteen Mile and Garfield Roads, Fraser, Michigan for the purpose of conducting a Public Hearing and making a decision on the following request:

APPEAL #24-02: **VARIANCE REQUEST / MEIJER, INC.**

BY REASON OF: SECTION 32-93, PROVISIONS PERTAINING TO MINIMUM NUMBER OF OFF-STREET PARKING SPACES.

PURPOSE OF REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING FOR A COMMERCIAL BUSINESS FROM 1,079 PARKING SPACES TO 999 PARKING SPACES, WITH THE CURRENT REQUIREMENT BEING 1,608 PARKING SPACES.

PROPERTY IN QUESTION: 34835 UTICA ROAD, FRASER MICHIGAN, 48026
PARCEL ID: 11-31-100-049

NOTICE IS FURTHER GIVEN that any interested person may appear and comment upon the proposed request in person, or by agent or attorney during the public hearing to be held on the date and time of the meeting. Pertinent information relating to the application may be reviewed at the Fraser Building Department during regular business hours which are 8:00 a.m. to 4:30 p.m., Monday through Friday at the Fraser City Hall, 33000 Garfield Road, Fraser, Michigan. Questions regarding the requested variance can be directed to the Planner, c/o Building Department at 586-293-3100. Written comments may be submitted to the Fraser Building Department at 33000 Garfield Road, Fraser, Michigan 48026, or email to the Building Department at zoning@micityoffraser.com up to 4:30 p.m. of the meeting date.

The City of Fraser will provide necessary, reasonable auxiliary aids and services to individuals with disabilities at the meeting upon four (4) days' notice to the Building Department at the phone number set forth above.



**CITY OF FRASER
APPLICATION FOR APPEAL
ZONING BOARD OF APPEALS**

Office Use Only

APPEAL # _____
DATE OF MTG. _____
DATE REC'D _____
RECEIPT #: _____

CIRCLE ALL THAT APPLY:

VARIANCE

APPEAL

TEMPORARY

INTERPRETATION

GENERAL LOCATION OF PROPERTY:

ADDRESS 34835 Utica Rd, Fraser, MI 48026 CROSS STREETS: 15 Mile Road and Utica Road

LEGAL DESCRIPTION (Lot number, subdivision, metes/bounds or attach on a separate sheet):

Lot Number: 11-31-100-049

See Attached for Legal Description

BASIS FOR REQUEST: (Hardship or practical difficulty imposed by Ordinance):

Minimum number of off street parking required by the Zoning Ordinance is 1608, while the current parking provided
are 1079 spaces there will be a reduction of 80 spaces to 999 spaces

SECTION OR ORDINANCE INVOLVED: 32-93

ZONING DISTRICT OF PROPERTY: General Commerical District (CG)

APPLICANT

NAME AND ADDRESSES OF PARTIES OF INTEREST AND/OR APPLICANT SETTING FORTH THE LEGAL INTEREST IN SAID PREMISES:

APPLICANT: Meijer, Inc.

ADDRESS: 2929 Walker Ave. NW, Grand Rapids, MI 49544

PHONE: 586-254-0900 (Verus); 616-791-3621 (Meijer) INTEREST: Owner

APPLICANT: Verus Development Group, LLC

ADDRESS: 950 S Old Woodward Ave, Suite 220, Birmingham MI 48009

I (We) hereby request a hearing on the above-mentioned matter before the City of Fraser Zoning board of Appeals. The undersigned swear(s) the foregoing statements and answers herein contained and accompanied information and data are in all respects true and complete. I (we) grant permission to Members of the Zoning Board of Appeals and to the City of Fraser Administration to enter the land in order to view the outside premises in preparation for hearing our case.

Signature of Applicant: _____

Date: 6-24-2024

Signature of legal property owner (if not applicant): Kurt Adams

Date: Jun-19-2024

MEIJER, INC.

Kurt Adams, Director of Property Management



June 27, 2024

Laurne Sayre
Office of Planning and Zoning
City of Fraser
33000 Garfield Road
Fraser, MI 48026

**RE: City of Fraser Zoning Board of Appeals Approval
Proposed Multi-tenant Retail
PARCEL ID: 11-11-100-044
34835 Utica Road
Macomb County, Michigan**

Lauren:

Stonefield Engineering & Design, LLC is pleased to submit documents for the Zoning Board of Appeals Approval for the above referenced property. Please find the following items enclosed for review:

ITEM DESCRIPTION	DATED	COPIES	PREPARED BY
Zoning Board of Appeals Application	06-24-2024	1	Verus Development Group, LLC
Legal Description	06-21-2024	10	Verus Development Group, LLC
Check for \$800.00	06-24-2024	1	Verus Development Group, LLC
Meijer Parking Exhibit	06-18-2024	10	Stonefield Engineering & Design
Meijer Parking Reduction Letter	06-19-2024	10	Meijer

Below are the variance conditions being addressed:

- That there are exceptional or extraordinary circumstances or conditions applying to the property in question or as to the intended use of the property that do not apply generally to other properties in the same zoning district.*
This property is much larger than any surrounding property with significantly more available parking that could be used for potential development. This property is encumbered by more parking than required by the tenant.
- That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.*
Granting this variance will allow for new development within the city providing greater financial return and more enjoyment and preservation of the commercial area than excessive parking.
- That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.*
The reduction of parking for a new development provide improvement to adjacent properties and provide greater public interest in this area.
- That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation*
The parking reduction is specific to this tenant needs as the parking being removed is excessive and in an area of the site that does not necessitate parking for customers or employees.



Should you have any questions, please do not hesitate to contact our office.

Best regards,

J. Reid Cooksey
jcooksey@stonefieldeng.com
Stonefield Engineering and Design, LLC

Erin McMachen
emcmachen@stonefieldeng.com
Stonefield Engineering and Design, LLC



REAL ESTATE DEPARTMENT

Kurt Adams
Phone: (616) 791-3621
Kurt.Adams@meijer.com

June 19, 2024

VIA EMAIL: frank.arcori@verusdg.com

Mr. Frank Arcori
Verus Development
950 S Old Woodward Ave, Suite 220
Birmingham, MI 48009

Re: Meijer 145 Fraser
Parking Counts

Dear Mr. Arcori:

It is my understanding that there may be questions from the City of Fraser regarding the number of remaining parking stalls for the Meijer store at 15 Mile & Utica Rds, including whether the remaining number of spaces would be sufficient for Meijer.

