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**NOTICE
OSHTEMO CHARTER TOWNSHIP
Zoning Board of Appeals**

SPECIAL MEETING

**Tuesday,
August 9, 2016
3:00 p.m.**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Public Comment on Non-Agenda Items
4. Approval of Minutes: July 26, 2016
5. **PUBLIC HEARING: Variance Request (National Flavors, 7700 Stadium Drive)**
Daniel Hinkle, representing National Flavors, is requesting a variance from the Zoning Ordinance, specifically Section 68.301: Loading and unloading of the Off-Street Parking Ordinance to allow loading/unloading in the front yard. Parcel No. 3905-34-155-050.
6. Any Other Business / ZBA Member Comments
7. 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
ZONING BOARD OF APPEALS**

MINUTES OF A MEETING HELD JULY 26, 2016

Agenda

SITE PLAN REVIEW (ONE WAY PRODUCTS, 6101 WEST KL AVENUE) APPLICANT, GLAS ASSOCIATES, IS REQUESTING SITE PLAN REVIEW FOR A NEW MANUFACTURING FACILITY FOR ONE WAY PRODUCTS AT 6101 WEST KL AVENUE. PARCEL NO. 3905-24-305-010.

SITE PLAN REVIEW (SMT LAND DEVELOPMENT, 6963 WEST KL AVENUE) APPLICANT, SMT REAL ESTATE DEVELOPMENT, IS REQUESTING SITE PLAN REVIEW FOR A NEW OFFICE DEVELOPMENT AT 6963 WEST KL AVENUE. PARCEL NO. 3905-23-305-030.

SITE PLAN REVIEW (WEST SIDE CHURCH OF CHRIST, UNADDRESSED PARCEL – 9TH STREET) APPLICANT, WEST SIDE CHURCH OF CHRIST, IS REQUESTING SITE PLAN REVIEW FOR A NEW CHURCH FACILITY ON AN UNADDRESSED VACANT PARCEL ON THE EAST SIDE OF 9TH STREET, APPROXIMATELY 1,900 LINEAR FEET NORTH OF THE WEST MAIN STREET RIGHT-OF-WAY. PARCEL NO. 3905-14-130-015.

SITE PLAN REVIEW (GLCMG GARAGE, 4155 SOUTH 9TH STREET) APPLICANT, BOSCH ARCHITECTURE, IS REQUESTING SITE PLAN REVIEW FOR A NEW ACCESSORY GARAGE BUILDING ON AN EXISTING DEVELOPED SITE AT 4155 SOUTH 9TH STREET. PARCEL NO. 3905-35-405-031.

SITE PLAN REVIEW (WAL-MART REAL ESTATE BUSINESS TRUST, 501 NORTH 9TH STREET) APPLICANT, WAL-MART REAL ESTATE BUSINESS TRUST, IS REQUESTING SITE PLAN REVIEW FOR A NEW EMPLOYEE TRAINING BUILDING ON THEIR EXISTING SITE AT 501 NORTH 9TH STREET. PARCEL NO. 3905-14-305-022.

A meeting of the Oshtemo Charter Township Zoning Board of Appeals was held on Tuesday, July 26, 2016, at approximately 3:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: James Sterenberg, Vice Chairperson
Bob Anderson, Alternate
Nancy Culp
Millard Loy
Neil Sikora
L. Michael Smith, Alternate

MEMBERS ABSENT: Cheri Bell, Chairperson

Also present were Julie Johnston, Planning Director and James Porter, Attorney, and ten interested persons.

Call to Order and Pledge of Allegiance

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

Public Comment on Non-Agenda Items

There were no public comments on non-agenda items.

Approval of the Minutes of June 28, 2016

The Vice Chairperson asked if there were any additions, deletions or corrections to the minutes of June 28, 2016. Hearing none, he asked for an approval motion.

Mr. Sikora made a motion to approve the minutes of June 28, 2016 as presented. Mr. Loy supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW (ONE WAY PRODUCTS, 6101 WEST KL AVENUE) APPLICANT, GLAS ASSOCIATES, IS REQUESTING SITE PLAN REVIEW FOR A NEW MANUFACTURING FACILITY FOR ONE WAY PRODUCTS AT 6101 WEST KL AVENUE. PARCEL NO. 3905-24-305-010.

Vice Chairperson Sterenberg indicated agenda item number 5 is a request for a site plan review from One Way Products and asked Ms. Johnston to give a staff report.

Ms. Johnston stated that the request is for a new manufacturing facility located on an unaddressed parcel on KL Avenue, just west of US 131. She apologized for the wrong address on the staff reports in the agenda packets, and indicated the site is not addressed as 6101 West KL Avenue as originally reported. She stated that the zoning of the site is I-1: Industrial and that a manufacturing facility is permitted by right. Ms. Johnston went on to say that the parcel is approximately 9.5 acres and the proposed facility would be over 30,000 square feet. The development of the One Way Product site offers an opportunity to provide frontage to a parcel immediately adjacent to the south and west of the subject site, which is addressed as 6101 West KL Avenue. This parcel currently does not have frontage on West KL Avenue. Ms. Johnston indicated that this parcel and the subject parcel are currently owned by the same property owner and that the development of One Way Products is allowing for a parcel re-description that will give 6101 West KL Avenue 200 feet of frontage on KL. Also, this development will allow for a looped water main system that will provide water to this currently land locked parcel.

