



CITY MANAGER
Elaine Leven
CITY CLERK
August Gitschlag

City of Fraser

CENTENNIAL COMMUNITY

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Michael Lesich
MAYOR PRO-TEM
Patrick O'Dell
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Amy Baranski
Kenny Perry
Patrice Schornak
George Michael Higgins
Crystal Fletcher

AGENDA
CITY OF FRASER ZONING BOARD OF APPEALS
Thursday, August 6, 2026 @ 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 – Augst 6, 2026**
- 5. Approval of Minutes – May 7, 2026**
- 6. Formal Statement by Chair**
- 7. Old Business (Postponed Cases)**

- a. ZBA 26-01 34860 Utica Road - Birdies and Brews**

To obtain a variance from Section 32-93(3)b to provide 23 parking spaces when 34 parking spaces are required.

To obtain a variance from Section 32-154(b)(1) to waive the requirement that indoor commercial recreation uses are not permitted within the building or on the site within 100 feet of a residential district.

- 8. Unfinished Business of the Board - None**
- 9. Monthly Report**
 - a. May and June 2026 Monthly Reports**
 - b. Action Items Update – None**

10. Planning Commission Liaison

11. Public to be Heard

12. Adjournment.

Posted: July 30, 2026



City Manager
Elaine Leven
City Clerk
August Gitschlag

City of Fraser Centennial Community

Fraser Zoning Board of Appeals Minutes **City Council Chambers** **33000 Garfield, Fraser, MI 48026** **Thursday, May 7, 2026 - 7:00 PM** **Draft**

Mayor
Michael Lesich
Mayor Pro-Tem
Dana Sutherland
Council
Amy Baranski
Patrick O'Dell
Kenny Perry Jr.
Patrice Schornak
Sherry Stein

A regular meeting of the Fraser Zoning Board of Appeals was held on Thursday, May 7, 2026 at 7:00 PM in City Council Chambers, 33000 Garfield, Graser, MI 48026.

1. Call to Order

Chairman Farina called the meeting to order at 7:00pm

2. Pledge of Allegiance

Chairman Farina led the room in the Pledge of Allegiance.

3. Roll Call

The following members were present:

Present: Mark Burley, Joseph Chimenti, Frank Farina, Scott Wahl, Rosanne Menendez, Emma Stasek, Patrick Green

Absent: None

Others Present: City Clerk August Gitschlag, City Planner Dan Commer, City Attorney Alex Hishon, Building Department Manager Bob Logan

4. Approval of Agenda

5. Approval of Minutes

Motion by Rosanne Menendez, supported by Scott Wahl to approve the minutes of the April 2, 2026 regular ZBA meeting and the minutes of the April 14th Special ZBA meeting with administrative changes..

Ayes: Mark Burley, Joseph Chimenti, Frank Farina, Scott Wahl, Rosanne Menendez, Emma Stasek, Patrick Green

Nays: None

Absent:

Motion Passed

- a. April 2, 2026 Minutes
- b. April 14, 2026 Special Zoning Board of Appeals Minutes

6. Formal Statement by Chair

Chairman Farina read the statement

7. Old Business (Postposed Cases) - March 5, 2026 Agenda

- a. ZBA 26-01 34860 Utica Road - Birdies and Brews
To obtain a variance from Section 32-93(3)b to provide 23 parking spaces when 66 parking spaces are required.
To obtain a variance from Section 32-154(b)(1) to waive the requirement that indoor commercial recreation uses are not permitted within the building or on the site within 100 feet of a residential district.

Motion by Rosanne Menendez, supported by Mark Burley to Table ZBA 26-01 34860 Utica Road - Birdies and Brews request to obtain a variance from Section 32-93(3)b to provide 23 parking spaces when 66 parking spaces are required, and request to obtain a variance from Section 32-154(b)(1) to waive the requirement that indoor commercial recreation uses are not permitted within the building or on the site within 100 feet of a residential district, for the appropriate time necessary for the attorneys to review and approve acceptable recordable documents for a shared parking agreement.

No specific meeting date was agreed upon. The item will be brought back when ready.

Ayes: Mark Burley, Joseph Chimenti, Frank Farina, Scott Wahl, Rosanne Menendez, Emma Stasek, Patrick Green

Nays: None

Absent:

Motion Passed

8. Unfinished Business

None

9. Monthly Report

- a. April Monthly Report

City Planner Dan Commer from McKenna presented the Monthly report.

10. Planning Commission Liaison

Chairman and Planning Commission liaison Frank Farina updated the ZBA on the Planning Commission's decision to refer the updated zoning ordinance to City Council. He and Clerk Gitschlag gave a summary of the issues the Commission tackled, and the compromises made at the request of residents.

11. Public to Be Heard

None

12. Adjournment

Motion by Rosanne Menendez, supported by Mark Burley to Adjourn the meeting at 8:15pm

Ayes: Mark Burley, Joseph Chimenti, Frank Farina, Scott Wahl, Rosanne Menendez, Emma Stasek, Patrick Green

Nays: None

Absent:

Motion Passed

Respectfully Submitted:

Michael T. Lesich, Mayor
City of Fraser

August R. Gitschlag, City Clerk
City of Fraser



MCKENNA

July 23, 2026

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

Subject: ZBA Report #2 / #26-01 Variance Request / Birdies and Brews

Applicant: Jonathan Juliano

Section: Section 32-93(3)b & Section 32-154(b)(1) of the Fraser Zoning Ordinance

Location: 34860 Utica Road, Fraser, Michigan 48026

Request: To obtain a variance from section 32-93(3)b to provide 23 parking spaces when 34 parking spaces are required. **AND** to obtain a variance from section 32-154(b)(1) to waive the requirement that indoor commercial recreation uses are not permitted within the building or on the site within 100 feet of a residential district.