For Meijer, a key driver in our desire to sell this outlot is that very reduction in parking stalls. Meijer's current prototype is to have approximately 500 parking spaces for a new store. The Meijer store in Fraser currently has 1,079 parking spaces, more than double our preferred amount. The excess parking is unused, is not aesthetically pleasing, and is a significant cost to Meijer to maintain. We have found that parking reductions through outlot development offers municipalities the opportunity to see those seas of asphalt reduced, increased commercial development in what is already a commercial corridor or focal point, as well as offer the community additional dining and shopping opportunities that might not be possible should excess asphalt remain.

In summary, Meijer would very much like to see the number of parking spaces further reduced for several reasons and would hope that the community agrees with our evaluation while seeing the benefits to the City and its citizens. Please let me know if you or the City has any further questions on this or any other matter.

Sincerely,
MEIJER

Kurt Adams

Kurt Adams
Director of Property Management

COMMENCING AT THE NORTH 1/4 CORNER OF SECTION 31, TOWN 2 NORTH, RANGE 13 EAST; THENCE ALONG THE NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD (120 WIDE-PUBLIC-RIGHT-OF-WAY), S89°24'07"W, 184.68 FEET TO THE POINT OF BEGINNING OF PARCEL TO BE REDESCRIBED; THENCE S21°47'00"E, 64.35 FEET; THENCE S89°24'07"W, 64.35 FEET TO THE WEST RIGHT-OF-WAY LINE OF UTICA ROAD (120 WIDE-PUBLIC-RIGHT-OF-WAY); THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 302.71 FEET; THENCE S89°31'41"W, 183.52 FEET; THENCE S00°25'20"E, 339.18 FEET; THENCE S89°31'43"E, 98.70 FEET; THENCE N85°55'32"E, 42.61 FEET; THENCE N77°24'57"E, 55.82 FEET; THENCE N69°23'27"E, 58.07 FEET; THENCE N22°05'42"W, 15.00 FEET; THENCE N67°54'18"E, 31.00 FEET; THENCE S22°05'42"E, 15.00 FEET; THENCE N67°54'18"E, 13.03 FEET; THENCE 5.47 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 24.16 FEET, A CENTRAL ANGLE OF 12°58'34", AND A CHORD WHICH BEARS N58°11'37"E AT A DISTANCE OF 5.46 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°47'00"E, 50.79 FEET; THENCE N62°42'07"W, 12.25 FEET; THENCE S69°11'13"W, 33.95 FEET; THENCE 179.94 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 418.95 FEET, A CENTRAL ANGLE OF 24°36'33", AND A CHORD WHICH BEARS S76°21'20"W AT A DISTANCE OF 178.56 FEET; THENCE S00°25'36"E, 195.76 FEET; THENCE N89°10'55"E, 151.42 FEET; THENCE 148.46 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 338.34 FEET, A CENTRAL ANGLE OF 25°08'24", AND A CHORD WHICH BEARS N77°11'21"E AT A DISTANCE OF 147.27 FEET; THENCE N16°37'43"E, 3.75 FEET TO SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE OF UTICA ROAD, S21°21'55"E, 83.39 FEET; THENCE S82°18'46"W, 122.84 FEET; THENCE 00°37'09"E, 357.53 FEET; THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD, S89°24'07"W, 1124.46 FEET; THENCE N00°00'00"E, 1334.67 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD; THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD, N89°24'07"E, 115.41 FEET; THENCE S00°00'00"E 107.68 FEET; THENCE N90°00'00"W, 28.84 FEET; THENCE S00°00'00"E, 98.42 FEET; THENCE 39.53 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°36'00", AND A CHORD WHICH BEARS S45°17'57"E AT A DISTANCE OF 35.54 FEET; THENCE PARALLEL TO SAID NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD, N89°24'07"E, 213.58 FEET; THENCE N89°27'13"E, 160.43 FEET; THENCE 76.75 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAS A RADIUS OF 200.00 FEET, A CENTRAL ANGLE OF 21°59'14", AND A CHORD WHICH BEARS S79°24'31"E AT A DISTANCE OF 76.28 FEET; THENCE S68°24'56"E, 46.22 FEET; THENCE 49.26 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAS A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 112°53'57", AND A CHORD WHICH BEARS N55°08'01"E AT A DISTANCE OF 41.67 FEET; THENCE N01°19'02"W, 156.30 FEET; THENCE N18°29'03"W, 24.89 FEET; THENCE N00°00'00"E, 60.00 FEET TO A POINT ON SAID NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD; THENCE ALONG SAID NORTH LINE OF SECTION 31 AND CENTERLINE OF 15 MILE ROAD, N89°24'07"E, 298.85 FEET TO THE POINT OF BEGINNING, CONTAINING 26.935 ACRES.

Tax Parcel No.: 03-11-31-100-049

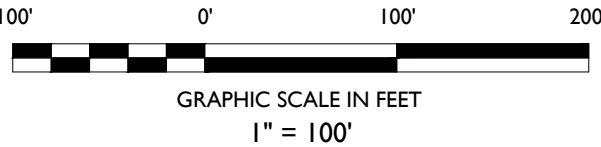


PROPERTY INFORMATION

ADDRESS: 34835 UTICA ROAD, CITY OF FRASER, MACOMB COUNTY, MICHIGAN
EXISTING ZONE: GENERAL COMMERCIAL ZONE (GC)
PROPOSED PARCEL AREA: ±1.4 ACRES
BUILDING FOOTPRINT: 6,539 SF

MEIJER SUMMARY (STORE # 145)			
MEIJER		OUTLOT PARCEL	
CURRENT STALL COUNT	1,079	BUILDING SIZE	6,539 SF
STALLS BEING REMOVED	80	PARCEL SIZE	1.4 ACRES
REMAINING STALLS	999	STALLS PROPOSED	18

