



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
269-216-5220 Fax 375-7180 TDD 375-7198  
www.oshtemo.org

**NOTICE  
OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**Thursday, June 9, 2016  
7:00 p.m.  
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes – May 26, 2016
6. **PUBLIC HEARING: Special Exception Use (Good Stuff Fireworks Corp.)**  
Consideration of an application from Good Stuff Fireworks Corp., for a special exception use for temporary tent sales of consumers' fireworks at 5034 West KL Avenue, Kalamazoo MI, from June 10 through July 7, 2016, pursuant to Section 24.407 of the Township's Zoning Ordinance. Parcel No. 3905-24-430-050.
7. **PUBLIC HEARING: Special Exception Use (Latitude Brewing Co.)**  
Consideration of an application from Latitude 42 Brewing Company for a special exception use for a brewpub/restaurant at 6075 and 6101 West Main Street, Kalamazoo MI, pursuant to Section 50.302 of the Township's Zoning Ordinance. Parcel Nos. 3905-14-430-071 and 3905-14-430-062.
8. Old Business
9. Any Other Business
10. Planning Commissioner Comments
11. 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 to respond at a later date.
- 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.

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; it is not required unless the speaker wishes to have their comment recorded in the minutes.

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 or Citizen Comment on 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 is in contravention of any of the principles and procedures set forth herein.

(adopted 5/9/2000)  
(revised 5/14/2013)

**Policy for Public Comment**  
**6:00 p.m. "Public Comment"/Portion of Township Board Meetings**

At the commencement of the meeting, the Supervisor shall poll the members of the public who are present to determine how many persons wish to make comments. The Supervisor shall allocate maximum comment time among persons so identified based upon the total number of persons indicating their wish to make public comments, but no longer than ten (10) minutes per person. Special permission to extend the maximum comment time may be granted in advance by the Supervisor based upon the topic of discussion.

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 to respond at a later date.

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; it is not required unless the speaker wishes to have their comment recorded in the minutes.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 2/27/2001)  
(revised 5/14/2013)

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A MEETING HELD MAY 26, 2016**

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**Agenda**

**PUBLIC HEARING: CONDITIONAL REZONING (WEATHERVANE SELF-STORAGE) CONSIDERATION OF AN APPLICATION FROM WEATHERVANE FARMS DEVELOPMENT, INC. ON BEHALF OF THOMAS AND CAROLE DEBOER, FOR A REZONING WITH A VOLUNTARY SET OF CONDITIONS OF APPROXIMATELY 10.82 ACRES PURSUANT TO SECTION 53 OF THE TOWNSHIP ZONING ORDINANCE TO A SELF-STORAGE FACILITY AT 4221 SOUTH 9<sup>TH</sup> STREET FROM THE I-R: INDUSTRIAL DISTRICT, RESTRICTED TO THE I-1: INDUSTRIAL DISTRICT, MANUFACTURING/SERVICES DISTRICT. PARCEL NO. 3905-405-060.**

**Old Business:**

**Village Form-Based Code Overlay District**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, May 26, 2016, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

**MEMBERS PRESENT:** Millard Loy, Chair  
Fred Antosz  
Kimberly Avery  
Wiley Boulding, Sr.  
Dusty Farmer  
Mary Smith

**MEMBERS ABSENT:** Pam Jackson

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, and Martha Coash, Meeting Transcriptionist. Approximately 10 other persons were in attendance.

**Call to Order and Pledge of Allegiance**

The meeting was called to order by Chairperson Loy at approximately 7:00 p.m., and the "Pledge of Allegiance" was recited.

## **Agenda**

Chairperson Loy asked if there were any additions, deletions or corrections to the Agenda. Hearing none, he called for a motion to accept the Agenda as presented.

Mr. Antosz made a motion to accept the agenda as presented. Ms. Avery seconded the motion. The motion passed unanimously.

## **Public Comment on Non-Agenda Items**

Chairperson Loy asked if any members of the audience cared to speak on non-agenda items. As no one responded he proceeded to the next agenda item.

## **Approval of the Minutes of May 12, 2016**

Chairperson Loy asked if there were any additions, deletions or corrections to the minutes of May 12, 2016. Hearing none, he asked for motion to approve the minutes.

Mr. Boulding, Sr. made a motion to approve the minutes of May 12, 2016 as presented. Mr. Antosz seconded the motion. The motion was approved unanimously.

## **PUBLIC HEARING: CONDITIONAL REZONING (WEATHERVANE SELF-STORAGE) CONSIDERATION OF AN APPLICATION FROM WEATHERVANE FARMS DEVELOPMENT, INC. ON BEHALF OF THOMAS AND CAROLE DEBOER, FOR A REZONING WITH A VOLUNTARY SET OF CONDITIONS OF APPROXIMATELY 10.82 ACRES PURSUANT TO SECTION 53 OF THE TOWNSHIP ZONING ORDINANCE TO A SELF-STORAGE FACILITY AT 4221 SOUTH 9<sup>TH</sup> STREET FROM THE I-R: INDUSTRIAL DISTRICT, RESTRICTED TO THE I-1: INDUSTRIAL DISTRICT, MANUFACTURING/SERVICES DISTRICT. PARCEL NO. 3905-405-060.**

Mr. Loy moved to the next item on the agenda and asked Ms. Johnston to review the request for conditional rezoning from Weathervane Farms Development, Inc.

Ms. Johnston explained the applicant was requesting the Planning Commission consider a conditional rezoning of a 10.82 acre parcel from the existing I-R: Industrial District, Restricted to the I-1: Industrial District as allowed by *Section 53.00: Conditional Rezoning* of the Zoning Ordinance. The subject parcel is addressed as 4221 South 9<sup>th</sup> Street, which is located on the east side of 9<sup>th</sup> Street just north of Technology Avenue. The previous use of the property was V & V Lumber, which has been out of business for approximately five years. The current I-R District does not permit the use desired by the applicant. After discussion with Planning staff, the applicant was informed that a traditional rezoning to the I-1 District for this parcel was unlikely and therefore the requested use of a self-storage facility would not be permitted. This prompted the applicant to seek the conditional rezoning.

She said conditional rezoning is a mechanism that allows anticipated concerns or unique circumstances to be addressed or managed by attaching conditions to a rezoning request. The conditional rezoning process follows the same steps and procedure as a traditional rezoning with the exception that the applicant may offer conditions that place additional restrictions or limitations on their property.

Ms. Johnston said the property subject to the rezoning request is 10.82 acres with approximately 246 feet of frontage on the South 9<sup>th</sup> Street. The property is currently owned by Thomas and Carole DeBoer, and the applicant has an option to purchase pending various approvals. The owner has given consent to this application.

She explained the property previously housed V & V Lumber, which developed approximately the first 650 linear feet of the property east of South 9<sup>th</sup> Street. The remaining 500 linear feet to the east property line remained undeveloped. Originally, six large warehouse buildings were located on the property. The recent development of the transmission lines installed by ITC necessitated the removal of two buildings along the southern boundary of the property, leaving four buildings on site. She noted the ITC electrical transmission line traverses the property along the southern boundary the full length of the parcel. At the right-of-way line for South 9<sup>th</sup> Street, the utility easement is 102 feet in width, gradually increasing to 180 feet in width at the east property line. The easement agreement restricts the placement of buildings or other above ground structures that the utility feels would interfere with their use of the easement. The parcel at its widest point is 378 linear feet and reduces to 370 linear feet at the eastern property line. At the western parcel line, the easement reduces this buildable width to 276 linear feet and to 190 linear feet at the eastern property line.