She explained that the development meets all of the dimensional requirements of the Zoning Ordinance. The landscaping requirements are being predominately met

through existing vegetation, which could be lost or damaged during construction. Therefore, staff is recommending approval with the following conditions:

1. A revised site plan that meets all Fire Marshal and Township Engineer requirements.
2. A revised photometric plan showing the required 0.1 foot candles at the property boundary.
3. Prior to the issuance of a Certificate of Occupancy, staff review of existing 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.

She indicated that the first condition was to allow the Township Engineer an opportunity to review the plans after the looped water main system is designed and the allow the Fire Marshal an opportunity to review the final placement of hydrants planned as part of this looped system.

Vice Chairperson Sterenberg asked if there were any questions to staff. No Board member had questions.

Vice Chairperson Sterenberg asked if the parcel line re-description had to be approved by the Board.

Ms. Johnston indicated there is a separate process for parcel line re-descriptions that is handled by staff.

Mr. Sikora asked when public notice is provided is that done by address or parcel number.

Ms. Johnston stated that because this is a use permitted by right, public notice was not required.

Vice Chairperson Sterenberg asked if the applicant would like to speak.

Mr. Isaac Hinkle, 6701 South 6th Street, representing One Way Products indicated he would be happy to answer any questions the Board might have.

Mr. Anderson asked if this facility was going to be an expansion of their existing facility in Kalamazoo or were they moving their operations.

Mr. Hinkle stated that they were moving all operations to KL Avenue.

Vice Chairperson Sterenberg asked if there were any other Board questions. Hearing none, he asked if there were any public comments. Also hearing none, he moved to Board discussion.

Mr. Loy stated the site plan was pretty straight forward. Vice Chairperson Sterenberg indicated that it looked like an extensive project and property and he welcomed the new business to Oshtemo. With those comments, Vice Chairperson Sterenberg stated he would entertain a motion.

Mr. Loy made a motion to approve the site plan for One Way Products, including the three conditions indicated by staff. Mr. Sikora supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW (SMT LAND DEVELOPMENT, 6963 WEST KL AVENUE) APPLICANT, SMT REAL ESTATE DEVELOPMENT, IS REQUESTING SITE PLAN REVIEW FOR A NEW OFFICE DEVELOPMENT AT 6963 WEST KL AVENUE. PARCEL NO. 3905-23-305-030.

Vice Chairperson Sterenberg introduced the next agenda item and asked for a staff report.

Ms. Johnston indicated the application for site plan review was for a new professional office located at 6963 West Kl Avenue. The site zoned I-1: Industrial, which allows professional offices as a permitted use. She indicated the site was approximately 1.3 acres and the applicant wished to develop a facility just under 6,000 square feet. Ms. Johnston continued stating the site plan meets all of the requirements of the Zoning Ordinance. Staff is recommending approval with two conditions, which is different than what was outlined in the staff report. The staff report included a condition related to the storm water calculations for runoff, requesting further review by the Township Engineer. The Township Engineer has had an opportunity to review those calculations and has no further issues with the site plan.

Ms. Johnston went on to say that there was a condition to place a fire hydrant on the site. This was done in error as it was thought by staff that the water line shown on the site plan was public, when in fact it is the private service line to the building. Fire hydrants cannot be placed on private lines. Therefore, staff is now recommending the conditions change to the following:

1. Prior to the issuance of the Certificate of Occupancy, a signed agreement be submitted stating the property owner will not oppose the establishment of a non-motorized special assessment district.
2. Final review by the Fire Marshal.

The request to have the Fire Marshal review the site plan one final time was to confirm that the existing hydrant satisfies fire code.

Vice Chairperson Sterenberg asked if there were any questions from the Board to staff. Hearing none, the Vice Chairperson asked if the applicant would like to speak. It was determined the applicant was not in the audience, so public comment was requested. No public comment was provided, so the Vice Chairperson requested Board discussion.

Mr. Smith asked about the house that is right at the corner of KL and 8th Street and if any enhanced setbacks were required.

Ms. Johnston indicated that all of the properties in that area are zoned I-1: Industrial so there were no enhanced dimensional requirements.

With no further Board discussion, the Vice Chairperson stated he would entertain a motion.

Mr. Sikora made a motion to approve the site plan for SMT Land Development with the two conditions outlined in the staff presentation. Mr. Loy supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW (WEST SIDE CHURCH OF CHRIST, UNADDRESSED PARCEL – 9TH STREET) APPLICANT, WEST SIDE CHURCH OF CHRIST, IS REQUESTING SITE PLAN REVIEW FOR A NEW CHURCH FACILITY ON AN UNADDRESSED VACANT PARCEL ON THE EAST SIDE OF 9TH STREET, APPROXIMATELY 1,900 LINEAR FEET NORTH OF THE WEST MAIN STREET RIGHT-OF-WAY. PARCEL NO. 3905-14-130-015.

