

PLANNING COMMISSION

February 19, 2009

The City of Portage Planning Commission meeting of February 19, 2009 was called to order by Chairman Fox at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 20 citizens were in attendance.

MEMBERS PRESENT:

James Cheesebro, James Pearson, Miko Dargitz, Paul Welch, Kerry Hettinger, Richard Yonke, Nancy Vander Roest, Cory Bailes and Chairman Thomas Fox.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning and Development Services; Michael West, Assistant City Planner and Randy Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

The Planning Commission, staff and audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the February 5, 2009 meeting minutes. A motion was offered by Commissioner Hettinger, seconded by Commissioner Cheesebro, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan: Charter Communications (storage building), 4176 Commercial Avenue. Mr. West summarized the staff report dated February 13, 2009 regarding a request by Mr. Gary Buren of Lakeshore Construction, on behalf of Charter Communications, to construct a 7,500 square foot freestanding storage building at the existing Charter Communications site located at 4176 Commercial Avenue. Mr. West also indicated that the applicant was requesting the Planning Commission approve a waiver for sidewalk installation along the South Sprinkle Road and Commercial Avenue frontages, citing a lack of sidewalks and pedestrian generators in the surrounding area.

Mr. Gary Buren, Lakeshore Construction, was present to support the plan and associated sidewalk waiver and thanked staff for assistance provided during the plan review and construction process. After a brief discussion, a motion was made by Commissioner Pearson, seconded by Commissioner VanderRoest, to approve the Site Plan for Charter Communications (storage building), 4176 Commercial Avenue, including the sidewalk waiver along Commercial Avenue and South Sprinkle Road. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Special Land Use Permit: The Hope Ranch, 4517 and 4519 Nash Avenue. Mr. Forth summarized the final staff report dated February 13, 2009 regarding a request by Ms. Vicki Rafferty-Polk to establish a non-profit, nature-oriented therapy facility for children with emotional, behavioral and at-risk substance abuse problems on a 31 acre zoning lot located at 4517 and 4519 Nash Avenue. Mr. Forth also summarized the supplemental staff report dated February 19, 2009 which provided explanation and clarification of issues and concerns discussed in several citizen letters received regarding the proposed use. Mr. Forth indicated that staff was recommending approval of The Hope Ranch project subject to the seven conditions listed in the February 13th report. Mr. Forth stated the staff recommended conditions of approval will ensure that The Hope Ranch operates consistent with the intent and purpose of the Zoning Code, is compatible with adjacent land uses and the natural environment, will not unduly affect public services/facilities, will be consistent with the public health, safety and welfare, will be harmonious with the comprehensive plan and will not be hazardous or otherwise detrimental to the area or unduly conflict with normal traffic as specified in Section 42-462 of the Land Development Regulations (general standards for review of special land use).

Ms. Vicky Rafferty-Polk and Ms. Adrienne Sines (The Hope Ranch) and Mr. Howard Overbeek (applicant's architect), were present to support the application and explain the use. Ms. Rafferty-Polk responded to several issues and statements contained in the various citizen letters. Ms. Rafferty-Polk again explained the primary focus and clientele of The Hope Ranch being early intervention of elementary and middle school-aged children with emotional, behavioral and at-risk substance abuse issues. Ms. Rafferty-Polk discussed legal and ethical aspects of counseling and group therapy and stated The Hope Ranch will be professional structured and supervised at all times. Ms. Rafferty-Polk explained plans for use of horses and indicated no commercial boarding of horses will occur at The Hope Ranch.

The public hearing was reconvened by Chairman Fox. Five citizens spoke in regard to the special land use permit application: Mrs. Jeannine Morris, 9830 East Shore Drive; Mr. Bob Hutchins, 9810 East Shore Drive; Mrs. Barbara Bennett, 9844 East Shore Drive; Mr. Christopher Morris, 9830 East Shore Drive and Mr. John Crago, 9720 East Shore Drive. The citizens expressed various concerns including the type of therapy/counseling services provided, the number and age of clientele, hours of operation, boarding and maintenance of horses and potential negative impacts on adjacent properties. The citizens also discussed recommended conditions of approval for Planning Commission consideration including limitations on the type of therapy/counseling services which may be performed on-site, limited days and hours of operations, reductions in the maximum number of clients on-site at any time and the ratio of counselors to clients, age restrictions on clientele and inclusion of fencing between the use and adjacent properties on East Shore Drive. Ms. Rafferty-Polk and Ms. Sines responded to citizen comments, concerns and recommended conditions of approval.

