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**NOTICE
OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

RESCHEDULED REGULAR MEETING - VIRTUAL

Participate through this Zoom link:

<https://us02web.zoom.us/j/84393168160>

Or by calling: 1-929-205-6099

Meeting ID: 843 9316 8160

(Refer to the www.oshtemo.org Home Page or page 3 of this packet for additional Virtual Meeting Information)

**THURSDAY, JANUARY 28, 2021
3:00 P.M.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Approval of Minutes: December 15th, 2020
5. Election of 2021 Officers – Chair and Vice Chair
6. Annual Board Variance Review Training
7. **Public Hearing: Site Plan Review and Variance Request for Loading Dock Addition**
ShopOne, on behalf of DFG-Maple Hill LLC, is requesting relief from Section 52.60 of the Zoning Ordinance in order to divide the eastern most unit at 5022 W Main Street in half and construct a new loading station on the east side of the building to service the new unit.
8. Public Comment
9. Other Updates and Business
10. Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u> Libby Heiny-Cogswell	216-5220	libbyhc@oshtemo.org
<u>Clerk</u> Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u> Grant Taylor	216-5221	gtaylor@oshtemo.org
<u>Trustees</u> Cheri L. Bell	372-2275	cbell@oshtemo.org
Deb Everett	375-4260	deverett@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Ken Hudok	548-7002	khudok@oshtemo.org

Township Department Information		
<u>Assessor:</u>		
Kristine Biddle	216-5225	assessor@oshtemo.org
<u>Fire Chief:</u>		
Mark Barnes	375-0487	mbarnes@oshtemo.org
<u>Ordinance Enf:</u>		
Rick Suwarsky	216-5227	rsuwarsky@oshtemo.org
<u>Parks Director:</u>		
Karen High	216-5233	khigh@oshtemo.org
Rental Info	216-5224	oshtemo@oshtemo.org
<u>Planning Director:</u>		
Iris Lubbert	216-5223	ilubbert@oshtemo.org
<u>Public Works:</u>		
Marc Elliott	216-5236	melliott@oshtemo.org

Zoom Instructions for Participants

Before a videoconference:

1. You will need a computer, tablet, or smartphone with a speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. If you are going to make a public comment, please use a microphone or headphones with a microphone to cut down on feedback, if possible.
3. Details, phone numbers, and links to videoconference or conference call are provided below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 11-digit Meeting ID.

To join the videoconference:

1. At the start time of the meeting, click on this link to [join via computer](#). You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](#) on any browser and entering this **Meeting ID: 843 9316 8160**

If you are having trouble hearing the meeting or do not have the ability to join using a computer, tablet or smartphone then you can join via conference call by following instructions below.

To join the conference by phone:

1. On your phone, dial the toll-free teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **843 9316 8160#**

Participant controls in the lower-left corner of the Zoom screen:



Using the icons at the bottom of the Zoom screen, you can (some features will be locked to participants during the meeting):

- Participants – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand. **This will be used to indicate that you want to make a public comment.**
- Chat – opens pop-up screen that allows participants to post comments during the meeting.

If you are attending the meeting by phone, to use the “Raise Hand” feature **press *9 on your touchtone keypad.**

Public comments will be handled by the “Raise Hand” method as instructed above within Participant Controls.

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**OSHTEMO CHARTER TOWNSHIP
ZONING BOARD OF APPEALS**

DRAFT MINUTES OF A VIRTUAL MEETING HELD DECEMBER 15, 2020

Agenda

SITE PLAN: ONE WAY PRODUCTS (PHASE II)

GLASS ASSOCIATES, ON BEHALF OF ONE WAY PRODUCTS, REQUESTED SITE PLAN APPROVAL TO CONSTRUCT A 32,350 SQUARE FOOT ADDITION TO THEIR EXISTING 25,586 SQUARE FOOT FACILITY LOCATED AT 5933 WEST KL AVENUE.

SITE PLAN: ADVANCED POURED WALLS

ADVANCED POURED WALLS REQUESTED SITE PLAN APPROVAL FOR A CONCRETE MATERIALS RECYCLING YARD IN THE NORTHEAST CORNER OF PARCEL NO. 05-34-155-018.

A virtual meeting of the Oshtemo Charter Township Zoning Board held Tuesday, December 15, 2020, was called to order at approximately 3:02 p.m.

PRESENT: Neil Sikora, Chair
Fred Antosz
Dusty Farmer
Fred Gould
Micki Maxwell
Anita Smith, Vice Chair

ABSENT: Ollie Chambers

Ms. Lubbert noted Ms. Bell was no longer on the Zoning Board Authority and that Dusty Farmer had joined the Board, with this being her first meeting.

Also present were Iris Lubbert, Planning Director, Karen High, Zoning Administrator, James Porter, Township Attorney and Martha Coash, Meeting Transcriptionist.

Guests Adam Harvey and Isaac Hinkle, representing Glas Associates and One Way Products and Adam Barker, representing Advanced Poured Walls were in attendance.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chairperson Sikora called the meeting to order and invited those present to join in reciting the "Pledge of Allegiance."

APPROVAL OF THE MINUTES OF NOVEMBER 17, 2020

The Chair asked if there were any additions, deletions or corrections to the minutes of November 17, 2020.

Ms. Smith asked for a correction to the applicant's comments regarding rationale for the requested in ground pool variance. Under the fourth bullet point at the top of page three, she requested the word "our" be changed to "a".

Chairperson Sikora asked for a motion.

Ms. Farmer **made a motion** to approve the Minutes of November 17, 2020 as presented with the noted correction. Ms. Maxwell **seconded the motion. The motion was approved unanimously.**

Chairperson Sikora moved to the next agenda item and asked Ms. Karen High, Zoning Administrator, for her presentation.

SITE PLAN: ONE WAY PRODUCTS (PHASE II) **GLASS ASSOCIATES, ON BEHALF OF ONE WAY PRODUCTS, REQUESTED SITE PLAN APPROVAL TO CONSTRUCT A 32,350 SQUARE FOOT ADDITION TO THEIR EXISTING 25,586 SQUARE FOOT FACILITY LOCATED AT 5933 W. KL AVENUE.**

Ms. High reported Glas Associates, on behalf of One Way Products, was requesting Site Plan approval from the Zoning Board of Appeals to construct a 32,350 square foot addition to their existing 25,586 square foot facility located at 5933 West KL Avenue. A 3,600 square foot covered storage area with concrete floor is also proposed. In July 2020, the Board approved a 29,250 square foot building addition at this site. The addition was not constructed. Instead, the applicant submitted a revised site plan for a larger addition with different building and parking configurations. Because the proposed expansion is greater than 2,000 square feet, site plan approval by the Zoning Board of Appeals is required. The property is located west of Hwy 131, on the south side of KL Avenue.

One Way Products manufactures environmentally friendly soaps and detergents, as well as distributes cleaning supplies and cleaning tools. Their existing 25,586 square foot facility at 5933 West KL Avenue includes space for manufacturing, offices, distribution, and storage. This existing facility was reviewed and approved by the Zoning Board of Appeals in July 2016. No hazardous materials are scheduled to be stored, loaded, recycled, or disposed of on this site. According to the applicant, the proposed building layout was revised to better accommodate workflow between the expanded warehouse and existing production space. As in the previous request, the proposed expansion area will be used exclusively for warehouse space to provide additional storage onsite. The proposed covered storage area will house emptied material totes that have been cleaned and are ready to be reused for product manufacturing. This

temporary staging area will allow empty totes to stay dry and snow free until they are needed.

Ms. High noted that in its July 2016 review, the ZBA approved the previous site plan and a deferment of 34 parking spaces with two conditions:

1. A 24-foot-wide gravel drive to the east of the building be relocated out of the landscape buffer and final plans for the drive be submitted and approved prior to the issuance of a building permit.
2. An updated landscaping plan be submitted and approved prior to the issuance of a building permit. Prior to the Certificate of Occupancy, additional landscape materials will be required if staff deems that landscaping materials are lost during construction to the point of noncompliance with the Zoning Ordinance.

The entirety of the property in question is zoned I-1, Industrial District. Uses permitted in the I-1 zoning district are outlined in Article 27 of the Township's Zoning Code. Warehouses are identified as a Permitted Use within this section. Outdoor storage in connection with Permitted Uses is allowed in the side and rear yard areas except within the area required for setback from side and rear lot lines. Such storage may not exceed 100 percent of the square foot area of the principal building upon the premises, and no outdoor storage of damaged or inoperable vehicles or equipment is allowed. Due to the scale of the addition, over 2,000 square feet, review and approval of the proposal is required by the Zoning Board of Appeals (Section 64.20). A proposal for a site plan expansion of a permitted use needs to be reviewed against the criteria outlined in Section 64.60 - Application Procedure, C - Site Plan.

Ms. High provided a summary of the requirements and analysis of the proposal.

Zoning: 5933 West KL Avenue is located within the I-1, Industrial District, which continues to the east and west of the site. The proposed warehouse addition and covered storage area are permitted uses within the I-1 district. There are residentially zoned areas to the north and south of the property in question. Even though the neighboring property to the east is zoned I-1, it has a residential use: apartments.

Open Area: The proposed addition would increase the overall square footage of the building to 57,836 square feet and add additional paved areas (covered storage area, parking and access drives). The percentage of the site covered with impervious services would increase from 20.2 % to 37.3%.

Setbacks: The proposed addition would expand the building 100 feet north toward W. KL Avenue and 90 feet east toward the side property line. The proposed front setback is 79.5 feet, which meets the 70-foot setback required under Section 50.60 (A). For side and rear yard setbacks the ordinance states that the minimum setback distance is 20 feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater (Section 50.60 (c)). The proposed addition will be 25 feet tall; there is roughly a 7-foot elevation drop between

the foundation of the building to the neighboring property line to the east, requiring a side yard setback of at least 32 feet. Both the proposed addition and storage area are shown with a 40-foot or greater side yard setback and more than a 200-foot rear yard setback.

Access and Circulation

Access: Overall, vehicle access to the site will remain unchanged. The existing curb cut and drive to W KL Avenue located on the western portion of the site will continue to be utilized. The existing aisle to the back of the building will remain for access to the existing truck docks and proposed covered storage area. However, in order to access the eastern side of the building for fire safety and maintain the existing sanitary sewer line, a new 24-foot-wide gravel drive was proposed at the east most part of the site. The Road Commission denied an application for the proposed curb cut for this driveway due to site distance requirements along KL Ave. Therefore, an easement for emergency and utility maintenance access is needed from the property to the east. According to the applicant, the property owner to the east is willing to grant this easement. The applicant plans to gate this entrance and provide Knox box access for emergency services. Staff recommends that, if the site plan is approved, a condition be included that an access easement must be recorded prior to issuance of a building permit.

Parking/Parking Deferment Request: A total of 62 parking spaces are required per the code (Section 52.100), three of which are to meet ADA requirements for accessibility. Parking requirements are based on the square footage of each use, as follows: 5,185 square feet of production space requires 1.5 space/1,000 square feet, or 7.8 spaces; 49,592 square feet of warehouse requires 1 space/1,500 square feet or 33.1 spaces; 3,059 square feet of office requires 1 space/150 square feet or 20.4 spaces. The site currently has 28 parking spaces and one ADA spot. The proposed site plan shows 34 new 10' by 20' parking spaces to be added, located south and east of the existing access drive. Three ADA spots will be provided. As with the July review, the applicant has requested that the Zoning Board of Appeals allow these 34 spaces to be deferred. Section 52.120 of the Zoning Ordinance authorizes the Zoning Board of Appeals to grant parking deferment requests, provided such can be done safely, and that the deferred parking can still be installed—within ordinance requirements—should the Township deem such as necessary at any point in the future. In their letter the applicant notes that One Way Products currently has 15 employees and an average of 5 visitors per day – their current use requiring approximately 20 parking spaces. They do not believe that additional parking is necessary as the newly proposed space is purely for storage and will not increase their employee base or customer traffic. She said Staff feels this request is appropriate and is satisfied with their reasoning. Note - deferred parking can still be installed—within ordinance requirements—should the Township deem such as necessary at any point in the future. The submitted site plan labels the 34 spaces requested to be deferred.

Sidewalk: Per Section 57.90 sidewalks indicated on the Township's Non-motorized Plan shall be installed by the developer when properties adjacent to planned nonmotorized facilities receive site plan approval from the municipality. The Township's Non-

motorized Plan shows a paved shoulder bike lane in front of this property. With this improvement not yet designed for the road this criterion is not applicable at this time. However, it should be noted that the applicant has signed a non-motorized Sidewalk Special Assessment District (SAD) agreement - a document which states that the applicant won't oppose any future special assessment districts to help fund non-motorized projects in their area at such time as the Township deems it necessary – when their original site plan was approved in 2016.

Building Design: The proposed addition will utilize metal siding similar to the existing building in color and profile. The proposed roofing for the addition will match as well.

