

FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
April 13, 2010

5:30 p.m. Special Meeting of the Committee of the Whole to receive a presentation on assessing issues.
7:30 p.m. Call to Order.

Invocation: Pastor Richard Hertsel of the Centre Avenue Community Church of God.

Pledge of Allegiance.

Roll Call.

Proclamation: Fair Housing Month

- A. Approval of the March 23, 2010 Regular Meeting Minutes.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Check Register of April 13, 2010, as presented.
- D. Public Hearing:
 - 1. Communication from the City Manager recommending that City Council, subsequent to the public hearing, consider approval of Ordinance Amendment #09-B, sign ordinance regulations.
 - 2. Communication from the City Manager recommending that City Council, subsequent to the public hearing, consider approving Rezoning Application #09-01 from RM-1, multi-family residential, and R-1C, one-family residential, to PD, planned development, per the tentative plan dated March 4, 2010, written narrative dated February 23, 2010, and seven conditions contained in the Department of Community Development report dated February 26, 2010.
 - a. Communication from the City Manager addressing questions presented at the March 23, 2010, City Council meeting in regard to Rezoning Application #09-01.
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
 - 1. Presentation of the proposed Fiscal Year 2010-11 Budget.
 - * 2. Communication from the City Manager recommending that City Council adopt:
 - a. the Bond Resolution authorizing the sale of City of Portage Capital Improvement Bonds, Series 2010, in the amount of \$3,850,000; and
 - b. the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2010.
 - * 3. Communication from the City Manager recommending that City Council accept the annual renewal agreement of SARCOM, Inc., to continue to provide information technology services management on behalf of the City of Portage for a period of five years at a negotiated price of \$2,344,826 and authorize the City Manager to execute all documents related to this action on behalf of the city.
 - * 4. Communication from the City Manager recommending that City Council amend the current (third) five-year contract with United Water for the provision of utility management and operation services from March 1, 2007 through February 29, 2012 to include operation and maintenance of the Garden Lane Water Treatment Plant in the not-to-exceed annual amount of \$171,016 and authorize the City Manager to execute all documents related to this action on behalf of the city.
 - * 5. Communication from the City Manager recommending that City Council approve the purchase of one IBM communications message switch at a cost of \$10,450 and authorize the City Manager to execute all documents related to this action on behalf of the city.

- * 6. Communication from the City Manager recommending that City Council consider approving the height modification for Centre Meadows Apartments, 1405, 1419 and 1503 East Centre Avenue to construct a three-story multiple family residential building to a height of 36 feet with an architectural feature/cupola on top of the building that will extend to a height of 49 feet and note that the proposed building location/orientation, setback distances, natural topography, preservation of mature trees and supplemental landscaping will help mitigate potential adverse impacts on adjacent single family residential districts.
- * 7. Communication from the City Clerk recommending that City Council grant the request for a New Entertainment Permit to be held in conjunction with 2009 Class C Licensed Business at 8342 Portage Road, Portage (Erbelli's Restaurant).
- * 8. Communication from the City Manager recommending that City Council establish April 20 from 2-5 p.m. and May 4 from 6-9 p.m. as the dates for review of the proposed Fiscal Year 2010-11 Budget.
- * 9. Communication from the City Clerk recommending that City Council set a Special Meeting on Tuesday, May 11, 2010, beginning at 5:30 p.m., to interview board and commission applicants.
- * 10. Communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation – Information Only.

G. Communications:

- * 1. Communication from Mayor Peter J. Strazdas recommending that City Council adopt the Communications Procedure Policy and Communications Flow Chart.
- 2. Presentation by Kimberly Reeder, United Water Senior Regional Manager, regarding the upcoming Water Week Celebration.
- 3. Presentation by Kalamazoo County Prosecutor Jeffrey Fink and Kalamazoo County Undersheriff Paul Matyas regarding the Law Enforcement Millage renewal that will be included on the May 4, 2010, ballot.
- 4. Communication from Mark Anthony Martin, Chair, Portage Park Board, requesting City Council authorization to investigate options for banning smoking in city parks.
- 5. Communication from the Planning Commission regarding the City of Portage Fiscal Year 2010-2020 Capital Improvement Program.

H. Unfinished Business:

- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Board of Education Regular Business Meeting of February 22, Policy Governance Retreat of February 24, Committee of the Whole Work Session of March 8 and Special of March 9, 2010.
 - 2. Portage Park Board of March 3, 2010.
 - 3. Portage Human Services Board of March 4, 2010.
 - 4. Portage Planning Commission of March 18, 2010.

J. Ad-Hoc Committee Reports:

- 1. Communication from the City Council Community Survey Committee regarding the 2010 Community Survey – Information Only.

K. New Business:

L. Bid Tabulations:

M. Other City Matters:

- 1. Statements of Citizens.

2. From City Council and City Manager.
- * 3. Reminder of Meetings:
 - a. Wednesday, April 14, 8:00 a.m., City Council Cable Access Committee, City Hall Council Conference Room.
 - b. Wednesday, April 14, 7:00 p.m., Environmental Board, City Hall Room #1.
 - c. Thursday, April 15, 2:00 p.m., Neighborhood Revitalization/Engagement Committee, City Hall Council Conference Room.
 - c. Thursday, April 15, 7:00 p.m., Portage District Library Board, Portage District Library.
 - d. Thursday, April 15, 7:00 p.m., Planning Commission, City Council Chambers.
 - e. Monday, April 19, 8:00 a.m., Kalamazoo Regional Chamber of Commerce Legislative Connection Featuring Congressman Fred Upton, Girl Scouts Building, 601 W. Maple St, Kalamazoo.
 - f. Monday, April 19, 6:30 p.m., Youth Advisory Committee, Stuart Manor.
 - g. Tuesday, April 20, 2:00 p.m., City Council Budget Review, Session #1, City Hall Room #1.
 - h. Wednesday, April 21, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
 - i. Monday, April 26, 8:00 a.m., Legislative Roll Call, The Chamber Building, 346 W. Michigan Avenue, Kalamazoo.
- N. Materials Transmitted of March 19 and 23, 2010.

Adjournment.

CITY COUNCIL MEETING SUMMARY

March 23, 2010

CHECK REGISTER

- ◆ Approved the Check Register of March 23, 2010, as presented.

PETITIONS AND STATEMENTS OF CITIZENS

- ◆ Received an Arcadia Commons West Presentation from Ken Miller, Board Trustee of Western Michigan University and President and Chief Executive Officer of Millennium Restaurant Group.
- ◆ Raghuram Elluru, 6719 Oleander Lane, indicated he wished to provide an update on the progress of his property assessment dispute of two years with the city, commented that the two staff members who visited his home for an appraisal were incredibly professional and thorough and complimented City Council for their fairness with regard to his issue.

REPORTS FROM THE ADMINISTRATION

- ◆ Adopted the Resolution awarding the bid for the City of Portage Limited Tax General Obligation City Share Refunding Bonds, Series 2010, in an amount of \$2,575,000 to Wells Fargo Advisors at 2.8593 percent.
- ◆ Accepted Rezoning Application #09-01 for first reading and set a public hearing for April 13, 2010, at 7:30 p.m. or as soon thereafter as may be heard to consider approving Rezoning Application #09-01 from RM-1, multi-family residential, and R-1C, one-family residential, to PD, planned development, per the tentative plan dated March 4, 2010, written narrative dated February 23, 2010, and seven conditions contained in the Department of Community Development report dated February 26, 2010.
- ◆ Adopted the Resolution for Intergovernmental Hazardous Materials Incident Response Agreement and authorized the City Manager to sign the agreement on behalf of the city.
- ◆ Resolved to submit an application to the Michigan Liquor Control Commission for a Special License for the sale of beer and wine for consumption on the premises at Portage Central Park, 7800 Shaver Road, for *The Taste of Portage* on June 26, 2010, and authorized the City Manager to execute all documents on behalf of the city.
- ◆ Authorized the City of Portage to remain a party to the following class action lawsuit: *The City of Riverview vs. State of Michigan Case No. 09-712-CZ*.
- ◆ Took no action with regards to establishing the dates for review of the proposed Fiscal Year 2010-11 Budget.
- ◆ Held a closed session immediately following the regularly scheduled City Council Meeting of March 23, 2010, to discuss an attorney/client communication and pending litigation.
- ◆ Received the communication from the City Manager regarding the February 2010 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports from the various city departments.

AD HOC COMMITTEE REPORTS

- ◆ Received the communication from the Legal Services Evaluation Committee and accepted the proposal to renew current legal services contract with Attorney Randall L. Brown & Associates, PLC, for City Attorney/ Prosecuting Attorney services through Fiscal Year 2014-2015 and authorized the City Manager to execute all documents related to the contract.
- ◆ Accepted the proposal to renew current legal services contract with Axe & Ecklund, P.C. for Bond and Financial Consulting services through Fiscal Year 2011-2012 and authorized the City Manager to execute all documents related to the contract.
- ◆ Chose to not pursue the creation of a K-9 unit as part of the Portage Police Department and referred the matter of drug checks using K-9s at public schools in the greater Kalamazoo area to the City Council School Committee for review and report.

BID TABULATION

- ◆ Awarded a construction contract to the low bidder, Severance Electric, Incorporated, in the not-to-exceed amount of \$180,140.67 for the installation of new traffic signals at the East Centre/Currier Drive/Mustang Boulevard intersection and authorized the City Manager to execute all documents related to the contract on behalf of the city.
- ◆ Approved a contract with Elders Electric of Grandville, Michigan, to replace 140 light fixtures in the Department of Public Services (DPS) with T-6 light fixtures in the not-to-exceed amount of \$25,186 and authorized the City Manager to execute all documents related to this contract on behalf of the city.
- ◆ Awarded a four-year contract to Wightman Environmental, Incorporated, of Sodus, Michigan, in the not-to-exceed amount of \$19,850 for Stormwater Retention Basin and Stormwater Outfall Testing and Monitoring and authorized the City Manager to execute all documents relating to this contract on behalf of the city.

STATEMENTS OF CITIZENS

- ◆ John Gisler, 9145 Arrowhead Drive, Scotts, announced his candidacy for 16th District Kalamazoo County Commissioner.

REMINDER OF MEETINGS

- ◆ Dissolved the Assessing Issues Task Force and set a Special Meeting at 5:30 p.m., Tuesday, April 13, 2010, City Council Chambers, to receive a presentation from the Office of the Assessor staff regarding Assessing Issues.

STATEMENTS OF CITY COUNCIL

- ◆ Councilmember O'Brien announced she would be absent for the next City Council Meeting and Mayor Pro Tem Sackley pointed out that if a person is living temporarily out of state that he and/or she should put zero on the census form they receive out of state and respond to the Census taker when contacted upon their return to Portage.

COMPLETE MINUTES OF EACH CITY COUNCIL MEETING AND ALL CITY BOARDS AND COMMISSIONS ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEMIGOV, IN CITY HALL AND IN THE DISTRICT LIBRARY.



City of Portage Proclamation

FAIR HOUSING RESOLUTION

WHEREAS, 2010 is the 42nd anniversary of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended, to prohibit housing discrimination when based on race or color, national origin, religion, sex, familial status or disability, and declared that equal housing opportunity is a basic right of every American; and

WHEREAS, the Michigan State Legislature passed the Elliot-Larson Civil Rights Act of Michigan in 1976 to protect people from housing discrimination based on religion, color, race, national origin, age, sex, familial status or marital status; and

WHEREAS, the Michigan State Legislature passed the Michigan Persons and Disabilities Civil Rights Law of 1976 to protect individuals with disabilities from housing discrimination; and

WHEREAS, the City of Portage has completed an Analysis of Impediments to Fair Housing, and annually undertakes activities to further fair housing efforts and educate the public on fair housing issues; and

WHEREAS, equal housing opportunity is a goal to be achieved within the City of Portage.

NOW, THEREFORE BE IT RESOLVED, that I, Peter J. Strazdas, by virtue of the authority vested in me as the Mayor of Portage, Michigan, do hereby resolve the month of April 2010, as ***FAIR HOUSING MONTH*** in hope that this observance will promote fair housing practices throughout the City.



Signed this 13th day of April 2010

Peter J. Strazdas, Mayor

CITY COUNCIL MEETING MINUTES FROM MARCH 23, 2010

The Regular Meeting was called to order by Mayor Strazdas at 7:30 p.m.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, Patricia M. Randall, Claudette S. Reid, Terry R. Urban and Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas introduced Ravi Akkoor from the Hindu Community, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES: Motion by O'Brien, seconded by Reid, to approve the March 9, 2010 Special Meeting Minutes as presented and Regular Meeting Minutes as corrected. Upon a voice vote, both motions carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Councilmember O'Brien asked that Items F.2, Rezoning Application #09-01, Greenspire Planned Development, and F.6, Fiscal Year 2010-11 Budget Review Schedule, be removed from the Consent Agenda. Mayor Pro Tem Sackley asked that Item M.3.a, Reminder of the Assessing Issues Task Force Meeting of Friday, March 26, 2010, at 1:30 p.m., City Hall Room #1, be removed from the Consent Agenda. Mayor Strazdas removed Item F.3, Hazardous Materials Response Mutual Aid Agreement, from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF MARCH 23, 2010:** Motion by Urban, seconded by Reid, to approve the Check Register of March 23, 2010. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

KEN MILLER, BOARD TRUSTEE OF WESTERN MICHIGAN UNIVERSITY AND PRESIDENT AND CHIEF EXECUTIVE OFFICER OF MILLENNIUM RESTAURANT GROUP: Mayor Strazdas moved Item G.1, Communication from Ken Miller, Board of Trustee of Western Michigan University and President and Chief Executive Officer of Millennium Restaurant Group, to Item E.1. Mayor Strazdas introduced Mr. Ken Miller, who provided a PowerPoint presentation regarding the Arcadia Commons West Private/Public Economic Development Vision For Kalamazoo County. As a part of the presentation, Mr. Miller reviewed Public Act 180 that allows a municipality to issue bonds for the construction of an Event Center with a 1% tax levied on all restaurant receipts, bar tabs and hotel bills in Kalamazoo County which may only be used to fund the construction of the Event Center and long term capital improvements. He also indicated that the revenue from ticket sales and events will be dedicated to operational expenses. Discussion followed. In response to Mayor Strazdas, Mr. Miller cited the arcadiacommonswest.com website as place citizens can obtain more information by April 6, 2010. He also said that there is a request before the Kalamazoo County Commission to place the matter before the voters and he invited a dialogue with him at kmill6835@aol.com or over his cell phone at 269/207-3699 as another means and source for further information and dialogue. Discussion followed.

John Gisler, 9145 Arrowhead Drive, Scotts, referred everyone to the Kalamazoo County website and the 58 page report of the vetting committee report provided by Kalamazoo County Administrator Peter Battani dated February 10, 2010, for more information on this matter.

Raghuram Elluru, 6719 Oleander Lane, indicated he wished to provide an update on the progress of his property assessment dispute of two years with the City, commented that the two staff members who visited his home for an appraisal were incredibly professional, thorough and reduced the class of construction of his property. He also complimented City Council for their fairness with regard to his issue.

REPORTS FROM THE ADMINISTRATION:

* **RESOLUTION AWARDING BID:** Motion by Urban, seconded by Reid, to adopt the Resolution awarding the bid for the City of Portage Limited Tax General Obligation City Share Refunding Bonds, Series 2010, in an amount of \$2,575,000 to Wells Fargo Advisors at 2.8593 percent. Upon a roll call vote, motion carried 7 to 0.

REZONING APPLICATION #09-01, GREENSPIRE PLANNED DEVELOPMENT (PD): Mayor Strazdas deferred to Councilmember O'Brien, who pointed out that this not a public hearing, that City Council will not be considering the Rezoning Application, only the setting of the public hearing for the Rezoning Application, and asked that City Council consider listening to the citizens, first, then Steve Chadwick, of the Department of Natural Resources & Environment (DNRE), then the representative from American Village Builders. Mayor Strazdas agreed and welcomed any residents to speak regarding any topics or concerns they may have related to this matter.

Dr. Russell Mohny, 3500 Vanderbilt Avenue, asked that Steve Chadwick speak first. Discussion followed. Dr. Mohny showed maps of various phases of the project and asked City Council to focus on "Parcel 6" as it appears on the ALTA/ACSM survey map, S-2, since this depiction of Parcel 6 was never provided to the Zoning Board of Appeals for their deliberations, nor the Planning Commission for their deliberations, nor City Council until now and explained. He expressed concern that the proposal as it relates to Parcel 6 "tramples" upon his riparian rights and advised that in a natural lake, there are standard riparian laws and the property line extends to the middle of the lake from the perpendicular angle from the shore. Mayor Strazdas summed up and acknowledged that Dr. Mohny feels he has presented a case showing that there is a dispute with the documents that had been submitted to City Council by the Administration and asked that the City Manager arrange an appointment with Dr. Mohny to review the documents in question. Discussion followed. In response to Councilmember Urban, Dr. Mohny indicated that the street addresses of the properties in question were 8632 and 8718 Shirley Court. Discussion followed. Councilmember Urban asked the City Attorney to provide the law on riparian rights, including access, at the public hearing. Discussion followed.

Mayor Pro Tem Sackley indicated that one of the maps held by Dr. Mohny had not been provided to City Council and asked that the City Administration compare the maps provided to City Council with those held by Dr. Mohny. Discussion followed. Councilmember O'Brien asked for a clarification of what the parcels are from one to six as distinguished from what the phases are from one to six. Discussion followed.

Kim Dillon, 8546 Shirley Court, expressed a concern for her property since this project will increase Greenspire Apartments 30%, the main entrance is behind her property and there is a planned addition of a large retail development. She expressed her concerns for the safety of the neighborhood and of the wildlife in the area. She said she felt victimized and caught in the middle citing the traffic on a 24' wide dirt road, Tozier Lane, and the increase in traffic on Shirley Court with the retail that "goes out" to Centre Avenue. Discussion followed.

Councilmember Urban indicated that City Council would be considering the zoning request and not considering anything on the map or site plan. He said that the height restrictions, setbacks, etc. will go back to the Planning Commission before it comes back to the City Council. Discussion followed. Mayor Strazdas asked City Attorney Randy Brown to provide the standards or criteria that City Council has to consider on a PD rezoning request in order to better focus City Council during the public hearing. Mr. Brown indicated that this is a rezoning so it requires a tentative plan and, once the tentative plan is approved, the zoning changes. Discussion followed. In answer to Councilmember Urban, Mr. Brown indicated that once the tentative plan is approved, the zoning changes, and the matter does not go back to the Planning Commission, but the site plan does which is then sent back to City Council. Discussion followed. Mayor Pro Tem Sackley asked if certain milestones or commitments are not met, the zoning reverts back, and Mr. Brown said, "Yes, after two years." Discussion followed.

Doug Rhodus, 2333 Vanderbilt Avenue, focused on the ALTA/ACSM Survey provided to the Department of Natural Resources & Environment (DNRE), cited the ALTA/ACSM Land Title Survey Checklist of minimum requirements, and indicated that the drawing is not a final drawing, just a preliminary drawing. Also, because the property description did not match the map, he questioned whether the boundary description was 600 feet east of the line that was drawn on the map and whether submerged land is within the description. Discussion followed. Mayor Pro Tem Sackley asked whether the Planning Commission had access to this information and Mr. Rhodus responded that the process began with the notice and survey being sent to the DNRE for review. Discussion followed. He pointed out that one of the conditions before the Planning Commission that the DNRE addresses is the status of endangered species that may be on this property and he questioned whether an environmental study is the same as the DNRE checking for endangered species before the development begins. Mayor Strazdas indicated that this is an issue to be addressed at the public hearing.

Councilmember O'Brien summarized that some of the responses to the questions that have been posed, if City Council sets a public hearing, are for the State DNRE and some are for City staff: if the ALTA/ACSM Survey is acceptable to the State and the DNRE, does the City Council need it for the public hearing; is an environmental impact study required; are there any other legal requirements for this particular project as proposed; and for the City Attorney, if there are property owners who dispute property lines, what legally can City Council consider or not consider. Discussion followed.

Councilmember Urban indicated that parcel 6 takes up most of the property description of the area in question and confirmed from Mr. Rhodus that the legal descriptions on the documents presented to City Council do not match the map. Mr. Rhodus explained and discussion followed. Councilmember Urban said it is possible that the Planning Commission considered a map that is in dispute or is in error and asked for an opinion from the City Attorney on this. Discussion followed.

Steve Chadwick, DNRE, Wildlife Division, Wildlife Biologist for the Southwest Division of the State, living in Flowerfield Township, St. Joseph County, representing the Gourneck Game Area, indicated that the State was notified by the City of Portage of this matter via the Department of the Treasury to look things over and determine what was going on, and by Deputy Director of Planning and Development Services Chris Forth regarding the rezoning portion, albeit with a small electronically transmitted map, with assurances that the City had the matter handled, so the State had no reason to object to what was going on. Later on, the ALTA/ACSM Survey was brought to the attention of the State, and he pointed out that if the City of Portage was willing to accept the ALTA/ACSM Survey, the State would accept it, also. He indicated that the State will review the ALTA/ACSM Survey only if the City accepts it; otherwise, the State will follow up with a survey to ensure the boundary lines are accurate. Discussion followed. With regard to the environmental impact statement, Mr. Chadwick indicated that there is nothing the State would provide beyond what was provided, that he is fairly confident that there are no endangered species on the property in question, the east portion of the Centre Avenue tract, and explained the use of the Michigan Natural Features Inventory (MNFI) and other methods to determine whether there are endangered species on the property in question - none on the east side of the tract at first blush. Discussion followed.

Councilmember Urban reiterated that if the City of Portage thought the survey was accurate, the State would accept it. Mr. Chadwick said the State has a concern if there is trespass, that the State would not get involved if the developer met all of the City's requirements; however, the State would get involved if a building is encroaching or the developer trespasses onto someone's property. Councilmember Urban asked that staff provide the level of certification that is required for the description for the property for the rezoning and Planned Development proposal, and brought up the issue of the property descriptions not matching the map.

Councilmember Reid asked Mr. Chadwick to confirm that he has survey staff who will do a survey to make sure the property line boundaries are correct and not on State land. Mr. Chadwick indicated that it is necessary to put in a request and, since this is 200 acres out of millions of acres in the State, the request may not be honored as a high priority at this point, and no timeline is guaranteed before the shovel goes into the ground, perhaps as early as this summer. He reiterated that if the city accepts some other form of survey and all ordinances are followed, the State would have no objection.

Councilmember O'Brien again reiterated that if the City accepts an ALTA/ACSM survey, that the State would accept it, also. She asked the City Attorney what is the burden of proof if there are boundary line questions or a dispute, and City Attorney Brown asked to be allowed to answer these questions at the public hearing. He did offer that rezoning does not adjust property lines, only the use of the property; the City has its own maps and property descriptions and, if there are discrepancies, the dispute is between the parties; the City can look at surveys, but the City does not change ownership rights because that is between the property owners. Councilmember O'Brien asked if it is ever appropriate to look at what we have on file versus what is presented by the applicant. Mr. Brown deferred to Community Development Director Jeffrey Erickson with regard to what actions are taken internally by City staff, and indicated that legally the City should use its own records as the City does not have the responsibility to determine boundaries, only the use of the property, but can always review what is presented. Discussion followed. Councilmember O'Brien asked that staff address the issues involved in placing a building in the proper location and what staff provides to the Planning Commission and City Council as assurances that the setbacks are correct and that buildings are being properly placed within the boundaries of the owner's property. Mr. Brown answered that the City does have the necessary records - the deeds, the maps - to determine where the property line is, and indicated that every time an application comes in, the Community Development Department staff compares that information against the City records.

Councilmember Urban expressed his concern if the tentative plan map differs from the true map of the real property description because City Council is also approving a tentative plan.

Greg Dobson, American Village Builders, 4200 West Centre Avenue, indicated that Joe Gesmundo and Roger Hinman purchased this property over thirty years ago. He spoke in favor of holding a public hearing on April 13, 2010, provided economic reasons for doing the project this year instead of waiting, assured City Council that American Village Builders owns the land and promised that reputable letters of proof would be forthcoming, particularly the east property line. He promised that a surveyor will explain the property description/map discrepancies to the satisfaction of City Council and promised to meet with any and all local residents to discuss their concerns. He indicated that American Village Builders has provided notice to all property owners within 300 feet of the property, has had discussions with many of them and promised to continue to work with them in the belief American Village Builders is creating a great development next to their properties. He asked City Council to set the public hearing and promised that American Village Builders will make an effort to resolve as many of the issues as possible before and/or during the public hearing and explained. Discussion followed. Mayor Pro Tem Sackley asked Mr. Dobson for his assurances that he can address all of the issues posed by concerned citizens tonight, and Mr. Dobson confirmed that he can. Discussion followed.

Motion by Sackley, seconded by Urban, to accept Rezoning Application #09-01, Greenspire Planned Development, for first reading and set a public hearing for April 13, 2010, at 7:30 p.m. or as soon thereafter as may be heard and, subsequent to the public hearing, consider approving Rezoning Application #09-01 from RM-1, multi-family residential, and R-1C, one-family residential, to PD, planned development, per the tentative plan dated March 4, 2010, written narrative dated February 23, 2010, and seven conditions contained in the Department of Community Development report dated February 26, 2010. Discussion followed. Mayor Strazdas reminded everyone that they need to come to the public hearing and speak in order for their concerns to be a part of the public hearing. Upon a roll call vote, motion carried 7 to 0.

HAZARDOUS MATERIALS RESPONSE MUTUAL AID AGREEMENT: Mayor Strazdas introduced the item and invited Fire Chief Randy Lawton to come forward and he indicated that the City of Portage could not provide hazardous materials response without the help of the other communities because hazardous materials response requires specialized training and specialized equipment. He provided a history of the development of the Countywide Hazmat team since 2004 and indicated that about 14-15 months ago, it became apparent that the team had to be formally established because of issues that became apparent since the inception of the team, such as liability and reimbursement. Assistant City Attorney Charlie Bear indicated that this is an outgrowth of a countywide cooperation that has been in place for years and that the fire chiefs in the area have agreed to continue to cooperate because it was beneficial to the community. Discussion followed. Motion by Reid, seconded by O'Brien, to adopt the Resolution for Intergovernmental Hazardous Materials Incident Response Agreement and authorize the City Manager to sign the agreement on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **APPLICATION FOR SPECIAL LICENSE FOR THE SALE OF BEER, WINE AND SPIRITS:** Motion by Urban, seconded by Reid, to resolve to submit an application to the Michigan Liquor Control Commission for a Special License for the sale of beer and wine for consumption on the premises at Portage Central Park, 7800 Shaver Road, for *The Taste of Portage* on June 26, 2010, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **CLASS ACTION LAWSUIT – NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT:** Motion by Urban, seconded by Reid, to authorize the City of Portage to remain a party to the following class action lawsuit: *The City of Riverview vs. State of Michigan*, Case No. 09-712-CZ. Upon a roll call vote, motion carried 7 to 0.

FISCAL YEAR 2010-11 BUDGET REVIEW SCHEDULE: Councilmember O'Brien asked for a discussion of possible dates to have the public hearing and the notice requirements on the City Budget. Mayor Strazdas asked the City Manager to have his staff contact City Council to ascertain a mutually convenient date as an alternative to the April 20, 2010 date. In answer to the notice concerns of Councilmember O'Brien, City Attorney Brown offered language from Chapter 7, General Finance, Sec. 7.4, Budget Hearing, *Charter*, City of Portage, "A public hearing on the budget proposal shall be held not less than one week before its final adoption, at such time as the Council shall direct. Notice of the public hearing shall be published by the Clerk at least one week in advance thereof and the budget proposal shall be available in the office of the Clerk during such week." Discussion followed regarding the proper method of notice for setting a special meeting to have a public hearing on the budget in accordance with the Open Meetings Act and the City Charter.

City Council took no action with regard to the establishment of April 20 and May 4 from 6-9 p.m. as the dates for review of the proposed Fiscal Year 2010-11 Budget.

* **CLOSED SESSION:** Motion by Urban, seconded by Reid, to hold a closed session immediately following the regularly scheduled City Council Meeting of March 23, 2010, to discuss an attorney/client communication. Councilmember Randall recused herself from participating in the closed session. Upon a roll call vote, motion carried 7 to 0.

* **FEBRUARY 2010 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the February 2010 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports. Upon a roll call vote, motion carried 7 to 0.

MINUTES OF BOARDS AND COMMISSIONS: City Council received the minutes of the following Boards and Commissions:

Portage Senior Center Advisory Board of January 20, 2010.

Portage Environmental Board of February 10, 2010.

Portage Planning Commission of March 4, 2010.

AD HOC COMMITTEE REPORTS:

LEGAL SERVICES CONTRACT: City Manager Evans explained that this item resulted from the work of the City Council Legal Services Evaluation Committee and Mayor Strazdas deferred to the Legal Services Evaluation Committee Chair, Councilmember Randall, who indicated that the Committee decided by a 2 to 1 vote to solicit legal services using the bid process since this had not been done since 1993. Councilmember Randall opined that it is appropriate and a best practice to go out for bid and that it shows a willingness to participate in an open, honest and transparent process in government. She said that this is reasonable because the last time the City went out for bid, seven firms competed for the business.

Councilmember Campbell indicated that since the Committee meeting, she had reconsidered her decision to go out for bid for legal services and distinguished the decision of City Council going out for bid for Labor Counsel two years ago. She thanked the City Administration for the providing background materials on Legal Service Contracts that addressed all of the questions that had arisen throughout the proceedings of the Legal Services Evaluation Committee. She indicated that she worked with the law firm of Brown and Associates for five and one-half years, three years on City Council and two and one-half years on the Planning Commission. She indicated that her hope and intention is to always be transparent and that she talked to a number of attorneys and was told repeatedly that going out for bid is not a common occurrence, and that the experience is that once a client has engaged in the services of an attorney, the only reasons to change are for performance or monetary issues. She cited Chapter 6, The Administrative Service, Sec. 6.2, Administrative Officers; Appointment; Employees, *Charter*, City of Portage, "The Council shall appoint the City Manager and the City Attorney who shall each serve at the pleasure of the Council." As a result, she likened the position of the City Attorney to the position of the City Manager and would City Council submit the contract of the City Manager out for bid, even if he was doing a good job, which is not reasonable in her opinion. She pointed out that the City Attorney provided a reasonable, cost effective contract proposal to the Committee; that the service he has provided has been excellent; that his advice has always been what has been needed and required; that there are no politics in his recommendations; and, that his advice is based purely on his interpretation of the law. She thanked staff and Mr. Brown for all of the help provided to her over the years.

Councilmember Urban indicated that he was the only dissenting vote on the Committee, concurred with Councilmember Campbell regarding Chapter 6, The Administrative Service, Sec. 6.2, Administrative Officers; Appointment; Employees, *Charter*, City of Portage and distinguished the position of City Attorney from other offices enumerated in the *Charter* and placed him on par with the City Manager except that the City Manager is an exclusive contract employee and the City Attorney is a non-exclusive contract employment situation. He indicated that service and dedication have been the hallmarks of Brown & Associates as City Attorney and that their current contract proposal is actually a decrease when deflation is considered. Moreover, he proposes that the rates be fixed for five years which reflects his sensitivity to the uncertain times regarding the level of expected income for Portage and provides our city with a high level of knowledge and service at low cost. He expressed his appreciation for Mr. Brown, who has indicated that he is proud to represent the City of Portage and enjoys and believes in public service. He expressed disbelief that the same level of service provided by Brown & Associates could be reached with another provider and referenced his long association with Brown & Associates that has generated trust and respect for their counsel that does not come easily, especially with the learning curve, the time and the effort.

Councilmember Urban concurred with Councilmember Campbell that this is a cost effective proposal and that going out for bid would send a message that City Council is not happy with the services of Brown & Associates. He also indicated he has not heard anyone express displeasure with the work of Mr. Brown, nor has he ever heard disparaging comments from any staff, Board Member, Commissioner, or Councilmember or Mayor. He cited his long years of history with his association with the City Attorney as a Board Member and a Councilmember, and reiterated his trust and respect for their counsel and expressed appreciation for their professionalism and efforts.

