

OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS

MINUTES OF A MEETING HELD OCTOBER 23, 2012

Agenda

PUBLIC HEARING – SIGN DEVIATION (ADART SIGN COMPANY) – DEVIATION REQUEST FROM THE MAXIMUM AREA REQUIREMENTS FOR WALL SIGNS FOR MULTI-TENANT COMMERCIAL STRUCTURES TO ALLOW A WALL SIGN OF 97.4 SQUARE FEET, 47.4 SQUARE FEET LARGER THAN THE 50 SQUARE FOOT MAXIMUM AT 5300 WEST MAIN STREET (PARCEL #3905-13-280-022)

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, October 23, 2012, commencing at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Robert Anderson
 L. Michael Smith
 Roger Taylor, Chairperson
 Cheri Bell
 Neil Sikora, First Alternate
 James Sterenberg, Second Alternate

MEMBER ABSENT: Grace Borgfjord

Also present were Greg Milliken, Planning Director, and James W. Porter, Township Attorney.

Call to Order and Pledge of Allegiance

The Chairperson called the meeting to order at approximately 3:00 p.m., and the "Pledge of Allegiance" was recited. Due to Ms. Borgfjord's absence, Mr. Sikora was called upon to act as a sitting member for the meeting.

Public Comment on Non-Agenda Items

The Chairperson asked if there was any public comment on Non-Agenda items. There being no public comment, the Chairperson dispensed with the public comment portion of the Agenda and proceeded to the next Agenda item.

Approve Minutes

The Chairperson stated the next item on the Agenda was approval of the minutes of June 26, 2012, which was the last meeting that was held. He asked if there were any additions, deletions or corrections to the minutes. Hearing none, Mr. Smith made a motion to approve the minutes, as submitted. Mr. Anderson seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

PUBLIC HEARING – SIGN DEVIATION (ADART SIGN COMPANY) – DEVIATION REQUEST FROM THE MAXIMUM AREA REQUIREMENTS FOR WALL SIGNS FOR MULTI-TENANT COMMERCIAL STRUCTURES TO ALLOW A WALL SIGN OF 97.4 SQUARE FEET, 47.4 SQUARE FEET LARGER THAN THE 50 SQUARE FOOT MAXIMUM AT 5300 WEST MAIN STREET (PARCEL #3905-13-280-022)

The Chairperson indicated that the next item on the agenda was consideration of a deviation request from the maximum sign area requirements of Section 76.170 to allow a wall sign of 97.4 square feet, 47.4 square feet larger than the 50 square feet maximum. The Chairperson called for a report from the Planning Department. Mr. Milliken submitted his report to the Zoning Board of Appeals, and the same is incorporated herein by reference.

Mr. Milliken indicated that at the ZBA's last meeting in June, the Board approved a site plan for the expansion of the Maple Hill Pavilion shopping center at the northwest corner of West Main Street and Drake Road. This expansion results in the closing of the gap in the middle of the center and 200 feet of new tenant frontage. The development plan illustrates space for five tenants, and one of the tenants has requested a deviation for a larger wall sign.

Mr. Milliken indicated that the tenant is maurices, a women's retail store with another storefront in Portage on South Westnedge. The store is occupying 50 feet of the 200 feet of total frontage being constructed. The zoning requirement for wall signs in this situation states that one square foot of wall signage shall be permitted for each foot of building frontage on that side. He indicated that all other signs in the shopping center are in compliance with this standard except for Marshall's, who is slightly larger than that ratio and was in compliance when the sign was installed. In addition, four similar deviation requests have been made in this vicinity in the last several years and

all have been denied. He reviewed the standards for approval of a deviation and recommended denial.

Mr. Smith asked how large the sign is on the store in Portage. Mr. Milliken stated that he was not sure.

The Chairperson complimented the Planning Director on the thorough analysis, particularly the information regarding other signs in the development.

Ms. Bell asked for confirmation that the fee has been paid. Mr. Milliken confirmed that the applicant has paid the fee.

Mr. Anderson confirmed that the applicant knew about the history of the deviations in this area. Mr. Milliken indicated that he spoke with the applicant shortly after submittal and explained that the likelihood of success was low based on previous cases not being successful.