* MEIJER PARKING REQUIREMENT:
1 SPACE PER 150 SF OF FLOOR AREA
(241,230 SF) / (150 SF) = 1,608 SPACES



STONEFIELD
engineering & design

Detroit, MI • Rutherford, NJ • New York, NY
Princeton, NJ • Tampa, FL • Boston, MA
www.stonefieldeng.com
607 Shelby Suite 200, Detroit, MI 48226
Phone 248.247.1115

VARIANCE EXHIBIT

FRASER MEIJER OUTLOT
PROPOSED PARKING REDUCTION

PARCEL ID: 03-11-31-100-045
34835 UTICA ROAD
CITY OF FRASER
MACOMB COUNTY, MICHIGAN

J. REID COOKSEY
MICHIGAN LICENSE No. 6201069428
LICENSED PROFESSIONAL ENGINEER

STONEFIELD
engineering & design

SCALE: 1" = 100' PROJECT ID: DET-220253

TITLE:
**MEIJER ZBA
PARKING EXHIBIT**

DRAWING:
E-1

APPROVED FOR CONSTRUCTION

ISSUE	DATE	BY	DESCRIPTION
01	06/18/2024	JRC	FOR ZONING BOARD OF APPEALS APPROVAL



MCKENNA

July 26, 2024

Hon. Members of the Zoning Board of Appeals
City of Fraser
33000 Garfield Road
Fraser, Michigan 48026

**SUBJECT: ZBA REPORT #1
#24-05 VARIANCE REQUEST / SUNBELT RENTALS**

APPLICANTS: SUNBELT RENTALS, INC.

SECTION: SECTION 32-144-1-B, PROVISIONS PERTAINING TO GREENBELT PLANTING STRIP REQUIREMENTS.

LOCATION: 31253 UTICA ROAD, FRASER, MICHIGAN 48026

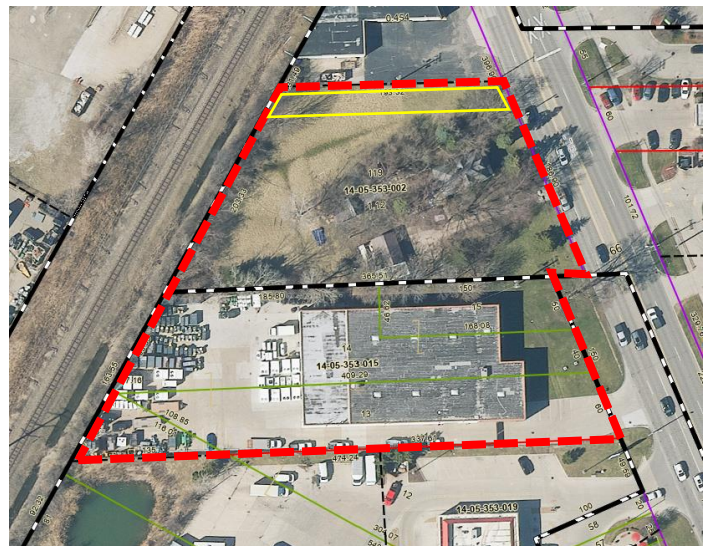
REQUEST: TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO ALLOW A 10 FT GREENBELT PLANTING STRIP ALONG THE NORTH PROPERTY LINE OF 31285 UTICA ROAD IN THE IC DISTRICT, WHICH REQUIRES A 20 FT GREENBELT PLANTING STRIP.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application for a 10 ft greenbelt planting strip and – as it does not meet the requirements of the code - have prepared the following report. The report identifies the relevant facts about the property and the proposal. The report also provides our professional opinion about how the relevant sections of the ordinance that guide the ZBA's decisions apply to this requested variance.

ADMINISTRATIVE STATEMENT OF FACTS

The applicants, Sunbelt Rentals, Inc., are looking to expand their property to the parcel north and propose a gravel storage area and new customer parking. The existing building is situated at the required 110-foot building setback in the IC, Industrial Controlled district. The property requires a 20ft greenbelt planting strip along the north property line and the Utica Road frontage outside of the fencing. The applicant requesting a variance of 10ft to allow a 10ft planting strip along the north property line (shown outlined in yellow to the right).



HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

O 248.596.0920
F 248.596.0930
MCKA.COM

Communities for real life.



ZONING BOARD OF APPEALS VARIANCES AND BOARD ACTION RESTRICTIONS

The ZBA is a body of limited powers. §32-228 explains how Fraser administers variance requests. Where there are practical difficulties or unnecessary hardships in the way of strict enforcement of the zoning ordinance, the ZBA may grant appeals to vary or modify any zoning provisions that apply to dimensional standards like construction, structural changes in equipment, or alteration of buildings or structures. The ZBA's actions must uphold the zoning ordinance, secure public safety, and provide substantial justice for all property owners.

The ZBA must consider whether the property in question exhibits practical difficulty, like geographical or topographical conditions that impair its improvements without the modifications requested.

As described in §32-228(a)(2), the ZBA must find evidence of evidence that:

- all the facts and conditions of a. thru d. exists,
 - or e. or f. exists independently,
- to grant a variance.

Our comments related to the proposal follow each clause in **bold**.

- a. *That there are exceptional or extraordinary circumstances or conditions applying to the property in question or as to the intended use of the property that do not apply generally to other properties in the same zoning district.*

This site is unique in its irregular configuration and had existing front yard parking. The applicant states they feel a 20ft greenbelt planting strip would put them at an unfair advantage compared to existing neighboring industrial use properties that do not provide a greenbelt setback between properties.

- b. *That such variance is necessary for the preservation and enjoyment of a substantial property right like that possessed by other properties in the same vicinity. The possibility of increased financial return shall not of itself be deemed enough to warrant a variance.*

Other properties surrounding the subject site are zoned IC, Industrial Controlled, but are not being used for the same industrial use as this property, and therefor do not require the 20 ft greenbelt planting strip. Compliance with the greenbelt planting strip would require about 15% of the parcel, which is substantial, as it does not include the retention pond. We find that in order for this property to enjoy the same right to utilize the majority of the parcel, a variance is justified.

