

**FINAL AGENDA FOR THE COUNCIL MEETING  
CITY OF PORTAGE  
March 8, 2011**

7:30 p.m. Call to Order.

Invocation: Associate Pastor Bill Vande Giessen of the Cherry Creek Community Church.

Pledge of Allegiance.

Roll Call.

Proclamations.

- A. Approval of the February 22, 2011 Regular Meeting Minutes.
- \* B. Approval of Consent Agenda Motions.
- \* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of March 8, 2011, as presented.
- D. Public Hearings:
  - 1. Communication from the City Manager recommending that City Council, subsequent to the public hearing, consider approval of Ordinance Amendment 10-B, Home Occupation Ordinance and consider adoption of the resolution establishing an application fee for home occupations.
    - a. Communication from the City Manager in response to Councilmember Reid regarding the proposed Home Occupation Ordinance Application Fee.
- E. Petitions and Statements of Citizens:
- F. Reports from the Administration:
  - \* 1. Communication from the City Manager recommending that City Council:
    - a. accept the Ordinance Amendment to Chapter 24, Article 5, Safety, Sanitation and Health, with provisions for nuisance abatement and cost recovery, for first reading;
    - b. subsequent to the second reading, consider approval of the Ordinance Amendment; and
    - c. consider adoption of the resolution establishing the nuisance abatement fee.
  - \* 2. Communication from the City Manager recommending that City Council:
    - a. accept Ordinance Amendment 10-A, Keeping of Chickens and Other Animals for first reading and set a public hearing for April 12, 2011;
    - b. subsequent to the public hearing, consider approval of Ordinance Amendment 10-A, Keeping of Chickens and Other Animals; and
    - c. consider adoption of the resolution establishing a permit fee for the keeping of chickens and other animals.
  - \* 3. Communication from the City Manager recommending that City Council:
    - a. accept the proposed amendments to Chapter 2, Article 7, Section 2-293 of the Code of Ordinances for the Senior Citizens Advisory Board to lower the age for advisory board members and Section 2-297 to clarify distribution of records, for first reading;
    - b. subsequent to the second reading, consider for adoption on March 22, 2011; and
    - c. consider approval of the revised Senior Citizen Advisory Board rules of operation.
  - \* 4. Communication from the City Manager recommending that City Council consider re-approving the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue.

- \* 5. Communication from the City Manager recommending that City Council refer three mixed use Zoning Code proposals, as recommended by the Housing and Neighborhoods Ad Hoc Committee, to the Planning Commission for consideration and initiate the Zoning Code amendment process.
- \* 6. Communication from the City Manager recommending that City Council approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority at a total not-to-exceed cost of \$531,557 for the period of March 1, 2011, to March 1, 2012, and authorize the City Manager to execute all documents related to this action on behalf of the city.
- \* 7. Communication from the City Manager recommending that City Council approve the installation of the Andover Woods residential subdivision signs in the public right-of-way and authorize the City Manager to execute the Portage Andover Woods Sign Islands Agreement.
- \* 8. Communication from the City Manager recommending that City Council approve the budget amendment to the Leaf Pickup Spring Cleanup Fund to provide funds needed to clean up storm damage which occurred on February 20 and 21, 2011.

G. Communications:

- 1. Communication from Mr. David Artley, Director of the Office of Resource Development for the Kalamazoo County Government, regarding the Kalamazoo Local Housing Assistance Fund Four Year Report.
  - a. Communication from the City Manager with additional background information regarding the Kalamazoo County Local Housing Assistance Fund – Information Only.

H. Unfinished Business:

\* I. Minutes of Boards and Commissions Meetings:

- 1. Portage Board of Education Special and Regular of January 24, Special of January 31, Special and Committee of the Whole Work Session of February 7 and Special of February 9, 2011.
- 2. Portage Human Services Board of February 3, 2011.
- 3. Portage Planning Commission of February 17, 2011.

J. Ad-Hoc Committee Reports:

- 1. Presentation by Mayor Strazdas regarding the recent activity of the City Council Community Survey Committee.
- 2. Presentation by Councilmember Urban regarding the recent activity of the City Council Housing and Neighborhoods Committee.
- 3. Presentation by Councilmember Randall regarding the recent activity of the City Council Property Committee.

K. New Business:

L. Bid Tabulations:

- \* 1. Communication from the City Manager recommending that City Council award a contract to CMP Distributors Inc. in the amount of \$43,394.40 for replacement protective ballistic vests for all sworn police officers and authorize the City Manager to execute all documents related to this contract on behalf of the city.

M. Other City Matters:

- 1. Statements of Citizens.
- 2. From City Council and City Manager.

- \* 3. Reminder of Meetings:
  - a. Wednesday, March 9, 3:00 p.m., Austin Lake Governmental Board, City Hall Room #1.
  - b. Wednesday, March 9, 7:00 p.m., Environmental Board, City Hall Room #1.
  - c. Monday, March 14 through March 29, 8:00 a.m., Board of Review, City Hall.
  - d. Monday, March 14, 6:30 p.m., Youth Advisory Committee, City Hall Room #1.
  - e. Monday, March 14, 7:00 p.m., Zoning Board of Appeals, City Council Chambers.
  - f. Wednesday, March 16, 2:30 p.m., Senior Citizen Advisory Board, Senior Center.
  - g. Thursday, March 17, 7:00 p.m., District Library Board, Portage District Library.
  - h. Thursday, March 17, 7:00 p.m., Planning Commission, City Council Chambers.

N. Materials Transmitted of February 22 and February 25, 2011.

Adjournment.

# CITY COUNCIL MEETING SUMMARY

February 22, 2011

## PROCLAMATIONS

- ◆ Mayor Strazdas issued the 18<sup>th</sup> Annual Kalamazoo County Walk For Warmth Proclamation and the Portage Community High School Co-ed Volleyball Championship Proclamation.

## CHECK REGISTER

- ◆ Approved the Check Register of February 22, 2011, as presented.

## STATEMENTS OF CITIZENS

- ◆ Ryan Simpson from the Kalamazoo Regional Chamber of Commerce announced that Chris Barnes received the Public Servant of the Year Award through the Chamber.

## REPORTS FROM THE ADMINISTRATION

- ◆ Accepted the \$1,600 offer from Mr. Jim Traill and Ms. Patricia O'Rourke to purchase lot 115 and the east 40 feet of lot 114 of the plat of Fairfield No. 1 located at 2125 Bender Road; and placed the purchase offer on file for 28 days and will take final action on March 22, 2011.
- ◆ Received the communication from the City Manager regarding the January 2011 Summary Environmental Activity Report as information only.
- ◆ Received the Department Monthly Reports.

## UNFINISHED BUSINESS

- ◆ Approved an Ordinance to amend the City of Portage Code of Ordinances by amending Section 50-222, Article 7 of Chapter 50, Providing False Information to Public Officer.

## AD-HOC COMMITTEE REPORTS

- ◆ Received the Presentation by Councilmember Reid regarding the recent activity of the Business and the City of Portage Committee.

## STATEMENTS OF CITIZENS

- ◆ State Representative Margaret O'Brien outlined three proposals being discussed in the State House of Representatives: the complete repeal of Public Act 312, competitive Health Plan options and an Urban Cooperation Act that makes financial sense and controls cost.

## STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ City Council, Mayor Strazdas and City Manager Evans congratulated the Portage Community High School Co-ed Volleyball Championship Team for winning three consecutive state championships and Chris Barnes for receiving the Public Servant of the Year Award through the Chamber of Commerce.
- ◆ Councilmember Reid discussed Governor Snyder's proposed budget and negative effects on tax assistance and Head Start.
- ◆ Councilmember Randall reminded everyone of the two information sessions on the Assessment Process by Joyce Foondle, Southwest Michigan Governmental Consultants, on the Assessment Process, the Board of Review and the Michigan Tax Tribunal Appeals process, and asked if City Manager Evans could provide information on the Mathieu Gast Home Improvement Act.
- ◆ Mr. Evans discussed the ice storm and branch removal plans and commended staff for a fine storm clean-up effort.
- ◆ Mayor Strazdas asked everyone to be careful around downed power lines and expressed sincere gratitude to the Red Cross, the Westminster Presbyterian Church of Portage and area citizens for their acts of kindness during the crisis.

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**COMPLETE MINUTES OF EACH CITY COUNCIL MEETING ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEMI.GOV, IN CITY HALL AND IN THE DISTRICT LIBRARY. MINUTES OF CITY BOARDS AND COMMISSIONS ARE AVAILABLE ON REQUEST FROM VARIOUS DEPARTMENTS.**

# DRAFT

## CITY COUNCIL MEETING MINUTES FROM FEBRUARY 22, 2011

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

At the request of Mayor Strazdas, Pastor Ken Hale of the Victory Baptist Church of Portage gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

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

**PROCLAMATIONS:** Mayor Strazdas issued the 18<sup>th</sup> Annual Kalamazoo County Walk For Warmth Proclamation and discussion followed. State Representative Margaret O'Brien issued a Proclamation honoring the Portage Community High School Co-ed Volleyball for their third straight M.A.A.A. State Championship and Mayor Strazdas issued a similar one and discussion followed.

**APPROVAL OF MINUTES:** Motion by Campbell, seconded by Reid, to approve the February 8, 2011 Regular Meeting Minutes as amended reflecting that Councilmember Bailes read the Consent Agenda. Upon a voice vote, motion carried 6 to 0 with Mayor Pro Tem Sackley abstaining.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Campbell to read the Consent Agenda. Councilmember Reid asked that the Community Survey Committee Meeting, Wednesday, March 23, 4:00 p.m., City Council Conference Room, be added under M.3, Reminder of Meetings. Motion by Reid, seconded by Campbell, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF FEBRUARY 22, 2011:** Motion by Reid, seconded by Campbell, to approve the Accounts Payable Register of February 22, 2011. Upon a roll call vote, motion carried 7 to 0.

**STATEMENTS OF CITIZENS:** Ryan Simpson from the Kalamazoo Regional Chamber of Commerce announced that Chris Barnes received the Public Servant of the Year Award through the Chamber. Discussion followed.

### REPORTS FROM THE ADMINISTRATION:

\* **SALE OF EXCESS CITY PROPERTY – 2125 BENDER ROAD:** Motion by Reid, seconded by Campbell, to accept the \$1,600 offer from Mr. Jim Traill and Ms. Patricia O'Rourke to purchase lot 115 and the east 40 feet of lot 114 of the plat of Fairfield No. 1 located at 2125 Bender Road; and place the purchase offer on file for 28 days and take final action on March 22, 2011. Upon a roll call vote, motion carried 7 to 0.

\* **JANUARY 2011 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Reid, seconded by Campbell, to receive the communication from the City Manager regarding the January 2011 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

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

## **UNFINISHED BUSINESS:**

\* **AMENDMENT TO THE PORTAGE CODE OF ORDINANCES:** Motion by Reid, seconded by Campbell, to approve an Ordinance to amend the City of Portage Code of Ordinances by amending Section 50-222, Article 7 of Chapter 50, Providing False Information to Public Officer. Upon a roll call vote, motion carried 7 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Park Board of January 5, 2011.

Portage Zoning Board of Appeals of January 10, 2011.

Kalamazoo County Board of Commissioners Committee of the Whole and Regular of January 18 and Committee of the Whole and Regular February 1, 2011.

Portage Planning Commission of February 3, 2011.

## **AD-HOC COMMITTEE REPORT:**

**BUSINESS AND THE CITY OF PORTAGE COMMITTEE:** City Council received the presentation by Councilmember Reid regarding the recent activity of the Business and the City of Portage Committee. Discussion followed.