Vice Chairperson Sterenberg introduced the next agenda item, a site plan review for West Side Church of Christ on an unaddressed parcel on 9th Street. He requested a staff report.

Ms. Johnston provided a report, indicating the site in question is approximately 2,000 feet north of the Meijer development on West Main Street. The request is to build a new church on the parcel, which is zoned R-2: Residence District. Ms. Johnston indicated that churches are permitted by right in this zoning district.

The parcel in question is approximately 10 acres in size and the West Side Church of Christ wishes to build a 4,500 square foot facility. Ms. Johnston continued saying the site plan meets all of the dimensional requirements of the Zoning Ordinance but there are still some outstanding issues with landscaping, storm water management and non-motorized facilities. She stated that staff is recommending approval of the site plan with the following conditions:

1. A revised landscape plan shall be submitted to and approved by Township staff prior to the issuance of a building permit.
2. Site plan approval is contingent upon the Township Engineer's acceptance of the proposed stormwater retention facilities.

3. Prior to the Certificate of Occupancy, a signed agreement be submitted stating the property owner will not oppose the establishment of a non-motorized special assessment district.

Vice Chairperson Sterenberg asked if there were any questions of staff. He continued with a question about a stub road that is adjacent to the property from the West Port Subdivision to the east and whether it would continue through this property giving the Church access out of this street.

Ms. Culp added that there is a stub road to the north as well that is adjacent to this property and wondered if access would occur here as well. She worried about a cut through.

Ms. Johnston stated that at this time, neither of these roads were planned to continue. She indicated she would not advocate continuing a public road to a private drive to the Church. However, she said that if the properties to the south of this parcel develop, a road easement may be required to connect the stub street to the east to future development.

Mr. Sterenberg asked if the Church ever wanted to connect to that road, would there be a requirement for approval to connect.

Ms. Johnston stated there would be requirements for approval.

Hearing no more questions, the Vice Chairperson asked if the applicant wished to speak, requesting their name and address for the record and their role with the project.

Mr. Bruce Vander Weele, 6330 Torrington, stated he is the engineer of record for the project and was happy to answer any questions the Board may have.

Vice Chairperson Sterenberg asked if there were any questions to the applicant and hearing none, asked if there was anyone in the audience who wished to speak on this agenda item. Hearing none, he opened up the floor to Board discussion.

Ms. Culp asked if the project was going to be connected to the public sewer.

Ms. Johnston stated yes, to both public sewer and water.

Hearing no further discussion, Vice Chairperson Sterenberg requested a motion.

Mr. Loy made a motion to approve the site plan for West Side Church of Christ, including the three conditions indicated by staff. Mr. Sikora supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW (GLCMG GARAGE, 4155 SOUTH 9TH STREET) APPLICANT, BOSCH ARCHITECTURE, IS REQUESTING SITE PLAN REVIEW FOR A NEW ACCESSORY GARAGE BUILDING ON AN EXISTING DEVELOPED SITE AT 4155 SOUTH 9TH STREET. PARCEL NO. 3905-35-405-031.

Vice Chairperson indicated that item 8 on the agenda was a site plan review for GLCMG Garage on 9th Street and requested a staff report.

Ms. Johnston stated that the request is to add a garage to an existing site, which used to be the Kalamazoo Valley Bookstore at 4155 South 9th Street. The applicant is updating the existing building to allow for an office use and has requested the approval of a new garage. Ms. Johnston continued that the site is 1.75 acres and the existing building is approximately 6,000 square feet. The new garage will be 2,000 square feet. All of the Zoning Ordinance requirements have been met except for some final issues with landscaping and parking. The existing site currently has parking spaces but they were developed at 9 feet by 20 feet in size, which is nonconforming to the Ordinance, which required 10 foot by 20 foot spaces. The applicant is providing some new asphalt on the site, so staff saw this as an opportunity to update the existing spaces. The current count on the site plan is 27 spaces. Staff would like to see this be reduced to 24 spaces to allow for the restriping to meet the Ordinance requirements.

Ms. Johnston continued that the landscape buffer along 9th Street is meeting eight bushes, which are required by the Landscaping Ordinance. Staff is recommending approval, but with the following conditions:

1. A revised landscape plan is to be submitted to the Township, indicating the required eight shrubs within the landscape buffer area along 9th Street.
2. The total number of parking spaces provided is to be adjusted down from 27 to 24 and the remaining spaces are to be no smaller than 10' by 20' in size.
3. Prior to the Certificate of Occupancy, a signed agreement be submitted stating the property owner will not oppose the establishment of a non-motorized special assessment district.

Vice Chairperson asked if there were any questions of staff. He continued asking about the landscaping and whether that would have been part of the original site plan, wondering why we were requesting it as part of this site plan.

Ms. Johnston stated that whenever new development occurs on an existing site, staff try to bring it in to compliance with the current codes. She stated that shrubs could have been required at the time of the original site plan, or the landscaping requirements may have been different. She also said that it is possible they died over the years and were never replanted. But, when new site plans are submitted, if it is possible to fit them into an existing site then all landscaping is required.

Vice Chairperson Sterenberg asked if staff had made the applicant aware of these conditions and were there any concerns.