Ms. Johnston said the narrowing of the parcel where buildings can be constructed increases the depth to width ratio of the parcel from 3:1 to 4:1. While some site activities would be allowed within the easement, such as parking, the significant encroachment of the ITC easement may impose some development challenges on the parcel.

She noted the applicant provided a concept plan and a list of 12 conditions for the Planning Commission's consideration. After talking with Attorney Porter, it was felt Condition #1 was appropriate to address at this meeting. The remaining conditions associated with the request to rezone to the I-1 District would be more appropriately addressed in the future during a special exception/site plan review process if Condition #1 were approved at this meeting.

Condition #1 would allow the property to be conditionally rezoned to the I-1: Industrial District. However, two acres immediately adjacent to South 9<sup>th</sup> Street would house uses consistent with the permitted uses in the I-R District. Allowing the front two acres, which are adjacent to the public right-of-way, to develop under the I-R District would provide some buffering to the self-storage development as well as afford some consistency in uses along South 9<sup>th</sup> Street. Ms. Johnston said Staff has no concerns with this condition.

She said while a self-storage use is not specifically indicated in the Master Plan, the design of the concept plan provided as part of the conditional rezoning application affords some compatibility with the future land use designations. The two acres adjacent to South 9<sup>th</sup> Street and intended for development under the I-R District aligns with the Transitional Mixed Use District planned for this area. Uses permitted within the I-R District include packaging of products, medical facilities, professional offices, research, financial institutions and clinics, which is similar to the uses in the Transitional Mixed Use designation. The remaining acreage intended for the self-storage facility would fall within the Research Office District. Per the Master Plan, self-storage is generally planned in areas intended for General Industrial activities.

She said the requested change to the I-1 Industrial District with conditions is generally consistent with the surrounding zoning. The request to limit most of the site to one use, self-storage, will allow the Planning Commission to ensure compatibility through the site plan review process of the special exception use requirements. In addition, allowing the frontage of the parcel to be developed under the I-R District provides some consistency of zoning and development design along South 9<sup>th</sup> Street.

Ms. Johnston said the regulatory requirements of the I-R District and the restrictions placed on the property by the ITC easement make reasonable use and development of the property challenging under existing conditions. She recommended the board approve conditional rezoning of the 10.82 acre parcel to the I-1: Industrial District. However, the two acres immediately adjacent to South 9<sup>th</sup> Street would house uses consistent with the permitted uses in the I-R district.

Chairperson Loy asked if Commissioners had questions.

Mr. Antosz asked what would happen with the conditional rezoning if the purchase of the property does not occur.

Attorney Porter indicated the property would revert to the original zoning if the sale does not occur.

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

Mr. Ian Kennedy, 3320 Bronson Blvd., who spoke on behalf of Weathervane Farms Development, Inc. agreed with the approach recommended by Ms. Johnston and said they felt they could work out a compatible agreement with ITC consistent with the proposed usage. He noted approval is needed from ITC for whatever goes on beneath the power lines and was confident that landscaping and screening plans can be worked out with both the Township and ITC. He added that ITC has signed off on a concept site plan that was submitted to the utility company. He also noted ITC would not allow a fence or trees on the easement that would interfere with the power lines.

Chairperson Loy asked if any members of the public wished to speak.

Mr. Terry Schley, 7497 Watermark Drive, Allendale MI commented that he did not agree three items in the Staff memo: 1)the interpretation of Section 75.200 regarding buffering and planting; 2) that an I-R site with more than one building must have a public road; and 3) to achieve the spirit and intent of Section 75.100, which includes compatibility and buffering and screening of unattractive features when considering outside storage of large boats and motor homes, he asked that additional screening be required and felt an eight foot fence would not be adequate.

No other audience members wished to speak; the Chair moved to Board Deliberations.

Mr. Antosz said the property would be difficult to develop given the ITC easement. He and Ms. Farmer both said they had concerns about some of the issues that will be dealt with during a site plan review.

Ms. Smith asked if an 8 – 10 foot fence would change status with ITC.

Mr. Mike Fisher of Weathervane said ITC does not want anything added in the easement. A six foot fence already exists which will be shifted forward about 40 feet in the easement area. ITC will not allow anything taller or any trees to be planted there. He noted the topography drops down in that area which makes a difference; this issue will be addressed in the site plan.

Chairperson Loy entertained a motion on the recommendation.

Mr. Antosz made a motion to approve conditional rezoning of the 10.82 acres at 4221 South 9<sup>th</sup> Street to from I-R to I-1 and that the two acres immediately adjacent to South 9<sup>th</sup> Street will house uses consistent with the permitted uses in the I-R District. The motion was supported by Ms. Avery. The motion carried 5-1, with Mr. Boulding, Sr. dissenting.

## **Old Business**

### **Village Form-Based Code Overlay District**

Chairperson Loy asked Ms. Johnston to address the Board regarding the Village Form-Based Code Overlay District.

Ms. Johnston noted she had planned to talk with the DDA Board at its May meeting about possible changes to the east corridor architectural standards that were discussed at the April 14 PC meeting. The May DDA meeting was cancelled due to lack of a quorum. She hopes to schedule a special meeting of the DDA in June and will talk with them at that time.

Chairperson Loy moved to the next item on the agenda.

**Any Other Business**

The Chairperson determined there was no other business to consider.

**PLANNING COMMISSIONER COMMENTS**

There were no comments from Commissioners.

**ADJOURNMENT**

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Loy adjourned the Planning Commission meeting at approximately 7:30 p.m.

Minutes prepared:  
May 28, 2016

Minutes approved:  
\_\_\_\_\_, 2016

May 26<sup>th</sup>, 2016



**Meeting Date:** June 9<sup>th</sup>, 2016

**To:** Planning Commission

**From:** Ben Clark, Zoning Administrator

**Applicant:** Jason Lambracht

**Owner:** Indy-C-Kal, Inc.

**Property:** 5034 West KL Avenue, parcel number 3905-24-430-050

**Zoning:** R-4: Residence District

**Request:** Special Exception Use permission to hold a temporary outdoor event for more than one day for a fireworks tent sale

**Section(s):** 24.000—R-4: Residence District; 60.000—Special Exception Uses

**Project Name:** The Good Stuff Fireworks tent sale

## **OVERVIEW**

The applicant is seeking permission to locate a fireworks sales tent in the parking lot of the multi-unit commercial building located at the northwest corner of Drake Road and KL Avenue from June 10<sup>th</sup> to July 7<sup>th</sup>, 2016. With the proposed outdoor event to last more than one day, Special Exception Use permission from the Planning Commission is necessary.

## **EVENT SUMMARY**

Selecting this location due in part to its situation at the intersection of two well-travelled roads, the applicant plans to erect a 1600 square foot tent in the southeast corner of the parking lot to sell consumer-grade fireworks. The tent's location meets all applicable setbacks, takes up no parking spaces, and still allows ample room for vehicle circulation throughout the site. Along with the tent, the applicant also intends to use a lockable steel container on the site to store products overnight, since the tent will only be staffed during business hours, which will be 10:00 am to 9:00 pm through the end of June, expanding to 9:00 am to 11:00 pm for the remainder of the event. The container will take up approximately one parking space.