Landscaping: The original request was submitted prior to the current landscaping ordinance adoption; as such, the proposed plan is reviewed under the previous requirements. Overall, the proposed landscaping plan meets the requirements of the code. However there are some concerns with landscaping along the east property line. The proposed site plan requests tree preservation credits to meet all planting requirements along the east property line. But grading for the proposed 24-foot-wide gravel drive may require removal of some trees marked to be preserved in this 10-foot-wide landscape buffer. To ensure that the plantings used for tree preservation credits survive through development, staff recommended a condition of approval that plantings be reviewed at the time of the Certificate of Occupancy and that if vegetation is lost to the point of noncompliance with the Zoning Ordinance, additional plantings be required.

Photometric Plan: Four new cut-off LED wall mounted lights are proposed. All fixtures provide egress lighting for service doors. Two are on the north, one is on the south, and one is on the west side of the building. The photometric plan is required to show 0.1 foot candles at the property line or that 0.1 foot candles is accomplished before reaching the property line. This requirement has been met.

Engineering: Prein & Newhof, the Township's civil engineering agent, has reviewed the project site plan and has no issues. No changes to the plan are needed.

Fire Department: There is currently no water supply on the east side of the building. The Township Fire Marshal strongly recommended that a hydrant be added to the east side given the size of the expansion. The applicant is working with the Fire Marshal to address this issue. If the site plan is approved, staff recommended that provision of this water supply be a condition of approval.

RECOMMENDATION:

Ms. High recommended the Zoning Board of Appeals approve the proposed Site Plan for One Way Products (Phase II) with the following conditions:

1. The Zoning Board of Appeals approves the requested deferment of 34 parking spaces, as illustrated on the proposed site plan.

2. An easement for emergency and utility maintenance access on property to the east must be recorded and submitted to the Planning Department prior to issuance of a building permit.
3. Prior to issuance of a certificate of occupancy, staff review of landscaping will occur. If landscaping materials are lost during construction to the point of noncompliance with the Zoning Ordinance, additional landscape materials will be required.
4. A revised site plan showing Fire Department access to water on the east side of the building be submitted and approved prior to issuance of a building permit.

Chairperson Sikora thanked Ms. High for her report and asked if Board Members had questions for her.

Ms. Maxwell noted the Board had previously approved the deferment of the 34 parking spaces requested by the applicant.

Ms. High explained that since it is a new site plan being considered, the Board needed to consider deferment again.

Chairperson Sikora noted the plant list provided includes two non-native plants.

Ms. High said they were included in the original site plan but were not planted because since the parking requirement was deferred, the internal landscape addition was also deferred. There are percentage requirements for native species which will be met if plantings happen. If there is a loss of trees and they have to be replaced, submission for a landscape plan will be required for the buffer and staff will make sure the native species requirement is met.

Hearing no further questions, the Chair asked if the applicant wished to speak.

Mr. Harvey thanked Ms. High for her thorough report. He said the only purpose for the re-application of the site plan was to relocate where the building is on the property. Otherwise the plan is what was talked about and approved previously.

Chairperson Sikora asked if there were any comments from the public. Hearing none, he moved to Board Deliberations.

Ms. Smith asked if the covered storage shed also needed to be approved.

Ms. High explained the covered storage area will be attached to the building and is part of the requested site plan approval.

Hearing no further Board comments, the Chair asked for a motion.

Ms. Maxwell **made a motion** to approve the Site Plan as recommended by Staff, including the four conditions they recommended:

1. The Zoning Board of Appeals approves the requested deferment of 34 parking spaces, as illustrated on the proposed site plan.
2. An easement for emergency and utility maintenance access on property to the east must be recorded and submitted to the Planning Department prior to issuance of a building permit.
3. Prior to issuance of a certificate of occupancy, staff review of landscaping will occur. If landscaping materials are lost during construction to the point of noncompliance with the Zoning Ordinance, additional landscape materials will be required.
4. A revised site plan showing Fire Department access to water on the east side of the building be submitted and approved prior to issuance of a building permit.

Ms. Smith **seconded the motion. The motion was approved unanimously by roll call vote.**

Chairperson Sikora moved to the next agenda item and asked Ms. Lubbert for her report.

SITE PLAN: ADVANCED POURED WALLS
ADVANCED POURED WALLS WAS SEEKING SITE PLAN APPROVAL TO HAVE A CONCRETE MATERIALS RECYCLING YARD IN THE NORTHEAST CORNER OF PARCEL NO. 05-34-155-018.

Ms. Lubbert said Advanced Poured Walls was seeking Site Plan approval to have a concrete materials recycling yard in the northeast corner of Parcel Number 05-34-155-018, directly east of 3425 S 6th Street.

She explained for the past several years, Advanced Poured Walls has been placing large quantities of concrete debris on their property at the northeast corner of Stadium Drive and S 6th Street and then milling this concrete generally once a year or every other year. When milling occurs, operations run during normal business hours and can take two to three weeks. Both the location of the stored materials and the milling process are in violation of the *I-1 Industrial District*. The Township began enforcement actions to request the removal of the storage and milling operation several years ago. Staff worked with the applicant to try and find a solution to the zoning concerns related to their business. Milling operations are only permitted within the *I-3 Industrial District*. To that end, staff recommended finding a location on the subject property for this district that would meet both the applicant's needs as well as the criteria of the Township's Master Plan. As a result of these efforts a little over four acres in the northeast corner of the parcel in question was rezoned to *I-3 Industrial District* in August 2018. After additional coordination with Oshtemo staff and the Road Commission, the applicant is now seeking site plan approval in order to operate the concrete materials recycling yard from this location.

Ms. Lubbert said the property in question is zoned *I-1 Industrial District, Manufacturing/Servicing* and *I-3 Industrial District, Special*. The proposed concrete materials recycling yard falls completely within the I-3 zoned section of the property (just over four acres of the overall 17.48-acre site). Uses permitted in the I-3 zoning district are outlined in Article 29 of the Township's Zoning Code and include: grain equipment and processing, fuel and feed yards, storage of gasoline, and automobile and other salvage yards. Staff has determined that the concrete storage and milling of Advanced Poured Walls is analogous to a salvage yard. Automobile and other salvageable material junkyards are listed as Permitted Uses with Conditions in the I-3 District. The implementation of any new nonresidential building, structure, or use requires the review and approval of the Zoning Board of Appeals (Section 64.20). When reviewing a site plan for a permitted use with conditions, two sets of criteria need to be considered: the general site plan review criteria outlined in Section 64.60 and the additional requirements for the use in question outlined under Section 48.30.

She provided an analysis of the proposal against the two sections.

Section 64: Site Plan Review

General Zoning Compliance:

Zoning: Parcel Number 05-34-155-018 is partially zoned *I-3 Industrial District, Special* and partially zoned *I-1 Industrial District, Manufacturing/Servicing*. The proposed concrete materials recycling yard will be completely contained within the I-3 section of the property. The proposed use is permitted as a permitted use with conditions within the I-3 district. All properties surrounding the subject site are zoned *I-1: Industrial District*. There are residential properties approximately 600 feet to the west and 900 feet to the north of the proposed site. These properties are zoned *RR: Rural Residential*. The zoning criterion is met.

Setbacks: Properties within the I-3 District have a required front yard setback of 70 feet. The required minimum setback distance between any building and any rear or interior side property line is 20 feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater (Section 50.60). The proposed concrete materials recycling yard will be located as far from both Stadium Drive and S 6th Street as possible, distances of approximately 600 and 460 linear feet, respectively. Although there is no building connected to this use to calculate the side and rear yard setbacks, the use will have a 50 foot landscaping buffer between it and the properties to the west and a 25 foot landscaping buffer between it and the properties to the north, east, and south. There are no concerns with this criterion.

Access and Circulation

Access: Parcel 05-34-155-018 has frontage along both Stadium Drive and S 6th Street. An existing curb cut on S 6th Street, reviewed and approved by the Road Commission, will be utilized to access this site. A 24-foot-wide gravel drive to allow for two-way traffic will be installed to connect to the proposed use. It should

be noted that the owner of this property also owns the property directly to the east, 3425 S 6th Street, and will allow trucks to drive through 3425 S 6th Street to and from the proposed use to help with traffic circulation. Should one of the properties be sold, and the recycling use continue, a cross-access agreement will need to be entered into between the properties.

Parking: Automobile and other salvageable material junkyards are not required to provide set parking via the zoning ordinance. This is logical as the proposed site will only be utilized by trucks either dropping off or picking up recycled concrete materials. This is not applicable at this time.

Sidewalk: Per Section 57.90 sidewalks indicated on the Township's Non-motorized Plan shall be installed by the developer when properties adjacent to planned nonmotorized facilities receive site plan approval from the municipality. The Township's adopted Non-motorized Plan shows a paved shoulder bike lane along S 6th Street and Stadium Drive. With this improvement not yet designed for either road this criterion is not applicable at this time. The Non-motorized Plan also shows a 6-foot-wide shared use path along Stadium Drive. As there are no other non-motorized facilities in the area for it to connect to, staff recommends that the applicant be allowed to file a Shared Use Path SAD form with the Township as a condition of Site Plan approval instead of installing this segment of path at this time. This means that when the Township deems it appropriate to install the path and implement a Special Assessment District to fund the installation of the shared use path the owners and future owners of this site cannot oppose it.

Building Design: No structure is being proposed for this use. The criterion is not applicable.

Photometric Plan: No lights are being proposed or are required for this use. The criterion is not applicable.

Landscaping: The location of the proposed concrete materials recycling yard is in the far northeast corner of the parcel and is surrounded by other properties zoned and used for industrial purposes, eliminating the need to try and screen from residential uses. Nevertheless, the ordinance does require this proposed use be screened from neighboring properties. A 20-foot-wide landscape buffer is required between the I-1 and I-3 zoning districts. A 25-foot natural screening buffer has been provided. Existing vegetation can be used to meet the landscape requirements for the buffer. This requirement is met.

However, the code also requires a 20-foot-wide landscaping buffer along both Stadium Drive and S 6th Street. Staff requests the Zoning Board of Appeals waive this requirement. When negotiations about moving this use to the back of the property started years ago, under the old landscaping ordinance, a buffer along the front was not a requirement nor part of the discussion. Given the applicant has acted in good faith, the proposed use is over 500 feet from both

roads, and there is already significant tree cover between the proposed use and streets, staff and legal counsel have deemed waiving this requirement appropriate. There is a High Tension Power line easement along S 6th Street.

Engineering: Public water is available along S 6th Street and sanitary sewer is currently available on S 6th Street for approximately 500 feet from Stadium Drive. Prein & Newhof, the Township's civil engineering agent, has reviewed the project site plan. All engineering concerns have been addressed.

Fire Department: The Township Fire Marshal is satisfied with the site design. Fire trucks will be able to enter or exit at either the 3425 S 6th Street driveway or the proposed project drive. The Fire Marshal has requested that the following condition of approval be added: if a gate on the entrance drive is installed, a Knox Key Box shall be installed at that location.

Section 48.30 - Automobile and other salvageable material junkyards

- A. All storage operations shall be screened from adjoining streets and highways by a solid fence at least eight feet in height and set back not less than 100 feet from abutting street right-of-way lines.**

The requested use will be located as far from both Stadium Drive and S 6th Street as possible, distances of approximately 600 and 460 linear feet, respectively. Existing tree cover will provide the required screening.

- B. No operations or storage shall be conducted within the aforesaid 100-foot setback area which shall be maintained free of equipment, material or debris.**

The proposed concrete materials recycling yard is only allowed within the *I-3 Industrial District, Special* area of the site. The existing piles of boulders and soil that can be seen from S 6th Street shall be removed or relocated and screened from view.

- C. All outdoor activities and storage shall be screened by a solid wood fence of sufficient height located upon the property so as to obstruct such activities or storage from the view of persons occupying or using adjoining premises other than streets and highways unless, in the discretion of the Zoning Board of Appeals the same would be unnecessary because of the nature of the use or the contour or character of the adjoining premises.**

A 25-foot wide landscaping buffer is being provided between the proposed use and abutting neighboring sites – all industrial uses. Staff recommends the Zoning Board of Appeals waive this requirement.

Ms. Lubbert recommended the Zoning Board of Appeals approve the proposed Site Plan for the concrete materials recycling yard with the following deviations and conditions:

1. Deviation from the required 20-foot landscaping buffer along Stadium Drive and S 6th Street.
2. Deviation from the fencing required between the proposed use, streets, and neighboring properties.
3. A Shared Use Path SAD form shall be submitted to the Township and recorded.
4. The existing piles of boulders and soil that can be seen from S 6th Street shall be removed or relocated and screened from view.
5. If a gate on the entrance drive is installed, a Knox Key Box shall be installed at that location.
6. Should Parcel Number 05-34-155-018 or 3425 S 6th Street be sold, and recycling use be continued, a cross access agreement will need to be entered into between the properties.

Chairperson Sikora asked if Board Members had questions for Ms. Lubbert.

Ms. Maxwell asked for clarification regarding the existing boulders and the current setback at 6th Street and Stadium Drive.

Ms. Lubbert said the operation will be moved from the southwest corner and the remaining boulders there will need to be moved to the new location and the area cleaned up.

Ms. Maxwell asked about the 20 foot buffer.