- c. *That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.*

The authorizing of such variances will likely not be of substantial detriment to adjacent properties. We anticipate the landscape buffer will adequately screen the storage area from the northern adjacent property.

- d. *That the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, is not of so general or recurrent in nature as to create a general rule for such condition or situation.*

The situation could be applicable for other industrial-zoned lots with the same irregular configuration along Utica Road.

OR

- e. *That the modification to setback, location, site or building requirements is sponsored by the Planning Commission for a specific proposal that benefits the City by providing better design or efficient use of the site or results in a more creative development (all fees to be paid by the applicant).*



The Planning Commission did not sponsor this proposal as a part of a site plan and/or special land use approval.

OR

- f. That phasing of required site plan improvements may be warranted because the cost of such improvements is relatively high in relation to the total cost of the applicant's development or addition. Planning Commission recommendations shall be required, together with a financial security in the amount of the deferred improvements.*

The applicant cannot meet the zoning ordinance's standards through phasing or deferment; therefore, the scenario does not apply.

CONCLUSION

Since the applicants have met the Ordinance standards for obtaining a variance, we recommend that the ZBA grant their request.

Please let me know if you have any questions.

Respectfully Submitted,

Alicia Warren
Assistant Planner

Lauren Sayre, AICP
Associate Planner

Cc: Applicant
City Manager
Building Official
City Attorneys



City of Fraser

Building & Code Enforcement Department

NOTICE OF ZONING BOARD OF APPEALS HEARING

NOTICE IS HEREBY GIVEN that the City of Fraser Zoning Board of Appeals will meet on **Thursday, August 15, 2024**, at 7:00 p.m. in the Fraser City Hall Council Chambers at 33000 Garfield Road, located at the southeast corner of Fourteen Mile and Garfield Roads, Fraser, Michigan for the purpose of conducting a Public Hearing and making a decision on the following request:

APPEAL #24-05:

VARIANCE REQUEST / SUNBELT RENTALS, INC

BY REASON OF:

SECTION 32-144-1-B, PROVISIONS PERTAINING TO GREENBELT PLANTING STRIP REQUIREMENTS.

PURPOSE OF REQUEST:

TO OBTAIN A VARIANCE FROM ZONING ORDINANCE STANDARDS TO ALLOW A 10 FT GREENBELT PLANTING STRIP ALONG THE NORTH PROPERTY LINE OF 31285 UTICA ROAD IN THE IC DISTRICT, WHICH REQUIRES A 20 FT GREENBELT PLANTING STRIP.

PROPERTY IN QUESTION:

31253 AND 31285 UTICA ROAD, FRASER MICHIGAN, 48026
PARCEL ID: 14-05-353-015 AND 14-05-353-002

NOTICE IS FURTHER GIVEN that any interested person may appear and comment upon the proposed request in person, or by agent or attorney during the public hearing to be held on the date and time of the meeting. Pertinent information relating to the application may be reviewed at the Fraser Building Department during regular business hours which are 8:00 a.m. to 4:30 p.m., Monday through Friday at the Fraser City Hall, 33000 Garfield Road, Fraser, Michigan. Questions regarding the requested variance can be directed to the Planner, c/o Building Department at 586-293-3100. Written comments may be submitted to the Fraser Building Department at 33000 Garfield Road, Fraser, Michigan 48026, or email to the Building Department at zoning@micityoffraser.com up to 4:30 p.m. of the meeting date.

The City of Fraser will provide necessary, reasonable auxiliary aids and services to individuals with disabilities at the meeting upon four (4) days' notice to the Building Department at the phone number set forth above.



CITY OF FRASER
APPLICATION FOR APPEAL
ZONING BOARD OF APPEALS

Office Use Only

APPEAL # _____

DATE OF MTG. _____

DATE REC'D _____

RECEIPT #: _____

CIRCLE ALL THAT APPLY:

VARIANCE

APPEAL

TEMPORARY

INTERPRETATION

GENERAL LOCATION OF PROPERTY:

ADDRESS 31253 Utica Road CROSS STREETS: North of the intersection of Utica Rd and Groesbeck Hwy

LEGAL DESCRIPTION (Lot number, subdivision, metes/bounds or attach on a separate sheet):

Please see ALTA Survey Included in variance request submittal package.

BASIS FOR REQUEST: (Hardship or practical difficulty imposed by Ordinance):

Please see Page 2 of this application for Basis for Request description.

SECTION OR ORDINANCE INVOLVED: 32-144(1)B.

ZONING DISTRICT OF PROPERTY: Industrial Controlled District (IC)

APPLICANT

NAME AND ADDRESSES OF PARTIES OF INTEREST AND/OR APPLICANT SETTING FORTH THE LEGAL INTEREST IN SAID PREMISES:

APPLICANT: Matt Yanda - CESO Inc.

ADDRESS: 3601 Rigby Road, Suite 300 - Miamisburg, Ohio 45342

PHONE: (330) 819-1670 INTEREST: Owner's Engineer

APPLICANT: Kelly Basinger - Sunbelt Rentals, Inc.

ADDRESS: 1799 Innovation Point - Fort Mills, SC 29715

I (We) hereby request a hearing on the above-mentioned matter before the City of Fraser Zoning board of Appeals. The undersigned swear(s) the foregoing statements and answers herein contained and accompanied information and data are in all respects true and complete. I (we) grant permission to Members of the Zoning Board of Appeals and to the City of Fraser Administration to enter the land in order to view the outside premises in preparation for hearing our case.

Signature of Applicant:  Date: 07/22/2024

Signature of legal property owner (if not applicant):  Date: 7/22/2024



CITY OF FRASER
APPLICATION FOR APPEAL
ZONING BOARD OF APPEALS

Office Use Only

APPEAL # _____

DATE OF MTG. _____

DATE REC'D _____

RECEIPT #: _____

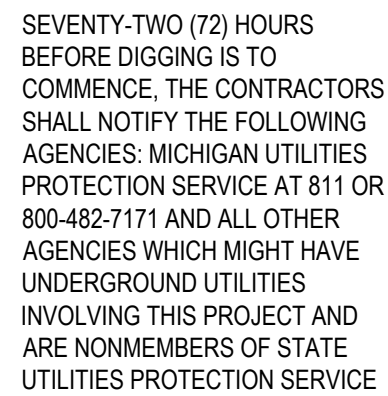
REQUEST #1: 32-144(1)B.