Although the subject property is zoned as R-4: Residence District, which doesn't typically allow commercial uses, this property is part of a larger planned unit development (PUD) that was established in 1989, then known as a *multiple use development* (MUD), and has been approved for business uses.

## **FIRE DEPARTMENT**

Oshtemo Township's Fire Marshal has reviewed the planned site layout for the fireworks sale and the proposed floorplan for inside of the tent. He has no issues at this time, but the site will be subject to his inspection once it is set up, per state law.

## **OTHER CONSIDERATIONS**

Section 60.100 of the Zoning Ordinance provides additional review criteria for consideration when deliberating a Special Exception Use request.

**A. Is the proposed use compatible with the other uses expressly permitted within the R-4: Residence District?**

While this use isn't permissible within the R-4 district itself, it is in accordance with the uses allowed within this particular portion of the planned unit development. Given the other commercial uses present on the property—two casual restaurants and a convenience store—staff does feel that the use is compatible with the PUD, if not the underlying zoning.

**B. Will the proposed use be detrimental or injurious to the use or development of adjacent properties or to the general public?**

With the tent proposed to be located in a section of the property that meets all setbacks and is generally not used for parking nor vehicle circulation, staff is confident that this use will not negatively impact adjacent properties or the general public. Staff is also comfortable with the proposed placement of the storage container—while it will take up one parking space, it will be situated in such a way that it meets the applicable setbacks without inhibiting traffic flow.

**C. Will the proposed use promote the public health, safety, and welfare of the community?**

Planning Department staff as well as the Township's Fire Marshal have reviewed the proposed layout, finding it to be generally satisfactory and not detrimental to the public health, safety, and welfare of the community: Traffic will still be able to circulate freely throughout the site, sufficient parking accommodations remain, and any relevant zoning requirements for outdoor events are met. This being said, one aspect of the proposed event that may warrant extra scrutiny from the Planning Commission is the fact that the applicant is proposing to secure the fireworks overnight in a locked storage container rather than having security personnel on-site outside of business hours. The steel container will be of robust construction—akin to the sea crates that are used on cargo ships—but the Planning Commission will need to determine whether or not this is an acceptable substitute to having someone watch the location, as is done at the three other fireworks vendors that hold outdoor sales events in the Township.

**D. Will the proposed use encourage the use of the land in accordance with its character and adaptability?**

Collocated on a property that is already used for commercial ventures, Staff feels that the proposed outdoor sales event is in accordance with the land's character and adaptability. Although the subject property is located adjacent to residential areas, the tent will be placed relatively far away from any dwellings, buffered not only by the preexisting commercial structure, but also by a private access road and retention basin to the west and a large, thickly screened greenspace buffer to the north.

**RECOMMENDATION**

Satisfied with the project as presented, Planning Department staff recommends that the Planning Commission grant approval for The Good Stuff's outdoor fireworks tent sale, subject to the following conditions:

1. The final layout of the site is to be inspected and approved by the Fire Marshal prior to the commencement of business unless the applicant has submitted the necessary signed affidavit to the State of Michigan, attesting compliance with any and all relevant regulations.
2. The tent and storage container may be placed on-site no sooner than June 10<sup>th</sup> and must be removed by July 8<sup>th</sup>, 2016.
3. A \$400 compliance deposit, required of all fireworks vendors by the Planning Commission as of May, 2015, is to be submitted to the Township prior to the commencement of business. The deposit shall be returned in full to the applicant after the event ends, provided the tent and storage container are removed from the site by July 8<sup>th</sup>. Any failure to meet this deadline to return the site to its previous condition will result in a fine of \$75 per day, to be drawn from the compliance deposit. If the deposit is exhausted then the Township is to initiate other enforcement actions.
4. Fireworks sales will only be allowed between 10:00 am and 9:00 pm from June 10<sup>th</sup> to June 30<sup>th</sup> and 9:00 am to 11:00 pm from July 1<sup>st</sup> to July 7<sup>th</sup>.
5. All products must be relocated to the storage container nightly at the end of business hours. The storage container is to remain locked when no employees of The Good Stuff Fireworks are not present on the site.
6. A sign permit application must be submitted to the Township prior to the placement of any signage on the site. Any such devices must comply with section 76.000 of the Zoning Ordinance.

If the Planning Commission is so inclined, Staff requests that the body allow subsequent outdoor fireworks sales held by the applicant at this address to be administratively approved, provided the proposed layout for any future events does not deviate significantly from the request being presented at this time. This is consistent with how other fireworks vendors' sales events are handled.

Respectfully Submitted,



Ben Clark  
Zoning Administrator

Attachments:

- Application
- Site plan/aerial map
- Tent floorplan
- Certificate of insurance
- Signed lease agreement
- Fire Marshal memo
- Fire resistant tent certificate



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

PLEASE PRINT

PROJECT NAME & ADDRESS 5034 W. KL Ave. Kalamazoo, MI 49009

PLANNING & ZONING APPLICATION

Applicant Name: Jason Lambrecht  
Company: The Good Stuff Fireworks corp.  
Address: 439 S. Westnedge Ct.  
Kalamazoo MI 49008  
E-mail: Jason.Lambrecht@gmail.com  
Telephone: (616) 821-5335 Fax: \_\_\_\_\_  
Interest in Property \_\_\_\_\_

Oshtemo Charter Township  
7275 W MAIN ST  
KALAMAZOO, MI 49009  
Phone : 269-375-4260  
OSHTEMO TOWNSHIP.ORG

Received From: 5034 W KL AVE  
Date: 05/05/2016 Time: 4:10:46 PM  
Receipt 123365  
Cashier LINDAI

OWNER\*:

Name: Mike Kinnia  
Address: 2500 W Mound Circle  
Sterling Heights MI 48310  
Email: mike.kinnia@gmail.com  
Phone & Fax: (586) 524-8087

| ITEM REFERENCE             | AMOUNT   |
|----------------------------|----------|
| 1085 SPECIAL EXCEPTION USE |          |
| SPECIAL EXCEPTION USE      | \$300.00 |
| TOTAL                      | \$300.00 |
| CASH                       | \$300.00 |
| Total Tendered:            | \$300.00 |
| Change:                    | \$0.00   |

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

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: \_\_\_\_\_

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):

Seeking a permit to set up & operate a consumer fireworks tent sale for the last two weeks of June and the first week of July (June 17-July 1)

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

Attached

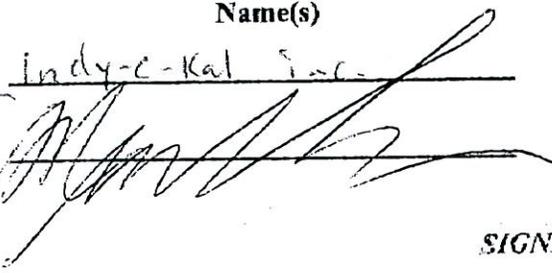
PARCEL NUMBER: 3905- \_\_\_\_\_

ADDRESS OF PROPERTY: 5034 W. KL Ave. Kalamazoo, MI 49009

PRESENT USE OF THE PROPERTY: Commercial

PRESENT ZONING B-4 SIZE OF PROPERTY 3 acres

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

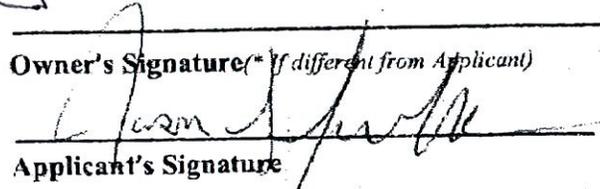
| Name(s)   | Address(es)   |
|---|---|
| <u>Indy-C-Kal Inc.</u>  | <u>2500 W. Mound Circle Sterling Heights MI 48310</u> |
|  | _____   |

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.

