

**MANISTEE CITY  
ZONING BOARD OF APPEALS  
Meeting of September 6, 2012  
5:30 p.m. - Council Chambers, City Hall, 70 Maple Street,  
Manistee, Michigan**

**AGENDA**

**I CALL TO ORDER**

**II ROLL CALL**

**III APPROVAL OF AGENDA**

At this time the Zoning Board of Appeals can take action to approve the September 6, 2012 Agenda.

**IV APPROVAL OF MINUTES**

At this time Zoning Board of Appeals can take action to approve the January 19, 2012 meeting Minutes.

**V PUBLIC HEARING**

**ZBA-2012-01 Morton Salt Inc., 180 Sixth Street – Variance to Height Limitation**

Morton Salt Inc. received a variance from the Zoning Board of Appeals on November 27, 2007 that allowed the construction of a boiler exhaust stack 150 feet in height. The Michigan Department of Environmental Quality which is the state government version of the Environmental Protection Agency is requiring that the existing boiler stack height be 160 feet tall. Due to state air quality regulations that are based on federal requirements Morton Salt needs a variance to increase the existing boiler stack 10 feet.

At this time the Chair will open the public hearing  
The Applicant shall be asked to present their case to the Zoning Board of Appeals.  
City Staff and any Consultants serving the City will present their reports  
The Hearing will be opened for Public Comments  
The Public Hearing will be closed.

**VI BUSINESS SESSION:**

**Action on Pending Case**

**ZBA-2012-01 Morton Salt Inc., 180 Sixth Street – Variance to Height Limitation**

A public hearing was held earlier in response to a request from Morton Salt Inc. for a variance to increase the height of the existing boiler exhaust stack from 150 feet to 160 feet to comply with Michigan Department of Environmental Quality Requirements.

At this time the Zoning Board of Appeals could take action to approve/deny/approve with conditions the variance request from Morton Salt Inc. for a variance to increase the height of the existing boiler exhaust stack from 150 feet to 160 feet  
Old Business

**Other Business of the Appeals Board**

Misc.

**VII PUBLIC COMMENTS AND COMMUNICATIONS**

At this time the Chair will ask if there are any public comments.

**VIII ADJOURNMENT**

**MANISTEE CITY ZONING BOARD OF APPEALS**  
City Hall, 70 Maple Street  
Manistee, MI 49660

**DRAFT**

**ORGANIZATIONAL MEETING MINUTES**  
January 19, 2012

A meeting of the Manistee City Zoning Board of Appeals was held on January 19, 2012 at 5:30 pm in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

**MEMBERS PRESENT:** Ray Fortier, Mark Hoffman, John Perschbacher, Craig Schindlbeck

**MEMBER ABSENT:** Bill Kracht (excused)

**ALTERNATES PRESENT:** Mark Wittlief

**ALTERNATES ABSENT:** Stanton Haner (excused)

**OTHERS:** Jon Rose (Community Development Director)

The meeting was called to order at 5:30 p.m. by Chairman Perschbacher

**APPROVAL OF AGENDA:**

MOTION by Ray Fortier, seconded by Mark Wittlief to approve the Agenda as prepared.

With a voice vote this MOTION PASSED UNANIMOUSLY

**APPROVAL OF MINUTES:**

MOTION by Ray Fortier, seconded by Mark Wittlief to approve the November 3, 2011 Zoning Board of Appeals Meeting Minutes.

With a voice vote this MOTION PASSED UNANIMOUSLY

**PUBLIC HEARING:**

None

**DRAFT**

**BUSINESS SESSION:**

**Election of Officers 2012**

According to the By-Laws of the City of Manistee Zoning Board of Appeals their annual election of Officers is held at the January Organizational Meeting.

**Chair**

At this time the meeting was turned over to Jon Rose who asked for nominations for the Position of Chair.

Ray Fortier nominated John Perschbacher for the position of Chair

Nominations were asked for three times, there being no other nominations, nominations were closed.

With a roll call vote, John Perschbacher was elected Chair of the Zoning Board of Appeals for 2012, 5 to 0.

**Vice-Chair**

Chair Perschbacher asked for nominations for the Position of Vice-Chair.

Mark Wittlief nominated Mark Hoffman for the position of Vice-Chair

Nominations were asked for three times, there being no other nominations, nominations were closed.

With a roll call vote, Mark Hoffman was elected Vice - Chair of the Zoning Board of Appeals for 2012, 5 to 0.

**Secretary**

Chair Perschbacher asked for nominations for the Position of Secretary.

Craig Schindlbeck nominated Ray Fortier for the position of Secretary

Nominations were asked for three times, there being no other nominations, nominations were closed.