Dear Members of the Zoning Board of Appeals:

We have reviewed the above referenced application for minimum off-street parking count and proximity of indoor commercial recreation use to a residential zoning district the CG District, and – as it does not meet the requirements of the code – have prepared the following report, which 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

34860 Utica Road is currently zoned CG, Commercial General and is located near the intersection of Utica Road and 15 Mile Road. At the May 7, 2026 public hearing before the Zoning Board of Appeals the applicant noted the maximum occupancy would be 198 people. **The applicant is now seeking a reduction to 100 people for the maximum occupancy.** Reducing the maximum occupancy is a process that can be done administratively through the building official and fire marshal. The applicant is aware of the process, which includes providing rationale for the request to minimize the maximum occupancy, as well as providing detailed drawings that the calculations are based on.

The applicant will need to obtain special land use approval from Planning Commission for the use of an amusement and recreation service, also subject to the use standards in Section 32-154.



HEADQUARTERS

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Section 32-93(3)b requires one (1) parking space per three (3) persons allowed at maximum occupancy load, as determined by the Fire Marshal or his official designate. The first variance is for a reduction in parking as follows: **To obtain a variance from section 32-93(3)b to provide 23 parking spaces when 34 parking spaces are required.**

Section 32-154(b)(1) requires that bowling alleys, hockey arenas, tennis houses, racquetball and soccer facilities, and similar forms of indoor commercial recreation, provided that no such use within the building or on the site shall be located within one hundred (100) feet of any residential district. **The second variance request is to waive this requirement, as the subject site is directly adjacent to the RH district to the east.**

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.

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 are included below.

- 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.*

Applicant Comments	The applicant notes the irregular parcel shape, and constrained lot width and depth, as well as building placement limit the ability for additional parking.
Planning Comments	Regarding the parking space variance and the residential buffering, we note that the lot is constrained. The building was originally used for industrial warehousing. Currently, the zoning of the property is CG (commercial), not industrial, so it is likely most commercial uses would require a variance for parking. We believe the former industrial nature of the property does present a unique circumstance.

- 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.*

Applicant Comments	The applicant states that amusement and recreation uses are permitted in the CG, however the property cannot be utilized for this purpose while meeting the parking requirements due to the current site constraints and configuration of the building.
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	The request is not based upon the prospect of increased financial return. Rather, it is necessary to allow reasonable use of the Property consistent with its zoning classification, given the inherent physical constraints of the land and the way that the City has naturally developed in this area.
Planning Comments	We do agree with the assessment provided by the applicant regarding the parking variance. Regarding the residential buffering variance, we believe that this is necessary for preservation of a substantial property right as other indoor recreation uses nearby are also adjacent to residential districts.

- 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.*

Applicant Comments	The applicant states that granting the parking variance will not be of substantial detriment to the adjacent property nor impair the intent of the ordinance or public interest. The applicant notes that the property is along Utica Road, a major commercial corridor, and near 15 Mile Road, another major corridor. Additionally, the applicant notes that in practice, recreational uses such as indoor golf simulators and mini-golf do not typically operate at maximum occupancy for sustained periods, and patrons often arrive in groups, reducing vehicle counts relative to headcount. Further, Applicant's use will be operated based on scheduled, staggered tee times, and will likely be based on a membership-basis, so that Applicant is able to further regulate and influence customer parking. The applicant intends to keep the existing block wall on the exterior eastern boundary of the Property that abuts the residential property. Such block walls and site configuration will serve as an added buffer of sight and sound to the residential.
Planning Comments	We agree that the proposed variance does not impair the intent of the ordinance, as this is a use that is appropriate in the CG district. However, we do have concerns that the lack of parking may negatively impact neighboring properties or create unsafe conditions. We do believe that these can be mitigated with proper scheduling, and signage to direct traffic. Regarding the buffering from residential districts, we do not believe that granting this variance will negatively impact adjacent properties, as there is already an indoor amusement/recreation use also abutting the same RH parcel, and the proposed use will be conducted entirely indoors.

- 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.*

Applicant Comments	The applicant believes that the parking variance is not a general condition as the property has an irregular and constrained layout and the occupancy is what is driving the parking requirement.
Planning Comments	Regarding the parking variance, we agree that this is not a typical CG parcel, due to its former industrial use, therefore we do not believe that it would create a general rule. Regarding the residential buffering, many CG parcels do abut residential parcels, so it could create a general rule, however, we do not believe that upholding this requirement is necessary to uphold the intent of the district and protect the health, safety, and welfare of adjacent residential properties, as these uses will be fully contained indoors.



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). **Not applicable.***

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. **Not applicable.***

CONCLUSION

We do not believe granting these variances would negatively impact the health, safety, welfare, or value of neighboring properties or the community in general. We also find that the standards for granting a variance are met or can be met, therefore we recommend approval for the variance from Section 32-93(3)b - to provide 23 parking spaces when 34 parking spaces are required - conditioned upon the following requirements:

- *The maximum occupancy for the business is administratively reduced to 100 people by the building official.*
- *The applicant must provide signage to ensure adequate vehicular circulation, to the satisfaction of the City Engineer.*

We also recommend approval for the variance from Section 32-154(b)(1) - to waive the requirement that indoor commercial recreation uses are not permitted within the building or on the site within 100 feet of a residential district.

Additional information brought forward by the Board, the applicant, and/ or during the public hearing should be incorporated into the record prior to the Board making any determination.

Please let me know if you have any questions.