Owner's Signature (\* If different from Applicant)

Date



05 May 2016

Applicant's Signature

Date

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

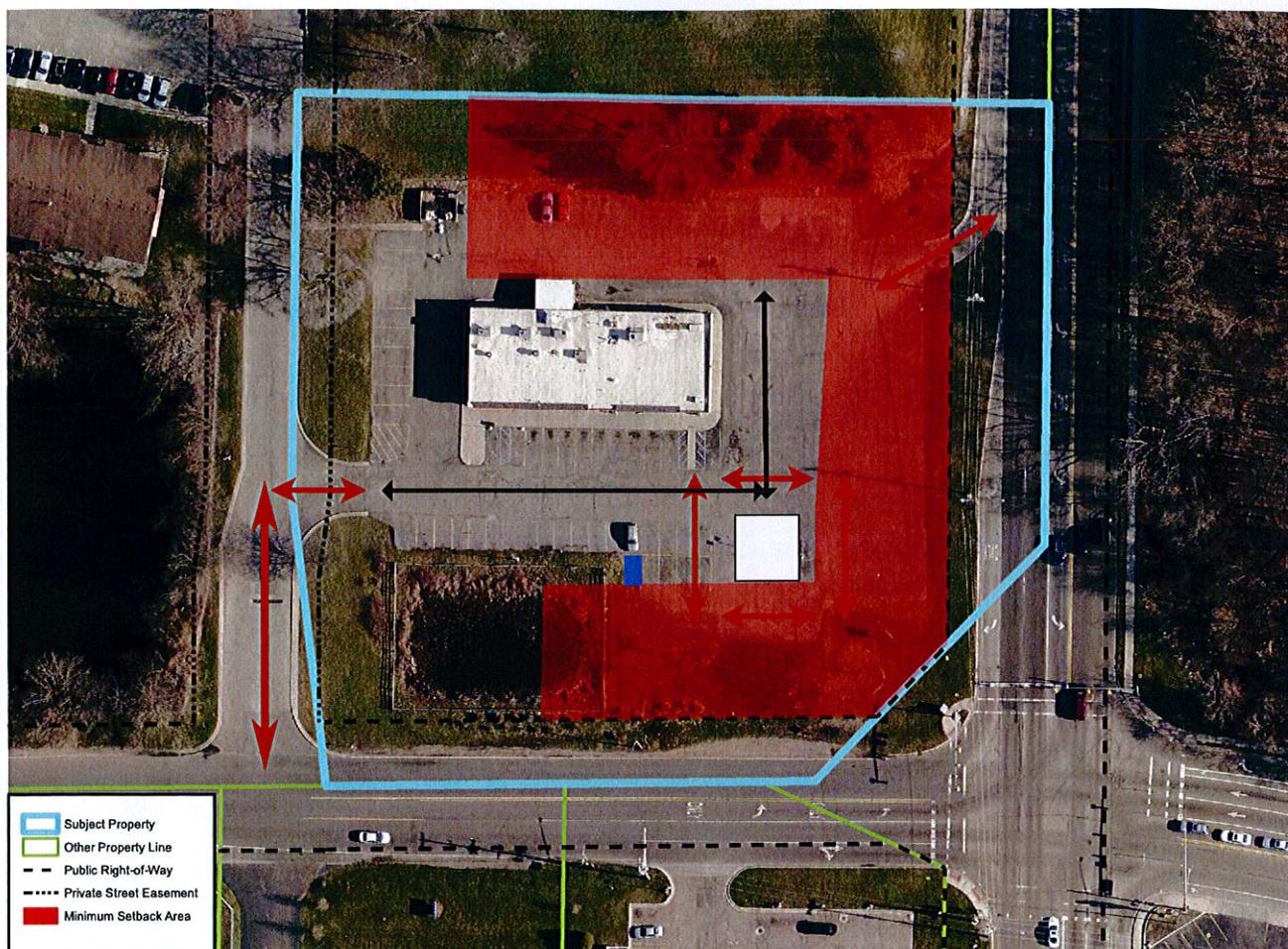
\*\*\*\*  
PLEASE ATTACH ALL REQUIRED DOCUMENTS

Legal description for 5034 West KL Avenue, parcel number 3905-24-430-050

SEC 24-2-12 BEG IN E LI 979.44FT SLY OF E1/4 POST TH S 0DEG00MIN27SEC W THEREON 227.79FT TH S  
44DEG16MIN45SEC W 172.6FT TO S1/8 LI TH S 88DEG33MIN05SEC W THEREON 256.46 FT TH N  
7DEG35MIN41SEC W 151.33FT TH N 207.84FT TH E 396.9FT TO BEG \* \*\*10-89 1989 SPLIT FROM 24-430-  
038

# 5034 West KL Avenue

## Fireworks Sale Site Plan



Perimeter of Tent - 40' x 40'



Storage Container - 8' x 20'