Ms. Johnston indicated that Ben Clark, the Zoning Administrator, was in charge of this review and that she believed the staff report was sent to the applicant and no concerns were raised.

Mr. Sterenberg asked if there were any other questions to staff. Hearing none, he asked the applicant if they wished to speak.

Ms. Scott Carter, indicated his office address at 4155 South 9th Street. He indicated that Bosch is the architect for the project and that they reviewed staff's requests. Mr. Carter stated they will alter the widths of the parking spaces from 9 feet to 10 feet and had no concerns with adding the landscaping. He asked if any of the Board members had a chance to see the building, but significant improvements are in the process of being made and the building looks much better. The landscaping will just improve the look of the site.

Ms. Culp asked the applicant what they plan to store in the building.

Mr. Carter stated that it is a garage for the three employees that work for the management company to park their vehicles, specifically for his vehicle.

Vice Chairperson Sterenberg asked if there were any other questions for the applicant. Hearing none, he asked if there was any public comment on this agenda item. Hearing none, he opened the item to Board discussion.

Mr. Smith stated that it is nice to see improvements happening in that area. Vice Chairperson Sterenberg indicated that he drove by the site and agreed that it is a significant improvement over what was there originally.

With no more Board discussion, the Vice Chairperson entertained a motion on the site plan.

Mr. Sikora made a motion to approve the site plan for GLCMG Garage with the conditions outlined in the staff presentation. Mr. Anderson supported the motion. The motion was approved unanimously.

SITE PLAN REVIEW (WAL-MART REAL ESTATE BUSINESS TRUST, 501 NORTH 9TH STREET) APPLICANT, WAL-MART REAL ESTATE BUSINESS TRUST, IS REQUESTING SITE PLAN REVIEW FOR A NEW EMPLOYEE TRAINING BUILDING ON THEIR EXISTING SITE AT 501 NORTH 9TH STREET. PARCEL NO. 3905-14-305-022.

Vice Chairperson Sterenberg indicated agenda item number 9 is site plan approval for a new employee training center on the existing Wal-Mart property. He requested staff provide their report.

Ms. Johnston indicated that the site is located at 501 North 9th Street, where the existing Wal-Mart facility is currently located. The applicant would like to place a new regional employee training center on the site, within the existing parking lot. She continued stating the site is 31 acres and currently have 991 parking spaces.

Ms. Johnston indicated that the current Wal-Mart facility has a total square footage of 222,206 and the new facility would be 3,075 square feet. Placing the new facility within the existing parking lot would require Wal-Mart to lose 39 parking spaces. According to staff's calculations, the site is required to have 1,051 spaces. The current total of 991 is 60 less than required. Eliminating an additional 39 will bring their count down to 952 spaces, which is almost 100 less than required.

Section 68.600 of the Off-Street Parking Ordinance allows the ZBA to grant relief from the parking space count for existing sites if a practical difficulty or existing hardship is present, provided the spirit and intent of the section is upheld. The applicant has indicated that this area of the parking lot is underutilized and the removal of spaces here will not alter the functionality of the site. Ms. Johnston indicated that staff concurs with the applicants assessment and would include the placing the building outside of the parking lot would increase the impervious surface on the site and require additional engineering to manage storm water runoff. Their current system is designed to handle the existing impervious surface.

Staff recommends approval of the Wal-Mart Employee Training Building site plan, with the following two conditions:

1. Per section 68.600, the minimum number of required parking spaces for this site are to be reduced from the required 1,051 down to 952.
2. A revised site plan is to be submitted prior to the issuance of a building permit, indicating all nearby hydrants currently located on the site. It will then be at the Fire Marshal's discretion whether or not a new hydrant will be required.

Vice Chairperson Sterenberg asked the Board if there were any questions of staff. Mr. Sikora asked if staff knew why there were less spaces than required already on the site. Ms. Johnston indicated that she did not know why the parking was less than required. However, she did indicate that staff base parking on net square footage of the building unless a floor plan is provided that offers more detailed information about the square footage of the building. It is possible at the time of Wal-Mart's approval, they submitted a floor plan and parking was based off of that. Staff based the 1,051 required spaces of 70 percent net square footage.

Mr. Loy indicated that he thought at the time of Wal-Mart's approval, there was some shared parking approved between the Wal-Mart site and the adjacent strip commercial located along 9th Street. Mr. Smith stated that we also did not want to pave more land than was absolutely needed. There is already enough parking on the site.

Chairperson Sterenberg clarified with staff that the Zoning Board of Appeals can provide this parking relief as allowed by the Zoning Ordinance and that an actual variance is not required.

Ms. Johnston stated that is correct. The Ordinance allows for relief to space requirements through a site plan review.

Chairperson Sterenberg asked if there were any additional questions of staff. Hearing none, he asked if the applicant wished to speak.

Steve Kindel, Bartlett, TN, indicated he represents Carlson Consultants, who are the site designers for Wal-Mart. He indicated that they reviewed aerial photography of the site for a number of years to find the best location for this new building. Through that photography they found that this area of the parking lot was the most underutilized. In addition, Wal-Mart has studied parking very extensively and have determined a functional model for sites of this size, which is about 4 spaces for every 1,000 square feet, and in fact this site is over parked based on their model. The loss of 39 spaces will not hinder the site in any way. Finally, the site chosen was outside of the truck circulation for the site.