## **OTHER CITY MATTERS:**

**STATEMENTS OF CITIZENS:** State Representative Margaret O'Brien outlined three proposals being discussed in the State House of Representatives: the complete repeal of Public Act 312, competitive Health Plan options and an Urban Cooperation Act that makes financial sense and controls cost. Discussion followed.

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** City Council, Mayor Strazdas and City Manager Evans congratulated the Portage Community High School Co-ed Volleyball Championship Team for winning three consecutive state championships and Chris Barnes for receiving the Public Servant of the Year Award through the Chamber of Commerce.

Councilmember Reid discussed Governor Snyder's proposed budget and negative effects on tax assistance and Head Start.

Councilmember Randall reminded everyone of the two information sessions on the Assessment Process by Joyce Foondle, Southwest Michigan Governmental Consultants, on the Assessment Process, the Board of Review and the Michigan Tax Tribunal Appeals process, and asked if City Manager Evans could provide information on the Mathieu Gast Home Improvement Act.

Mr. Evans discussed the ice storm and branch removal plans and commended staff for a fine storm clean-up effort.

DRAFT

Mayor Strazdas asked everyone to be careful around downed power lines and expressed sincere gratitude to the Red Cross, the Westminster Presbyterian Church of Portage and area citizens for their acts of kindness during the crisis.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:30 p.m.

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James R. Hudson, City Clerk

**\*Indicates items included on the Consent Agenda.**

**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** February 28, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Accounts Payable Register

**ACTION RECOMMENDED:** That City Council approve the Accounts Payable Register of March 8, 2011 as presented.

Attached please find the Accounts Payable Register for the period February 7, 2011 through February 28, 2011, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/18/2011	275068	AT&T	849		1,494.06
02/18/2011	275069	ACB PROPERTIES	999999		212.47
02/18/2011	275070	ACS GOVERNMENT SYS., INC.	3748		1,000.00
02/18/2011	275071	AEG DEVELOPMENT LLC	999999		122.89
02/18/2011	275072	ALEXANDER, ALLISON	999999		156.19
02/18/2011	275073	ALL-PHASE ELECTRIC SUPPLY CO.	108		69.75
02/18/2011	275074	ALLEGRA PRINT & IMAGING	533		813.03
02/18/2011	275075	ALRO STEEL CORPORATION	2934		927.80
02/18/2011	275076	AMERICAN SAFETY & FIRST AID	113		105.20
02/18/2011	275077	ANIMAL REMOVAL SERVICE, LLC	3428		300.00
02/18/2011	275078	ANY CUTTING & WELDING	3347		779.00
02/18/2011	275079	TODD ARBAMAS ENTERPRISES INC.	1704		490.00
02/18/2011	275080	ARGONDELIS BUILDERS	999999		27.00
02/18/2011	275081	ARMENIS, MARY	999999		90.00
02/18/2011	275082	ARROW UNIFORM RENTAL	4058		90.30
02/18/2011	275083	ARVANIGIAN, KAREN	999999		44.00
02/18/2011	275084	ATHAPPILLY, KURIAOSE	999999		44.00
02/18/2011	275085	AUTOMATIC DATA PROCESSING	3305		895.77
02/18/2011	275086	BELONGA, DELENA	999999		100.00
02/18/2011	275087	BEX FARMS, INC.	999999		21,462.54
02/18/2011	275088	BLUE CROSS/BLUE SHIELD OF MICH	642		120,498.02
02/18/2011	275089	BOOTH NEWSPAPERS INC	89		57.34
02/18/2011	275090	BORGESS HEALTH ALLIANCE	151		53.00
02/18/2011	275091	BREM TIME BEVERAGE, INC.	4367		248.00
02/18/2011	275092	BRINK'S, INC	153		244.95
02/18/2011	275093	BROEKHUIS, JULIE	999999		5.00
02/18/2011	275094	BRUDA, CAROL	999999		90.00
02/18/2011	275095	BURKE, GREGORY	999999		390.00
02/18/2011	275096	BYHOLI INC.	68		1,073.32
02/18/2011	275097	CAMPBELL AUTO SUPPLY	437		167.49
02/18/2011	275098	CANTEN SERVICES	1795		26.72
02/18/2011	275099	CAPITAL ADVANTAGE LEASING	994		5,547.85
02/18/2011	275100	CATHOLIC FAMILY SERVICES	752		77.34
02/18/2011	275101	CBCS	999999		61.45
02/18/2011	275102	CENTRAL INTERCONNECT, INC.	4618		40,108.87
02/18/2011	275103	CHARTER COMMUNICATIONS	3080		71.44
02/18/2011	275104	CINTAS CORP.	2206		342.00
02/18/2011	275105	CITY OF KALAMAZOO TREASURER	540		50.31
02/18/2011	275106	CITY OF PORTAGE	177		3,359.22
02/18/2011	275107	CLEAN EARTH ENVIRONMENTAL SERV	1821		1,650.00
02/18/2011	275108	COLT DEFENSE, LLC	1671		450.00
02/18/2011	275109	COMSTOCK PUBLIC SCHOOLS	999999		3,542.36
02/18/2011	275110	CONSUMERS ENERGY	743		42,997.73
02/18/2011	275112	CONSUMERS ENERGY-BILL PMT CNT	189		62,202.95
02/18/2011	275113	CROSBY, BILL	999999		100.00
02/18/2011	275114	CROSSROADS CAR WASH	195		237.50
02/18/2011	275115	CROSSROADS EXPERT AUTO SERVICE	4109		249.93
02/18/2011	275116	CROWELL, SHARON	999999		44.00
02/18/2011	275117	LASZLO CSISZAR	4646		150.00
02/18/2011	275118	DEHOLLANDER, KELLY ANN	999999		84.80
02/18/2011	275119	DEPATIE FLUID POWER CO., INC.	211		407.41

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
02/18/2011	275120	DEWOLF & ASSOCIATES, LLC	4374	645.00
02/18/2011	275121	DIESEL INJECTION SERVICE, LLC	1874	1,792.14
02/18/2011	275122	DILLON, GALDINE	999999	44.00
02/18/2011	275123	JACK DOHENY SUPPLIES INC.	69	134.02
02/18/2011	275124	DUSENBURY, JOYCE	999999	45.00
02/18/2011	275125	ED & TED'S EXCELLENT ADVENTURE	3315	12,030.00
02/18/2011	275126	EMINHIZER, MARK	999999	44.00
02/18/2011	275127	ENDERICH, RYAN	2973	120.00
02/18/2011	275128	ENGINEERED PROTECTION SYSTEMS,	999999	240.93
02/18/2011	275129	ERIKSON, SANDY	999999	45.00
02/18/2011	275130	FERGUSON ENTERPRISES, INC.	3993	19.73
02/18/2011	275131	FIRE ENGINEERING	999999	29.00
02/18/2011	275132	GARCIA, MARIO OR KELLIE	999999	20.00
02/18/2011	275133	GORDON FOOD SERVICE	502	43.20
02/18/2011	275134	GORDON WATER SYSTEMS	517	25.25
02/18/2011	275135	GRAHAM, DOROTHY	999999	85.00
02/18/2011	275136	GREATER KALAMAZOO FOP LODGE 98	623	3,900.00
02/18/2011	275137	GREGWARE EQUIPMENT CO.	4397	769.41
02/18/2011	275138	GRIFFIN PEST CONTROL, INC.	598	75.00
02/18/2011	275139	HALCOMB, VALERIE	999999	125.00
02/18/2011	275140	HESS, DERECK	532	36.16
02/18/2011	275141	HODKINS, KELLIE	999999	44.00
02/18/2011	275142	HOME DEPOT	691	15.88
02/18/2011	275143	HOTRUM, SHAWN	999999	44.00
02/18/2011	275144	IDEA ART	1050	44.97
02/18/2011	275145	IERVOLINA, SUSAN	2074	210.00
02/18/2011	275146	INDIANA WIPING CLOTH, INC.	61	756.00
02/18/2011	275147	INDUSCO SUPPLY CO., INC.	63	332.00
02/18/2011	275148	INT'L ASSOC FOR IDENTIFICATION	3925	70.00
02/18/2011	275149	INT'L INSTITUTE MUNI. CLERKS	982	75.00
02/18/2011	275150	INT'L PERSONNEL MGMT ASSOC	1048	1,251.76
02/18/2011	275151	INTERSECT TECHNOLOGIES	379	812.43
02/18/2011	275152	IP CONSULTING, INC.	4642	1,815.00
02/18/2011	275153	JOE RORICK	999999	44.00
02/18/2011	275154	JONES, BRENDA	999999	235.00
02/18/2011	275155	JONS TO GO PORTABLE RESTROOM	3201	130.00
02/18/2011	275156	JOSEPH & GRACIE KAYANY	999999	460.12
02/18/2011	275157	KAL. CO HAZMAT TEAM	999999	600.00
02/18/2011	275158	KALAMAZOO COUNTY TREASURER	514	332.50
02/18/2011	275159	KALAMAZOO COUNTY TREASURER	514	5.49
02/18/2011	275160	KALAMAZOO REGIONAL CHAMBER	3499	25.00
02/18/2011	275161	KELLY RADIATOR & AUTO REPAIR	4591	122.74
02/18/2011	275162	KELLY, DENNIS	999999	44.00
02/18/2011	275163	KEMPER, SUSANNE	999999	45.00
02/18/2011	275164	KNAPP ENERGY, INC.	235	17,665.50
02/18/2011	275165	KUIPER BROTHERS MOVING INC.	1066	178.00
02/18/2011	275166	KZOO TIRE COMPANY	564	716.00
02/18/2011	275167	LAWSON PRODUCTS, INC	240	637.82
02/18/2011	275168	LEXISNEXIS/MATTHEW BENDER	2701	164.00
02/18/2011	275169	LIROT, KIT	999999	261.82
02/18/2011	275170	LOWE'S HOME CENTER	2630	65.70