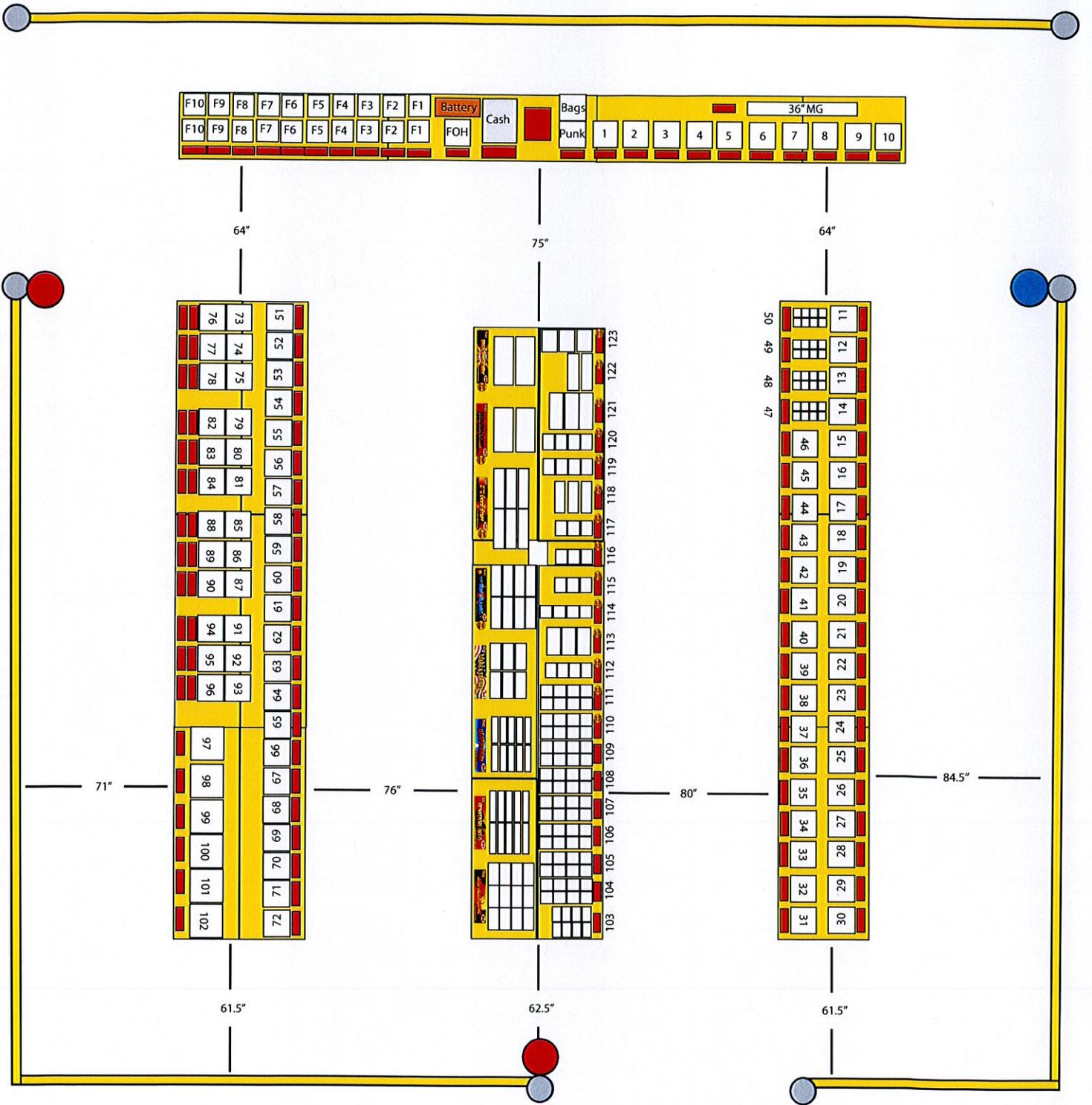


Fire Department Access



Traffic Flow

- 1) Fire Department Access to the area can be done with the entryway on Drake or West KL ave. The tent is easily accessible by the Fire Department on all sides within 150 feet, including from the street on the East and South sides.
- 2) There is no retail-propane dispensing station within 50 feet of the tent.
- 3) There is no above-ground storage tanks for flammable or combustible liquid, flammable gas, or flammable liquified gas within 50 feet of the tent.
- 4) There is no compressed natural gas-dispensing station within 50 feet of the tent.
- 5) There is no motor-vehicle fuel-dispensing station within 50 feet of the tent.
- 6) There will be no generator on the tent site.
- 7) There is no bulk plant or bulk terminal for flammable or combustible liquid, flammable gas, or flammable liquified gas within 300 feet of the tent.
- 8) Storage container (in blue above) is located over 10 feet away from the tent (approximately 60 feet).
- 9) We are 10 feet away from the closest parking space.





RECEIVED 05-18-16 14:23 FROM -  
TO -  
OSHEM TOWNSHIP P0002/0005

## LEASE AGREEMENT

This agreement, made this May 2, 2016 by and between Indy-C-Kal inc. 2500 W. Mound Circle, Sterling Heights, MI 48310 as lessor ("Lessor"), and The Good Stuff Fireworks Corp., 1005 Royal Oak St. SW, Wyoming, MI 49509 as lessee ("Lessee").

That for and in consideration of rental to be paid by the Lessee to the Lessor, Lessor does hereby lease to the Lessee, and Lessee hereby leases from Lessor, the premises at 5034 W. KL Ave. Kalamazoo, MI 49009 (Designated parking area per site plan). In addition, Lessor will not issue any other leases on this or on these surrounding areas for the said purpose of this Agreement. The entire Lease will be for the period beginning June 9th 2016 through July 7th 2016. In addition, the Lessor will not Lease out the area indicated on the site map as to conflict with the period of time aforementioned.

Lessee shall pay to the Lessor the amount of Two Thousand Dollars (\$2000) for the entire duration of the Lease. Upon execution of this agreement payment in full is to be made before June 1st 2016.

Lessee shall indemnify and save harmless Lessor from and against any and all liability, penalties, damage and judgments by reason of injury or claim of injury to person or property of any nature and however caused, arising out of the use, occupation and control of the leased premises by Lessee.

Lessee shall at his own expense carry comprehensive liability insurance policies for the protection of himself, as well as customers, the owners of the property, and in accordance with the State and Local Regulations.

- \*Tenant to provide liability insurance in the amount of \$10,000,000
- \*Tenant to provide product liability insurance in the amount of \$10,000,000
- \*Tenant to include Indy-C-Kal inc. W. Mound Circle, Sterling Heights, MI 48310, and the property of 5034 W. KL Ave. Kalamazoo, MI 49009 as additional insured.

The premises leased hereby shall be used for the purpose of selling "Fireworks". Lessee shall comply with the laws, ordinances, rules and regulations of the federal, state, and municipal authorities. Restroom facilities will be available at Cottage Inn Pizza, or Big Burrito. Trash facilities will be included in the cost of the lease. Location of the temporary sale is on attached site plan.

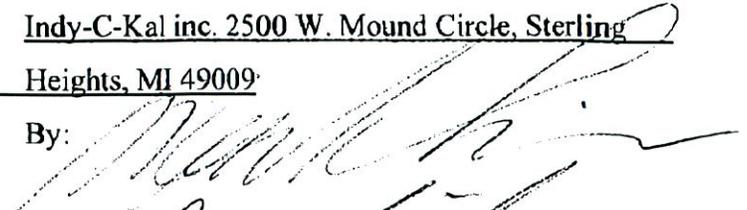
In the event that the local regulations prohibit the intended use of this Lease, this Lease shall be termed null and void. ~~Lessor shall guarantee Lessee annual first right of renewal of this Lease. At the termination of the Lease, Lessee shall leave the premises in good order.~~ MK

It is understood and agreed that this instrument contains the entire agreement between the parties and no representations heretofore made are a part unless included herein. Any modification of the Lease shall be in writing and signed by the parties hereto.

Lessee:  
The Good Stuff Fireworks Corp.

Lessor:  
Indy-C-Kal inc. 2500 W. Mound Circle, Sterling Heights, MI 49009

By:

By: 

Title:

Title: 

Date:

Date: 6-9-17

# MEMO

**To:** Ben Clark

**From:** Assistant Chief Wiley

**Date:** May 31, 2016

**Subject:** The Good Stuff Fireworks, 5034 W. KL Ave.

Ben.

With regard to the purposed Fireworks Tent sale, I do not have any issues with the current proposal as submitted.

# CALIFORNIA STATE FIRE MARSHAL

## REGISTERED FLAME RESISTANT PRODUCT

REGISTRATION NO. F-419.01

PRODUCT NAME: LAM-TEX

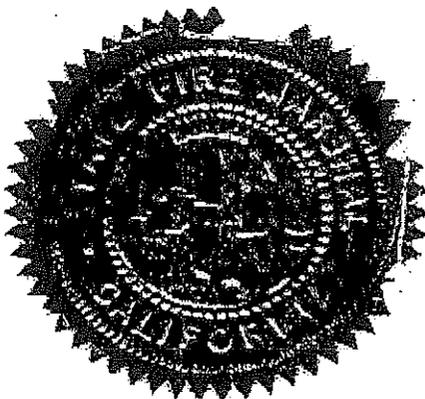
PRODUCT MARKETED BY: CALIFORNIA COMBINING CORP.

