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**NOTICE
OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

REGULAR MEETING – VIRTUAL

Participate through this Zoom link:
<https://us02web.zoom.us/j/86260871017>

Or by calling: 1-929-205-6099
Meeting ID: 862 6087 1017

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

**THURSDAY, FEBRUARY 11, 2021
6:00 P.M.**

AGENDA

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Approval of Agenda
4. Approval of Minutes: January 28th, 2021
5. **Public Hearing: Code Amendment – Uses of Nonconforming Lots**
Consideration of an amendment to the Township Zoning Ordinance, for recommendation to the Township Board, to provide clarification on uses permitted on legal nonconforming lots.
6. 2021 Code Amendment Priority Setting
7. Public Comment
8. Other Updates and Business
9. Adjournment

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

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

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

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

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

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

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

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

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

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

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

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

Zoom Instructions for Participants

Before a videoconference:

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

To join the videoconference:

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

You may also join a meeting without the link by going to [join.zoom.us](#) on any browser and entering this **Meeting ID: 862 6087 1017**

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

To join the conference by phone:

1. On your phone, dial the toll-free teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **862 6087 1017#**

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

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

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

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

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**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

DRAFT MINUTES OF A VIRTUAL MEETING HELD JANUARY 28, 2021

Agenda

**PUBLIC HEARING: SPECIAL USE – JIFFY LUBE MULTICARE – MEIJER OUTLOT
(AMENDMENT)**

TRADITIONAL BRAND DEVELOPMENT PARTNERS, LLC, WITH CONSENT FROM MEIJER CORPORATION, WAS SEEKING TO AMEND THEIR SPECIAL USE AND SITE PLAN APPROVAL FROM THE PLANNING COMMISSION TO CONSTRUCT A 3,020 SQUARE FOOT JIFFY LUBE VEHICLE SERVICE FACILITY NORTH OF THE EXISTING MEIJER GAS STATION WITHIN THE MEIJER PARKING LOT AT 6660 W. MAIN ST.

A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, January 28, 2021, commencing at approximately 6:01 p.m.

ALL MEMBERS WERE PRESENT

AND WITHIN THE TOWNSHIP: Bruce VanderWeele, Chair
Micki Maxwell, Vice Chair
Kizzy Bradford
Deb Everett
Alistair Smith
Anna Versalle
Chetan Vyas

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, Martha Coash, Recording Secretary and Victor Olson of Olson Design.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:01 p.m. and invited those in attendance to join in reciting the Pledge of Allegiance.

Approval of Agenda

Hearing no changes, the Chair let the agenda stand as published.

Approval of the Minutes of the Meeting of January 14, 2021

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of January 14, 2021. Hearing none, he asked for a motion.

Mr. Smith **made a motion** to approve the Minutes of the Meeting of January 14, 2021 as presented. Mr. Vyas **seconded the motion**. The **motion was approved unanimously by roll call vote.**

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

PUBLIC HEARING: SPECIAL USE – JIFFY LUBE MULTICARE – MEIJER OUTLOT (AMENDMENT)

TRADITIONAL BRAND DEVELOPMENT PARTNERS, LLC, WITH CONSENT FROM MEIJER CORPORATION, IS SEEKING TO AMEND THEIR SPECIAL USE AND SITE PLAN APPROVAL FROM THE PLANNING COMMISSION TO CONSTRUCT A 3,020 SQUARE FOOT JIFFY LUBE VEHICLE SERVICE FACILITY NORTH OF THE EXISTING MEIJER GAS STATION WITHIN THE MEIJER PARKING LOT AT 6660 W. MAIN ST.

Ms. Lubbert explained Traditional Brand Development Partners, LLC, with consent from Meijer Corporation, was seeking to amend their Special Use and Site Plan approval from the Planning Commission to construct a 3,020 square foot Jiffy Lube vehicle service facility north of the existing Meijer Gas Station within the Meijer parking lot at 6660 W Main Street.

6660 W Main Street is currently owned by Meijer Corporation. The intent is to split 1.4 acres from the site to allow for the construction of a 3,020 square foot Jiffy Lube multicare vehicle service facility. A land division application will be submitted and the property transferred to Traditional Brand Development Partners, LLC prior to building permit issuance. The original plans were approved by the Planning Commission at their July 30th, 2020 regular meeting. The applicant has since redesigned the site's layout and requested amendment to the approved site plan.