Chairperson Sterenberg asked if there were any questions of the applicant. Mr. Loy asked what "regional" met. Mr. Kindel stated he was not sure what regional meant, but he indicated that this is called the Wal-Mart Academy and that this site was chosen because of the success of this site. He continued saying he didn't think regional was too far, because a number of these new buildings have been developed and are planned to be developed.

Chairperson Sterenberg asked if there was any further Board discussion. Mr. Loy felt the new building would not impact the site. Mr. Smith concurred saying it might only effect campers or overnight truck drivers.

Mr. Loy made a motion to approve the site plan for a new employee training center on the existing Wal-Mart site, allowing the parking count to be reduced to 952 and the remaining condition outlined in the staff presentation. Mr. Smith supported the motion. The motion was approved unanimously.

Any Other Business / ZBA Member Comments

Ms. Johnston reminded the Board that a special meeting is scheduled for August 9th to hear a variance request and that the regularly scheduled meeting of August 23rd will still be needed for another variance request.

Adjournment

Vice Chairperson Sterenberg noted the Zoning Board of Appeals had exhausted its Agenda, and with there being no other business, adjourned the meeting at approximately 3:49 p.m.

Minutes prepared:
August 3, 2016

Minutes approved:
_____, 2016

July 27, 2016



Mtg Date: August 9, 2016

To: Zoning Board of Appeals

From: Julie Johnston, AICP
Planning Director

Applicant: Daniel Hinkle

Owner: National Flavors, LLC

Property: 7700 Stadium Drive, parcel number 3905-34-155-050

Zoning: I-1: Industrial

Request: Variance from the requirement that loading/unloading must take place in the side or rear yard.

Section(s): Section 68.301: Loading and unloading
Section 11.355: Lot, parcel or building site frontage
Section 11.580: Yard, front

Project Name: National Flavors

OVERVIEW

The applicant, representing National Flavors, LLC, intends to develop the subject property as a manufacturing facility, which is a use permitted by right in the I-1 zoning district. The parcel in question is approximately 10 acres and has frontage on both Stadium Drive and Stadium Park Way. The applicant would like to place the front façade of the building facing Stadium Drive, which is the more visible frontage of the parcel. To accomplish this, loading and unloading would have to take place along Stadium Park Way, which is also considered a front yard for this parcel. Placing the loading/unloading at this location necessitates the request for a variance to *Section 68.301: Loading and unloading*, which states that all loading/unloading must take place in a side or rear yard.

Front yards are determined by the definitions indicated in *Section 11.355: Lot, parcel or building site frontage* and *Section 11.580: Yard, front*, which state the following:

11.355 - Lot, parcel or building site frontage. *The length of the front property line abutting the dedicated public road right-of-way or private street easement.*

11.580 - Yard, front. *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.*

APPROVAL CRITERIA

The Zoning Enabling Act of Michigan outlines that when considering a variance request, the Zoning Board of Appeals must ensure that the “spirit of the ordinance is observed, public safety secured, and substantial justice done.” The Michigan courts have added that variances should only be granted in the case of a practical difficulty for a nonuse (dimensional) variance. In addition, applicants must demonstrate that their plight is due to the unique circumstances peculiar to that property and that the problem is not self-created.

The request by the applicant is a nonuse variance. The ZBA should review the following standards in considering the variance request:

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

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

Comment: The Ordinance requirement for placing loading/unloading in the side and rear yards is to help screen this type of activity from the public right-of-way. The difficulty with this property is the two front yards, Stadium Drive and Stadium Park Way. While the property is currently vacant, which provides opportunities to place the loading/unloading in the side or rear yard, the outcome does not meet the screening protections intended. Placing the loading/unloading in the side yard would not screen the activity from Stadium Park Way, as the side of the building is visible from this public roadway. Placing the loading/unloading in the rear yard also does not accomplish this goal because of its visibility from Stadium Drive.

In addition, placing the loading/unloading within either the side or rear yard would require additional impervious surface on this site, increasing storm water runoff

and reducing the amount of the parcel that could stay in a natural state. It would also require a reconfiguration of the building, which would alter the location of the front façade from Stadium Drive.

Finally, the property that faces this parcel along Stadium Park Way is also zoned I-1: Industrial. A pending application has been presented to the Planning Commission for a mini-storage facility at this location. Immediately to the north of this parcel is Harrison Packing, which has their loading/unloading area in the side yard adjacent to the National Flavors parcel. The placement of loading/unloading in the front yard of National Flavors should have minimal impact on these industrial uses. In addition, the planned landscape screening shown on the concept plan immediately adjacent to the loading/unloading area and along both public roadways will help screen the use from the more visible frontage of the parcel, Stadium Drive.

*Standard: 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: Per section 68.301 of the Oshtemo Township Zoning Ordinance, all properties are required to have their loading/unloading take place in the rear or side yards. Planning staff feels that while such a requirement is generally appropriate for office, commercial and retail properties because of their visibility to the public, industrial properties could be viewed differently. In this specific case, the only public that would access Stadium Park Way would be those wishing to access either the subject site, Harrison Packing or the pending mini-storage facility.