Ms. Lubbert said both setback and landscaping require buffers; the two are separate.

Ms. Smith was concerned that without fencing people or animals might be able to get into the recycling area.

Mr. Barker, the applicant, indicated when the concrete crushing is done, the 3rd party company that does that work has their own safety protocols; otherwise it is just a storage area.

Ms. Maxwell asked whether the driveway location from 6th Street back to the I3 section is of concern.

Ms. Lubbert said that issue was discussed at length with the applicant. Multiple locations were explored, but this location was found to be the best solution, meets requirements, and has been approved by the Road Commission.

Ms. Farmer said she would prefer Stadium Parkway be used.

Attorney Porter noted that was the first location proposed. Three alternative access points from the Parkway were looked at after the rezoning, but there were just

too many complexities, including access across other properties, and the problems proved to be impossible to solve.

Mr. Gould asked whether access would likely be from Stadium to 6th St. or from north on 6th St.

Mr. Barker said it would be from Stadium to 6th St. as 6th St. north of the property is a “no truck” route.

Hearing no further questions from Board Members, the Chair asked if the applicant wished to speak.

Mr. Barker said he had no further comments to share.

Attorney Porter said anytime Township staff needs to work with a property owner on a request that does not fit the zoning there can be disputes over property rights. In this instance they received very good cooperation from the property owner and the zoning process worked very well. He felt that should be a consideration by the Board in its deliberations.

Chairperson Sikora asked whether Board Members had questions for the applicant.

Ms. Smith asked Mr. Barker whether he felt the property was safe enough without fencing to keep people and animals out.

Mr. Barker said her question could be asked about anything they have stored such as equipment for example. The concrete rubble is in a pile. Every one to two years it needs to be crushed, which takes about two weeks to complete. The crushing company has its own protocols.

Ms. Smith asked if there is a fence or some barrier in place already.

Mr. Barker said there is no fence around the entire property. ITC has a small amount of fencing. There is a motorized gate at 3425 S. 6th St.

Chairperson Sikora asked if there were any comments from the public. Hearing none, he moved to Board Deliberation and asked how the Township would keep track regarding the cross access requirement if the property is sold in the future.

Ms. Lubbert explained when a transfer occurs they research the history of the property, especially when there are unique or special uses involved.

Ms. Farmer said she was glad to see the driveway as far south as possible, but would prefer it be on Stadium Parkway. She said the operation was loud and messy especially when the crushing happens, and is not very well liked by neighbors. Keeping

trucks as far south as possible makes sense. She also said she did not see a need for fencing except to hide the operation, but the parcel is large enough and the facility far enough back from the road that a fence is not necessary. She wouldn't want to see prison-like fencing.

Ms. Maxwell said she felt the site plan is an improvement and thinks the truck location is the best we can do.

Jeff Ranger, a neighbor just north of Advanced Poured Walls, said though some neighbors are particular, he and 99% of close neighbors are fine with the business. When crushing occurs, dust control and sweeping the road are provided and noted the Road Commission is very pleased with the company. He knows of zero instances of safety problems at the corner where the crushing occurs, which is very visible from the road. In the new plan it will be hidden and he does not believe there will be any problems.

Hearing no further comment, the Chair asked for a motion.

Ms. Maxwell **made a motion** to approve the Site Plan Amendment as recommended by Staff, and including the two deviations and four conditions they recommended:

1. Deviation from the required 20-foot landscaping buffer along Stadium Drive and S 6th Street.
2. Deviation from the fencing required between the proposed use, streets, and neighboring properties.
3. A Shared Use Path SAD form shall be submitted to the Township and recorded.
4. The existing piles of boulders and soil that can be seen from S 6th Street shall be removed or relocated and screened from view.
5. If a gate on the entrance drive is installed, a Knox Key Box shall be installed at that location.
6. Should Parcel Number 05-34-155-018 or 3425 S 6th Street be sold, and recycling use be continued, a cross access agreement will need to be entered into between the properties.

Mr. Gould **seconded the motion. The motion was approved unanimously by roll call vote.**

Mr. Barker indicated he had no objection to the two deviations and four conditions as approved.

Public Comment

Chairperson Sikora determined there were no members of the public present who wished to comment and moved to the next agenda item.

Other Updates and Business

Mr. Sikora welcomed Ms. Farmer to the Board.

Ms. Lubbert said she had no items yet for a January meeting, indicated she would keep the Board updated regarding the continuation of virtual meetings, thanked Board Members for all they do, and wished everyone happy holidays.

Chairperson Sikora also wished everyone happy holidays and a happy new year.

Adjournment

Hearing no further comments, Chairperson Sikora noted the Zoning Board of Appeals had exhausted its Agenda. There being no other business, he adjourned the meeting at approximately 4:04 p.m.

Minutes prepared:
December 16, 2020

Minutes approved:
_____, 2020

DRAFT



January 20, 2021

Mtg Date: January 28, 2021
To: Zoning Board of Appeals
From: Iris Lubbert, AICP, Planning Director
Subject: Annual Board Variance Review Training

Per request of the Zoning Board of Appeal's Chair, the Planning Director and Township Attorney will hold an annual training session/refresher course for the Zoning Board of Appeals members on the review criteria for variances at the start of every year. Accordingly, this training session will be held at the Board's January 28th meeting.

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January 22, 2021



Mtg Date: January 28, 2021

To: Oshtemo Township Zoning Board of Appeals

From: Colten Hutson, Zoning Administrator

Applicant: Jack Ventimiglia, ShopOne

Owner: DFG – Maple Hill LLC

Property: 5022 W Main Street, Parcel ID: 05-13-280-051

Zoning: C: Local Business District

Request: Site Plan Review and Variance Request for Loading Dock Addition

Section(s): Section 64: Site Plan Review
Section 52.60: Loading and Unloading

PROPOSAL:

The applicant, on behalf of DFG-Maple Hill LLC, is requesting relief from Section 52.60 of the Zoning Ordinance in order to divide the eastern most unit at 5022 W Main Street in half, proposed units outlined in yellow in the image below, and construct a new loading station, approximate location starred, to service the proposed front unit.

PROJECT SUMMARY:

The applicant is requesting relief from Section 52.60 of the Zoning Ordinance which governs where loading and unloading operations for businesses can take place in order to add a 400 SF loading dock to the eastern elevation of the building. Section 52.60 of the Zoning Ordinance requires that all loading and unloading operations must be carried on entirely within the side or rear yard of the lot, parcel or building site, on a paved surface and shall not interfere with pedestrian or vehicular movement.



ANALYSIS:

When reviewing this site plan and variance request, there are two sets of criteria that need to be considered: 1) the general Site Plan Review criteria outlined in Section 64, and 2) the Off-Street Parking of Motor Vehicles criteria pertaining to loading and unloading operations outlined in Section 52.60. Below is an analysis of the proposal against these two Sections.

SECTION 64: SITE PLAN REVIEW

General Zoning Compliance:

Zoning: 5022 W Main Street is zoned C: Local Business District. Adjacent to the east is low-density residential located within the City of Kalamazoo. All adjacent properties to the north, south, and west of the project area are zoned C: Local Business District. The proposed retail space is considered a permitted use within the C: Local Business District. Additionally, the percentage of land covered by buildings for Maple Hill Pavilion is 13.9%. Criterion met.

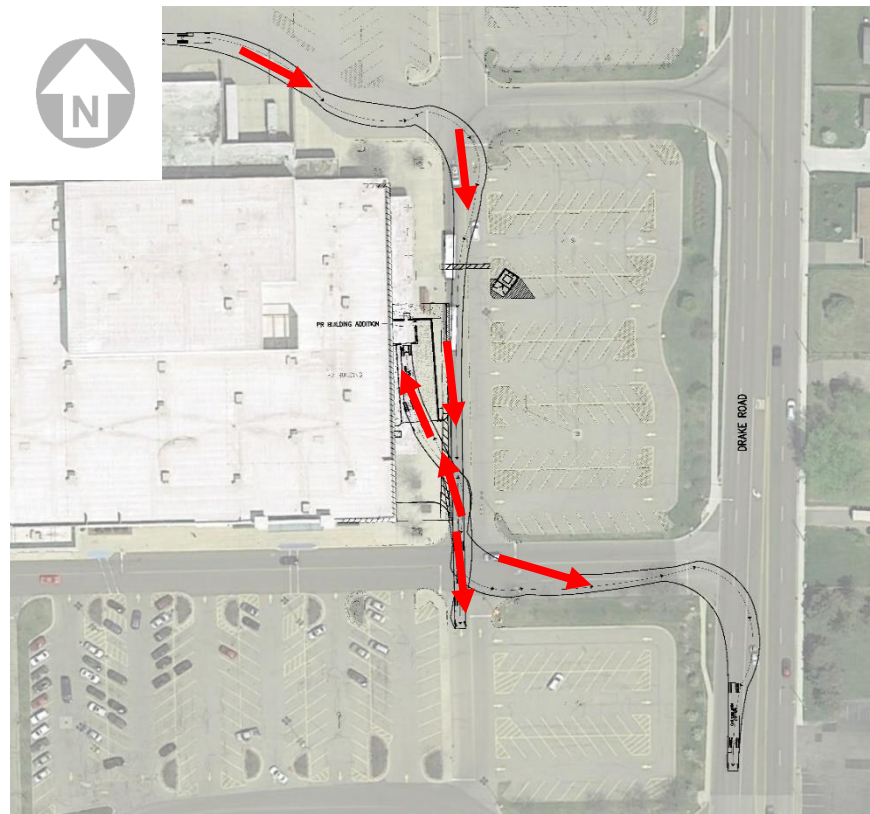
Access and Circulation

Access: The proposed site has established interior drives that travel adjacent to the storefronts within Maple Hill Pavilion. All aisles within the project area are approximately 30 Ft wide. There are several curb cuts on W Main Street and Drake Road to access the subject site.

The 400 SF addition onto the east elevation proposes several challenges in terms of achieving ordinance compliance and life/safety. The addition will be used for loading and unloading activities for the commercial space located in the front half of the building. Per *Section 52.60 Loading and Unloading*, the code section states that “Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the side or rear yard of the lot, parcel or building site, on a paved surface and shall not interfere with pedestrian or vehicular movement”. Front yards are defined in the Zoning Ordinance as “Open space extending across the full width of a lot, parcel or building site, between the front property line of the lot, parcel, or building site and the nearest point of the building, or a porch or other projection thereof. The depth of such yard is the average horizontal distance between the front lot, parcel or building site property line and the nearest point of the building, or a porch, or other projection thereof”. Lot, parcel or building site frontage is defined in the Zoning Ordinance as “The length of the front property line abutting the dedicated public road right-of-way or private street easement”. Since the subject space shares frontage along two streets, the proposed loading dock is located within the front yard.

Additionally, the loading dock presents a safety concern to motorists and pedestrians visiting the shopping complex. As demonstrated in the truck turning template shown on the next page, the delivery trucks are proposed to enter the facility from the north side of the building and navigate to the eastern most side of the shopping mall. The turning template then illustrates that the delivery trucks will protrude into the intersection within the shopping outlet’s interior drive and back into the respective loading zone. This means that large vehicles will be stopping and backing up in an area that is not designed to have such activities creating the potential for accidents not just with vehicles coming and going from this shopping center but also with pedestrians. There is a prominent Metro Transit bus stop that is adjacent to the proposed loading dock. Metro Transit also has a 17 Ft x 6 Ft bus shelter for its riders that visit the shopping mall. This particular bus stop

is the 5th heaviest used bus stop in Kalamazoo County as it is served by three different fixed-routes. At times there can be a total of three 40 Ft buses that arrive at the same time, requiring over 120 Ft for stacking space. Metro Transit’s fixed-route system begins at 6am, which creates a conflict with the delivery times being proposed. The majority of the users of this service travel south to get to the other commercial businesses in this shopping strip. The proposed truck dock



would directly cross or “interfere” with their route. For these reasons, the addition of the loading dock will most likely require said bus stop and bus shelter to be relocated. METRO has provided a letter, attached to this report, expressing their concerns with this proposal. If this site plan is approved, eventually there would be an increase in foot traffic due to visitors wanting to go to the future commercial use occupying the space in the rear. It should be noted that Metro Transit has been working diligently with the applicant in attempt to find an alternative bus stop location to help mitigate safety concerns. However, in order to get to the rear retail space, pedestrians would have to walk around the loading dock obstruction, regardless if the Metro bus stop is there or not.



The applicant has expressed that deliveries will occur from 6am-8am, Monday through Saturday, and that such deliveries will happen outside of normal business hours. The applicant also noted that the loading and unloading activities are normally a quick process which involves rolling

approximately 12-20 pallets off of a truck into back of house space. They added that conflict with pedestrian and vehicular traffic in the mall during this time would be minimal. However, it should be considered that the proposed deliveries cannot be guaranteed to happen during said times nor will the front commercial space always be a Burlington store in the future. A different commercial user could occupy the space and have different hours of operations, incompatible delivery times, or larger/longer deliveries. Criterion not met.