Motion by Urban, seconded by Sackley, to accept the communication from the Legal Services Evaluation Committee and to accept the proposal to renew the current legal services contract with Attorney Randall L. Brown & Associates, PLC, for City Attorney/ Prosecuting Attorney services through Fiscal Year 2014-2015 and authorize the City Manager to execute all documents related to the contract. Discussion followed.

Mayor Strazdas offered his thoughts on transparency and the bidding process. He cited the three tiers of bidding: for a commodity, such as paperclips, concrete, etc., the low bid should be chosen; for Professional Services, one must weigh price and weigh their service level capability; and, for a direct appointee to an elected board - an entirely different category - one must weigh rates for that person, how they compare with others in community and what the proposal is moving forward. He explained that one must look at the present services and ask what is going on, what is the radar screen, is someone retiring tomorrow, is there a merger or any other major change, for example. Mayor Strazdas indicated that he did take a look at the rates, that they are among the lowest rates around and, with inflation, the rates go back to 1993 and with zero increases during the next five years, the real rates are comparable to those of the 1980's. With regard to level of service, Mayor Strazdas indicated that here is no issue of integrity, no poor service and no massive changes in the near future. He concluded that all of the criteria are met and there is no reason for this elected body to go out for bids.

Councilmember Reid said that there is more than one way to be transparent, such as having a discussion of the issues involved and taking a look at comparable values and comparable services of other municipalities to look at the finances that are related to this service. She expressed her opinion that it is important to see how other municipalities provide services and to see whether other models make any sense as compared to what Portage is doing and that she does not feel that putting a contract out for bid is the only way to be transparent. She expressed her support for the proposal from Brown & Associates. She expressed a frustration for not having a lot of guidelines for the bidding process and asked for clarity on that and other types of bidding issues. Also, she pointed out that there is no formal evaluation process for the City Council to evaluate the City Attorney, even though there is an evaluation process for City Manager, and supported an evaluation process for the City Attorney to make both sides better and to build tangible information. Discussion followed.

Mayor Pro Tem Sackley concurred with the positive discussion regarding Brown & Associates and stressed the importance of experience and institutional knowledge when it comes to Professional Contracts. Discussion followed.

Councilmember O'Brien thanked the staff and the Committee for their hard work and indicated that comparisons are difficult with these types of contracts. She expressed her appreciation for Councilmember Randall's discussion of transparency and spoke in support of availability of information for citizens, not doing business behind closed doors and for public discussions, but expressed caution with regard to the evaluation of the City Attorney. Discussion followed.

Upon a roll call vote, motion carried 6 to 1. Yeas: Councilmembers Campbell, O'Brien, Reid and Urban, Mayor Pro Tem Sackley and Mayor Strazdas. No: Councilmember Randall.

Councilmember Urban opened the discussion on the proposal to renew current legal services contract for Axe & Ecklund, P.C. for Bond and Financial Consulting services through Fiscal Year 2011-2012 and explained the recommendation from the City Manager. He quoted the communication from the draft information received from the City Manager that, "The firm of Axe & Ecklund, PC, has provided excellent bond opinion and bond issuance services over the past 17 years. The firm provides responsive assistance when requested and possesses an understanding of City of Portage history and long-range interests. With the current five-year contract, Axe & Ecklund, PC, provided services at no cost increase over the previous contract."

Motion by Urban, seconded by Campbell, to accept the proposal to renew current legal services contract for Axe & Ecklund, P.C. for Bond and Financial Consulting services through Fiscal Year 2011-2012 with the option to renew for the next four years and authorize the City Manager to execute all documents related to the contracts. Upon a roll call vote, motion carried 6 to 1. Yeas: Councilmembers O'Brien, Reid, Urban and Campbell, Mayor Pro Tem Sackley and Mayor Strazdas. No: Councilmember Randall.

CITY COUNCIL K-9 OFFICER COMMITTEE: Mayor Strazdas introduced the item and said he was approached by citizens to obtain drug dogs as tools to detect drugs in the schools. However, Mayor Strazdas indicated that overtime costs and taking an officer off the streets adds to the cost of operations such that it is not feasible at this time. Also, Kalamazoo County has two dogs, and the City of Kalamazoo has two new dogs for Portage to use, so he indicated that Portage will not be pursuing a K-9 Officer at this time.

Councilmember Campbell indicated that the City Council K-9 Officer Committee wants to look at this issue further and to present it to the City Council School Committee for further review and expressed an interest in a pursuing a future partnership with the Board of Education regarding this matter.

Councilmember Reid advocated getting a joint meeting with the Board of Education after the May 4, 2010 School Election. Mayor Strazdas concurred and asked for a motion for discussion.

Motion by Urban, seconded by Reid, to not pursue the creation of a K-9 unit as part of the Portage Police Department and refer the matter of drug checks using K-9s at public schools in the greater Kalamazoo area to the City Council School Committee for review and report.

Councilmember O'Brien advocated that the entire City Council meet with the Board of Education and not just the City Council School Committee, and expressed a concern to not interfere with the autonomy of the Board of Education.

Mayor Pro Tem Sackley provided an overview of the evolution of the concept of using drug dogs in Portage Public Schools and some of the of law enforcement activities that has taken place over the years. He also said he is looking forward to a joint meeting with the Board of Education and has always found them to be productive.

Councilmember Reid pointed out that a subcommittee of City Council has met with a subcommittee of the Board of Education on different issues over the years, and Mayor Strazdas concurred and indicated an interest in having a meeting of the subcommittees as well as a meeting of the entire City Council and the entire Board of Education. Upon a roll call vote, motion carried 7 to 0.

BID TABULATIONS:

* **TRAFFIC SIGNAL IMPROVEMENTS:** Motion by Urban, seconded by Reid, to award a construction contract to the low bidder, Severance Electric, Incorporated, in the not-to-exceed amount of \$180,140.67 for the installation of new traffic signals at the East Centre/Currier Drive/Mustang Boulevard intersection and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **DPS LIGHTING IMPROVEMENT CONTRACT RECOMMENDATION:** Motion by Urban, seconded by Reid, to approve a contract with Elders Electric of Grandville, Michigan, to replace 140 light fixtures in the Department of Public Services (DPS) with T-6 light fixtures in the not-to-exceed amount of \$25,186 and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **STORMWATER RETENTION BASIN AND STORMWATER OUTFALL TESTING AND MONITORING PROGRAM:** Motion by Urban, seconded by Reid, to award a four-year contract to Wightman Environmental, Incorporated, of Sodus, Michigan, in the not-to-exceed amount of \$19,850 for Stormwater Retention Basin and Stormwater Outfall Testing and Monitoring and authorize the City Manager to execute all documents relating to this contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: John Gisler, 9145 Arrowhead Drive, Scotts, announced his candidacy for 16th District Kalamazoo County Commissioner.

REMINDER OF MEETINGS: Mayor Sackley explained that the issues addressed by the Assessing Issues Task Force has expanded and explained that he wanted the Committee of the Whole to hear the report from the staff of the Office of the Assessor rather than just the three members of the Assessing Issues Task Force. He suggested setting a Special Meeting before April 13, 2010, because the timing is critical at this time.

Mayor Strazdas indicated that it is important to discuss this topic at a Work Session of City Council and suggested 5:30 p.m. as the time to hear the presentation of the staff of the Office of the Assessor.

Councilmember Reid agreed that it makes sense to have the presentation before the City Council of the Whole rather than before the three members of the Assessing Issues Task Force, first, then before the City Council as a whole, later. She also expressed her appreciation for the work performed by the Assessing Issues Task Force.

Councilmember O'Brien concurred because of the detail, complexity of the information and discussions of the Assessing Issues Task Force. She also concurred that it will cut down on duplication, use of resources and questions. She pointed out that one person missing from the Assessing Issues Task Force means only two people would get the information; while presenting it before the entire City Council would alleviate the problem of having one person missing as there would still be six Councilmembers who could have discussion.

Motion by Sackley, seconded by Reid, to dissolve the Assessing Issues Task Force and set a Special Meeting at 5:30 p.m., Tuesday, April 13, 2010, City Council Chambers, to receive a presentation from the Office of the Assessor staff regarding Assessing Issues. City Manager Maurice Evans stressed that the staff of the Office of the Assessor has been working many weeks with the Board of Review, and has also created a presentation that is an opportunity to address the many issues brought before City Council and any other issues or concerns that may arise. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember O'Brien announced she would be absent for the next City Council Meeting.

Mayor Pro Tem Sackley pointed out that if a person is living temporarily out of state that he and/or she should put zero on the census form they receive out of state and respond to the Census taker when contacted upon their return to Portage.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 10:28 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: April 7, 2010

FROM: Maurice S. Evans, City Manager

M.S.E. (for M. Evans)

SUBJECT: Check Register

ACTION RECOMMENDED: That City Council approve the Check Register of April 13, 2010 as presented.

Attached please find the Check Register for the period March 17, 2010 through April 6, 2010, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
03/19/2010	270211	A I S CONSTRUCTION EQUIP. CO.	640		2,028.28
03/19/2010	270212	AT&T	849		3,054.25
03/19/2010	270213	ABONMARCHE CONSULTANTS, INC	597		845.00
03/19/2010	270214	ACCENT ENGRAVING, INC.	101		34.75
03/19/2010	270215	AIR GAS GREAT LAKES	977		17.99
03/19/2010	270216	ALLEGRA PRINT & IMAGING	533		521.00
03/19/2010	270217	ALLIED WASTE SERVICES #249	3078		40,106.15
03/19/2010	270218	AMERICAN HOIST AIR & LUBE EQUI	3663		1,420.00
03/19/2010	270219	AMERICAN SAFETY & FIRST AID	113		115.66
03/19/2010	270220	ANIMAL REMOVAL SERVICE, LLC	3428		605.00
03/19/2010	270221	ANY CUTTING & WELDING	3347		405.00
03/19/2010	270222	APPLIED INDUSTRIAL TECHNOLOGIE	1944		98.14
03/19/2010	270223	TODD ARBANAS ENTERPRISES INC.	1704		5,650.00
03/19/2010	270224	ARROW UNIFORM RENTAL	4058		58.55
03/19/2010	270225	ARTS COUNCIL OF GREATER KZOO	1433		130.00
03/19/2010	270226	AUTOMATIC DATA PROCESSING	3305		1,124.58
03/19/2010	270227	BANK OF NEW YORK MELLON	3939		100.00
03/19/2010	270228	BLUE CROSS/BLUE SHIELD OF MICH	642		132,526.71
03/19/2010	270229	BOMMERSCHEIM WINDOW & DOOR LLC	3760		1,367.38
03/19/2010	270230	BOOTH NEWSPAPERS INC	89		234.64
03/19/2010	270231	BORGESS AMBULATORY CARE CORP.	1545		969.00
03/19/2010	270232	BORGESS HEALTH ALLIANCE	151		367.00
03/19/2010	270233	BRINK'S, INC	153		225.94
03/19/2010	270234	BRONSON VICKSBURG HOSPITAL	157		500.00
03/19/2010	270235	BRONSON WELLNESS SERVICES	4380		1,040.00
03/19/2010	270236	BUSH, JAMES	532		46.57
03/19/2010	270237	C D W GOVERNMENT, INC.	2690		1,549.43
03/19/2010	270238	Candlewood Suites	999999		661.05
03/19/2010	270239	CAMPBELL AUTO SUPPLY	437		839.08
03/19/2010	270240	CASH REGISTER SALES & SERVICE	2619		83.20
03/19/2010	270241	CHARTER COMMUNICATIONS	3080		22.65
03/19/2010	270242	CINTAS CORP.	2206		197.00
03/19/2010	270243	CITY OF PORTAGE	177		356.47
03/19/2010	270244	COASTAL TRAINING TECHNOLOGIES	1116		162.15
03/19/2010	270245	CONSUMERS ENERGY	743		13,300.88
03/19/2010	270247	CONSUMERS ENERGY-BILL PMT CNT	189		47,225.66
03/19/2010	270248	CONTINENTAL LINEN SUPPLY CO.	191		187.19
03/19/2010	270249	CROSSROADS CAR WASH	195		245.50
03/19/2010	270250	CUSTER OFFICE ENVIRONMENTS	2210		1,024.55
03/19/2010	270251	Dixon, Kevin	999999		1,278.00
03/19/2010	270252	Doster, Kyle	999999		60.00
03/19/2010	270253	DEPATE FLUID POWER CO., INC.	211		1,206.96
03/19/2010	270254	DETROIT TIGERS	211		1,760.00
03/19/2010	270255	DEVON TITLE AGENCY	3549		900.00
03/19/2010	270256	DEWITT BARRELS	3542		765.00
03/19/2010	270257	DIVE RESCUE INTERNATIONAL INC	2511		117.10
03/19/2010	270258	EARTH TECH	224		27,555.03
03/19/2010	270259	EHORN ENGINEERING CO.	4489		9,396.00
03/19/2010	270260	ENGINEERED PROTECTION SYSTEMS,	2973		103.36
03/19/2010	270261	FAWLEY OVERHEAD DOOR, INC.	690		1,400.00
03/19/2010	270262	FERRILLIGAS, LP	384		36.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
03/19/2010	270263	FIRE ENGINEERING	999999		29.95
03/19/2010	270264	FIRE SERVICE MANAGEMENT	2608		218.23
03/19/2010	270265	FOLEY, MEGAN	999999		100.00
03/19/2010	270266	FORREST, MEG	999999		330.00
03/19/2010	270267	FORTUNE	999999		20.00
03/19/2010	270268	GIPSON, GAYDENE	999999		72.00
03/19/2010	270269	GORDON WATER SYSTEMS	517		223.75
03/19/2010	270270	GRAHAM FORESTRY SERVICE, INC.	464		720.00
03/19/2010	270271	W W GRAINER INC	699		1,088.15
03/19/2010	270272	GREATER KALAMAZOO FOP LODGE 98	623		4,836.00
03/19/2010	270273	GREGGARE EQUIPMENT CO.	4397		2,239.88
03/19/2010	270274	HABITAT FOR HUMANITY	1666		2,895.00
03/19/2010	270275	HEALTH FORCE OCCUPATIONAL MEDI	999999		189.00
03/19/2010	270276	HI-TECH ELECTRIC CO.	1327		1,242.70
03/19/2010	270277	HILL, MICHELLE	999999		209.71
03/19/2010	270278	HOME BUILDERS ASSOCIATION OF	999999		45.00
03/19/2010	270280	HOME DEPOT	691		853.10
03/19/2010	270281	Int'l Assoc for Identification	999999		70.00
03/19/2010	270282	IRREVOLINA, SUSAN	2074		80.00
03/19/2010	270283	J B PRINTING COMPANY	1595		9,144.00
03/19/2010	270284	Jackson City Police Dept	999999		75.00
03/19/2010	270285	JONS TO GO PORTABLE RESTROOM	3201		116.00
03/19/2010	270286	Kline, Michael	999999		60.00
03/19/2010	270287	KAL COUNTY FIRE CHIEFS ASSOC.	1036		30.00
03/19/2010	270288	KALAMAZOO COUNTY TREASURER	514		3,291.69
03/19/2010	270289	KALAMAZOO COUNTY TREASURER	514		332.50
03/19/2010	270290	KALAMAZOO COUNTY TREASURER	514		2,661.99
03/19/2010	270291	KALAMAZOO REG'L EDUC SVS AGENG	721		620.92
03/19/2010	270292	KALAMAZOO VALLEY COMMUNITY COL	230		372.76
03/19/2010	270293	KEYSTONE AUTO REPAIR, INC.	984		923.00
03/19/2010	270294	KIESER & ASSOCIATES	234		3,982.50
03/19/2010	270295	KNAPP ENERGY, INC.	235		16,031.78
03/19/2010	270296	KNOBLOCH, DAWN	999999		100.00
03/19/2010	270297	Lehmann, Jeffrey	999999		60.00
03/19/2010	270298	LAKE MICHIGAN MILLERS, INC.	682		138.00
03/19/2010	270299	LAWSON PRODUCTS, INC.	240		934.84
03/19/2010	270300	LEWIS PAPER PLACE, INC.	242		163.93
03/19/2010	270301	LOWE'S HOME CENTER	2630		399.00
03/19/2010	270302	M P E L R A	2305		35.00
03/19/2010	270303	Mich State Univ Police Dept	999999		75.00
03/19/2010	270304	Michigan State Police	999999		80.00
03/19/2010	270305	Michigan State University	999999		140.00
03/19/2010	270306	Millins, Steve	999999		330.00
03/19/2010	270307	MARKS, JUDY	999999		72.00
03/19/2010	270308	MATRIX ENG LLC	999999		150.00
03/19/2010	270309	MCDONALD'S TOWING & RESCUE, IN	728		136.00
03/19/2010	270310	MCNALLY ELEVATOR CO.	256		70.25
03/19/2010	270311	MICHIGAN ELECTON RESOURCES, L	264		231.00
03/19/2010	270312	MICHIGAN STATE UNIVERSITY	2709		695.00
03/19/2010	270313	MUDDERS LANDSCAPE SUPPLIES INC	286		16,832.00
03/19/2010	270314	NATIONAL FIRE PROTECTION ASSOC	714		150.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
03/19/2010	270315	NELSON'S HARDWARE	1566		550.00
03/19/2010	270316	NEW FRESH CLEANING SERVICE	4351		585.50
03/19/2010	270317	A NEW LEAF	635		85.00
03/19/2010	270318	NEW WORLD SYSTEMS	1154		945.00
03/19/2010	270319	NOVIUS	4233		1,800.00
03/19/2010	270320	NYE UNIFORMS	299		1,797.25
03/19/2010	270322	OFFICE DEPOT, INC.	1721		293.60
03/19/2010	270323	OFFICEMAX INCORPORATED	301		363.43
03/19/2010	270324	JAROTH - P T S	3957		303.00
03/19/2010	270325	PARADIGM DESIGN, INC.	3306		857.50
03/19/2010	270326	PARIS CLEANERS	1794		1,296.30
03/19/2010	270327	JACK PEARL'S SPORT CENTER INC	561		468.80
03/19/2010	270328	PETTY CASH-PARKS	536		245.03
03/19/2010	270329	PORTAGE DISTRICT LIBRARY	810		206.52
03/19/2010	270330	PORTAGE POLICE OFFICERS ASSOC	624		153.60
03/19/2010	270331	PORTAGE PUBLIC SCHOOLS	590		3,483.55
03/19/2010	270332	PRECISION PRINTER SERVICES INC	2584		1,337.05
03/19/2010	270333	PRIORITY HEALTH	4254		22,587.68
03/19/2010	270334	QUALITY AIR HEATING & COOLING,	3621		832.33
03/19/2010	270335	R C M HEADSETS/R C M & ASSOC.	2891		685.00
03/19/2010	270336	RATHCO SAFETY SUPPLY, INC.	4113		270.95
03/19/2010	270337	RED THE UNIFORM TAILOR	327		3,815.76
03/19/2010	270338	REPUBLIC WASTE SERVICES OF W M	3664		1,245.50
03/19/2010	270339	RIDGE AUTO NAPA	4443		760.06
03/19/2010	270340	RIETH-RILEY CONSTRUCTION CO.,	4386		2,928.56
03/19/2010	270341	ROAD EQUIPMENT PARTS CENTER	339		223.70
03/19/2010	270342	ROOT SPRING SCRAPER CO.	344		444.38
03/19/2010	270343	ROSE PEST SOLUTIONS	346		568.00
03/19/2010	270344	ROWLEY BROTHERS, INC.	634		77.00
03/19/2010	270345	SAFETY SERVICES, INC.	349		649.49
03/19/2010	270346	SARGOM, INC.	1194		15.53
03/19/2010	270347	SKILLQUEST INTERNATIONAL LLC	1194		12,381.00
03/19/2010	270348	SNEILING PERSONNEL SERVICES	456		200.00
03/19/2010	270349	SOUTHWEST MICHIGAN WELNESS DI	2107		1,440.00
03/19/2010	270350	SPAUDLING MFG. CORP.	3238		435.00
03/19/2010	270351	SPRINT	1929		211.00
03/19/2010	270352	ST. THOMAS CARPET STEAM	3721		1,515.07
03/19/2010	270353	STATE INDUSTRIAL PRODUCTS CORP	3735		394.00
03/19/2010	270354	STATE SYSTEMS RADIO, INC	2010		890.93
03/19/2010	270355	STEMSMA LAWN & POWER EQUIPMEN	369		1,171.31
03/19/2010	270356	SYMPRO INC.	3222		63.77
03/19/2010	270357	T-MOBILE USA INC	3528		5,408.00
03/19/2010	270358	TEXAS ROADHOUSE	3665		29.99
03/19/2010	270359	THOMAS PETERK, PHD.	999999		175.00
03/19/2010	270360	THOMPSON PUBLISHING GROUP	999999		300.00
03/19/2010	270361	TRACTOR SUPPLY CORP.	385		837.00
03/19/2010	270362	TRIGO BREAD CO., LLC	2817		319.40
03/19/2010	270363	TRUCK & TRAILER SPECIALTIES	4158		76.89
03/19/2010	270364	U S BANK	639		540.14
03/19/2010	270365	U S POSTMASTER	3497		1,125.00
03/19/2010	270366		391		6,985.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
03/19/2010	270367	UNITED PARCEL SERVICE	545		44.00
03/19/2010	270368	UNITED WATER NACO LLC	4304		164,003.33
03/19/2010	270369	VARNUM, RIDDERING, SCHMIDT & H	402		101.35
03/19/2010	270370	VICKSBURG CHRYSLER DODGE JEEP	2721		87.30
03/19/2010	270371	WALL STREET JOURNAL	408		120.88
03/19/2010	270372	WEST SHORE FIRE, INC.	419		98.60
03/19/2010	270373	WESTERN MICHIGAN UNIVERSITY	2944		9,746.00
03/19/2010	270374	WHOLE ART THEATRE	999999		300.00
03/19/2010	270375	WINGFOOT COMMERCIAL TIRE	2613		3,608.42
03/19/2010	270376	WOLVERINE LAWN SERVICE, INC.	1089		4,563.00
03/19/2010	270378	XEROX CORP.	2684		1,350.87
03/19/2010	270379	3rd District Court B	999999		120.00
03/19/2010	270380	360 SERVICES, INC.	637		1,779.74
03/19/2010	270381	7th District Court	999999		170.00
04/01/2010	270382	A I S CONSTRUCTION EQUIP. CO.	640		631.56
04/01/2010	270383	ALET	849		6,142.64
04/01/2010	270384	A-1 AUTO BODY SHOP, INC.	97		670.97
04/01/2010	270385	ABONMARCHE CONSULTANTS, INC	597		17,550.62
04/01/2010	270386	ABSOLUTE VIDEO PRODUCTIONS	3682		420.00
04/01/2010	270387	ACCENT ENGRAVING, INC.	101		25.50
04/01/2010	270388	AIRGAS GREAT LAKES	106		374.96
04/01/2010	270389	ALLEGRA PRINT & IMAGING	533		970.55
04/01/2010	270390	GAIL ANDRUS TRAVEL	2071		775.00
04/01/2010	270391	ANIMAL REMOVAL SERVICE, LLC	3428		1,125.00
04/01/2010	270392	ARROW UNIFORM RENTAL	4058		175.65
04/01/2010	270393	ASSOCIATED GOVERNMENT SERVICES	3554		390.00
04/01/2010	270394	AUTOMATIC DATA PROCESSING	3305		956.87
04/01/2010	270395	AUTOMATIC MICROFILMING CO.	863		1,239.45
04/01/2010	270396	B D N INDUSTRIAL HYGIENE CON	2143		750.00
04/01/2010	270397	BALILEY CONTRACTORS INC., ROBER	771		600.00
04/01/2010	270398	BEARING SERVICE	1157		231.81
04/01/2010	270399	BEST AIRE COMPRESSORS	4024		382.15
04/01/2010	270400	BOMMERSCHEIM WINDOW & DOOR LLC	89		1,444.00
04/01/2010	270401	BOOTH NEWSPAPERS INC	89		3,291.54
04/01/2010	270402	BOOTH NEWSPAPERS INC	89		171.48
04/01/2010	270403	BORGESS AMBULATORY CARE CORP.	1545		360.00
04/01/2010	270404	BORGESS HEALTH ALLIANCE	151		1,234.00
04/01/2010	270405	BRONSON VICKSBURG HOSPITAL	157		300.00
04/01/2010	270406	RANDALL I BROWN & ASSOC. PLC	2351		102.00
04/01/2010	270407	BUREAU OF NATIONAL AFFAIRS INC	975		35.00
04/01/2010	270408	C A L E A	1080		98.00
04/01/2010	270409	C D W GOVERNMENT, INC.	2690		59.85
04/01/2010	270410	County of St. Joseph	999999		650.00
04/01/2010	270411	CAMPBELL AUTO SUPPLY	437		228.44
04/01/2010	270412	CHARTER COMMUNICATIONS	3080		65.75
04/01/2010	270413	CHILD SAFETY SOLUTIONS, INC.	4522		363.00
04/01/2010	270414	CINTAS CORP.	2206		1,173.36
04/01/2010	270415	CITY OF KALAMAZOO (PUBLIC UTIL	540		205,323.43
04/01/2010	270416	COLE CENTURY BUICK PONTIAC GMC	902		331.65
04/01/2010	270417	CONSUMERS ENERGY	999999		1,000.00
04/01/2010	270418	CONSUMERS ENERGY--BILL PMT CNT	189		8,547.89

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
04/01/2010	270419	CONTINENTAL LINEN SUPPLY CO.	191		109.26
04/01/2010	270420	CROSSROADS CAR WASH	195		74.00
04/01/2010	270422	CROSSROADS EXPERT AUTO SERVICE	4109		2,167.44
04/01/2010	270423	DEAN TRAILWAYS OF MICHIGAN	3468		100.00
04/01/2010	270424	DEPATIE FLUID POWER CO., INC.	211		69.87
04/01/2010	270425	DRIBENGA & ASSOCIATES, INC.	3277		1,945.84
04/01/2010	270426	DUTLER FORD TRUCKS, INC.	223		500.20
04/01/2010	270427	EAST JORDAN IRON WORKS	226		338.87
04/01/2010	270430	EMERGENCY VEHICLE PRODUCTS	2948		30,124.47
04/01/2010	270431	ENGINEERING SUPPLY & IMAGING	2615		55.99
04/01/2010	270432	ENMET CORPORATION	3951		720.00
04/01/2010	270433	ETNA SUPPLY, INC.	692		2,197.00
04/01/2010	270434	FABRICATED FLEX & HOSE	1144		361.75
04/01/2010	270435	FARM N GARDEN	833		1,542.16
04/01/2010	270436	FILMORE EQUIPMENT, INC.	4516		801.42
04/01/2010	270437	FINNERMANS FARM & GARDEN SERVI	13		586.63
04/01/2010	270438	FIRE SERVICE MANAGEMENT	2608		818.04
04/01/2010	270439	FLETCHER ENTERPRISES	1399		2,477.00
04/01/2010	270440	FILERS UNDERGROUND SPRINKLING	1407		1,101.10
04/01/2010	270441	GORDON WATER SYSTEMS	517		87.25
04/01/2010	270442	GRAHAM FORSTRY SERVICE, INC.	464		720.00
04/01/2010	270443	W W GRAINGER INC	699		59.24
04/01/2010	270444	GREATER KALAMAZOO FOP LODGE 98	623		780.00
04/01/2010	270445	GREATER KALAMAZOO FOP LODGE 98	623		4,140.50
04/01/2010	270446	GREATER KALAMAZOO UNITED WAY	628		1,100.90
04/01/2010	270447	GRIFFIN PEST CONTROL, INC.	598		75.00
04/01/2010	270448	HI-TECH ELECTRIC CO.	1327		1,728.20
04/01/2010	270449	HOME DEPOT	691		72.62
04/01/2010	270450	IERVOLINA, SUSAN	2074		177.50
04/01/2010	270451	INDUSCO SUPPLY CO., INC.	63		519.00
04/01/2010	270452	J-AD GRAPHICS, INC.	4444		131.00
04/01/2010	270453	JOHNSON OUTDOORS INC	3261		259.07
04/01/2010	270454	KAL CO MEDICAL CONTROL AUTH	735		38.78
04/01/2010	270455	KALAMAZOO CONSERVATION SERVICE	1414		460.00
04/01/2010	270456	KALAMAZOO COUNTY HEALTH & COMM	84		200.00
04/01/2010	270457	KALAMAZOO COUNTY HEALTH & COMM	84		9,052.00
04/01/2010	270458	KALAMAZOO COUNTY TREASURER	514		560.00
04/01/2010	270459	KALAMAZOO LANDSCAPE SUPPLIES	90		340.00
04/01/2010	270460	KAMESH VENUGOPAL	999999		44.00
04/01/2010	270461	KAMHSAS SERVICES FOR CHILDREN	999999		50.00
04/01/2010	270462	KEHOE, EDWARD J	3783		310.00
04/01/2010	270463	KNAP ENERGY, INC.	235		17,567.88
04/01/2010	270464	KUSTOM SIGNAL, INC	237		7,725.00
04/01/2010	270465	KZOO TIRE COMPANY	564		663.00
04/01/2010	270466	LANGUAGE LINE, INC	1093		37.83
04/01/2010	270467	LAWSON PRODUCTS, INC	240		1,066.49
04/01/2010	270468	LENTZ USA SERVICE CENTERS INC	999999		9.13
04/01/2010	270469	LOUCKS, JANET	999999		72.00
04/01/2010	270470	LUKE'S TRUCK SERVICE, INC.	815		751.33
04/01/2010	270471	LYNWEIL CORP.	244		113.00
04/01/2010	270472	MAXIMA PLASTICS SERVICES	999999		69.62

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CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
04/01/2010	270473	MCCARTHY SMITH LAW GROUP, PLC	2950		3,217.79
04/01/2010	270474	MCDONALD'S TOWING & RESCUE, IN	728		28.00
04/01/2010	270475	MCDONALD'S USA, LLC	4211		165.00
04/01/2010	270476	MCNALLY ELEVATOR CO.	256		107.75
04/01/2010	270477	MENARDS, INC	258		24.23
04/01/2010	270478	MICHIGAN MUNICIPAL LEAGUE	4515		115.00
04/01/2010	270479	MICHIGAN TAX TRIBUNAL	9999999		50.00
04/01/2010	270480	MICHIGAN TAX TRIBUNAL	9999999		25.00
04/01/2010	270481	MIDWEST GOLF AND TURF	4210		528.18
04/01/2010	270482	MITCHELL REPAIR INFORMATION CO	843		1,608.00
04/01/2010	270483	MOORS I, LLC	3834		24.74
04/01/2010	270484	T MORGAN INC.	376		1,288.61
04/01/2010	270485	MOSES FIRE EQUIPMENT, INC.	993		1,440.60
04/01/2010	270486	MULDERS LANDSCAPE SUPPLIES INC	286		142.25
04/01/2010	270487	NATIONAL INSTITUTE OF BUSINESS	3217		158.00
04/01/2010	270488	NATIONAL INSTITUTE OF BUSINESS	3217		97.00
04/01/2010	270489	NELSON'S HARDWARE	1566		19.46
04/01/2010	270491	NEXTEL	1709		1,693.77
04/01/2010	270492	NICHOLSON, SANDY	9999999		2,910.00
04/01/2010	270493	NYE UNIFORMS	299		231.96
04/01/2010	270494	OFFICE DEPOT, INC.	1721		468.96
04/01/2010	270495	OFFICEMAX INCORPORATED	301		33.02
04/01/2010	270496	ONE WAY PRODUCTS	440		736.02
04/01/2010	270497	PATTERSON, PETER	9999999		400.00
04/01/2010	270498	PETTY CASH-CITY HALL	767		537.10
04/01/2010	270499	PETTY CASH-PARKS	536		320.40
04/01/2010	270500	PORTAGE FIREFIGHTERS	625		1,491.76
04/01/2010	270501	PORTAGE ON-CALL FIREFIGHTERS	504		133.98
04/01/2010	270502	PORTAGE POLICE OFFICERS ASSOC	624		112.95
04/01/2010	270503	COLLEEN POTTER	3460		385.00
04/01/2010	270504	PROJECT FISH	4273		75.00
04/01/2010	270505	QUADRANT IT MARKETING, LLC	3139		2,349.08
04/01/2010	270506	RATHCO SAFETY SUPPLY, INC.	327		2,330.30
04/01/2010	270507	RIDDERMAN & SONS OIL CO. INC.	1735		368.85
04/01/2010	270508	RIDGE AUTO NABA	438		1,994.17
04/01/2010	270509	RIETH-RILEY CONSTRUCTION CO.,	4386		2,562.20
04/01/2010	270510	ROAD EQUIPMENT PARTS CENTER	339		86.53
04/01/2010	270511	RODRIGUEZ, NOE	9999999		12.57
04/01/2010	270512	ROMENCE GARDENS, INC	343		98.99
04/01/2010	270513	ROOT SPRING SCRAPER CO.	344		1,632.00
04/01/2010	270514	ROWLEY BROTHERS, INC.	346		1,895.87
04/01/2010	270515	S B F/CORONA GRAPHICS	3481		1,999.73
04/01/2010	270516	SAFETY SERVICES, INC.	349		284.68
04/01/2010	270517	SAFETY VISION LP	3032		1,143.66
04/01/2010	270518	SARCOM, INC.	1194		40,416.67
04/01/2010	270519	SEARS, ROEBUCK & CO.	3574		800.00
04/01/2010	270520	SENIOR SERVICES, INC.	909		50.00
04/01/2010	270521	SIMMONS FORD	2064		81.92
04/01/2010	270522	SNEHL, DEBRA	1505		252.00
04/01/2010	270523	SNELLING PERSONNEL SERVICES	2107		2,790.00
04/01/2010	270524	SPRINT	3721		1,478.88

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
04/01/2010	270525	STAR GLASS	2043		134.00
04/01/2010	270526	STATE OF MICHIGAN (DOT)	368		1,999.59
04/01/2010	270527	STATE OF MICHIGAN (MDEQ)	820		108.00
04/01/2010	270528	STATE OF MICHIGAN (MDEQ)	820		75.00
04/01/2010	270529	STATE OF MICHIGAN (MDEQ)	820		800.00
04/01/2010	270530	STATE OF MICHIGAN/MLCC	999999		50.00
04/01/2010	270531	STATE SYSTEMS RADIO, INC	369		94.70
04/01/2010	270532	SUPERIOR ASPHALT, INC.	4183		4,620.00
04/01/2010	270533	TENDERCARE	999999		75.00
04/01/2010	270534	TERRENCE LILLY	999999		4.00
04/01/2010	270535	THOMPSON, HELENE	4417		166.00
04/01/2010	270536	TOO CLEAN JANITORIAL	2220		65.00
04/01/2010	270537	TRACTOR SUPPLY CORP.	2817		319.12
04/01/2010	270538	TRIERWEILER, VINCENT	999999		100.00
04/01/2010	270539	TRINH'S FURNITURE REPAIR SHOP	1210		800.00
04/01/2010	270540	U A W, LOCAL 2290	1862		421.79
04/01/2010	270541	U S POSTMASTER	392		6,000.00
04/01/2010	270542	UNBEATABLESALE.COM, INC	4523		123.95
04/01/2010	270543	UNITED PARCEL SERVICE	545		30.77
04/01/2010	270544	VAN LENTE, FRED	999999		60.46
04/01/2010	270545	VANDERMEULEN, DARL	999999		44.00
04/01/2010	270546	WEST MICHIGAN STAMP & SEAL, INC	415		6.60
04/01/2010	270547	WICHMAN, SANDRA	999999		100.00
04/01/2010	270548	WILSON, KARRIANNE	999999		18.88
04/01/2010	270549	WINDER POLICE EQUIPMENT, INC.	429		352.19
04/01/2010	270550	WINGFOOT COMMERCIAL TIRE	2613		2,841.98
04/01/2010	270551	WOLVERINE LAMN SERVICE, INC.	1089		761.00
04/01/2010	270552	ZIOLKOWSKI, ANDREA	999999		100.00
04/01/2010	270553	360 SERVICES, INC.	637		2,471.12
04/01/2010	270554	7th District Court	999999		160.00

DATE RANGE TOTAL * 1,103,751.82 *

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTIONS 42-542; 42-545; 42-546; 42-550 AND 42-551
ARTICLE 4 OF CHAPTER 42, ZONING**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended as follows:

Sec. 42-542. General requirements.