5607 So. Santa Fe

Los Angeles, CA 90058

This product meets the minimum requirements of flame resistance established by the State Fire Marshal for products identified in the California Health and Safety Code Section 13115.

The scope of the approved use of this product is provided in the current edition of "California Approved List of Flame Retardant Chemicals and Fabrics, General and Limited Application Concerns."



DUANE MATTHEWS, Program Coordinator  
Laboratory/Chemicals/Fabrics



CALIFORNIA DEPARTMENT OF FORESTRY and FIRE PROTECTION  
 OFFICE OF THE STATE FIRE MARSHAL

**REGISTERED FLAME RESISTANT PRODUCT**

Product:

LAM-TEX

Registration No.

F-41901

Product Marketed By:

CALIFORNIA COMBINING

5607 S SANTA FE

LOS ANGELES, CA 90058

This product meets the minimum requirements of flame resistance established by the California State Fire Marshal for products identified in Section 13115, California Health and Safety Code.

The scope of the approved use of this product is provided in the current edition of the CALIFORNIA APPROVED LIST OF FLAME RETARDANT CHEMICALS AND FABRICS, GENERAL AND LIMITED APPLICATIONS CONCERNS published by the California State Fire Marshal.

Deputy State Fire Marshal

Expire: 6/30/2015



**OPEN**

**THE GOOD STUFF**  
**FIREWORKS!**  
LAND OF THE FREE... **FINALE**

**HONDA**  
**SUZUKI**  
**POLARIS**  
*ski-doo*  
**KTM**  
**Kawasaki**



**The Good Stuff**  
**FIREWORKS!**  
BUY ONE GET ONE FREE

**The Good Stuff**  
**FIREWORKS!**  
LAND OF THE FREE... FINALE



FIREWORKS

FIREWORKS FIREWORKS FIREWORKS

FIREWORKS FIREWORKS

FIREWORKS FIREWORKS FIREWORKS

THE GOOD STUFF!  
FIREWORKS!

AOL

May 31, 2016



**Meeting Date:** June 9, 2016

**To:** Planning Commission

**Applicant:** Joe Stoddard

**Owner:** Ken and Jeff Bertolissi

**Property:** 6075 and 6101 West Main Street  
Parcel #3905-14-430-071 and 3905-14-430-062

**Zoning:** West Main Overlay Zone  
(Underlying Zoning - R-2: Residence District)

**Request:** Special Exception Use to establish a brewpub

**Section(s):** 50:302: Special Exception Uses - Commercial

**Project Name:** Latitude 42 Brewing Company

## OVERVIEW

The applicant is seeking Special Exception Use approval to develop a brewpub at 6101 and 6075 West Main Street. The property is located on the south side of West Main Street, one lot west of Lodge Lane. The property is zoned R-2: Residence District, but is also zoned with the commercial portion of the West Main Overlay Zone. The Overlay Zone allows brewpubs as a Special Exception Use, per Section 50:302.

At this time, the applicant is not requesting site plan approval. The concept plan provided to the Township is for visual purposes only and is not intended to reflect the final development of the site. A site plan will be required that complies with all of the requirements of the Zoning Ordinance, in particular the standards of the West Main Overlay Zone.

## PROJECT SUMMARY

The applicant plans to develop a microbrewery/brewpub that would function primarily as a restaurant. The intent is to utilize the proposed location as a test system for the main brewery production, which occurs at the restaurant in Portage, MI. As stated, the West Main Overlay Zone allows brewpubs as a Special Exception Use. No specific development requirements are indicated for this particular use beyond those generally required by the Overlay Zone.

The concept plan proposes two buildings, one for the brewpub and an additional for a use to be determined at a later date, but in compliance with the West Main Overlay Zone. The applicant indicates

the buildings will include high grade construction materials, such as stone and cedar. The specific details of site development will need to be carefully considered when a final site plan is submitted to the Township.

## **OTHER CONSIDERATIONS**

Section 60.100 of the Zoning Ordinance provides additional review criteria for consideration when reviewing a Special Exception Use request. These criteria are as follows:

**A. Is the proposed use compatible with the other uses expressly permitted within the West Main Overlay zoning classification?**

Restaurants are a permitted use within the West Main Overlay, which is the predominate use type of the Latitude 42 project. However, because a small portion of the building will be dedicated to the brewery use, it does require some additional scrutiny by the Planning Commission as a Special Exception Use. Since the majority of this development is a permitted use in the district, staff finds no issues with compatibility.

In addition, the West Main Overlay Zone has some enhanced development requirements that help to promote compatibility between uses. *Section 50.400: Design Standards* will be reviewed closely when the site plan is submitted to ensure compliance with these regulations.

**B. Will the proposed use be detrimental or injurious to the use or development of adjacent properties or to the general public?**

The development of a brewpub should not be detrimental or injurious to adjacent property. In fact, the development of these underutilized properties on West Main Street may stimulate additional reuse in this corridor which may be more in keeping with the Township Master Plan and West Main Overlay Zone. However, appropriate screening will need to be considered for the residential properties to the east of the proposed development.

Site access will need careful deliberation when the applicant submits for site plan approval. The concept plan indicates a reduction in the number of curb cuts currently afforded to the two properties in question. However, the volume of traffic from a residential use to a commercial use will increase considerably. Managing this effectively will need to be reviewed when the site plan is submitted.

**C. Will the proposed use promote the public health, safety, and welfare of the community?**

Outside of good planning for traffic and access, staff has no other concerns related to public health, safety and welfare. Any other issues associated with general public safety will be examined through site plan review.

**D. Will the proposed use encourage the use of the land in accordance with its character and adaptability?**

The proposed use will be compatible with the character planned for this area. At this time, only a concept plan has been submitted for the site development of the use, which does not fully embrace the requirements of *Section 50.400: Design Standards* of the West Main Overlay Zone or other site development requirements of the Zoning Ordinance, like landscaping. Therefore, it is difficult to know if the development will be in accordance with the character and adaptability of the land. However, staff does feel these concerns can be resolved as part of the site plan review process.

**RECOMMENDATION**

The proposed use is consistent with the intent of the West Main Overlay Zone, as well as Oshtemo's general desire to encourage commercial uses along West Main, east of 9<sup>th</sup> Street. Staff recommends that the Planning Commission approve the Special Exception Use, as follows:

Approval of the Special Exception Use request for a brewpub at 6101 and 6075 West Main Street, conditioned on Planning Commission approval of a site plan that meets the requirements of the West Main Overlay Zone and all other Zoning Ordinance regulations.

Respectfully Submitted,



Julie Johnston  
Planning Director

Attachments: Application  
Applicant Narrative  
Aerial map  
Concept Plan



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

PLEASE PRINT

PROJECT NAME & ADDRESS LATITUDE 42 BREWING CO. / WEST MAIN <sup>6075 + 6101</sup>

PLANNING & ZONING APPLICATION

Applicant Name: JOE STODDARD  
PONTAGE BREWERY LLC

Company LATITUDE 42 BREWING CO.