She noted the entirety of the property in question is zoned C, Local Business District. Uses permitted in the C zoning district are outlined in Article 18 of the Township's Zoning Code. Filling stations, carwashes, public garages or service stations, excluding auto body and auto paint shops are identified as Special Uses within this section. New construction of a Special Use requires the review and approval of the Planning Commission (Section 64.20). When reviewing a Special Use there are two sets of criteria that need to be considered: the general Special Use review criteria outlined in Section 65.30 and the specific requirements for the use in question outlined under Section 49.70. In this case, Section 49.70 does not apply as the code does not contain any specific requirements for this use.

Ms. Lubbert provided the following analysis of the proposal against Section 65.30. Details on the proposed changes to the previously approved site plan are noted in italics.

Section 65.30: Special Use Review Criteria

- A. Master Plan/Zoning Ordinance: The proposed use will be consistent with the purpose and intent of the Master Plan and Zoning Ordinance, including the District in which the use is located.**

Oshtemo's adopted Future Land Use map shows the property in question within a General Commercial area. The intent for the General Commercial areas is to "serve both the residents of the community as well as the regional market and transient customers. Uses like big box retail, shopping centers, and auto-oriented uses would be permitted in this district." (Oshtemo Township Master Plan Update, page 69) This area is intended for high density development. The proposed vehicle service facility meets this intent.

From a zoning standpoint, the subject property is classified as C: Local Business District, within which vehicle service facilities are permissible with Special Use approval from the Planning Commission.

B. Site Plan Review: The Site Plan Review Criteria of Section 64

A site plan was provided. (evaluation under Section 64: Site Plan Review)

C. Impacts:

- 1. The proposed use would be compatible, harmonious and appropriate with the existing or planned character and uses of adjacent properties; meaning the proposed use can coexist with neighboring uses in a stable fashion over time such that no neighboring use is unduly negatively impacted.**

Other uses in the surrounding C zoning district include Meijer, Meijer Express Gas Station, OMNI Community Credit Union, Arby's, Flagstar Bank, AutoZone Auto Part, Bell Tire, McDonalds, Pizza Hut, D'Nicio's Parlour, On Target Guns & Gunsmithing, Hockey Services, and Menards. With two other vehicle service facilities already established in the area and this use being in accordance with both the Master Plan and the Zoning Ordinance, staff had no concerns that the proposed use will negatively affect neighboring uses.

- 2. Potentially adverse effects arising from the proposed use on adjacent properties would be minimized through the provision of adequate parking, the placement of buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.**

Staff did not foresee a significant impact of the proposed use on neighboring properties. The proposed site plan provides the required parking, exceeds minimum setbacks, and will provide landscaping.

It could be argued this use utilizes an underused portion of this development, which if constructed would positively impact the overall area. The site in question is currently a portion of Meijer's parking lot which rarely sees use. Meijer will be giving up 114 stalls to the proposed Jiffy Lube site. Based on Meijer's approved site plan 1,255 parking spaces are needed to support it. The site currently has 1,456 stalls – 119% of the minimum parking space requirement. If the proposed site plan is approved Meijer would have 1,342 stalls remaining – 107% of the minimum parking space requirement. To minimize excessive areas of pavement which detract from the aesthetics of

an area and contribute to high rates of storm water runoff, Oshtemo's off street parking code only allows parking lots to have parking spaces totaling no more than 110% of the minimum parking space requirements, unless otherwise approved by the reviewing body (Section 52.50 (H)). This proposal would bring Meijer's into compliance with the current code and improve on the aesthetics of the area.

3. The proposed use would not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, or visual clutter.

Staff anticipates the proposed expansion of the gas station will have no such negative impacts on adjacent properties. In terms of traffic, the proposed site plan does not introduce a new curb cut on N 9th Street but will utilize the two existing interior access drives. This approach will greatly mitigate any potential traffic disruptions to the current flow of the area. However, the two existing driveways to 9th Street currently have inadequate pavement markings. With the proposal of a new parcel and increased usage, the Township will require an update to the pavement markings to help with traffic control and safety - the outside right turn lane will be turned into a right or through lane.

Due to the nature of the proposed use, oils and fluids from the serviced automobiles will need to be drained and stored. The oil and other fluids will not be disposed on the land, but rather stored in a steel tank until a truck picks up and removes the waste oil regularly. (monthly estimate) Oils and fluids from automobiles are considered hazardous. An Environmental Permits Checklist and Hazardous Substance Reporting Form are required from the applicant.