Mr. Sterenberg asked if the zoning requirement was similar to the standard in other communities. Mr. Milliken indicated that generally, it is similar. The challenge emerges on these larger retailers. Their intent is to be viewed from the street while the intent of the Ordinance is to limit wall signs to primarily serve vehicles once they are in the parking lot. With the larger facades, the potential exists for larger signs, but that is not what is permitted.

Mr. Smith said he had no trouble with the existing signs and the size or visibility of these signs. He also indicated that he sees nothing unique about this particular tenant site or façade to warrant a deviation.

The Chairperson stated that while he would like even smaller signs than permitted, he sees no way they can say yes to this and no to future similar requests.

The Chairperson opened the public hearing at 3:10 pm. There being no one in attendance, he closed the public hearing at 3:11 pm.

Ms. Bell, based on the inability to satisfy the first standard of approval for a deviation in the Zoning Ordinance as well as the previous similar decisions of the ZBA, made a motion to decline the deviation request. Mr. Sikora supported the request.

The Chairman asked if there was any discussion on the motion. Mr. Sikora indicated that he liked the table that was presented in the staff report. He indicated that despite the "strict" sign requirement, nothing is vacant in the shopping center and everything is in compliance.

Mr. Smith reminded the Board that they have handled corporate standards in the past in terms of signage, and that that standard can be variable.

Ms. Bell stated that if the Ordinance is to be changed, this is not the place.

Mr. Sikora indicated that the record should reflect the applicant was not present at the meeting.

The Chairperson called for a vote on the motion to deny the deviation request. The motion to deny passed unanimously.

Any Other Business

The Chairperson asked if there was any other business. Hearing nothing, he asked the Board to proceed with the next item.

Board Member Comments

Ms. Bell asked if applicants have the ability to appear before the Board via phone, Skype, or similar means. Mr. Porter indicated that it could be a challenge under the Open Meetings Act. It is a good idea that might be more feasible for applicants but would not work for Board members. Ms. Bell suggested looking into that in the future to accommodate applicants from further distances.

Adjournment

The Chairperson noted that the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, he adjourned the meeting at approximately 3:25 pm.

Minutes Prepared:
October 30, 2012

Minutes Approved:
February 26, 2013



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334
269-375-4260 FAX 375-7180 TDD 375-7198
www.oshtemo.org

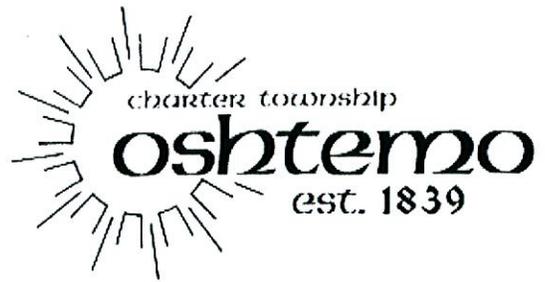
NOTICE
OSHTEMO CHARTER TOWNSHIP
Zoning Board of Appeals

Tuesday,
October 23, 2012
3:00 p.m.

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Public Comment on Non-Agenda Items
5. Approve Minutes June 26, 2012
6. **Sign Variance (Adart Sign Company)**
Applicant requests a variance from the maximum area requirements for wall signs for multi-tenant commercial structures of Section 76.170 to allow a wall sign of 97.4 square feet, 47.4 square feet larger than the 50 square feet permitted for murals, a tenant in the Maple Hill Pavilion shopping center located at 5300 West Main Street. (Parcel No. 3905-13-280-022).
7. Any Other Business
8. Board Member Comments
9. Adjournment

October 15, 2012



Mtg Date: October 23, 2012

To: Zoning Board of Appeals

From: Gregory Milliken, AICP

Applicant: Trish Sengebusch (Adart Sign Company)

Owner: Kimco Realty Corp.

Property: Parcel # 3905-13-280-022 (5300 W. Main Street)

Zoning: C – Local Business District

Request: Allow wall sign greater than 1 square foot per linear foot of tenant frontage.

Section(s): Section 76.170

OVERVIEW

The applicant is requesting a sign deviation on behalf of maurices, a new tenant in Maple Hill Pavilion. The shopping center is located at the northwest corner of Drake Road and West Main Street and was recently approved for an addition to close the gap in the middle of the strip center. Maurices will occupy 50 feet of the approximately 200 feet of the new frontage being created by the addition.