BASIS FOR REQUEST: (Hardship or practical difficulty imposed by Ordinance):

1. Based on the requirements set forth in Section 32-144.1.b of the Code of Ordinances City of Fraser, MI, Industrial uses to be conducted wholly within a building or within a building and/or an area enclosed within a chainlink fence; the fence shall be not less than six (6) feet high. Outside of the fence shall be planted a twenty (20) foot greenbelt planting strip. The Current site Plan that has been provided, includes a 10ft greenbelt setback between the proposed Sunbelt site and property to the north. Sunbelt feels that if a 20ft greenbelt setback were to be enforced on the north side of the property, they would be put at an unfair advantage compared to the existing neighboring industrial use properties that do not provide this greenbelt setback between properties. This 20ft greenbelt setback would limit the amount of storage area necessary for the proposed Sunbelt project. Sunbelt feels that proposing a 10ft wide greenbelt setback on the north side of the property will be more than sufficient to screen from the neighboring property.



VARIANCE SUMMARY	
ZBA #24-02 (APPROVED ON MAY 2, 2024)	
FRONT PARKING SETBACK	87.13 FT
FRONT STORAGE SETBACK	51.6 FT
FRONT FENCE SETBACK	51.6 FT



Revisions / Submissions		
ID	Description	Date
1	CITY COMMENTS	06/17/2024

© 2024 CESO, INC.	
Project Number:	763113
Scale:	1"=20'
Drawn By:	BPR
Checked By:	MY
Date:	06/17/2024
Issue:	PERMIT

Drawing Title:

SITE PLAN

C1.0

SITE INFORMATION

N/F: SUNBELT RENTALS, INC.
31285 UTICA ROAD,
FRASER, MICHIGAN 48026
APN: 03-14-05-353-002
TOTAL AREA: 48,818 SQ. FEET, OR 1.121 ACRES ±

TITLE COMMITMENT INFORMATION

THE PROPERTY HEREON DESCRIBED IS THE SAME AS THE PERTINENT PROPERTY AS DESCRIBED IN FIRST AMERICAN INSURANCE COMPANY, COMMITMENT NUMBER: NCS-1204041-CHAR, WITH A COMMITMENT DATE OF JANUARY 03, 2024 AT 8:00 A.M.

SCHEDULE A DESCRIPTION

LAND IN THE CITY OF FRASER, MACOMB COUNTY, MI, DESCRIBED AS FOLLOWS:

PART OF LOT 119, ASSESSOR'S PLAT NO. 7 OF LOTS 1 & 2 AND PARTS OF 3, 9, 10, 11 & 12 OF THE SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 5 IN TOWN 1 NORTH, RANGE 13 EAST, AS RECORDED IN LIBER 14 OF PLATS, PAGE 31, MACOMB COUNTY RECORDS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SECTION 5, THENCE SOUTH 88 DEGREES 21 MINUTES WEST 10.9 FEET; THENCE NORTH 29 DEGREES 09 MINUTES EAST 1027.63 FEET ALONG SOUTHERLY RIGHT OF WAY LINE G.T.W.R.R. TO POINT OF BEGINNING; THENCE NORTH 29 DEGREES 09 MINUTES EAST 203.33 FEET ALONG SAID RIGHT OF WAY LINE; THENCE NORTH 88 DEGREES 11 MINUTES 30 SECONDS EAST 193.32 FEET; THENCE SOUTH 23 DEGREES 00 MINUTES 40 SECONDS EAST 186.80 FEET ALONG SOUTHWESTERLY SIDE LINE OF UTICA ROAD; THENCE SOUTH 88 DEGREES 11 MINUTES 34 SECONDS WEST 365.51 FEET ALONG SOUTH LINE LOT 119 TO THE POINT OF BEGINNING.

NOTES CORRESPONDING TO SCHEDULE B

NO APPLICABLE ITEMS.

PARKING INFORMATION

REGULAR= 8
HANDICAP= 2
TOTAL= 10

FLOOD ZONE INFORMATION

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE "X" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 26999C0339G, WHICH BEARS AN EFFECTIVE DATE OF 09/26/2006 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA.

ZONE "X" - AREA OF MINIMAL FLOOD HAZARD, USUALLY DEPICTED ON FIRMS AS ABOVE THE 500-YEAR FLOOD LEVEL. ZONE "X" IS THE AREA DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD AND PROTECTED BY LEVEE FROM 100-YEAR FLOOD.

BASIS OF BEARING

THE BASIS OF BEARING OF THIS SURVEY IS GRID NORTH BASED ON THE SOUTH LINE OF THE SUBJECT PROPERTY. THE BEARING IS DENOTED AS S87°09'51"W PER GPS COORDINATE OBSERVATIONS MICHIGAN STATE PLANE, SOUTH ZONE NAD83.
LATITUDE = 42°31'34.1213"
LONGITUDE = -82°58'45.0230"
CONVERGENCE ANGLE = 00°58'00.8916"

TEMPORARY BENCHMARK INFORMATION

TBM #1 - 1/2" REBAR ELEVATION: 616.08'	TBM #1 - 1/2" REBAR ELEVATION: 616.07'
NORTHING: 377172.83 EASTING: 13505871.81	NORTHING: 377505.49 EASTING: 13506239.13

SIGNIFICANT OBSERVATIONS

NONE OBSERVED AT THE TIME OF THE ALTANSPS SURVEY.

UTILITY INFORMATION

THE UTILITIES SHOWN ON THIS DRAWING HEREON HAVE BEEN LOCATED BY FIELD MEASUREMENTS UTILITY MAP DRAWINGS, MICHIGAN 811 DIG UTILITY LOCATE REQUEST, AND PRIVATE UTILITY LOCATE SERVICES, COMPLETED BY BLEW & ASSOCIATES, P.A. ON NOVEMBER 12, 2023. BLEW & ASSOCIATES MAKES NO WARRANTY TO THE EXACT LOCATION OF ANY UNDERGROUND UTILITIES SHOWN OR NOT SHOWN ON THIS DRAWING. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ANY AND ALL UTILITIES PRIOR TO CONSTRUCTION.