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
02/18/2011	275171	LTAP/MTU	999999	20.00
02/18/2011	275172	MACNLOW ASSOCIATES	2189	335.00
02/18/2011	275173	MACNLOW ASSOCIATES	2189	245.00
02/18/2011	275174	MACNLOW ASSOCIATES	2189	245.00
02/18/2011	275175	MAISTO, KEITH	999999	67.50
02/18/2011	275176	MALY, RAYMOND OR CAROLYN	999999	8.07
02/18/2011	275177	MARTIN SPRING & DRIVE, INC.	2124	114.95
02/18/2011	275178	MCGAVIN, DAVID & JEANINE	999999	126.54
02/18/2011	275179	MCLAUGHLIN, DORVAL	999999	150.00
02/18/2011	275180	MCMEEXAN, GREG	999999	44.00
02/18/2011	275181	MCONNALLY ELEVATOR CO.	256	86.98
02/18/2011	275182	MENARDS, INC	258	93.49
02/18/2011	275183	MI GOVT FINANCE OFFICERS ASSOC	2134	99.00
02/18/2011	275184	MICHIGAN TAX TRIBUNAL	999999	50.00
02/18/2011	275185	MILLER, WADE	999999	8.52
02/18/2011	275186	MILLS,DANIEL	532	220.54
02/18/2011	275187	MJV BUILDING SERVICES, INC.	4651	25.00
02/18/2011	275188	MODERN TILE & CARPET, INC.	280	721.21
02/18/2011	275189	MONETA, BRUNO OR RENATE	999999	84.75
02/18/2011	275190	T MORGAN INC.	376	476.03
02/18/2011	275191	MOTION PICTURE LICENSING CORP.	3045	241.28
02/18/2011	275192	MTA	999999	104.00
02/18/2011	275193	NEAL'S AUTOMOTIVE PARTS, INC.	287	3,420.00
02/18/2011	275194	NELSON'S HARDWARE	1566	1,100.00
02/18/2011	275195	NEW FRESH CLEANING SERVICE	4351	4,999.00
02/18/2011	275196	A NEW LEAF	635	85.00
02/18/2011	275197	NORTHERN LAKE SERVICE, INC.	4474	903.00
02/18/2011	275198	NPAMPL	999999	12,203.47
02/18/2011	275199	NYE UNIFORMS	239	489.81
02/18/2011	275201	OFFICE DEPOT, INC.	1721	1,005.25
02/18/2011	275202	OFFICEMAX INCORPORATED	301	249.65
02/18/2011	275203	ONE WAY PRODUCTS	440	204.78
02/18/2011	275204	OPERATION PARTS	4656	82.41
02/18/2011	275205	P C MALL GOV. INC.	3945	2,976.98
02/18/2011	275206	PARIS CLEANERS	1794	1,161.35
02/18/2011	275207	PEERLESS, INC.	1171	90.00
02/18/2011	275208	PETERSON, GERALD	999999	44.00
02/18/2011	275209	PETTY CASH-CITY HALL	767	408.15
02/18/2011	275210	PETTY CASH-PARKS	536	510.63
02/18/2011	275211	POCHYLA, INEZ	999999	90.00
02/18/2011	275212	POLDERMAN'S FLOWER SHOP	4157	163.80
02/18/2011	275213	POLK & COMPANY, R L	857	352.40
02/18/2011	275214	PORTAGE COMMERCE BANK AND	999999	4,193.88
02/18/2011	275215	PORTAGE POLICE OFFICERS ASSOC	624	485.00
02/18/2011	275216	POWERS, JUDY	999999	44.00
02/18/2011	275217	PRECISION PRINTER SERVICES INC	2584	2,444.05
02/18/2011	275218	PRIORITY HEALTH	4254	22,540.86
02/18/2011	275219	QUALITY AIR HEATING & COOLING,	3621	832.33
02/18/2011	275220	RATHCO SAFETY SUPPLY, INC.	327	222.50
02/18/2011	275221	REPUBLIC WASTE SERVICES OF W M	4443	41,393.84
02/18/2011	275222	RETIREMENT PLAN CONCEPTS INC	334	8,500.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/18/2011	275223	RIDGE AUTO NAPA	438		1,972.44
02/18/2011	275224	RIETH-RILEY CONSTRUCTION CO.,	4386		95.60
02/18/2011	275225	ROE-COMM, INC.	341		218.25
02/18/2011	275226	SAFETY SERVICES, INC.	349		36.09
02/18/2011	275227	SARCOM	2076		41,379.82
02/18/2011	275228	SHERWIN WILLIAMS	356		155.05
02/18/2011	275229	SIGNWRITER & SERIGRAPHICS	2376		95.00
02/18/2011	275230	SIMMONS FORD	2064		171.68
02/18/2011	275231	STANDARD ELECTRIC	1046		1,818.47
02/18/2011	275232	STATE OF MICHIGAN (DOT)	999999		600.00
02/18/2011	275233	STATE OF MICHIGAN (MDEQ)	368		2,777.41
02/18/2011	275234	STATE SYSTEMS RADIO, INC	820		4,200.00
02/18/2011	275235	STEENSA LAWN & POWER EQUIPMEN	369		185.50
02/18/2011	275236	STEWART, DAVID	3222		462.24
02/18/2011	275237	STREICHER'S INC.	999999		100.00
02/18/2011	275238	SUBURBAN MECHANICAL	4485		48.98
02/18/2011	275239	SUNTRUST MORTGAGE INC	1475		244.00
02/18/2011	275240	SWENSON, HULDA	999999		6.10
02/18/2011	275241	SYNERGISTIC ONLINE SOLUTIONS	999999		90.00
02/18/2011	275242	T D S METROCOM, LLC	393		4,535.00
02/18/2011	275243	T&R COMMUNITIES OF MI INC	4539		3,076.21
02/18/2011	275244	T-MOBILE USA INC	999999		68,650.19
02/18/2011	275245	TECHNOLOGY SOLUTIONS	3665		29.99
02/18/2011	275246	TECHNOLOGY SOLUTIONS	4612		1,730.80
02/18/2011	275247	TERMINAL SUPPLY CO.	4612		1,653.80
02/18/2011	275248	THE ARCADIA INSTITUTE	380		1,246.91
02/18/2011	275249	THINGS TA DO, INC.	999999		100.00
02/18/2011	275250	THOMPSON PUBLISHING GROUP	4201		275.00
02/18/2011	275251	THOMPSON, HELENE	385		438.50
02/18/2011	275252	THOMPSON, JOHANNA	4417		247.00
02/18/2011	275253	TIGER DIRECT, INC.	999999		420.00
02/18/2011	275254	TOY BOX STORAGE	4272		42.53
02/18/2011	275255	TRACKING PRODUCTS, INC.	3208		1,745.10
02/18/2011	275256	TRACTOR SUPPLY CORP.	4251		988.00
02/18/2011	275257	U S BANK	2817		39.95
02/18/2011	275258	U S POSTAL SERVICE (PORTAGE)	3497		850.00
02/18/2011	275259	UNITED PARCEL SERVICE	503		1,000.00
02/18/2011	275260	VANATTA, JOYCE	545		49.45
02/18/2011	275261	VERMEULEN FURNITURE	999999		90.00
02/18/2011	275262	VOLOGY DATA SYSTEMS	999999		2,316.90
02/18/2011	275263	WEINBERG, JACKLYN	4594		35.00
02/18/2011	275264	WEST MICHIGAN STAMP & SEAL, INC	999999		90.00
02/18/2011	275265	WIELENGA, MARY ANN	415		123.60
02/18/2011	275266	WIGHTMAN & ASSOCIATES, INC.	999999		90.00
02/18/2011	275267	WIGHTMAN ENVIRONMENTAL INC	425		1,475.00
02/18/2011	275268	WINDEMULLER ELECTRIC, INC.	4524		3,350.00
02/18/2011	275269	WISSOTA MANUFACTURING CO.	3061		3,982.83
02/18/2011	275270	WOLVERINE LAWN SERVICE, INC.	4137		92.50
02/18/2011	275271	WOOD, KARLY	1089		6,852.00
02/18/2011	275272	XEROX CORPORATION	999999		44.00
02/18/2011	275273		433		1,155.64

PREPARED 02/28/2011, 8:23:51 A/P CHECKS BY PERIOD AND YEAR PAGE 5  
 PROGRAM: GM350L FROM 02/07/2011 TO 02/28/2011  
 CITY OF PORTAGE

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
02/18/2011	275274	ZIEMKOWSKI, AMANDA	999999		44.00
02/18/2011	275275	360 SERVICES, INC.	637		109.45
02/18/2011	275276	9TH CIRCUIT COURT	999999		200.00
02/18/2011	275277	U S POSTMASTER	391		7,000.00
02/21/2011	275278	SLEEP DOCTOR, LLC	4596		2,339.94

DATE RANGE TOTAL \* 647,213.49 \*

PAYMENT NO	VENDOR NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE NUMBER	EFT BATCH	BANK CODE
125		B & B YARDSCAPE	02/18/2011	9,045.00	072000320000001	0000001	00
126		CONTINENTAL LINEN SUPPLY CO.	02/18/2011	132.99	072000320000002	0000001	00
127		HARTFORD LIFE INSURANCE COMPANY	02/18/2011	8,131.51	072000320000003	0000001	00
128		KUSHNER & COMPANY, INC.	02/18/2011	701.74	072000320000004	0000001	00
129		LANDS END	02/18/2011	100.90	072000320000005	0000001	00
130		MCCARTHY SMITH LAW GROUP, PLC	02/18/2011	3,416.50	072000320000006	0000001	00
131		PACIFIC TELEMGT SERV, JAROTH INC	02/18/2011	303.00	072000320000007	0000001	00
132		PREIN & NEWHOF	02/18/2011	2,800.00	072000320000008	0000001	00
133		SNELL, DEBRA	02/18/2011	454.00	072000320000009	0000001	00
134		SOLARWINDS, INC.	02/18/2011	295.00	072000320000010	0000001	00
135		UNITED WATER NACO LLC	02/18/2011	164,003.33	072000320000011	0000001	00
136		VISION SERVICE PLAN INSURANCE CO	02/18/2011	2,278.84	072000320000012	0000001	00

GRAND TOTAL: 191,662.81 NO. OF CHECKS: 12

[PUBLICATION VERSION]

ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42,  
LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, are hereby amended as follows:

**Section 42-112. Definitions.**

*Home occupation:* A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and accessory use involving the sale or exchange of services. Home occupations may include, but are not limited to: administrative offices, photographic studios, personal service establishments, and instruction in outdoor recreational activities. The sale of products and goods is permitted only if incidental to the services of the home occupation or involve the sale of fruits, vegetables or flowers grown on site pursuant to the Michigan Right to Farm Act, Act 93 of 1981, as amended. Instruction in a craft or fine art within the dwelling unit pursuant to MCLA 125.3204 is permitted as a home occupation. For purposes of this section, family day care homes shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

- (1) Passive home occupations: Home occupations of low intensity which satisfy the specific conditions and requirements for passive home occupations provided in Section 42-129.A.
- (2) Active home occupations: Active home occupations are more intensive than passive home occupations and do not meet one or more of the requirements in Section 42-129.A. Specific conditions and requirements for active home occupations are provided in Section 42-129.B.

**Section 42-129. Home occupations.**

- A. A passive home occupation on a zoning lot conducted by the occupant that meets the following standards is allowed as an accessory use with no permit being required.
  1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.
  2. The occupation is conducted wholly within the dwelling unit.
  3. No person outside the family is employed in the home occupation.
  4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.
  5. The home occupation does not require interior or exterior alterations or the use of mechanical or electronic equipment not customarily used in a dwelling unit.
  6. No sign identifies the home occupation. The use of window displays are not permitted.
  7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted

to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.

8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.
9. There shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.
10. The use or storage of any materials or equipment which is incidental to the services of the home occupation is permitted only within the enclosed sections of the one-family dwelling unit. The home occupation or any part thereof shall not be conducted in any attached or detached accessory building or structure.

B. An active home occupation on a zoning lot where there is a one-family residential dwelling unit may be conducted by the occupant if approved by the Planning Commission after a public hearing in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, MCLA 125.3101, et. seq., and finding that the application of the occupant meets the following standards:

1. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation on the zoning lot. The home occupation is personal to the full-time occupant engaged in the conduct of the active home occupation and is not transferrable without Planning Commission approval.
2. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation. The planning commission may allow an increase in the floor area of the existing dwelling unit to be used for the home occupation not to exceed a maximum of 50 percent of the floor area of any one floor or basement of the dwelling unit. The planning commission shall make a finding that the increase of floor area used for the home occupation does not adversely impact adjacent residential uses and the increase in floor area used for the home occupation complies with the standards contained in Section 29-142(B)(9)(a) through (f) below.
3. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance. Off-street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions.
4. Storage of goods, materials or equipment which is incidental to the services of the home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
5. The active home occupation, or any part thereof, shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area, except outdoor areas may be used for instruction in recreational activities customarily associated with residential uses including, but not limited to, swimming lessons and tennis lessons. This section shall not prohibit the growing of fruits, vegetables or flowers nor any other farm product protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, in any outside area, provided that the farm product is grown, raised or produced on the zoning lot occupied by the active home occupation.
6. Materials, equipment or goods which are incidental to the active home occupation shall not be visible from adjacent properties nor shall they be directly sold or delivered to customers on the premises of the one-family dwelling, except for the sale of fruits, vegetables and flowers as permitted in Section 42-129(B)(5).

