

PLANNING COMMISSION

November 5, 2009

The City of Portage Planning Commission meeting of November 5, 2009 was called to order by Chairman Fox at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Eight citizens were in attendance.

MEMBERS PRESENT:

Jim Pearson, Miko Dargitz, Wayne Stoffer, Cory Bailes, James Cheesebro, Bill Patterson, Paul Welch and Chairman Thomas Fox.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Rick Bosch.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning and Development Services; Michael West, Assistant City Planner; and Randall 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 October 15, 2009 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bailes, to approve the minutes as submitted. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Special Land Use Permit: Mr. Wade Stoyanoff (automobile body/repair shop), 9917 Portage Road. Mr. Forth summarized the staff report dated October 30, 2009 regarding a request by Mr. Wade Stoyanoff to establish an automobile body/repair shop within Unit 16-A of the Condo Barn development located at 9917 Portage Road. Mr. Forth indicated a citizen complaint was received regarding the smell of paint fumes. Following a site inspection, it was discovered that Mr. Stoyanoff was operating the automobile body/repair shop from Unit A-16 since July 2009 without the required special land use permit. Mr. Forth provided a brief history of the Condo Barn development and representations made by the original owner/developer that approximately 80% of the units would be used for personal storage while the remaining 20% of the units would be used by small business owners (contractors, distributors) for storage, warehousing and small office space. At that time, it was understood only principal permitted uses listed in the I-1 zoning district would be allowed in the facility and any use not listed as a permitted use in the I-1 zone would be subject to additional review/approval including special land use permit consideration by the Planning Commission. Mr. Forth stated that staff was recommending that the special land use permit be approved allowing establishment of the automobile body/repair shop but be relocated the west side of the west building and subject to four conditions. Furthermore, Mr. Forth indicated that it is the staff position that uses other than those originally planned for the Condo Barn

development (i.e., personal storage and small contractor/distributor businesses for storage, warehousing and small office spaces) be restricted from locating within units located along the east side of the east building in order to adequately protect the adjacent residential neighborhood.

Mr. Robert Borsos (owner/manager of Condo Barn) was present to support the application. Mr. Borsos stated the new owners of the Condo Barn development can not be held to representations made by the original owner/developer. Mr. Borsos indicated the original plans for the Condo Barn development did not work, the business endeavor failed and changes to the business plan are needed in order to make the project financially viable. Mr. Borsos described the nature of the automobile body/repair shop proposed by Mr. Stoyanoff as being a low volume, specialty hot rod shop with no employees. Mr. Borsos stated that Mr. Stoyanoff will not store cars outdoors, has agreed to keep the door closed when working indoors and will not perform any painting until a paint spray booth is installed within the unit. Mr. Borsos indicated that no units are finished in Building B and relocating Mr. Stoyanoff to this building would require extensive building improvements and be extremely costly. Furthermore, Mr. Borsos stated it costs approximately \$30,000 to finish a unit in Building A. Mr. Borsos indicated that proper restrictions on the use will mitigate impacts on the adjacent single family residential neighborhood.

The Commission, staff, City Attorney Brown and Mr. Borsos discussed various issues associated with the application including the condominium bylaws, current tenants within the buildings, cost associated with finishing a condo unit, feasibility of relocating the auto body/repair use to a different unit, screening along the east side of the development and the staff recommendation. The public hearing was opened by Chairman Fox. Three citizens spoke in regard to the proposed automobile body/repair shop use: 1) Kevin Margul, 9958 Navy Pier; 2) Bob Diemer, 3347 Troon Court; and 3) Gary Blasen, 9946 Navy Pier. Mr. Margul and Mr. Blasen expressed concerns about the proposed use and asked that the Planning Commission deny the request. Mr. Diemer stated he owns Unit 3-A, directly behind (west) Mr. Stoyanoff's unit, and indicated noise from the use is minimal. No additional citizens spoke in regards to the proposed automobile body/repair shop. A motion was then made by Commissioner Welch, seconded by Commissioner Cheesebro, to close the public hearing. The motion was unanimously approved.

After further discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to approve the Special Land Use Permit for Mr. Wade Stoyanoff to establish an automobile body/repair shop along the west side of Building A (units 4, 5, 6 or 7) or along the west side of Building B of the Condo Barn development, 9917 Portage Road, subject to the following conditions: a) All automobile repair activities including storage of vehicles are to be conducted completed within the enclosed building; b) No on-site painting/priming of automobiles be allowed until the appropriate paint spray booth is installed within the building; c) Compliance with all applicable Building Code and Fire Code requirements; d) Additional Planning Commission review of the Special Land Use Permit and compliance with the applicable conditions of approval including a public hearing in August 2010; and e) Relocation of the automobile body/repair shop use from Unit 16-A to an approved location within 60 days. Upon a roll call vote: Bailes (no), Stoffer (yes), Welch (yes), Patterson (yes), Fox (yes), Dargitz (yes), Cheesebro (yes) and Pearson (yes), the motion was approved 7-1.

SITE/FINAL PLANS:

None.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Draft Home Occupation Ordinance Amendment. Mr. Forth summarized the staff report dated October 30, 2009 regarding a draft ordinance prepared by the City Administration and City Attorney which would amend the current home occupation regulations. Mr. Forth stated the ordinance amendment would expand the current regulations by creating two categories of home occupations where subordinate to the principal single family residential land use. Mr. Forth indicated that passive home occupations would include low intensity uses which are currently allowed under the existing home occupation ordinance subject to administrative review and approval. Mr. Forth stated that active home occupations would include more intensive uses, beyond the criteria for passive home occupations, which would be subject to several operational and location conditions and review/approval by the Planning Commission.

The Commission, staff and City Attorney reviewed and discussed the draft ordinance language and the criteria for approval of active home occupations including condition 3 (maximum floor area), conditions 4, 5 and 6 in relation to fruit/vegetable stands, condition 8 (vehicle and trailer storage), condition 12 (location on a major or collector thoroughfare) and condition 14 (hours of operation). Mr. Forth provided a summary of the staff research involved in preparation of the draft ordinance and the intent of many of the conditions for active home occupations. Attorney Brown stated the conditions for active home occupations were developed so the Planning Commission could evaluate the specific use on a case-by-case basis. Mr. West indicated that condition 9 allows the Planning Commission considerable flexibility in evaluating individual active home occupation applications.

After additional discussion, Mr. Forth stated that staff and the City Attorney would meet to discuss Commission comments and possible ordinance language changes and would return the draft ordinance to the Planning Commission for further consideration at an upcoming meeting.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

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