DEVIATION REQUEST

The applicant is requesting a deviation from the requirements for wall signs in commercial districts for tenants within a multi-tenant commercial center (Section 76.170). Such tenants are limited to one square foot of signage per linear foot of frontage such that the sign length cannot exceed 2/3 the width of the building. The applicant's tenant space is 50 feet wide. Therefore, the sign is limited to 50 square feet.

The applicants have proposed a 97.4 square foot sign that is 39 inches tall by 29 feet, 11.7 inches in length. It satisfies all other requirements of the Ordinance.

OTHER SIMILAR REQUESTS

In 2000, the sign ordinance was significantly amended and largely matches the standards in place today. (There have been minor adjustments and changes since then but the overall structure has remained consistent since that time.) Since 2000, there have been several requests for deviations from the requirements for a wall sign. Each of these requests has been denied.

The ordinance is set up in a manner that allows a multi-tenant center one large pole or ground sign per street frontage. (Multi-tenant centers in fact are given additional flexibility to increase the square footage of the sign as more tenants are added up to 150% of the maximum area.) This (these) sign(s) attract the vehicles from the adjacent roadways. Wall signs are then sized and utilized to address the vehicles as they approach the site from the access drives and parking lots.

In most cases, the applicant seeking the larger wall sign believes it is needed due to the distance from the road and the need to attract vehicles to the store from the road. (See letter from applicant.) However, as shown, this is not how the standards were established or what the intent is behind the Ordinance. The following is a list of the variance requests and the decisions that were rendered.

- Value City – 12/16/03. Requested 2 wall signs with total signage of 219 square feet. Permitted one sign of 157 square feet. Request denied.
- Hobby Lobby – 9/9/03. Requested 4 wall signs with total signage of 394 square feet. Permitted one sign of 193 square feet. Request denied. Currently has one 189 square feet sign.
- Dollar Tree – 8/24/04. Requested 1 or 2 walls signs with total signage of 142 or 166 square feet. Permitted one sign of 80 square feet. Request denied. Currently has one 80 square feet sign.
- MC Sports – 3/9/04. (Located across street next to Harding’s.) Requested 1 wall sign with total square footage of 167.6 square feet. Permitted one sign of 100 square feet. Request denied. Currently has one 100 square feet sign.

In all four cases, the applicants argued that the distance from the store to the roadway, the size of the façade, and the information to be conveyed warranted the variance. Similarly, the rationale used by the Board was also consistent. This included the desire for consistent signage throughout the district, the lack of anything unique applying to the particular site, and the previous decisions made by the Board.

PROPOSED SIGN

To help visualize the size and scale of the proposed sign, it is helpful to understand context and the size and scale of the other signs in the area. The tenant space is 50 feet wide. This is one of the narrower spaces in the strip center. Below is information on the frontage width, sign area, and letter height of the proposed sign and other tenants in the Maple Hill Pavilion Shopping Center for comparison. They are arranged in order of frontage width from narrowest to widest.

<u>Name</u>	<u>Frontage</u>	<u>Sign Area</u>	<u>Letter Height</u>
Glamour Nails	15 feet	11.53 sq. ft.	20 inches
Rue 21	45.5 feet	37.26 sq. ft.	36 inches
maurices (proposed)	50 feet	97.4 sq. ft.	39 inches
Game Stop	60 feet +/-	40.57 sq. ft.	30 inches
Sec. of State	67.5 feet	49 sq. ft.	28 inches
Pier 1	80 feet	77 sq. ft.	24 inches
Dollar Tree	80 feet	80 sq. ft.	32 inches
PetSmart	122.83 feet	117 sq. ft.	42 inches
DSW	125 feet	61.6 sq. ft.	38 inches
Marshall’s	153 feet	158 sq. ft. (pre-dates current ordinance)	72 inches
Office Max	210 feet	154 sq. ft.	----

This comparison shows how much larger the proposed sign is relative to frontage width when compared to the other tenants in the center. Except for Marshall's, all of the signs in the Center conform to the standards of the Ordinance. Marshall's wall sign is permitted because it is legal nonconforming and was present prior to the change of the Ordinance in 2000. (Note that there is no requirement regarding letter height, it just may be of interest as you consider the request.)