Parking: Maple Hill Pavilion currently has a total of 1,996 parking spaces, excluding the outlots located on the premise, which include Starbucks, Finley's, and other commercial users that abut W Main Street. There is a total of 475 parking stalls which are intended to service Hobby Lobby and the current 46,980 SF vacant space. Of the 475 parking stalls on-site, 207 of them are not striped. The said unstriped spaces are located in the rear of the subject building site. All existing parking spaces are 10' x 20'. Businesses with retail sales require one parking space per each 150 SF of net floor area. Hobby Lobby is 56,455 SF, which requires 376 parking stalls. The vacant 46,980 SF space would require 313 parking stalls. This means that there would be a total of 689 parking stalls required to serve the two commercial spaces. Therefore, the site currently only has approximately 69% of the minimum required parking spaces necessary (475 spaces currently). The parking shortage is attributed to code requirements evolving over the years, as parking requirements have gotten stricter for reviewing developments. The applicant wishes to eliminate two parking spaces for a future dumpster to service the retail store to be located in the front half of the vacant 46,980 SF space. This would further decrease the total parking spaces to 473. However, with the entire outdoor shopping outlet having a total of 1,996 parking stalls to service the 275,283 SF of commercial space (excluding said outlots), 1,835 parking stalls are required. Since Maple Hill Pavilion has approximately 108% of the minimum required parking spaces allowed, the surplus in parking for the entire site potentially warrants a deviation. Criterion met.

Easements: There are a series of existing easements located throughout Maple Hill Pavilion, ranging from ingress/egress easements to utility easements. There are no easements in place in which would preclude construction of the proposed loading dock, as the 400 SF addition will not be an encroachment. All easement requirements are met.

Shared Use Path:

Non-motorized facilities already exist on W Main Street and Drake Road adjacent to the project area. This portion of the review is not applicable.

Sidewalk:

The applicant is proposing a 4 Ft sidewalk along the east side of the loading dock. Pedestrians are currently used to having an existing sidewalk width of 40 Ft, which allows there to be a form of separation. Reducing the width to 4 Ft is a dramatic decrease. ADA persons visiting the outdoor shopping outlet will have a difficult time using the proposed non-motorized facility. Even in normal circumstances it has been found that pedestrians struggle walking side by side on a 4 Ft sidewalk. This will cause there to be an overflow of pedestrians that are forced to walk in the southbound lane, causing a potential safety hazard. The minimum width for sidewalks per ADA is 5 Ft. Although this is private, 5 Ft sidewalks shall be considered. Nevertheless, Section 57.90 of the ordinance requires that an interior sidewalk network be provided at the time of a site plan review unless the reviewing body grants a deviation from this provision as such a sidewalk connection from the building to the road would enhance accessibility of the overall non-

motorized network. The applicant is currently not proposing there to be a connector from the sidewalk abutting the shopping outlet to the sidewalk along Drake Road. **Staff recommends that if the site plan is approved that a 5 Ft wide sidewalk connector from the shopping outlet to the sidewalk on Drake Road be installed and that the sidewalk along the proposed loading dock be expanded to a minimum of 5 Ft.** Criterion not met.

Building Design

Building Information: Exterior materials of the 400 SF loading dock were not shown in the site plans provided. If the site plan is approved and the variance request granted, providing said exterior materials for the loading dock shall be a condition of approval. Proposed materials shall aesthetically match that of the existing building.

The applicant provided renderings of the east side of Maple Hill Pavilion where the loading dock and the new tenant space will be located. The new tenant space will be secluded from all other activity occurring in the outdoor shopping outlet due to the design and placement of the loading dock. This could potentially make the space more unattractive for future businesses and commercial users. The applicant has provided screening in the form of trees, shrubs, and other vegetation on the east side of the loading dock in an effort to disguise the loading dock from motorists and mall visitors from Drake Road. The submitted site plan also proposes to keep one of the three existing trees in the walkway south of the proposed loading dock and install a natural buffer of five evergreen trees and shrubs to screen the dock from W Main and those entering the development site. Although this is a good effort to screen the proposed dock the location of the loading and unloading dock is on a prominent corner of this development and if approved it will become part of the visual experience when visiting this shopping center.



Landscaping

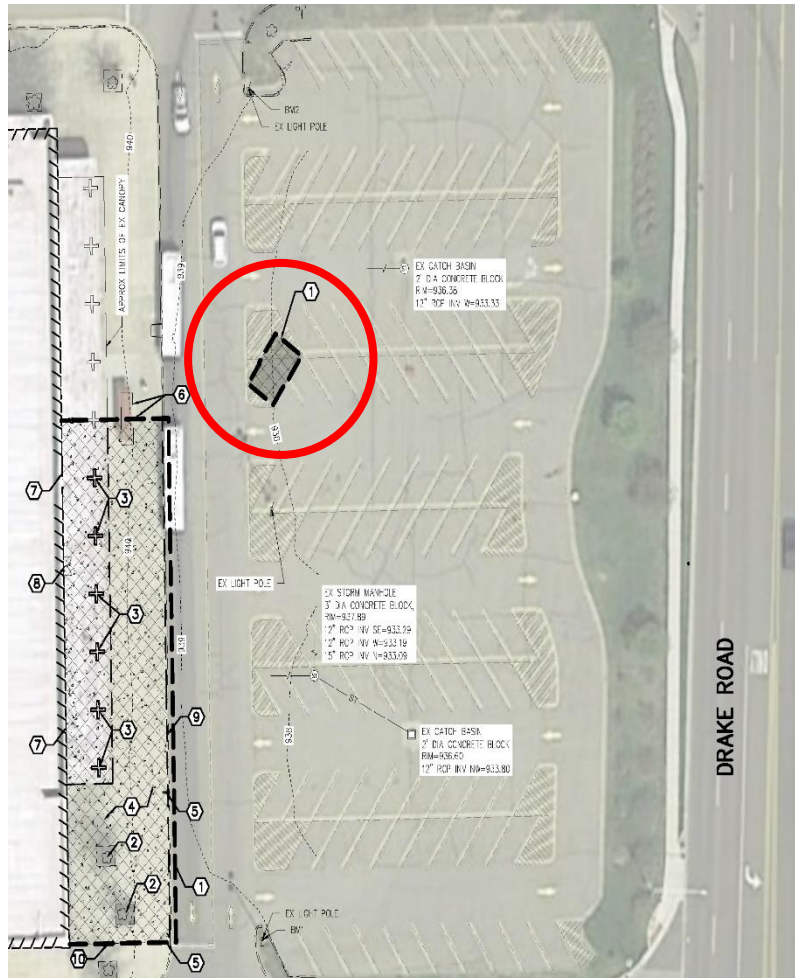
The applicant is proposing landscaping along the east side of the loading dock wall. Such landscaping consists of trees, shrubs, and other vegetation to provide as a source of screening material for the loading dock. The applicant is proposing to install evergreen trees south of the loading dock. Staff noted that the landscaping in the rendering shown above is inconsistent with what is being proposed on the landscaping plan. The renderings show landscape islands in the parking lot and in front of the proposed new tenant space as the landscaping plans do not. Also, the renderings show the plantings wrapping around the loading dock to its north while the site

plan does not display such. The proposed garbage disposal container is not shown in the renderings. It should be noted that only the landscaping shown on the landscaping plan can be required unless the reviewing body should require it be added to the landscape plan as a condition of approval.

Lot Dimensions: Maple Hill Pavilion is 48.56 acres (2,115,273.60 SF) and has approximately 1,835.54 Ft of road frontage along W Main Street and Drake Road. The minimum area requirements for commercial properties with water and sewer is 13,200 SF. The minimum frontage requirements for commercial properties with water and sewer is 120 Ft. Criterion met.

Setbacks: Buildings within the C: Local Business District have a minimum front yard setback of 70 Ft, unless a larger setback is required per ordinance. Buildings adjacent to W Main Street shall have a minimum front yard setback of 170 Ft from the centerline of the street right-of-way. Buildings adjacent to Drake Road shall have a minimum front yard setback of 120 Ft from the centerline of the street right-of-way. The 400 SF addition to the east side of the building satisfies such setback requirements, as the loading dock would be approximately 250 Ft from centerline of Drake Road and approximately 650 Ft from centerline of W Main Street. Criterion met.

Waste Disposal Container: The applicant is proposing there to be a waste disposal container to separately service the front retail space from the rear commercial space within the subject building. The site plan shows the waste disposal container being in the east parking lot adjacent to Drake Road and is proposed to eliminate two parking spaces, circled in image to the right. Code Section 53.90 Screening of Trash and Recycling Containers states that all outside trash and recycling disposal containers shall be screened on all sides with an opaque fence or wall and gate at least as high as the container, but no less than six (6) feet in height, and shall be constructed of material that is compatible with the architectural materials used in the site development. The Planning



Commission or Zoning Board or Appeals, at its discretion, may approve alternative methods of screening that meet the intent of this Article. The code also states that **containers and enclosures shall be located away from public view insofar as possible, and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.** Screening and gates shall be of a durable construction. Chain link fences with opaque slats are not permitted. The doors for the dumpster being proposed is black galvanized steel. The screening would contain 6 Ft tall concrete brick. Where the applicant is wishing to place the dumpster in the project area goes against the code's intent. The proposed dumpster will be clearly visible from Drake Road and is located by the entrance of the proposed second commercial unit. This dumpster location also presents another safety concern as large vehicles will be stopping and backing up in an area that is not designed for such movements. This will further disrupt the traffic flow for the interior drive throughout the shopping outlet. If the site plan is approved, staff recommends that the proposed dumpster be relocated. Criterion not met.

Fencing: No changes to current onsite fencing is proposed. This portion of the review is not applicable.

Lighting: No changes to current onsite lighting is proposed. This portion of the review is not applicable.

Signs: Signage will be reviewed in detail at time of the sign permit application submission. This portion of the review is not applicable.

SECTION 52.60: LOADING AND UNLOADING (VARIANCE)

The applicant has provided the following rational for this variance request from Section 52.60:

- Splitting the space offers the best opportunity to lease the vacancy as it would be difficult to lease the entire vacancy to a single user.
- During negotiations with Burlington Stores, it was made clear that Burlington Stores would not enter into a Lease if the loading dock was not immediately adjoined to the Demised Premises and eliminated the opportunity to use the rear of the vacancy.
- ShopOne approved a loading dock alongside the Drake Road Frontage with careful consideration towards screening and pedestrian safety as described in the submitted plans and renderings.
- Burlington Stores has also indicated that loading/unloading activities are likely to take place Monday through Saturday from 6-8AM, outside of store hours.
- ShopOne does not have any records nor could Metro produce records of an agreement allowing the bus stop in its current location.
- ShopOne feels the Burlington Stores will bring valued commerce to the Township and the Shopping Center, whereas a 46,980 square foot vacancy would only offer blight to an otherwise great shopping center.

STANDARDS OF REVIEW - STAFF ANALYSIS

The Michigan courts have applied the following principles for a dimensional variance, which collectively amount to demonstrating a practical difficulty, as follows:

- Special or unique physical conditions and circumstances exist which are peculiar to the property involved and which are not generally applicable to other properties in the same district.

- Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use; or would render conformity to the ordinance unnecessarily burdensome.
- The variance is the minimum necessary to provide substantial justice to the landowner and neighbors.
- The problem is not self-created.
- Public safety and welfare.

Staff has analyzed the request against these principles and offer the following information to the Zoning Board of Appeals.

STANDARDS OF APPROVAL OF A NONUSE VARIANCE (PRACTICAL DIFFICULTY):

Standard: Unique Physical Circumstances
Are there unique physical limitations or conditions which prevent compliance?

Comment: 5022 W Main Street is located on a corner and has road frontage adjacent to Drake Road and W Main Street. W Main Street serves as the shopping center’s targeted audience in terms of commuters. Signage advertising all the businesses within the shopping center are located on W Main Street due to the shopping center being faced/directed towards W Main Street. There is currently no signage adjacent to Drake Road advertising the businesses within Maple Hill Pavilion. Generally, a property would have one front, two sides, and one rear. With the unit under consideration on a corner, having two front yards, it does present additional building restrictions that other non-corner units do not have. However, there are many instances where commercial properties have frontage on two streets and this is typically seen as an advantage in visibility and a benefit to the businesses occupying the space.

An additional note is that the space in question used to be an indoor shopping center that was repurposed. Repurposing a use for another is encouraged but can present unique challenges as a developer does not have the same flexibility to shape a space to a use’s needs as well as someone building something from scratch.