Address 7842 PONTAGE ROAD  
PONTAGE, MI. 49002

E-mail JPSTODDARD @ HOTMAIL.COM

Telephone 269-762-1552 Fax N/A

Interest in Property \_\_\_\_\_

OWNER\*:

Name Ken + Jeff Bertolissi

Address 6312 Stadium Dr.  
Kalamazoo, MI 49009

Email jeffbortolissi@gmail.com

Phone & Fax 2697605333 2694880736

Oshtemo Charter Township  
7275 W MAIN ST  
KALAMAZOO, MI 49009  
Phone : 269-375-4260  
OSHTEMO TOWNSHIP.ORG

Received From: BISHOP  
Date: 05/05/2016  
Receipt 123364  
Cashier LINDAI  
Time: 4:05:22 PM

| ITEM REFERENCE             | AMOUNT   |
|----------------------------|----------|
| 1085 SPECIAL EXCEPTION USE |          |
| SPECIAL EXCEPTION USE      | \$300.00 |
| TOTAL                      | \$300.00 |
| CHECK 5367                 | \$300.00 |
| Total Tendered:            | \$300.00 |
| Change:                    | \$0.00   |

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

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: \_\_\_\_\_

BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary): \_\_\_\_\_

FOR A SPECIAL EXCEPTION USE ALLOWING LATITUDE  
42 BREWING CO. A BREWPUB / RESTAURANT.

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

\* See attached.

**PARCEL NUMBER:** 3905- 14-430-071 + 3905-14-430-062

**ADDRESS OF PROPERTY:** 6075 AND 6101 W. MAIN ST.

**PRESENT USE OF THE PROPERTY:** Residential

**PRESENT ZONING** Commercial **SIZE OF PROPERTY** \*see attached,

**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>Jeff Bertolissi</u> | <u>6312 Stadium Dr. Kal. 49009</u> |
| <u>Ken Bertolissi</u>  | <u>6312 Stadium DR. Kal. 49009</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.*

Ken Bertolissi  
**Owner's Signature** (\* If different from Applicant)

5-12-16  
**Date**

[Signature]  
**Applicant's Signature**

05-12-16  
**Date**

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

\*\*\*\*

**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

## OSHTEMO PROPOSED DEVELOPMENT

To whom it may concern,

My name is Joe Stoddard, the C.E.O. of Latitude 42 Brewing Co. This letter is in regards to a proposed development on parcels 6075 and 6101 West Main. The proposed use is to build a microbrewery/brewpub. The building function is 90% restaurant, with 10% brewery. The Brewery function is a test system for our main production brewery in Portage, Mi. The restaurant is a “scratch kitchen” everything is made from scratch from our award winning chefs. We source locally from local farmers, helping to support local farmers and their families.

Latitude 42 is an award winning restaurant/brewery concept. Awards include:

2014 Southwest Michigan small business of the year.

2015 Michigan Brewery of the year

2016 Michigan Brewery of the year

2015 Trip advisor award of excellence

2016 trip advisor award of excellence

2015 #1 rated restaurant in Portage, Mi.

2016 # 1 rated restaurant in Portage, Mi. YTD.

97 medals internationally/nationally for our award winning brewery.

Latitude 42 is proposing to build a state of the art restaurant/brewpub in Oshtemo Township. The development will create over 50 new jobs, with over half being full time jobs.

The building will be constructed with beautiful glass, stone and Cedar features. The building aesthetically will be beautiful on the inside and outside.

Latitude 42 is very active in the community and charities. Here is a list of a few of our active partnerships:

Make A Wish Foundation

Ales for ALS

Big Brothers and Sisters

Portage Community Outreach Center

Portage Community Schools

Latitude 42 will take the same approach in Oshtemo, using our facility to make a difference in the lives of others.

Thank you for the consideration,

Joe Stoddard

C.E.O.

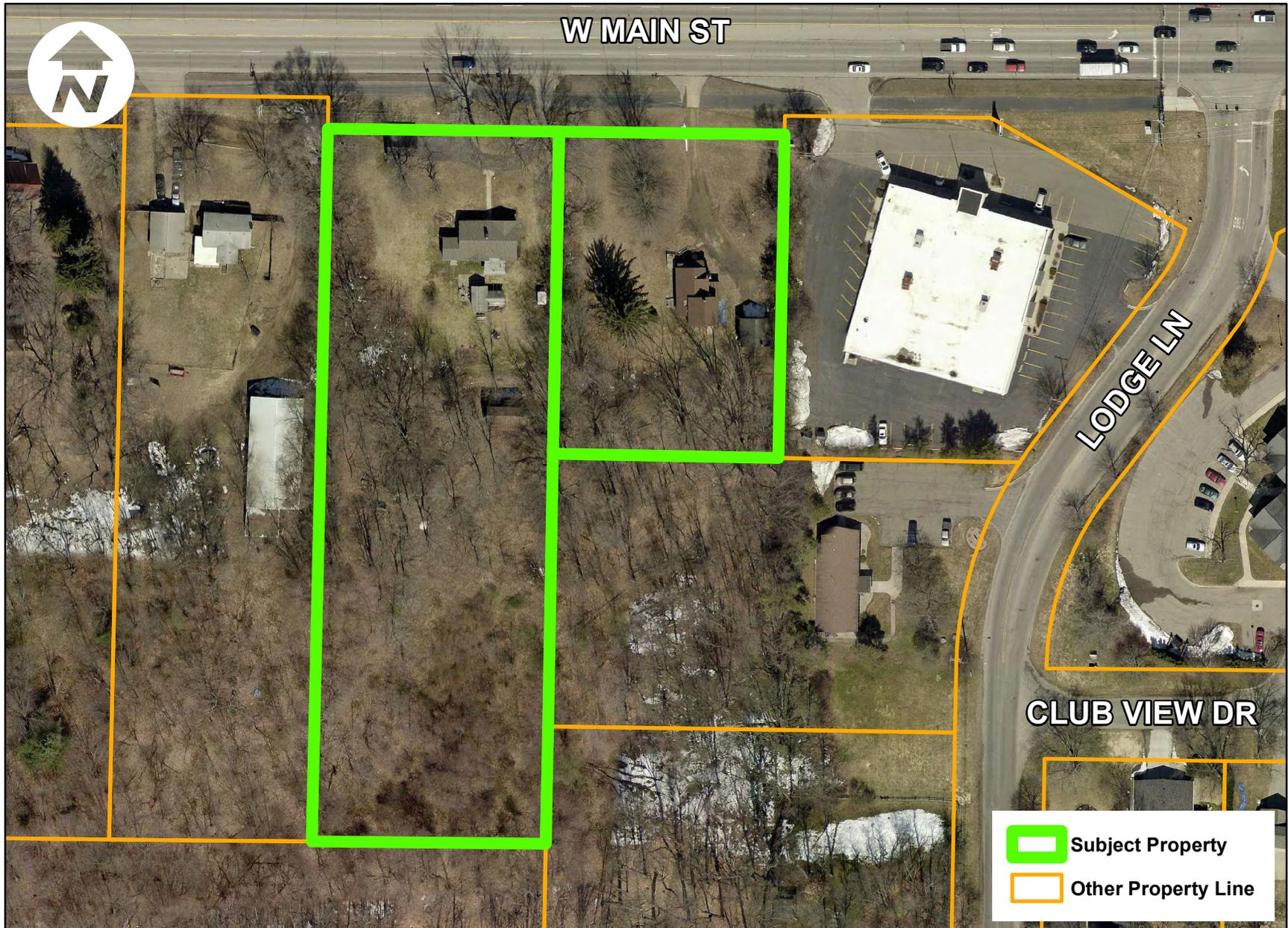
Latitude 42 Brewing Co.