STANDARDS OF APPROVAL

The ZBA should review the following standards in considering the request for deviation, which can be found in Section 76.500 of the Ordinance.

Standards of Approval of a Nonuse Variance (practical difficulty):

Standard: The granting of the requested deviation would not be materially detrimental to the property owners in the vicinity.

Comment: The granting of the requested deviation would not be materially detrimental to the adjacent property owners or tenants. However, as demonstrated above, everyone in the shopping center, some with reluctance, has complied with the standards of the Ordinance in place at time of development. To grant this request could be deemed as unfair to those that have conformed in the past.

Standard: The hardship created by a literal interpretation of the Section is due to conditions unique to that lot, building site or parcel and does not apply generally to other properties in the Township.

Comment: There is nothing unique about the lot, building site, parcel, or tenant space that would warrant the granting of the deviation. The lease space is similar to the other lease spaces within the development. Although smaller than many of the spaces in the center, it is similar in size to the spaces to be developed in the new expansion area and is larger than several of the suites to the west. Nonetheless, the proposed sign would be one of the largest in the center.

Certainly, some of these tenants have an easier time with conformance due to having shorter names, such as rue21. However, others have been creative and incorporated backgrounds that do not count towards sign area calculations into their program to improve the aesthetics and visibility of smaller signs (such as DSW).

Standard: The granting of the deviation would not be contrary to the general purposes of this Section or set an adverse precedent.

Comment: In order for the granting of a deviation not to set an adverse precedent, there must be something unique about this request such that the Board can differentiate a decision made here from a similar request made in the future as well as the previous four requests that were all denied.

Allowing the increased signage at this site, particularly to the degree requested, would almost certainly lead to additional requests for deviations as other tenants within the center would seek similar relief. It would be challenging for the ZBA to deny future requests based on the information presented.

Clearly there have been a number of requests for deviations regarding wall signs, particularly in this area. Normally when this happens, I would suggest that this is an indication that the Township review the requirement and ensure it is still reasonable. This may still be worthwhile in this case. I believe what we will find however is a philosophical difference between how the larger retailers and the Township views the role of these multi-tenant wall signs.

Respectfully Submitted,



Gregory E. Milliken, AICP
Planning Director

Attachments: Application
Attached Materials
Aerial



7275 W. Main Street, Kalamazoo, Michigan 49009-9334
Phone: 269-216-5223 Fax: 269-375-7180

PLANNING & ZONING APPLICATION

APPLICANT:

Name Trish Sengebusch — on behalf of Maurices
Company ^{Please print} Adart Sign Company
Address 700 Parker Sq. # 205
Flower Mound, TX 75028
E-mail Trish@adart.com
Telephone 469-322-1912 Fax 469-322-1922
Interest in Property Maurices - tenant

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

Fee Amount _____
Escrow Amount _____

OWNER*:

Pat McCune
Name Kimco Realty Corp.
Address ^{Please print} 5737 Bigger Rd.
Dayton, OH 45440
E-mail pmccune@kimcorealty.com
Telephone 937-291-8051 Fax 516-336-5634

NATURE OF THE REQUEST: (Please check the appropriate item(s))

<input type="checkbox"/> Site Plan Review	<input type="checkbox"/> Subdivision Plat Review
<input type="checkbox"/> Administrative Site Plan Review	<input type="checkbox"/> Rezoning
<input type="checkbox"/> Special Exception Use	<input type="checkbox"/> Interpretation
<input type="checkbox"/> Zoning Variance	<input type="checkbox"/> Text Amendment
<input type="checkbox"/> Site Condominium	<input checked="" type="checkbox"/> Sign Deviation
<input type="checkbox"/> Accessory Building Review	<input type="checkbox"/> Other: _____

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):

Additional square footage needed for Maurices to have a sign that will provide good visibility to the public. The allowable square footage will not provide adequate visibility and does not flatter the store front elevation.

LEGAL DESCRIPTION OF PROPERTY *(Use Attachments if Necessary):*

PARCEL NUMBER: 3905- _____

ADDRESS OF PROPERTY: 5300 W. Main St. Kalamazoo MI - Maple Hill Pavilion.

PRESENT USE OF THE PROPERTY: _____

PRESENT ZONING _____ SIZE OF PROPERTY _____

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

Name(s)	Address(es)
_____	_____
_____	_____

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshkemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.