The Commission, staff, applicant and City Attorney next discussed various aspects of The Hope Ranch proposal and details specified in the project narrative. Mr. Forth provided further explanation on how staff arrived at recommended conditions of approval and how it was determined that the conditions would ensure the project operated consistent with Zoning Code requirements. Mr. Forth indicated that The Hope Ranch project is a low intensity land use when compared to other uses which are allowed in the single family residential zoning district such as schools, churches, little league baseball fields, soccer fields, day care centers and platted subdivisions. Attorney Brown discussed the Zoning Board of Appeals determination and the associated legal basis for Planning Commission consideration of the project as a special land use. With no additional citizens wishing to speak, a motion was made by Commissioner Cheesebro, seconded by Commissioner Vander Roest, to close the public hearing. The motion was unanimously approved.

After further discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Welch, to approve the Special Land Use Permit for The Hope Ranch, 4517 and 4519 Nash Avenue, subject to the following conditions:

- 1) Driveway/maneuvering lane and parking spaces be consistent with Zoning Code and Fire Code requirements unless necessary variances/approvals are obtained from the Construction Board of Appeals (CBA) and Zoning Board of Appeals (ZBA). CBA and ZBA determinations are necessary prior to issuance of a temporary certificate of occupancy to The Hope Ranch.
- 2) Kalamazoo County Health Department approval of all water/sewer related service to the site prior to issuance of a temporary certificate of occupancy to The Hope Ranch.
- 3) Operational aspects of The Hope Ranch including type/number of clients served, hours of operation, location of structures and related improvements, use of day camp areas, etc. be conducted consistent with the written project narrative and associated site plan with the following modifications: a) No more than 12 participants on-site at any one time; b) No more than three active participants, ages 16 or 17, on-site at any one time; c) Fall, Winter and Spring group session evening hours be limited to Mondays, Tuesdays and Thursdays from 6-8pm; d) No Summer group session evening hours from 6-8pm (revision to Page 8 of project narrative); and e) Oral representations and clarifications provided by the applicant be made part of the record and supersede the written project narrative, if more restrictive.
- 4) No overnight camping permitted.
- 5) A maximum of 12 horses be allowed on-site with no more than two horses boarded for family and/or volunteers with no commercial boarding of horses allowed.
- 6) Horse stables, feeding areas and other confinement areas be located at least 125-feet from neighboring residences. Manure pile be maintained at least 125-feet from all property lines. These areas must be maintained so as not to produce noise, odors, dust, fumes or comparable nuisances.
- 7) Use of trails for hiking and horse riding only consistent with the written project narrative and associated site plan (no use or rental of the trails involving motorized vehicles).

Upon a roll call vote: Cheesebro (yes), Yonke (yes), Vander Roest (yes), Bailes (yes), Welch (yes), Fox (yes), Pearson (yes), Hettinger (yes) and Dargitz (yes), the motion was unanimously approved.

9:05 p.m. The Commission took a short recess. The meeting was reconvened at approximately 9:10 p.m.

SITE/FINAL PLANS:

1. Site Plan: The Hope Ranch, 4517 and 4519 Nash Avenue. Mr. Forth summarized the staff report dated February 19, 2009 regarding a request by Ms. Vicki Rafferty-Polk to establish The Hope Ranch and associated site improvements at 4517 and 4519 Nash Avenue. Mr. Forth indicated the existing 960 square foot residential dwelling will be renovated for offices and a groundskeeper residence, the existing 1,500 square foot accessory building will be renovated for a horse barn and the existing 336 square foot shed will be utilized to store feed and tools. Mr. Forth stated a future horse barn (up to 9,000 square feet) is also planned east of the existing residential dwelling.