- A. *Unchanged.*
- B. Sign measurements:
 - 1. The entire area of one side of the sign face within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
 - 2. *Unchanged.*
 - 3. *Unchanged.*
 - 4. *Unchanged.*
 - 5. *Unchanged.*
- C. *through I. Unchanged.*

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts.

In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

- A. *Unchanged.*
- B. For a permitted use other than a dwelling unit, there is permitted one (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage. The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:
 - 1. Is at least ten (10) feet from any property line; and
 - 2. Does not exceed ten (10) feet in height.

- C. For a permitted use other than a dwelling unit, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet.
- D. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in this section. The city council may approve an agreement between the city and a proprietor desiring a sign located on city owned property or right-of-way identifying a single-family residential development. The agreement shall specify requirements and conditions regarding the sign, including not limited to the following:
 - 1. Size and height of the sign, construction standards to be followed, appearance, specific location and illumination.
 - 2. The person responsible for maintaining and repairing the sign.
 - 3. Compensation to the city for continued use of the property.
 - 4. A provision which indemnifies the city from liability as a result of any personal damage or personal injury resulting from the sign.

Sec. 42-546. RM-1 and RM-2 districts.

In RM-1 and RM-2 multifamily residential districts:

- A. *Unchanged.*
- B. *Unchanged.*
- C. *Unchanged.*
- D. For a permitted use other than a dwelling unit, there is permitted one (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage. The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:
 - 1. Is at least ten (10) feet from any property line; and
 - 2. Does not exceed ten (10) feet in height.
- E. For a permitted use other than a dwelling unit, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet.

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
 - 1. Are at least ten (10) feet from any property line; and
 - 2. Do not exceed fifteen (15) feet in height.
- B. *Unchanged.*
- C. *Unchanged.*

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
 - 1. Are at least ten (10) feet from any property line; and
 - 2. Do not exceed fifteen (15) feet in height.

B. *Unchanged.*

Dated: _____

Peter J. Strazdas, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the ____ day of _____, 20__.

James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

APPROVED AS TO FORM
DATE 2/12/00
LS
CITY ATTORNEY

**ADOPTION OF ORDINANCE
CITY OF PORTAGE, MICHIGAN
NOTICE**

TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND ALL
OTHER INTERESTED PERSONS.

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Chapter 42, Land Division Regulations, of the Codified Ordinances of Portage, Michigan, was adopted by the City Council at a regular meeting held on the _____ day of _____, 2010, and will become effective _____, 2010.

NOTICE IS FURTHER GIVEN that the following sections of Chapter 42 of the Codified Ordinances of Portage, Michigan, have been amended as follows:

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended as follows:

Sec. 42-542. General requirements.

- A. *Unchanged.*
- B. Sign measurements:
 - 1. The entire area of one side of the sign face within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
 - 2. *Unchanged.*
 - 3. *Unchanged.*
 - 4. *Unchanged.*
 - 5. *Unchanged.*
- C. through I. *Unchanged.*

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts.

In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

- A. *Unchanged.*
- B. For a permitted use other than a dwelling unit, there is permitted one (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage. The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:
 - 1. Is at least ten (10) feet from any property line; and
 - 2. Does not exceed ten (10) feet in height.
- C. For a permitted use other than a dwelling unit, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet.
- D. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in this section. The city council may approve an agreement between the city and a proprietor desiring a sign located on city owned property or right-of-way identifying a single-family residential development. The agreement shall specify requirements and conditions regarding the sign, including not limited to the following:
 - 1. Size and height of the sign, construction standards to be followed, appearance, specific location and illumination.
 - 2. The person responsible for maintaining and repairing the sign.
 - 3. Compensation to the city for continued use of the property.
 - 4. A provision which indemnifies the city from liability as a result of any personal damage or personal injury resulting from the sign.

Sec. 42-546. RM-1 and RM-2 districts.

In RM-1 and RM-2 multifamily residential districts:

- A. *Unchanged.*
- B. *Unchanged.*
- C. *Unchanged.*
- D. For a permitted use other than a dwelling unit, there is permitted one (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage.

The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:

1. Is at least ten (10) feet from any property line; and
 2. Does not exceed ten (10) feet in height.
- E. For a permitted use other than a dwelling unit, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet.

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
1. Are at least ten (10) feet from any property line; and
 2. Do not exceed fifteen (15) feet in height.
- B. *Unchanged.*
- C. *Unchanged.*

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot

in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

1. Are at least ten (10) feet from any property line; and
2. Do not exceed fifteen (15) feet in height.

B. *Unchanged.*

PLEASE TAKE FURTHER NOTICE that copies of said Ordinance may be examined at the City Hall on any business day except public and legal holidays from and after publication of this Notice until the day of hearing from 8:00 a.m. and 5:00 p.m.

Dated: _____

James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre, Suite A
Portage, MI 49002

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 1, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Ordinance Amendment #09-B, Sign Ordinance Regulations

ACTION RECOMMENDED: That City Council:

- a. accept Ordinance Amendment #09-B, sign regulations, for first reading and establish a public hearing on April 13, 2010; and
- b. subsequent to the public hearing consider approval of Ordinance Amendment #09-B.

Ordinance language has been prepared to amend the sign regulations contained in the Zoning Code. The amendment was initiated to address an inconsistency that occurred during the 2003 Zoning Code update, to standardize the sign regulations for non-residential uses allowed in the residential zoning districts and to clarify the measurement of sign area in zoning districts. Attached is a report from the Community Development Director that explains the proposed modifications.

Ordinance Amendment #09-B involves:

- Proposed changes to Section 42-545(A) and Section 42-546(D) to modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts.
- Modifications to Sections 42-550(A) and 42-551(A) to clarify a variance from the Zoning Board of Appeals is not required if a smaller sign size is desired by a business owner and the maximum sign size for a lot less than 80 feet in width.
- Proposed changes to Section 42-542(B) to clarify the long-standing application of the Zoning Code provisions for sign measurement to ensure consistency in administration and enforcement.

The Planning Commission reviewed the proposed ordinance modifications during the December 17, 2009 meeting and conducted a public hearing on January 7, January 21, and February 18, 2010. After a thorough review of the proposed ordinance changes, the Planning Commission voted unanimously to recommend to City Council that Ordinance Amendment #09-B be adopted. It is recommended that City Council accept Ordinance Amendment #09-B for first reading, establish a public hearing on April 13, 2010 and, subsequent to the public hearing, adopt the proposed ordinance.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: March 1, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Ordinance Amendment #09-B, Sign Ordinance Regulations

The Department of Community Development with the assistance of the City Attorney has prepared an amendment to the Zoning Code sign regulations to correct several deficiencies.

Proposed changes to Sections 42-545(A) and 42-546(D) modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts. Currently, only 32 square feet of combined freestanding and wall signage is allowed. Prior to 2003, up to 64 square feet of combined signage was permitted. As proposed, the area of a freestanding sign and the area of wall signage for non-residential uses permitted in the R-1A through R-1T and RM-1/RM-2 zoning districts would be standardized based on street frontage and building wall area: The maximum freestanding sign area is proposed to be 50 square feet and the maximum wall sign area is proposed to be 100 square feet. The proposed amendment would permit up to 18 square feet of added freestanding sign area and up to 68 square feet of additional wall sign area.

Planned modifications to Sections 42-550(A) and 42-551(A) clarify the regulatory provision "...with a minimum sign size of 32 square feet..." Since the intent of the original language was to permit smaller lots to have a maximum sign size of 32 square feet, the existing statement "...with a minimum sign size of 32 square feet..." is proposed to be replaced with "For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted." The proposed changes to Sections 42-550(A) and 42-551(A) will clarify that a variance from the Zoning Board of Appeals is not required if a smaller sign size is desired for the use, and that the maximum sign size for a lot less than 80 feet in width is 32 square feet.

Finally, a change to Section 42-542(B) is proposed that would insert the phrase "...of one side of the sign face..." This amendment is proposed to ensure the understanding that the measurement of the area of a sign is determined based on a side of the sign, or the "sign face" as defined in the Zoning Code. This proposed amendment will clarify the long-standing application of the Zoning Code that sign area is measured per side and ensure consistency in application of these regulations.

At the January 21, 2010 meeting, the Planning Commission voted unanimously to recommend that City Council approve Ordinance Amendment #09-B. Following the January 21st meeting, it was discovered that Section 42-546(D), RM-1 and RM-2, multiple family districts, should have been included in the proposed amendment: Ordinance Amendment #09-B was revised to incorporate this section and a public hearing scheduled for the February 18, 2010 Planning Commission meeting. At the meeting, the Planning Commission unanimously recommended that Ordinance Amendment #09-B be approved. Attached find the Planning Commission transmittal, meeting minutes, Department of Community Development communication and related materials for your information and review.

Attachments: Planning Commission transmittal dated March 1, 2010
Planning Commission Minutes dated December 17, 2009 and January 7, 21 and February 18, 2010
Department of Community Development report dated February 12, 2010
Ordinance Amendment

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: March 1, 2010

SUBJECT: Ordinance Amendment #09-B, Sign Ordinance Regulations

The Planning Commission began preliminary review and discussion of the proposed sign ordinance amendment at the December 17, 2009 meeting. A public hearing to formally consider Ordinance Amendment #09-B was convened during the January 7th, 21st and February 18th, 2010 Planning Commission meetings. One citizen (Mr. Garnet Eckstrand, 5015 Glencove Court) spoke during the January 21st meeting. No additional citizens spoke in regard to the proposed ordinance amendment.

After a thorough review of the proposed ordinance modifications at the January 21, 2010 meeting, which concluded at the February 18, 2010 meeting, a motion was 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.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION

A handwritten signature in black ink that reads "Thomas A. Fox". The signature is written in a cursive, flowing style.

Thomas A. Fox
Chairman

PUBLIC HEARINGS:

1. Final Report: Ordinance Amendment 09-A, Flood Hazard Management Regulations. Mr. Forth summarized the final staff report dated December 11, 2009. Mr. Forth discussed the State of Michigan model ordinance and inconsistencies/ambiguities which exist in the current ordinance. Mr. Forth discussed the National Flood Insurance Program (NFIP), Community Rating System (CRS) and indicated the City of Portage rating would not change with the proposed ordinance modifications. After consultation with the City Attorney, staff is advising that the Planning Commission recommend to City Council the following ordinance modifications: 1) Adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps, updating Article 8, Section 42-991 consistent with the State Construction Code and inserting Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency; 2) Repeal the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code); and 3) Repeal Section 42-162(D)(1)(2), Flood Boundaries.

The public hearing was reconvened by Chairman Fox. No citizens spoke in regarding to the proposed ordinance modifications. A motion was made by Commissioner Bosch, seconded by Commissioner Stoffer, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Bailes, seconded by Commissioner Welch, to recommend to City Council the following ordinance modifications: 1) Adopt Appendix G, Flood Insurance Study and Flood Insurance Rate Maps, updating Article 8, Section 42-991 consistent with the State Construction Code and inserting Section 42-995, Floodplain Management Regulations, designating the city as the enforcing agency; 2) Repeal the Flood Hazard Areas Ordinance (Sections 42-320 to 42-330, Article 4, Division 4, Subdivision 9 of the Zoning Code); and 3) Repeal Section 42-162(D)(1)(2), Flood Boundaries. Commissioner Pearson stated that he supports items 1 and 3 in the motion, however, opposes item 2 and repealing of Sections 42-320 to 42-330. Commissioner Pearson stated that Sections 42-320 to 42-330 are very specific in the type of buildings which are allowed in the floodplain and does not believe the ordinance language is confusing. After a brief discussion and a roll call vote: Bosch (yes), Cheesebro (yes), Welch (yes), Stoffer (yes), Patterson (yes), Fox (yes), Pearson (no) and Bailes (yes), the motion was approved 7-1.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

7:25 p.m. The Commission took a short recess and reconvened the meeting in Conference Room No. 1 at 7:30 p.m. to discuss proposed amendments to the sign ordinance regulations and home occupation regulations.

1. Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the staff report dated December 12, 2009 regarding proposed amendments to Sections 42-545(B), 42-550(A) and 42-551(A) of the sign regulations. Mr. Forth explained that changes to Section 42-545(B) were intended to address

inconsistencies which occurred during the 2003 Zoning Code update and to standardize sign regulations for non-residential uses allowed in the residential zoning districts. Mr. Forth stated that changes to Section 42-550(A) and 42-551(A) were intended to clarify the statement "...with a minimum sign size of 32 square feet..." and clearly indicate that a variance from the Zoning Board of Appeals was not necessary if a smaller sign is desired, and, the maximum sign size for a lot less than 80-feet wide was 32 square feet.

The Commission and staff discussed the proposed increase in sign size for non-residential uses in the residential zoning districts and church sites which have recently requested variances from this standard. After additional discussion, Mr. Forth stated a public hearing would be scheduled for the January 7, 2010 meeting.

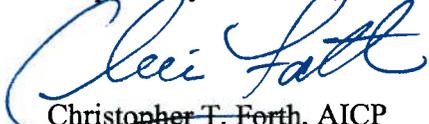
2. Proposed Home Occupation Ordinance Amendment. Mr. Forth summarized the staff report dated December 11, 2009 regarding proposed modifications to the home occupation regulations. Mr. Forth discussed comments received by the Planning Commission during the November 5, 2009 meeting and staff responses to these various issues. Mr. Forth referred the Commission to the revised ordinance amendment included in the agenda packet and asked for additional Commission comments.

The Commission and staff discussed the revised ordinance language and the requirement for location of active home occupations on major thoroughfares, possible inclusion of distance requirements between active home occupations (similar to group child care homes) and the establishment of fruit/vegetable stands and the Right to Farm Act. After additional discussion, Mr. Forth stated a public hearing would be scheduled for the January 7, 2010 meeting.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,



Christopher T. Forth, AICP

Deputy Director of Planning and Development Services

Dr. Andrew Helmholdt and Dr. Cynthia Lunney of the Portage Animal Hospital were present to support the application. Dr. Helmholdt stated that discussions with Treystar Holdings regarding a shared/cross access arrangement were currently ongoing and engineering changes would likely be needed to the site plan. The public hearing was then opened by Chairman Fox. No citizens were present to speak regarding the development project. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to adjourn the Special Land Use Permit/Site Plan for Portage Animal Hospital, 8037 Portage Road, to the January 21, 2010 meeting, at the request of the applicant. The motion was unanimously approved.

2. Preliminary Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the preliminary staff report dated December 31, 2009 regarding proposed changes to Sections 42-545(A), 42-550(A) and 42-551(A) of the Zoning Code. Mr. Forth discussed the proposed changes to the sign regulations and the rationale for the changes. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Bailes, seconded by Commissioner Pearson, to adjourn Ordinance Amendment 09-B, Sign Ordinance Regulations, to the January 21, 2010 meeting. The motion was unanimously approved.

3. Preliminary Report: Ordinance Amendment 09-C, Home Occupation Regulations. Mr. Forth summarized the preliminary staff report dated December 31, 2009 regarding proposed changes to the home occupation regulations. Mr. Forth discussed the two types of home occupations proposed (passive and active), the various conditions for approval and the previous Planning Commission discussion and review of the proposed ordinance language. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to adjourn Ordinance Amendment 09-C, Home Occupation Regulations, to the January 21, 2010 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

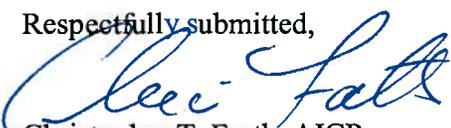
STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,



Christopher T. Forth, AICP

Deputy Director of Planning and Development Services

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.

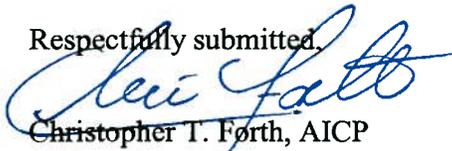
STATEMENT OF CITIZENS:

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

DRAFT

PLANNING COMMISSION

February 18, 2010

The City of Portage Planning Commission meeting of February 18, 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 ten citizens were in attendance.

MEMBERS PRESENT:

Jim Pearson, Rick Bosch, Cory Bailes, James Cheesebro, Miko Dargitz, Paul Welch, Wayne Stoffer, Bill Patterson 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 Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

The Planning Commission and staff recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the February 4, 2010 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bailes, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan: Portage Animal Hospital, 8037 Portage Road. Chairman Fox referred the Commission to a February 12, 2010 correspondence from Attorney Nelson Karre, representing the Portage Animal Hospital, requesting the Planning Commission adjourn the site plan until the March 4, 2010 meeting. A motion was made by Commissioner Pearson, seconded by Commissioner Welch, to adjourn the Site Plan for the Portage Animal Hospital, 8037 Portage Road, until the March 4, 2010 meeting. The motion was made at the request of the applicant and was unanimously approved.

PUBLIC HEARINGS:

1. Final Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the staff report dated February 12, 2010 regarding proposed changes to the sign regulations. Following the January 21, 2010 Planning Commission meeting, Mr. Forth indicated Section 42-546(D), RM-1 and RM-2 districts, should have also been included in Ordinance Amendment 09-B since it addresses freestanding and wall signs for non-residential uses in the multi-family residential zoning districts. The changes proposed for Section 42-545(B) are also applicable to Section 42-546(D) and the staff report has been revised to include the proposed changes to Section 42-546(D).

DRAFT

The public hearing was convened by Chairman Fox. No citizens spoke regarding 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.

2. Preliminary Report: Rezoning Application 09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive). Mr. Forth summarized the revised preliminary staff report dated February 18, 2010 that was provided to the Commission in the final agenda packet and includes an updated narrative and tentative plan provided by the applicant on February 17th. Mr. Forth stated the PD, planned development rezoning application involving an approximate 95 acre tract of land was submitted by American Village Builders and The Hinman Company to facilitate additional multiple family residential development and retail/office land use along West Centre Avenue. Mr. Forth provided background information and summarized existing conditions and Zoning Code regulations and procedures for development in the PD district. Mr. Forth reviewed the PD project as proposed by the applicant and summarized the preliminary analysis contained in the staff report.

Mr. Greg Dobson of American Village Builders was present to explain and support the project. Mr. Dobson briefly summarized the history of land acquisition and development of the Greenspire Apartments, discussed the 1980 Kalamazoo Gazette article provided by Dr. Russell Mohny and stated the commitments referenced in the article would be written into the project narrative. Mr. Dobson reviewed the proposed apartment building layout in Phase IV and the Zoning Board of Appeals (ZBA) consideration of the setback variance request in October 2009. Since the ZBA meeting, Mr. Dobson stated the two apartment buildings have been shifted slightly and will now include a 15-foot setback from the eastern property line, will be fully sprinkled and will meet all Building Code/Fire Code requirements. The layout and setback for these two buildings in Phase IV was desired to retain the overall look and feel of Greenspire. Mr. Dobson also discussed the apartment building layout, orientation, setbacks and efforts to minimize Phase V impacts on Shirley Court/Tozer Court residents. Also discussed was the planned access arrangement, retail/office uses proposed along West Centre Avenue, building construction materials and elevations. The overall density of the apartment portion of the development under the proposed PD zone would be 8.54 units/acre, compared to approximately 9.5 units/acre, which would be allowed under the existing RM-1 district.

The Commission, staff and applicant discussed various aspects of the planned development including the ZBA setback variance request, property ownership, inclusion of affordable housing units and signalization of the Cooley Drive intersection. The public hearing was convened by Chairman Fox. Four citizens spoke during the public hearing: 1) Ms. Betty Ongley (8620 Tozer Court), 2) Mr. Terry Hall (8621 Shirley Court), 3) Dr. Russell Mohny (3500 Vanderbilt Avenue) and 4) Ms. Carol Long (2208 Quincy Avenue). Ms. Ongley expressed concerns regarding possible trespassing from apartment tenants, construction vehicle access, lack of a deceleration lane on West Centre Avenue, timing for signalization of the West Centre Avenue/Cooley Drive access, condition of Shirley Court and suggested slight adjustments in Phase V apartment buildings to lessen impact on adjacent single family residences located on Shirley Court and Tozer Court. Mr. Hall expressed concerns regarding the proposed height of apartment buildings in Phase V, grade differences between these apartment buildings and his residence and the lack of mature trees in this portion of the development. Dr. Mohny thanked Mr. Dobson for volunteering to incorporate the major provisions of the 1980 agreement into the project narrative. Dr. Mohny discussed Building/Fire Code issues associated with the previous ZBA variance consideration, public notice to the State of Michigan and the condition of Shirley Court and the need for improvements. Ms. Long expressed concerns regarding traffic safety at the West Centre Avenue/Cooley Drive intersection and the need to install a traffic signal at this intersection immediately.

The Commission, staff and the applicant discussed how development density was calculated, the PD review process and ordinance provisions, the condition of Shirley Court (a private street with deeded access), signalization of the West Centre Avenue/Cooley Drive intersection and the potential impacts on the Tozer/Shirley Court residents associated with Phase V of the development. Mr. Dobson stated there are no plans to improve Shirley Court to accommodate construction traffic. Mr. Dobson did indicate the proposed drive opposite Cooley Drive would be installed at the time the Phase IV apartment buildings are constructed. No additional citizens

TO: Planning Commission

DATE: February 12, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Final Report: Ordinance Amendment #09-B, Sign Ordinance Regulations

I. INTRODUCTION

Ordinance language has been prepared to amend the following sections of sign regulations contained in the Zoning Code:

- 42-545(A), R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts;
- 42-546(D), RM-1 and RM-2 districts
- 42-550(A), OS-1, office services and OTR, office, technology and research districts; and
- 42-551(A), B-1 local business districts.

Attached is a copy of the above Zoning Code sections. This amendment was initiated to 1) address an inconsistency that occurred during the 2003 Zoning Code update, 2) standardize the sign regulations for non-residential uses allowed in the residential zoning districts with uses permitted in other non-residential zoning district and 3) clarify sign area in the office and business districts. A detailed discussion of proposed changes to these sections is provided below.

II. ZONING CODE PROVISIONS/ANALYSIS

Section 42-545(A) and 42-546(D). The proposed amendment to Section 42-545(A) and 42-546(D) of the Zoning Code would modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts. The following table summarizes the existing and proposed changes:

Proposed Changes to Section 42-545(A) and 42-546(D)			
Type of Sign	Current Sign Requirements ¹	Proposed Sign Requirements	Change
Freestanding	One sign up to 32 sq. ft.	One sign up to 50 sq. ft.	+18 square feet
Wall	One sign up to 32 sq. ft.	15% of the total wall area up to 100 sq. ft. ²	+68 sq. ft. depending on wall area

¹ If a wall and freestanding sign are erected, the combined total cannot exceed 32 sq. ft.

² More than one wall sign may be erected. Combined area cannot exceed 15% or 100 sq. ft., whichever is less

As the table above indicates, the combined total square footage of the freestanding sign and wall sign cannot exceed 32 square feet. Several churches including Valley Family Church – Kalamazoo, 2500 Vincent Avenue, Kalamazoo First Assembly of God, 5550 Oakland Drive and The Bridge, 7198 Angling Road have requested variances to increase the size of the sign(s). After comparing the language of this section before and after the 2003 Zoning Code update, it was discovered, the consultant inserted the word “together” in Sections 42-545(A) and 42-546(D), which clearly limits the total square feet of all signs to no more than 32. The word “together” is proposed to be removed.

In addition to removing the word “together” from the ordinance, staff is also recommending the size of freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T and RM-1 and RM-2 zoning districts be standardized with the freestanding and wall signs allowed in other non-residential zoning districts. In other non-residential zoning districts, the standard freestanding sign size is 48-50 square feet and, depending on the zoning district and amount of street frontage, may be increased. The

standard wall sign size is 15% of the wall area with a maximum of 100 square feet. As shown in the table above, the proposed amendment would permit an additional 18 square feet of freestanding sign and up to 68 square feet of wall sign depending on the size of the wall. Although the other non-residential zoning districts can increase the size of a freestanding sign based on street frontage, the maximum size in the residential zones is proposed at 50 square feet regardless of the street frontage. Negative impacts associated with these increases are not anticipated: An additional 18 square feet freestanding sign is considered minor and the size of the wall sign is proportionate to the size of the wall.

Sections 42-550(A) and 42-551(A). Modifications to these two Zoning Code sections involve clarification of the statement "...with a minimum sign size of 32 square feet..." The meaning of this statement appears to be two-fold. First, this statement indicates the sign cannot be less than 32 square feet in area. If a business owner were to request a sign less than 32 square feet in area, a variance from the Zoning Board of Appeals (ZBA) would be necessary. Second, this statement indicates a lot with less than 80 feet in width is permitted to have a freestanding sign up to 32 square feet in area.

From a practical standpoint, business owners generally request the largest sign allowed under the Zoning Code so ZBA requests to approve a sign smaller than 32 square feet have not been received within the recent past. However, there are several existing lots in the city zoned OS-1, office service and B-1, local business that are less than 80 feet in width. Since the intent of the original language was to permit these smaller lots to have a maximum sign size of 32 square feet, the existing statement "...with a minimum sign size of 32 square feet..." is proposed to be replaced with the statement "For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted." Attached is a copy of the proposed ordinance language.

The proposed changes to Sections 42-550(A) and 42-551(A) will clarify: 1) a variance from the ZBA is not required if a smaller sign size is desired by a business owner, and 2) the maximum sign size for a lot less than 80 feet in width.

Finally, following the January 7, 2010 Planning Commission meeting, clarification of the maximum sign area per side was discussed. References to permitted sign area are contained in several sections. For Commission information, the square footage of a sign is determined based on the "sign face" as defined in the Zoning Code. While wall signs and freestanding signs are typically one-sided or two-sided, the maximum sign area that is permitted applies to the "sign face": The number of sign faces (sides) is not regulated. To clarify this long-standing application of the Zoning Code and to ensure consistency, the phrase "...of one side of the sign face..." can be added to Section 42-542(B), Sign measurements. This minor additional recommended change clarifies sign area, and is consistent with the proposed amendments.

III. PUBLIC REVIEW/COMMENT

The Planning Commission considered the proposed Ordinance Amendment #09-B at the December 17, 2009 meeting and convened a public hearing during the January 7 and January 21, 2010 meetings. One citizen spoke during the January 21st meeting and inquired how the proposed changes would affect existing uses that have received variances or have developed under the current ordinance.

IV. RECOMMENDATION

Based on the above analysis and subject to any additional comments received during the public hearing, the Planning Commission is advised to recommend to City Council that Ordinance Amendment 09-B, Sign Ordinance Regulations, be approved.

Attachments: Current Zoning Code sections; Proposed Ordinance Amendment

of not being legible and the subsequent message gradually increases intensity to the point of legibility.

- c. **Frame.** A complete, static display screen on an electronic message display.
- d. **Frame effect.** A visual effect on an electronic message display applied to a single frame to attract the attention of viewers.
- e. **Transition.** A visual effect used on an electronic message display to change from one message to another.

(Ord. No. 03-01 (Exh. A, § 42-621), 2-18-2003; Amend. of 10-2-2007)

Sec. 42-542. General requirements.

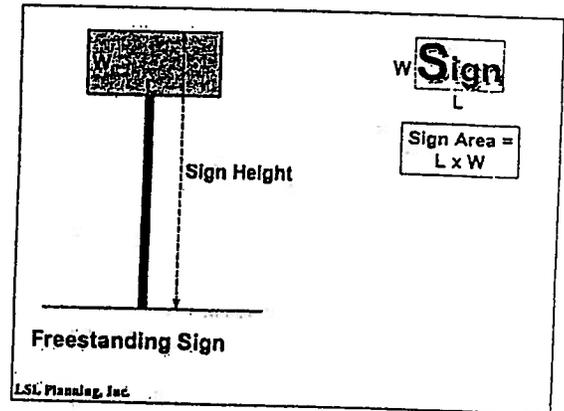
A. Unless not required by this article, all signs shall be required to obtain a permit from the director of community development.

B. Sign measurements:

- 1. The entire area within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
- 2. Separated sign elements, not part of any frame, or separated by other material or color forming an integral part of the display that may be used to differentiate such sign from the background against which it is placed, shall have each element of the sign calculated separately for the purposes of determining the total area. The signs elements shall not exceed the total sign display permitted by the district in which it is located.
- 3. The height of a sign is measured from the adjacent street grade or upper surface of the nearest street curb other than an

elevated roadway that permits the greatest height to the highest point of such sign.