7. No freestanding signage is permitted. Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. Window displays are not permitted.
8. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.
9. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation application submitted by the occupant is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the use and expected conduct of the use specified in the application by the occupant:
  - a. Promotes the intent and purpose of this section;
  - b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
    - i. The proximity of the surrounding uses to the active home occupation;
    - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;
    - iii. The seasonal nature of the active home occupation;
    - iv. The size and weight of vehicles to be used in the active home occupation; and
    - v. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;
  - c. Does not unduly affect the capacities of public services or facilities;
  - d. Is consistent with the public health, safety and welfare;
  - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
  - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.
10. The Planning Commission may attach conditions to the application by the occupant to conduct an active home occupation deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land including the number of customers allowed on the zoning lot at any one time, hours of operation, and similar factors, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act.

FIRST READING:  
SECOND READING:  
EFFECTIVE DATE:

\_\_\_\_\_

CERTIFICATION

STATE OF MICHIGAN        )  
                                  )SS  
COUNTY OF KALAMAZOO )

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 \_\_\_\_\_, 2010.

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

\_\_\_\_\_  
Approved as to form  
Date: 1/7/2010  
Res

\_\_\_\_\_  
City Attorney

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** January 31, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Ordinance Amendment 10-B, Home Occupation Ordinance

**ACTION RECOMMENDED:** That City Council:

- a. accept Ordinance Amendment 10-B, Home Occupation Ordinance for first reading and establish a public hearing on March 8, 2011;
- b. subsequent to the public hearing, consider approval of Ordinance Amendment 10-B, Home Occupation Ordinance; and
- c. consider adoption of the resolution establishing an application fee for home occupations.

At the November 16, 2010 meeting, City Council received the revised Home Occupation Ordinance as recommended from the City Council Neighborhood Revitalization and Engagement Ad Hoc Committee. City Council subsequently referred the revised Home Occupation Ordinance to the Planning Commission in order to initiate the Zoning Code amendment process. The Planning Commission received and discussed the revised home occupation ordinance at the December 2, 2010 meeting and set a public hearing for January 20, 2011.

The recommended revised ordinance language retains the essential home occupation standards in the ordinance that was referred to the Planning Commission by the City Council. Several non-substantive modifications were made to ensure there was consistency between the two categories of home occupations and to clarify the recommended requirements. Also, the Planning Commission has recommended a minor change to allow up to two full-time, non-occupant employees for an active home occupation, which would be subject to Planning Commission review and approval.

No citizens spoke at the Planning Commission public hearing regarding the revised ordinance language. Subsequent to the public hearing, the Planning Commission voted unanimously to recommend to City Council that Ordinance Amendment 10-B be approved.

Additionally, an application fee of \$150 is recommended for only the active home occupation. A portion of the staff resources, Planning Commission activities, public hearing notices and meetings, and document retention requirements to process an active home occupation would be recovered with the proposed fee. This fee approach is consistent with the recovery of a portion of the costs associated with various community development applications that have been previously established by City Council.

It is recommended that City Council accept Ordinance Amendment 10-B for first reading, establish a public hearing on March 8, 2011, and subsequent to the public hearing, consider adoption of the proposed ordinance and associated fee resolution.

Attachment: Communication from the Department of Community Development

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Maurice S. Evans, City Manager

**DATE:** January 31, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Ordinance Amendment 10-B, Proposed Home Occupation Ordinance

In November 2010, City Council referred to the Planning Commission a revised Home Occupation Ordinance as recommended by the City Council Neighborhood Revitalization and Engagement Ad Hoc Committee. The Planning Commission received and discussed the revised home occupation ordinance on December 2, 2010. Following this discussion, the Planning Commission established a public hearing for January 20, 2011.

The Planning Commission-recommended ordinance retains the features in the proposed ordinance that was referred to them including the passive and active categories, conditions associated with the two categories of home occupations and Planning Commission review and approval of active home occupations. The Planning Commission suggested a modification to Section 42-129(B)(1) to allow one additional full-time, non-occupant employee (maximum of two) that could be involved with an active home occupation subject to Planning Commission review and approval. The Office of the City Attorney and the Department of Community Development prepared several non-substantive ordinance changes to ensure consistency between the passive and active home occupations and to further clarify the ordinance language. The Planning Commission subsequently discussed the proposed ordinance language during the January 20, 2011 public hearing. No citizens commented on the revised ordinance language. At the conclusion of the public hearing, the Planning Commission voted unanimously to recommend to City Council approval of Ordinance Amendment 10-B. As requested, attached is the November 5, 2010 City Council ordinance that was referred to the Planning Commission, together with a highlight and strike version that shows the modifications that have been recommended. Also, a highlight and strike version of the proposed ordinance that illustrates the proposed changes in comparison to the existing Zoning Code language is also attached. Finally, the ordinance for First Reading as recommended by the Planning Commission and City Administration is attached for formal action.

A resolution to establish a permit fee for an active home occupation accompanies this report. A permit fee of \$150 is recommended. A portion of the staff resources, Planning Commission activities, public hearing notice and meeting, and document retention requirements to process an active home occupation would be recovered with the proposed fee.

The Planning Commission transmittal, meeting minutes, Department of Community Development staff report and related materials are attached for your information and review.

**Attachments:** Planning Commission transmittal dated January 31, 2011  
Planning Commission Minutes (December 2, 2010 and January 20, 2011)  
Department of Community Development report dated January 14, 2011  
November 5, 2011 City Council referred ordinance  
Highlight and strike comparison with Council Ad Hoc Committee ordinance  
Highlight and strike comparison with current ordinance  
Final ordinance (First Reading)  
Fee Resolution

**TO:** Honorable Mayor and City Council

**FROM:** Planning Commission

**DATE:** January 31, 2011

**SUBJECT:** Ordinance Amendment 10-B, Home Occupation Ordinance

At the request of City Council, the Planning Commission accepted and discussed the revised home occupation ordinance during the December 2, 2010 meeting. One suggested change to Section 42-129 would allow up to two full-time, non-occupant employees to be involved with an active home occupation, subject to Planning Commission review and approval. The Planning Commission suggestion was discussed and agreed upon and included in the recommended ordinance. Several modifications were suggested by staff that were not considered to be substantive. These modifications were organizational in nature, ensured ordinance consistency and clarified the ordinance language.

A public hearing to formally consider Ordinance Amendment 10-B was convened during the January 20, 2011 Planning Commission meetings. No citizens spoke in regard to the proposed ordinance amendment.

After a thorough review of the revised ordinance amendment a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council that Ordinance Amendment 10-B, Home Occupation Ordinance, be approved. The motion was unanimously approved.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



James Cheesebro  
Chairman

COPY

**PUBLIC HEARINGS:**

None.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

1. **Revised Home Occupation Ordinance (referral from City Council).** Mr. Forth introduced the item and summarized the staff report dated November 23, 2010 regarding the revised home occupation ordinance that was developed by the City Council Neighborhood Revitalization and Engagement Ad Hoc Committee and referred to the Planning Commission to initiate the required Zoning Code amendment procedure. Mr. Forth also referred the Commission to the final agenda packet and background information regarding the original Planning Commission review and recommendation of the home occupation ordinance including the January 15, 2010 final staff report, January 2010 recommended home occupation ordinance and the January 21, 2010 Planning Commission meeting minutes. Mr. Forth discussed the differences between the Planning Commission recommended ordinance language (January 2010) and the City Council revised ordinance language.

Commissioner Pearson discussed a suggested change to the revised ordinance language that would allow up to two nonresident employees to be involved with an active home occupation, subject to Planning Commission review and approval. Commissioner Pearson read proposed ordinance language that could be inserted in Section 42-129, paragraph B, line 1. Commissioner Pearson stated that he had researched other home occupation ordinances across the country and believes allowance of up to two nonresident employees, subject to Planning Commission review and approval, would help facilitate job creation and encourage low impact home occupations such as internet based businesses and office activities to start and grow in Portage. Mr. Forth discussed staff research of home occupation ordinances from other communities across the State and indicated the number of nonresident employees allowed varies from none to up to three with Planning Commission review and approval. Mr. Forth also referenced a publication from the American Planning Association where the author discusses the limitations of model ordinances and suggests local ordinances address a community's characteristics, problems, past practices, and current politics.

The Commission discussed the suggested ordinance language change proposed by Commissioner Pearson and other ordinance provisions related to retail sales and signage. Mr. Forth and Attorney Brown reviewed the ordinance amendment process. After additional discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to modify the revised ordinance language to include the allowance for additional nonresident employees (above one) for an active home occupation, subject to Planning Commission review and approval. The motion was unanimously approved. Attorney Brown indicated that he would modify the revised ordinance to include the suggested change. A motion was made by Commissioner Welch, seconded by Commissioner Stoffer, to set a public hearing for January 20, 2011 to consider the Revised Home Occupation Ordinance. The motion was unanimously approved.

**PLANNING COMMISSION**

**January 20, 2011**

**COPY**

The City of Portage Planning Commission meeting of January 20, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Two citizens were in attendance.

**MEMBERS PRESENT:**

Miko Dargitz, Wayne Stoffer, Rick Bosch, Paul Welch, Mark Siegfried, Bill Patterson, Allan Reiff, and Chairman James Cheesebro.

**MEMBERS ABSENT:**

None.

**MEMBERS EXCUSED:**

Jim Pearson.

**IN ATTENDANCE:**

Christopher Forth, Deputy Director of Planning and Development Services; Michael West, Assistant City Planner and Charlie Bear, Assistant City Attorney

**PLEDGE OF ALLEGIANCE:**

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

**APPROVAL OF MINUTES:**

Chairman Cheesebro referred the Commission to the January 6, 2011 meeting minutes. A motion was made by Commissioner Welch, seconded by Commissioner Bosch, to approve the minutes as submitted. The minutes were unanimously approved.

**SITE/FINAL PLANS:**

None.

**PUBLIC HEARINGS:**

1. **Preliminary Report: Ordinance Amendment #10-B, Home Occupations.** Mr. Forth summarized the January 14, 2011 staff report regarding the home occupation ordinance that was revised by City Council and referred back to the Planning Commission for review. Mr. Forth referred the Commission to the January 16, 2011 e-mail communication from Commissioner Pearson and stated the inconsistency regarding signage for active home occupations has been corrected. In regard to the suggestion from Commissioner Pearson to allow a one square foot sign for passive home occupations, Mr. Forth stated staff prefers to retain the current ordinance language that does not allow signage. Mr. Forth indicated that passive home occupations are intended to be low profile uses with no outside employees, generate no pedestrian and/or vehicular traffic beyond what is normal for the neighborhood and create no nuisances. Since passive home occupations are low intensity uses with no impact on surrounding residential uses, a permit is not required under the revised ordinance language referred by City Council.

The Commission and staff discussed various aspects of the revised ordinance including the differences between a passive and active home occupation, whether or not signage was necessary for a passive home occupation, use of swimming pools for instruction, Michigan Right-to-Farm Act and roadside fruit/vegetable stands and the use of accessory buildings for home occupations. Chairman Cheesebro opened the public hearing.

No citizens spoke during the public hearing. A motion was then made by Commissioner Welch, seconded by Commissioner Patterson, to close the public hearing. The motion was unanimously approved.