Owner's Signature *(* If different from Applicant)*
Trish Songelusch
Applicant's Signature

Date
9/21/12
Date

- | |
|------------------------|
| Copies to: |
| Applicant - 1 |
| Clark - 1 |
| Dep. Clerk 1 |
| Assessor - 1 |
| Planning Secretary - 1 |
| Bldg. Secretary - |

PLEASE ATTACH ALL REQUIRED DOCUMENTS

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

PARCEL NUMBER: 3905- _____

ADDRESS OF PROPERTY: 5070 W Main Kalamazoo MI 49007

PRESENT USE OF THE PROPERTY: _____

PRESENT ZONING _____ SIZE OF PROPERTY 10.23 Acres

NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:

Name(s)	Address(es)
<u>K+S Maple Hill Mall, L.P.</u>	<u>3333 New Hyde Park Rd Suite 100 New Hyde Park N.Y. 11042</u>

SIGNATURES

I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.

Charles Chye
Owner's Signature (* If different from Applicant)

9/25/2012
Date

Applicant's Signature

Date

- Copies to:
- Applicant -1
- Clark -1
- Dep. Clerk 1
- Assessor -1
- Planning Secretary -Original
- Bldg. Secretary -

PLEASE ATTACH ALL REQUIRED DOCUMENTS

29-11.7"

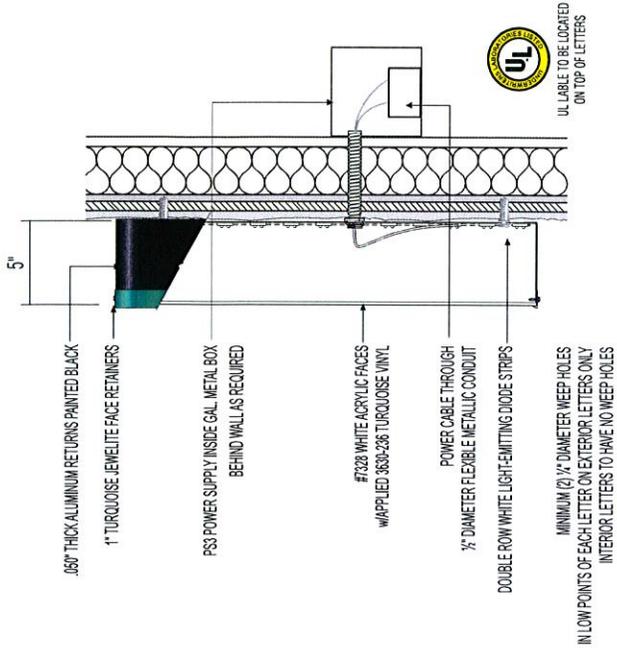
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39"

SIGN LAYOUT

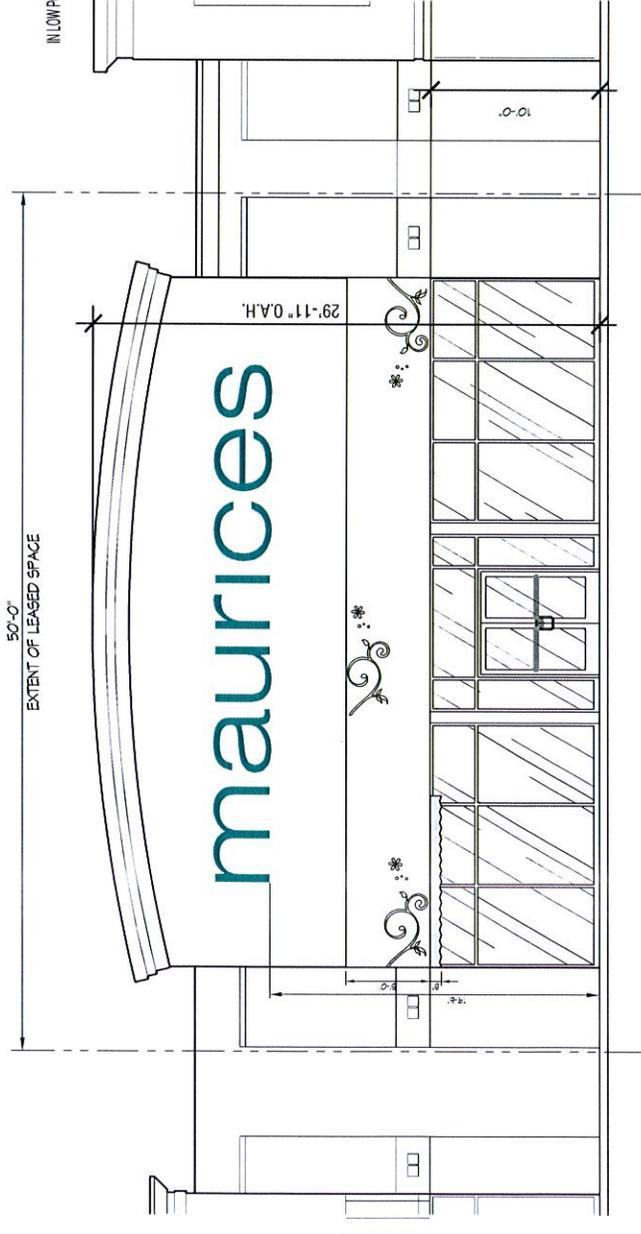
SCALE: 3/16" = 1'-0"