- 4. For the purpose of property line setbacks, the setback distance for a freestanding sign shall be measured from that portion of the sign closest to the property line.
- 5. The sign areas for wall signs shall be determined by taking that portion of the front wall of the building applicable to each tenant space, and computing sign requirements for that portion of the total wall.



Sign Measurements Fig. 7

C. All references to the term "lot width," "lot frontage" or "frontage" for the purposes of calculating allowable freestanding sign area shall require that width or frontage be on a public dedicated right-of-way and be measured at the front lot line, notwithstanding the definition and use of these terms in division 2 and division 3 of this article.

D. Signs not permitted.

- 1. A sign not expressly permitted by this article is prohibited.
- 2. No person shall erect or maintain a sign which moves or which has moving or animated parts or images, whether the movement is caused by machinery, electronics, wind or otherwise, including swaying signs, except for an EMD as defined in

3. The granting of a variance will result in the removal of a nonconforming sign and replacement by a sign that, while not meeting the requirements of this article, are, nonetheless, in keeping with the spirit and purpose of this article.

D. Variances. A sign erected as a result of a lawful grant of a variance by the zoning board of appeals shall be subject to the same restrictions and requirements which apply to nonconforming signs in subsection B above and other provisions of this Code.

E. Notwithstanding the provisions of subsection B, above, the face of a nonconforming sign may be changed provided that the owner of the sign and owner of the zoning lot upon which the sign is located (if different from the owner of the sign) shall enter into a written agreement with the city which shall be recorded with the county register of deeds by the owner of the sign and the owner of the zoning lot, and which shall state all of the following:

1. In exchange for the opportunity to change the face of the sign as often as desired, the entire nonconforming sign, which includes the entire face and structure, shall be removed within five years of entering into the agreement.
2. At the conclusion of the five years, the owner of the sign and the owner of the zoning lot shall be responsible for the entire removal of the sign.
3. The owner of the sign and the owner of the zoning lot (including subsequent owners) waive their rights to request variances from the zoning board of appeals a variance from the agreement or any other ordinance provision governing the sign.
4. The agreement shall run with the land and become binding upon any subsequent owners of the sign and zoning lot.
5. The replacement sign, itself nonconforming in any way, may not be erected at the conclusion of the five years.
6. A lien against the zoning lot and any structure on the zoning lot, in the amount

of 1½ times the estimated cost of removing the nonconforming sign at the time the agreement is entered into (as established by the director on the date of the agreement) shall come into existence five years after entering into the agreement and remain in effect until the sign is removed.

(Ord. No. 03-01 (Exh. A, § 42-624), 2-18-2003)

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts.

A. In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

1. For each dwelling unit, there is permitted one sign, not exceeding one square foot in area, indicating the name of the occupant.
2. For a permitted use other than a dwelling unit, there is permitted one freestanding sign and one wall identification sign together not exceeding a total of 32 square feet in area per side, provided that such a sign:
 - a. Is at least ten feet from any property line; and
 - b. Does not exceed ten feet in height.

B. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in this section. The city council may approve an agreement between the city and a proprietor desiring a sign identifying a single-family residential development city owned property or right-of-way. The agreement shall specify requirements and conditions regarding the sign, including not limited to the following:

1. Size and height of the sign, construction standards to be followed, appearance, specific location and illumination.
2. The person responsible for maintaining and repairing the sign.
3. Compensation to the city for continued use of the property.

4. A provision which indemnifies the city from liability as a result of any personal damage or personal injury resulting from the sign.

(Ord. No. 03-01 (Exh. A, § 42-625), 2-18-2003; Ord. No. 09-03, 4-14-2009)

Sec. 42-546. RM-1 and RM-2 districts.

In RM-1 and RM-2 multifamily residential districts:

- A. For each dwelling unit, there is permitted one wall sign, not exceeding one square foot in area, indicating the name of the occupant.
- B. For a rental or management office, there is permitted one wall sign, not exceeding two square feet in area.
- C. For identifying a multifamily housing project, there is permitted one freestanding or wall sign, not exceeding 32 square feet in area per vehicular entrance, provided that such sign:
 1. Is at least ten feet from any property line; and
 2. Does not exceed ten feet in height.
- D. For a permitted use other than a dwelling unit, there is permitted one freestanding and one wall identification sign, together not exceeding a total of 32 square feet in area per side, provided that such signs:
 1. Are at least ten feet from any property line; and
 2. Do not exceed ten feet in height.

(Ord. No. 03-01 (Exh. A, § 42-626), 2-18-2003)

Sec. 42-547. MHC district.

In an MHC manufactured home community district:

- A. For each dwelling unit, there is permitted one wall sign, not exceeding one square foot in area, indicating the name of the occupant.
- B. For each manufactured home park vehicular entrance, there is permitted one free-

standing identification sign, not exceeding 32 square feet in area per side, provided that such sign:

1. Is at least ten feet from any property line; and
2. Does not exceed ten feet in height.

(Ord. No. 03-01 (Exh. A, § 42-627), 2-18-2003)

Sec. 42-548. PD, planned development district.

In the PD planned development district:

- A. For a permitted use other than a dwelling unit, there is permitted one freestanding accessory sign per zoning lot, not exceeding one square foot for each 2½ feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot with less than 300 feet of frontage. A zoning lot with more than 300 feet of frontage may have an additional sign based upon the ratio of one square foot of sign per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size of any one sign is 50 square feet.
- B. Where multiple use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot.
- C. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential district is provided for each square foot of sign permitted on the lot, provided that all such signs:
 1. Are at least ten feet from any property line; and
 2. Do not exceed 15 feet in height.
- D. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The

combined total of all wall signs shall not exceed 100 square feet per street frontage.

- E. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.
- F. For each dwelling unit there is permitted one sign not exceeding one square foot in area indicating the name of the occupant.
- G. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in section 42-545.B.

(Ord. No. 03-01 (Exh. A, § 42-628), 2-18-2003; Amend. of 10-2-2007; Ord. No. 09-03, 4-14-2009)

Sec. 42-549. P-1, parking district.

In a P-1 vehicular parking district:

- A. One freestanding or wall sign is permitted, not to exceed six square feet in area per side, designating conditions of use, provided that a freestanding sign:
 - 1. Is ten feet from any property line; and
 - 2. Does not exceed ten feet in height.
 - B. Entrance and exit signs are permitted as provided in section 42-433.E.
- (Ord. No. 03-01 (Exh. A, § 42-629), 2-18-2003)

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2½ feet of lot frontage, with a minimum sign size of 32 square feet, provided that the sign may not exceed 50 square feet in area for a lot

less than 300 feet wide. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size for any sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

- 1. Are at least ten feet from any property line; and
- 2. Do not exceed 15 feet in height.

- B. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of wall signs shall not exceed 100 square feet per street frontage. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

- C. In addition to the sign area allowed in this subsection, one additional freestanding sign may be erected at each vehicular entrance to identify the development and facilities located in an OTR zone therein, provided that such sign:
 - 1. Does not exceed 50 square feet in area per side;
 - 2. Is ten feet from any property line; and

3. Does not exceed 15 feet in height.
(Ord. No. 03-01 (Exh. A, § 42-629.1), 2-18-2003)

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

- A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2½ feet of lot frontage, with a minimum sign size of 32 square feet, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:
 - 1. Are at least ten feet from any property line; and
 - 2. Do not exceed 15 feet in height.
- B. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of wall signs shall not exceed 100 square feet per street frontage. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for

one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

(Ord. No. 03-01 (Exh. A, § 42-629.2), 2-18-2003)

Sec. 42-552. B-2, community business; B-3, general business; and CPD, commercial planned development districts.

In a B-2, community business district, B-3, general business district, or a CPD, commercial planned development district:

- A. For each zoning lot, there is permitted one freestanding accessory sign, up to 50 square feet in area per side, for lots 125 feet or less in width, to be increased at a ratio of one square foot per each 2½ feet of lot frontage in excess of the initial 125 feet, up to a lot 300 feet wide. A zoning lot having in excess of 320 feet of frontage may have one additional sign based upon the same ratio of one square foot of sign area for each 2½ feet of lot frontage over the initial 320 feet of frontage. The maximum size for any one sign is 120 square feet.
- B. When multiple-use zoning lots are involved, for each additional use on the zoning lot beyond the initial use, 15 square feet of sign area is permitted, the total area of freestanding signs not to exceed 50 percent over the sign size originally permitted for the lot.
- C. For a lot with frontages on more than one street, each frontage may be treated as a separate frontage for the purpose of establishing permitted freestanding sign area and number.
- D. For a corner lot, the distance between permitted freestanding signs shall be not less than 100 feet, as measured along the property lines, but in no case shall there be a distance of less than 70 feet between such signs. Each such sign shall be oriented to the street frontage it serves. If one freestanding sign is used, then the percentage of freestanding sign area permitted on one street frontage may be

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 4 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS OF THE CODIFIED ORDINANCES OF PORTAGE, MICHIGAN

THE CITY OF PORTAGE ORDAINS:

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Sections 19 and 20, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
3201 West Centre Avenue	00020-131-O
3317 West Centre Avenue	00019-105-O
3413 West Centre Avenue	00019-095-O
3423 West Centre Avenue	00019-096-O
3145 Greenspire Drive	00020-135-O
8380 Greenspire Drive	00020-130-O
8401 Greenspire Drive	00020-136-O
3413 Fawn Cove Lane	00019-100-O
8615 Tozer Court	00020-140-O

From RM-1, multiple family residential and R1-C, one family residential to PD, planned development.

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

Peter J. Strazdas, Mayor

STATE OF MICHIGAN)
) SS
COUNTY OF KALAMAZOO)

I do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the _____ day of _____, 2010.

James R. Hudson, City Clerk

(App #09-01)

Approved as to Form:

Date: 3/23/10

By: [Signature]

City Attorney

**ADOPTION OF ZONING ORDINANCE
CITY OF PORTAGE, MICHIGAN
NOTICE**

**TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND
ALL OTHER INTERESTED PERSONS.**

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 4 (Zoning) of Chapter 42 of the Codified Ordinances of Portage, Michigan, was adopted by the City Council at a regular meeting held on the ____ day of _____, 2010, and will become effective _____, 2010.

NOTICE IS FURTHER GIVEN that Article 4 (Zoning) of Chapter 42, Land Development Regulations, of the Codified Ordinance of Portage, Michigan, has been amended as follows:

THE CITY OF PORTAGE ORDAINS:

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Sections 19 and 20, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
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8380 Greenspire Drive	00020-130-O
8401 Greenspire Drive	00020-136-O
3413 Fawn Cove Lane	00019-100-O
8615 Tozer Court	00020-140-O

From RM-1, multiple family residential and R1-C, one family residential to PD, planned development.

PLEASE TAKE NOTICE that a copy of the Ordinance as amended may be purchased or inspected at City Hall on any business day except public and legal holidays from and after publication of this Notice from 8:00 a.m. to 5:00 p.m. local time. Further, a copy of a map showing the property rezoned is also available at the time and days noted above.

Dated: _____

James R. Hudson, City Clerk

(App #09-01)

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 10, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Rezoning Application #09-01, Greenspire Planned Development

ACTION RECOMMENDED: That City Council:

- a. accept Rezoning Application #09-01 for first reading and set a public hearing for April 13, 2010; and
- b. subsequent to the public hearing, consider approving Rezoning Application #09-01 from RM-1, multi-family residential and R-1C, one-family residential to PD, planned development per the tentative plan dated March 4, 2010, written narrative dated February 23, 2010 and seven conditions contained in the Department of Community Development report dated February 26, 2010.

Attached are the Greenspire Planned Development rezoning application materials including the required tentative plan narrative and map as submitted by American Village Builders and the Hinman Company. Nearly 95 acres of land is requested to be rezoned from RM-1, multiple family and R-1C, one family residential that will incorporate the existing 384 apartment units within the 46 acre Greenspire Apartments on West Centre Avenue together with 48 acres of adjacent land to facilitate additional development. The Greenspire Planned Development proposes a creative mixture of existing and new multiple-family residential units, natural open space, new retail and office uses along West Centre Avenue adjacent to the Gourneck State Game Area, Hampton Lake and several existing single family homes along the private streets of Tozer and Shirley Court. A report from the Community Development Director is also attached that explains the proposed rezoning request in further detail.

In the PD, planned development chapter, a two-part review and approval process is established for rezoning the property and for subsequent development. The applicant is first required to submit a tentative plan that outlines the development concept of the entire project for review. Although conceptual in nature, specific statements, proposals, plans and schedule for the ultimate development of the site are required. The tentative plan is submitted for administrative review, scheduled for Planning Commission review and a public hearing, after which the Planning Commission recommendation is provided to City Council. After another public hearing before the City Council, the tentative plan may be accepted, modified or rejected by City Council. Approval of the tentative plan by City Council constitutes rezoning of the land. In the second part of the process, the applicant can submit final plans for Planning Commission review and for City Council approval. A final plan for a development project is submitted in detailed form and is subject to a review process similar to a site plan. Specific site development standards and other requirements must be fulfilled. Essentially, while the applicant for the PD, planned development district is afforded flexibility by the ordinance to develop the property, greater control over the proposed overall development and each final plan within the PD district is available to the city. Under the terms of the PD, planned development chapter any change to the tentative plan, such

as modifying an approved land use class or adding a land use class, requires formal review and approval, with public hearings, in a manner similar to a rezoning procedure.

As submitted by the applicant, the Greenspire Planned Development will include a total of three new multi-family residential phases along the east, southeast and west perimeters of the site for new three-story, 40-foot tall apartment buildings involving 324 apartment units on approximately 37 acres. The north approximate 11 acres along West Centre Avenue will be developed with two, two-story, 40-foot high retail/office buildings incorporating a total of 60,800 square feet of space and three, one-story, 25-foot high retail buildings between 6,000–25,000 square feet each. The development schedule would begin this year and extend to 2015, when the last phase would be submitted. Also, the applicant has carefully considered the several existing single family residences located on the adjacent private streets and has again emphasized sensitivity to Hampton Lake, Gourdneck State Game Area and adjacent natural features and open spaces. While more high density residential units could be constructed in the existing RM-1, multiple family zone, the applicant is seeking a mixed development concept. As referenced in the rezoning application, one modification is being requested to allow an overall residential density of 8.45 units per acre. The PD, planned development district specifies a maximum 12 units per acre density for each phase, which will be met, however, the overall residential density of seven units per acre would be exceeded with the requested modification.

In a report dated February 26, 2010, the Department of Community Development recommended that the property be rezoned to PD, planned development subject to seven conditions. Subsequently, the Planning Commission convened the necessary public hearing and voted 5-2 to also recommend that Rezoning Application #09-1, Greenspire Planned Development, be approved subject to the following seven conditions:

1. The development standards specified in the application for approval (submitted tentative plan and written narrative dated March 4, and February 23, 2010, respectively);
2. The modification to the overall residential density of 8.45 units, with the further condition of approval that the total residential development not exceed 708 units on 83.74 acres;
3. No beach facility, additional boat docks or other access to Hampton Lake;
4. Screening/landscaping enhancements between Phase V apartments and adjacent Shirely and Tozer Courts single family residences finalized with submittal of the final plan for this phase of the project;
5. Design/configuration of proposed access drives and interconnection, including any changes to Shirley Court and Tozer Court and possible signalization of the West Centre Avenue/Cooley Drive intersection finalized with submittal of final plans;
6. MDNRE approvals/permits involving the wetland or other environmentally sensitive areas submitted with the final plans, if required; and
7. If no final plan is submitted for acceptance within two years following the change in zoning, the process to rezone, or extend the PD district classification, for the several properties shall be initiated pursuant to the process established in the ordinance.

The City Administration recommends that Rezoning Application #09-01 be accepted for first reading, and subsequent to the public hearing, that City Council consider approving the rezoning application, which would rezone several West Centre Avenue, Greenspire Drive, Fawn Cove Lane and Tozer Court properties from RM-1, multiple family and R-1C, one family to PD, planned development.

Attachment: Communication from the Department of Community Development

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: March 10, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Rezoning Application #09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive)

A rezoning application has been received from American Village Builders Companies and The Hinman Company for a tract of land located along the south side of West Centre Avenue, opposite Cooley Drive. The applicants are requesting that the RM-1, multi-family residential and R-1C, one-family residential districts be changed to PD, planned development. The change in zoning is being requested to facilitate three additional Greenspire apartment phases (324 total units) on approximately 37 acres and designate 11 more acres for retail/office land use adjacent to West Centre Avenue (up to 103,800 square feet). The existing three phases of the Greenspire Apartments (384 units on 46.6 acres) are included in the rezoning application and were initiated in the 1970s and 1980s. The Greenspire Planned Development represents a creative mixture of multiple-family residential apartments and retail/office uses and represents appropriate development between West Centre Avenue and the Gourdneck State Game Area, Hampton Lake, associated wetlands/natural areas and existing land uses.

Attached please find the Planning Commission transmittal and the February 26, 2010 final report from the Department of Community Development to the Planning Commission in which a recommendation is presented that the rezoning application be approved and the property rezoned from RM-1, multiple family and R-1C, one family residential to PD, planned development, subject to seven conditions. The Community Development report to the Planning Commission is very detailed and provides important information concerning the rezoning application, the PD, planned development zoning district, existing uses on the subject property, existing uses on adjacent properties, the Comprehensive Plan and the review of traffic, neighborhood and environmental considerations.

As summary information about several important development issues related to the tentative plan, the following highlights are provided:

- Greenspire Planned Development. The Greenspire Planned Development involves 95 acres and proposes a mixture of existing and new multiple-family residential units, natural open space, new retail and office uses along West Centre Avenue. The applicant has given emphasis to developing the property in a manner that is sensitive to the adjacent Hampton Lake and the Gourdneck State Game Area. The several existing single family homes along the private streets of Tozer and Shirley Courts have also been carefully considered.
- Density Modification. The applicant has requested one modification: A density modification is requested to allow an overall multiple-family residential development density of 8.45 units/acre, which is recommended for approval. The proposed density is 1.45 units/acre greater than allowed in the PD district, but is a lesser density than allowed under the existing RM-1 zoning district. While a total of 708 units are planned by the applicant, a total of 786 units could be constructed under the RM-1 zone. The proposed density is consistent with the development intensity of the existing three phases of Greenspire Apartments (8.23 units/acre) and is not inconsistent with the interests of the city, per Section 42-375(L) of the PD, planned development chapter, which allows City Council to waive or modify specifications.
- Phase IV Peripheral Transition Area. A 15-foot peripheral transition area is proposed for the two apartment buildings located in the next development phase planned by the applicant for this year that is identified as

Phase IV. With this phase, the peripheral transition area referenced in the ordinance is proposed to be 15-feet, which is appropriate and is recommended, given the location of the existing buildings to the north and south, the planned building/fire protection measures and the planned natural character and use of the adjacent land.

- Phase V Building Layout/Design. In an effort to minimize potential impacts on the adjacent Shirley/Tozer Courts residents, the applicant has incorporated several building layout/design elements into the tentative plan. These elements include a combination of increased building setbacks, building orientation and substantial screening/landscaping treatments. The layout/design elements will be finalized with the review and approval of final plans that will be submitted for development approval.
- Retail/Office Project Component. The retail/office component of the proposed Greenspire Planned Development will not exceed 20% of the total project area, consistent with ordinance, and will be concentrated along the West Centre Avenue frontage. The requested PD rezoning would also eliminate the non-conforming status of the existing three-story apartment buildings in the Greenspire Apartment complex.
- 1980 General Agreement. Following a rezoning application that was submitted to the city in 1979-1980 that involved the initial Greenspire Apartments, an agreement was reached between the developer (Gesmundo and Hinman) and several area residents concerning measures to protect Hampton Lake and surrounding sensitive environmental areas. Although this agreement was apparently never signed by the parties, the applicant has agreed to continue to honor the spirit and intent in the provisions of the agreement and has incorporated the applicable provisions in the tentative plan narrative at Item #11.

The Planning Commission convened a public hearing during the February 18 and March 4, 2010 meetings. Several residents were in attendance during the two public hearings and offered comments related to the rezoning application and tentative plan. In addition, two e-mail communications were received from the Michigan Department of Natural Resources and Environment on March 4, 2010. An additional communication to the Planning Commission that was in response to the e-mail communications was prepared by the Department of Community Development.

Following extended discussion and careful review, the Planning Commission subsequently voted 5-2 to recommend to City Council that Rezoning Application #09-01 be approved subject to the conditions outlined in the February 26, 2010 Department of Community Development staff report, including the amended tentative plan submitted by the applicant on March 4, 2010, with the finding that the requested development density modification of 8.45 units/acre is consistent with the existing Greenspire development.

Attachments: Planning Commission transmittal dated March 10, 2010
Planning Commission Minutes dated February 18 and March 4, 2010
Department of Community Development report dated February 26, 2010
Communication from Ms. Carol Long dated March 3, 2010
Department of Community Development report dated March 4, 2010

TO: Honorable Mayor and City Council

FROM: Planning Commission

DATE: March 10, 2010

SUBJECT: Rezoning Application #09-01: Rezoning Application #09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive)

The Planning Commission convened a public hearing during the February 18, 2010 meeting. Mr. Greg Dobson, American Village Builders, was present to explain the request including the history of land acquisition and development, project density, 1980 development agreement, among others. Four citizens also spoke about the proposed PD rezoning: 1) Ms. Betty Ongley (8620 Tozer Court), 2) Mr. Terry Hall (8621 Shirley Court), 3) Dr. Russell Mohney (3500 Vanderbilt Avenue) and 4) Ms. Carol Long (2208 Quincy Avenue). Comments from the residents included possible trespassing, signalization of the West Centre Avenue/Cooley Drive, impact on Shirley Court and Tozer Court single family residences, among others.

The Planning Commission reconvened the public hearing during the March 4, 2010 meeting. The applicant, Mr. Greg Dobson of American Village Builders, was again present to explain and support the project. Mr. Dobson provided a summary of changes that have been made since the February 18th meeting. Mr. Terry Hall (8621 Shirley Court), 2) Dr. Russell Mohney (3500 Vanderbilt Avenue) and 3) Ms. Gloria Olson (3411 Fawn Cove) were also present to comment of the rezoning application. Comments included impact on Tozer/Shirley Court residents, notice provided to the MDNRE, Phase IV building setbacks and discharging firearms within the safety zone.

The Commission discussed at length comments made by the applicant, citizens and the information contained in the staff report. With regard to the density modification request, the majority of the Commission believes the overall development density of 8.45 units/acre is consistent with the existing Greenspire density of 8.23 units/acre. The Commission also believes the applicant has designed the layout of Phase V to minimize impacts on the adjacent Tozer/Shirley Court residents. The applicant's proposal to install landscaping and screening will further minimize any potential impacts. The proposed Phase IV building setbacks was also considered acceptable given the location of existing buildings to the north and south, required building fire protection measures and the vacant nature and ownership of the adjacent land.

After additional discussion, a motion was made by Commissioner Bailes, seconded by Commissioner Cheesebro, to recommend to City Council that Rezoning Application #09-01, Greenspire Planned Development be approved subject to the conditions outlined in the February 26, 2010 Department of Community Development staff report, including the amended tentative plan submitted by the applicant on March 4, 2010, with the finding that the requested development density modification of 8.45 units/acre is consistent with the existing Greenspire development. Upon a roll call vote: Welch (yes), Stoffer (no), Dargitz (no), Cheesebro (yes), Fox (yes), Bailes (yes) and Patterson (yes), the motion was approved 5-2. Commissioners Stoffer and Dargitz stated they could not support an overall development density that exceeds the existing Greenspire density of 8.23 units/acre.

Sincerely,



Thomas A. Fox

Chairman, City of Portage Planning Commission

PLANNING COMMISSION

February 18, 2010

The City of Portage Planning Commission meeting of February 18, 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 ten citizens were in attendance.

MEMBERS PRESENT:

Jim Pearson, Rick Bosch, Cory Bailes, James Cheesebro, Miko Dargitz, Paul Welch, Wayne Stoffer, Bill Patterson 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 Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

The Planning Commission and staff recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the February 4, 2010 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bailes, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan: Portage Animal Hospital, 8037 Portage Road. Chairman Fox referred the Commission to a February 12, 2010 correspondence from Attorney Nelson Karre, representing the Portage Animal Hospital, requesting the Planning Commission adjourn the site plan until the March 4, 2010 meeting. A motion was made by Commissioner Pearson, seconded by Commissioner Welch, to adjourn the Site Plan for the Portage Animal Hospital, 8037 Portage Road, until the March 4, 2010 meeting. The motion was made at the request of the applicant and was unanimously approved.

PUBLIC HEARINGS:

1. Final Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the staff report dated February 12, 2010 regarding proposed changes to the sign regulations. Following the January 21, 2010 Planning Commission meeting, Mr. Forth indicated Section 42-546(D), RM-1 and RM-2 districts, should have also been included in Ordinance Amendment 09-B since it addresses freestanding and wall signs for non-residential uses in the multi-family residential zoning districts. The changes proposed for Section 42-545(B) are also applicable to Section 42-546(D) and the staff report has been revised to include the proposed changes to Section 42-546(D).

The public hearing was convened by Chairman Fox. No citizens spoke regarding 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.

2. Preliminary Report: Rezoning Application 09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive). Mr. Forth summarized the revised preliminary staff report dated February 18, 2010 that was provided to the Commission in the final agenda packet and includes an updated narrative and tentative plan provided by the applicant on February 17th. Mr. Forth stated the PD, planned development rezoning application involving an approximate 95 acre tract of land was submitted by American Village Builders and The Hinman Company to facilitate additional multiple family residential development and retail/office land use along West Centre Avenue. Mr. Forth provided background information and summarized existing conditions and Zoning Code regulations and procedures for development in the PD district. Mr. Forth reviewed the PD project as proposed by the applicant and summarized the preliminary analysis contained in the staff report.

Mr. Greg Dobson of American Village Builders was present to explain and support the project. Mr. Dobson briefly summarized the history of land acquisition and development of the Greenspire Apartments, discussed the 1980 Kalamazoo Gazette article provided by Dr. Russell Mohny and stated the commitments referenced in the article would be written into the project narrative. Mr. Dobson reviewed the proposed apartment building layout in Phase IV and the Zoning Board of Appeals (ZBA) consideration of the setback variance request in October 2009. Since the ZBA meeting, Mr. Dobson stated the two apartment buildings have been shifted slightly and will now include a 15-foot setback from the eastern property line, will be fully sprinkled and will meet all Building Code/Fire Code requirements. The layout and setback for these two buildings in Phase IV was desired to retain the overall look and feel of Greenspire. Mr. Dobson also discussed the apartment building layout, orientation, setbacks and efforts to minimize Phase V impacts on Shirley Court/Tozer Court residents. Also discussed was the planned access arrangement, retail/office uses proposed along West Centre Avenue, building construction materials and elevations. The overall density of the apartment portion of the development under the proposed PD zone would be 8.54 units/acre, compared to approximately 9.5 units/acre, which would be allowed under the existing RM-1 district.

The Commission, staff and applicant discussed various aspects of the planned development including the ZBA setback variance request, property ownership, inclusion of affordable housing units and signalization of the Cooley Drive intersection. The public hearing was convened by Chairman Fox. Four citizens spoke during the public hearing: 1) Ms. Betty Ongley (8620 Tozer Court), 2) Mr. Terry Hall (8621 Shirley Court), 3) Dr. Russell Mohny (3500 Vanderbilt Avenue) and 4) Ms. Carol Long (2208 Quincy Avenue). Ms. Ongley expressed concerns regarding possible trespassing from apartment tenants, construction vehicle access, lack of a deceleration lane on West Centre Avenue, timing for signalization of the West Centre Avenue/Cooley Drive access, condition of Shirley Court and suggested slight adjustments in Phase V apartment buildings to lessen impact on adjacent single family residences located on Shirley Court and Tozer Court. Mr. Hall expressed concerns regarding the proposed height of apartment buildings in Phase V, grade differences between these apartment buildings and his residence and the lack of mature trees in this portion of the development. Dr. Mohny thanked Mr. Dobson for volunteering to incorporate the major provisions of the 1980 agreement into the project narrative. Dr. Mohny discussed Building/Fire Code issues associated with the previous ZBA variance consideration, public notice to the State of Michigan and the condition of Shirley Court and the need for improvements. Ms. Long expressed concerns regarding traffic safety at the West Centre Avenue/Cooley Drive intersection and the need to install a traffic signal at this intersection immediately.

The Commission, staff and the applicant discussed how development density was calculated, the PD review process and ordinance provisions, the condition of Shirley Court (a private street with deeded access), signalization of the West Centre Avenue/Cooley Drive intersection and the potential impacts on the Tozer/Shirley Court residents associated with Phase V of the development. Mr. Dobson stated there are no plans to improve Shirley Court to accommodate construction traffic. Mr. Dobson did indicate the proposed drive opposite Cooley Drive would be installed at the time the Phase IV apartment buildings are constructed. No additional citizens

spoke in regards to the proposed planned development rezoning application. A motion was then offered by Commissioner Welch, seconded by Commissioner Dargitz, to adjourn the public hearing for Rezoning Application 09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive), to the March 4, 2010 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

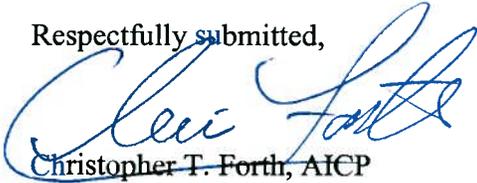
STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,



Christopher T. Forth, AICP

Deputy Director of Planning and Development Services

PLANNING COMMISSION

March 4, 2010

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The City of Portage Planning Commission meeting of March 4, 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 ten citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Jim Pearson and 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 the audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the February 18, 2010 meeting minutes. A motion was made by Commissioner Cheesebro, seconded by Commissioner Bailes, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan: Portage Animal Hospital, 8037 Portage Road. Mr. West summarized the staff report dated March 4, 2010 involving a site plan submitted by Portage Road Investments LLC to construct a new, approximate 5,700 square foot veterinary hospital building and associated site improvements at 8037 Portage Road. Mr. West stated representatives of Portage Road Investments and Treystar Holdings have agreed on a shared/cross access arrangement consistent with the City of Portage Access Management Ordinance and previously approved CentrePort Commons site plan. Mr. West indicated access for the Portage Animal Hospital site is planned to connect at two locations to the CentrePort Commons "B" Drive located to the north with direct access to Portage Road through a right-in/right-out driveway. Mr. West stated connection to "B" Drive would also provide customers and employees of the Portage Animal Hospital access to the CentrePort Commons full service driveway further south on Portage Road and a right-in/right-out driveway and a full service driveway on East Centre Avenue.

Dr. Andrew Helmholdt and Mr. Steve DeBold of Chester, Inc. (applicant's architect) were present to support the site plan. Dr. Helmholdt confirmed that a shared/cross access agreement had been reached with Treystar Holdings. After a brief discussion, a motion was made by Commissioner Welch, seconded by Commissioner Bailes, to approve the site plan for Portage Animal Hospital, 8037 Portage Road, subject to closure of the northernmost driveway with the final phase of construction and demolition of the existing

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veterinary hospital building and closure of the southernmost driveway when "B" Drive and other common drives located within the adjacent CentrePort Commons project have been constructed in accordance with the approved site plan. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Final Report: Rezoning Application 09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive). Mr. Forth summarized the final report dated February 26, 2010 regarding the PD, planned development rezoning application submitted by American Village Builders and The Hinman Company to facilitate additional multiple family residential development and retail/office land use along West Centre Avenue. Mr. Forth summarized the tentative plan, overall development density modification request and Zoning Code requirements in the PD district. Mr. Forth also reviewed with the Commission Phase IV building setbacks, Phase V building setbacks/orientation and screening adjacent to the single family residences along Shirley Court/Tozer Court, inclusionary zoning and neighborhood/environmental considerations. Mr. Forth indicated staff was recommending approval of the PD rezoning and tentative plan subject to the seven conditions identified in the February 26th staff report. Additionally, Mr. Forth referred the Commission to the final agenda material and e-mail communications received earlier in the day from Mr. Bill Schmidt, Michigan Department of Natural Resources and Environment (MDNR-E), responses from staff and the applicant and a March 3, 2010 letter from Ms. Carol Long of Bronson Properties regarding signalization of the West Centre Avenue/Cooley Drive intersection.

