

PLANNING COMMISSION

January 21, 2010

The City of Portage Planning Commission meeting of January 21, 2010 was called to order by Chairman Fox at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 15 people were in attendance.

MEMBERS PRESENT:

Jim Pearson, Rick Bosch, Cory Bailes, James Cheesebro, Miko Dargitz, Bill Patterson, Paul Welch, Wayne Stoffer 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; Muhammad Arif, Traffic Engineer 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 January 7, 2010 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Welch, to approve the minutes as submitted. The motion was unanimously approved 9-0.

PUBLIC HEARINGS:

1. Special Land Use Permit: Imagine Motors, 2312 Winters Drive. Mr. West summarized the staff report dated January 15, 2010 regarding a request by Ms. Bonnie Granado, on behalf of Imagine Motors, to establish a used car sales facility at 2312 Winters Drive. Mr. West stated that the majority of the automobile sales business will be conducted via the internet and through vehicle auctions with no more than five vehicles at any one time being displayed for sale at the site. Mr. West stated the application fulfills ordinance requirements and is recommended for approval subject to the three conditions referenced in the staff report.

Ms. Bonnie Granado (applicant/property owner) and Mr. Gilbert Gonzales (Imagine Motors) were present to support the application. Ms Granado described the proposed automobile sales use with minimal walk-in customers and indicated any damaged vehicles purchased through the business would be temporarily stored inside the building and then transferred off-site for repair. Ms. Granado restated that no more than five vehicles would be displayed on-site at any one time. The public hearing was opened by Chairman Fox. No additional citizens spoke in regard to the special land use permit application. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved. After a brief discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to approve the Special Land Use Permit for Imagine Motors, 2312 Winters Drive, subject to the following conditions: 1) Maximum of five vehicles displayed on-site at one time; 2) Any damaged vehicles that are temporarily stored on

site must be within the building; and 3) During the Imagine Motor tenancy and City Transfer tenancy, no new tenants can be established on the parcel and zoning lot. The motion was unanimously approved.

2. Special Land Use Permit/Site Plan: Portage Animal Hospital, 8037 Portage Road. Mr. Forth summarized the staff report dated January 21, 2010 involving the special land use permit/site plan submitted by Chester, Inc., on behalf of Portage Road Investments LLC, to construct a new approximate 5,700 square foot veterinary hospital building and associated improvements at 8037 Portage Road. Mr. Forth discussed the most recent site plan submittal by the applicant and a January 18th telephone conversation with Attorney Nelson Karre. According to Attorney Karre, negotiations with Treystar Holdings regarding a shared/cross access agreement were still ongoing; however, Portage Animal Hospital requested action on the special land use permit and site plan at the January 21st meeting. Mr. Forth provided background information regarding discussions of a shared/cross access arrangement between the Portage Animal Hospital site and the adjacent Centreport Commons development which began in 2006. Mr. Forth also discussed the shared/cross access commitment which was agreed upon by Treystar Holdings, approved by the Planning Commission and included as a note on the approved site plan for Centreport Commons. As proposed, Mr. Forth stated the Portage Animal Hospital project is inconsistent with the Access Management Ordinance in regards to distance between driveways, alignment of driveways on opposite sides of street and vehicular connections. Regarding the special land use permit/site plan, Mr. Forth reviewed four options for Planning Commission consideration which are detailed in the January 21st staff report. Finally, Mr. Forth stated the goal of staff throughout the review process is to facilitate the development project while implementing provisions of the Access Management Ordinance as one of several goals/objectives established by City Council regarding traffic flow and safety along major thoroughfares and ensure conditions attached to the CentrePort Commons approved site plan are satisfied.