Respectfully Submitted,

McKenna

Dan Commer, AICP
Senior Planner

cc: Applicant, City Manager, Building Official, City Attorneys



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July 8, 2026

Via Email: dcommer@mcka.com

City of Fraser Zoning Board of Appeals
c/o Dan Commer, AICP, City Planner
33000 Garfield Road
Fraser, MI 48026

**Re: Birdies + Brew Variance Narrative
34860 Utica Road, Fraser, MI 48026
Parcel No.: 11-31-201-013**

Variance Requests:

- 1. Variance from Zoning Ordinance Section 32-154(b)1 to permit Amusement and recreation use to be located within one hundred (100) ft. of a residential district; and**
- 2. Variance from Zoning Ordinance Section 32-93(3)b to permit a reduction in the minimum number of off-street parking spaces required on the Property.**

Dear City of Fraser Zoning Board of Appeals Members:

Our office represents the Applicant, Jonathan Juliano, regarding the above-referenced Variance requests for the real property commonly known as 34860 Utica Rd., Fraser, MI 48026, Parcel ID No.: 11-31-201-013 (the "Property"). Juliano is an authorized agent of, and acting on behalf of, the Property Owner, Clinton Valley Properties, LLC and the Property User "Birdies and Brew," all of which are related parties in this matter (collectively, Juliano, Clinton Valley Properties and Birdies and Brew are referred to herein as "Applicant"). Applicant is before the City of Fraser Zoning Board of Appeals (the "ZBA") requesting Approval of the above stated Variance requests pursuant to MCL 125.3604(7) & (8), and the City of Fraser Zoning Ordinance (the "Zoning Ordinance").

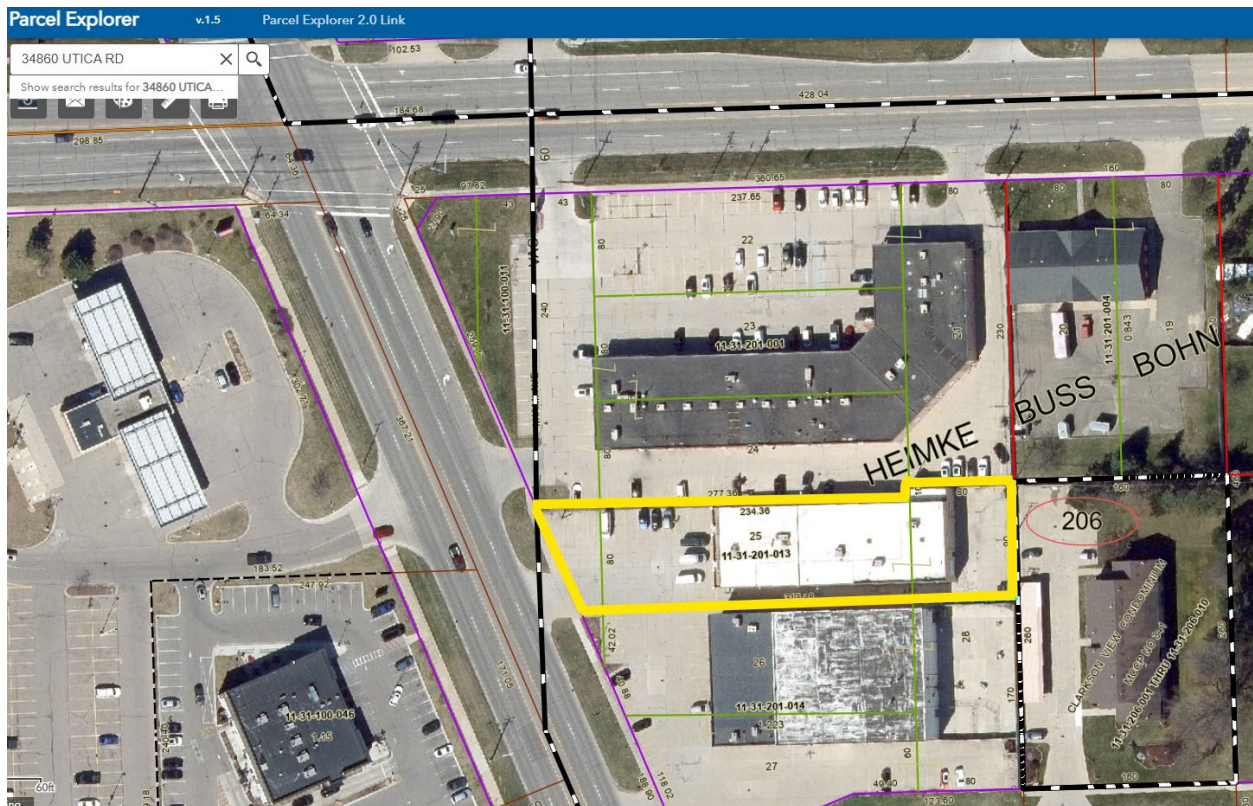
I. Introduction and Background

Previously, Applicant submitted similar Variance requests to this ZBA for which a public hearing was held on March 5, 2026, and the matter was again considered at the ZBA's May 7, 2026 meeting, but ultimately a decision on Applicant's requests was tabled. No decision was made by the ZBA on either of Applicant's previous Variance requests. The main issue of concern raised by the ZBA previously was the parking Variance and the need for additional parking through signed agreements with neighboring property owners. In light of the foregoing, Applicant has reduced the maximum occupancy on the Property to 100 patrons, which in turn reduces the required number of parking spaces on the site. Accordingly, Applicant now submits this revised request to the ZBA seeking a reduced off-street parking

Variance compared to Applicant's previous request, as well as the same Variance request for a reduction in setback to the adjacent residential property to the east of the Property.

Location and Existing Conditions:

The Property is generally located near the southeast corner of the 15 Mile Road and Utica Road intersection, comprising approximately 0.580 acres. The Property is an oddly shaped, tight, constricted parcel containing an existing building (previously utilized as an industrial use), and fronts along Utica Road. Pursuant to the City of Fraser (the "City") Zoning Map, the Property is currently zoned Commercial General ("CG"). An ariel screenshot taken from the Macomb County GIS Parcel Explorer shows the current unique, constricted layout and conditions of the Property (highlighted):



Pursuant to the City's Zoning Map, the properties to the south of the Property are also similarly zoned CG, and are currently utilized as an indoor entertainment arcade and gaming space, jazzercise, and various other medical and professional offices. The parcel abutting the Property to the north is also zoned CG, and is used as a commercial strip center containing various restaurant, retail, and office uses. To the east of the Property, the parcels are zoned RH, Residential High-multiple family, and is currently used as a multiple-family condominium complex. Finally, to the west of the Property, across Utica Road, the parcels are also largely zoned CG and consist of various restaurants, and a Meijer, including a gas station. Thus, the current zoning and use of the Property are perfectly compatible and harmonious with the surrounding area in the City.