Mr. Greg Dobson of American Village Builders was present to explain and support the project. Mr. Dobson provided a summary of changes that have been made since the February 18th meeting. Mr. Dobson distributed a revised tentative plan that provided additional screening/landscaping adjacent to the single family residences on Shirley Court/Tozer Court within Phase V. Mr. Dobson summarized recent meetings with adjacent Shirley Court/Tozer Court residents regarding Phase V of the apartment development and also a recent meeting with Ms. Carol Long regarding signalization of the West Centre Avenue/Cooley Drive intersection. Mr. Dobson reviewed ownership, easement and maintenance issues associated with Shirley Court and indicated all new apartment buildings will be sprinkled and will meet applicable Fire Code and Building Code requirements. Finally, Mr. Dobson briefly discussed the e-mail communications from Mr. Bill Schmidt, MDNR-E and stated the 450-foot safety zone was a State law intended to protect adjacent private property owners from hunting activities and discharge of firearms. The safety zone is not intended to establish larger setback requirements that reduce private property values.

The Commission, staff and applicant discussed various issues including the enhanced screening proposal for Phase V apartments, Phase IV apartment building setbacks, the MDNR-E e-mails, 450-foot safety zone, and PD ordinance requirements. The public hearing was reconvened by Chairman Fox. Three citizens spoke during the public hearing: 1) Mr. Terry Hall (8621 Shirley Court), 2) Dr. Russell Mohney (3500 Vanderbilt Avenue) and 3) Ms. Gloria Olson (3411 Fawn Cove). Mr. Hall thanked the applicant for meeting with him and providing additional screening between his residence and the Phase V apartments but was still concerned with the height and proximity of the apartment buildings. Mr. Hall indicated that he was the closest house to the proposed apartments and asked that consideration be given to reducing the building height. Dr. Mohney expressed concern regarding the notice provided to the State of Michigan and stated he believes the largest neighbor to the development should be given the opportunity to provide comments and guidelines regarding the project. Dr. Mohney also expressed concern regarding the proposed 15-foot setback for the apartment buildings in Phase IV and impacts on the adjacent State land. Ms. Olson expressed concerns regarding the loss of habitat and wildlife disturbance with the proposed Phase V apartments and hunters on the adjacent State Game Area discharging firearms within the safety zone. Mr. Forth restated that public notice was provided to the State of Michigan, along with supplemental telephone conversations with representatives of the MDNR-E. Mr. Forth reaffirmed that proper notice was provided and the MDNR-E has had sufficient time to comment and respond. Mr. Forth also indicated that signing of safety zones on State property was the responsibility of the MDNR-E. No additional citizens spoke during the public hearing. A motion was then made by Commissioner Bailes, seconded by Commissioner Cheesebro, to close the public hearing. The motion was unanimously approved.

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Based on the information presented, the Commission, staff and the applicant further discussed impacts of the Phase V apartments on the adjacent single family residences, MDNR-E notice and e-mail communications received, hunting on the adjacent State Game Area property and the 450-foot safety zone, the PD ordinance standard of 7.0 units/acre overall development density standard and the requested modification to allow 8.45 units/acre. Commissioner Dargitz and Commissioner Stoffer expressed concern with the overall development density of 8.45 units/acre proposed by the developer and the PD ordinance criteria for issuance of modifications from this standard. Commissioner Dargitz also suggested the developer reduce the height of the two apartment buildings located closest to Mr. Hall's property to two-stories, instead of the proposed three-stories. Mr. Forth stated the proposed apartment development density is consistent with the existing three phases of Greenspire. Mr. Forth also discussed the existing RM-1 zoning and corresponding development densities that are allowed under this designation. Mr. West discussed the benefits of the PD district and the flexibility that is afforded both the developer and the city when reviewing the rezoning/tentative plan. Mr. West stated the proposed Greenspire PD results in a more desirable development layout, than the existing RM-1 district, with increased building setbacks and enhanced screening provisions adjacent the single family residences along Shirley Court and Tozer Court. Mr. West also indicated the proposed Greenspire PD is consistent with Comprehensive Plan and Future Land Use Map designations.

After additional discussion of the PD ordinance criteria for the modification of a development standard, a motion was made by Commissioner Bailes, seconded by Commissioner Cheesebro, to recommend to City Council that Rezoning Application #09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive) be approved subject to the following conditions

1. Development standards such as density, open space, building setbacks, building orientation, screening/landscaping, etc. be established as indicated in the tentative plan received on March 4, 2010 and written narrative dated February 23, 2010.
2. The modification from the 7.0 units/acre density standard be approved, with the further requirement that development density of the apartment portion of the project be a maximum of 8.45 units/acre (708 units on 83.74 acres).
3. No beach facility, additional boat docks or other accesses to Hampton Lake be permitted.
4. Details regarding screening/landscaping enhancements between Phase V of the apartment portion of the development and adjacent single family residences located along Shirley Court and Tozer Court be finalized with submittal of the final plan for this phase of the project.
5. Design and configuration of proposed access drives and interconnection, including any changes to Shirley Court and Tozer Court and possible signalization of the West Centre Avenue/Cooley Drive intersection, be finalized with submittal of the final plan for the applicable phase of the project.
6. MDNRE approvals/permits involving the wetland or other environmentally sensitive areas be submitted with the final plan for the applicable phase of the project, if required.
7. If no final plan is submitted for acceptance within two years following the change in zoning, the process to rezone (or extend the PD classification) be initiated pursuant to the ordinance.

After a brief discussion of the motion, a subsequent motion was made by Commissioner Dargitz, seconded by Commissioner Stoffer, to postpone further consideration of the motion involving Rezoning Application #09-01 until the March 18, 2010 meeting. Upon a roll call vote: Patterson (no), Bailes (no), Fox (no), Cheesebro (no), Dargitz (yes), Stoffer (yes) and Welch (no). The motion failed 2-5. The Commission discussed an amendment to the original motion that would provide a rationale for the requested development density modification. An amendment to the original motion was then offered by Commissioner Bailes, seconded by Commissioner Cheesebro, to include a finding that the requested development density modification of 8.45 units/acre is coherent with the existing Greenspire development. Upon a roll call vote: Welch (yes), Stoffer (no), Dargitz (no), Cheesebro (yes), Fox (yes), Bailes (yes) and Patterson (yes), the amendment to the original motion was approved 5-2. Commissioner Stoffer stated he would not be supporting the original motion, as amended, and does not believe the Planning Commission can recommend to City Council an overall development density that exceeds the 8.23 units/acre density present on the existing Greenspire Development. Commissioner Dargitz concurred. After a brief discussion, the original motion (as amended) offered by Commissioner Bailes, seconded by Commissioner Cheesebro, was voted upon by the Commission. Upon a roll call vote: Cheesebro (yes), Dargitz (no), Stoffer (no), Welch (yes), Patterson (yes), Bailes (yes) and Fox (yes), the motion was approved 5-2.

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PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. FY 2010-2020 City of Portage Capital Improvement Program. Mr. Forth referred the Commission to the 2010-2020 Capital Improvement Program (CIP) document that was provided to each Commissioner prior to the meeting. Mr. Forth briefly reviewed the March 4, 2010 transmittal memo from City Manager Evans and asked the Commission to review the document for further discussion during the March 18, 2010 meeting. Over the course of the next two weeks, Mr. Forth asked the Commission to contact him with any questions or clarifications regarding individual CIP projects so he could research and provide answers prior to, or at the March 18th meeting.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

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

TO: Planning Commission **DATE:** February 26, 2010
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: Final Report: Rezoning Application #09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive)

I. INTRODUCTION

A PD, planned development rezoning application has been received from American Village Builders Companies and The Hinman Company for a tract of land located along the south side of West Centre Avenue, opposite Cooley Drive. Mr. Joseph Gesmundo and Mr. Roger Hinman own and/or control the properties requested for rezoning.

Property Address	Owner of Record	Parcel Number	Zoning	
			Existing	Proposed
3201 West Centre Avenue	Lakewood Management	00020-131-O	RM-1	PD
3317 West Centre Avenue	Lakewood Management	00019-105-O	RM-1	PD
3413 West Centre Avenue	Lakewood Management	00019-095-O	RM-1	PD
3423 West Centre Avenue	Lakewood Management	00019-096-O	RM-1	PD
3145 Greenspire Drive	Greenspire II Apartments	00020-135-O	RM-1	PD
8380 Greenspire Drive	Greenspire Equity I	00020-130-O	RM-1/R-1C	PD
8401 Greenspire Drive	Greenspire	00020-136-O	RM-1	PD
3413 Fawn Cove Lane	Greenspire II Apartments	00019-100-O	RM-1	PD
8615 Tozer Court	Lakewood Management	00020-140-O	RM-1	PD
Total: Nine parcels (94.64 acres)*				
<small>* exclude 14.77 acres which is part of Hampton Lake</small>				

The change in zoning is being requested to facilitate additional multiple family development, and retail/office uses along West Centre Avenue, now zoned RM-1, multi-family residential but planned for general business per the 2008 Comprehensive Plan. A portion of the land in the rezoning is occupied by Phases I, II and III of the Greenspire Apartments (384 units on 46.6 acres) approved in 1974, 1977 and 1980, respectively, and constructed. The planned development proposes three additional apartment phases of the Greenspire Apartments (Phases IV, V and VI) on approximately 37 acres along with 11 acres of retail/office land use along the northern portion of the site, adjacent to West Centre Avenue.

Also, six single-family zoned and developed properties abut the rezoning site and are situated on Tozer Court and Shirley Court, which are private streets. The northerly two dwellings are served by city water and the northerly three dwellings are served by city sewer. Careful consideration of these properties, as well as Hampton Lake and adjacent wetland/natural areas, is necessary and appropriate as part of this rezoning consideration.

II. EXISTING CONDITIONS

Land Use/Zoning	<p><u>Rezoning Site:</u> Phases I, II, and III of the Greenspire Apartments, plus vacant properties, which are zoned RM-1, multiple family residential and R-1C, one family residential (extreme northeast corner of rezoning site). A single family residence is also located on a portion of the 8615 Tozer Court parcel, which is zoned RM-1.</p> <p><u>North:</u> Across West Centre Avenue, various office developments zoned OS-1, office service and PD, planned development.</p> <p><u>East, West, South:</u> Vacant land owned by the State of Michigan (Gourdneck State Game Area) zoned R-1C, one family residential. An MDNRE public access from West Centre Avenue is located immediately west of the rezoning site. This public access provides access</p>
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Land Use/Zoning (cont.)	to the Gourneck State Game Area and Hampton Lake. Additionally, six single family residences located on Shirley Court and Tozer Court, also border the rezoning site to the south.
Zoning/Development History	<ul style="list-style-type: none"> The existing RM-1 and R-1C Greenspire zoning pattern was established through three separate rezoning applications in 1970, 1973 and 1980. Rezoning of nearby properties has occurred over the past several years: <ul style="list-style-type: none"> <u>Rezoning Application #05-05 (2301 West Centre Avenue and 8080 Oakland Drive)</u>. In July 2006, City Council rezoned this 48 acre tract of land located near the southwest corner of Oakland Drive and West Centre Avenue from OTR, office, technology and research to PD, planned development for the Oakland Hills at Centre Planned Development. This planned development project includes office land use along the West Centre Avenue frontage and attached single-family residential condominiums within the remainder of the property. <u>Rezoning Application #04-04 (8706, 8716, 8948 and 9000 Oakland Drive)</u>. In February 2005, City Council rezoned this 82 acre tract of land located along the west side of Oakland Drive, north of Vanderbilt Avenue, from R-1C, one family residential to PD, planned development for the Oakland Hills Planned Development with attached single-family residential condominiums. On October 12, 2009, the Zoning Board of Appeals (ZBA) denied a variance request from Greenspire to construct three 12-unit apartment buildings at 8401 Greenspire Drive 10-feet from the east property line, where 30-feet is required in the RM-1 zoning district. The portion of the Greenspire property involved in this ZBA consideration is referenced as Phase IV, Apartments in the PD rezoning and tentative plan/narrative application.
Public Streets	West Centre Avenue is a designated four-five lane major arterial with a posted 45 mph speed limit and approximately 24,500 vehicles per day (2009); capacity of 32,500 vehicles per day (level of service "D").
Historic District/ Structures	The subject site is not located within a historic district and does not contain any historic structures.
Public Utilities	Municipal water and sewer have been installed (and will be extended with new phases).
Environmental	The City of Portage Sensitive Land Use Map identifies areas of high sensitivity wetlands within the northwest and southeast portions of the rezoning site. The rezoning site borders on Hampton Lake which has a surface area nearly 1 million square feet (or 22 acres), and, also, Portage Creek with associated regulated floodplain areas.

III. ZONING CODE/PLANNED DEVELOPMENT PROCEDURES-REGULATIONS

The PD, planned development chapter establishes a two-part review and approval process: Tentative plan review and final plan review for each phase of the development. The applicant is required to submit a tentative plan which outlines the development concept (phases) for the entire project. Although conceptual in nature, specific statements, proposals, plans and schedule for the ultimate development of the site are required. The tentative plan is submitted for administrative review and scheduled for Planning Commission review and a public hearing. The submission of both written and graphic information constitutes a tentative plan.

The Planning Commission will provide a recommendation to City Council regarding the tentative plan. If approved, the planned development must proceed in accordance with the tentative plan. Approval of the tentative plan by Council constitutes rezoning of the land to PD and allows the submission of a final plan for Administrative, Planning Commission and City Council review. A final plan is submitted in detailed form and is subject to a review process similar to a site plan. If no final plan for development is submitted within two years from the date of approval of the tentative plan, Council may either extend the approval for a period not to exceed two years or immediately initiate rezoning proceedings to re-designate the property to a more suitable zoning classification. Under the terms of the ordinance, any change to the tentative plan, such as modifying an approved land use class or adding a land use class, will require formal review and approval, with public hearings, in a manner similar to a rezoning procedure.

Section 42-374 of the Land Development Regulations contains the PD district development design standards. This section provides flexibility in the types of land uses and up to 20% of the total land area can be utilized for nonresidential uses. The planned development applicant is required to provide public

water, public sanitary sewer and a pedestrian system. The applicant must demonstrate that the plan cannot be developed under other sections of the Zoning Code or must provide a mixture of housing types. The overall density of the project may not exceed seven units per acre and density in any one phase may not exceed 12 units per acre. Building setbacks, building height, open space and screening are also regulated under this ordinance section. Additionally, Section 42-375.C of the Land Development Regulations includes 15 required elements that must be addressed in the tentative plan/narrative.

The PD district and the tentative plan/narrative, which is required to be submitted with the rezoning application, allows the Planning Commission and City Council to examine the overall development plan layout including building placement, setbacks, height, etc., prior to acting on the PD rezoning request. Essentially, while the applicant is afforded development flexibility, greater control over the proposed planned development is available to the city.

IV. PROPOSED TENTATIVE PLAN

The Greenspire PD will include a total of six multi-family residential phases. The first three Greenspire Apartment phases including 384 apartment units plus the clubhouse, pool and tennis courts on approximately 47 acres have already been constructed under the current RM-1 zoning classification. The remainder of the multiple family residential portion of the planned development will occur in three additional phases (Phases IV, V and VI) and include three-story, 40-foot tall apartment buildings with 324 apartment units on approximately 37 acres. These three additional phases occur along the east, southeast and west perimeters of the overall project site. The north approximate 11 acres along West Centre Avenue will be developed with two, two-story, 40-foot tall retail/office buildings each 30,400 square feet (60,800 square feet total) and three, one-story, 25-foot tall retail buildings between 6,000–25,000 square feet each. The retail/office portion of the overall development (10.9 acres) will not exceed 20% of the total land area, as required by ordinance.

The overall density of the multiple-family residential portion of the development including adjacent wetland areas, but excluding the Hampton Lake area, will be 8.45 units/per acre (708 units on 83.74 acres) which exceeds the 7.0 units/acre standard set forth in the PD ordinance. In conjunction with the PD rezoning application, a modification from this ordinance provision is being requested by the developer. Other aspects of the proposed planned development project include:

- Pedestrian Walkway – An internal pedestrian circulation network of sidewalks exists within the existing Greenspire Apartments and will continue with future phases of apartment development. Additionally, the applicant has also committed to construct internal sidewalks within the first phase of the retail portion of the development (Phase IV-R), which will link with the apartment complex and provide pedestrian access to the new access drive proposed at the West Centre Avenue/Cooley Drive intersection.
- Open Space Features – Approximately 30 acres (36%) of the overall site will be maintained as open space area for the enjoyment of residents/employees of the planned development. Planned open space areas include woods, marsh and wetlands situated along the southeast and northwest portions of the site and adjacent to Hampton Lake in the southwest portion of the site.
- Storm Water Management - Storm water runoff is proposed to be collected and conveyed to natural open space areas situated across the development site, as well as around individual office sites, in accordance with City of Portage requirements. Storm water discharge locations will utilize natural appearing rain basins and existing wetland areas.
- Vehicular Access – Access to the Greenspire Planned Development is proposed through the existing Greenspire Drive from West Centre Avenue. With construction of Phase IV of the apartments, a second full-service driveway from West Centre Avenue, opposite Cooley Drive, is proposed. Future signalization of this West Centre Avenue/Cooley Drive is also being contemplated and has been studied. When future retail and office development occurs to the west, construction of a right-in/right-out driveway at Shirley Court is also proposed.
- Setbacks – Apartment and office/retail buildings will maintain a minimum 30-foot perimeter setback from outer property lines with the exception of the two apartment buildings proposed in Phase IV of the

development, which are proposed to be setback 15-feet from the eastern property line (10-feet for horizontal projections such as decks, balconies and porches), where adjacent to the Gourdneck State Game Area. A minimum 25-foot setback will be maintained from all interior private streets. Minimum 30-foot building separations will be maintained. Apartment buildings within Phase V of the Greenspire PD are proposed to maintain a minimum 80-foot perimeter setback from adjacent single-family property lines located along Tozer Court/Shirley Court and, furthermore, will be setback between 100-250 feet from individual single-family residences.

- Phasing – The development project is planned to be phased beginning in Spring 2010 and extending to 2015 and beyond as indicated in Item 3 of the attached narrative.

V. PUBLIC REVIEW/COMMENT

The Planning Commission convened a public hearing during the February 18, 2010 meeting. Mr. Greg Dobson of American Village Builders was present to explain the planned development; the history of land acquisition and development; 1980 development agreement with area residents and offered to include commitments into the written project narrative; October 2009 Zoning Board of Appeals variance consideration involving Phase IV apartment buildings; Phase V apartment building layout, orientation and setbacks and efforts made to minimize impacts on Shirley Court/Tozer Court residents; retail/office uses, building construction materials/elevations; and development density proposed for the PD project compared to the RM-1 zone.

Four citizens spoke in regards to the proposed PD rezoning: 1) Ms. Betty Ongley (8620 Tozer Court), 2) Mr. Terry Hall (8621 Shirley Court), 3) Dr. Russell Mohney (3500 Vanderbilt Avenue) and 4) Ms. Carol Long (2208 Quincy Avenue). Ms. Ongley expressed concerns regarding possible trespassing from apartment tenants, construction vehicle access, signalization of the West Centre Avenue/Cooley Drive access, condition of Shirley Court and suggested slight adjustments in Phase V apartment buildings to lessen impact on adjacent single family residences located on Shirley Court and Tozer Court. Mr. Hall expressed concerns regarding the proposed height of apartment buildings in Phase V, grade differences between these apartment buildings and his residence and the lack of mature trees in this portion of the development. Dr. Mohney discussed the 1980 agreement between the developer and residents and thanked the applicant for volunteering to incorporate the major provisions of the agreement into the project narrative. Dr. Mohney discussed Building/Fire Code issues associated with the previous ZBA variance consideration, public notice to the State of Michigan and the condition of Shirley Court and the need for improvements. Ms. Long expressed concerns regarding traffic safety at the West Centre Avenue/Cooley Drive intersection and the need to install a traffic signal at this intersection immediately.

The Commission, staff and applicant discussed various aspects of the planned development including past ZBA setback variance consideration; property ownership; inclusion of affordable housing units; impact of Phase V apartments on adjacent residences; development density calculations; PD review process and ordinance provisions; condition of Shirley Court (a private street with deeded access); and timing of second access construction and possible signalization of West Centre Avenue/Cooley Drive intersection.

VI. FINAL ANALYSIS

The following analysis has been prepared based on general land use considerations, the Comprehensive Plan, traffic conditions and surrounding development patterns. Issues to be considered are consistency with the Future Land Use Plan Map and Development Guidelines, suitability of the existing zoning classification and the impacts of the proposed zoning classification, particularly involving zoning suitability, traffic considerations, neighborhood considerations and environmental considerations.

Comprehensive Plan

Prior to recommending a zoning amendment, a determination that the proposed change is consistent with the Comprehensive Plan is appropriate. In the case of a rezoning, consistency is evaluated based on the Future Land Use Plan Map and also the Development Guidelines.

Future Land Use Plan Map -- The Future Land Use Plan Map component of the Comprehensive Plan designates the properties being considered for rezoning as appropriate for high density residential with general business within a primary commercial node along West Centre Avenue. The Comprehensive Plan identifies four primary commercial nodes across the city “..where both local and general business uses (i.e., grocery, pharmacy, hardware store, restaurant, personal services, business services, etc) are encouraged.” The proposed PD rezoning and associated tentative plan/narrative are consistent with these designations.

Development Guidelines -- The Development Guidelines are intended to be used by the Commission and staff when reviewing private development projects, infrastructure improvement programs (i.e. public expenditures on streets, sewers, water mains and others that influence the location, intensity and timing of development) and public programs that affect the physical environment. The guidelines also provide direction and underpinning for regulations that affect land use (e.g. zoning, subdivision, parking, landscaping and others), may suggest incentives to influence community development and preservation and may suggest adjustments to other policies which influence the use of land for consistency with community development and preservation objectives. The proposed PD rezoning and associated tentative plan/narrative is consistent with applicable development guidelines contained in the Comprehensive Plan. Attached for Commission review is the completed Guideline Table.

Suitability of Existing RM-1 and R-1C Zones/Impacts of Proposed PD Zone

The proposed PD planned development zone is appropriate and can be effectively used to facilitate additional Greenspire apartment development phases and the retail/office uses along the West Centre Avenue.

Residential development density is calculated differently in the RM-1 zoning district than in the PD, planned development zoning district. In the RM-1 zone, maximum permitted development density is calculated as specified in Section 42-350.B.(7). Developable land area and wetland/floodplain area is “factored” resulting in allowable “rooms” for density purposes. The PD zone and the ordinance establishes an overall development density of 7 units/acre, with no individual phase exceeding 12 units/acre, which can be modified by City Council as part of the PD rezoning and tentative plan/narrative consideration.

A comparison development plan that shows the 83.74 acres of the land planned for multiple family residential developed under the RM-1 zone has been provided by the applicant. The results of this comparison plan indicates that approximately 78 additional apartment units could be constructed under the existing RM-1 zoning (786 units total, 9.38 units/acre), as compared to the proposed PD zoning (708 units total, 8.45 units/acre). A cursory review of allowable density under the current RM-1 zoning, using the formula in Section 42-350.B.(7) was completed by the Department of Community Development. With the assumption that approximately 23 acres (northwest and southeast portion of site) of the 84 acres is designated wetlands, a total of 2,074 rooms would be allowed under the current RM-1 zoning. Depending upon the mixture of apartments, 2,074 rooms would be available under the following scenarios:

- 1,037 one-bedroom units at 12.3 units/acre; or
- 830 one-bedroom and two-bedroom units (equal mix) at 9.9 units/acre; or
- 691 two-bedroom units at 8.3 units/acre; or
- 415 three-bedroom units at 5 units/acre.

Building setback and height are also determined differently in the RM-1 and PD zones. In the RM-1 zone, minimum 30-foot building setbacks are required from all property lines per Section 42-350.A. The PD district requires a “peripheral transition area”. The RM-1 zone establishes a building height at 25-feet and two-stories when abutting a single family residential zoning district (or 30 feet and three stories when not abutting a single family district), which can be increased by the Planning Commission/City Council upon a determination that topography, natural features or other land use characteristics, including the distance of the proposed structure from the residential district/structures, will adequately mitigate adverse impacts. For Commission information, the existing three-story, 35-40 foot tall buildings are considered non-conforming

since the two-story and 25-foot height standard was not adopted until after the existing buildings were constructed (1990). The actual height and number of stories in the PD zone is not specifically established. Section 42-374.E and F states "...any structure in excess of 45 feet shall be designed to be consistent with the reasonable enjoyment of neighboring property, the entire planned development and the efficiency of existing public services."

With regard to the two apartment buildings in Phase IV, the proposed 15-foot building setback (10-feet for horizontal projections such as balconies and decks) is appropriate and will allow the developer to retain the desired "feel" of the Greenspire Apartments, as referenced by the applicant. The apartment buildings will be fully sprinkled. As information, Building Services and the Fire Department have reviewed the preliminary layout for Phase IV and the proposed setbacks are acceptable: Applicable building and fire protection requirements will be reviewed and fulfilled as final plans are submitted.

The applicant has considered the single family residences located on Shirley Court and Tozer Court. After three meetings and various discussions with neighboring residences, the applicant has shifted the apartment buildings proposed in Phase V further east, away from these adjacent residences. The two apartment buildings situated nearest the existing residences are proposed to be located approximately 80 feet and 120, respectively, from the west property line and between 100-250 feet from the nearest single family residential dwellings. While the existing RM-1 district establishes a building height of 25-feet and two-stories, the RM-1 district allows placement of these apartment buildings 30-feet from the property line. The applicant has also incorporated building design considerations including off-set building orientation and positioning to minimize the building mass viewed by the adjacent residents. Finally and as discussed in the written narrative, the applicant has also committed to "...develop and execute a screening plan for these homes taking advantage of transplanted white pine trees." According to the applicant, the screening/berming plan would be prepared prior to/concurrently with the final plan for Phase V and be subject "...to the preferences of our neighbors". Additional consideration of screening/landscaping details such as retention of existing trees, installation of berms, landforms, trees, decorative fences or walls, between the apartment development (buildings and parking lot) and the adjacent single-family residences, will be further reviewed and finalized with approval of a final plan for this phase of development.

TRAFFIC CONSIDERATIONS

Based on this planned development and the ITE Trip Generation Manual, Sixth Edition, the proposed additional multiple family residential apartment buildings and retail/office buildings can be expected to generate approximately 5,800 vehicle trips on an average weekday, upon full build-out over at least a five year period (Spring 2010 through Spring 2015 and beyond). West Centre Avenue carries approximately 24,500 vehicles per day (2009). This four-five lane boulevard is a major arterial with a capacity of 32,500 vehicles per day at a level of service "D", which is acceptable in an urban area.

While anticipated traffic generation associated with the planned development can be accommodated by the adjacent public roadway, a further review of traffic, access and possible signalization of the West Centre Avenue/Cooley Drive intersection will occur with individual final plan submittals for the various phases of the project. As information for the Commission, a Signal Warrant Study for the proposed development project was prepared by CESO, Inc. (applicant's engineer) and reviewed by the City Administration in 2008-2009. The West Centre Avenue/Cooley Drive intersection currently does not meet engineering warrants for signalization, however, continued traffic monitoring will occur with future development.

NEIGHBORHOOD CONSIDERATIONS

During the 1979-1980 rezoning to accommodate an additional phase of the Greenspire Apartment project, there was organized opposition expressed by Hampton Lake area residents and local environmental groups regarding potential impacts on Hampton Lake including initial building locations and development of a beach on Hampton Lake for Greenspire Apartment residents. Attached is a February 1980 Kalamazoo Gazette article provided by a Hampton Lake resident that provides general, reported information about the

issues and an agreement reached between the developer and residents. With regard to the agreement, a review of city records including Planning Commission/City Council meeting minutes indicates a copy was not provided and it appears that the city was not a formal party to the agreement. According to discussions with the applicant and an area resident, this agreement was never signed and recorded by either party. A copy of the agreement has been requested from the applicant and area resident, however, has not yet been provided. Deeds on file at the city involving the property subject to the 1979-80 rezoning were also reviewed. The deeds indicate the land conveyance is "Subject to any and all conditions, restrictions, limitations and easements of record."

The applicant has agreed to continue to honor the spirit and provisions of the agreement. In Item #11 of the revised project narrative dated February 23, 2010, the applicant agrees to the following:

- “(a) the Tentative Plan does not incorporate a beach facility or apartments within 250 feet of the existing shoreline of Hampton Lake;
- (b) the future phases of the Tentative Plan do not incorporate any new apartment buildings any closer to Hampton Lake than the current apartment buildings to the north of Hampton Lake and the current homes to the east of Hampton Lake;
- (c) easements for future phases of Greenspire will be provided for utilities as required by the utility companies for gas, water, electric, street lights, sanitary sewer, cable television and phone service-most utilities are already available throughout the site;
- (d) the Tentative Plan does not include any new water wells on the property;
- (e) a single boat dock has already been constructed and we limit its use to no more than eight watercraft, none with internal combustive engines;
- (f) Greenspire will abide by Michigan Department of Natural Resources and Environmental rules and regulations relative to both wetlands and endangered species.”

Combined with increased building setbacks, building/site design considerations, retention of existing trees/natural vegetation and screening/landscaping treatments, these added commitments will minimize impacts on the adjacent single family residences. Any changes to Tozer Court and/or Shirley Court will be reviewed with final plan submissions to ensure access is maintained for these single-family residences.

In regards to affordable housing units and inclusionary zoning that was discussed by the Commissioners, the City Attorney provided a 2005 legal opinion about inclusionary zoning. In instances where communities in other states have adopted inclusionary zoning ordinances, the following legal challenges resulted: 1) violation of the equal protection clause of the Constitution; 2) taking of property without just compensation; 3) lack of legislative authority. Given the lack of state enabling legislation and local ordinance regulations, the requirement to include affordable housing units in the Greenspire PD is not supportable from a legal perspective.

As additional information, in June 2009, legislation was introduced in the Michigan House of Representatives that would grant local governments the power to impose inclusionary zoning and require developers to construct affordable dwelling units with proposed housing developments. House Bill 5136 has been referred to the House Intergovernmental, Urban and Regional Affairs Committee for consideration. Also, in 1981, Greenspire Phase III apartments was financed through the U.S. Department of Housing and Urban Development (HUD). As part of the HUD financing, at least 20% of the total apartment units were required to meet low income/subsidized rental criteria. Between 1981 and 2001, a total of 48 subsidized apartment units existed at Greenspire: Participation in this program expired in 2001.

ENVIRONMENTAL CONSIDERATIONS

Recognizing the importance of protecting and preserving sensitive land areas, and in particular the Hampton Lake area, several studies have been reviewed including A Water and Land Resource Plan for the Kalamazoo-Black-Macatawa-Paw Paw River Basins (1977), Natural Features Inventory of the Portage Creek Basin (1995) and Portage Creek Assessment, Hampton Lake to Central Park (1998). The inventory and the assessment were contracted and funded by the city. These documents provide useful information to preserve sensitive land areas, including Hampton Lake and Portage Creek.

Protection of wetlands and other environmentally sensitive areas are planned by the applicant. Importantly, no further development proximate to Hampton Lake is proposed with the PD project. A preliminary review performed by Mr. Tim Bureau (environmental consultant for the applicant) along with soil borings performed by the applicant have confirmed that development activities will not encroach within designated wetland and floodplain areas. A detailed wetland/floodplain delineation and analysis will be provided by the applicant, as applicable, with final plan submittals.