Ms. Rafferty-Polk and Mr. Howard Overbeek were present to support the plan. After a brief discussion, a motion was made by Commissioner Hettinger, seconded by Commissioner Bailes, to approve the Site Plan for The Hope Ranch, 4517 and 4519 Nash Avenue, subject to the same conditions which were attached to the Special Land Use Permit approval. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Special Land Use Permit: Femito Auto Sales, 8139 Portage Road. Mr. West summarized the staff report dated February 13, 2009 regarding a request by Mr. Frank Minarovits (Femito Auto) and Mr. Dave Smith (property owner) to establish a used car sales facility at 8139 Portage Road. Mr. West discussed the existing access arrangement at the site (two full service driveways along the 115-foot of Portage Road frontage) and the nonconforming status of the front (west) parking lot with less than 40-feet of space provided between the Portage Road right-of-way and building and the lack of a landscaped greenstrip area. Consistent with the Access Management Ordinance, Zoning Code and similar approvals for used car sales facilities, Mr. West stated staff was recommending closure of the north driveway and establishment of a 10-foot wide landscaped greenstrip area along the Portage Road frontage. Mr. West indicated both the applicant and property owner have agreed to close the north driveway, extend the sidewalk and establish the greenstrip area along the Portage Road frontage. Mr. West stated the applicant/property owner commitment to make these improvements is documented in a February 5, 2009 letter and attached site sketch.

Mr. Dave Smith (property owner) and Mr. Frank Minarovits (Femito Auto) were present to support the application. Mr. Smith stated that he did sign the February 5th letter agreeing to the recommended site improvements, however, now does not believe the site improvements are appropriate. Mr. Smith expressed concerns with the loss of the north driveway and front parking area. Mr. West indicated that this was the first time since receipt of the February 5th letter that staff was aware that the applicant/property owner now did not want to complete the recommended site improvements. Mr. West discussed past approvals of used car sales facilities at other locations where access management and zoning related improvements were required by the Commission.

The public hearing was opened by Chairman Fox. Mrs. Barb Smith (8726 South 29th Street, Scotts, Michigan), owner of subject property with Mr. Dave Smith, also spoke in opposition to the staff recommended site improvements. No additional citizens spoke in regard to the special land use permit application. A motion was made by Commissioner Welch, seconded by Commissioner Vander Roest, to close the public hearing. The motion was unanimously approved. After additional discussion, a motion was made by Commissioner Cheesebro, seconded by Commissioner Vander Roest, to approve the Special Land Use Permit for Femito Auto, 8139 Portage Road, subject to completion of the following improvements by June 15, 2009:

- 1) Closure of the north driveway consistent with the Access Management Ordinance.
- 2) Extension/connection of the concrete sidewalk along the Portage Road frontage.
- 3) Removal of existing asphalt and establishment of a 10-foot wide landscaped greenstrip area along the Portage Road frontage with one deciduous tree (2½ inch caliper) planted every 30-feet consistent with the landscaping provisions of the Zoning Code.

Upon a roll call vote: Yonke (yes), Vander Roest (yes), Welch (yes), Fox (yes), Cheesebro (yes), Hettinger (yes), Pearson (yes), Dargitz (yes) and Bailes (yes), the motion was unanimously approved.

2. Ordinance Amendment #08-B: Subdivision and Land Development Regulations. Mr. Forth summarized the staff report dated February 13, 2009 regarding the Michigan Planning Enabling Act and Michigan Zoning Enabling Act and related amendments to the City of Portage Subdivision and Land Development Regulations which are necessary. Mr. Forth reviewed the various ordinance amendments and the corresponding sections of the subdivision and land development regulations which will be altered. The public hearing was reconvened by Chairman Fox. No citizens spoke in regard to the proposed ordinance amendment. A motion was made by Commissioner Hettinger, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved.

After additional discussion, a motion was made by Commissioner Dargitz, seconded by Commissioner Welch, to recommend to City Council that Ordinance Amendment #08-B, Subdivision and Land Development Regulations, be approved with inclusion of the notification language “including the land across the street” contained in Section 42-772(5). The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

Commissioner Yonke indicated he would not be present at the March 5th , March 19th and April 2nd meetings.

There being no further business, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Christopher T. Forth, AICP
Deputy Director of Planning and Development Services