Proposed Development:

Applicant's intended use on the Property is an indoor golf simulator and mini-golf course with a bar, as further depicted on the attached Site Plan (the "Proposed Development"). The Site Plan is attached hereto at **Exhibit A**. The Proposed Development will consist of five (5) indoor golf simulator bays, all of which will be located in the middle or west side of the building, as shown on the attached Site Plan. Further, the

Proposed Development will contain a total of 27-holes of miniature golf, as depicted on the attached Site Plan. All of the foregoing uses will be operated entirely indoors. Applicant intends to operate a membership-based customer structure with staggered tee times for the indoor golf simulator bays.

Master Plan:

According to the City of Fraser's Master Plan (the "Master Plan"), the Property is future planned as a "general commercial" property. Moreover, the properties to the west, north, and south of the Property are also all zoned as "general commercial." Thus, the intent of this area of the City is to create a commercial district along the main, arterial roads of the City; being Utica Road and 15 Mile Road. Pursuant to the Master Plan, General Commercial areas are:

Designated for **higher intensity commercial uses**. In the City of Fraser, a large part of the Community Commercial land uses [sic] is concentrated along Groesbeck Highway and Utica Road Corridors. In these areas, the majority of the General Commercial structures include big box stores, shopping malls, restaurants, highly frequented community nodes, and retail centers... Typically, General Commercial are located on the outer fringes of the City.

The Master Plan further provides that appropriate land uses for the general commercial district include restaurants, retail, and goods and services benefitting the community. Moreover, the Master Plan indicates that general commercial uses are generally freestanding buildings and are surrounded by high-volume traffic roads.

Thus, Applicant's proposed Use, and the Property, are squarely aligned with the City's Master Plan. Specifically, Applicant's proposed use is a free-standing indoor golf simulator, mini-golf course and bar; the exact type of use that is projected for in the Master Plan on the Property. Further, the Property is conveniently located at the corner of two (2) main, arterial roads on the outer fringe of the City, being 15 Mile and Utica Road, in alignment with the Master Plan. Thus, the Property and Applicant's proposed use are perfectly compatible and harmonious with the Master Plan. Additionally, as recognized by the City Planner, the building and property without the Variance is essentially obsolete as it was originally constructed and used as industrial zoning, and now that it is zoned CG, any CG use would likely require a parking and setback Variance.

II. Variance Criteria & Application

Variances – Generally:

The Michigan Zoning Enabling Act ("MZEA"), MCL 125.3101 *et seq*, vests Michigan municipalities with authority to regulate land development and use through zoning ordinances. *Silver Creek Twp v Corso*, 246 Mich App 94 (2001); MCL 125.271 *et seq*. Generally, a landowner's property interest, and right to reasonable use of its land, is one of the most fundamental constitutional rights under Michigan law. A zoning ordinance may regulate use of land but may not take away all of the land's reasonable uses. *K & K Constr, Inc v Dept of Nat Res*, 456 Mich 570 (1998).

Generally, Variances are also authorized under the MZEA so that "the spirit of the zoning ordinance is observed, public safety secured, and substantial justice done." MCL 125.3604(7). Variances are typically granted where the land cannot otherwise be used for its zoned purpose, and therefore acts as a license to use such land in a manner not permitted by the zoning ordinance. *Paragon Properties Co. v. City of Novi*, 452 Mich. 568 (1996). Variances fall within two categories: use variances or non-use variances/dimensional variances. *Id.* at 3.

“Dimensional” or “Non-use variances are not concerned with the use of the land, but rather, with changes in a structure’s area height, setback, and the like.” *Grabow v Macomb Township*, 270 Mich App 222, 226 (2006); see also *National Boatland, Inc v Farmington Hills ZBA*, 146 Mich App 380 (1985). Furthermore, the “zoning board of appeals of all local units of government shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in the ordinance.” MCL 125.3604(8).

The applicable standard for granting a dimensional variance is whether the applicant faces a “**practical difficulty**.” *National Boatland, supra*; see also MCL 125.3604(7). Thus, a dimensional variance is properly granted in circumstances where a property owner might otherwise suffer a practical difficulty. *Id.*; *Norman Corp v City of East Tawas*, 263 Mich.App. 194, 201 (2004). Importantly, the standard required for the granting of a nonuse variance (practical difficulty) is much less than that for a use variance. See 3 *Rathkopf’s The Law of Zoning and Planning* § 58:15 (4th ed.). That is, to justify granting a nonuse variance, there only needs to be a showing of a “practical difficulty,” and it is not necessary to meet the higher burden of “unnecessary hardship.” See *Norman Corp, supra*; *Heritage Hills Ass’n, Inc v City of Grand Rapids*, 48 Mich App 765, 769 (1973).

City of Fraser Variance Ordinance and Criteria:

Zoning Ordinance Section 32-228(2) lays out the criteria to be considered by the ZBA in granting a Variance. That Section states, in relevant part, that “[n]o variance in the provisions or requirements of this chapter shall be authorized by the board, unless the board finds evidence that all the following facts and conditions of a. thru d. exists or e. or f. exists independently.” Those criteria (a) through (d) are listed below, followed by Applicant’s narrative as to each Variance request on the Property.

REQUEST #1:

- 1. Variance from Zoning Ordinance Section 32-154(b)1 to permit an Amusement and recreation use to be located within one hundred (100) ft. of a residential district.**

Specifically, **Applicant is requesting a Variance of approximately 58’ 8” from the Zoning Ordinance requirement of 100 ft.** Applicant is seeking this ZBA’s approval to permit the Proposed Development on the Property within approximately 41’ 4” from the abutting residential parcel to the east, as shown on the attached Site Plan.