TICKET NUMBER: 2023103002161

COMPANY:	CONTACT:
123.NET, INC. FIBER OPTICS	248-431-4584
AT&T TELEPHONE	616-881-2268
COMCAST CABLE TV	855-962-8525
CONSUMERS ENERGY GAS	800-778-9140
DTE ENERGY (ELECTRIC) ELECTRIC	313-407-5364
FONOROLA FIBER FIBER OPTICS	877-459-2690
FRASER CITY POTABLE WATER	586-293-2001
FRASER CITY SANITARY SEWER	586-293-2001
FRASER CITY STORM SEWER	586-293-2001
MACOMB COUNTY ROAD COMMISSION TRAFFIC	586-791-3095

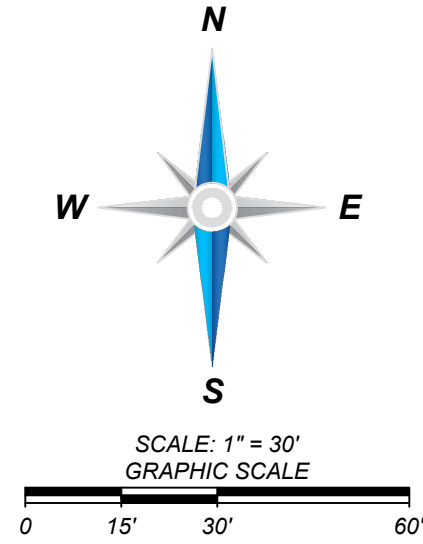
ZONING INFORMATION

PROPERTY IS CURRENTLY ZONED:
AWAITING ZONING REPORT

ITEM	REQUIRED	OBSERVED
PERMITTED USE		VACANT LAND
MIN. SETBACKS FRONT		N/A
MIN. SETBACKS SIDE		N/A
MIN. SETBACKS REAR		N/A
MAX. BUILDING HEIGHT		N/A
MIN. LOT AREA		48,818 SQ. FEET ±
MIN. LOT WIDTH		193.95'
MAX. BLDG COVERAGE		N/A
PARKING REGULAR		N/A
PARKING HANDICAP		N/A
PARKING TOTAL		N/A

ALTANSPS LAND TITLE SURVEY

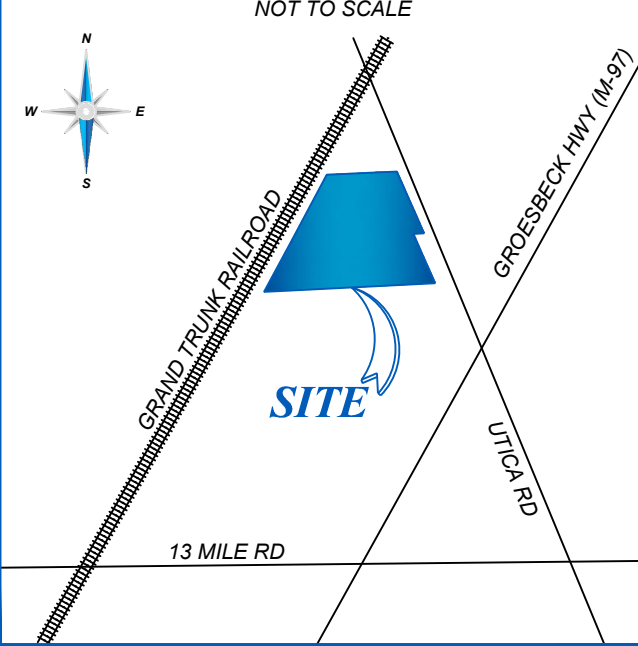
31285 UTICA ROAD,
FRASER, MICHIGAN 48026
MACOMB COUNTY



LEGEND & SYMBOLS

●	FOUND MONUMENT AS-NOTED
○	SET MONUMENT AS-NOTED
⊕	COMPUTED POINT
⊙	HANDICAP PARKING
⊙	FIRE HYDRANT
⊙	LIGHT
⊙	SANITARY MANHOLE (SMH)
⊙	BOLLARD
⊙	POWER POLE
⊙	ELECTRIC VAULT
⊙	GAS METER
⊙	GATE POST
⊙	MAILBOX
⊙	WATER VALVE
⊙	GRATED INLET (GI)
⊙	DRAINAGE MANHOLE (DMH)
⊙	GUY ANCHOR
⊙	BACK OF CURB
⊙	FLOW LINE
⊙	EDGE OF CONCRETE
⊙	TOP OF CONCRETE
⊙	EA
⊙	EDGE OF ASPHALT
⊙	TA
⊙	TOP OF ASPHALT
⊙	NG
⊙	NATURAL GROUND
⊙	CR
⊙	CROWN OF ROAD
⊙	(M)
⊙	MEASURED/CALCULATED DIMENSION
⊙	(R)
⊙	RECORD DIMENSION
⊙	NOW OR FORMERLY
⊙	P.O.C.
⊙	POINT OF COMMENCEMENT
⊙	P.O.B.
⊙	POINT OF BEGINNING
⊙	B.H.L.
⊙	BUILDING HEIGHT LOCATION
⊙	F.F.E.
⊙	FINISHED FLOOR ELEVATION
⊙	TBM
⊙	TEMPORARY BENCHMARK
⊙	PVC
⊙	POLYVINYL CHLORIDE PIPE
⊙	RCP
⊙	REINFORCED CONCRETE PIPE
⊙	BOUNDARY LINE
⊙	RIGHT-OF-WAY LINE
⊙	C.L.
⊙	CENTERLINE OF ROAD
⊙	FENCE LINE
⊙	OVERHEAD UTILITY LINE
⊙	UNDERGROUND UTILITY LINE
⊙	UNDERGROUND GAS LINE
⊙	UNDERGROUND SANITARY SEWER LINE
⊙	UNDERGROUND STORM DRAIN LINE
⊙	WALL
⊙	CENTERLINE OF RAILROAD