The Commission discussed whether action on the ordinance amendment should be adjourned to the February 3, 2011 meeting or whether the second meeting should be waived and a recommendation to City Council developed. Commissioner Welch stated he does not believe signage should be permitted for passive home occupations. Commissioner Welch also suggested the Planning Commission should waive the second meeting and develop a recommendation given the amount of previous review/discussion by the Commission and lack of public comment at tonight's meeting. Commissioner Welch noted additional opportunities for public comment will be available during the City Council public hearing. Commissioner Dargitz stated she prefers additional discussion of signage for passive home occupations and suggested the public hearing be adjourned to the February 3, 2011 meeting. Commissioner Patterson noted a minor typographical error in the definition section. Mr. Forth indicated the error would be corrected. There being no further discussion, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council approval of Ordinance Amendment #10-B, Home Occupations. The motion was unanimously approved.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

7:45 p.m. – The Commission took a short recess.	7:50 p.m. – The Commission reconvened the meeting.
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**NEW BUSINESS:**

1. Planning Commission Training: "Community Planning and the Commissioner". Mr. Forth discussed the continuing efforts of staff to provide the Commission with supplemental training regarding roles, responsibilities and duties. Mr. Forth reviewed a PowerPoint presentation entitled "Community Planning and the Commissioner." Mr. Forth provided a historical overview of community planning, reviewed State of Michigan legislation related to planning and zoning, discussed the differences between the Master Plan and Zoning Ordinance and summarized the primary duties of the Commission including development and implementation of the Master Plan, review/approval of site plans and special land use permits and review/recommendation of subdivisions, zoning ordinance text and map amendments and Capital Improvement Program.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Christopher Forth, AICP  
Deputy Director of Planning and Development Services

TO: Planning Commission

DATE: January 14, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Report, Ordinance Amendment No. 10-B, Home Occupations

## I. INTRODUCTION

During the December 2, 2010 meeting, the Planning Commission reviewed a revised Home Occupation Ordinance referred to the Commission by City Council as recommended by the City Council Neighborhood Revitalization and Engagement Ad Hoc Committee (NREC). The Planning Commission discussed the revised ordinance, recommended one change and set the public hearing for January 20, 2011 consistent with statutory requirements.

As background information, the following section summarizes the 1) two major home occupation categories and 2) NREC substantive changes incorporated into the ordinance referred to the Commission by City Council.

## II. ZONING ORDINANCE PROVISIONS

The ordinance referred by City Council still maintains two categories of home occupations: Passive home occupations and active home occupations. A passive home occupation would continue the current ordinance provisions allowing low intensity occupations as a subordinate use to the principal residential use of the property. The active home occupation is a new category, which is also subordinate to the residential use of the property, but is a more intensive home-based activity that does not meet the requirements for a passive home occupation. An active home occupation could be allowed after a public hearing, with approval by the Planning Commission and compliance with the established conditions.

For comparison purposes, the substantive changes between the ordinance language recommended by the Planning Commission in January 2010 and the revised ordinance referred to the Commission by City Council in November 2010 are summarized below:

### Generally

1. Home Occupations are limited to service-oriented businesses only. The sale or exchange of products or goods is not permitted except if incidental to the services of the home occupation.
2. Instruction in outdoor recreational activities (e.g. swimming or tennis lessons) has been added to the definition of home occupation.
3. Window displays are not permitted.

### Passive Home Occupations

1. A permit is not required.

2. Clarifies that the use or storage of materials or equipment incidental to the home occupation must be within the enclosed sections of the dwelling unit. An attached or detached accessory building cannot be used.

### Active Home Occupations

1. Zoning lot does not have to abut a major thoroughfare.
2. Home occupation permit is not transferable without Planning Commission approval.
3. The Planning Commission may allow an increase in floor area used for the home occupation from 25% up to 50%.
4. Instruction in outdoor recreational activities (e.g. swimming or tennis lessons) has been added as an active home occupation.
5. The requirement that only one vehicle/trailer can be used in conjunction with the active home occupation has been removed. Ordinance language has, however, been added to Section 42-129(B)(9) that allows the Planning Commission is consider, among others, the size and weight of vehicles as well as the expected number of trips when evaluating an active home occupation application.
6. The restriction on hours of operation has been removed. However, language has been added to Section 42-129(B)(10) that allows the Planning Commission to attach conditions to mitigate any negative impacts on surrounding residential land uses including, but not limited to, hours of operation.

In addition to the revisions above, the change requested by the Planning Commission during the December 2, 2010 meeting that would permit one additional full-time non-occupant employee subject Commission review/approval has been added to Section 42-129(B)(1) of the active home occupation. Finally, the City Attorney has incorporated several organizational changes following the December 2, 2010 meeting to ensure consistency between the passive and active home occupations, where appropriate, and to improve clarity. The change requested by the Planning Commission as well as the changes incorporated by the City Attorney are shown in the attached highlight and strike copy of the proposed ordinance. Also attached is a clean copy of the ordinance.

### **III. RECOMMENDATION**

In accordance with the Planning Commission policy of accepting public comment at the initial meeting and concluding the discussion regarding the ordinance amendment at a subsequent meeting, it is recommended that public comment be received during the January 20, 2011 meeting and the public hearing be adjourned to the February 3, 2011 meeting. If no public comment is received and the Planning Commission requests no further changes, the Commission may wish to consider waiving the second public hearing date and formulate a recommendation to City Council on January 20, 2011.

Attachments: Highlight and strike copy of the ordinance  
Clean copy of the ordinance

**CITY COUNCIL REVIEW VERSION  
COMPARISON WITH NOVEMBER 5, 2010 DRAFT  
APPROVED BY CITY COUNCIL AD HOC COMMITTEE  
NOT FOR PUBLICATION**

**ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42,  
LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, are hereby amended as follows:

**Section 42-112. Definitions.**

*Home occupation:* A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and accessory use involving the sale or exchange of services. Home occupations engaged in the sale or exchange of products or goods are not permitted except if incidental to the services of the home occupation. ~~The sale of products and goods is permitted only if incidental to the services of the home occupation or involve the sale of fruits, vegetables or flowers grown on site pursuant to the Michigan Right to Farm Act, Act 93 of 1981, as amended.~~ Home occupations may include, but are not limited to: administrative offices, photographic studios, personal service establishments, and instruction in outdoor recreational activities. Instruction in a craft or fine art within the dwelling unit pursuant to MCLA 125.3204 is permitted as a home occupation. For purposes of this section, family day care homes shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

- (1) Passive home occupations: Home occupations of low intensity which satisfy the specific conditions and requirements for passive home occupations provided in Section 42-129.A. A home occupation which does not meet all requirements of Section 42-129(A) shall cause the home occupation to require Planning Commission approval as an active home occupation pursuant to Section 42-129(B).
- (2) Active home occupations: Active home occupations are more intensive than passive home occupations and do not meet one or more of the requirements in Section 42-129.A. Specific conditions and requirements for active home occupations are provided in Section 42-129.B.

**Section 42-129. Home occupations.**

- A. A passive home occupation on a zoning lot where there is a one family residential dwelling unit may be conducted by the occupant that meets the following requirements standards is allowed as an accessory use with no permit being required.
  1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.

2. The occupation, or any part thereof, shall be conducted wholly within the dwelling unit and shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area.
3. No person outside the family is employed in the home occupation.
4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.
5. The home occupation does not require interior or exterior alterations of the dwelling unit or the use of mechanical or electronic equipment not customarily used in a dwelling unit.
6. There shall be no sign of any nature identifying ~~No sign identifies~~ the home occupation. The use of window displays are not permitted.
7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.
8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.
9. Off-street parking shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, and ~~There shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.~~
10. ~~The use or storage of goods, any materials or equipment which is incidental to the services of the home occupation is permitted only within the enclosed sections of the one-family dwelling unit. The storage of goods, materials or equipment in any attached or detached accessory building or structure is not permitted. The home occupation or any part thereof shall not be conducted in any attached or detached accessory building or structure.~~
11. No goods or products shall be directly sold or delivered to customers on the premises of the one family dwelling except goods and products which are incidental to the services of the home occupation.
12. No condition or requirement stated for passive home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural And Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.

B. An active home occupation on a zoning lot where there is a one-family residential dwelling unit may be conducted by the occupant if approved by the Planning Commission after a public hearing in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, MCLA 125.3101, et. seq., and finding that the application of the occupant meets the following requirements ~~standards~~:

1. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation on the zoning lot. The Planning Commission may allow two full-time non-occupant employees upon request. In making its determination, the Planning Commission shall make a finding that the increase to two full-time non-occupant employees does not adversely impact adjacent residential uses, shall consider the standards contained in Section 42-129(B)(11) and may impose conditions under Section 42-129(B)(12). The home occupation is personal to the full-time occupant

engaged in the conduct of the active home occupation and is not transferrable without Planning Commission approval.

2. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation. The planning commission may allow an increase in the floor area of the existing dwelling unit to be used for the home occupation not to exceed a maximum of 50 percent of the floor area of any one floor or basement of the dwelling unit. The planning commission shall make a finding that the increase of floor area used for the home occupation does not adversely impact adjacent residential uses and the increase in floor area used for the home occupation complies with the requirements standards contained in Section 29-14242-129(B)(11)(9)(a) through (f) below.
3. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance. ~~Off-street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions.~~
4. Off street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions. There shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.
5. No goods or products shall be directly sold or delivered to customers on the premises of the one family dwelling except goods and products which are incidental to the services of the home occupation.
46. Storage of goods, materials or equipment which is incidental to the services of the home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
57. The active home occupation, or any part thereof, shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area, except outdoor areas may be used for instruction in recreational activities customarily associated with residential uses including, but not limited to, swimming lessons and tennis lessons. ~~This section shall not prohibit the growing of fruits, vegetables or flowers nor any other farm product protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, in any outside area, provided that the farm product is grown, raised or produced on the zoning lot occupied by the active home occupation.~~
68. ~~Materials, equipment or goods which are incidental to the active home occupation shall not be visible from adjacent properties, nor shall they be directly sold or delivered to customers on the premises of the one-family dwelling, except for the sale of fruits, vegetables and flowers as permitted in Section 42-129(B)(5).~~
79. There shall be no sign of any nature identifying the home occupation except a non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. The use of window displays are not permitted. ~~No freestanding signage is permitted. Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. Window displays are not permitted.~~
810. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.

911. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation application submitted by the occupant is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the use and expected conduct of the use specified in the application by the occupant:
- a. Promotes the intent and purpose of this section;
  - b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
    - i. The proximity of the surrounding uses to the active home occupation;
    - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;
    - iii. The seasonal nature of the active home occupation;
    - iv. The size and weight of vehicles to be used in the active home occupation; and
    - v. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;
  - c. Does not unduly affect the capacities of public services or facilities;
  - d. Is consistent with the public health, safety and welfare;
  - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
  - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.

120. The Planning Commission may attach conditions to the application by the occupant to conduct an active home occupation deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land including the number of customers allowed on the zoning lot at any one time, hours of operation, and similar factors, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act.

13. No condition or requirement stated for active home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural And Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.

FIRST READING:  
SECOND READING:  
EFFECTIVE DATE:

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CERTIFICATION

STATE OF MICHIGAN        )  
  )SS  
COUNTY OF KALAMAZOO )

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 \_\_\_\_\_, 2011.

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

\_\_\_\_\_  
Approved as to form  
Date: 3/4/11  
Ray  
\_\_\_\_\_  
City Attorney

**CITY COUNCIL REVIEW VERSION  
COMPARISON WITH CURRENT ORDINANCE  
NOT FOR PUBLICATION**

**ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42,  
LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, are hereby amended as follows:

**Section 42-112. Definitions.**

~~Home occupation: An occupation customarily conducted within a dwelling by its occupants as a subordinate use. Without limiting the foregoing, a single family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation. Beauty shops, barbershops, restaurants, clinics, kennels and similar occupations and trades shall not be deemed home occupations.~~

***Home occupation:*** A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and accessory use involving the sale or exchange of services. Home occupations engaged in the sale or exchange of products or goods are not permitted except if incidental to the services of the home occupation or involve the sale of fruits, vegetables or flowers grown on site pursuant to the Michigan Right to Farm Act, Act 93 of 1981, as amended. Home occupations may include, but are not limited to: administrative offices, photographic studios, personal service establishments, and instruction in outdoor recreational activities. Instruction in a craft or fine art within the dwelling unit pursuant to MCLA 125.3204 is permitted as a home occupation. For purposes of this section, family day care homes shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

- 1) **Passive home occupations:** Home occupations of low intensity which satisfy the specific conditions and requirements for passive home occupations provided in Section 42-129.A. A home occupation which does not meet all requirements of Section 42-129(A) shall cause the home occupation to require Planning Commission approval as an active home occupation pursuant to Section 42-129(B).
- 2) **Active home occupations:** Active home occupations are more intensive than passive home occupations and do not meet one or more of the requirements in Section 42-129.A. Specific conditions and requirements for active home occupations are provided in Section 42-129.B.