Staff was also able to find past instances of when the Zoning Board of Appeals was inclined to grant relief from this requirement or the Planning Commission offered relief through a Planned Unit Development. Following is a brief summary of these two select cases:

- **Costco; 5100 Century Avenue; December 17, 2013; variance from loading/unloading in the side and rear yard:**
 - The Costco store has frontage on West Michigan Avenue that runs diagonal to the building. In addition, 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 storm water retention facility. The applicant sought, and was granted, relief from Section 68.301 because there were no

opportunities to develop a loading/unloading area that would not be adjacent to a roadway.

- **Field & Stream; 5215 Century Avenue; February 11, 2016; approval of a Commercial Planned Unit Development Concept Plan:**
 - American Village Buildings (AVB), received approval for a commercial planned unit development (PUD) for the properties that surround the Costco site, which is called Corner@Drake. The PUD was designed to allow up to 10 new buildings, including the recently developed Field & Stream. A PUD concept plan establishes the requirements under which each individual building must comply. *Section 60.405: Deviation from dimensional requirements* provides some flexibility to the Planning Commission to allow departures from the strict interpretation of the dimensional requirements of the Zoning Ordinance. A deviation was granted as part of the Corner@Drake project to allow Field & Stream to have a loading/unloading area immediately adjacent to West Michigan Avenue. Field and Stream has two front yards with frontage on West Michigan Avenue and Century Avenue.

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

Comment: The unique physical characteristic of this parcel is the double frontage on Stadium Drive and Stadium Park Way. Having two front yards provides restrictions on the property not experienced by the majority of industrial zoned parcels. Strict compliance with the dimensional requirement of loading/unloading in the side or rear yard could be considered unnecessarily burdensome because of the greater impacts to the property. As stated previously, additional impervious surface would be needed to place the loading/unloading in either the side or rear yards, increasing storm water runoff and reducing the amount of the parcel that can be left undeveloped.

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

Comment: The variance request could be considered a self-created hardship as the applicant could design the building in such a way that loading/unloading is in the rear or side yards. However, as stated previously, the intent of the Ordinance is not being met as both the side and rear yard are visible from an adjacent public road. In addition, redesigning the building would likely move the front façade from the Stadium

Drive right-of-way, which is the most visible frontage. From a planning and design perspective, staff would like to see the façade that is architecturally aesthetic facing Stadium Drive. In addition, the status of this property as a corner lot was not created by the applicant.

Standard: Will the spirit of the Ordinance be observed, the public health, safety, and welfare secured, and substantial justice done if the variance is granted?

Comment: Seeking relief from the loading/unloading requirements and permitting it adjacent to a local road that currently only serves a handful of properties does not compromise the public health, safety and welfare of the community. The granting of this variance request is also in accordance with past decisions made by the Zoning Board of Appeals and Planning Commission, ensuring that substantial justice is being done.

RECOMMENDATION

Staff recommends approval of the variance request from *Section 68.301: Loading and unloading* for the following reasons:

- Compliance is unnecessarily burdensome due to the restrictions of two front yards on the lot because of frontage on Stadium Drive and Stadium Park Way.
- The unique characteristic of a double frontage lot was not a circumstance created by the applicant.
- The Oshtemo Township Zoning Board of Appeals and the Planning Commission have granted similar relief in the past. Approving this application for a variance would ensure that substantial justice is being done.

Respectfully Submitted,



Julie Johnston, AICP
Planning Director

Attachments: Application
Aerial map
Narrative from Applicant
Concept Plan



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

PLEASE PRINT

National Flavors, LLC

PROJECT NAME & ADDRESS 7700 Stadium Drive Kalamazoo, MI 49009

PLANNING & ZONING APPLICATION

Applicant Name : Daniel Hinkle

Company National Flavors, LLC

Address 1206 E. Crosstown Parkway
Kalamazoo, MI 49001

E-mail dhinkle@nationalflavors.com

Telephone 800-525-2431 Fax 269-344-1037

Interest in Property _____

THIS
SPACE
FOR
TOWNSHIP
USE
ONLY

OWNER*:

Name James above

Address _____

Email _____

Phone & Fax _____

Fee Amount _____

Escrow Amount _____

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): _____

Please see attached memo

LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):

see attached exhibit "A"

PARCEL NUMBER: 3905- 34-155-050

ADDRESS OF PROPERTY: 7700 Stadium Drive Kalamazoo, MI 49009

PRESENT USE OF THE PROPERTY: Vacant

PRESENT ZONING I1 **SIZE OF PROPERTY** 10 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)

HCD Properties, LLC (Dan Hinkle, single member) 1206 E. Crosstown Parkway, Kalamazoo, MI 49001

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

Daniel Hinkle

7-7-16

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

EXHIBIT "A"

Land situated in the Township of Oshtemo, County of Kalamazoo, State of MI described as follows:

Commencing at the Northwest corner of Section 34, Town 2 South, Range 12 West; thence North 89°14'37" East, 1313.54 feet to the Northwest corner of the East 1/2 of the Northwest 1/4 of said Section; thence South 00°34'58" East along the West line of said East 1/2 of said Section, 1329.03 feet for the place of beginning of the land hereinafter described; thence North 89°14'37" East, 200.00 feet; thence South 00°34'58" East, 73.90 feet; thence Southwesterly 106.89 feet along a curve to the right with a radius of 167.00 feet and a chord bearing South 17°45'10" West, 105.07 feet; thence South 36°05'19" West, 55.00 feet; thence Southwesterly 210.48 feet along a curve to the left with a radius of 238.00 feet and a chord bearing South 10°12'32" West, 203.40 feet; thence South 15°40'15" East, 79.75 feet to the Northerly right of way of Stadium Drive (formerly known as West Michigan Avenue, also formerly US 12 Highway); thence South 74°30'07" West along said Northerly right of way, 737.25 feet; thence North 19°16'38" West, 581.05 feet; thence North 74°30'07" East parallel with the Northerly right of way of Stadium Drive, 390.80 feet; thence North 00°34'58" West, 31.51 feet; thence North 89°14'37" East, 404.25 feet to the place of beginning.

Commonly known as: 7700 Stadium Drive

Tax ID No.: 3905-34-155-050

MEMO

DATE: July 7, 2016

TO: Oshtemo Township

FROM: Dan Hinkle, National Flavors
Laura Franceschi, TowerPinkster

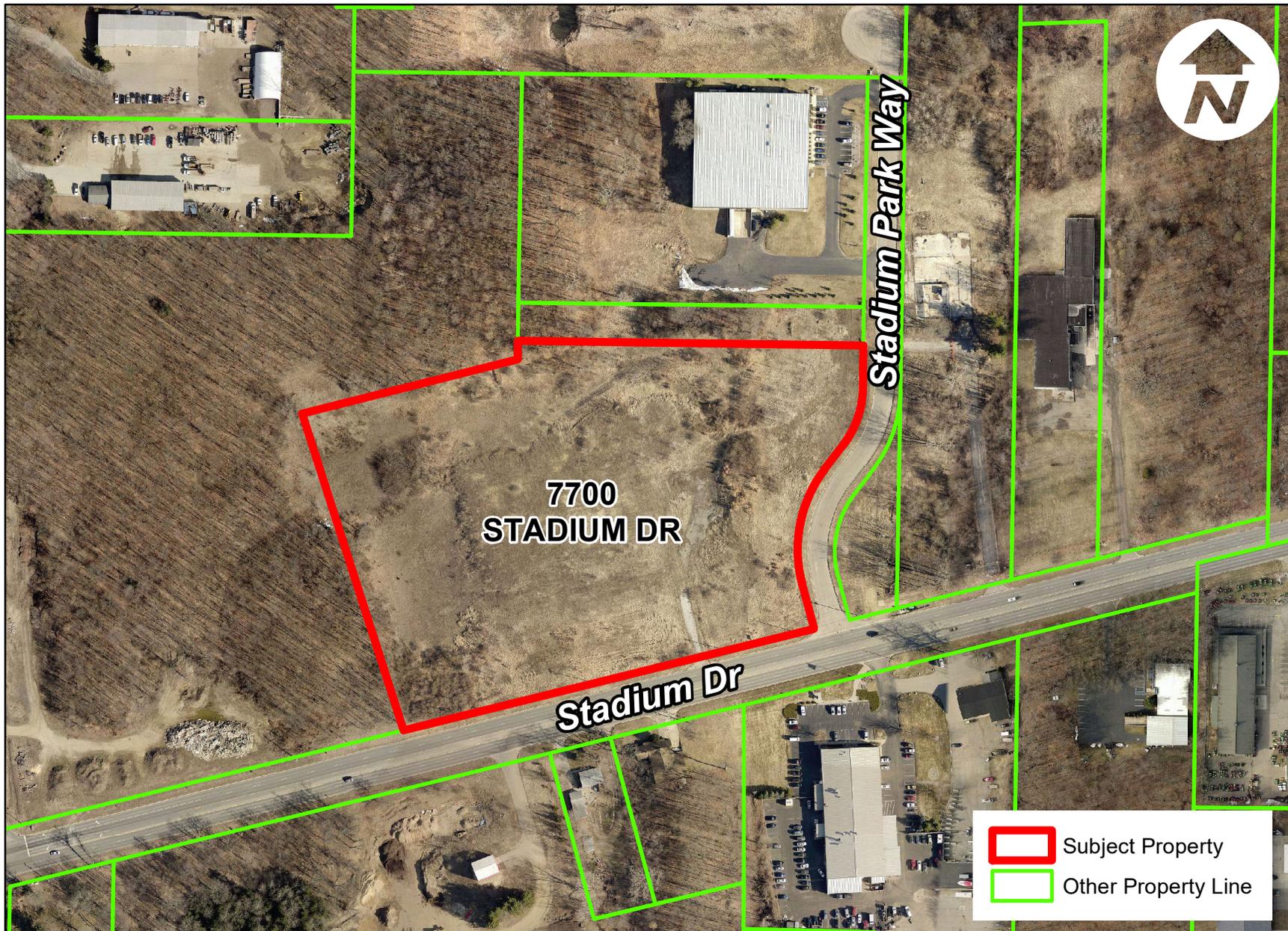
RE: Zoning Variance request for 7700 Stadium Drive / National Flavors Facility