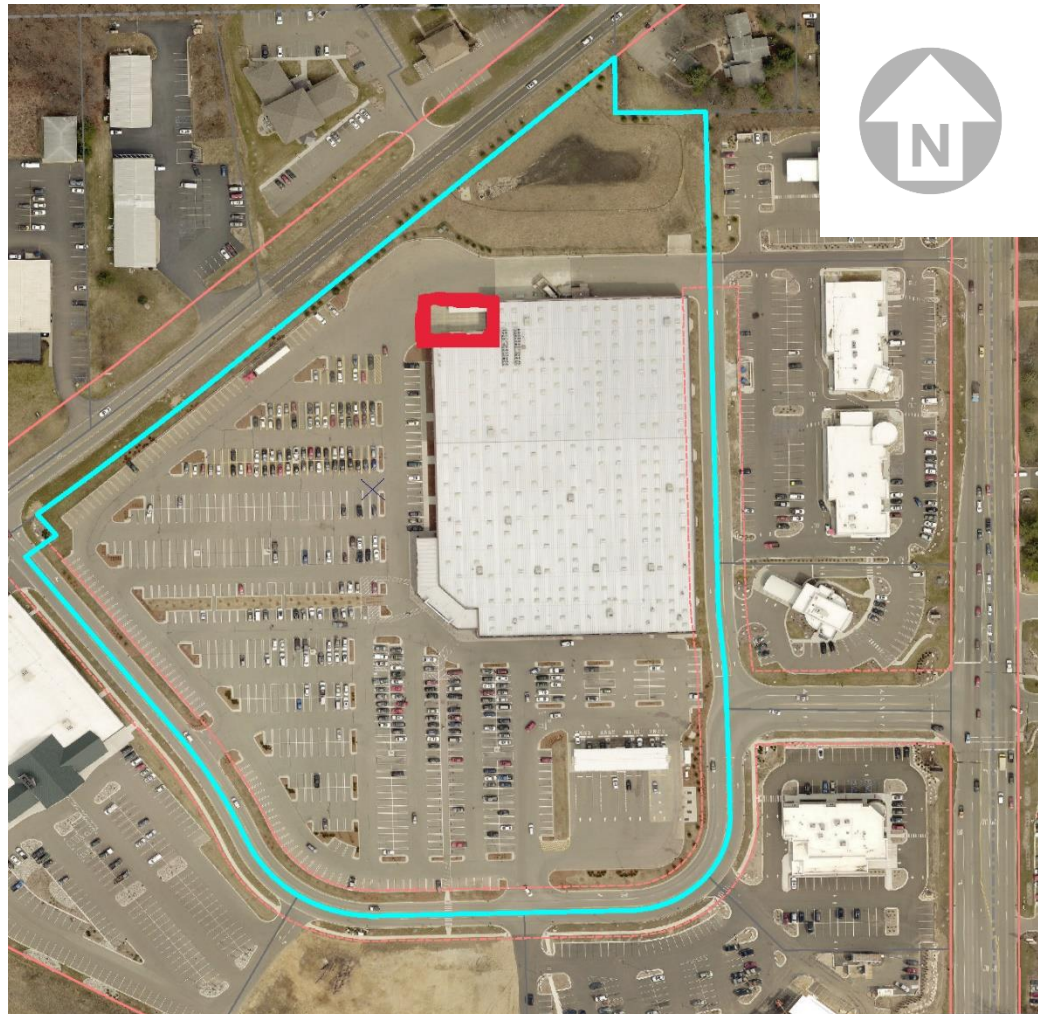
Standard: Conformance Unnecessarily Burdensome
Are reasonable options for compliance available?
Does reasonable use of the property exist with denial of the variance?

Comment: It is the applicant’s desire to not occupy the entire 46,980 SF vacant commercial space that triggered this variance request. It is the applicant’s belief that if the space is not divided that it will be difficult to lease to one retailer due to the store’s size. It could be argued that if the space was divided that the commercial space located in the rear would be at a disadvantage and would be difficult to lease due to its seclusion from other retailers in Maple Hill Pavilion. A designated truck docking station for loading and unloading purposes already exists in the rear of the building to service the existing unit. An additional loading dock is not a requirement nor a necessity. The desire to divide the space has created new challenges. Normal use of the property would be maintained if the reviewing body were to deny of the variance request. Other floor plans or locations for a loading dock could be explored.

Standard: *Minimum Necessary for Substantial Justice
Applied to both applicant as well as to other property owners in district.
Review past decisions of the ZBA for consistency (precedence).*

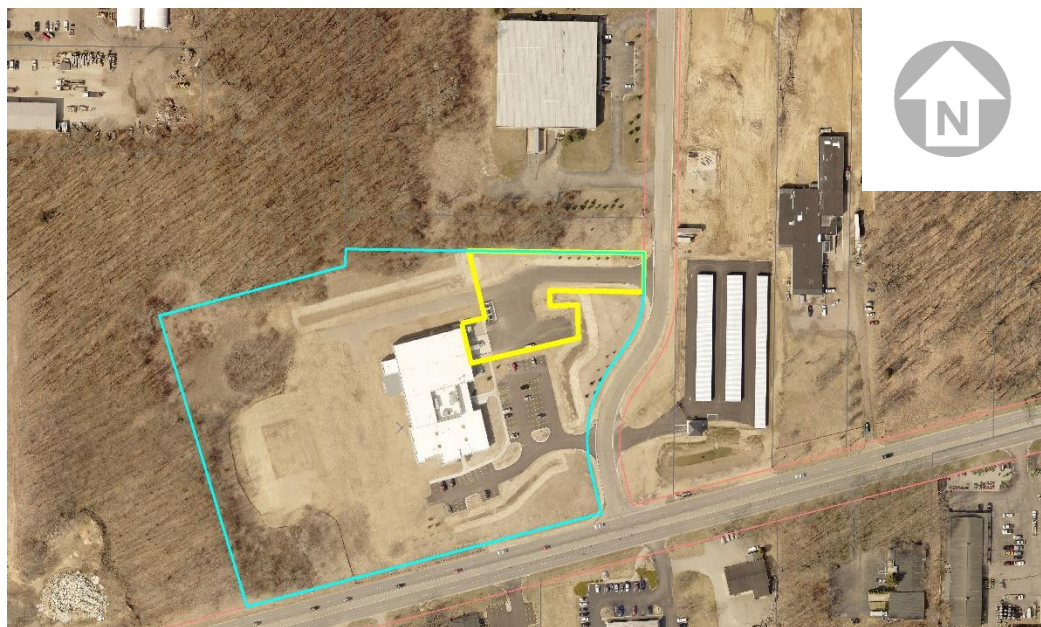
Comment: In researching past Zoning Board of Appeals decisions regarding relief for loading zones, Planning Department staff identified two comparable cases, one of which was offered relief through a Planned Unit Development. It should be noted that the two cases found pertain to the front yard and did not involve interference of pedestrian/vehicle movements within a loading and unloading area. These findings are described below.

1. Costco, 5100 Century Avenue, 12/17/2013: The Costco store has frontage on W Michigan Avenue that runs diagonal to the building. Additionally, Century Avenue surrounds the store along three sides of the building. There was only one small area of the building that did not immediately front a street and it is the location of a stormwater retention facility. The applicant sought, and was granted, relief from now *Section 52.60: Loading and Unloading* because the Zoning Board of Appeals found that there were no opportunities to develop a loading/unloading area that would not be adjacent to a roadway. The loading zone is outlined in dark red in the below illustration. Plantings were installed along W Michigan Avenue to provide screening



for the loading area. This loading dock is well away from interfering with any non-motorized facilities and motorists.

2. National Flavors, 7700 Stadium Drive, 08/9/2016: National Flavors is a manufacturing facility located within the I-1: Industrial District. It is located on a corner property and has frontage on Stadium Drive and Stadium Park Way. The property was situated in such a fashion that the proposed loading dock would have been visible on all four exterior walls. The loading zone is highlighted in yellow in the illustration below. A deviation was granted by the Zoning Board of Appeals because there were no opportunities to develop a loading dock station without it not being adjacent to a roadway or being visible from motorists. There was no conflict with pedestrians and motorists.



Standard: *Self-Created Hardship*
Are the conditions or circumstances which resulted in the variance request created by actions of the applicant?

Comment: 5022 W Main Street is the eastern most commercial space within the outdoor shopping outlet. It is the applicant's desire to divide the existing commercial space which triggered this variance request. The reasoning behind the variance request is that the applicant believes the existing commercial space is too large to retain a permanent retail business and that it will remain vacant if the space is not divided. It should be noted that when the commercial space was originally converted, it was intentionally split to create this 46,980 SF unit to facilitate retail space for one large commercial user. Neither the splitting of the space nor the addition of the loading dock is required nor necessary.

Standard: *Public Safety and Welfare*
Will the variance request negatively impact the health, safety, and welfare of others?

Comment: The proposed loading dock location presents a life and safety issue for motorists and pedestrians visiting the shopping complex. Delivery trucks will protrude into intersections within the shopping outlet's interior drive in order to back into the respective loading zone. Large vehicles will be stopping and backing up in an area that is not designed to have such activities. The possibility of a collision with a motorist or pedestrian visiting the shopping mall is much more likely to occur due to the loading dock being placed near non-motorized facilities and a frequently used interior drive. If the variance request is granted, eventually there would be an increase in foot traffic due to visitors wanting to go to the future commercial use occupying the space in the rear. It should be noted that Metro Transit has been working diligently with the applicant in attempt to find an alternative bus stop location to help mitigate safety concerns. However, in order to get to the rear retail space, pedestrians would have to walk around the loading dock obstruction, regardless if the Metro bus stop is there or not.

POSSIBLE ACTIONS

The Zoning Board of Appeals may take the following possible actions:

- Motion to approve as requested (conditions may be attached)
- Motion to approve with an alternate variance relief (conditions may be attached)
- Motion to deny

The motion should include the findings of fact relevant to the requested variance. Based on the staff analysis, the following findings of fact are presented:

- Support of variance approval
 - A corner lot places additional restrictions on this property – it can be considered a unique physical circumstance.
 - The site in question is the result of a redevelopment of an indoor shopping center which creates unique challenges.
- Support of variance denial
 - The variance request is a hardship that is self-induced, as the commercial user could utilize the entire building space and existing loading dock area located at the rear of the building. Other floor plans or locations for a loading dock could be explored.
 - The variance request, if approved, would interfere with vehicular and pedestrian movement, creating a safety issue.
 - Without relief, the property can still accommodate a commercial space, as allowed per the Zoning Ordinance.
 - Review of past decisions from the Zoning Board of Appeals found that the two cases where the applicants were granted relief did not involve life and safety concerns. The variance request under consideration encounters frequent vehicular movements and foot traffic.

Possible motions for the Zoning Board of Appeals to consider include:

1. Site Plan and Variance Approval.

The Zoning Board of Appeals approves the site plan and variance request due to the property's configuration and unique history that limits its current use with the following conditions:

- All deliveries to the loading dock shall occur between 6am-8am.
- An updated site plan shall be submitted and approved by the Township prior to building permit issuance showing the following:
 - A 5 Ft wide sidewalk connector from the sidewalk adjacent to the shopping center to the sidewalk along Drake Road prior to occupancy.
 - The interior sidewalk along the building be increased to a minimum width of 5 feet.
 - The proposed dumpster will be relocated to meet the intent of the code
 - The Metro bus stop be relocated appropriately – to be coordinated with Metro.
- A parking deviation is granted to allow for the placement of the dumpster.
- The Applicant shall submit architectural details of the loading dock prior to building permit issuance.
- The Applicant shall update the elevation renderings and landscaping plan so that both are consistent with each other prior to building permit issuance. The landscaping plan shall meet ordinance requirements.
- Applicant to update signage plan and to submit and receive approval from the Planning Department prior to occupancy.
- A Soil Erosion and Sedimentation Control Permit from the Kalamazoo County Drain Commissioner's Office be obtained prior to building permit issuance.

2. Site Plan and Variance Denial

The Zoning Board of Appeals denies the site plan and variance request as the need for the variance is a self-created hardship, conformance with the code is not unnecessarily burdensome as reasonable use of the space will remain if denied, and approval would create a safety issue for both vehicular and pedestrian movement throughout the site.

Attachments: Application, Letters of Intent, Site Plan and Landscaping Plan, Floor Plan, Elevations, Letter from Metro



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

PLEASE PRINT

PROJECT NAME & ADDRESS MAPLE HILL PAVILION

PLANNING & ZONING APPLICATION

Applicant Name : JACK VENTIMIGLIA
Company DFG-Maple Hill, LLC.
Address 10100 WATERVILLE STREET
WHITEHOUSE, OH 43571
E-mail JACK.VENTIMIGLIA@SHOPONE.COM
Telephone 248-406-9172 Fax _____
Interest in Property _____

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

Fee Amount _____
Escrow Amount _____

OWNER*:

Name DFG-MAPLE HILL LLC
Address 10100 WATERVILLE ST
WHITEHOUSE, OH 43571
Email JACK.VENTIMIGLIA@SHOPONE.COM
Phone & Fax 248-406-9172 _____

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

- | | |
|---|---|
| <input type="checkbox"/> Planning Escrow-1042 | <input type="checkbox"/> Land Division-1090 |
| <input checked="" type="checkbox"/> Site Plan Review-1088 | <input type="checkbox"/> Subdivision Plat Review-1089 |
| <input type="checkbox"/> Administrative Site Plan Review-1086 | <input type="checkbox"/> Rezoning-1091 |
| <input type="checkbox"/> Special Exception Use-1085 | <input type="checkbox"/> Interpretation-1082 |
| <input type="checkbox"/> Zoning Variance-1092 | <input type="checkbox"/> Text Amendment-1081 |
| <input type="checkbox"/> Site Condominium-1084 | <input type="checkbox"/> Sign Deviation-1080 |
| <input type="checkbox"/> Accessory Building Review-1083 | <input type="checkbox"/> Other: _____ |

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): _____

PROJECT CONSISTS OF 400SF LOADING DOCK/TRUCK DELIVERY BUILDING ADDITION TO EX BUILDING.