~~Sec. 42-129. Home occupations.~~

~~A. The director may approve home occupations, provided that a zoning compliance permit is issued after finding that all of the following are satisfied:~~

~~B. Any home occupation shall comply with the following requirements:~~

- ~~1. The occupation or profession is carried on as a subordinate use by a member of the family residing on the premises.~~
- ~~2. The occupation or profession is carried on wholly within the principal building.~~
- ~~3. No person outside the family is employed on the premises.~~
- ~~4. No commodity, except one incidental to the home occupation, is sold on the premises.~~
- ~~5. Not more than 25 percent of the total floor area of any one floor (or basement) of the main building is used for the home occupation.~~
- ~~6. The home occupation does not require interior or exterior alterations or the use of mechanical or electronic equipment not customarily used in the home.~~
- ~~7. No sign is or will be used.~~
- ~~8. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances.~~
- ~~9. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by homes in the residential neighborhood.~~
- ~~10. No other parking other than the off-street parking facilities normally required for the residential use is used.~~

**Section 42-129. Home occupations.**

**A. A passive home occupation on a zoning lot where there is a one family residential dwelling unit may be conducted by the occupant that meets the following requirements is allowed as an accessory use with no permit being required.**

- 1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.**
- 2. The occupation, or any part thereof, shall be conducted wholly within the dwelling unit and shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area.**
- 3. No person outside the family is employed in the home occupation.**
- 4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.**
- 5. The home occupation does not require interior or exterior alterations of the dwelling unit or the use of mechanical or electronic equipment not customarily used in a dwelling unit.**
- 6. There shall be no sign of any nature identifying the home occupation. The use of window displays are not permitted.**
- 7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.**
- 8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.**
- 9. Off-street parking shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions, and there shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.**

10. The storage of goods, materials or equipment which is incidental to the services of the home occupation is permitted only within the enclosed sections of the one-family dwelling unit. The storage of goods, materials or equipment in any attached or detached accessory building or structure is not permitted.
  11. No goods or products shall be directly sold or delivered to customers on the premises of the one family dwelling except goods and products which are incidental to the services of the home occupation.
  12. No condition or requirement stated for passive home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural And Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.
- B. An active home occupation on a zoning lot where there is a one-family residential dwelling unit may be conducted by the occupant if approved by the Planning Commission after a public hearing in accordance with the requirements of Section 103 of the Michigan Zoning Enabling Act, MCLA 125.3101, et. seq., and finding that the application of the occupant meets the following requirements:**
1. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation on the zoning lot. The Planning Commission may allow two full-time non-occupant employees upon request. In making its determination, the Planning Commission shall make a finding that the increase to two full-time non-occupant employees does not adversely impact adjacent residential uses, shall consider the standards contained in Section 42-129(B)(11) and may impose conditions under Section 42-129(B)(12). The home occupation is personal to the full-time occupant engaged in the conduct of the active home occupation and is not transferrable without Planning Commission approval.
  2. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation. The planning commission may allow an increase in the floor area of the existing dwelling unit to be used for the home occupation not to exceed a maximum of 50 percent of the floor area of any one floor or basement of the dwelling unit. The planning commission shall make a finding that the increase of floor area used for the home occupation does not adversely impact adjacent residential uses and the increase in floor area used for the home occupation complies with the requirements contained in Section 42-129(B)(11) (a) through (f) below.
  3. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance.
  4. Off street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions. There shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.

5. No goods or products shall be directly sold or delivered to customers on the premises of the one family dwelling except goods and products which are incidental to the services of the home occupation.
6. Storage of goods, materials or equipment which is incidental to the services of the home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
7. The active home occupation, or any part thereof, shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area, except outdoor areas may be used for instruction in recreational activities customarily associated with residential uses including, but not limited to, swimming lessons and tennis lessons.
8. Materials, equipment or goods shall not be visible from adjacent properties.
9. There shall be no sign of any nature identifying the home occupation except a non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. The use of window displays are not permitted.
10. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.
11. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation application submitted by the occupant is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the use and expected conduct of the use specified in the application by the occupant:
  - a. Promotes the intent and purpose of this section;
  - b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
    - i. The proximity of the surrounding uses to the active home occupation;
    - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;
    - iii. The seasonal nature of the active home occupation;
    - iv. The size and weight of vehicles to be used in the active home occupation; and
    - v. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;
  - c. Does not unduly affect the capacities of public services or facilities;
  - d. Is consistent with the public health, safety and welfare;
  - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
  - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.

12. The Planning Commission may attach conditions to the application by the occupant to conduct an active home occupation deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land including the number of customers allowed on the zoning lot at any one time, hours of operation, and similar factors, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act.
13. No condition or requirement stated for active home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural And Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.

FIRST READING:  
 SECOND READING:  
 EFFECTIVE DATE:

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CERTIFICATION

STATE OF MICHIGAN        )  
   )SS  
 COUNTY OF KALAMAZOO    )

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 \_\_\_\_\_, 2011.

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

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Approved as to form  
 Date: 3/4/11  
 \_\_\_\_\_  
 City Attorney



**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** March 1, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Response to Councilmember Claudette Reid Regarding the Proposed Home Occupation Ordinance Application Fee

Please find attached a response communication from Community Development Director Jeffrey Erickson in regards to the request by Councilmember Reid for additional information at the February 8, 2011 City Council meeting concerning the application fee for the proposed Home Occupation Ordinance.

**CITY OF PORTAGE****COMMUNICATION**2/15/11  
A  
M**TO:** Maurice S. Evans, City Manager**DATE:** February 14, 2011**FROM:** Jeffrey M. Erickson, Director of Community Development**RECEIVED****SUBJECT:** Proposed Home Occupation Application Fee

FEB 14 2011

CITY MANAGER'S OFFICE  
PORTAGE, MI

During the February 8, 2011 City Council meeting, Councilwoman Reid requested additional information to further clarify the staff recommended \$150 fee to process an active home occupation permit application. The following information is provided.

The actual cost incurred to process an active home occupation permit application is determined by examining staff resources, mailing and publishing legal notices, document preparation and retention requirements related to City Administration and Planning Commission activities. Following is a breakdown of the principal cost elements:

- Regarding staff resources, with an average of four hours of professional staff resources (\$56/hour) and one hour of clerical resources (\$25/hour), the cost totals \$224: Processing a permit application involves two site visits (before and after Planning Commission review/approval), meetings with the applicant/citizens/Planning Commission, report/public notice preparation, and filing/archiving activities.
- Required legal notices (newspaper notice and first class mailing) cost an average of \$156: Kalamazoo Gazette cost of \$147 per legal notice (attached is a similar legal notice for a special land use permit with invoice) and \$9 for the cost to mail an average of 20 first class letters to property owners within 300 of the subject property as is required.
- Document preparation and retention costs are an estimated \$10 per application: Copying and document costs (application materials, notices, staff report and citizen and other communications received).

Based on the foregoing information, the average cost to process an active home occupation permit application is estimated to be \$415. As indicated in the January 31, 2011 Department of Community Development communication, the recommended \$150 application fee is only intended to recover a portion of the administrative and related costs and is believed to represent a reasonable charge for this type of an application under the proposed ordinance.

I am available to discuss this matter with you further at your convenience.

Attachments:    Legal notice  
                      Kalamazoo Gazette invoice

**CITY OF PORTAGE**  
*A Place for Opportunities to Grow*

**CITY OF PORTAGE  
PLANNING COMMISSION  
NOTICE OF HEARING**

**TO:** The residents and property owners of the City of Portage and all interested persons.

The City of Portage Planning Commission will conduct public hearings on the following applications at the meeting on **Thursday, January 6, 2011** in the Council Chambers of Portage City Hall, 7900 South Westledge Avenue at 7:00 p.m. or as soon thereafter as may be heard:

• **Special Land Use Permit:** Auto-World of Portage is requesting a Special Land Use Permit to establish an automobile dealership at 7940 South Sprinkle Road.

All persons desiring to be heard with respect to this application will be heard. A copy of the application information is on file and can be reviewed at the Department of Community Development during regular business hours. Written comments can be submitted to the Department of Community Development, 7900 South Westledge Avenue, Portage, Michigan, 49002, prior to noon the day of the public hearing.

Dated: December 21, 2010

**CITY OF PORTAGE  
PLANNING COMMISSION  
James Cheesebro, Chairman**

388066901

STATE OF MICHIGAN )  
County of Kalamazoo )

ss *Jenise Vandenberg*

Being duly sworn deposes and says he/she is Principal Clerk of

**THE KALAMAZOO GAZETTE**  
DAILY EDITION

a newspaper published and circulated in the County of Kalamazoo and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day(days) .....

*December 21* ..... A.D. 20 *10* .....

Sworn to and subscribed before me this *21st* day of *December* 20*10* .....

*Dorie Cole*

**Dorie Cole**  
Notary Public, Kalamazoo County, Michigan  
My commission expires 4/9/2016

CITY OF PORTAGE  
FINANCE DEPT  
7900 S WESTNEDGE AVE  
PORTAGE MI 49002

**Account Number: K010742100**

Ad# - Trans#	Classification/Placement	Size	Posting Date	Amt
Internet	K-Legal Notice	1 x 5.25 inches		
Kalamazoo Gazette	K-Legal Notice	1 x 5.25 inches		
0003955552	PORTAGE PLANNING COMMISSION AUTO WORLD		12/21/10	146.95

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** February 25, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Ordinance Amendment, Chapter 24, Article 5, Safety, Sanitation and Health

**ACTION RECOMMENDED:** That City Council:

- a. accept the Ordinance Amendment to Chapter 24, Article 5, Safety, Sanitation and Health, with provisions for nuisance abatement and cost recovery, for first reading;
- b. subsequent to the second reading, consider approval of the Ordinance Amendment; and
- c. consider adoption of the resolution establishing the nuisance abatement fee.

Ordinance language has been prepared to amend the property maintenance regulations contained in Chapter 24, Article 5, Section 24-113 of the Code of Ordinances. The accompanying communication from the Community Development Director explains the proposal. The amendment was initiated to provide the city with authority to abate nuisances on private property and recover the costs incurred with nuisance abatement. The proposed amendment provides the city the capability to resolve nuisance violations in a manner similar to that provided in Section 24-114, Weeds and grasses. For City Council information, a highlight and strike version of the amendment is provided. A resolution establishing the administrative fee for nuisance abatement cost recovery is also attached.

As is current practice, a written violation notice is provided to the property owner requesting correction of the ordinance violation within a specified time frame. If the property owner, and/or occupant does not correct a violation voluntarily, additional efforts will be undertaken. This may include initiation of legal enforcement action including issuance of civil infraction citation through the District Court, which can be time consuming. Under the proposed ordinance amendment, the property owner and/or occupant will continue to be given a formal notice of the ordinance violation. The violation will need to be resolved in the maximum 10-day period after service of the notice. Notice will also be provided consistent with the City Charter. As necessary and upon recommendation by the Community Development Director, the City Manager can initiate nuisance abatement with cost recovery. If the nuisance abatement charges are not paid within 30 days of the billing date, a tax lien on the property would be established and collected as allowed by law.