D. Environment: The natural features of the subject property shall only be cleared or altered to the extent necessary to accommodate site design elements, particularly where the natural features assist in preserving the general character of the area.

The proposed project area is already paved; no natural features will be disturbed as a part of these modifications.

E. Public Facilities: Adequate public and/or private infrastructure and services already exist or would be provided, and will safeguard the health, safety, and general welfare of the public.

This property is already adequately served by public utilities and the proposed expansion would add little to no burden to the system. However, the retention pond that currently services Meijer's, and to which this development would connect, has failed and needs to be fixed. The applicant has been working with Meijer and Township Staff to address this issue. Meijer is currently working on an agreement that outlines how this problem will be addressed. There is an understanding that at minimum Meijer's agreement will be reviewed and

approved by the Township Engineer and entered into prior to a building permit being issued for the proposed Jiffy Lube project.

F. Specific Use Requirements: The Special Use development requirements of Article 49.

Article 49 of the Zoning Ordinance dictates no specific considerations for vehicle service facilities.

Section 64: Site Plan Review

General Zoning Compliance:

Zoning: 6660 W Main Street is zoned C, Local Business District. All properties surrounding this proposed new site are also within the C District. The proposed vehicle service facility is a permitted as a Special Use within this district.

Lot Dimensions: Parcels within the C, Zoning District require a minimum area of 50,000 square feet and frontage of 200 feet (Section 50.10 (A)). The proposed Jiffy Lube site has over 200 feet of frontage along N 9th Street and an area of 61,782 square feet. The proposed property exceeds the dimensional standards of the code. It should be noted that the area around the existing Meijer's monument sign was carved out of the proposed lot so as to avoid the creation of an off-premise sign.

Setbacks: Properties within the C District have a front yard setback of 70 feet. The minimum setback distance between any building and any rear or interior side property line shall be 20 feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater. (Section 50.60) The proposed building is 24 feet tall on an overall flat terrain, requiring a 24 foot side and rear yard setback. *The newly proposed layout has the building, with the same footprint, oriented east to west instead of north to south. The building is located roughly in the same area of the proposed parcel.* Based on the scale provided on the site plan, the proposed building is shown with a front yard setback of over 200 feet and over 40 feet for all side and rear yard setbacks.

Access and Circulation

Access: Although the proposed lot has frontage to N 9th Street the site will be accessed from the existing shared access drives currently utilized by Meijer's and the other commercial properties in this development. To accomplish this, the applicant will enter into necessary cross access easement agreements. All aisles within the proposed site plan will be a minimum of 24 feet wide. *The proposed access drive has been shifted to the east side of the proposed site plan to provide additional distance between the entrance to this site and the shared access drive's egress point onto N 9th Street. The interior aisles in the proposed site plan have also been redesigned so to discourage through traffic.* Adequate

stacking space is provided for cars being serviced in the four service areas proposed onsite.

Parking: Per Section 52.50 a minimum of 17 parking spaces are required with no more than 110% of the minimum parking spaces permitted (19 stalls). The applicant has decreased their proposed parking from 19 stalls to 17 stalls, 1 being ADA accessible. All stalls are 10 feet by 20 feet, with the ADA spaces being concrete, meeting Township standards.

Sidewalk: Per Section 57.90 sidewalks indicated on the Township's Non-motorized Plan shall be installed by the developer when properties adjacent to planned nonmotorized facilities receive site plan approval from the municipality. The Township's adopted Non-motorized Plan shows a 6-foot-wide path along this section of N 9th Street. With staff oversight, the applicant has coordinated with Meijer to come up with a plan to install sidewalk not only in front of this property but to provide a complete sidewalk connection along N 9th Street from W Main Street to Meijer's building entrance to the north. Meijer has already installed a sidewalk section along the Meijer Gas Station property. The internal pedestrian path shows the required 10 foot easement with Oshtemo Township. The applicant will need to coordinate with the Township to finish necessary easement documents.