97.4 SQ. FT.



LETTER SECTION

N.T.S.



PROPOSED ELEVATION

SCALE: 3/32" = 1'-0"

adart
SIGN COMPANY
700 PARKER SQUARE
SUITE 205
FLOWER MOUND, TEXAS 75028
T. 800.675.6353

CUSTOMER INFO

Maurices # 1760
Maple Hill Pavilion Sp#5220
Kalamazoo MI 49007

DRAWING INFO

Date: 9/21/12
Designer: TJV
File Name: 12-0658

APPROVALS

SALES APPROVAL _____

CUSTOMER APPROVAL _____

LANDLORD APPROVAL _____

DISCLAIMER

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MAPLE HILL PAVILION

WEST MAIN STREET AND DRAKE ROAD
OSHTOMO TOWNSHIP
KALAMAZOO COUNTY, MI

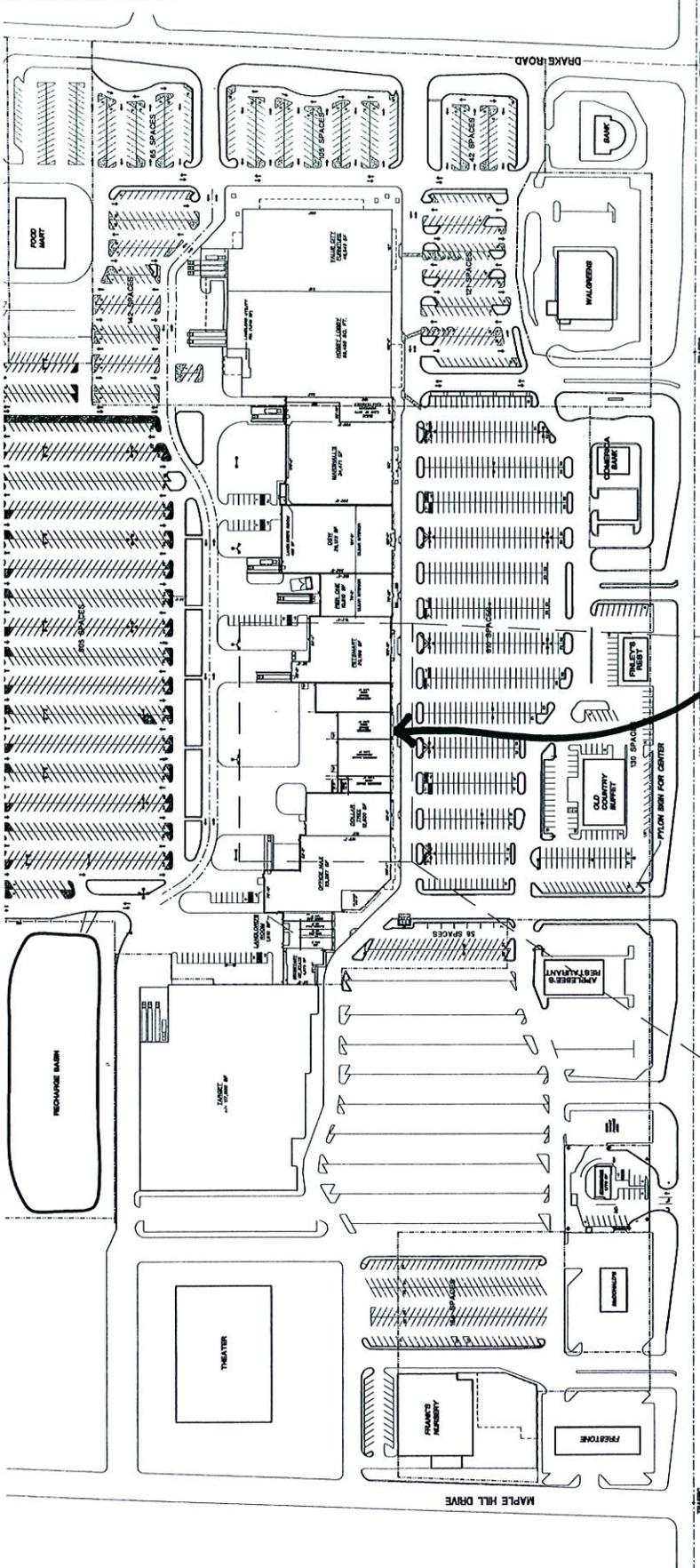


PARAGON CONSULTANTS
1000 1/2 Mile Road, Suite 200
East Lansing, Michigan 48824
Tel: 517-337-7077
Fax: 517-337-7077
www.paragonconsultants.com

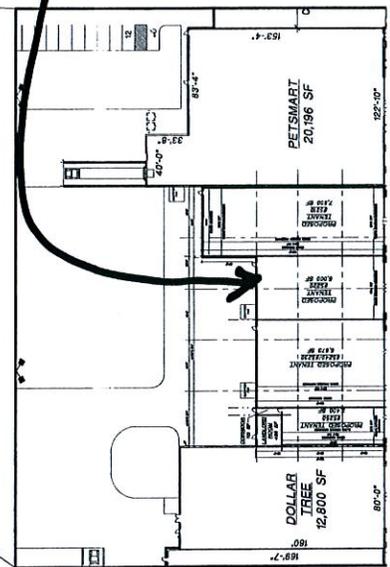


JUDSON KLINE ARCHITECT
1000 1/2 Mile Road, Suite 200
East Lansing, Michigan 48824
Tel: 517-337-7077
Fax: 517-337-7077
www.judsonkline.com