With a roll call vote, Ray Fortier was elected Secretary of the Zoning Board of Appeals for 2012, 5 to 0.

**Appointment of a Recording Secretary 2012**

Once Elected the Secretary may appoint a Recording Secretary to handle the administrative functions of the office.

Ray Fortier appointed Denise Blakeslee to act as the Recording Secretary for the Zoning Board of Appeals for the year 2012.

**By Law Review**

According to the By-Laws of the City of Zoning Board of Appeals shall annually review their By-Laws at the January Organizational Meeting.

No Changes were made

**Old Business:**

None

**Other Business of the Appeals Board:**

None

**QUESTIONS, CONCERNS OF CITIZENS IN ATTENDANCE:**

None

**ADJOURNMENT:**

There being no further business MOTION by Mark Hoffman, seconded by Craig Schindlbeck the meeting be adjourned.

Meeting adjourned at 5:55 p.m.

Respectfully Submitted

\_\_\_\_\_  
Jon R. Rose, Temporary Recording Secretary



**Detailed Request and Justification**

	<i>Identify each requested variance</i>	<i>Required by Zoning</i>	<i>Requested by Appellant</i>
<input type="checkbox"/>	Front Yard Set Back	From _____	To _____
<input type="checkbox"/>	Side Yard Set Back	From _____	To _____
<input type="checkbox"/>	Side Yard Set Back	From _____	To _____
<input type="checkbox"/>	Rear Yard Set Back	From _____	To _____
<input type="checkbox"/>	Waterfront Set Back	From _____	To _____
<input checked="" type="checkbox"/>	Height	From <u>existing 150ft</u>	To <u>160ft</u>
<input type="checkbox"/>	Lot Coverage	From _____	To _____
<input type="checkbox"/>	Off Street Parking	From _____	To _____
<input type="checkbox"/>	Other:	From _____	To _____

**Please Mark all characteristics of your property which require the granting of a variance**

<input type="checkbox"/>	Too Narrow	Explain: _____
<input type="checkbox"/>	Too Small	Explain: _____
<input type="checkbox"/>	Too Shallow	Explain: _____
<input type="checkbox"/>	Elevation (height)	Explain: _____
<input type="checkbox"/>	Slope	Explain: _____
<input type="checkbox"/>	Shape	Explain: _____
<input type="checkbox"/>	Soil	Explain: _____
<input checked="" type="checkbox"/>	Other: <u>State</u>	Explain: <u>MDEQ Requirements</u>

**Variations**

The Board shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that all of the Basic Conditions and any one (1) of the Specific Conditions set forth herein can be satisfied. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.

**Basic Conditions** - The Board shall find that a variance request meets all of the following conditions.

1. *The requested variance is not contrary to the public interest or to the intent and purpose of this Ordinance.*  yes  no

**Justification:** The variance is needed to meet state environmental requirements.

2. *The requested variance does not establish a use that is not permitted by right or by a special use permit in the zoning district.*  yes  no

**Justification:** \_\_\_\_\_  
 \_\_\_\_\_ This does not. \_\_\_\_\_  
 \_\_\_\_\_

3. *The requested variance does not create an adverse effect upon properties in the immediate vicinity or in the district.*  yes  no

**Justification:** \_\_\_\_\_ The additional stack height will not be noticeable.  
 \_\_\_\_\_ This improves the environmental impact of the area. \_\_\_\_\_

4. *The requested variance is not of a recurrent nature to require a change in the Zoning Ordinance.*  yes  no

**Justification:** \_\_\_\_\_ This does not. \_\_\_\_\_  
 \_\_\_\_\_

5. *The requested variance is for property under the control of the applicant*  yes  no

**Justification:** \_\_\_\_\_

6. The requested variance was not self-created by the applicant or property owner.

yes  no

Justification:

This is a government requirement.

7. There is not an alternative that would allow the improvement to the property without the requested variance.

yes  no

Justification:

There is no economic alternative.

8. The requested variance is the minimum amount necessary to still permit the reasonable use of the land.

yes  no

Justification:

This is the shortest allowed by government regulations.

**Special Conditions** - When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one (1) of the following special conditions can be clearly demonstrated:

Are there practical difficulties with the property that prevents full compliance with the requirements of the ordinance?

yes  no

[Practical difficulties are evaluated in terms of the use of the parcel. Neither the fact the appellant could incur additional costs to achieve full compliance or receive additional income with less than full compliance are to be considered]

Justification:

The existing 150 foot smoke stack and zoning variance does not meet the state regulations. 10 - additional feet of smoke stack and a zoning variance of 160 feet is needed to meet Michigan Department of Environmental Quality regulations.