Building Design

Facade: Exterior materials for the proposed Jiffy Lube will remain the same as with the initial submittal. The proposed building include EIFS with a Colonial style stone design, Sand pebble fine finish painted EIFS, Centria Meal Vertical Rib Panel, with various medium bronze finishes. Overall, the elevations show a very attractive new facility. It should be noted the applicant has not submitted new elevations as they relate to the new site layout. Elevational drawings provide for a visual representation of the building and do not portray the newly proposed site layout. The proposed signage for the site appears to meet code requirements and will be reviewed again if the request is approved by the Planning Commission when sign permit applications are submitted.

Trash and Recycling Containers: The applicant is proposing to locate the site's dumpster on the far north portion of the parking lot away from public view. This location and the proposed screening meet the requirements of code section 53.60 Screening of Trash and Recycling Containers.

Landscaping

The applicant has provided a landscaping plan that meets Township standards with one exception: eight of the 10 required canopy trees must be a species native to Michigan. The current plan shows three native canopy trees and seven non-native canopy trees. A revised plan shall be required to be resubmitted for approval prior to issuance of a building permit.

Photometric Plan

The applicant has provided a Photometric plan. Four pole mounted lights are proposed at 18 feet in height and 14 wall mounted lights at various locations on the building. Per the Township Lighting Ordinance, pole mounted lights that are 15 to 25 feet in height shall not exceed 20,000 lumens per luminaire and shall be spaced a minimum of 40 feet apart. Requirements for the proposed pole fixtures have been met. Per the code, wall mounted lights shall not be mounted higher than 14-feet above grade on a building. It is unclear at what height the proposed wall lights will be mounted, an updated elevation or photometric plan providing this detail will be necessary. In addition, all luminaires are required to be cut-off fixtures. The wall mounted lights appear to be a mixture of cut off and not cut off fixtures. A revised plan addressing this issue will be required.

Engineering

Prein & Newhof, the Township's civil engineering agent, has reviewed the project site plan. Overall, all onsite concerns have been addressed with the note that a 20 foot public water easement to the Township will be required as well as an access easement over the final sidewalk location. However, the existing stormwater retention pond located north of Meijer, to which this project would be connected, has failed and will need to be addressed.

Fire Department

The Township Fire Marshal is satisfied with the site design. The Fire Marshal requested that two general requirements be added to the conditions of approval; these items are provided under the RECOMMENDATION section.

RECOMMENDATION:

Ms. Lubbert recommended approval of the proposed amendments to the Special Use and Site Plan for Jiffy Lube Multicare with the conditions outlined below. She noted the applicant was aware of and has agreed to address these items:

1. A land division application shall be submitted and approved *prior to a building permit being issued.*
2. The existing retention pond has failed and needs to be fixed. An agreement with a plan on how to address this issue shall be submitted, reviewed and approved by the Township Engineer, and entered into *prior to a building permit being issued.*
3. An Environmental Permits Checklist and the Hazardous Substance Reporting Form shall be submitted to Planning Department and approved *prior to a building permit being issued.*
4. Copies of the necessary recorded easements (for the public sidewalk and traffic circulation) shall be provided to Planning Department *prior to occupancy being issued.*
5. A storm water connection agreement will be entered into and provided to the Township to permit this proposed project to connect to the existing Meijer storm system *prior to a building permit being issued.*

6. An updated Planning and Zoning Application shall be provided *prior to a building permit being issued*.
7. An updated Site Plan shall be submitted to the Planning Department *prior to a building permit being issued* with the following information:
 - a. The pavement markings for the two existing driveways to N 9th Street will be modified to help with traffic control and safety - the outside right turn lane turned into a right or through lane.
 - b. Show the proposed setbacks of the building on the plans. The plan shall be updated to note that the required rear and side yard setback is 24 feet.
 - c. Show the location of where the above ground and underground storage tanks will be on site.
 - d. The applicant shall address the following items with the Township Fire Marshal:
 - i. One key box shall be required for this facility.
 - ii. Emergency Responder Radio Coverage in New and Existing Buildings shall be provided in all buildings in accordance with Section 510 of the International Fire Code and Michigan Building Code 2015 section 916. Update plans to include.
8. Updated Architectural Plans shall be provided to the Planning Department *prior to a building permit being issued*.
9. An updated Photometric Plan shall be provided to and approved by Planning Department *prior to building permit issuance*.
10. An updated Landscaping Plan shall be provided to and approved by the Planning Department *prior to building permit issuance*.
11. A SESC Permit will be required from the Kalamazoo County Drain Commission.