VARIANCE CRITERIA AND NARRATIVE FOR REQUEST #1

- 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.***

APPLICANT’S RESPONSE: As shown in the above GIS screenshot, the Property is uniquely burdened by its irregular narrow shape, constrained dimensions, and existing site layout, which significantly limits flexibility in site planning and internal reconfiguration thereof. The Property is oddly shaped and constricted, particularly along its eastern boundary, where it adjoins a residentially zoned multi-family development. This configuration is not typical of other CG-zoned parcels within the City, and results in the structure being situated within one hundred (100) feet of the residential district boundary.

The need for this variance arises directly from the physical conditions, size, shape, and layout of the Property, which were established prior to the Applicant’s involvement and through no fault of the Applicant. Unlike larger or more regularly shaped CG parcels that are larger or nestled between

commercial uses, this Property's constrained footprint and existing improvements limit the ability to reconfigure the use and building farther from the residential boundary.

Further, the Property is located near the intersection of two (2) major thoroughfares—Utica Road and 15 Mile Road—and is surrounded by other commercial and entertainment-oriented uses to the north and south. The unique combination of the Property's irregular configuration, its adjacency to residential zoning on only one side, and its otherwise completely commercial surroundings creates an exceptional circumstance specific to this parcel that does not generally apply to other properties in the CG District. Therefore, Applicant's requested Variance should be Approved.

- 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.***

APPLICANT'S RESPONSE: The Commercial General (CG) zoning classification permits amusement and recreation uses, such as that proposed by the Applicant on the Property here. However, due solely to the Property's constrained and irregular configuration, strict application of the 100-foot separation requirement would effectively prevent the Applicant from exercising a substantial property right otherwise enjoyed by other CG-zoned properties. In fact, upon information and belief, the property directly south of the Property is similarly utilized for such amusement and recreation activities, and is also similarly located within 100 ft. (100') of the same residential development.

Applicant's requested variance is necessary to allow reasonable use of the Property consistent with its zoning and surrounding commercial context. This request is not motivated by the possibility of increased financial return, but rather by the need to reasonably utilize a uniquely shaped and physically constrained commercial parcel in a manner consistent with the rights afforded to similarly zoned properties in the vicinity. It is likely that any commercial use operated on the Property would need some sort of Variance in order to operate thereon. Therefore, Applicant's requested Variance should be Approved.

- 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.***

APPLICANT'S RESPONSE: Applicant's proposed indoor golf simulators, mini-golf facility, and bar, will operate entirely within an enclosed structure. The use is transitional and specific tee times are scheduled such that use of the Proposed Development will typically be in and out. Further, Applicant intends on establishing a membership-based program so that Applicant is able to further regulate use and operation of the Proposed Development and Property. There are no plans for outdoor entertainment, exterior amplified sound, or outdoor congregation areas. Any impacts typically associated with amusement uses are therefore contained within the building. Additionally, Applicant does not intend to utilize the exterior door located on the east side of the existing building for customer entry and exit, further mitigating any potential impact to the neighboring residential property. As depicted on Applicant's Site Plan, no golf simulator bays will be located on the eastern portion of the existing building. Rather, all golf simulator bays will be located more towards the west side of the building, and further away from the residential properties to the east. Thus, although already completed enclosed indoors, the golf simulator bays will be separated from the outside (and thus the eastern abutting residential property) by two (2) 12" thick cinderblock walls. In addition to the foregoing cinderblock barriers, Applicant intends to keep the existing block wall on the exterior eastern boundary of the Property that abuts the residential property. Such block walls and site configuration will serve as an added buffer of sight and sound to the residential properties to the east of the Property.

The surrounding context further supports compatibility:

- Commercial strip mall uses to the north abutting residential property;
- A similar indoor arcade/gaming use to the south abutting residential property; and
- Location at a major intersection along a heavily traveled commercial corridor on the outer edge of the City.

Given these factors, and considering that the proximity to residential zoning results from the Property's irregular shape and historic development pattern—not from an expansion or intensification beyond the zoning classification—the requested Variance will not be of substantial detriment to adjacent properties nor will it materially impair the intent and purpose of the Zoning Ordinance. Therefore, Applicant's requested Variance should be Approved.

- 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.***

APPLICANT'S RESPONSE: The practical difficulty here is site-specific. Again, it arises from the Property's unusual shape, constrained lot lines, fixed building placement, and adjacency to residential zoning along one boundary. Given the unique and constricted existing layout of the Property, the building or use cannot be moved to another portion of the Property either. These conditions are not common to all CG parcels. Granting this variance would recognize the unique physical characteristics of this specific parcel and would not establish a general rule applicable to other properties. In fact, as stated by the City Planner, there are many instances in the City where CG zoned parcels abut residential zoned parcels already. Therefore, Applicant's requested Variance should be Approved.

REQUEST #2

- 2. Variance from Zoning Ordinance Section 32-93(3)b to permit a reduction in the minimum number of off-street parking spaces required on the Property.**

Specifically, the maximum permitted occupancy on the site is 100 persons. Zoning Ordinance Section 32-93(3)b requires 1 space per 3 persons at maximum occupancy. Thus, Applicant would need a total of 34 off-street parking spaces on the Property under the Zoning Ordinance. Currently on the site, there are 24 parking spaces existing, as shown on Applicant's attached Plans. **Accordingly, Applicant is requesting a Variance of 10 parking spaces**, as discussed further below. *(Previously, Applicant was seeking a Variance of over 40 spaces. Applicant's current, revised request is a significant reduction in the amount of parking spaces being requested as a Variance).*

VARIANCE CRITERIA AND NARRATIVE FOR REQUEST #2

- 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.***

APPLICANT'S RESPONSE: The need for the requested Variance arises directly from the unique physical characteristics of the Property, including its irregular shape, constrained lot width and depth, and pre-existing building placement. The parcel is oddly shaped and constricted in several areas, limiting circulation improvements and preventing meaningful expansion of the parking field. For instance, the size and placement of the building take up most of the Property, as shown above and on the attached Plans. Further, the west side of the Property is cut off on an angle, further restricting the area available for parking spaces. The existing structure and site improvements were established prior to the Applicant's involvement. In fact, as noted by the City Planner, the building on the Property was originally utilized as

an industrial warehouse, which naturally required much less parking than the current commercial zoning of the Property. In fact, as the City Planner acknowledges, it is likely that most commercial uses would require some sort of Variance for off-street parking on the Property. Due to the size, shape, and layout of the Property itself, there is no reasonable ability to add the 10 additional spaces required to meet the 34-space calculation without eliminating substantial portions of the building or rendering the Property unusable for any reasonable commercial purpose. The original industrial zoning and use of the Property creates an unusual circumstance not found on other CG properties in the City.