VICINITY MAP



GENERAL NOTES

- SOME FEATURES SHOWN ON THIS PLAT MAY BE SHOWN OUT OF SCALE FOR CLARITY.
- DIMENSIONS ON THIS PLAT ARE EXPRESSED IN FEET AND DECIMAL PARTS THEREOF UNLESS OTHERWISE NOTED. MONUMENTS WERE FOUND AT POINTS WHERE INDICATED.
- IN REGARD TO ALTANSPS TABLE A ITEM 16, THERE WAS NO OBSERVABLE EVIDENCE OF RECENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR ADDITIONS EXCEPT AS SHOWN HEREON.
- IN REGARD TO ALTANSPS TABLE A ITEM 17, THERE WERE NO KNOWN PROPOSED CHANGES IN RIGHT OF WAY LINES, RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS EXCEPT AS SHOWN HEREON.
- AT THE TIME OF THE ALTANSPS SURVEY, THERE WAS NO OBSERVABLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP, OR SANITARY LANDFILL.
- AT THE TIME OF THE ALTANSPS SURVEY, THERE WAS NO OBSERVABLE EVIDENCE OF SITE USE AS A CEMETERY, ISOLATED GRAVE SITE OR BURIAL GROUNDS.
- COMPLETED FIELD WORK WAS OCTOBER 27, 2023.
- THE DISTANCES SHOWN HEREON ARE UNITS OF GROUND MEASUREMENT.
- THE NEAREST INTERSECTING STREET IS THE INTERSECTION OF UTICA ROAD AND GROESBECK HIGHWAY (M-97), WHICH IS APPROXIMATELY 315' FROM THE SOUTHEAST CORNER OF THE SUBJECT PROPERTY.
- THE SUBJECT PROPERTY HAS DIRECT PHYSICAL ACCESS TO UTICA ROAD, BEING A PUBLICLY DEDICATED RIGHT-OF-WAY.
- EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT PROPERTY: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.
- NO SURVEYOR OR ANY OTHER PERSON OTHER THAN A LICENSED MICHIGAN ATTORNEY MAY PROVIDE LEGAL ADVICE CONCERNING THE STATUS OF TITLE TO THE PROPERTY DESCRIBED IN THIS SURVEY (THE SUBJECT PROPERTY). THE PURPOSE OF THIS SURVEY, AND THE COMMENTS RELATED TO THE SCHEDULE B EXCEPTIONS, IS ONLY TO SHOW THE LOCATION OF BOUNDARIES AND PHYSICAL OBJECTIONS IN RELATION THERETO. TO THE EXTENT THAT THE SURVEY INDICATES THAT THE LEGAL INSTRUMENT "AFFECTS" THE SUBJECT PROPERTY, SUCH STATEMENT IS ONLY INTENDED TO INDICATE THAT PROPERTY BOUNDARIES INCLUDED IN SUCH INSTRUMENT INCLUDE SOME OR ALL OF THE SUBJECT PROPERTY. THE SURVEYOR DOES NOT PURPORT TO DESCRIBE HOW SUCH INSTRUMENT AFFECTS THE SUBJECT PROPERTY OR THE ENFORCEABILITY OR LEGAL CONSEQUENCES OF SUCH INSTRUMENT.
- NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS WERE TAKEN FROM MACOMB COUNTY GIS.
- THE SUBJECT PROPERTY SHOWN HEREON FORMS A MATHEMATICALLY CLOSED FIGURE AND IS CONTIGUOUS WITH THE ADJOINING PUBLIC RIGHT-OF-WAY AND/OR ADJOINING PARCELS WITH NO GAPS OR OVERLAPS.
- IN REGARD TO ALTANSPS TABLE A ITEM 10, NO VISIBLE DIVISION OR PARTY WALLS WITH RESPECT TO ADJOINING PROPERTIES WERE OBSERVED AT THE TIME THE FIELD SURVEY WAS PERFORMED, NOR WERE ANY DESIGNATED BY THE CLIENT.
- ELEVATIONS ESTABLISHED WITH GPS OBSERVATIONS UTILIZING (INSERT NETWORK NAME) NETWORK WITH ORIGINATING BENCHMARK PID D6132, VERTICAL DATUM BASED UPON NORTH AMERICAN VERTICAL DATUM (NAVD88) IN US SURVEY FEET. CONTOURS SHOWN HEREON ARE AT ONE FOOT INTERVALS. BENCHMARK ID: PID D6132. PUBLISHED ELEVATION: 608.5'. MONUMENT DESCRIPTION: SURVEY DISK SET IN TOP OF CONCRETE MONUMENT, STAMPED "50657 2006".
- A PRIVATE UTILITY LOCATE WAS COMPLETED BY BLEW & ASSOCIATES, P.A. ON NOVEMBER 12, 2023 UNDER BLEW JOB NO. 23-7297.01.

SURVEYOR'S CERTIFICATE

TO: SUNBELT RENTALS, INC., A NORTH CAROLINA CORPORATION, INVESTORS TITLE INSURANCE COMPANY, AND FIRST AMERICAN TITLE INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTANSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 2, 3, 4, 5, 6A, 6B, 7B1, 7C, 8, 9, 10, 11B, 13, 14, 16, 17, AND 19 OF TABLE A THEREOF.

THE FIELD WORK WAS COMPLETED ON 10/27/2023.

DATE OF PLAT OR MAP: 12/04/2023

RONALD R. HARRIS
PROFESSIONAL LAND SURVEYOR NO.: 4001041917
STATE OF MICHIGAN

BLEW & ASSOCIATES, P.A.
Surveying
Engineering
Mapping

3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL: SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 FAX: 479.582.1883
WWW.BLEWINC.COM

DATE	REVISION HISTORY	BY
04/25/24	ADDED ADDITIONAL TITLE	K.J.D.