Is there an exceptional or extraordinary circumstance or physical condition (narrowness, shallowness, shape or topography) of the property or to the proposed use that does not apply to other properties or uses in the same zoning district?

yes  no

Justification:

Is the requested variance for a right possessed by other properties in the same zoning district?

yes  no

Justification:

### Site Plan Requirements

The applicant is responsible to provide a survey and legal description (unless waived by the Zoning Administrator) as follows:

- The property, identified by parcel lines and location and size
- The scale, north point.
- Natural features such as woodlots, waterbodies, wetlands, high risk erosion areas, slopes over 25%, beach, sand dunes, drainage and similar features.
- The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings, square footage of floor space and set-backs.
- The proposed driveway, if any.
- If the parcel is a result of a parcel split resulting after the adoption of this ordinance, then the required site plan shall show all structures and buildings, drawn to scale, that are located on the adjacent property.



<input type="checkbox"/>	Location dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines.
<input type="checkbox"/>	Surface and subsurface storm water drainage and retention systems for paved, roof, and other impermeable surfaces on the site
<input type="checkbox"/>	Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and identification of service lanes and service parking
<input type="checkbox"/>	Any proposed alterations to the topography and other natural features shall be indicated.
<input type="checkbox"/>	Any proposed location of connections to existing utilities and proposed extensions thereof.
<input type="checkbox"/>	A description of the proposed development
<input type="checkbox"/>	A vicinity map showing the location of the site in relation to the surrounding street system.

**Rules – The following rules shall be applied in the granting of variances**

The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.

Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance has received a City zoning permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.

No application for a variance which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the Board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the Zoning Administrator who shall place it on the agenda of the Zoning Board of Appeals along with a report and recommendation on the nature of such newly discovered evidence and whether it may have been pertinent to the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals determines that the newly discovered evidence would have been pertinent to its decision, it shall direct the Zoning Administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice and fee requirements of this Ordinance.

**Authorization**

**AFFIDAVIT:**

The undersigned acknowledges that if a variance is granted or other decisions favorable to the undersigned is rendered upon this appeal, the said decision does not relieve the applicant from compliance with all other provisions of the City of Manistee Zoning Ordinance; the undersigned further affirms that he/she or they is (are) the (owner/lessee/authorized agent for the owner) involved in the appeal and the answers and statements herein contained and the information herewith submitted are in all respects true and correct to the best of his, her or their knowledge and belief. By signing this affidavit permission is given for Zoning Board of Appeals Members to make a site inspection if necessary.