DATE: 08/14/08
DRAWN BY: JPK
PROJECT NO.: 08080800
SHEET NO.: 1 OF 1
SCALE: AS SHOWN



Location of Maurices Store



BUILDING NAME	AREA	PARKING PROVIDED
VALLE CITY FURNITURE	44,549 SQ. FT.	187 SPACES
FRANKS NURSERY	5,000 SQ. FT.	18 SPACES
LANDLORDS ROOM	104,546 SQ. FT.	475 SPACES
TOTAL		
LANDLORDS ROOM	469 SQ. FT.	
RIBET	4,000 SQ. FT.	
OSHMILLS	24,500 SQ. FT.	
OSM	10,000 SQ. FT.	
PER ONE	20,000 SQ. FT.	
RETSMART	20,000 SQ. FT.	
PROPOSED TENANT	5,000 SQ. FT.	
PROPOSED TENANT	5,000 SQ. FT.	
LL ROOM / CORRIDOR	4,000 SQ. FT.	
DOLLAR TREE	12,800 SQ. FT.	
SB GAMES	1,000 SQ. FT.	
SPORTS CLIPS	1,657 SQ. FT.	
GLAMOUR NAILS	900 SQ. FT.	
OSM HAIR	1,000 SQ. FT.	
SECRETARY OF STATE	1,000 SQ. FT.	
LANDLORDS ROOM	4,573 SQ. FT.	
TOTAL	170,037 SQ. FT.	1,587 SPACES
EXISTING FRANKS NURSERY	20,700 SQ. FT.	187 SPACES
OLD COUNTRY BUFFET	5,000 SQ. FT.	18 SPACES
FINLEY'S	5,000 SQ. FT.	18 SPACES
TOTAL	35,524 SQ. FT.	312 SPACES