The ordinance amendment will serve to protect neighborhood livability and the quality of business areas within the community. It is recommended that the ordinance amendment be accepted and after second reading, adopted. The resolution establishing the nuisance abatement fee is also recommended.

Attachment: February 25, 2011 communication from Community Development Director  
Section 24-113 Ordinance Amendments and Fee Resolution

# CITY OF PORTAGE

# COMMUNICATION

**TO:** Maurice S. Evans, City Manager

**DATE:** February 24, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Ordinance Amendment, Chapter 24, Article 5, Safety, Sanitation and Health

Ordinance language to amend the property maintenance regulations contained in Chapter 24, Article 5, Section 24-113 of the Code of Ordinances and a fee resolution has been prepared. The proposal was initiated to provide the city with authority to abate nuisances together with recovery of the costs associated with nuisance abatement. The proposed amendment provides the city the capability to resolve nuisance violations in a manner similar to the authority provided in Section 24-114, Weeds and grasses. The ordinance amendment will help in the effort to protect neighborhood livability and the quality of business areas within the community. There are instances in which nuisance abatement by the city is necessary, including:

- an immediate threat is present to public health and safety;
- a violation is of significant magnitude that requires prompt action;
- the property owner/occupant has not responded to prolonged enforcement efforts, which may also include legal enforcement actions; and
- an abandoned property, and/or a property is in foreclosure, resulting in prolonged enforcement to abate a nuisance(s), to the detriment of adjacent properties.

Under the current ordinance, a written violation notice is provided to the property owner requesting correction of the ordinance violation within a specified time frame. If the property owner, and/or occupant does not correct a violation voluntarily, additional efforts are undertaken, which may include initiation of legal enforcement action including issuance of civil infraction citation through the District Court, which is time consuming. Under the recommended ordinance amendment, the property owner and/or occupant will continue to be provided formal notice of the ordinance violation, which will need to be resolved in the maximum 10-day period after service of the notice. Notice will be provided consistent with the City Charter and include reference to cost recovery if the city provides the service necessary to correct the violation. When necessary, the City Manager can initiate nuisance abatement with cost recovery following a recommendation by the Community Development Director. The recovery of the cost to abate the nuisance would be implemented and if the charges are not paid within 30 days of the date of billing, a tax lien would be established and collected as allowed by law.

As regards the proposed amendment, the following highlights are provided:

- ❖ Section 24-113(b)(5): This existing subsection prohibits the installation of permanent improvements on public streets or land and the minor additional phrasing is consistent with and provides a cross reference to similar provisions in Chapter 66, Section 2 of the Code of Ordinances;
- ❖ Section 24-113(c), Conditions prohibited as nuisances: This new subsection is proposed to clarify that violations of the Safety, Sanitation and Health regulations are declared a nuisance, and that the city may proceed with correcting nuisance violations per Sections 24-113 (d) and (e).

- ❖ Section 24-113(d), Investigation and voluntary removal; notice: The proposed language establishes a process for investigating, providing notice, and achieving voluntary removal of nuisance violations. The language is similar to the current code, but includes a provision that the City Manager may initiate nuisance abatement where attempts to achieve voluntary compliance by the property owner and/or occupant have been unsuccessful upon recommendation of the Community Development Director.
- ❖ Section 24-113(e), Abatement Procedure: This new subsection includes provisions for:
  - the manner in which a property owner is identified and served written notice of a nuisance violation by the City Clerk, including the content of the violation notice in cases where city abatement may be utilized as required by City Charter. The ordinance language, including documentation of the owner of record has been prepared by the City Attorney and is consistent with the City Charter and the existing Code of Ordinances;
  - authorization for the city to abate a nuisance, including emergency abatement where a nuisance poses an imminent danger to the public health and safety;
  - the manner in which the city will bill the property owner for the cost of nuisance abatement (including an administrative fee), and that if unpaid, the invoice becomes a tax lien against the property; and
  - nuisance abatement may be used in conjunction with, or in the alternative of other available remedies.

Nuisance abatement will be utilized as a last resort, following attempts to achieve voluntary compliance and legal enforcement action, where determined appropriate. While the city will initially incur costs associated with the nuisance abatement, the ordinance amendment enables the city to recover costs. With regard to the proposed fee resolution, it is recommended that the administrative fee be \$350, plus \$50 per hour or fraction thereof to complete the abatement (the administrative fee is recommended based on a minimum seven hours of city personnel time from the initial complaint intake, to the actual abatement, to the invoicing and tracking of payment and related costs).

The proposed amendment and fee resolution, which have been prepared and reviewed by the Office of the City Attorney and the Department of Community Development, will enhance the ability of the city to protect neighborhoods and resolve nuisance violations. The ordinance amendment and fee resolution are recommended for approval.

**[CITY COUNCIL REVIEW VERSION  
COMPARISON WITH CURRENT ORDINANCE  
NOT FOR PUBLICATION]**

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 24-113, ARTICLE 5 OF CHAPTER 24  
PROPERTY MAINTENANCE STANDARDS**

**THE CITY OF PORTAGE ORDAINS:**

**That Chapter 24 shall be amended to add the following:**

**ARTICLE 5. SAFETY, SANITATION AND HEALTH.**

**Section 24-113. Property maintenance standards.**

*(a) Conditions prohibited on private property. No change. [Text in italics is for Council information only and will not be published.] Conditions prohibited on private property. No person shall maintain or permit to be maintained any of the following conditions on any premises in the city owned, leased, rented or occupied by such person. The existence of any one of the conditions prohibited by this subsection shall be considered a factor detrimental to community quality.*

- (1) The storage of building materials, unless there is in force a valid building permit issued by the city for construction upon the premises and such materials are intended for use in connection with such construction which shall be completed within a reasonable time, except for the outdoor storage of such materials, in conjunction with a commercial or industrial use for which a certificate of occupancy has been issued per chapter 42, article 4 of this Code.*
- (2) The storage or accumulation of refuse of any kind on any part of the property, including the front yard, except for the following:
  - a. Garbage and rubbish as defined in section 58-31 stored or kept in such a manner as not to create a nuisance or traffic hazard or endanger persons and property may be located on the property, except in the front yard, for a period not to exceed seven days.*
  - b. An approved or legally existing junkyard, impound lot, or other similar approved use, for which a certificate of occupancy has been issued pursuant to chapter 42, article 4 of this Code shall be exempt from this subsection.**
- (3) The existence of a structure or part thereof which, because of fire, wind or other natural disaster or physical deterioration, is no longer habitable as a*

*dwelling or useful for any other purpose for which it may have been intended. This subsection applies to a structure or part thereof notwithstanding the existence of a proceeding under chapter 42, article 13 of this Code with regard to the structure or the final disposition thereof.*

- (4) The existence of unsanitary or unclean conditions creating a risk of infection, disease or illness in any exterior area of the premises or adjoining property which is under the control of the owner or occupant.*
- (5) The accumulation of stagnant water due to improper or nonfunctioning grading and/or drainage of the premises.*
- (6) The infestation of insects, rodents, vermin or other pests in all exterior areas of the premises. The extermination of the infestation is the responsibility of the occupant of the premises except where the infestation exists in the shared, multiple or common use element of the exterior of the premises, extermination is the responsibility of the owner if different from the occupant.*
- (7) The existence of a vacant and/or abandoned dwelling, garage or other accessory building or structure, unless such building is kept securely locked, the windows thereof are glazed and not broken or neatly boarded up and otherwise protected to prevent entrance.*
- (8) The existence of a partially completed structure unless such structure is in the course of construction in accordance with a valid building permit issued by the city.*
- (9) The storage or parking of a motor vehicle, house trailer, portable living quarters, or similar property in the front yard unless same is in an enclosed structure or on improved driveway at least ten feet from the front line and/or lakeside front property line.*
- (10) The storage or parking of a motor vehicle, house trailer or portable living quarters in the rear yard of any premises, unless the same is in an enclosed structure or on an improved surface. However, storage or parking of a motor vehicle, house trailer or portable living quarters is permitted in the rear yard on unplatted property of two acres or more, provided that the motor vehicle, house trailer or portable living quarters is located at least 40 feet from all property lines.*
- (11) The storage or parking of a dismantled, partially dismantled or inoperable motor vehicle or part thereof, unless kept in a wholly enclosed garage or wholly enclosed structure provided, however, that:
  - a. The owner or occupant of the premises may allow such dismantled, partially dismantled or inoperable motor vehicle to**

remain on an improved driveway for not longer than 48 hours if such motor vehicle is registered in his name.

b. An approved or legally existing junkyard, impound lot, or other approved use for which a certificate of occupancy has been issued per chapter 42, article 4 of this Code shall be exempt from this subsection.

(12) *The existence of a blind or other structure used or to be used in the hunting of waterfowl, unless the blind or structure is removed within 15 days after the close of the season in each year for the hunting of waterfowl.*

(13) *The existence of any ingress or egress leading from a curb cut to a garage, carport, or accessory parking space which is not in conformance with the definition of improved driveway contained in section 24-111; except that a nonconforming ingress or egress which is in existence at the time this amendatory ordinance takes effect, may remain. However, no modification, including widening, narrowing, repaving, reconstructing, or other similar alteration shall be permitted to such nonconforming ingress and egress unless the conditions of the definition of improved driveway are satisfied.*

(b) *Conditions prohibited on public property. [Text in italics is for Council information only and will not be published.] Conditions prohibited on public property. No person shall maintain or permit to be maintained any of the following conditions on any public street or other premises owned or controlled by the city. The existence of any one of the conditions prohibited by this section shall be considered a factor detrimental to community quality.*

(1) *The parking, for a period exceeding eight hours, of a motor vehicle, recreational vehicle or trailer at any time, if such vehicle is inoperable.*

(2) *The parking of a motor vehicle, recreational vehicle or trailer (city owned and/or operated vehicles and/or emergency vehicles excluded) for longer than 48 hours, subject to seasonal parking restrictions as regulated under Michigan Vehicle Code as adopted by the city.*

(3) *The parking of a motor vehicle, recreational vehicle or trailer for purposes of repairing the same, unless such repair is of an emergency nature. In such a case, such emergency repair shall be completed within two hours.*

(4) *The placement or storage of a motor vehicle part or parts, or the accumulation of refuse of any kind at any time.*

- (5) The installation of a permanent improvement which includes but is not limited to, asphalt or concrete pavement, curb, landscape timbers, brick pavers, fencing, basketball posts and/or hoops (or other similar recreation equipment), a gravel or similarly delineated parking area, or other such improvement which requires location on the ground **unless otherwise specifically authorized as provided by Chapter 66**. Planting of trees, shrubs and plants in the public right-of-way as regulated by chapter 66, article 6 of this Code, installation of underground lawn irrigation systems as regulated by chapter 66, article 7 of this Code and residential, business and industrial signage as regulated by chapter 42, article 4, division ~~8~~ **6** of this Code shall be exempt from the prohibition of this subsection, if the requirements of the relevant section are satisfied.