Signature: Michael J. Hays Date: 8/16/12

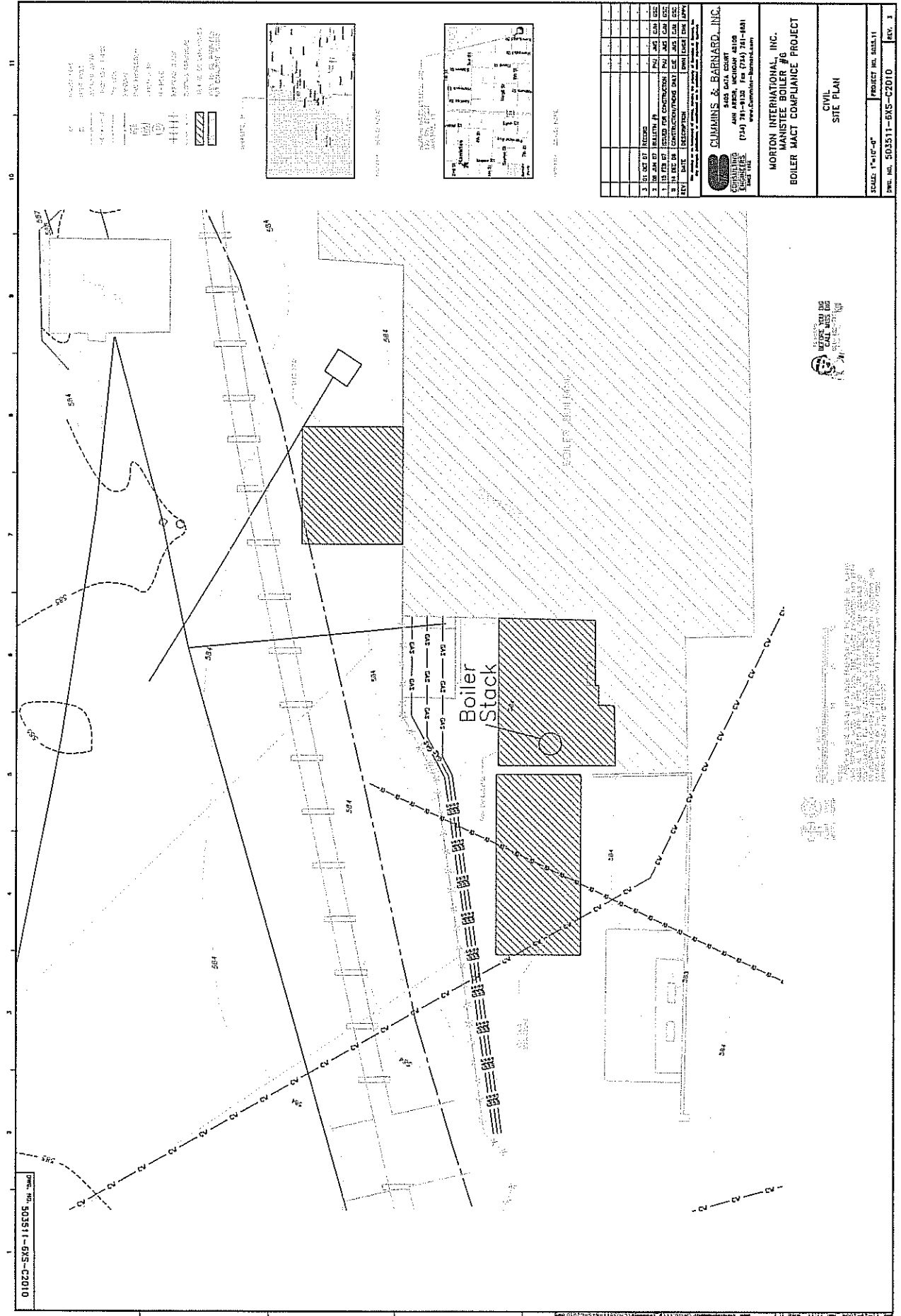
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Fee of \$500.00 enclosed and Site Plan for project attached (request cannot be issued without site plan)

**Office Use Only**

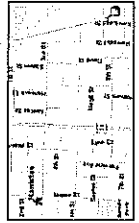
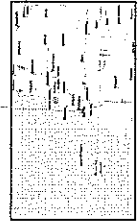
Fee: <input checked="" type="checkbox"/> \$500.00	Receipt # <u>20597</u>
Date Received: <u>8-16-12</u>	Hearing Date: <u>9-6-12</u> ZBA- <u>2012-01</u>

*City of Manistee*



PROJECT NO. 503511-6XS-C2010

- 1. SITE BOUNDARY
- 2. EXISTING PAVEMENT
- 3. EXISTING CONCRETE
- 4. EXISTING ASPHALT
- 5. EXISTING GRAVEL
- 6. EXISTING SAND
- 7. EXISTING GRAVEL
- 8. EXISTING SAND
- 9. EXISTING GRAVEL
- 10. EXISTING SAND
- 11. EXISTING GRAVEL
- 12. EXISTING SAND
- 13. EXISTING GRAVEL
- 14. EXISTING SAND
- 15. EXISTING GRAVEL
- 16. EXISTING SAND
- 17. EXISTING GRAVEL
- 18. EXISTING SAND
- 19. EXISTING GRAVEL
- 20. EXISTING SAND



NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	10/15/10
2	REVISED PER COMMENTS	11/10/10
3	REVISED PER COMMENTS	12/10/10
4	REVISED PER COMMENTS	1/10/11
5	REVISED PER COMMENTS	2/10/11
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97	REVISED PER COMMENTS	10/10/18
98	REVISED PER COMMENTS	11/10/18
99	REVISED PER COMMENTS	12/10/18
100	REVISED PER COMMENTS	1/10/19

**CUMMINS & BARNARD, INC.**  
 8405 DATA COURT  
 4TH FLOOR, SUITE 4010  
 CHICAGO, IL 60649  
 (773) 741-1100 Fax (773) 741-1841  
 WWW.CUMMINSANDBARNARD.COM