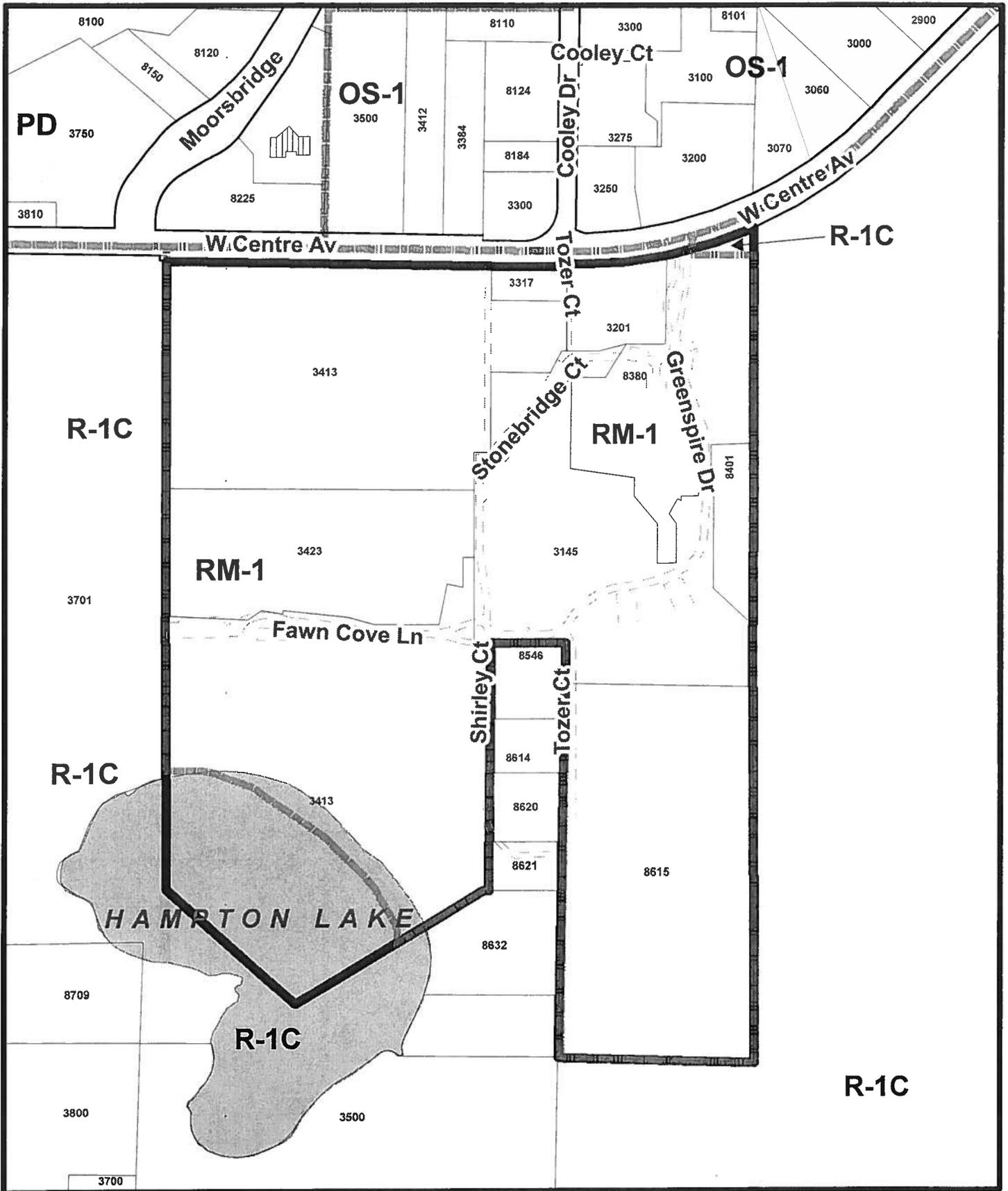
VII. RECOMMENDATION

The Greenspire PD is a creative mixture of multiple-family residential apartments and retail/office uses and represents appropriate development between West Centre Avenue and the Gourneck State Game Area, Hampton Lake, associated wetlands/natural areas and existing land uses. The requested modification to allow an overall multiple-family residential development density of 8.45 units/acre is less than is currently allowed under the existing RM-1 zoning. A combination of increased building setbacks, building orientation and substantial screening/landscaping treatments will help mitigate potential impacts from the Phase V apartments and the adjacent single family residences located along Shirley Court and Tozer Court. The retail/office component of the development project will not exceed 20% of the total project area, consistent with ordinance standards, and will be concentrated along the West Centre Avenue frontage. The PD rezoning would also eliminate the non-conforming status of the existing 3-story apartment buildings.

Based on the above analysis, staff advises that the Planning Commission recommend to City Council that Rezoning Application #09-01, Greenspire Planned Development (West Centre Avenue and Greenspire Drive) be approved subject to the following conditions:

1. Development standards such as density, open space, building setbacks, building orientation, screening/landscaping, etc. be established as indicated in the tentative plan and written narrative dated February 23, 2010.
2. The modification from the 7.0 units/acre density standard be approved, with the further requirement that development density of the apartment portion of the project be a maximum of 8.45 units/acre (708 units on 83.74 acres).
3. No beach facility, additional boat docks or other accesses to Hampton Lake be permitted.
4. Details regarding screening/landscaping enhancements between Phase V of the apartment portion of the development and adjacent single family residences located along Shirley Court and Tozer Court be finalized with submittal of the final plan for this phase of the project.
5. Design and configuration of proposed access drives and interconnection, including any changes to Shirley Court and Tozer Court and possible signalization of the West Centre Avenue/Cooley Drive intersection, be finalized with submittal of the final plan for the applicable phase of the project.
6. MDNRE approvals/permits involving the wetland or other environmentally sensitive areas be submitted with the final plan for the applicable phase of the project, if required.
7. If no final plan is submitted for acceptance within two years following the change in zoning, the process to rezone (or extend the PD classification) be initiated pursuant to the ordinance.

Attachments: Rezoning/Vicinity Map
 Future Land Use Map
 Oblique Aerial Photograph of Greenspire and vicinity
 Development Guidelines Table
 Rezoning Application and Revised Narrative and Tentative Plan (received February 23, 2010)
 Building Elevations (commercial and multi-family)
 RM-1 Comparison Plan and Apartment designs
 February 1980 Kalamazoo Gazette article
 City Council and Planning Commission meeting minutes (Greenspire rezoning and site plans)
 February 18, 2010 letter from Dr. William Hanover (Gastroenterology of SW Michigan)



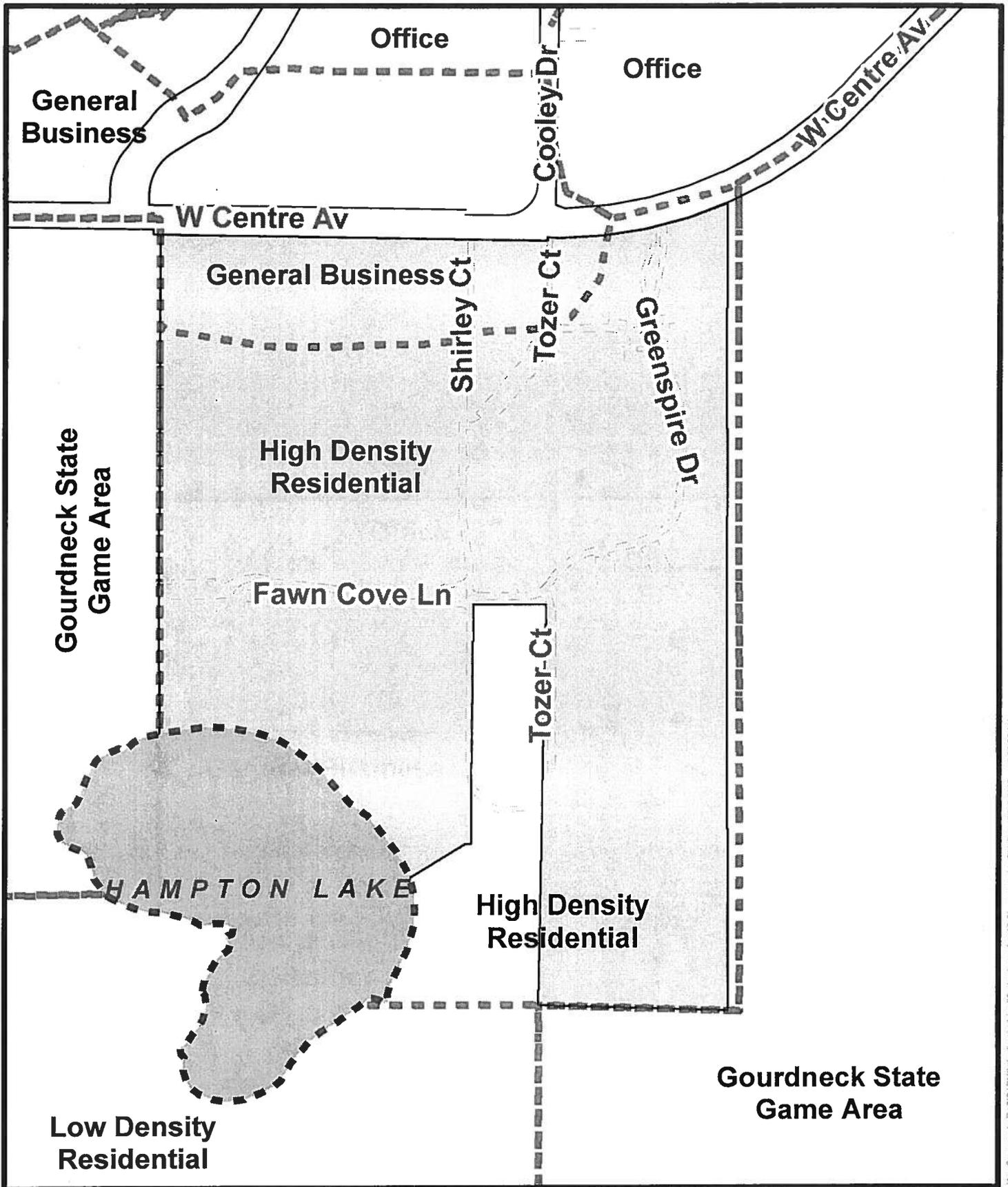
Rezoning #09-01

3145-8401 Greenspire Dr, 8615 Tozer Ct,
 3201- 3423 W Centre Av, 3413 Fawn Cove Ln

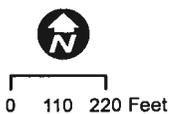
 Zoning Boundary
 Subject Properties



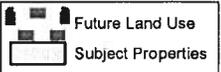
1 inch = 439 feet



Map Document: I:\GIS\2011\kellergren\map\lru\lru.dwg, map\05-01_gis\lru\lru.dwg, F:\GIS\map\2011\05-01.dwg, 11/27/11 AM



Future Land Use Map
3145-8401 Greenspire Dr, 8615 Tozer Ct,
3201- 3423 W Centre Av, 3413 Fawn Cove Ln



Vicinity Map
Greenspire Apartments



DEVELOPMENT GUIDELINES

Rezoning Application #09-01 (Planned Development, PD)

Guideline	Description	Consistent	Comments
Rezoning – 1	Rezoning Request	Yes	Future Land Use Plan designates rezoning site as appropriate for high density residential and general business land use within a primary commercial node along West Centre Avenue. Proposed Greenspire Planned Development is consistent with these Comprehensive Plan designations.
Residential – 1	Protection of Residential Neighborhoods	Yes	Greenspire Planned Development establishes a retail/office land use pattern along West Centre Avenue and continues the multiple family apartment land use within the interior of the subject property. Design considerations have been included to minimize impacts on single family residences located along Shirley Court and Tozer Court.
Residential – 2	Residential Development along Arterial Roadway	Yes	Access to the planned development will be provided from West Centre Avenue, a major thoroughfare. Interconnections between the apartment and retail/office land uses will occur, where appropriate. The interior street network will be private and owned/maintained by the developer.
Residential – 3c	Locational Criteria for Residential Uses	Yes	Rezoning site has locational criteria consistent with the high density category: Overall development density for the apartment portion of the project is proposed at 8.45 units/acre; access to/from an arterial roadway; municipal water/sanitary sewer available and development will avoid identified wetland areas.
Residential – 4	Compatibility with Adjacent Land Use	Yes	Greenspire Planned Development provides a creative mixture of apartment development and retail/office land uses that is consistent and compatible with the surrounding land use/zoning pattern. The project creates an effective transition between West Centre Avenue and interior areas including single family residences along Shirley Court/Tozer Court, Gourdneck State Game Area, Hampton Lake and natural wetlands and lowlands.
Residential – 5	Open Space and Natural Resource Protection	Yes	Greenspire Planned Development will preserve approximately 30 acres (36%) of the overall site in open space: natural wooded areas and wetlands. Continued protection of Hampton Lake will also occur with development project.
Residential – 6	Streets and Pedestrian Systems	Yes	Access to both apartments and retail/office uses will be provided from West Centre Avenue. Interior private street network and pedestrian circulation network will be maintained and extended within the planned development.
Residential – 9	Residential Planned Unit Development	Yes	Planned development will facilitate additional multiple family residential development (Phases IV, V and VI of Greenspire Apartments) and retail/office land uses. Non-residential (retail/office) portion of development will not exceed 20% of the total land area and will be concentrated along the West Centre Avenue consistent with Comprehensive Plan.

Guideline	Description	Consistent	Comments
Natural & Historic Resources – 1	Environmental Protection	Yes	Designated wetland areas are located along the northwest and southeast portions of the site while Hampton Lake and floodplain areas border the southwest portion of the site. Planned development activities will avoid these areas and preserved environmentally sensitive areas as open space.
Natural & Historic Resources – 2	Floodplain	Yes	See Natural & Historic Resources – 1 above.
Natural & Historic Resources – 3	Water Quality	Yes	Storm water from planned development will be collected, treated and conveyed to natural open space and wetland areas, as opposed to typical graded/fenced retention basins.
Natural & Historic Resources - 4	Noise	Yes	Retail/office land uses will be concentrated along West Centre Avenue and appropriate separations and buffers will be established to minimize noise related issues.
Natural & Historic Resources - 5	Historic Resource Preservation	N/A	Rezoning site is not situated within a historic district and does not contain historic structures.
Natural & Historic Resources – 6	Open Space Preservation	Yes	Planned Development will preserve approximately 30 acres (36%) of the overall site in open space: natural wooded areas and wetlands. Wooded areas and wetlands/marsh will be preserved for the enjoyment by the residents of the development and will provide habitat for area wildlife.
Transportation – 1	Transportation Systems	Yes	West Centre Avenue is a major arterial street with 24,500 vehicles per day (2009) and a capacity of 32,500 vehicles per day. Anticipated traffic generation from planned development can be accommodated.
Transportation – 2	Street Design	Yes	Access to the development will be provided through the existing Greenspire Drive, from West Centre Avenue. With construction of Phase IV of the apartments, a second full service driveway will be provided from West Centre Avenue, opposite Cooley Drive. When future retail/office development occurs to the west, construction of a right-in/right-out driveway at Shirley Court is proposed. Final design and any related roadway improvements (i.e., traffic signal, acceleration/deceleration lanes) will be further evaluated with the final plan submittal.
Transportation – 3	Access Management	Yes	See Transportation – 1 and Transportation – 2 above.
Transportation – 4	Non Motorized Travel	Yes	See Residential – 6 above.
Municipal Facilities & Services – 1	Sound Fiscal Growth	Yes	Existing and proposed public infrastructure is adequate to accommodate planned development.
Municipal Facilities & Services – 2	Sanitary Service	Yes	Sanitary sewer is available and will serve the planned development.
Municipal Facilities & Services – 3	Underground Utilities	Yes	Underground utilities will serve the planned development.

APPLICATION FOR ZONING AMENDMENT

Application number 09-01

Date 1/15/2010

APPLICATION INFORMATION:

Meetings of the Portage Planning Commission are held on the first and third Thursday of each month at 7:00 p.m. in the Council Chambers of Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan. All zoning amendment applications must be properly filled out and submitted to the Department of Community Development and the zoning amendment fee paid at least 15 working days prior to the meeting at which the public hearing is held. The applicant will be notified in writing of all such public hearing/meetings.

For more detailed information about the zoning amendment process, please refer to Portage Land Development Regulations, Article 4, Division 2, Subdivision 2.

TO THE PLANNING COMMISSION:

I (WE), the undersigned, do hereby respectfully make application and petition the Portage Planning Commission to amend the Zoning Ordinance and/or change the Zoning Map as hereinafter requested. In support of this application, the following is submitted:

ZONING MAP AMENDMENT

1. a. Platted Land:

The property is part of the recorded plat: The property sought to be rezoned is located at _____ between _____ Street and _____ Street on the _____ side of the street, and is known as Lot Number(s) _____ of _____ Plat (Subdivision). It has a frontage of _____ feet and a depth of _____ feet.

(b) Unplatted Land:

The property is in acreage, and is not therefore a part of a recorded plat. The property sought to be rezoned is located and described as follows: (Indicate total acreage and parcel number).

109.41 ACRES - #1 - 000190950, 000190960, 000191050, 000201310
#2 - 000201350, #3 - 000191000, #4 - 000201300, #5 - 000201400
#6 - 000201360

2. a. Do you own the property to be rezoned? Yes No _____

b. Name of the owner of the property to be rezoned: Lakewood Management Co., Greenspire II Apartments, LLC

Address 4200 W. Centre Ave, Portage, MI 49024 Greenspire Equity I, Greenspire.

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: Owner and General/Managing Partner for Greenspire with a goal to provide/allow for the uses within PD zoning.

4. CURRENT ZONING: RM1 PROPOSED ZONING: PD

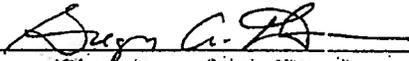
ZONING TEXT AMENDMENT N/A

1. The proposed language to be considered is (attach additional sheets as necessary):

2. The Zoning Code Chapter and Section wherein the proposed text would be modified/inserted.

3. My (our) interest in and purpose for submitting the proposed Zoning Ordinance Amendment.

We attach a statement hereto indicating why, in our opinion, the change requested is necessary for the preservation and enjoyment of substantial property rights, and why such amendment will advance the public health, safety and welfare. An assessment of the impact of the proposal on the community and property of other persons in the vicinity of the amendment or affected by the amendment is also attached.



(Signature of Applicant)

(Signature of Applicant)

4200 N. Centre Ave - Portage, MI 49029

(Address)

(Address)

269-329-3636

(Phone)

(Phone)

A copy of all actions taken regarding this application shall be attached and shall be considered a part of this application.



American Village Builders, Inc.

RECEIVED
FEB 23 2010
COMMUNITY DEVELOPMENT

February 23, 2010

Mr. Christopher Forth
Deputy Director of Planning and Community Development
City of Portage
2900 S. Westnedge Ave.
Portage, MI 49002

RE: Greenspire Planned Development "PD" Tentative Plan

AVB Companies and The Hinman Company are pleased to submit to you a plan for rezoning our property on the south side of West Centre Avenue as depicted on the attached site plan. The majority of the property is zoned RM-1 Multiple Family Residential and the extreme northeast corner of the property is zoned R-1C One Family Residential. We are requesting a rezoning to PD - Planned Development. The following tentative plan (the "Tentative Plan") is consistent with the City of Portage Land Development regulations. The Tentative Plan provides for an excellent development for the City of Portage and allows this property to achieve its highest and best use while remaining true to the development principles that have been established at Greenspire over the last 35 years.

We are requesting this rezoning for several reasons which may be of interest to you, a few of which are worthy of specific note. First, this rezoning is consistent with the City of Portage Future Land Use Plan. The areas that we suggest as multi-family are shown that way on the Future Land Use Plan and the same is true for the non-residential uses. Further, our companies have individually and together had a great deal of experience developing within the PD framework both in the City of Portage and in other municipalities. Some of our very best developments have been the fruits of the PD ordinance and working through the PD process with the City of Portage. We think this development is suited very well to benefit from the PD ordinance and the PD process in general.

What follows are the answers to the 15 required questions that are provided in Section 42-375 of the City of Portage Land Development Regulations.

1. The PD area will be designed to integrate the existing residential uses with new multi-family residential uses while also seamlessly integrating the planned addition of office and retail uses to the property.
2. The proposed PD development area is on all of the approximately 109 acres identified as Greenspire, on the property that is commonly referred to as Greenspire Apartments. In the proposed PD area we plan to develop a combination of multi-family, retail and office uses. The next phase to be constructed, Phase IV, would commence construction in the spring of 2010 (Phase IV) and consist of two multi-family apartment buildings containing 36 apartment units. Following Phase IV, construction on approximately 12,000 square feet of retail space would commence in the fall of 2010. Future developments would include multi-family expansion (Phase V and Phase VI) that would consist of approximately 324 (36 Phase IV, 168 Phase V, 120 Phase VI) new multi-family apartment units. Additional office and retail uses would be expanded as shown on the attached site plan as demand allows.

Using a cluster development allows us to provide in excess of 30.64 acres of open space (15.22, 7.54, and 7.54 acres +/- as shown on the attached site plan) within the development. The same care that has gone into the existing development of Greenspire to harness the natural beauty of this special land will continue in the PD area with first-rate landscaping and natural screening where appropriate. Additionally we will take advantage of the natural features and topography of this site by site planning to allow views of the beautiful forests, waterways, wetlands and sensitive areas that border this property.

3. The Greenspire Apartments development started in the early 1970's when Roger Hinman and Joe Gesmundo first began acquiring the property now known as Greenspire Apartments. Phase I began construction in 1976 on 8.015 acres and included the boulevard entrance from Centre Avenue, four apartment buildings, the clubhouse, the pool and the first tennis court. In 1978 Phase II was constructed and included seven additional apartment buildings and an additional tennis court on 14.96 acres. In 1981 Phase III was constructed and included six new buildings on 23.68 acres. In total Phase I through Phase III included 17 buildings, 384 units (187 one beds, 144 two beds, and 53 three beds) over 46.655 acres. For density purposes the 384 units over 46.655 acres equals 8.23 units/acre.

Greenspire Phases IV through VI will be developed in at least seven sub-phases beginning the Spring of 2010.

- a. Spring 2010. Phase IV of the multi-family residential development will commence. This phase will include 36 units.
- b. Fall 2010. The first 12,000-square foot retail building (shown as Phase IV R on the site plan) is planned to commence construction.

- c. Spring 2011. The first three buildings of the Phase V multi-family residential development is planned to commence construction.
 - d. Spring 2013. Two more buildings of the Phase V multi-family residential development is planned to commence construction.
 - e. Fall 2014. The second retail building (shown as Phase V R on the site plan) is scheduled to commence construction.
 - f. Spring 2015. The last two buildings of the Phase V multi-family residential development is planned to commence construction.
 - g. The timeline for construction of the multi-family buildings (Phase VI) and the office and retail buildings west of Shirley Court is unknown at this time. It is expected that construction would take place after the Spring 2015 anticipated start of construction of the last two buildings in Phase V.
4. The time schedule is proposed in #3 above.
5. The site plan and its associated phasing lines show how each stage of the development is independent, yet designed to integrate well into the development as well as the existing development pattern. Importantly, each phase of the Greenspire plan has been meticulously designed to integrate into the existing Greenspire Apartments master plan. Phase IV contemplates initially using the existing Greenspire Drive entrance during construction. Before Phase IV receives an occupancy permit, the Cooley Drive entrance drive will be completed to provide an additional means of ingress and egress into the development. When the area west of Cooley is developed, this area will be benefited by the right in/right out drive, at Shirley Court.

To assess the potential impact of traffic due to future phases at Greenspire, a traffic study was performed by CESO (Traffic Engineers and Surveyors). According to the traffic study, upon completion of all future phases contemplated by the Greenspire master plan, the following new trips would be generated: 259 weekday A.M. peak hour (in and out), 560 weekday P.M. peak hour (in and out), and 5,810 total daily 24 hour (in and out). Preliminarily, the traffic study indicates possible future signalization at the West Centre Avenue/Cooley Avenue intersection. Traffic impacts will continue to be monitored as construction activities and future phases proceed.

As we plan for pedestrian circulation throughout the site, we are leveraging miles of existing sidewalks through the existing Phase I through Phase III of Greenspire. As we construct the new entry drive from Centre Avenue past the planned 12,000-square foot commercial building, we have included a sidewalk to provide entrance into the existing phases of Greenspire. We are also providing, as we construct the 12,000-square foot shopping center, a sidewalk from the existing boulevard drive to the Cooley/Centre Avenue intersection. By providing access to Centre Avenue to the entire PD via these new sidewalks, we are able to

get pedestrians to the proposed future signaled intersection at Cooley/Centre. From this point, pedestrians can cross to the north side of Centre Avenue where sidewalks connect the full distance of Centre Avenue east and west. Phases IV, V and VI all include additional sidewalks and pedestrian circulation as well. Additionally, we have planned sidewalk connections to Phase V when that phase is constructed.

Shirley Court presently provides legal access, via access easements recorded in 1953, 1962, and 1974, to the homes between Tozer Ct. and Shirley Ct. This access is presently a dirt two-track over the northern most 500'+/- and most of its distance south of Fawn Cove Lane. Improvement of the northern 500' +/- section of Shirley Court is not necessary for proper development of Greenspire through Phase V and Phase VR. Additionally, improving this section of Shirley Court is not required or necessary to provide access to the Greenspire development, nor is it required by the City of Portage Fire Department. Therefore we do not plan to substantially improve the northernmost 500'+/- of Shirley Court until the construction of Phase VI. However, portions of Shirley Court may be improved depending on the final plan site locations of the building labeled Phase V-R.

It should be further noted that the access agreements, originally recorded in 1953, 1962, and 1974, do not place any burden of maintenance or upkeep on Greenspire.

With the construction of Phase V, we will install a new way-finding system throughout Greenspire Apartments. This updated and clarified signage will help allow the residents of Greenspire and their guests to get to their intended locations, on the first attempt. As a part of this package and the development of the proposed screening on the west side of Phase V, we would be willing to include some "private property" signs to remind our residents of the difference between Greenspire Property and the privately owned properties between Tozer Ct. and Shirley Ct.

6. The Tentative Plan land is located on the south side of Centre Avenue, east of Moorsbridge Road and west of Oakland Drive. The parcel is 109.41 acres in total. This 109.41 acres includes 14.77 of which a portion is Hampton Lake and a portion is beautiful high ground in the very southwest corner of our property. Entities owned and controlled by Joseph Gesmundo and Roger Hinman presently own all of this property under a variety of entity names and is commonly referred to as Greenspire Apartments.

It should be noted that we have done a fair amount of due diligence recently in regards to the property, in addition to our over 30 years of experience in owning the land. Specifically, the south end of Phase V is near some low-lying land. We

have had this property evaluated recently in three manners. First, Tim Bureau of Tim Bureau Consulting, LLC, a former long-time MDEQ staffer, reviewed the area in person to assure us that our buildings were not in any wetlands. Mr. Bureau has assured us that none of our buildings are in a wetland. Additionally, PSI was hired to conduct soil borings in the area of the southernmost building footprints in Phase V. The PSI borings show an abundance of sand, down the full 25' of the borings' depth. Finally, our civil engineers have confirmed that these buildings are not within the floodplain.

7. The chart below demonstrates the land use and density for each phase. Please note that at final build out, our plan exceeds the 7.0 units per acre by 1.45 units per acre. If one were to maintain the existing RM-1 zoning, our density would allow 78 more units than we are requesting under this rezoning. In other words, RM-1 zoning would allow 786 units and we are only requesting 708 in this PD application. Owing to a portion of the property being Hampton Lake, and a portion of our property being dedicated to commercial use, our calculations use 83.74 acres to calculate residential density though the property being rezoned is 109.41 acres. For density comparison purposes the existing 384 units (Phase I through III) over 46.655 acres equals 8.23 units/acre. We are requesting a modification to allow for the overall 8.45 units per acre that we have shown throughout this document, which is the combined density of Phase I through VI.

Phases	Proposed Units	Density Units/Acre Not Including Hampton Lake or Commercial Area		Phase Acreage	Total Acreage
		RM 1 Calc	PD Calc		
Existing Buildings:					
Phase I	96		11.98	8.015	
Phase II	168		11.23	14.960	22.975
Phase III	120		5.07	23.680	46.655
Combined Phase I-III	384		8.23	46.655	
Proposed Buildings:					
Phase IV	36		11.80	3.050	49.705
Phase V	168		9.88	17.000	66.705
Phase VI	120		7.04	17.035	83.740
Phase I, II, III, IV, V, & VI Combined	708	786	8.45	83.740	

Retail/Office 10.9 acres

It should be noted that the allowable non-residential acreage is 19 acres at 20% of 94.64 acres.

73,400 sq. ft. of retail and 30,400 sq. ft. of office

103,800 sq. ft./10.9 acres = 9,522 sq. ft./acre

8. The roads, storm areas and entry statement areas as shown on the attached site plan, will be owned by the Gesmundo & Hinman entities; reference herein and maintained by Lakewood Management Company as they have since the first building was constructed at Greenspire Apartments. Joe Gesmundo and Roger Hinman both hold ownership in and are the General Partners for Phase I which is owned by Greenspire Equity I.

9. The residential development units will consist of the following types of units:

Multi-family buildings – three-story buildings, approximately 40’ feet high with each building being approximately 40,000 sq. ft.

The commercial portion of the development will consist of the following types of buildings:

Two - Two-story retail/office buildings, 40’ high, 30,400 sq. ft. each

Three - One-story retail buildings, 25’ high, between 6,000 sq. ft. and 25,000 sq. ft. each

The office and retail buildings will be designed to integrate with the residential buildings while maintaining some of the general character of office buildings. The final product at Greenspire will take advantage of excellent colors, textures and materials to make every building look and feel great. We have attached an example of our first retail building elevation and apartment building elevation for your review.

The Phase IV buildings have been designed to LEED standards. It is our intention to design all the multi-family buildings within Greenspire to comply with the current standard for LEED certification.

The proposed 3-story multi-family buildings are required by current code to be fully protected by a wet-sprinkler system. As such we expect that all the new 3-story multi-family buildings within Greenspire to be fully sprinkled.

We have used a 30’ set back around the entire perimeter of the property except for the two buildings in Phase IV of the Multi-Family development where a 15’

set back is necessary in order to facilitate our site plan. The proposed 15' set back, only for these two buildings (36 units of Phase IV), allows us to set the buildings back an appropriate distance from Greenspire Drive. We need to push these buildings close to the property line, adjacent to the State of Michigan property, in order to: a) fit our buildings in the land area available between Greenspire Drive and the property line without placing the buildings too close to Greenspire Drive, b) to allow adequate parking a reasonable distance from the buildings, and to c) preserve the maximum amount of green space possible consistent with the overall feel of Greenspire. The 15' set back shown on these drawings pushes the buildings 5' further west, away from the State of Michigan property, than we had shown in our 2009 ZBA request. For clarification purposes the decks/patios are now set at 10' from the property line in Phase IV and the building face will be 15' from the property line. In addition we have maintained 30' between each building and a 25' front setback from the edge of road.

The commercial/retail building heights will not exceed those which are allowed within the PD zoning district. The multi-family buildings are designed at approximately 40'. Please see our attached elevations which illustrate the beauty of these elevations.

Through the three meetings that we held with the residential neighbors of Greenspire we learned that a primary concern with our proposed development was the Phase V buildings and their height and proximity to the residences between Shirley Ct. and Tozer Ct. As such, before submission of this Tentative Plan, and at the request of the residents, we moved these buildings as far as practicable away from the residences. The Tentative Plan now shows the nearest buildings are actually further away from the living portion of the residences than the now existing buildings in Phase III. For example, 8620 Tozer Ct. is 233' from our proposed Phase V building while it is presently 172' from the existing Phase III, 3411 building off of Fawn Cove. The residence at 8614 Tozer Ct. is 257' from our proposed Phase V building while it is presently 209' from the existing Phase III, 3404 building off of Fawn Cove. The residence at 8546 Shirley Ct. is over 275' from our proposed Phase V building while it is presently 132' from the existing Phase III, 3404 building off of Fawn Cove.

In addition, we have offered, at our expense, to develop and execute a screening plan for these homes taking advantage of transplanted white pine trees, to further shield their residences and associated view lines from our proposed development. As recently as today we have followed up on this offer to work with these neighbors and our landscape architect to finalize a screening and/or berming plan for Phase V. We are also willing to wait and finalize a screening and/or berming plan prior to or concurrently with our final plan for Phase V-subject only to the preferences of our neighbors.