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

SEC 13-2-12 COM AT E 1/4 PST TH N ALG E SEC LI 75.05 FT TH S87DEG57'33"W ALG N ROW OF W MAIN ST 548.71 FT TO BEG
TH CONT S87DEG57'33"W 91.02 FT TH N 02DEG02'27"W 1045 FT TH N87DEG57'33"E 676.97 FT TO E SEC LI TH S ALG SD E LI
845.54FT TH S87DEG57'33"W 209.81 FT TH N57DEG17'28"W 32.67FT TH N84DEG13'59"W 46.94 FT TH S87DEG57'33"W 194.65 FT
TH S66DEG45'35"W 83.71 FT TH S02DEG02'27" E 194.73 FT TO BEG ****12-31-2002 SPLIT FROM 13-280-050****

PARCEL NUMBER: 3905- 05-13-280-051

ADDRESS OF PROPERTY: 5022 W MAIN STREET, KALAMAZOO, NI 49009

PRESENT USE OF THE PROPERTY: Commercial

PRESENT ZONING 201 - Commercial **SIZE OF PROPERTY** 13.09 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)

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.

	12/3/2020
Owner's Signature <i>(* If different from Applicant)</i>	Date

Applicant's Signature	Date

- Copies to:
 - Planning -1
 - Applicant -1
 - Clerk -1
 - Deputy Clerk -1
 - Attorney-1
 - Assessor -1
 - Planning Secretary - Original

PLEASE ATTACH ALL REQUIRED DOCUMENTS

December 30, 2020

VIA EMAIL

ATTN: Zoning Department
Oshtemo Charter Township
7275 W. Main St., Kalamazoo, MI 49009
(269) 216-5231

RE: Burlington Loading Dock at Maple Hill Pavilion Shopping Center

To whomever it may concern:

On September 30, 2020, DFG-Maple Hill, LLC (an entity of ShopOne Centers REIT) entered into a Lease with Burlington Stores, for 26,928 square feet of a 46,980 square foot vacancy (formerly Value City Furniture). The remaining space with frontage along Drake Road will be considered for future prospects, which at this time there are not any. ShopOne feels splitting the space offers the best opportunity to lease the vacancy as it would be difficult to lease the entire vacancy to a single user. During negotiations with Burlington Stores, it was made clear that Burlington Stores would not enter into a Lease if the loading dock was not immediately adjoined to the Demised Premises and eliminated the opportunity to use the rear of the vacancy. As such, ShopOne approved a loading dock alongside the Drake Road Frontage with careful consideration towards screening and pedestrian safety as described in the submitted plans and renderings. The existing Metro Bus Stop would be relocated or removed entirely. Burlington Stores has also indicated that loading/unloading activities are likely to take place Monday through Saturday from 6-8AM, outside of store hours. ShopOne does not have any records nor could Metro produce records of an agreement allowing the bus stop in it's current location. ShopOne feels the Burlington Stores will bring valued commerce to the Township and the Shopping Center, whereas a 46,980 square foot vacancy would only offer blight to an otherwise great shopping center.

Please do not hesitate to contact the undersigned with any comments or questions.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Ventimiglia', with a stylized flourish at the end.

Jack Ventimiglia

Vice President, Construction, ShopOne

January 18, 2021

DFG-Maple Hill, LLC (an entity of ShopOne Centers, REIT) is requesting relief from Zoning Ordinance Section 52.60: Loading and Unloading in order to construct a truck dock for a National Retailer tenant to inhabit 26,928 square feet of a 46,980 square foot vacancy (formerly Value City Furniture).

Section 52.60 states: Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking space. All loading and unloading operations must be carried on entirely within the side or rear yard of the lot, parcel or building site, on a paved surface and shall not interfere with pedestrian or vehicular movement.

The following responses are provided to support this request.

- As part of the Maple Hill Pavilion, this parcel and shopping center face Main Street. Street view from N. Drake Road towards the proposed loading area will view a screening wall with landscaping in front of it.
- North-south pedestrian movements are considered with the proposed cross walk across the entrance to the loading area. Deliveries utilizing this dock are scheduled Monday-Saturday between 6am and 8am, outside of store operating hours. There is no sidewalk to Drake road in the area in question, thus interference with pedestrian movements east to west would not be anticipated. The existing Kalamazoo Metro Transit bus stop is proposed to be relocated, and the Owner and KMetro Transit have been in contact to address the bus routes and associated pedestrian movements that could be affected by proposed improvements.
- Vehicular movement along the Drake Road side of the building is minor outside of the bus stop movements. Passenger vehicles rarely utilize this parking area, as is seen in attached historical aerial photography. With the delivery schedule noted, conflict with a bus movement would be intermittent and minimal. Additionally, there is an existing 4 way stop is just south of the proposed truck dock. Delivery truck movements that would temporarily interfere with vehicular traffic across the front of the shopping center are consistent with existing traffic patterns requiring a stop.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Ventimiglia', written in a cursive style.

Jack Ventimiglia

V.P, Construction, ShopOne

2018 Maple Hill Pavilion



Canterbury Ave

Sunnydale Ave

Westbury Ln

Darby Ln

N Drake Rd

W Main St

43

Google Earth

Image © 2020 Maxar Technologies



38

900 ft

2017 Maple Hill Pavilion



Canterbury Ave

Sunnydale Ave

Westbury Ln

Darby Ln

N Drake Rd

W Main St

43



2015 Maple Hill Pavilion



Canterbury Ave

Sunnydale Ave

Westbury Ln

Darby Ln

N Drake Rd

W Main St

43



2010 Maple Hill Pavilion



2005 Maple Hill Pavilion



Canterbury Ave

Sunnydale Ave

Westbury Ln

Darby Ln

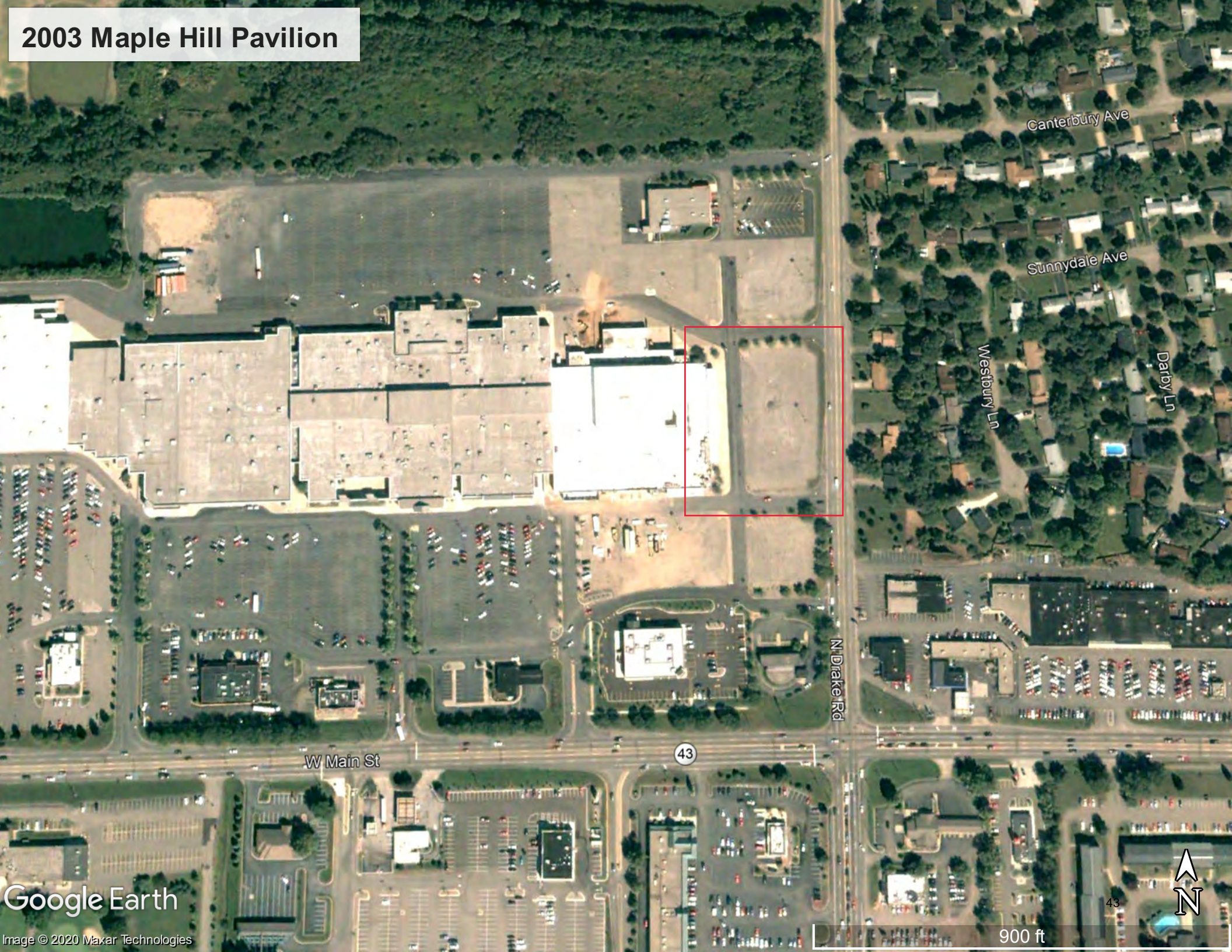
N Drake Rd

W Main St

43



2003 Maple Hill Pavilion



Canterbury Ave

Sunnydale Ave

Westbury Ln

Darby Ln

N Drake Rd

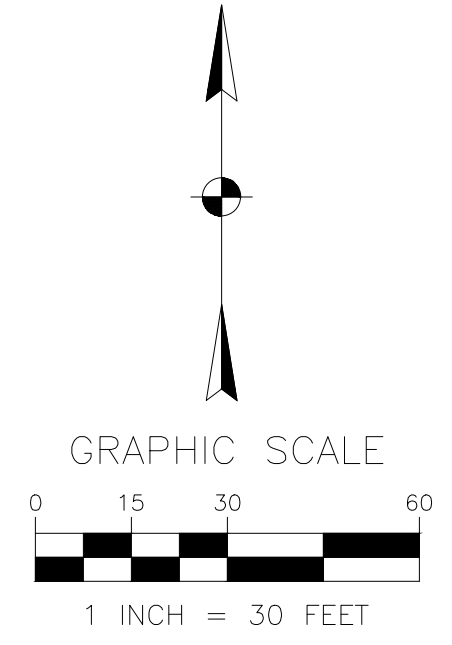
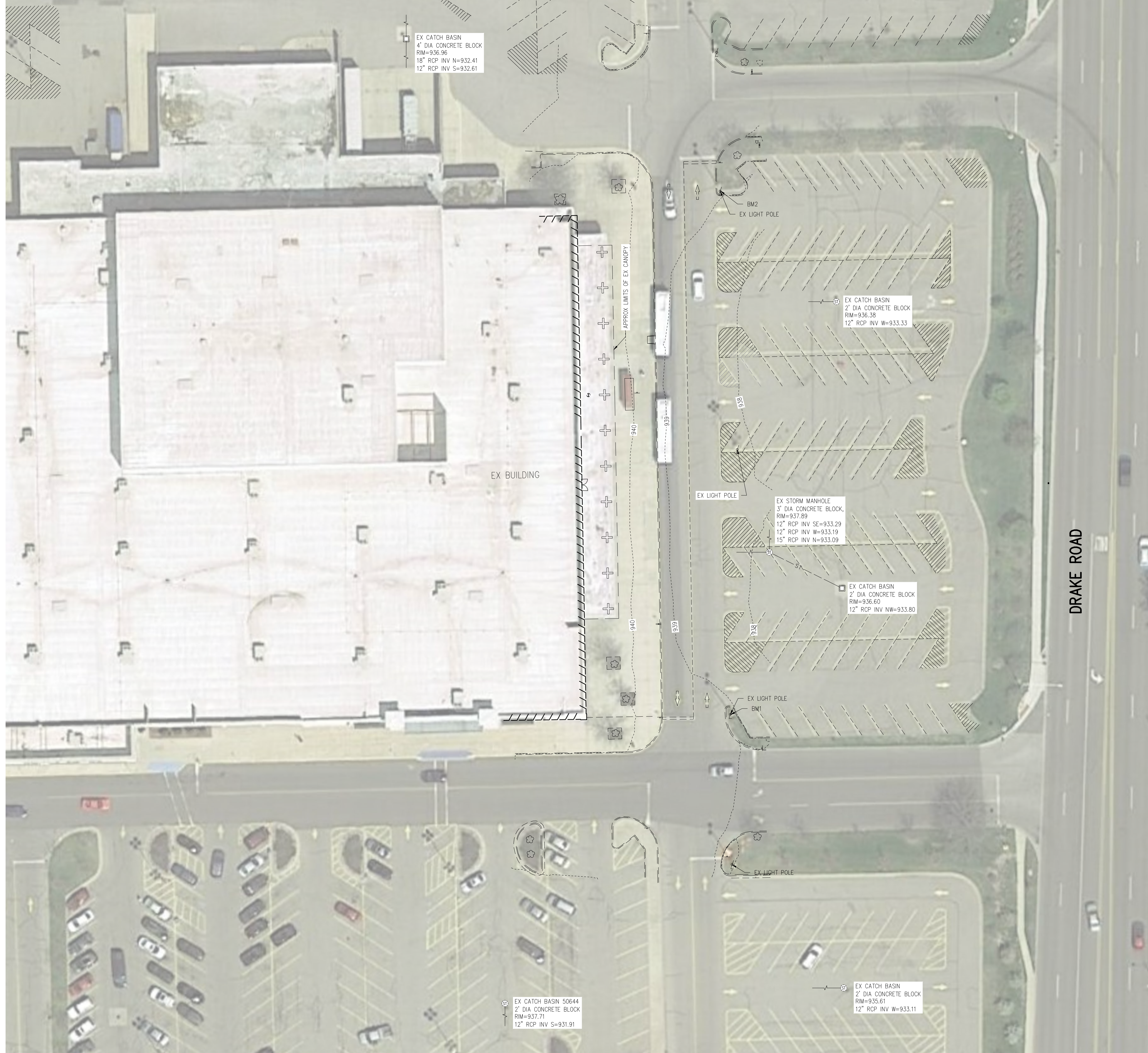
W Main St