**MORTON INTERNATIONAL, INC.**  
 MANISTEE BOILER #6  
 BOILER MACT COMPLIANCE PROJECT

**CIVIL SITE PLAN**

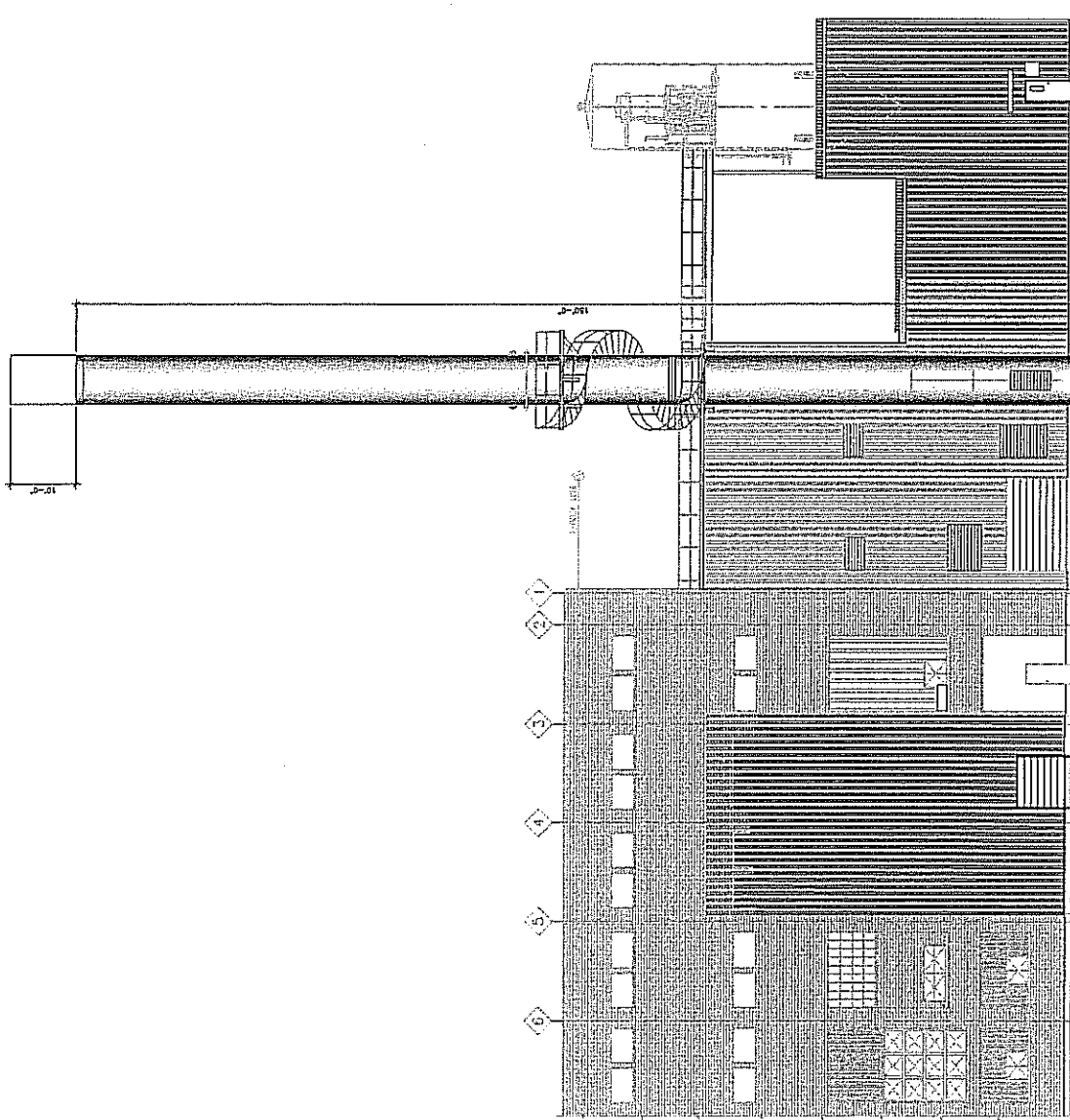
SCALE: 1"=10'-0"

PROJECT NO. 503511

DRAWING NO. 503511-6XS-C2010

REV. 3

NEW 10 foot Stack Section



REV.	DATE	DESCRIPTION	BY	CHK	DATE	REV.	DATE	DESCRIPTION	BY	CHK	DATE
0		ISSUED FOR CONSTRUCTION									

**CUMMINS & BARBER, INC.**  
 3400 S. 10th Street  
 Milwaukee, WI 53215  
 (414) 224-1100 Fax (414) 224-1101  
 www.cummins-barber.com

**MORTON INTERNATIONAL, INC.**  
 MANUFACTURING  
 BOILER MAINTENANCE PROJECT

ARCHITECTURAL  
 FAN ENCLOSURE & SILO ELEVATIONS

SCALE: 1/8"=1'-0"  
 PROJECT NO. 001LV-11  
 SHEET NO. 001LV-EX9-115CDE