10. Storm water will be treated and piped via underground structures to the most appropriate common open space area in accordance with City of Portage requirements. In addition, some storm water capacity may be integrated into the design of the office sites. Storm water will be pre-treated according to City of Portage regulations and then released for infiltration into the previously mentioned lowland. These low-lying areas within the development provide plenty of space for this purpose and this plan will be developed to allow for natural looking rain basins/wetlands as opposed to typical, fenced off, deep and unsightly storm systems. Sanitary sewer will be connected to the available City of Portage sanitary sewer system which is available at Centre Avenue and at the Fawn Cove lift station.

11. At the February 18, 2010 Planning Commission meeting, an undated newspaper article written by Tom Haroldson was presented to the Planning Commission. The article, from some 30 +/- years ago, discussed a peace pact between Greenspire and Russell Mohny and identified several bulleted items. Russell Mohny inquired as to our intent with respect to those items. In response, Greenspire submits the following which it believes addresses the bulleted points from the article as well as some other required items for the PD narrative. It should be noted that the bulleted items were part of a "proposed agreement", the spirit of which we feel Greenspire has followed since the time of this article. The "proposed agreement" also included requirements of Mohny and others that have not been fully complied with to date. Despite this inequity, we propose the following in the spirit of Greenspire's side of the "proposed agreement": (a) the Tentative Plan does not incorporate a beach facility or apartments within 250 feet of the existing shoreline of Hampton Lake (b) the future phases of the Tentative Plan do not incorporate any new apartment buildings any closer to Hampton Lake than the current apartment buildings to the north of Hampton Lake and the current homes to the east of Hampton Lake, (c) easements for future phases of Greenspire will be provided for utilities as required by the utility companies for gas, water, electric, street lights, sanitary sewer, cable television and phone service-most utilities are already available throughout the site, (d) the Tentative Plan does not include any new water wells on the property. (e) a single boat dock has already been constructed and we limit its use to no more than eight watercraft, none with internal combustive engines. (f) Greenspire will abide by Michigan Department of Natural Resources and Environment rules and regulations relative to both wetlands and endangered species.

12. Parking will be provided according to the City Ordinance. If feasible, we will try to bank some of the retail parking as typically the City requirements exceed those of our tenants. We expect to build out all of the required spaces for the residential multi-family units. The existing and proposed road widths are

included and dimensioned on the attached site plan. Single story pitched roof garages and/or carports may be implemented into the site plan. The quantity of garages / carports shall not exceed 50% of total number of bedrooms. The construction finishes / materials will be complimentary to that of the phase 4 apartment building conceptual elevation submitted with this narrative. The specific quantity, location, and materials of the garages / carports will be detailed on the final site plan.

13. The only modification we are requesting is in regards to our density calculations as outlined in paragraph 7. We do not anticipate the need for any other modifications to allow the subject property to be developed as presented herein.
14. As noted in #4 above, we intend to make our final submittal for the last planned phase in 2015.
15. Since the successful implementation of the plan is required both by the ordinance and by our own standards, we do not feel that any performance bonds are necessary. We have a long-standing reputation for successful completion of our projects and the meticulous management of our developments after build-out.

We look forward to the opportunity to discuss this plan with City Staff, Planning Commission and City Council. We feel this can be another first-class development for the City of Portage, The Hinman Company and AVB Companies.

Sincerely,

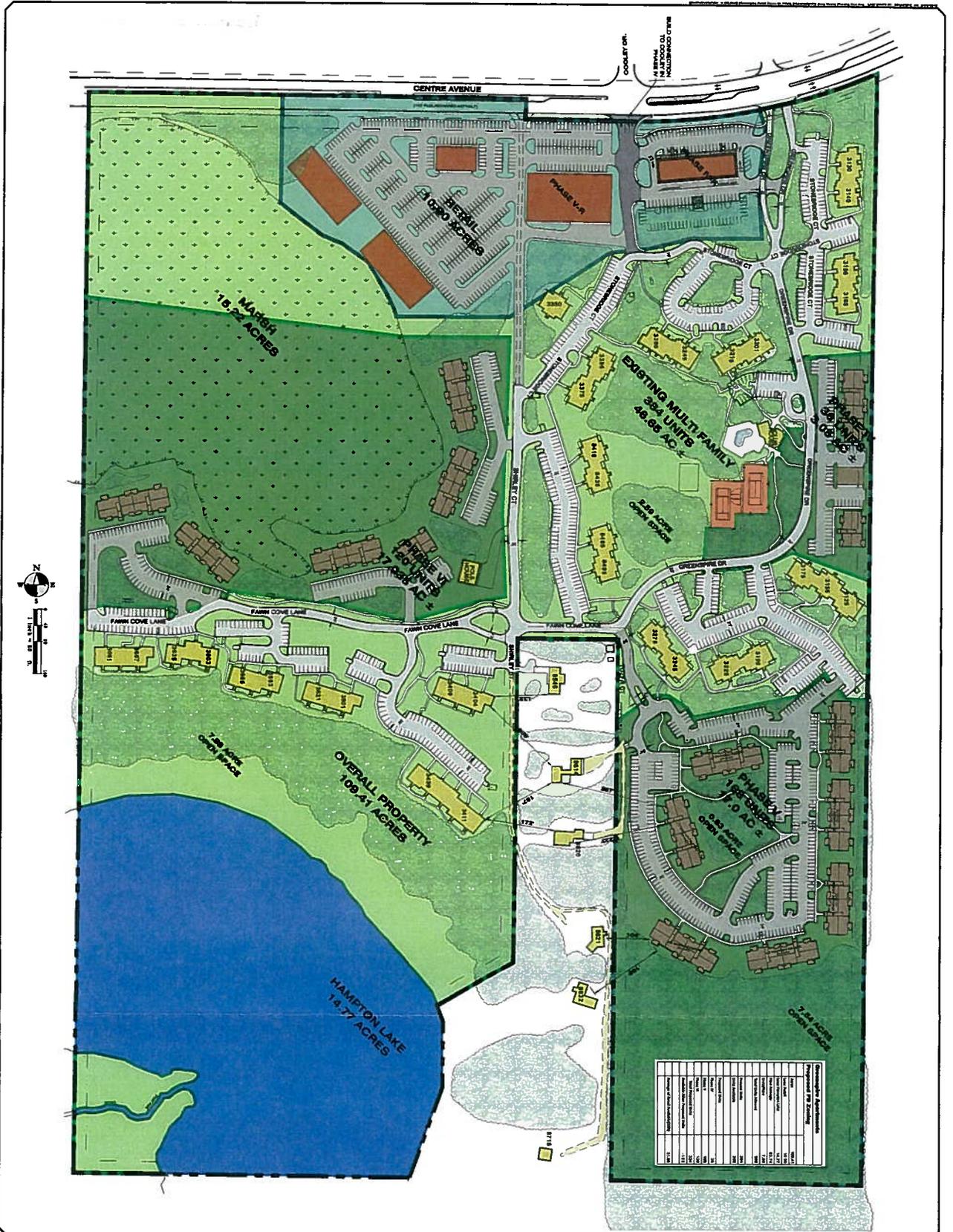
A handwritten signature in black ink, appearing to read "Greg Dobson", with a long horizontal line extending to the right.

Greg Dobson

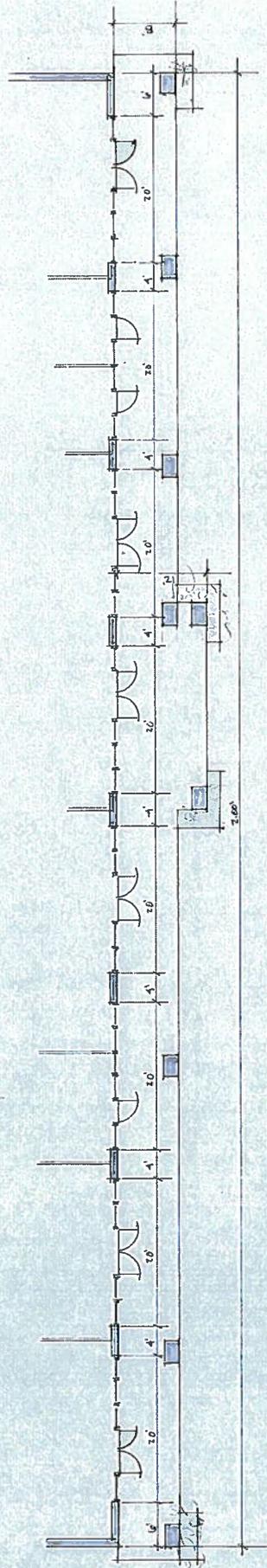
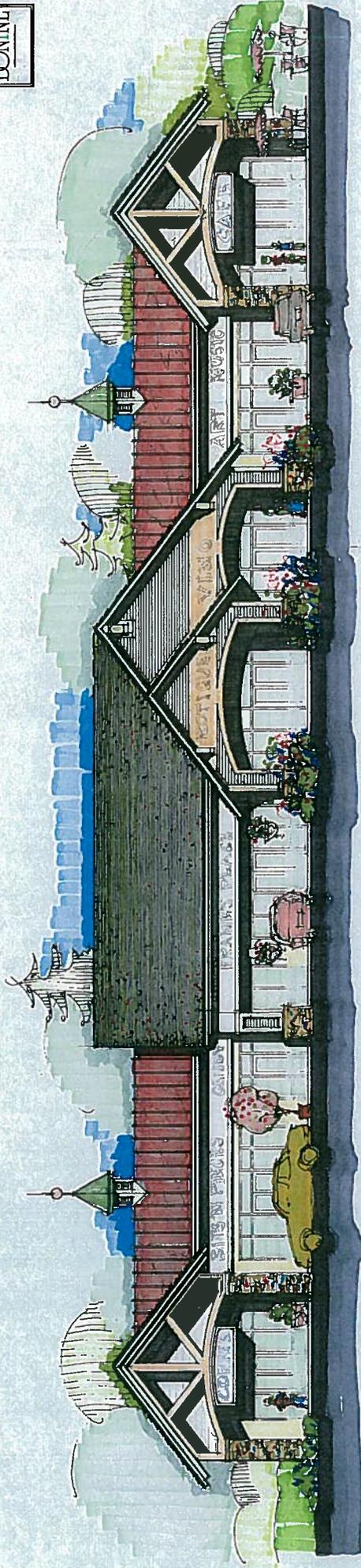
cc: Joe Gesmundo, Rich MacDonald, Roger Hinman

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2010



Phase	Area (Acres)	Units	Notes
PHASE I	1.0	100	Existing Multi-Family
PHASE II	1.0	100	Existing Multi-Family
PHASE III	1.0	100	Existing Multi-Family
PHASE IV	1.0	100	Existing Multi-Family
PHASE V	1.0	100	Existing Multi-Family
PHASE VI	1.0	100	Existing Multi-Family
PHASE VII	1.0	100	Existing Multi-Family
PHASE VIII	1.0	100	Existing Multi-Family
PHASE IX	1.0	100	Existing Multi-Family
PHASE X	1.0	100	Existing Multi-Family
PHASE XI	1.0	100	Existing Multi-Family
PHASE XII	1.0	100	Existing Multi-Family
PHASE XIII	1.0	100	Existing Multi-Family
PHASE XIV	1.0	100	Existing Multi-Family
PHASE XV	1.0	100	Existing Multi-Family
PHASE XVI	1.0	100	Existing Multi-Family
PHASE XVII	1.0	100	Existing Multi-Family
PHASE XVIII	1.0	100	Existing Multi-Family
PHASE XIX	1.0	100	Existing Multi-Family
PHASE XX	1.0	100	Existing Multi-Family
PHASE XXI	1.0	100	Existing Multi-Family
PHASE XXII	1.0	100	Existing Multi-Family
PHASE XXIII	1.0	100	Existing Multi-Family
PHASE XXIV	1.0	100	Existing Multi-Family
PHASE XXV	1.0	100	Existing Multi-Family
PHASE XXVI	1.0	100	Existing Multi-Family
PHASE XXVII	1.0	100	Existing Multi-Family
PHASE XXVIII	1.0	100	Existing Multi-Family
PHASE XXIX	1.0	100	Existing Multi-Family
PHASE XXX	1.0	100	Existing Multi-Family



greenspire village centre

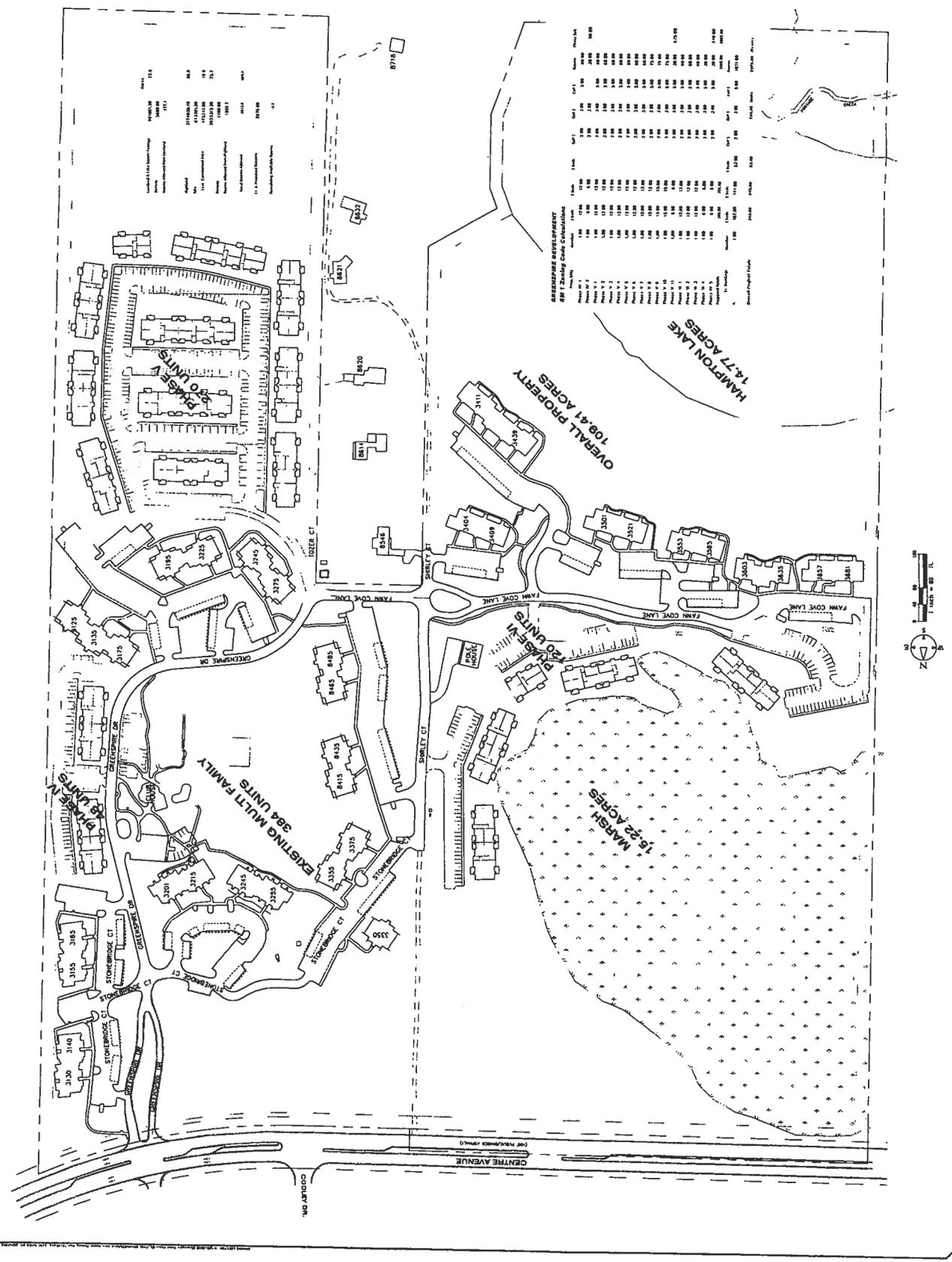
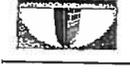


AVB
CONSTRUCTION

HINMAN
DEVELOPMENT • MANAGEMENT • LEASING

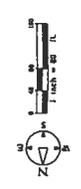
 **Greenspire Apartments**
Revised Front Elevation of 1221

Design+
11.12.09 • #08078

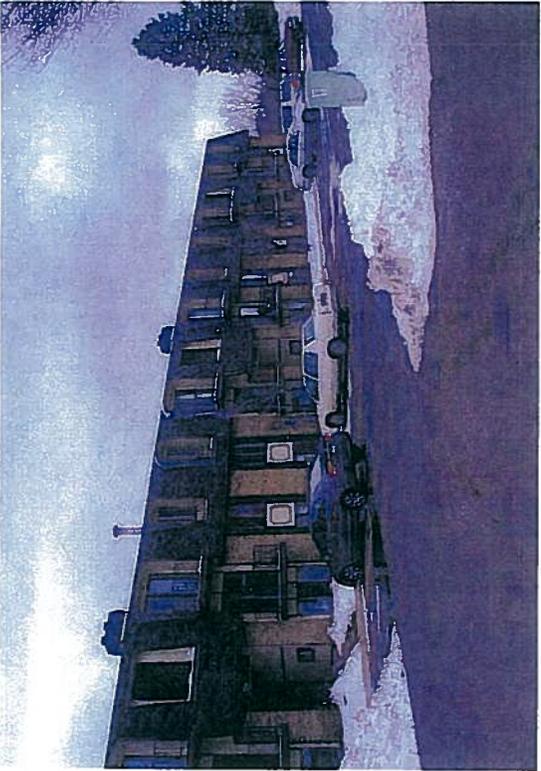
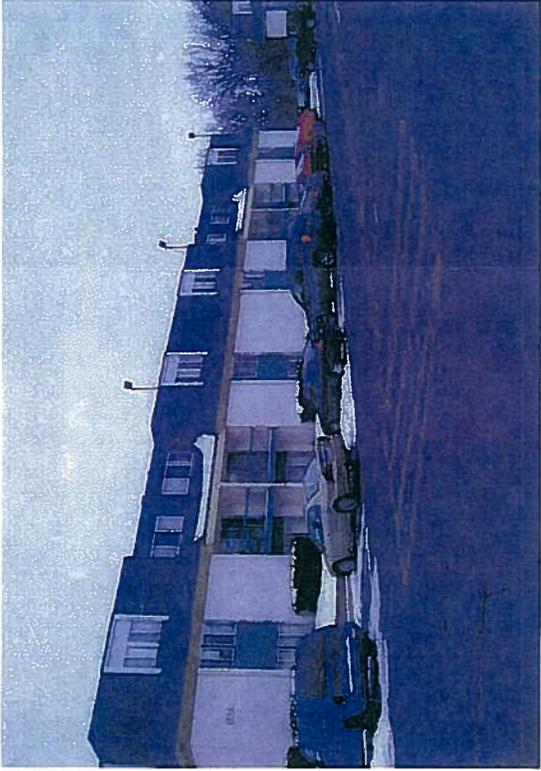


GREENSPIRE DEVELOPMENT
PHASING DEVELOPMENT

PHASE	ACRES	UNITS	EST. COST	EST. REVENUE	EST. NET
1	14.77	100	\$10,000,000	\$10,000,000	\$0
2	16.22	100	\$10,000,000	\$10,000,000	\$0
3	109.41	100	\$10,000,000	\$10,000,000	\$0
4	109.41	100	\$10,000,000	\$10,000,000	\$0
5	109.41	100	\$10,000,000	\$10,000,000	\$0
6	109.41	100	\$10,000,000	\$10,000,000	\$0
7	109.41	100	\$10,000,000	\$10,000,000	\$0
8	109.41	100	\$10,000,000	\$10,000,000	\$0
9	109.41	100	\$10,000,000	\$10,000,000	\$0
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79	109.41	100	\$10,000,000	\$10,000,000	\$0
80	109.41	100	\$10,000,000	\$10,000,000	\$0
81	109.41	100	\$10,000,000	\$10,000,000	\$0
82	109.41	100	\$10,000,000	\$10,000,000	\$0
83	109.41	100	\$10,000,000	\$10,000,000	\$0
84	109.41	100	\$10,000,000	\$10,000,000	\$0
85	109.41	100	\$10,000,000	\$10,000,000	\$0
86	109.41	100	\$10,000,000	\$10,000,000	\$0
87	109.41	100	\$10,000,000	\$10,000,000	\$0
88	109.41	100	\$10,000,000	\$10,000,000	\$0
89	109.41	100	\$10,000,000	\$10,000,000	\$0
90	109.41	100	\$10,000,000	\$10,000,000	\$0
91	109.41	100	\$10,000,000	\$10,000,000	\$0
92	109.41	100	\$10,000,000	\$10,000,000	\$0
93	109.41	100	\$10,000,000	\$10,000,000	\$0
94	109.41	100	\$10,000,000	\$10,000,000	\$0
95	109.41	100	\$10,000,000	\$10,000,000	\$0
96	109.41	100	\$10,000,000	\$10,000,000	\$0
97	109.41	100	\$10,000,000	\$10,000,000	\$0
98	109.41	100	\$10,000,000	\$10,000,000	\$0
99	109.41	100	\$10,000,000	\$10,000,000	\$0
100	109.41	100	\$10,000,000	\$10,000,000	\$0



NOT TO SCALE. DIMENSIONS SHOWN ON THIS PLAN SHALL BE THE GOVERNING DIMENSIONS. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF THE SITE PRIOR TO CONSTRUCTION.



'Peace pact' ends Hampton Lake battle

A disagreement over developments on Hampton Lake in Portage that began with clenched fists and scowls has ended with firm handshakes and smiles.

The change in attitudes is the result of an agreement between developers of a \$7 million Greenspire Apartments expansion proposal and several lake residents.

The peace pact, which basically limits future use of Hampton by Greenspire, has been lauded by both sides as "innovative" and "farsighted."

It also heads off what could have been a long fight, and possible lawsuit, involving the 22-acre lake, the headwaters of Portage Creek.

For the developers, Joseph Gesmundo and Roger Hinman, it also clears the way for city council approval of a request to rezone three parcels of property at Greenspire.

The council will conduct a public hearing at 7:30 p.m. Tuesday on rezoning requests for two of the parcels from single family to multiple family. The third parcel rezoning request will be taken up in a Feb. 19 public hearing.

As part of the agreement, residents and environmental groups have agreed not to fight the rezoning requests.

The storm was over a proposal from Greenspire to build an additional 230 apartments on its 120-acre site off of West Centre Avenue, northwest of the lake.

Included in that plan was development of a beach on Hampton that could be used by Greenspire residents for swimming, sail boating and fishing. Gesmundo said the size and type of beach had not been decided.

Led by lake resident Dr. Russell Mohnhey, of 3500 Vanderbilt, some lake residents protested the beach's development, stating it would damage the "fragile" nature of the lake, especially since it could be used by a potential 1,000-plus Greenspire residents.



By Tom Haroldson
Gazette Staff Writer

Mohnhey and others also opposed building any apartments close to the lake shore, primarily for aesthetic reasons, and the drilling of water wells.

Joining the residents in the battle were the Department of Natural Resources, which has a public access site on the lake, and a drove of environmental groups.

The protestors asked for an environmental assessment study on the development's effects on the lake prior to any consideration of the rezoning requests.

The Portage Planning Commission, after hearing from the residents, DNR and environmental groups, thought otherwise and approved the rezoning, setting the stage for city council consideration. Persistently, Mohnhey invited city council members, Gesmundo and environmental advocates to his home for an on-site view of the targeted area and further discussions.

It was after a Saturday morning meeting earlier this month that Gesmundo and Mohnhey began their negotiations to settle the dispute and eventually hammered out the agreement.

"Our attitude toward the environment is identical to that of what was wrong. But there were enough people with the attitude that the lake shore be kept in a pristine state. We agreed with that."

"By this agreement, I am not suggesting that the original idea was wrong. But there was enough people with the attitude that the lake shore be kept in a pristine state. We agree with that."

Mohnhey, who put in long hours to organize the resistance and research his arguments, could scarcely hide his enthusiasm for the

settlement.

"This is one of the most significant environmental agreements ever made," Mohnhey, a Kalamazoo neurologist, said. "I know of no remaining environmental conflict over this issue."

Key points of the agreement call for:

- The Hampton Lake shoreline will be left in its natural state, which prohibits any beach facility or apartments within 250 feet of the shoreline.
- Apartments will be located so as to protect the pristine nature of the lake.
- No water wells will be permitted and no person will be permitted to occupy any new Greenspire apartment until municipal services are available.
- A single boat dock will be permitted that can be used by no more than eight watercraft, none with internal combustive engines.
- The DNR must be consulted before any alteration of a nearby bog or other land where there may be unique wildlife or identified endangered species.
- The restrictions will be attached to the Greenspire land title after a building permit is issued, insuring the agreement will be followed by all future owners of the property.

"I consider this agreement not only farsighted," Mohnhey said, "but broad in scope to insure the future enjoyment of the water for subsequent generations."

"Keeping this lake free from harm is vital not only to the lake but to all residents along Portage Creek and those who enjoy its environment."

"I want to thank Joe for agreeing with us on that. Not every developer would agree to sit down and settle this. To his credit, he did."

Mohnhey said the dispute also had a secondary, but important benefit because it united several local and state environmental groups.



HAMPTON LAKE BATTLE ENDS WITH HANDSHAKE, SMILES
Developer Joseph Gesmundo (left) and Russell Mohnhey
—Gazette photo

Some of the groups who worked with Mohnhey on the issue were the Michigan Lakes & Streams Association, the Southcentral Michigan Planning Commission, the DNR, Institute of Public Affairs at Western Michigan University and the Audubon Society.

It also featured the emergence of the Portage Environmental Board, a citizens group that had been inactive on environmental issues facing the city.

The environmental board called for an environmental assessment report on the lake developments and became involved in the dispute, the first major action taken by the board in recent years.

"I hope the environmental board will continue to be active in environmental affairs of the city," Mohnhey said. "It could have a positive impact on future environmental questions facing Portage."

MINUTES OF THE PORTAGE CITY COUNCIL MEETING OF FEBRUARY 19, 1980

Meeting was called to order by Mayor Corstange at 7:30 p.m.

The Invocation was given by Rev. Roland Gani, Centre Avenue Community Church of God.

The Pledge of Allegiance was given by the Council and the Audience.

The Clerk called the roll with all members present except Councilman Overlander. Also in attendance were City Manager Donald Ziemke, City Attorney John Peters and City Clerk Lois Johnson.

Motion was made by Vandemaele supported by Hinga to approve the minutes of February 12, 1980 as presented. Upon a roll call vote all members present voted in favor.

Motion was made by Vandemaele supported by Bieberle to approve the Check Register and Payrolls of February 19, 1980 as presented. Councilwoman Hinga questioned two bills to outside printers. She asked what is being done by our in-house printing department. The Manager explained ours is a part time person and that we don't have all the equipment as yet but he is printing a lot of forms, permits etc. Upon a roll call vote of the motion all members present voted in favor.

PRESENTATION REGARDING AIRPORT PROPOSAL: Mayor Corstange stated that Kalamazoo Mayor Annen and the Deputy City Manager Ms. Sculley were present with us to speak on the Airport proposal. He introduced Mayor Annen. Mayor Annen stated he would like to thank the administration for their help and consideration in the planning of the joint Policy Board and with the appointment of three members of the Council to serve on this Board. He stated he was here mainly to answer any questions the Council or audience might have regarding the proposed Multijurisdictional Kalamazoo Municipal Airport Policy Board which would serve for a period of 18 to 24 months, with the membership consisting of five members appointed by the Kalamazoo City Commission, three members appointed by the City of Portage City Council and three members appointed by the Kalamazoo County Board of Commissioners, with the Mayors of Kalamazoo and Portage and the Chairman of the County Board of Commissioners automatically being one of the members. Councilmembers asked him several questions to which he gave the answers. It was stated they hoped to have the first meeting of the newly created board by April 1st or possibly mid-March. Mayor Corstange thanked him for attending the meeting.

PUBLIC HEARINGS:

REZONING APPLICATION #79-13 (PARCEL C) GREENSPIRE: Mayor Corstange stated this was a request to rezone Parcel C only from R-1C, single family residential to RM-1, multiple family residential. He then opened the public hearing. Speaking in favor of the request was Mr. Joe Gesmundo, representing Greenspire Developers. Mr. Gesmundo explained the request and showed a drawing as to the location of the property

in conjunction with the other properties of Greenspire. Dr. Mohney asked a couple questions of Mr. Gesmundo which were answered. Mr. Gesmundo explained the agreement with the neighbors. Motion was made by Stern supported by VandeMaele to close the public hearing. Motion carried on an unanimous voice vote. Motion was made by Stern supported by Hinga that an Ordinance to amend the Zoning Code be adopted on second reading amending the Official Zoning Map for Application #79-13 (Parcel C) from R-1C, single family residential to RM-1, multiple family residential to be effective 15 days after publication. Upon a roll call vote all members present voted in favor. Ordinance filed on Page 207 of Ordinance Book #5 of the City of Portage.

CITY MANAGER'S REPORTS:

BUDGET CONTROL EXCEPTION REPORT: Council received the Budget Control Exception Report for the seven month period ending January 31, 1980.

APPOINTMENT OF ACTING DIRECTOR OF PARKS, RECREATION, CEMETERIES AND PROPERTY MANAGEMENT: Council received a recommendation from the City Manager to appoint Mr. Michael R. Collins. Motion was made by VandeMaele supported by Jameyson that Michael R. Collins be appointed as Acting Director of Parks, Recreation, Cemeteries and Property Management at the salary of \$19,360 to become effective March 8, 1980. Upon a roll call vote all members present voted in favor.

PETITIONS: None

STATEMENTS OF CITIZENS: None

COMMUNICATIONS:

FROM CITY ATTORNEY JOHN PETERS: Council received suggested wording for the ballot question regarding the sale of the triangle. Motion was made by Jameyson supported by Bieberle the wording be left as suggested by Councilman Jameyson but to add the location or description of the land. The question will read as follows: "Shall the City retain the land in the so-called triangle, (land bounded by South Westnedge Avenue, Centre Street, and the Conrail Railroad Tracks)?"

FROM MRS. HAROLD PAPE: Council received a letter regarding the necessity of sanitary sewers on Dolphin Street. Councilman Stern acknowledged this was the same situation as Larkspur Avenue. Motion was made by Stern supported by Bieberle to refer the matter to the City Manager and Engineering Staff to give a cost estimate for additional cost if done this year. Motion carried on an unanimous voice vote.

PCOC: Council received a letter from the Portage Community Outreach Center informing us they do not have the money to pay their half of the repair of the roof. Also they requested a lease agreement be drawn up between PCOC and the City for the use of the former VanderRoest Building on West Centre Avenue. There was discussion. Motion was made by VandeMaele supported by Bieberle that we go ahead with the repairs with the money coming from the Contingency Reserve Account if not available in Block

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CITY OF PORTAGE PLANNING COMMISSION

Minutes of Meeting - Thursday - May 15, 1980

City of Portage Planning Commission Meeting of May 15, 1980 was called to order by Chairman Manske at 7:30 p.m. in the community room of the Portage Public Library, 300 Library Lane.

MEMBERS PRESENT:

Nancy Jean; Georgia Vavra; George Ray; Burdell Standish; Hagop Khatchikian; Peggy Hamilton; Paul Manske, Chairman.

MEMBERS EXCUSED:

Wendell Buckland had been excused through action taken at the past Planning Commission meeting. Chairman Manske requested to be excused from the June 5, 1980 Planning Commission meeting. Motion was made by Standish seconded by Babra, that Commissioner Schroeder be excused from the May 15, 1980 Planning Commission meeting and that Chairman Manske be excused from the June 5, 1980 Planning Commission Meeting. Motion was approved 7-0.

MEMBERS ABSENT:

None.

IN ATTENDANCE:

Patrick L. Loeprich, Director of Planning & Community Development; Brian Bowling, Assistant City Planner; Lowell Seyburn, Assistant City Attorney; Norm Smith, Director of Inspections and Code Enforcement.

APPROVAL OF MINUTES:

The minutes of May 1, 1980 were introduced for approval. A motion was made by Ray, seconded by Vavra, that the minutes of May 1, 1980 be approved as written. Motion was approved 7-0.