Dr. Cynthia Lunney and Dr. Andrew Helmholdt of the Portage Animal Hospital, Attorney Nelson Karre (attorney representing Portage Animal Hospital), Mr. Steve DeBold, Mr. Pete Brandon, Mr. Pete Peuquet and Mr. Tony Peuquet of Chester, Inc. (architects/engineers representing Portage Animal Hospital) were present to support the application. Dr. Lunney provided a brief history of the animal hospital use at the site and the growth of the practice since her and Dr. Helmholdt purchased property in 2005. Dr. Lunney summarized previous discussions with Treystar and the City of Portage regarding a shared/cross access arrangement between the two developments but a loss of direct access from Portage Road was not envisioned. Dr. Lunney stated she opposed a fee to Treystar for access through their property. Dr. Helmholdt expressed concerns over the potential loss of direct access to Portage Road stating he believes it devalues the property. Attorney Karre stated the Planning Commission has the ability under the Access Management Ordinance to waive provisions of the ordinance. Attorney Karre indicated that he believes the presentation by Chester, Inc. representatives will show that the proposed access arrangement is safer than a shared/cross access arrangement with the adjacent Treystar development.

Mr. DeBold and Mr. Brandon reviewed the proposed site plan and access arrangement and asked whether the existing Portage Animal Hospital driveways were considered with the CentrePort Commons site plan approval. Mr. DeBold discussed how vehicles would access the Portage Animal Hospital site, through the CentrePort Commons development, if no direct access was provided from Portage Road. Mr. DeBold stated that elimination of a direct access to the Portage Animal Hospital site devalues the property and is more detrimental to traffic flow and safety along Portage Road. Mr. Forth discussed how the Access Management Ordinance is applied to new developments and redevelopment projects. Mr. Pete Peuquet stated he has not seen any traffic study for the CentrePort Commons development. Mr. Peuquet indicated that no cross access easement to the Portage Animal Hospital site was included in the CentrePort Commons condominium documents. Mr. Forth stated that a traffic study was completed for the CentrePort Commons development, however, was never requested by Chester, Inc. or the Portage Animal Hospital.

Attorney Brown reviewed the City's responsibilities when considering the site plan for the Portage Animal Hospital. Attorney Brown stated there is no right to direct access to a public street and the ordinance requires that each parcel be provided "reasonable" access. Attorney Brown indicated the approved site plan for CentrePort Commons and the associated shared/cross access commitment and obligation affords the Portage Animal Hospital the opportunity for reasonable access. Attorney Brown stated that CentrePort Commons is obligated to negotiate

in good faith and third party mediation is an option, if necessary. Attorney Brown also indicated that discussions of fee or payment for shared/cross access should be left to the two private property owners to negotiate. Attorney Karre restated that he does not believe Treystar has not been negotiating in good faith; however, believes the proposed access arrangement as shown on the site plan is safer than a shared/cross access arrangement. Attorney Karre indicated that the Planning Commission has the authority to approve the proposed site plan and access arrangement and was requesting that approval be granted with no connection to the Treystar development. Attorney Brown discussed the five requirements listed in Section 66-84 for Appeals under the Access Management Ordinance and indicated that it is customary for the applicant to provide expert testimony and allow staff and the Planning Commission adequate time to review the information, prior to taking action.

Commissioner Stoffer asked whether a 300-foot public notice to surrounding property owners was provided for the CentrePort Commons development. Mr. Forth indicated that State statute and local ordinance does not require public notice for site plan review. Mr. Forth discussed the original December 2008 approval of the CentrePort Commons site plan and the subsequent July 2009 reapproval of the site plan which was required since construction did not commence within the required six month period. Mr. Tony Peuquet asked what constitutes commencement of construction. Mr. Forth reviewed activities which have occurred with the CentrePort Commons development project including demolition of the former Clark gas station building, issuance of a soil erosion permit, tree removal in driveway locations, completion of engineering plans and issuance of State permits for public water main and sanitary sewer main extensions and a preconstruction meeting for the infrastructure improvements. Attorney Brown stated that collectively these activities, as described by staff, constitute commencement of construction under the Zoning Code.