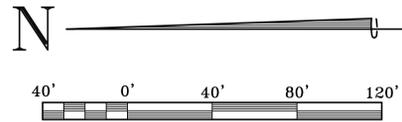
[Joe@latitude42brewingco.com](mailto:Joe@latitude42brewingco.com)

269-762-1552

# Latitude 42 Brewing Co.

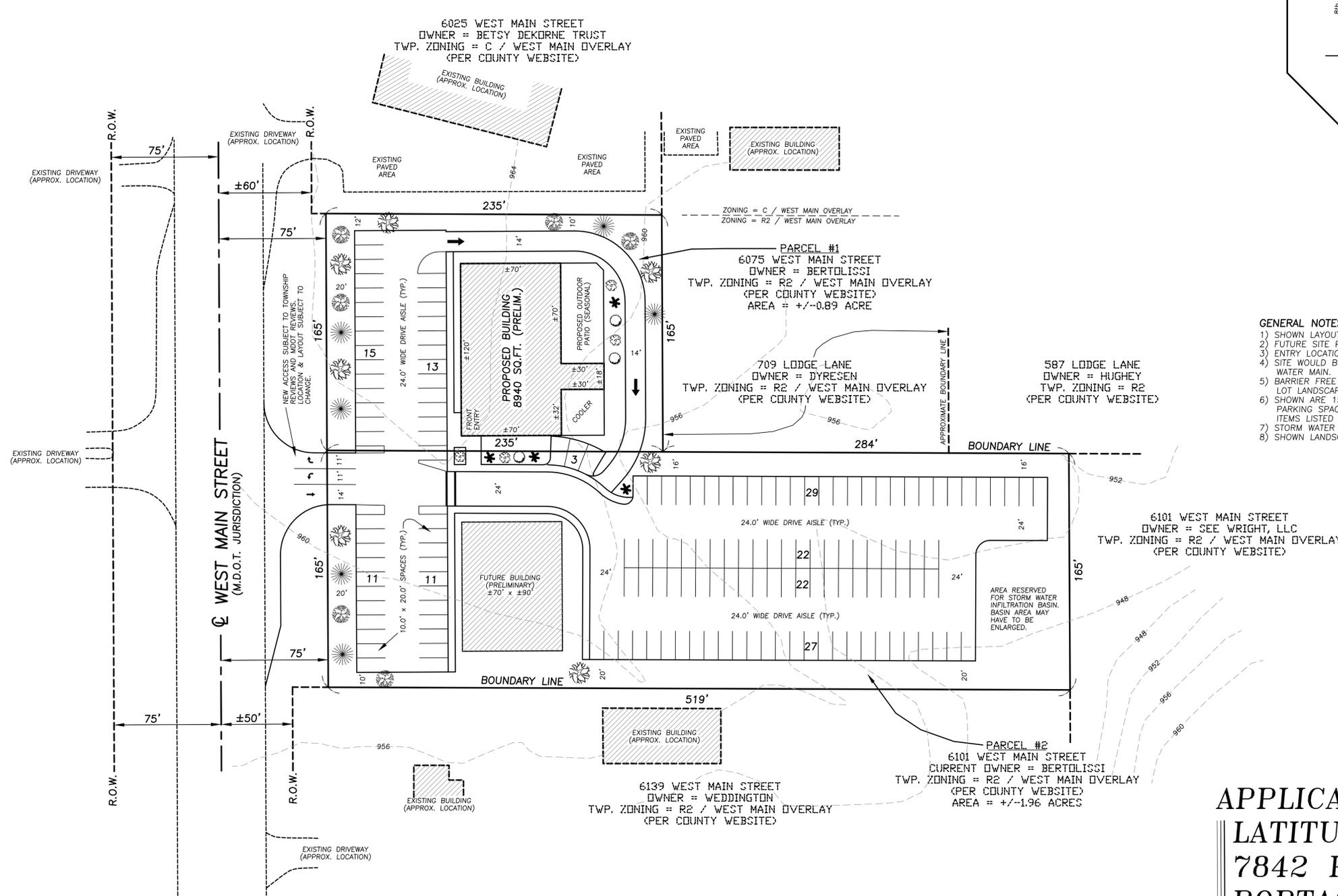
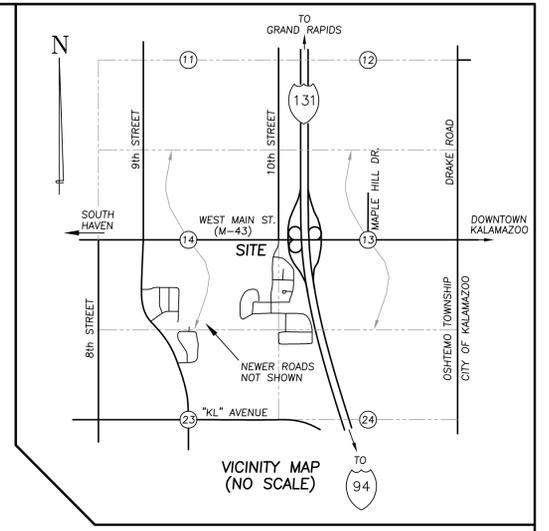
*Proposed Location*





# CONCEPTUAL SITE PLAN for LATITUDE 42

in OSHEMO TOWNSHIP & KALAMAZOO COUNTY



- GENERAL NOTES:**
- 1) SHOWN LAYOUT IS CONCEPTUAL & SUBJECT TO CHANGE.
  - 2) FUTURE SITE PLAN SUBJECT TO REVIEW BY OSHEMO TOWNSHIP.
  - 3) ENTRY LOCATION SUBJECT TO M.D.O.T. REVIEW AND PERMITTING.
  - 4) SITE WOULD BE SERVED BY PUBLIC SANITARY SEWER AND PUBLIC WATER MAIN.
  - 5) BARRIER FREE SPACES, DUMPSTER AREA, AND INTERIOR PARKING LOT LANDSCAPING NOT SHOWN.
  - 6) SHOWN ARE 153 PARKING SPACES (EACH 10' x 20'). FINAL PARKING SPACE COUNT WOULD LIKELY BE REDUCED DUE TO ITEMS LISTED IN NOTE 5) ABOVE.
  - 7) STORM WATER BASIN AREA MAY HAVE TO BE ENLARGED.
  - 8) SHOWN LANDSCAPING IS CONCEPTUAL.

**APPLICANT:**  
**LATITUDE 42**  
**7842 PORTAGE ROAD**  
**PORTAGE, MI 49002**  
**(269) 459-4242**



|  |  |                     |
|--|--|---------------------|
| CONCEPTUAL SITE PLAN<br><b>LATITUDE 42</b>   |  | DATE:<br>5/05/2016  |
| PART OF THE SE. 1/4 OF SECTION 14, OSHEMO TOWNSHIP, KALAMAZOO COUNTY, MI                       |  | SHEET:<br>1         |
| <b>Ingersoll, Watson &amp; McMachen, Inc.</b><br>CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS |  | JOB No.:<br>36024-W |
| 1133 East Milham Road • Portage, Michigan 49002 • Phone 269 344-6165 • Fax 269 344-0555        |  |                     |