Further, unlike larger or less constricted shaped parcels zoned CG throughout the City, this site does not have surplus land area to accommodate parking expansion. The practical difficulty is therefore inherent in the land itself and was not created by the Applicant. Additionally, the parking requirement is calculated based on maximum theoretical occupancy (100 persons in this case) as determined by the Fire Marshal. That occupancy represents a *peak* capacity scenario, not the typical day-to-day operational demand of the Proposed Development. For instance, as stated above, there will only be five (5) indoor golf simulator bays, with each bay typically having 4-6 players each, and again at staggered tee times. Additionally, there are 27 holes of indoor miniature golf with varying, but a modest number of expected players to be on the course at any given time. Further, some patrons may even arrive to the Property in the same vehicle for their shared tee time. Thus, the typical operating capacity on the Property will likely be much lower than the 100-person maximum, and thus the number of parking spaces utilized will also likely be much lower than the max capacity.

The combination of a high occupancy calculation and a physically constrained parcel creates an extraordinary circumstance not generally applicable to other CG properties. In fact, the commercial developments directly abutting the Property to the north and the south both have parking that wraps around the respective buildings, providing more parking spaces. To the contrary, due to the constrictions, layout and circumstances of the Property, the same cannot be done here. Therefore, Applicant's requested Variance should be Approved.

- 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.***

APPLICANT'S RESPONSE: The CG zoning district expressly permits amusement and recreation uses, such as the Proposed Development. However, without the requested parking Variance, the Property cannot reasonably be utilized for a permitted recreational commercial use due solely to the physical limitations of the land. Other commercially zoned properties in the vicinity—particularly those with larger, less constricted lots—are capable of accommodating required parking counts or incorporating expansion areas. Strict enforcement of the 34-space requirement on this uniquely constrained parcel would effectively deprive the Applicant of a substantial property right enjoyed by similarly zoned properties: the ability to operate a permitted commercial recreational use in the proper zone. The request is not based upon the prospect of increased financial return. Rather, it is necessary to allow reasonable use of the Property consistent with its zoning classification, given the inherent physical constraints of the land and the way that the City has naturally developed in this area. Therefore, Applicant's requested Variance should be Approved.

- 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.***

APPLICANT'S RESPONSE: The intent of the parking ordinance is to prevent congestion, spillover parking, and adverse impacts on neighboring properties. Granting the requested 10-space Variance will not materially impair that intent for several reasons including:

- **Commercial Corridor Location:** The Property is located at the intersection of Utica Road and 15 Mile Road—two major thoroughfares designed to accommodate significant traffic volumes.
- **Surrounding Commercial Context:** Commercial uses are located both to the north south, and west of the Property including a strip mall, retail, restaurants, and a similar indoor entertainment use. The general area surrounding the Property is characterized by commercial activity rather than low-intensity residential use.
- **Actual Operational Demand vs. Theoretical Maximum:** The 34-space requirement is derived from maximum occupancy (100 persons). In practice, recreational uses such as indoor golf simulators and mini-golf do not typically operate at maximum occupancy for sustained periods, and patrons often arrive in groups, reducing vehicle counts relative to headcount. Further, Applicant’s use will be operated based on scheduled, staggered tee times, and will likely be based on a membership-basis, so that Applicant is able to further regulate and influence customer parking.
- **No Expansion of Building Footprint:** The Applicant is utilizing the existing building footprint on the Property. The parking deficiency thereon results from the historical development pattern and physical layout—not from Applicant’s overdevelopment or expansion beyond site capacity.
- **Signage.** Applicant intends to have substantial signage for customers of the Proposed Development that will guide and direct vehicle parking on the Property, so as to mitigate potential impact to neighboring properties. As depicted on the attached Site Plan, Applicant intends to install parking and maneuvering signage throughout the site.

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.

APPLICANT’S RESPONSE: The need for this variance is not a general condition affecting all CG properties. Rather, it arises from:

- The Property’s irregular and constricted configuration;
- Its limited land area;
- The fixed placement of the existing building;
- The previous industrial use and zoning of the Property; and
- The occupancy-based parking formula applied to the physically constrained parcel.

These conditions are specific to this Property and are not broadly applicable to other commercial parcels within the City, particularly those with larger or more flexible site layouts. Granting this Variance would recognize a site-specific practical difficulty caused by the unique shape, size, and layout of the Property, through no fault of the Applicant, and would not establish a general rule or precedent applicable to other properties. Therefore, Applicant’s requested Variance should be Approved.

III. Zoning Ordinance Amendments

Upon information and belief, the City of Fraser Zoning Ordinance is currently in the process of being amended, specifically at Section 32-97, which governs “Minimum Number of Off-Street Parking Spaces.” The proposed amendment to Ordinance Section 32-97 is included hereto (the “Amendment”). In essence, the Amendment provides the City of Fraser Planning Commission and City Planner with broader discretion to grant a reduction in minimum parking spaces required on a site, provided the Applicant can demonstrate that such parking spaces are not necessary. This is especially important for constricted and constrained parcels such as the Property. As detailed above, a reduced minimum parking space requirement on the Property is justified and appropriate in the circumstances. In addition, being that the Property is currently zoned, and Master Planned, as Commercial General, essentially any user that comes

into this unique parcel will require a Variance similar to that being requested by Applicant here. Without the Variance, there is a serious risk that the building and Property sit vacant with no future users.