SURVEYOR JOB NUMBER: 23-7297	SURVEY DRAWN BY: AC - 12/04/2023
SURVEY REVIEWED BY: LT	SHEET: 1 OF 1

INVERT INFORMATION

GI #1 RIM: 615.2' BOTTOM: 611.91' INVERT SE - 12" RCP: 611.9' INVERT S - 12" RCP: 613.4' INVERT NW - 12" RCP: 611.9'	GI #4 RIM: 615.80' BOTTOM: 613.41' INVERT E - 10" RCP: 613.4' INVERT W - 12" METAL PIPE: 613.6' INVERT NW - 4" PVC: 614.7'	GI #7 RIM: 614.51' BOTTOM: 611.56' INVERT SE - 12" RCP: 612.4' INVERT NE - 12" RCP: 612.2' INVERT SW - 6" METAL PIPE: 612.7' INVERT NW - 12" RCP: 612.3'	SMH #1 RIM: 615.81' INVERT SE - 12" RCP: 608.8' INVERT W - 4" PVC: 609.9' INVERT NW - 6" PVC: 606.6'
GI #2 RIM: 615.24' BOTTOM: 612.31' INVERT NE - 6" PVC: 613.9' INVERT SE - 12" METAL PIPE (CAPPED): 612.3' INVERT NW - 12" METAL PIPE: 612.4'	GI #5 RIM: 615.78' BOTTOM: 614.04' INVERT W - 10" METAL PIPE: 614.0' INVERT NW - 12" RCP: 612.6'	GI #8 RIM: 615.11' BOTTOM: 612.49' INVERT NW - 12" RCP: 612.6'	SMH #2 RIM: 615.59' INVERT NW - 12" RCP: 606.7' INVERT SE - 12" RCP: 606.5'
GI #3 RIM: 615.29' BOTTOM: 611.24' INVERT N - 12" RCP: 612.7' INVERT E - 12" RCP: 612.7'	GI #6 RIM: 614.11' BOTTOM: 611.52' INVERT SE - 12" RCP: 612.5'		



Monthly Planning & Zoning Report

For June 2024

McKenna provides day-to-day assistance to the City, applicants, and the public regarding zoning, planning and economic development matters.

PLANNING, ZONING, DESIGN & ECONOMIC DEVELOPMENT ACTIVITY

As part of our services to the City, McKenna reviews Planning Commission applications and provides recommendations on long range planning, land use, zoning, and design. The following is a summary of active developments; **yellow highlighting indicates new updates for the month.**

PROJECT # / ADDRESS	SCOPE	STATUS / NEXT STEPS
SP21-08 34400 Utica Hockeyland Outlot SLU 24-01	Site plan approval with conditions granted on August 4, 2021.	Site plan approval extended for 12 months, August 2, 2023, subject to site plan amendment approval. Approved to apply for foundation permits. Revised site plan approved at September PC meeting. CofO contingent on satisfaction of all PC conditions of approval. Lot split application approved in October 2022. Approved to move forward with the process without finalized parking agreement. Construction underway. Planning Commission conditionally approved the site plan with amendments to the conditions regarding off-site shared parking agreements. SLU modification approved at March 6, 2024 PC Meeting. Big Boy / Hockeyland management met with City (building, planning, engineering, legal) and has submitted a plan to complete all outstanding items by September 1, 2024.
SP23-03 / ZBA23-04 32660 Utica Road Strip Mall	Site plan to convert a coin-operated car wash into a 3-unit commercial strip mall. Variance request to reduce the front setback from 70 ft to 35 ft.	Preliminary site plans reviewed. Applicant contacted for revised site plans. Variance request for front parking setback reduction granted for October 5, 2023 ZBA. Conditionally approved by Planning Commission on November 1, 2023. Final site plans approved by Planning and Zoning. Pending engineering and building review. Building Permit issued.



PROJECT # / ADDRESS	SCOPE	STATUS / NEXT STEPS
RZ23-02 32981 & 32875 Utica Road Sheetz	Conditional rezoning from CBD to CG to operate a gas station and fast food restaurant.	Public hearing at the January 3, 2024 Planning Commission Meeting. Planning Commission recommended denial of conditional rezoning to City Council at January 3, 2024 Planning Commission Meeting. Sheetz to return after conditional rezoning agreement is drafted. City Council to grant approval or denial of conditional rezoning TBD. Tentatively September.
SP 24-01 ZBA 24-03 34400 Klein Foundation Solutions 360	Site Plan amendment to remove ZBA condition and add paved parking area. Variance amendment to remove shared parking requirement. Variance request to increase parking setback nonconformity.	The site plan will be reviewed at the April 3, 2024 PC meeting. The variance requests granted at the May 2, 2024 ZBA meeting. The site plan was approved at the June 5, 2024 PC meeting. The site plan is in engineering review.
ZBA 24-01 31253 Utica Road Sunbelt Rentals	Request for front parking setback, as well as front fence setback and front setback for a storage area.	The variance request granted at the May 2, 2024 ZBA meeting. The site plan will be conditionally approved at the July 15, 2024 PC meeting. A variance will be reviewed at the August 15 ZBA meeting. This variance is part of the conditional site plan approval.
SP 23-04 34575 Commerce Road Drivergent	Request for site plan approval to store buses outdoors.	Planning Commission tabled the request at the May 1, 2024 meeting until the applicant obtains all necessary variances and provides revisions to the site plan.
SP 24-03 16000 15 Mile Road Strip Mall	Request for exterior façade modification.	For commercial districts, such as the CG District, any exterior building material that is not aesthetically pleasing brick and or stone must be approved by the Planning Commission. This application will be reviewed at the August 7, 2024 PC meeting.
ZBA 24-04 34835 Utica Road Meijer	Request for reduction of off-street parking spaces.	Public hearing for this variance request will be held on August 15, 2024. This request will be reviewed at the September 5, 2024 ZBA meeting, due to lack of applicant availability.



LOOKING FORWARD

- Sign Ordinance (Potential adoption in September)
- Full Zoning Ordinance Rewrite (End of 2025 – Early 2026)

CONTACT US

Should you have any questions on the above projects or would like additional information, please contact your City of Fraser team at:

- Lauren Sayre (lsayre@mcka.com)
- Alicia Warren (awarren@mcka.com)