The minutes of the special meeting of May 8, 1980 were introduced for approval. A motion was made by Vavra, seconded by Ray, that the minutes of the special meeting of May 8, 1980 be approved as written. Motion was approved 7-0.

SITE PLANS:

1. Greenspire III, Apartments. Conditions placed upon this site plan through the administrative review process are as follows:

1. Shirley Court to be graded and maintained so as to function as an emergency access.
2. Sewers and lift stations to be designed, constructed and inspected in accordance with City and State Health Department specifications and are to be dedicated to the City upon completion along with a 20' easement for maintenance purposes and as built drawings.
3. Soil erosion and sedimentation permit is required.
4. Sewer Use Permit is required.

Mr. Loeprich explained that this was a phased development which consisted of 120 units in Phase III and approximately 114 units in Phase IV. Mr. Gesmundo explained that although they have received commitment for funding on the Phase III portion of the project, he would like the Planning Commission to consider approving both phases on this site plan as he believes the balance of the project will receive approval in a short time. Mr. Loeprich explained that the staff had reviewed the project in its entirety and would have no problem with the granting of approval for both Phase III and Phase IV.

Chairman Manske explained that a communication had been received from the Environmental Board requesting that the Planning Commission request an environmental assessment on this project. Mr. Loeprich indicated that the developers had prepared an environmental assessment which had briefly been reviewed by

Staff. It is believed that the primary environmental concerns outlined in the assessment have been addressed through the site design or through deed restrictions imposed on the parcel by the developer. It is therefore believed that the Plan meets adequate environmental standards as presented. A motion was made by Ray, seconded by Standish, that, based upon the staff approval of this plan and acceptance of the environmental assessment, this site plan be approved subject to the above specified conditions being required. Motion was approved 7-0.

2. Wilson Air Equipment, 5080 Meredith Drive. Conditions placed upon this site plan through the administrative review process were as follows:

1. Thirty-five foot radii are required on the drive entrance.
2. A soil erosion and sedimentation permit is required.
3. Sewer Use Permit is required.
4. Water and sewer lines must be 10' apart.
5. Automatic sprinklers are required.

After some limited discussion, a motion was made by Hamilton, seconded by Jean, that this site plan be approved subject to the above specified conditions being required. Motion was approved 7-0.

PUBLIC HEARINGS:

1. Preliminary Plat, Swan Creek Estates, Phase I (Stage I). Speaking in favor of the proposed plat was Charles Glasner of Gove Associates, engineer for the project. Mr. Glasner commented that the proposed plat conforms to City and State regulations for subdivisions and, therefore, it is requested that Phase I be approved.

Speaking in opposition to the proposed plat were the following: Mr. and Mrs. Larry Smith, 3907 Wedgewood and Mrs. Erich, 3828 Wedgewood. Concerns expressed related to the extension of Tamworth into the proposed development in later phases of the plat and the development of a lift station in the western portion of the plat in a later phase. Mr. Loeprich explained that Tamworth was a stub street which was originally intended to go through to the north and is recommended for future connection, however, it is not a part of the first phase of the development. Mr. Glasner indicated that the lift station must be installed because of the grades in the area. Commissioner Vavra questioned if the Planning Commission was dealing with the first 14 lots or the total 55 lots at this time. It was explained that the first 14 lots are the only lots of concern presently. Mr. Glasner pointed out that the first 14 lots would not involve the construction of the lift station as the sewers in this area would operate on a gravity system. Mr. Smith commented that he believed the dead end nature of Wedgewood Street should be maintained and no tie-in should be provided to the north through Tamworth. Other residents from the area questioned the potential future development and the possibility of multiple family structures being instituted in the area. It was indicated that the land was presently zoned for single family purposed only. At this time the public hearing was declared closed. This item will appear on the next Planning Commission Agenda for action.

2. 12 month review for Conditional Use Permit for Eugene Pifer, 10028 Shaver Road, to operate a car sales lot at 10028 Shaver Road.

Mr. Carl Erickson, an attorney representing Mr. Pifer, addressed the Commission. It was explained by staff that through review of the site plan and conditional use permit previously approved for this use three elements have gone unaddressed. These are:

- a. appropriate radii (approximately 25') are needed on the drives. Improving the drives as such will necessitate the extension of the existing culverts.
- b. A barrier installed at the ingress/egress point originating at the Shaver/Oakland intersection.
- c. The lot or lot area shall be provided with a permanent, durable and dustless surface, and shall be graded so as to dispose of all surface water accumulated within the area.

CITY OF PORTAGE PLANNING COMMISSION

Minutes of Meeting - Thursday, May 5, 1977

MEMBERS PRESENT:

Wendell Buckland; George Ray; Victor Schroeder; Ted Vliek; Burdell Standish; Paul Manske, Chairman. Margaret Gailey arrived after the approval of the minutes.

MEMBERS ABSENT: Excused.

Don DeSmit; Georgia Vavra.

IN ATTENDANCE:

Patrick L. Loeprich, Director of Planning; Brian Bowling, Assistant City Planner; Lowell Seyburn, Assistant City Attorney; Norman Smith, Director of Inspections; John Hodges, Block Grant Administrator.

The meeting was called to order at 7:35 p.m. by Chairman Manske in the Community Room of the Portage Public Library.

The minutes of April 21, 1977 were introduced for approval. A motion was made by Ray, seconded by Schroeder, to approve the minutes of April 21, 1977 as written. Motion was approved 5-0, with Vliek abstaining since he was absent at the last meeting.

SITE PLANS:

1. 2375 E. Milham - Beacon Park - Behrens Construction. This was an amended site plan. The original site plan for the proposed structure was approved June 17, 1976. A sidewalk waiver had been granted on June 17, 1976. The only condition attached to the approval of this site plan was that signs must meet City Zoning and Sign Code specifications with a permit to be issued by the Department of Inspections. A motion was made by Gailey, seconded by Standish, to approve this site plan with the above-identified condition. Motion was approved 7-0.

2. 6133 S. Westnedge - Burger Chef Addition - Ron Palmer. Director Loeprich explained that the center ingress and egress drive to this site will be eliminated as indicated on the site plan. One point which failed to appear on the Departmental Checklist as a condition for approval was that parking spaces no. 1, 16, 17 and 58, as identified on the site plan, are to be removed to provide an adequate maneuvering lane. A motion was made by Vliek, seconded by Standish, to approve this site plan with the above-identified condition. Motion was approved 7-0.

3. W. Centre Street - Greenspire, Phase II. Commissioner Buckland questioned whether school children within the development would have to walk in the access drive to reach the school bus which stops on Centre. Mr. Joseph Gesmundo indicated that a sidewalk system will be provided.

Several conditions were attached to the approval of this site plan. These are:

- a. Conformance to building height regulations will be determined when building specs are submitted. If above 30 ft. requirement, will be necessary to obtain a variance from the Zoning Board of Appeals prior to the issuance of building permit.
- b. All maneuvering lanes must be 22 ft. in width.
- c. Shirley Ct. to be double seal upon the completion of Phase II or provide (begin construction) on ultimate drive access as part of Phase III.

- d. Grade storm drainage retention area in accordance with soil erosion and sedimentation permit.
- e. Sewers are to be designed, constructed and inspected in accordance with City and State Health Dept. specifications and are to be dedicated to the City upon completion along with a 20' easement for maintenance purposes and as-built drawings. A 20' easement will also be provided to the City running from a point along Phase II Building IV sanitary sewer line to the adjacent properties to the south and west.
- f. Signs must meet City Zoning and Sign Code specifications with a permit to be issued by the Dept. of Inspections.
- g. Add one fire hydrant between buildings IV and V.

A motion was made by Standish, seconded by Vliek to approve this site plan with the above-identified conditions. Motion was approved 7-0.

4. Garden Lane - Barrington Woods Quadplex - Martz. Two conditions were attached to the approval of this site plan. These are:

- a. Signs must meet City Zoning and Sign Code specifications with a permit to be issued by the Dept. of Inspections.
- b. Extend 6" water line to Upper Darby and provide a 20' easement along the length of the water main.

Mr. Martz was present and explained that he believed the requirement of extending the water main to Upper Darby was unfair. Director Loeprich explained that if this was not done Mr. Martz would be required to provide an 8" rather than a 6" main to the interior of his property. This would be to ensure adequate pressure levels for fire protection. Mr. Martz then agreed to the 6" main extension to Upper Darby.

A motion was made by Ray, seconded by Standish, to approve this site plan with the above-identified conditions. Motion was approved 7-0.

5. 6415 S. Westnedge - Burger King Addition - Phil Renuart. All conditions were met on this site plan. A motion was made by Vliek, seconded by Schroeder, to approve this site plan. Motion was approved 7-0.

HOME OCCUPATION:

Duane and Evelyn Soderquist - 719 Shumway. Duane and Evelyn Soderquist have applied to the Portage Planning Commission seeking a home occupation permit for the utilization of a hand operated printing press and the subsequent sale of small business cards at 719 Shumway Street. The total actual floor area of the story on which the home occupation will take place is 1,200 sq. ft. Eighty sq. ft. will be utilized for the home occupation. No sign will be utilized. A motion was made by Ray, seconded by Gailey, to grant Duane and Evelyn Soderquist of 719 Shumway a home occupation permit to operate a hand printing press. Motion was approved 7-0.

OLD BUSINESS:

Split uses within particular zoning districts. Mr. Seyburn explained he was seeking Planning Commission input on allowing split uses to exist within particular zoning districts. Commissioner Gailey suggested an owner-occupant requirement would be basic to this type of arrangement. After some further discussion, Chairman Manske directed Mr. Seyburn to develop a recommendation and present it to the Planning Commission.

NEW BUSINESS:

1. Set for Public Hearing Appl. #77-6, Howard S. Brown, Van Oak Corporation, 1913 Vanderbilt Road, from R-1C, single family residential to I-1,

CITY OF PORTAGE PLANNING COMMISSION

Minutes of Meeting - Thursday, May 2, 1974

MEMBERS PRESENT:

Paul Manske; Georgia Vavra; Burr Standish; Don DeSmit; George Ray; Ted Vliek, Chairman.

MEMBERS ABSENT: EXCUSED

Margaret Gailey

IN ATTENDANCE:

Ronald Carlson, Building Inspector; Jim Smith, Dept. of Public Works; Martin McDaniel, Assist. Dept. of Public Works; Dennis Stuckey, Admins. Assist.; Lowell Seyburn, Assist. City Attorney.

The meeting was called to order at 7:30 P.M. by Chairman Vliek.

A motion was made by DeSmit, seconded by Manske, to approve the minutes of April 18, 1974, as written. Motion was approved 6-0.

SITE PLANS:

600 block on south side of Schuring - Cedar Crest - Apartment Development. It was explained by Mr. Stuckey that maneuvering lanes in the parking area should be 22 feet wide instead of the 20 feet provided; the drive approaches onto Schuring Road should allow for 30 foot turning radii; both water and sewer should be provided as well as storm drainage to Portage Creek; approval of the site plan should be subject to approval of plans for these utilities by the Engineering Department; a sidewalk along Schuring Road would be beneficial. There was discussion of a four-foot six-inch obscuring wall to be provided along the east and south sides of the proposed development. It was suggested that the developer meet with the adjacent property owners and submit a plan to provide adequate screening inasmuch as the industrial development should have had an obscuring wall at the time they built. Mr. Ray asked if sidewalk construction could be deferred until such time as the water and sewer lines were built and the street improvement made. Mr. Smith said it could be figured so that the sidewalk would not have to be torn up in the future. Mr. Arnold Zomber, Mr. Field, and Mr. Demetrius Economidis, developers, explained the project. They stated that an easement would be required to the south in order to connect into existing sanitary sewer and storm sewers. A motion was made by DeSmit, seconded by Manske, to approve this site plan subject to the above recommendations by Mr. Stuckey except those regarding the obscuring wall. The matter of the obscuring wall was tabled for further study. Motion was approved 6-0.

302 E. Centre - Centre Street Shops - small shopping center. Mr. Stuckey explained that the projections on the southern portion of the proposed drive with the four-foot radii should be eliminated; the site plan proposes to connect to the municipal sanitary sewer system which will have to be extended to serve this property; a 4'6" obscuring wall is required along the south boundary of the property; sidewalks should be installed. There was discussion concerning the possibility of having the 4'6" obscuring wall waived by the Zoning Board of Appeals. It was noted that the Portage Public Schools would be the party of primary concern with respect to this fence. Ted Vliek stated that the school would probably be amendable to having the fence waived along the portion of the school's bus barn that abutts this property. Mr. Shave, representing the developer, explained the proposed plan. He stated they were agreeable to putting up the fence but probably would seek a variance for the portion adjacent to the bus barn. A motion was made by Ray, seconded by Standish, to approve this site plan subject to the above recommendations. Motion was approved 6-0.

3400 Block of W. Centre - Greenspire - apartment development (Phase I). It was explained by Mr. Stuckey that the maneuvering lanes in the parking area are required to be 22 feet in width instead of the 20 feet provided; city water and sewer must be installed to meet the Ordinance density standards; approval of the Kalamazoo County Road Commission for the drive onto Centre Street should be submitted; sidewalks should be installed along Centre Street. No screening is required under the Ordinance and does not seem necessary in this case because the adjoining property is owned by the Department of Natural Resources and is undeveloped. Tozer Lane is owned by the developers and may be closed when a new road through the project is built. A request is before the Zoning Board of Appeals to construct the apartment buildings and Phase I with basements which are less than 50% below ground level. Motion was made by Manske, seconded by Ray, to approve the site plan subject to the recommendations stated above and also subject to the approval of the Zoning Board of Appeals. Motion was approved 6-0.

CITY OF PORTAGE PLANNING COMMISSION

Minutes of Meeting - Thursday, February 6, 1975

MEMBERS PRESENT:

Paul Manske; Georgia Vavra; Victor Schroeder; Don DeSmit; George Ray; Margaret Gailey; Ted Vlieg, Chairman.

MEMBERS ABSENT: Excused.

Wendell Buckland; Burr Standish.

IN ATTENDANCE:

Jim Smith, Department of Public Works; Richard Leland, Admin. Assist. Engineering Dept; Glen Hagen, Assist. City Attorney.

The meeting was called to order at 7:30 P.M. by Chairman Vlieg in Council Chambers in the Police Building.

A motion was made by Schroeder, seconded by Vavra, to approve the minutes of January 16 and January 20, 1975, as written. Motion was approved 7-0.

SITE PLANS:

3400 block West Centre - Greenspire - apartments - revised. This site plan had previously been approved but a few changes were made in placement of buildings in order to save more trees. The parking spaces meet the minimum requirement, set back exceeds the minimum 30 feet and all surface water will be held and absorbed on the site. Sidewalks are planned adjacent to buildings and parking areas. A motion was made by DeSmit, seconded by Ray, to approve this site plan. Motion was approved 7-0.

5830 S. Westnedge - Wendy's - Restaurant. Surface water will be taken into 3 catch basins, all connected by 12" perforated pipe. A 12" overflow to the existing storm sewer is provided. Enter only on Westnedge. Exit only from the eastern-most drive on Van Hoesen. Enter/Exit through the western-most drive on VanHoesen. Parking spaces exceed the minimum requirement, set backs are in accordance with the Ordinance and a 10 foot green strip is provided. A motion was made by Manske, seconded by DeSmit, to approve this site plan. Motion was approved 7-0.

OLD BUSINESS:

APPL. #74-23 - Don Probasco - 619 Romence - 5.85 acres on south side of Romence - from R-1B, one family residential to I-1, light industry or any other zoning allowed by the Portage Zoning Ordinance. The request was read by the Chairman. Mr. Robert Travis, attorney representing Mr. and Mrs. Andrew Gregor, 805 Romence, said the residents in the area would be agreeable to multiple family zoning but felt that light industry was too much. Mr. Steve Early, representing the petitioner, said he had a talk with the Vilican-Leman consultant and Mr. Ambrose had said because the property was scared up, two sides border on I-1 zone already and because of the topography of the land, this parcel would probably never go single family. The property is 197 feet wide and 1129 feet deep. It could be developed multiple family by putting a road down one side. Tom Tobin said he was representing the people in Winter Forest Plat and that they were objecting to light industry zoning but would be favorable to multiple family. A motion was made by Gailey, seconded by Ray, to recommend to Council that Appl. #74-23 be changed to RM-1, multiple family, rather than the I-1, light industry as requested. Motion was approved 7-0.

NEW BUSINESS:

APPL. #75-1 - Oswalt, Sanderson Sewing Machine Co., Mr. Jim's of Kalamazoo, and Wm. McVeigh, Jr.; 1204, 1210, 1224, and 1302 W. Milham; Lots 1, 2, 3, 5, and 6 of Homeacres Plat; from OS-1, office service to B-1, local business or any other zoning allowed by the Portage Zoning Ordinance. A motion was made by Ray, seconded by Manske, to set this for Public Hearing on February 20, 1975. Motion was approved 7-0.

APPL. #75-2 - Meyle & Coash, Lot 328, Lakewood Homesites; from R-2, duplex to RM-1, multiple family or any other zoning allowed by the Portage Zoning Ordinance. A motion was made by DeSmit, seconded by Vavra, to set Appl. #75-2 for Public Hearing on February 20, 1975. Motion was approved 7-0.

APPL. #75-3 - Cities Service, 6012 S. Westnedge; southwest corner of Milham and Westnedge, from B-2, community business to B-3, general business or any other zoning allowed by the Portage Zoning Ordinance. A motion was made by Manske, seconded by Vavra, to set Appl. #75-3 for Public Hearing on February 20, 1975. Motion was approved 7-0.



Robert D. Brouwer, MD
 William F. Hanavan, MD
 Thomas P. Gushurst, MD
 Heidi S. Gjerseoe, MD
 William W. Webb, Ph.D, MD
 Kim F. Nguyen, MD

RECEIVED
 FEB 18 2010
 COMMUNITY DEVELOPMENT

February 18, 2010

To: City of Portage
 Department of Community Development

We are business owners of Gastroenterology of Southwest Michigan, and Kalamazoo Endo Center. Our property is across Centre Street from the proposed Hinman Development. Aside from the loss of more green space, we have other major concerns with the proposed changes to our area:

- 1) Cooley Street and Centre Street is already an extremely dangerous intersection due to poor visibility in all directions, poor signage on both sides of Centre indicating Cooley Streets location and a high rate of speed being posted in both directions. Serious accidents are inevitable since many of our patients are older and/or unfamiliar with the area which places them at serious risk.
- 2) Should the proposed development come to fruition, this increase in population will bring even more traffic to this busy intersection and we will strongly object to any further development.

We respectfully propose that should further development be decided upon, that no further action is taken in the area **without first installing a traffic signal** at this critical intersection.

Sincerely,

William Hanavan, M.D., President
 Robert Brouwer, M.D.
 Thomas Gushurst, M.D.
 Heidi Gjerseoe, M.D.
 William Webb, M.D.

269-349-2266 phone
 269-349-0792 fax
 3304 Cooley Ct.
 Portage, MI 49024
 www.gsm-kec.com

 **BRONSON****RECEIVED**
MAR 03 2010
COMMUNITY DEVELOPMENT

March 3, 2010

City of Portage
Department of Community Development
Faxed to 269 329 4506

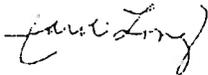
Bronson Properties Corporation owns the medical office building at the northwest corner of Cooley Drive and Centre Street, it is a valuable asset to our organization and very convenient for our patients.

One consistent problem we have not been able to overcome is a traffic concern. We regularly receive complaints from our patients, physicians and staff about their inability to navigate the Cooley Drive / Centre Street intersection. Bronson has requested a traffic signal at this intersection many times in the past, but the City responds that it is not warranted. Other suggested alternatives (ie lowering speed limit, improving visibility) have not been implemented.

I attended the February 18, 2010 Public Hearing at the City of Portage Planning Commission Meeting and voiced support for the installation of a traffic signal at the Cooley / Centre intersection before the Greenspire Planned Development construction activity begins.

As stated by other commercial neighbors, Bronson respectfully proposes that should further development be decided upon, no further action is taken in the area without first installing a traffic signal at this critical intersection. We consider this a public safety concern, thank you for your consideration.

Regards,

Carol Long
Facility Planning / Property Manager
269 341 6813601 John Street
Kalamazoo, MI 49007
269.341.6000

bronsonhealth.com

TO: Planning Commission

DATE: March 4, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Rezoning Application #09-01, Greenspire Planned Development, Michigan Department of Natural Resources & Environment Response

Two e-mail communications were received today from Mr. Bill Schmidt, Michigan Department of Natural Resources & Environment (MDNRE) that identified several issues related to the Greenspire Planned Development project. The first e-mail was received in the morning and the second in the afternoon. In addition to the e-mail communications, telephone conversation with Mr. Schmidt also occurred this afternoon. The following is a summary of the issues and a response from staff.

Land Survey. At the request of Mr. Schmidt, the applicant, Mr. Greg Dobson, provided an ALTA property survey prepared by LANDTECH to the MDNRE on February 22, 2010. Mr. Schmidt indicated in his March 4, 2010 morning e-mail communication that the survey "doesn't appear to be a formal survey" and "could be considered incomplete." Attached is an e-mail communication provided by Mr. Dobson that includes a response from the president of LANDTECH, Mr. Matthew Mokanyk, who indicates the survey is legally binding.

Notice of Public Hearing. The morning e-mail communication from Mr. Schmidt indicates the MDNRE has not been made "completely informed" regarding the development proposal. As was stated to the Commission during the February 18, 2010 meeting, notice was provided to the address of record for MDNRE. In addition to the notice and to ensure the MDNRE was aware of the proposed project, staff also contacted the MDNRE staff member responsible for managing the Gourdneck State Game Area, Mr. David Brauer, on February 11, 2010. The Greenspire Planned Development was explained to Mr. Brauer and a copy of the official public notice was emailed to Mr. Brauer that same day. No further contact was received from the MDNRE until the e-mail communications were received from Mr. Schmidt earlier today. As indicated in Mr. Schmidt's afternoon e-mail communication, he confirmed today that Department staff had been in contact with MDNRE staff (Mr. Brauer).

Mr. Schmidt also refers to "later arriving information" as a reason why the MDNRE will not have a representative at the Planning Commission meeting tonight. The late arriving information that Mr. Schmidt refers to is the ALTA survey provided by the applicant on February 22, 2010.

The MDNRE was provided notice in accordance with statutory requirements to a property address provided by the MDNRE. In addition to the "official" notice, the MDNRE was also contacted by staff, the applicant and a Hampton Lake area resident. There was sufficient time for MDNRE staff members to become familiar with the project and comment on any potential impacts prior to the final Planning Commission meeting date.

450-foot Safety Zone. The State of Michigan has established a safety zone of 450-feet from an "occupied house, cabin, or any barn or other building used in a farm operation." No person can hunt, including archery and crossbow hunters, within the safety zone without the written permission of the property owner or occupant. Mr. Schmidt is concerned about the impact the proposed buildings will have on the state-owned land with respect to the 450-foot safety zone.

Rezoning Application #09-01, Greenspire PD
MDNRE Response

As the Commission is aware, there are three existing apartment buildings along the east property line and one along the west property line adjacent to the state-owned land that are setback 30 feet. As proposed by the applicant, five additional buildings are proposed along the east property line and one along the west property line. These buildings will also be setback 30 feet with the exception of the buildings located in Phase IV, which are proposed to be setback 15 feet (balconies would have a 10 foot setback). As a result of the existing buildings, the placement of the proposed buildings, including those located in Phase IV, will have little impact on the 450-foot safety zone. The most impacted area is Phase V. However, the proposed 30-foot setback under the PD, planned development zoning request is the same as the current RM-1, multi-family zoning.

From a property owner's perspective, they have a right to develop their property within the local ordinances applicable at the time of filing. Mr. Schmidt is suggesting the 450-foot safety zone extend onto private property and affect the placement of future buildings. This type application unnecessarily restricts property owner's right to design and locate buildings on the property even though consistent with local ordinances.

Staff is prepared to further discuss this matter during the March 4, 2010 meeting.

Attachments: E-mail communications dated March 4, 2010 from Bill Schmidt
E-mail communications dated March 4, 2010 from Greg Dobson

From: "Bill Schmidt" <schmidtw@michigan.gov>
To: <ericksoj@portage.mi.gov>
CC: "Steve Chadwick" <ChadwickS@michigan.gov>, "Earl Flegler" <FLEGLERE@mich...>
Date: 3/4/2010 9:07 AM
Subject: Proposed "Greenspire" Development - T3S, R11W, Part of Sec. 19 and Sec. 20 - Portage Twp.

Jeff: I work in the Office of Land and Facilities with the Michigan Department of Natural Resources and Environment. My job duties are focused on land, rights in land, and to help in the monitoring and safeguard of the lands that have been purchased by the Department and are used for various recreational uses throughout Michigan.

I have become aware of a proposed development ("Greenspire") that is situated adjacent to State-owned land as noted above and managed as part of the Gourdneck State Game Area.

The information I've come across appears to be an engineering drawing/sketch/mapping prepared by 'LANDTECH' and/or 'Hurley & Stewart' and provides a rendering of what looks like an apartment/condominium proposed development. The drawing makes note of section lines but really doesn't appear to be a formal land survey. The proposal looks to be high density.

My concern is this: Records indicate that the Department owns and manages land on both the easterly and westerly boundaries of this development proposal. The information I have does not appear to be a formalized survey and, from that standpoint, could be considered incomplete. As stated before, my concern is to alert you to the fact that there is land owned and managed by the Department in this immediate area and we want to make sure that the proposed development does not impinge upon these State-owned lands, neither by trespass, and that proper set-back requirements are established and implemented with respect to these boundaries.

I understand that you are the Director of Community Development and that there is a Planning Commission meeting tonight relative to this proposal.....and because of the late-arriving information, the Department probably will not have a representative present. However, this note serves as notice that as an adjacent landowner, we feel we need to be completely informed about this proposal.....and I'm not aware that this has happened to this point. Back in October, 2009, I answered a question about land rights in this area that was brought to me by Vicki Georgeau. That discussion was pertinent to better understanding of a specific legal description for a portion of DNRE land, but there was no mention of the reason behind the request.....other than a clarification of a specific legal description.

For the time being, you can use my name and address, that follows, in order to provide complete and detailed information.

Mr. Bill Schmidt
DNR - OLAF
P.O. Box 30448
Lansing, Michigan 48909

I appreciate the opportunity to make our concern known and please feel free to call or write if you need additional information or wish to discuss this matter in more detail.

Schmidt

Bill Schmidt

Office of Land and Facilities
Phone: (517) 335-3257
e-mail: schmidtw@michigan.gov
Fax: (517) 335-1880

From: "Bill Schmidt" <schmidtw@michigan.gov>
To: <ericksoj@portagemi.gov>
CC: "Steve Chadwick" <ChadwickS@michigan.gov>, "Earl Flegler" <FLEGLERE@mich...>
Date: 3/4/2010 2:49 PM
Subject: "Greenspire"

Jeff: Thank you for the opportunity for continued discussion.

Here are some comments relative to my earlier e-mail and our discussion that ensued:

1. It appears that your office has notified Department personnel who directly manage the Gourdneck State Game Area. I confirmed with DNRE personnel this morning that Chris Forth has been in contact with our people.
2. We are always concerned about trespass on State land. Improper placement of buildings, construction activities, storing materials, mowing, or similar activities, are considered trespass on State land. Boundary lines are important and we seek to protect the integrity of the boundary line and prevent trespass.
3. Any reduction in building set-back requirements from property lines would have an impact on the adjacent State-owned land with respect to the Department's hunting 'safety-zone' of 450 feet. For example, if you reduce the setback requirement by 15 feet, you bring buildings closer to the property line and thereby increase the amount of State land impacted by the 'safety zone' beyond that which is applicable at the present time. We would prefer that set-back requirements are not reduced in situations where such reduction would impact adjoining State-owned land.

Thank you for your time and attention in this matter and should you have questions, please feel free to call or write.

Schmidt

Bill Schmidt
Office of Land and Facilities
Phone: (517) 335-3257
e-mail: schmidtw@michigan.gov
Fax: (517) 335-1880

Christopher Forth - Greenspire - Portage Michigan

From: "Greg Dobson" <gdobson@avbinc.com>
To: "Christopher Forth" <forthc@portagemi.gov>, <ericksoj@portagemi.gov>, "Mike West" <westm@portagemi.gov>
Date: 3/4/2010 4:32 PM
Subject: Greenspire - Portage Michigan
CC: "Rich MacDonald" <Richm@hinmancompany.com>
Attachments: Greenspire Alta Rough Draft 2009 10 23 1 and 2.pdf

Gentlemen,

For your information. Please see the statement from the President of LandTech.

Thanks!

AVB Companies

Greg Dobson
 4200 W. Centre Avenue
 Portage, MI 49024
 Cell 269.217.5477/ Office 269.329.3636
 Fax 269.327.3172
www.avbconstruction.com
www.avbhomes.com

From: Matthew Mokanyk [mailto:mattm@landtechps.com]
Sent: Thursday, March 04, 2010 1:39 PM
To: Todd Hurley; Pete Prokop
Cc: Greg Dobson; schmidtw@michigan.gov
Subject: RE: Testing RE: Portage Michigan

Yes, this is a "real" survey conducted under my direct supervision and adheres to ALTA standards. This is the preliminary draft but it is a legally binding survey.

Matthew Mokanyk, PS, PE, CFedS
 President

Licensed Engineer / Licensed Land Surveyor

AL, AR, AZ, CO, FL, GA, IL, IA, IN, KS, KY, MI, MN, MO, NE, NC, ND, NJ, NM, NY, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI
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From: Todd Hurley [mailto:thurley@hurleystewart.com]
Sent: Thursday, March 04, 2010 1:21 PM

file://C:\Documents and Settings\forthc\Local Settings\Temp\XPgrpwise\4B8FE082PORTAGE_DOM... 3/4/2010

To: Matthew Mokanyk; Pete Prokop
Subject: Fwd: Testing RE: Portage Michigan

The Alta uyou sent was good for this correct

Todd
269-806-0170

Begin forwarded message:

From: "Greg Dobson" <gdobson@avbinc.com>
Date: March 4, 2010 10:55:45 AM MST
To: "Todd Hurley" <thurley@hurleystewart.com>, "Bryan Gillespie" <bgillespie@hurleystewart.com>
Subject: FW: Testing RE: Portage Michigan

Gents:

This Bill Schmidt below has indicated to the City of Portage that what I sent him isn't "real" survey. For our Planning Commission meeting tonight, does LandTech have a response?

AVB Companies
Greg Dobson
4200 W. Centre Avenue
Portage, MI 49024
Cell 269.217.5477/ Office 269.329.3636
Fax 269.327.3172
www.avbconstruction.com
www.avbhomes.com

-----Original Message-----

From: Greg Dobson
Sent: Monday, February 22, 2010 8:44 AM
To: Bill Schmidt
Subject: RE: Testing RE: Portage Michigan

Bill,

Attached please find a copy of our most recent survey for Greenspire.

AVB Companies
Greg Dobson
4200 W. Centre Avenue
Portage, MI 49024
Cell 269.217.5477/ Office 269.329.3636
Fax 269.327.3172
www.avbconstruction.com
www.avbhomes.com

-----Original Message-----

From: Bill Schmidt [<mailto:schmidtw@michigan.gov>]
Sent: Monday, February 22, 2010 8:13 AM
To: Greg Dobson
Subject: Testing RE: Portage Michigan

Greg: Here's my address:

Mr. Bill Schmidt

DNR - OLAF
P.O. Box 30448
Lansing, Michigan 48909

Bill Schmidt
Office of Land and Facilities
Phone: (517) 335-3257
e-mail: schmidtw@michigan.gov
Fax: (517) 335-1880

"Greg Dobson" <gdobson@avbinc.com> 02/19/2010 4:02 PM >>>

Dear Bill,

Dr. Mohney, copied herein, requested that I forward you a copy of our survey. I am happy to do so but wanted to ensure I had written down your address properly. When you respond, I'll email you a copy right away.

Have a great weekend.

AVB Companies

Greg Dobson

4200 W. Centre Avenue

Portage, MI 49024

Cell 269.217.5477/ Office 269.329.3336

Fax 269.327.3172

www.avbconstruction.com

www.avbhomes.com