IV. Conclusion

Therefore, pursuant to sound planning and zoning standards, strict compliance with the Zoning Ordinance will cause Applicant a practical difficulty and will deprive the Applicant of the enjoyment and use of the Property, including a use that is otherwise permitted in the CG district. Based on the existing circumstances, conditions, layout, and features of the Property, a relaxation of the Zoning Ordinance requirements is appropriate in this case. Further, approval of Applicant's requested Variances will uphold the spirit and intent of the Zoning Ordinance, secure the public safety, and afford substantial justice.

Wherefore, Applicant hereby respectfully requests the ZBA to APPROVE its requested Variances. We appreciate your time and consideration of this matter and welcome your questions. Thank you.

Sincerely,

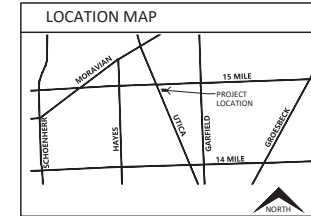
**KIRK, HUTH, LANGE
& BADALAMENTI, PLC**

Patrick S. McKay

Patrick S. McKay

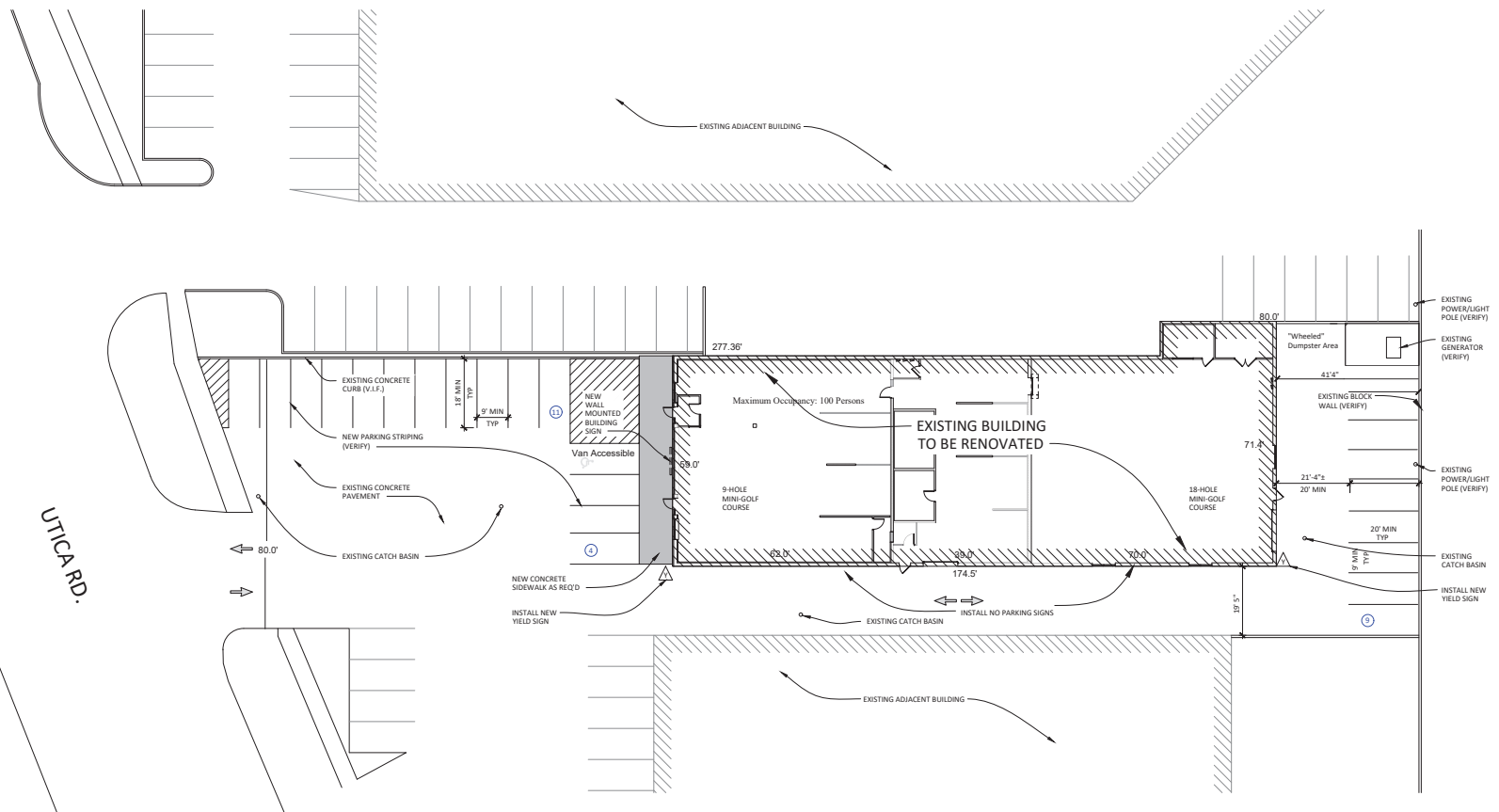
Encl.

Exhibit A



Proposed
BIRDIES & BREWS

34860 UTICA ROAD
 FRASER, MI 48026



ARCHITECTURAL SITE PLAN
 SCALE: 1/16" = 1'-0"

REV	DATE	REVISION #3 - PER CITY COMMENTS	ISSUED

This drawing is an instrument of service, remains the property of Dietz & Gardner, Inc. Any changes, additions, or deletions must be made on a separate sheet and approved by the engineer.



DRAWN BY: MV
 CHECKED BY: JMR, VW
 IN CHARGE: JMR, VW
 SHEET NAME:
 ARCHITECTURAL SITE PLAN

JOB NO: 25-058

SHEET NO: A-100



AFFIDAVIT OF PUBLICATION

39949 Garfield Rd., Suite D, Clinton Twp., MI 48038

CITY OF FRASER
33000 GARFIELD
FRASER, MI 48026

STATE OF MICHIGAN COUNTY OF MACOMB

The undersigned, **NOELLE KLOMP** being duly sworn he/she is the principal clerk of **The Macomb Daily**, published in the English language for the dissemination of local or transmitted news and intelligence of a general character, which are duly qualified newspapers, and the annexed hereto is a copy of certain order, notice, publication or advertisement of:

ZBA 34860 Utica

Published in the following edition(s)

The Macomb Daily: 20 Jul 2026

A handwritten signature in black ink, appearing to read 'Noelle Klomp', written over a horizontal line.