43

43

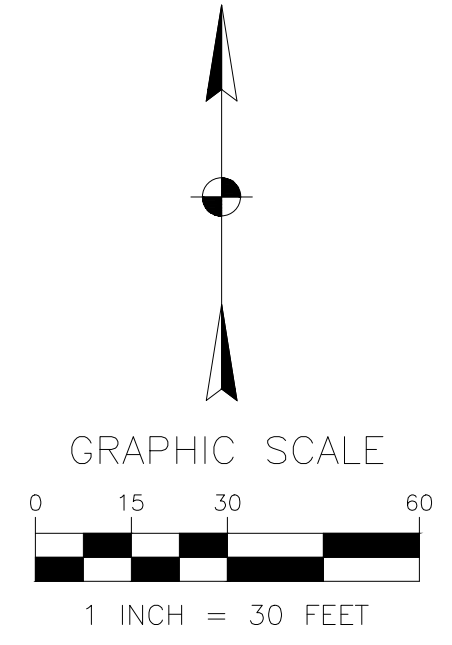
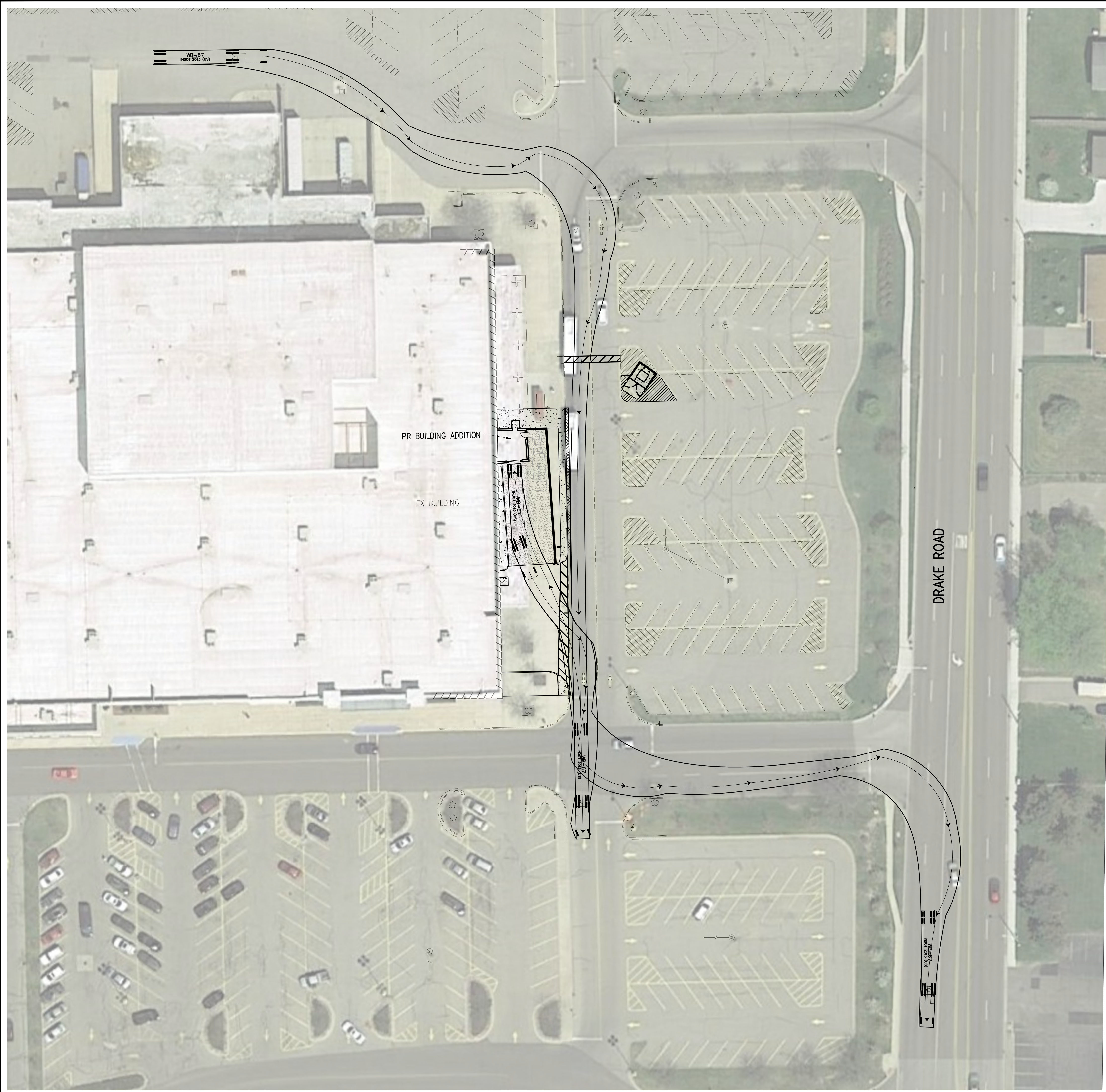



900 ft



EXISTING CONDITIONS PLAN	SITE IMPROVEMENT PLAN FOR MAPLE HILL PAVILLION 5022 W MAIN STREET KALAMAZOO, MI 49009		PREPARED FOR: ShopOne CENTERS REIT, INC. 10100 WATERVILLE STREET WHITEHOUSE, OH 43071		 TECHNICAL SKILL. CREATIVE SPIRIT. www.MannikSmithGroup.com		1160 DUBLIN ROAD, SUITE 100 KALAMAZOO, MI 49001 TEL: 888.441.4232 FAX: 888.488.7340	PROJECT NO.: S579007	PROJECT DATE: 01-04-2021	DRAWN BY: MS	CHECKED BY: SCH
	C100	NO.	DATE	BY	PRELIMINARY NOT FOR CONSTRUCTION						

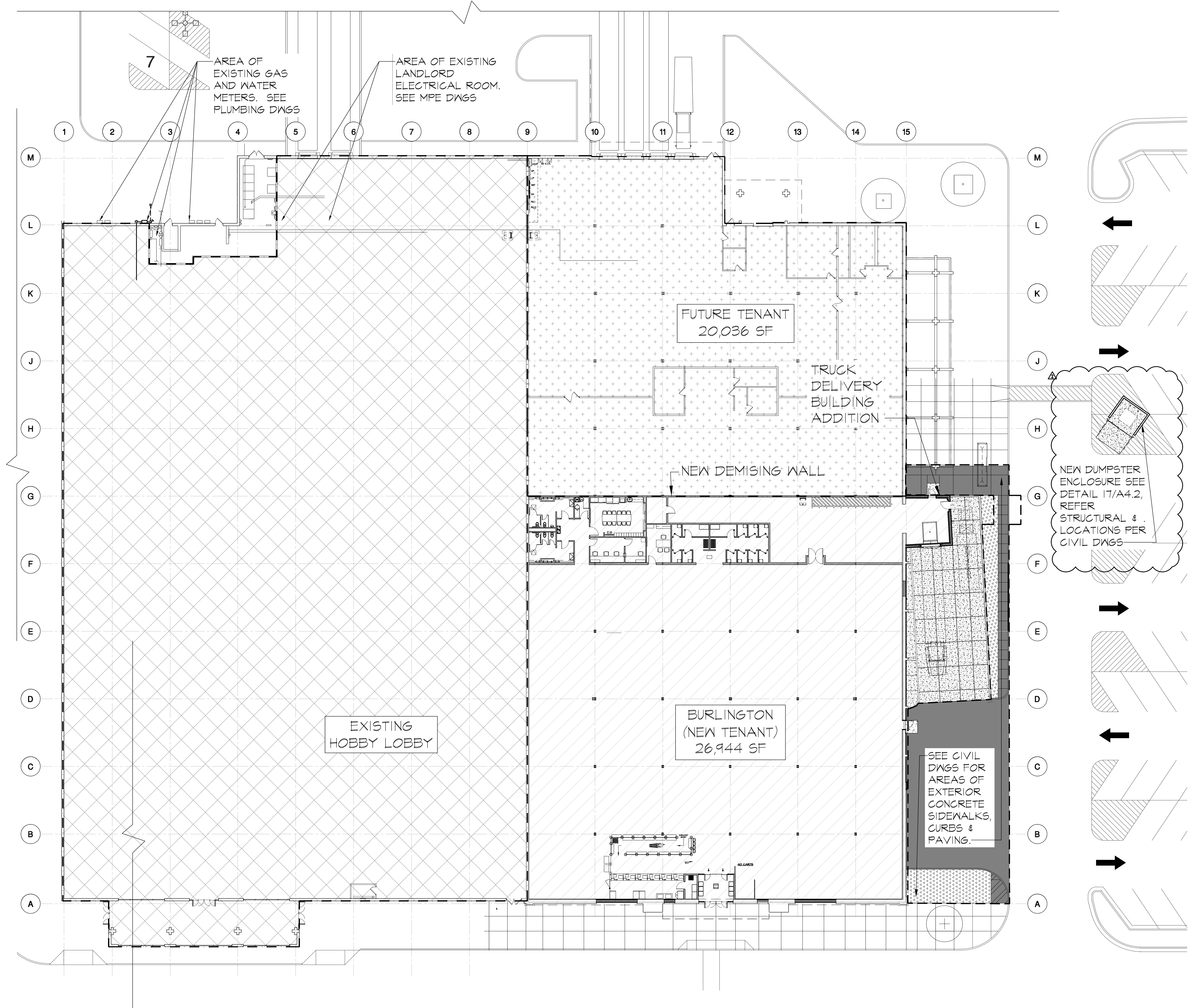
W:\Projects\Maple Hill\Maple Hill\Site Plans\Site Plans\030007_06_Aerial\030007_06_Aerial.dwg (14/02/2021 2:22 PM) v. rhuwe



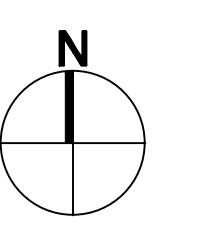
C400	TRUCK CIRCULATION EXHIBIT	SITE IMPROVEMENT PLAN FOR MAPLE HILL PAVILLION 5022 W MAIN STREET KALAMAZOO, MI 49009	PREPARED FOR: ShopOne CENTERS REIT, INC. 10100 WATERVILLE STREET WHITEHOUSE, OH 43571	 <p>Mannik Smith Group www.MannikSmithGroup.com</p> <p>TECHNICAL SKILL: CREATIVE SPIRIT.</p>	1160 DUBLIN ROAD, SUITE 100 COLUMBUS, OH 43240 TEL: 614.441.4223 FAX: 614.441.4223 PROJECT NO: S5790007 PROJECT DATE: 01-04-2021 DRAWN BY: MS CHECKED BY: SCH	<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td colspan="4" style="text-align: center;">PRELIMINARY NOT FOR CONSTRUCTION</td> </tr> </tbody> </table>	NO.	DATE	BY	DESCRIPTION	PRELIMINARY NOT FOR CONSTRUCTION			
NO.	DATE	BY	DESCRIPTION											
PRELIMINARY NOT FOR CONSTRUCTION														