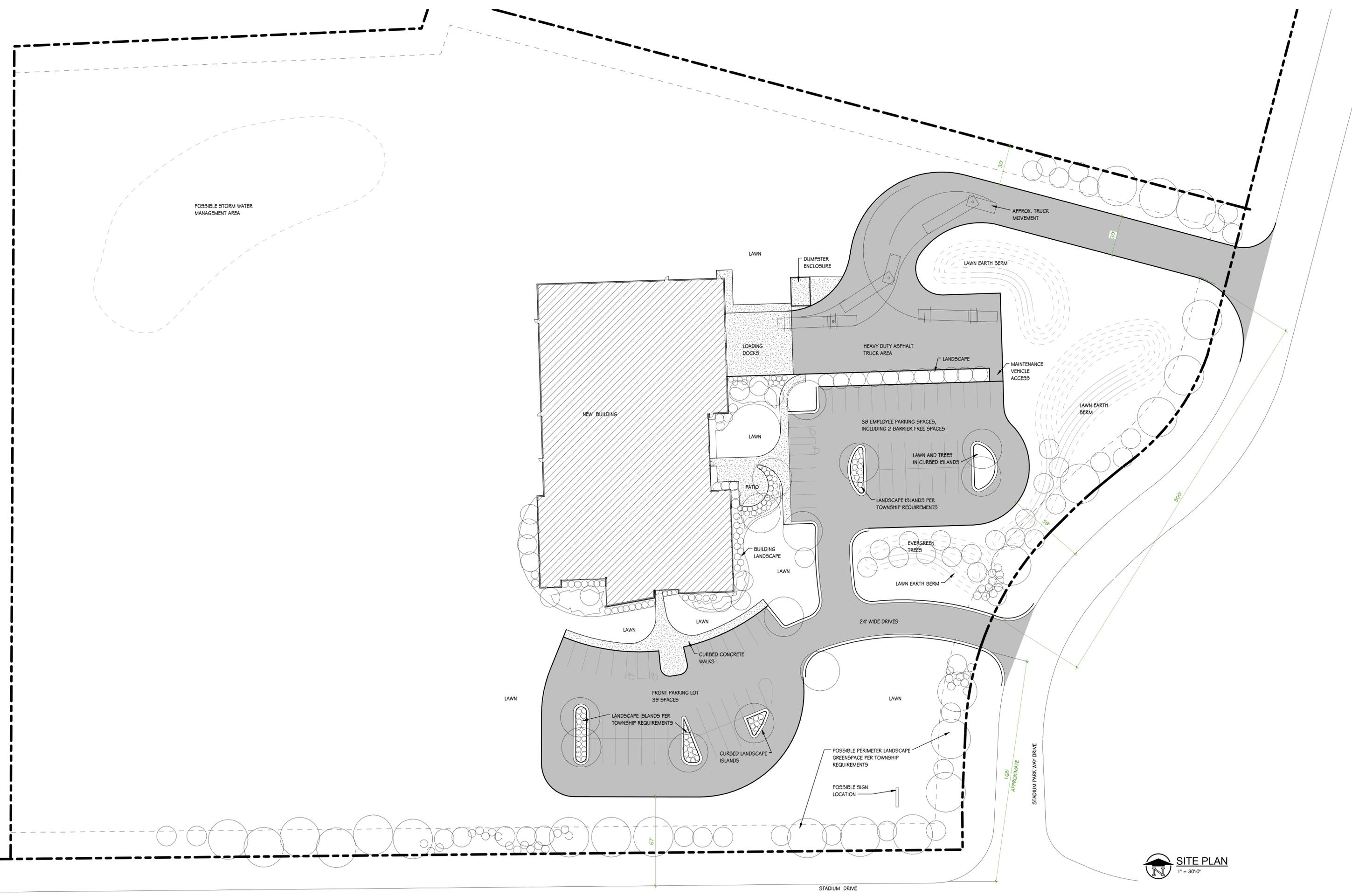
We are writing to request a variance for the location of the loading docks at the new National Flavors facility on the corner of Stadium Drive and Stadium Parkway. (Reference Section 68.301 of the Zoning Ordinance Charter Township of Oshtemo, MI) We have met with the staff at Oshtemo Township and understand that variances for front yard loading have been granted in the past in situations like this where there are technically 2 front yards.

The National Flavors new building will be situated on a corner lot with the true front-yard of the building at the south Stadium Drive side of the site. The loading dock is located at the back half of the east side, set back from view off Stadium Drive. The loading dock will be screened from Stadium Parkway by landscape berms and evergreen trees. This and adjacent properties are all zoned for Industrial use. There are no residential properties within view of the facility.

Attached is a site plan showing the loading dock location and concept for landscape screening around the property. Please let us know if we can provide any further information.

Proposed National Flavors Site





 **SITE PLAN**
1" = 30'-0"