Chairperson VanderWeele thanked Ms. Lubbert for her presentation and asked whether Commissioners had questions for her.

Mr. Vyas asked why approval should be given before the stormwater retention basin problem is addressed.

Ms. Lubbert said the pond is owned by Meijer and out of the applicant's control.

Attorney Porter added it is not unusual to provide approval with conditions.

Mr. Vyas wondered if approval is given, whether this item will be addressed prior to issuing a building permit.

Ms. Lubbert indicated that would be the case.

Chairperson VanderWeele confirmed there will be one left and one right/through lane to 9th Street, and noted there is no through lane at Menard's currently and that it would be good to get the two drives lined up.

Ms. Maxwell asked if all conditions are the same as approved previously.

Ms. Lubbert said there is a lot of carryover. There are a few modifications, but the conditions remain mostly the same.

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

Mr. Victor Olson, Olson Design, thanked the Commission for their consideration, noted no objections to the conditions listed, and said they can all be resolved.

Chairperson VanderWeele opened a public hearing, but as no one was present who wished to speak, he moved to Board Deliberations.

Ms. Maxwell indicated she liked the new orientation from north to south and also that the driveway is further away from the intersection.

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

Ms. Maxwell **made a motion** to approve the amendments as requested to the Special Use and Site Plan which was originally presented and approved at the July 30, 2020 meeting. Approval is contingent on compliance with the 11 conditions recommended by Staff and listed on page 8 of this document. Ms. Everett **seconded the motion**. The **motion was approved** unanimously by roll call vote.

The 11 required conditions are listed on previous pages 7 and 8.

PUBLIC COMMENT

Chairperson VanderWeele determined there were no members of the public wishing to speak and moved to the next agenda item.

OTHER UPDATES AND BUSINESS

Ms. Lubbert indicated she would bring the Commission's "to do" list from 2020 to the next meeting for review.

ADJOURNMENT

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:26 p.m.

Minutes prepared:
January 29, 2021

Minutes approved:
_____, 2021

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February 3, 2021

Mtg Date: February 11, 2021
To: Planning Commission
From: Iris Lubbert, AICP, Planning Director
Subject: Public Hearing: Permitted uses on a legal nonconforming lot

Objective:

Consideration of an amendment to the Township Zoning Ordinance, for recommendation to the Township Board, to provide clarification on uses permitted on legal nonconforming lots.

Background:

Planning Staff was recently approached by an individual that wished to build a medical office on a legal nonconforming parcel within a R-3 Residence District. A medical office is considered a special use within the R-3 Residence District. What can be built on a legal nonconforming parcel, lot, or building site is outlined in Section 63.20 of the Oshtemo Ordinance. Currently the language reads that “permitted uses of the zoning district” are allowable on these types of properties. There are three categories of uses outlined in the code: permitted uses, permitted uses with conditions, and special uses. Both the Planning Department and Legal Counsel have interpreted the language in Section 63.20 to mean that only the uses outlined under the “permitted uses” and “permitted uses with conditions” categories of a zoning district would be allowed on legal nonconforming properties. Meaning that a special use, i.e the requested medical office, would not be permitted on the legal non-conforming lot in question. However, after additional research and discussion, the Planning Department and Legal Counsel determined that this interpretation is not the intent of the code. In this case the use of the word “permitted” was intended to mean “allowed”, an instance of poor wording. Oshtemo staff is recommending the Planning Commission consider the amendment below to clarify that special uses may also be built on legal nonconforming properties.

Proposal:

To avoid future confusion and provide clear direction, staff is recommending the following change, in red, to Section 63.20 of the Oshtemo Ordinance:

“In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, where a nonconforming lot, parcel or building site of record, lawful at the time of its creation, fails to meet the requirements for minimum area, minimum width, minimum frontage or exceeds the allowable depth to width ratio of 4 to 1, such lot, parcel or building site may be used for the permitted uses, **permitted uses with conditions, or special uses** of the zoning district, provided that all other applicable minimum requirements are met.” Section 63.20 Nonconforming Parcels, Lots or Building Sites.”