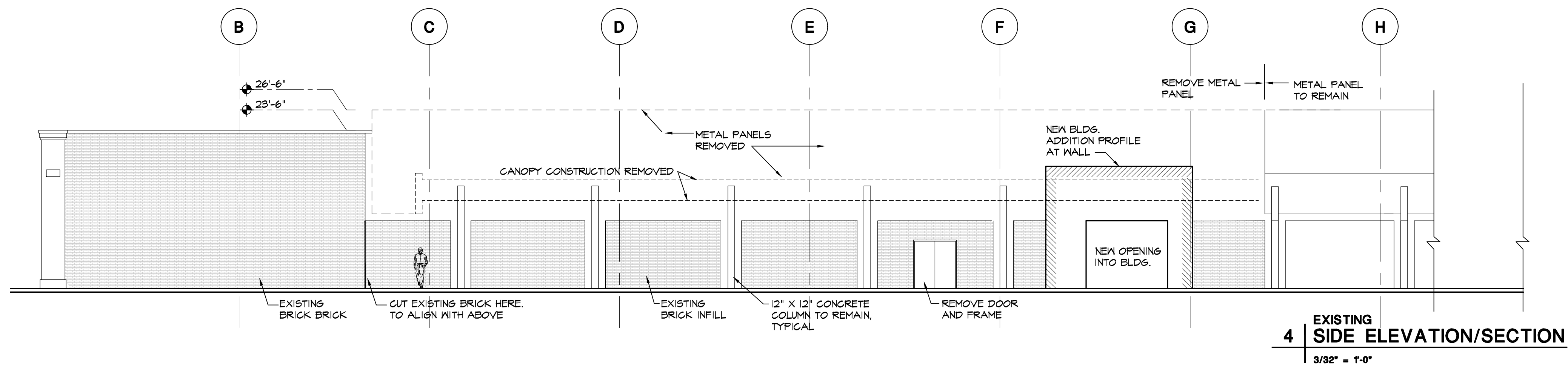
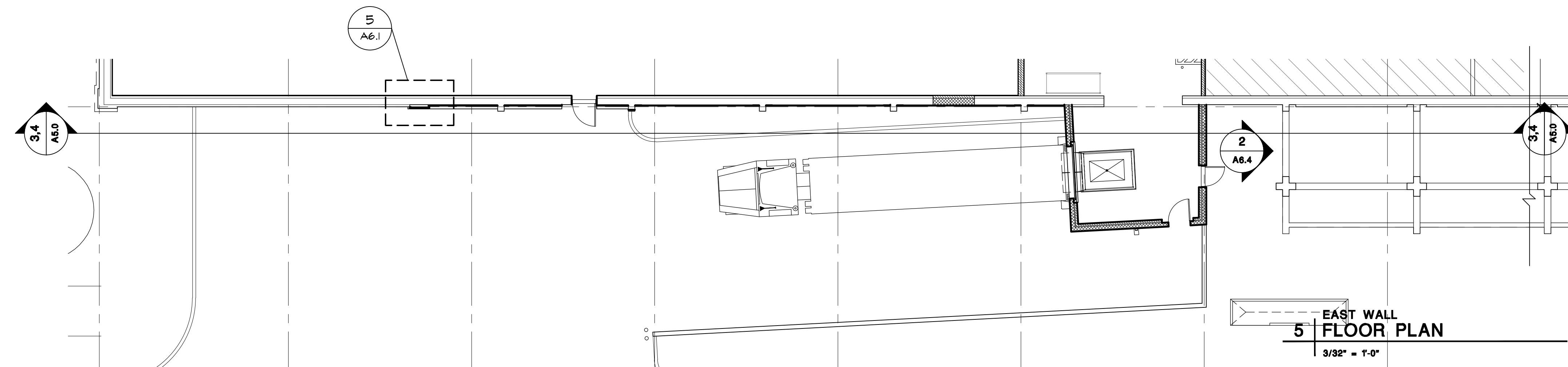
ARCHITECTURAL SITE / SHELL PLAN
1/8" = 1'-0"



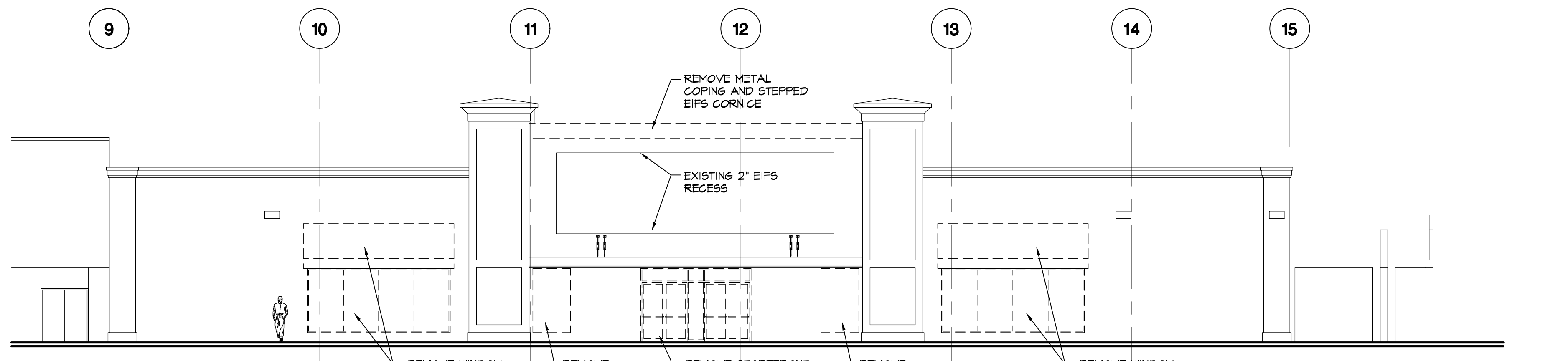
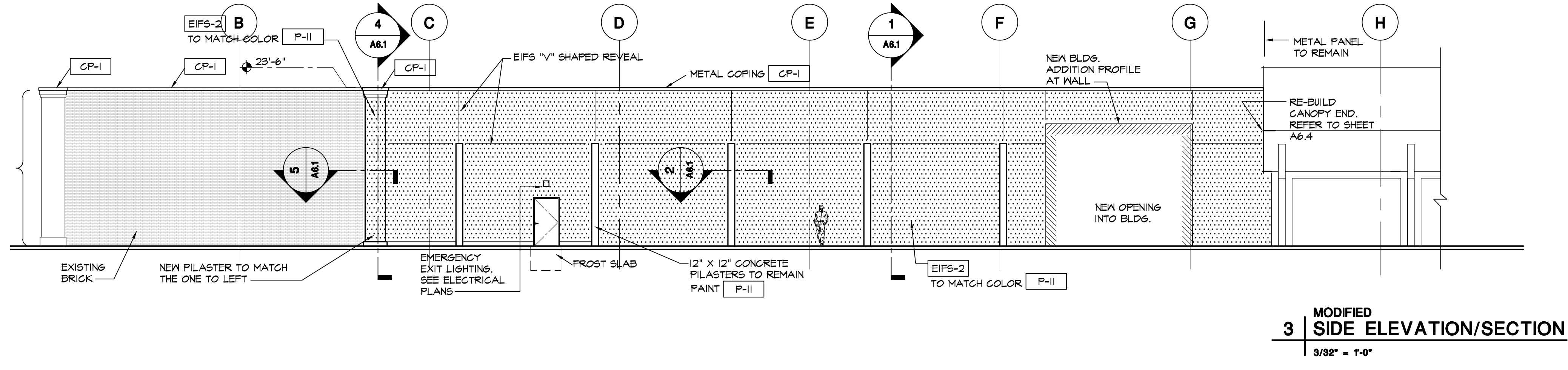
Design and construction documents as instruments of service are given in confidence and remain the property of Dushan Boucek, Architect. The use of the design and these construction documents for purposes other than the specific project noted herein is strictly prohibited without express written consent of Dushan Boucek, Architect.

Project No:	17917
Drawn By:	JF
Date	11-17-20
Issue	BD & PERMIT
12-18-20	Tenant Comments

Design and construction documents are instruments of service and remain the property of Dushan Boucek Architect. The use of the design and these construction documents for purposes other than the specific project noted herein is strictly prohibited without express written consent of Dushan Boucek Architect.



EXTERIOR MATERIAL SCHEDULE						
CODE	MATERIAL	MANUFACTURER	DESCRIPTION	COLOR	LOCATION	REMARKS
CP-1	PRE-FINISHED METAL COPING	PAC-CLAD	CONTINUOUS CLEAT COPING	BONE WHITE	AS NOTED	
P-8	PAINT.	SHERWIN WILLIAMS	PAINT.	SW #7005	AS NOTED	"PEARLY WHITE"
P-9	PAINT.		PAINT.	SW #6107	AS NOTED	
P-10	PAINT.		PAINT.	NATURAL BRUSHED 50	EXISTING CANOPY	
P-11	PAINT.		PAINT.	SW #6105	FAÇADE	SEE NOTES ON ELEVATION
EIFS-1	EXTERIOR WALL (PAINT EXISTING)		EXISTING EIFS		FAÇADE	SEE NOTES ON ELEVATION
EIFS-2	EXTERIOR WALL (NEW)	DRYVIT	NEW EIFS		FAÇADE	SEE NOTES ON ELEVATION
STFR	ALUMINUM STOREFRONT	KAWNEER TRIFAB 451	ALUMINUM STOREFRONT	CLEAR ANODIZED	AS NOTED	
GL-1	1" INSULATING CLEAR GLASS				AS NOTED	
PCT-2	PORCELAIN TILE	MOHAWK	36" X 6" LAVIANA WOOD TILE	SANDLEWOOD	ENTRY	3/16" GROUT SEAM MAPLE COLOR TO MATCH TILE. ONE-HALF RUNNING BOND PATTERN.
CMU-1	8" X 8" X 16" SPLITFACE MASONRY	TBD		TBD	TRUCK DELIVERY BUILDING, SCREEN WALL	



Project No: 17917
 Drawn By: JF
 Date: 11-17-20
 Issue: BD & PERMIT



Connecting People Throughout
Kalamazoo County

January 20, 2021

Iris Lubbert, AICP, Planning Director
Oshtemo Charter Township
7275 West Main Street
Kalamazoo, MI 49009

RE: Metro Bus Stop at Maple Hill Pavilion

Dear Ms. Lubbert:

We are in receipt of a site plan being proposed by Shop One Centers that would require the moving of the current Metro bus stop located on the east end of the Maple Hill Pavilion. We would like to present the current usage of this bus stop for your information as part of the site plan consideration:

Metro Bus Stop #782

2019 Stop Usage: 91,000 passenger movements (5th largest in Metro system)
Boarding: 47,409 Alighting: 44,559

Point of Reference (total passenger movements for Metro system)

- | | |
|---|---------------------------------|
| #1 Kalamazoo Transportation Center: 1,917,103 | #6 Meijer Westnedge: 81,348 |
| #2 Rood Hall at WMU: 264,066 | #7 58 West Apartments: 74,943 |
| #3 Crossroads Mall: 142,863 | #8 Hardings West Main: 42,424 |
| #4 Walmart Gull Road: 92,745 | #9 Kendall at Whitehall: 41,225 |
| #5 Maple Hill Mall: 91,968 | #10 Meijer Gull Road: 37,462 |

Usage of Maple Hill Pavilion

Route 3 - West Michigan

18 stops per day Monday – Friday; 16 stops per day Saturday; 9 stops per day Sunday

Route 7 – Alamo

30 stops per day Monday – Friday; 16 stops per day Saturday; 10 stops per day Sunday

Route 14 – West Main

60 stops per day Monday – Friday; 60 stops per day Saturday; 20 stops per day Sunday

Total Usage: 540 Monday – Friday; 92 Saturday; 39 Sunday = 671 stops per week

Metro Bus Stop at Maple Hill Pavilion

January 20, 2021

Page 2

In looking at the site plan proposed by Shop One Centers, planning and operations staff at Metro have expressed several concerns with the removal of the current bus stop location. Those concerns include:

- The current bus stop provides space for three buses to be at the location at one time. The bus stop connects routes 3, 7, and 14 a number of times per day and is a vital stop connecting passengers to employment and shopping at Maple Hill Mall and surrounding businesses.
- The location of the bus stop is accessible for passengers with ADA needs, using wheelchairs or are visually impaired. Our buses are able to easily deploy bus ramps to the concrete area and the area has limited obstructions.
- Due to the number of times the three routes visit the bus stop at Maple Hill Mall, the stop location limits conflict with parked vehicles and traffic at the shopping center.
- The current driveway configuration used to enter and exit Maple Hill Pavilion is used to allow buses to easily exit taking left hand turns.

We have received three proposals from Shop One Centers with primary bus stop locations. In reviewing these locations, none of them will be able to accommodate the usage needed by Metro. Further discussions will be required to work with the property owner.

If the current site plan is approved by Oshtemo Township as presented to us, we will need to explore options for relocating the bus stop on the site or move to a different location. This could cause disruption in service to our passengers. We would appreciate being included in conversations regarding the site plan and will be willing to work with Oshtemo Township and Shop One Centers to develop an alternative area for the bus stop that is safe and convenient for our drivers and passengers and is in line with the zoning requirements for Oshtemo Township.

Please let us know if you need addition information. Thank you.

Sincerely,

Kathy Schultz, Planning and Development Manager
Metro

Cc:
Sean McBride, Executive Director
Yvonne Thrash, Deputy Director of Operations
Terecita Potts, Senior Operations Supervisor