Signature of Principle Clerk

Noelle Klomp

Name of Principle Clerk

Sworn to and subscribed before me this 20 Jul 2026,

A handwritten signature in black ink, appearing to read 'Vicki Arsenault', written over a horizontal line.

Notary Public, State of Michigan
Acting in Oakland County

VICKI ARSENAULT
Notary Public - State of Michigan
County of Oakland
My Commission Expires 05/11/2032
Acting in the County of _____

Advertiser Name / ID: CITY OF FRASER / 262703 - Ad ID: 104699-390242 - PO: - Affidavit ID: 34348



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 6, 2026** 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 requests:

APPEAL #ZBA 26-01: BIRDIES AND BREWS / JONATHAN JULIANO

BY REASON OF: SECTIONS 32-93(3)B & 32-154(B) (1), OF THE FRASER ZONING ORDINANCE (CHAPTER 32 OF THE FRASER CODE OF ORDINANCES)

PURPOSE OF REQUEST: TO OBTAIN A VARIANCE FROM SECTION 32-93(3)B TO PROVIDE 23 PARKING SPACES WHEN 34 PARKING SPACES ARE REQUIRED.

TO OBTAIN A VARIANCE FROM SECTION 32-154(B)(1) TO WAIVE THE REQUIREMENT THAT INDOOR COMMERCIAL RECREATION USES ARE NOT PERMITTED WITHIN THE BUILDING OR ON THE SITE WITHIN 100 FEET OF A RESIDENTIAL DISTRICT.

PROPERTY IN QUESTION: 34860 UTICA ROAD, FRASER MICHIGAN, 48026

NOTICE IS FURTHER GIVEN that any interested person may appear and comment upon the requested variance themselves or by agent or attorney.

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.

Pertinent information relating to the variance request 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 variance request can be directed to the Planner, c/o Building Department at 586-293-3100, extension 153. Written comments may be submitted to the Fraser Building Department at 33000 Garfield Road, Fraser, Michigan 48026, or by email to zoning@frasercitymi.gov up to 4:30 p.m. on the meeting date.

Advertiser Name / ID: CITY OF FRASER / 262703 - Ad ID: 104699-390242 - PO: - Affidavit ID: 34348



MCKENNA

Monthly Planning & Zoning Report

For May 2026

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
RZ23-02 32981 & 32875 Utica Road Sheetz	Conditional rezoning from CBD to CG to operate a gas station and fast food restaurant.	Preconstruction meeting occurred with City Staff on September 26, 2025. Building permits have been issued. Final Certificate of Occupancy is still pending.
ZBA 24-06 33420 Utica Road Use Variance for multiplex development SP 24-07 33420 Utica Road	Request for a use variance to construct a multiplex development in the RM district. Request for site plan approval for multiplex development.	The Zoning Board of Appeals approved the use variance at the November 7, 2024 meeting. Planning Commission tabled site plan on January 13, 2025. Applicant to return with revisions. The site plan was conditionally approved at the March 5, 2025 meeting. The applicant has submitted updated plans that meet the conditions required and is now in engineering review. The applicant received an extension on the site plan for 1 year (March 5, 2027).
SP 24-08 17689 Masonic Blvd Strip Mall	Request for site plan approval for commercial strip mall.	Applicant postponed review at the January 13, 2025 Meeting. The applicant will revise site plan and return to Planning Commission. The applicant is no longer continuing the development of the site as approved and is seeking alternate uses. Any new development will need to be approved by Planning Commission in the future.
RZ 25-01, Hayes Road	Rezoning from RL to RM to develop site condominiums.	Planning Commission recommended approval of the rezoning request to rezone a parcel on Hayes Road near 14 Mile Road from RL to RM, in order to develop 8-site condominiums on May 7, 2025. City Council approved the rezoning on June 12, 2025. The applicant is currently in the process of creating the site plan for Planning Commission.

HEADQUARTERS
235 East Main Street
Suite 105
Northville, Michigan 48167

○ 248.596.0920
F 248.596.0930
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PROJECT # / ADDRESS	SCOPE	STATUS / NEXT STEPS
SLU 25-02 33341 Kelly Road Complete Auto Care	To obtain special land use approval to allow an automobile heavy repair garage in an "IR – industrial restricted" zoning district.	The PC conditionally approved the SLU at the July 21, 2025 meeting. PC approved their site plan at the September 3, 2025 meeting.
SP 25-03 18380 Malyn Industrial Building	To obtain site plan approval to construct an industrial warehousing building.	The PC conditionally approved the site plan at the January 7, 2026 meeting.
SP 26-01: 34860 Utica Road Birdies and Brews	To obtain approval to use EFIS on the building façade in the CG district.	Planning Commission approved the façade at the February 4, 2026 Planning Commission Meeting. The applicant will return to obtain Special Land Use approval for an amusement and recreation service use in April.
ZBA 26-01: 34860 Utica Road Birdies and Brews	To obtain a variance for 23 parking spaces when 66 are required. To obtain a variance for an indoor recreation use to be located adjacent to a residential district.	ZBA postponed the following variances at the March 5, 2026 meeting. The ZBA will review these variance requests at the May 7, 2026 meeting. The ZBA postponed the public hearing to approve or deny the request for variances at the May 7, 2026 meeting.
City of Fraser Zoning Ordinance Update	To consider the proposed citywide zoning ordinance update and make recommendation to City Council for adoption.	The Planning Commission recommended approval of the Zoning Ordinance update, with revisions, to City Council at the May 6, 2026 meeting.

CONTACT US

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

- Dan Commer (dcommer@mcka.com)



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