The Planning Commission, staff and the applicant representatives discussed the proposed access arrangement, a possible shared/cross access arrangement with the adjacent CentrePort Commons development, payment of monthly fees to Treystar, provisions of the Access Management Ordinance and the Appeal criteria/requirements, the chronology of discussions which occurred between staff, Treystar and the Portage Animal Hospital regarding shared/cross access, traffic engineering credentials of Chester Inc., the progress of the Centreport Commons development and anticipated construction schedules for both CentrePort Commons and the Portage Animal Hospital. Mr. Pete Peuquet stated his clients were concerned about closing the Portage Road driveway for the Animal Hospital before completion of the CentrePort Commons project. Mr. Peuquet stated that once the CentrePort Commons drives have been constructed, the Portage Road driveway for the Animal Hospital can be closed but does not believe the Animal Hospital should have to pay for the cross access.

The public hearing was reconvened by Chairman Fox. Two citizens spoke in regards to the proposed development project: Mr. Dennis Laskowsky (1814 Thrushwood Avenue) and Mr. William Peet (1735 Thrushwood Avenue). Mr. Laskowsky commented on 1) driveway spacing requirements and 2) notifying the Portage Animal Hospital prior to approval of the CentrePort Commons site plan. Mr. Peet believed that paying a "toll" to Treystar for access through the CentrePort Commons development is unreasonable. No additional citizens spoke in regards to the proposed development project. A motion was then made by Commissioner Welch, seconded by Commissioner Dargitz, to close the public hearing. The motion was unanimously approved.

After additional discussion, a motion was made by Commissioner Cheesebro, seconded by Commissioner Dargitz, to approve the Special Land Use Permit for Portage Animal Hospital, 8037 Portage Road, subject to the same conditions that may be subsequently approved with the site plan. Upon a roll call vote: Stoffer (abstain), Patterson (yes), Welch (yes), Pearson (yes), Bosch (yes), Dargitz (yes), Bales (yes), Cheesebro (yes) and Fox (yes), the motion was approved 8-0-1. A motion was then made by Commissioner Welch, seconded by Commissioner Bailes, to adjourn the Site Plan and possible Access Management Ordinance Appeal for the Portage Animal Hospital, 8037 Portage Road, to the February 4, 2010 meeting. The motion was unanimously approved.

3. Final Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the final staff report dated January 15, 2010 regarding proposed changes to Sections 42-545(A), 42-550(A) and 42-551(A) of the Zoning Code. The public hearing was reconvened by Chairman Fox. One citizen, Mr. Garnet Eckstrand (5015 Glencove Court) spoke during the public hearing. Mr. Eckstrand asked how the proposed changes would affect existing uses that have received variances or that have developed under the previous

ordinance. Mr. Eckstrand specifically referenced the Valley Family Church – Kalamazoo located on Vincent Avenue. Mr. Forth stated the Zoning Board of Appeals approved the wall sign variance for Valley Family Church – Kalamazoo subject to no freestanding sign. No additional citizens spoke in regards to the proposed ordinance amendment. A motion was then offered by Commissioner Cheesebro, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to recommend to City Council that Ordinance Amendment 09-B, Sign Ordinance Regulations, be approved. The motion was unanimously approved.

4. Final Report: Ordinance Amendment 09-C, Home Occupation Regulations. Mr. Forth summarized the final staff report dated January 15, 2010 regarding proposed changes to the home occupation regulations. The public hearing was reconvened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Welch, seconded by Commissioner Pearson, to recommend to City Council that Ordinance Amendment 09-C, Home Occupation Regulations, be approved. The motion was unanimously approved. Commissioner Pearson indicated staff and the Planning Commission spent a considerable amount of time developing the ordinance language and was pleased with the final outcome. Chairman Fox added that the ordinance amendment was also a product of goals and objectives identified during the Portage 2025 Visioning Project.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

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