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February 4, 2021

Mtg Date: February 11, 2021

To: Planning Commission

From: Iris Lubbert, AICP, Planning Director

Subject: Discussion: Setting Zoning Code Amendment Priorities



Background:

The Planning Commission is responsible for maintaining the Master Land Use Plan, a living document that expresses the community's vision for the future of Oshtemo. The Zoning Ordinance, a written regulation and law that defines how property in specific geographic zones can be used, is the tool to implement the Master Land Use Plan. Like the Master Land Use Plan, the Zoning Ordinance is a living document. In order to ensure that these two documents accurately reflect the type of community Oshtemo residents enjoy now and desire for the future, the Planning Commission is tasked to work with Township Staff when necessary to recommend amendments to these documents to the Township Board for adoption.

The following is a compilation of larger Zoning Ordinance amendment projects that the Planning Commission has been requested to consider:

- **Signage:** The existing signage code does not meet the federal neutrality regulations and requires review and amendment. There is also a need to have the signage lighting regulations updated to mirror the recently approved outdoor lighting standards.
- **Marijuana:** It has been requested that the current zoning code be amended to allow for marijuana to be grown, processed, and sold within Township boundaries.
- **Permitted Uses, Permitted Uses with Conditions, and Special Uses:** To be more efficient organizationally, there is a strong interest in revisiting the three use types in the Zoning Ordinance with the ultimate goal of making approval of Permitted Uses and Permitted Uses with Conditions administrative.
- **Go Green Oshtemo:** An award-winning vision plan recently adopted by the Township. The Zoning Ordinance and Master Land Use Plan need to be reviewed and updated to be consistent with this plan.
- **5G:** 5G refers to a new type of communication tower linked to driverless cars. Federal regulations have required that municipalities allow for these special towers. The zoning ordinance needs to be updated if the Township wants to have any control over where and how these towers are placed. An application for a 5G tower can be submitted at any time.
- **Maple Hill South Mixed-Use Overlay District:** The creation of this overlay district would lead to the redevelopment of an existing golf course at the south east corner of W Main Street and US Highway 131 into a compact, pedestrian-oriented, mixed-use district. This new overlay zone would implement the adopted Maple Hill Sub Area Plan.
- **Nonhazardous Materials:** The zoning ordinance has been requested to be updated to allow for the processing and treatment of non-hazardous materials within its boundaries.
- **Village Form Based Code Overlay Zone:** In April 2020 an amendment was adopted to the Village Theme Development Plan. Part of that amendment included changes to the vision of

development in the overlay to help make the area more development friendly. In order for the desired changes to take effect the Village Form Based Code Overlay Zone needs to be amended.

- Sidewalk, lighting, dry sewer in developments: Over the years a number of shortfalls have been identified within the Oshtemo Charter Township Subdivision, Site Condominium, and Land Division Ordinance. These shortfalls have resulted in developments with sidewalk infill inconsistencies and/or insufficient street lighting. In addition, the adopted 2017 Master Plan urges that dry sewer be installed within new developments – the current ordinance does not reflect this. The Oshtemo Charter Township Subdivision, Site Condominium, and Land Division Ordinance needs to be reviewed and updated to ensure that current inconsistencies, which have resulted in enforcement and safety issues, are not continually created as the Township grows.

It should be noted that Oshtemo is due for a Master Plan update in 2022/2023.

Requested Discussion:

To ensure amendments capture the intent of the Community's vision and as they ultimately become written regulation and law, each amendment necessitates a considerable amount of research, time, and discussion from Oshtemo Staff, the Planning Commission, the Township Board, and the public. It is important that all parties have the opportunity to give each amendment their full attention and not spread oneself too thinly. With the number of requested amendments, Township staff is seeking guidance from the Planning Commission on setting Zoning Ordinance amendment priorities for 2021. Staff requests that the above list of amendments is reviewed and the amendments numbered in the order that the Planning Commission wishes to address them. Staff and the Planning Commission can realistically work on one to two of these larger ordinance amendments at a time. The intent is that staff, and/or a hired consultant, would work on the first two items and as items are completed the other amendments on the list would move up accordingly. Staff recommends that this list, once set, be revisited as needed.

To help spur discussion, staff proposes the amendments be addressed in the order below.

Small corrections/clarifications on existing ordinance language (ongoing)

1. 5G
2. Sidewalk, lighting, dry sewer in developments
3. Permitted Uses, Permitted Uses with Conditions, and Special Uses
4. Maple Hill South Mixed-Use Overlay District
5. Village Form Based Code Overlay Zone
6. Signage
7. Marijuana
8. Nonhazardous materials
9. Go Green Oshtemo
10. Others?

Thank you.