~~(c) *Removal required; notice.* The owner and/or occupant of any real property and/or the owner of personal property which is determined by the director to constitute any of the conditions detrimental to community quality as prohibited in this section shall be notified in writing to remove or eliminate such condition or conditions from such premises within a maximum of ten days after service of notice upon him. Such notice may be served personally or if the owner/occupant is not found by leaving a copy of the notice at the premises where the condition exists or at his residence, with a person of suitable age and discretion. If the owner or occupant cannot be served in the aforementioned manner, the service may be made by any other manner described in section 2-5. Additional time may be granted by the director where, in his opinion, efforts to remove or eliminate such conditions are in progress and a time schedule has been agreed upon for correction. Such notice shall not be required for prosecution of persons under this article.~~

**(c) *Conditions prohibited as nuisances.* The conditions prohibited in Sections 24-113(a) and (b) shall constitute a nuisance. These conditions are specifically declared to be acts, omissions or conditions which annoy, injure or endanger the safety, health, comfort or repose of others; offend decency; interfere with or obstruct or render dangerous any public street, sidewalk, stream or right-of-way; render the public insecure in life or property; or interfere with the comfortable enjoyment of life or property or tend to depreciate the value of the property of others. After investigation, if conditions constituting a nuisance are found to exist, the city may proceed as permitted by this section.**

**(d) *Investigation and voluntary removal; notice.* Upon determining that a nuisance exists on a premises, including the extended front yard as defined in Section 24-111, the director may provide notice as required in Section 24-113(e) to the owner and/or occupants of the premises to remove and eliminate the nuisance. Such notice may be served by first class mail with full postage prepaid thereon to the owner of the property or by posting the notice upon the premises where the nuisance exists in plain view of all**

persons going upon or passing near such premises. Additional time may be granted by the director where, in the opinion of the director, efforts to remove or eliminate such conditions are in progress and a time schedule has been agreed upon for correction. If, in the director's opinion, the nuisance has not been removed or eliminated and continues as a violation, the director may, after approval by the city manager, institute abatement procedures as set forth in Section 24-113(e) below. If, in the director's opinion, the voluntary removal notice would not be practical or produce desired results, the director may, after approval by the city manager, initiate the abatement procedures set forth in Section 24-113(e) below without requesting voluntary removal as provided in this subsection. A claim that the notice to abate was not received does not prevent the initiation of the abatement procedures set forth in Section 24-113(e).

**(e) *Abatement Procedure.***

**(i) *Notice.*** Upon determining that a nuisance exists on premises including the extended front yard as defined in Section 24-111, the director may instruct the city clerk to cause written notice to abate the nuisance to be delivered to the owner/occupant of the premises upon which such nuisance exists. Such notice to abate shall be served personally, or if after diligent and reasonable effort to personally serve the owner or owners of the premises such owner cannot be found, the notice to abate may be served upon an adult occupant of the premises, if any, and by posting upon the premises where the nuisance exists in plain view of all persons going upon or passing near such premises. The notice herein required shall also be delivered by first class mail with full postage prepaid thereon to the owner of the premises.

**(ii) *Ownership of Property.*** For purposes of determining ownership of property, it shall be presumed in evidence that the person or persons to whom the property is assessed on the most recent tax roll of the city is the owner of the premises.

**(iii) *Content of Notice.*** All notices to abate or remove a nuisance shall, at minimum, state the nature of the violation, require that the owner alter, repair, tear down, or remove said nuisance within a maximum of ten (10) days after service of the notice and that failure to abate or remove the nuisance may result in the city abating the nuisance and the cost of any abatement being billed to the property owner and upon failure to make payment may constitute a lien against the property and include interest until paid and collected in the same manner as ad valorem property taxes.

**(iv) *City to abate.*** If, at the expiration of the time limit in said notice to abate, the owner has failed, neglected or refused to comply with the provisions of this section, the city, or its authorized contractor or other designee is authorized and empowered to enter the property and to abate, eliminate and remove the nuisance.

**(v) *Emergency abatement.*** Notwithstanding any provision herein, whenever, in the opinion of the director, there is imminent danger to the public health and safety due to the existence of a nuisance located in the public portion of a front yard as defined in Section 24-111, the director may order the removal, elimination and abatement of said nuisance immediately without notice to the owner.

**(vi) *Cost of abatement; collection; lien.***

**(1)** When the city or its authorized contractor or other designee abates or removes a nuisance as provided herein, the total cost of any abatement shall be billed to the owner of the premises. If the charges are not paid within 30 days of the date of billing, payment shall be deemed delinquent. A minimum cost for the abatement and an administrative fee to be determined by the city council by resolution from time to time will be included in the total cost billed to the owner of the premises.

**(2)** In the event of delinquent payment, the cost to abate shall be a debt of the owner to the city and such charges shall be enforceable as a tax lien in the manner prescribed by the general laws of this state against the property and collected as in the case of general property tax. If the same is not paid prior to the preparation of the next assessment roll of the city, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder. The cost to abate shall include the administrative fee.

**(3)** A claim by an owner that the notice to abate, as required by Section 24-113(d) or (e), was not received is not a defense to an action brought by the city to collect the cost of abatement, impose penalties or assess the delinquent charges as a lien against the property as authorized by this section as long as notice was sent to the owner of record on the city's most recent tax roll and notice was accomplished by any other means allowed in this section.

**(vii) Remedies.** The procedures and remedies set forth in this section may be used in the alternative or in conjunction with any other remedy or procedure authorized by law for the abatement of nuisances, or for the collection of delinquent charges. Delinquent charges which remain unpaid 30 days or longer after statement of such costs have been mailed by first class mail to the person or persons in whose name the property appears on city's last tax roll may be collected in any court having jurisdiction over the matter.

**(viii) Prosecution for violation.** Nothing herein shall prevent the city from prosecuting persons under this section for violation of this section in conjunction with or in lieu of any other remedy provided. The notice required in this section shall not be required for such prosecution.

**(f)(e)** *Refuse containers and city-sponsored pick-up programs. No change. [Text in italics is for Council information only and will not be published.] Refuse containers and city-sponsored pick-up programs. Notwithstanding other provisions in this section, the accumulation of the materials delineated in those sections may be permitted for not more than 72 hours before the material is scheduled to be removed by a city-sponsored leaf pickup or a city-sponsored cleanup program, so long as the accumulation does not create a traffic hazard or endanger persons and property.*

[FOR PUBLICATION]

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 24-113, ARTICLE 5 OF CHAPTER 24  
PROPERTY MAINTENANCE STANDARDS**

**THE CITY OF PORTAGE ORDAINS:**

**That Chapter 24 shall be amended to add the following:**

**ARTICLE 5. SAFETY, SANITATION AND HEALTH.**

**Section 24-113. Property maintenance standards.**

- (a) *Conditions prohibited on private property.* No change.
- (b) *Conditions prohibited on public property.*
  - (1) No change.
  - (2) No change.
  - (3) No change.
  - (4) No change.
  - (5) The installation of a permanent improvement which includes but is not limited to, asphalt or concrete pavement, curb, landscape timbers, brick pavers, fencing, basketball posts and/or hoops (or other similar recreation equipment), a gravel or similarly delineated parking area, or other such improvement which requires location on the ground unless otherwise specifically authorized as provided by chapter 66. Planting of trees, shrubs and plants in the public right-of-way as regulated by chapter 66, article 6 of this Code, installation of underground lawn irrigation systems as regulated by chapter 66, article 7 of this Code and residential, business and industrial signage as regulated by chapter 42, article 4, division 6 of this Code shall be exempt from the prohibition of this subsection, if the requirements of the relevant section are satisfied.
- (c) *Conditions prohibited as nuisances.* The conditions prohibited in Sections 24-113(a) and (b) shall constitute a nuisance. These conditions are specifically declared to be acts, omissions or conditions which annoy, injure or endanger the safety, health, comfort or repose of others; offend decency; interfere with or obstruct or render dangerous any public street, sidewalk, stream or right-of-way; render the public insecure in life or property; or interfere with the comfortable enjoyment of life or property or tend to depreciate the value of the property of others. After investigation, if conditions constituting a nuisance are found to exist, the city may proceed as permitted by this section.

(d) *Investigation and voluntary removal; notice.* Upon determining that a nuisance exists on a premises, including the extended front yard as defined in Section 24-111, the director may provide notice as required in Section 24-113(e) to the owner and/or occupants of the premises to remove and eliminate the nuisance. Such notice may be served by first class mail with full postage prepaid thereon to the owner of the property or by posting the notice upon the premises where the nuisance exists in plain view of all persons going upon or passing near such premises. Additional time may be granted by the director where, in the opinion of the director, efforts to remove or eliminate such conditions are in progress and a time schedule has been agreed upon for correction. If, in the director's opinion, the nuisance has not been removed or eliminated and continues as a violation, the director may, after approval by the city manager, institute abatement procedures as set forth in Section 24-113(e) below. If, in the director's opinion, the voluntary removal notice would not be practical or produce desired results, the director may, after approval by the city manager, initiate the abatement procedures set forth in Section 24-113(e) below without requesting voluntary removal as provided in this subsection. A claim that the notice to abate was not received does not prevent the initiation of the abatement procedures set forth in Section 24-113(e).

(e) *Abatement Procedure.*

(i) *Notice.* Upon determining that a nuisance exists on premises including the extended front yard as defined in Section 24-111, the director may instruct the city clerk to cause written notice to abate the nuisance to be delivered to the owner/occupant of the premises upon which such nuisance exists. Such notice to abate shall be served personally, or if after diligent and reasonable effort to personally serve the owner or owners of the premises such owner cannot be found, the notice to abate may be served upon an adult occupant of the premises, if any, and by posting upon the premises where the nuisance exists in plain view of all persons going upon or passing near such premises. The notice herein required shall also be delivered by first class mail with full postage prepaid thereon to the owner of the premises.

(ii) *Ownership of Property.* For purposes of determining ownership of property, it shall be presumed in evidence that the person or persons to whom the property is assessed on the most recent tax roll of the city is the owner of the premises.

(iii) *Content of Notice.* All notices to abate or remove a nuisance shall, at minimum, state the nature of the violation, require that the owner alter, repair, tear down, or remove said nuisance within a maximum of ten (10) days after service of the notice and that failure to abate or remove the nuisance may result in the city abating the nuisance and the cost of any abatement being billed to the property owner and upon failure to make

payment may constitute a lien against the property and include interest until paid and collected in the same manner as ad valorem property taxes.

(iv) *City to abate.* If, at the expiration of the time limit in said notice to abate, the owner has failed, neglected or refused to comply with the provisions of this section, the city, or its authorized contractor or other designee is authorized and empowered to enter the property and to abate, eliminate and remove the nuisance.

(v) *Emergency abatement.* Notwithstanding any provision herein, whenever, in the opinion of the director, there is imminent danger to the public health and safety due to the existence of a nuisance located in the public portion of a front yard as defined in Section 24-111, the director may order the removal, elimination and abatement of said nuisance immediately without notice to the owner.

(vi) *Cost of abatement; collection; lien.*

(1) When the city or its authorized contractor or other designee abates or removes a nuisance as provided herein, the total cost of any abatement shall be billed to the owner of the premises. If the charges are not paid within 30 days of the date of billing, payment shall be deemed delinquent. A minimum cost for the abatement and an administrative fee to be determined by the city council by resolution from time to time will be included in the total cost billed to the owner of the premises.

(2) In the event of delinquent payment, the cost to abate shall be a debt of the owner to the city and such charges shall be enforceable as a tax lien in the manner prescribed by the general laws of this state against the property and collected as in the case of general property tax. If the same is not paid prior to the preparation of the next assessment roll of the city, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder. The cost to abate shall include the administrative fee.

(3) A claim by an owner that the notice to abate, as required by Section 24-113(d) or (e), was not received is not a defense to an action brought by the city to collect the cost of abatement, impose penalties or assess the delinquent charges as a lien against the property as authorized by this section as long as notice was sent to the owner of record on the city's most recent tax roll and notice was accomplished by any other means allowed in this section.

(vii) *Remedies.* The procedures and remedies set forth in this section may be used in the alternative or in conjunction with any other remedy or procedure authorized by law for the abatement of nuisances, or for the collection of delinquent charges. Delinquent charges which remain unpaid 30 days or longer after statement of such costs have been mailed by first class mail to the person or persons in whose name the property appears on city's last tax roll may be collected in any court having jurisdiction over the matter.

(viii) *Prosecution for violation.* Nothing herein shall prevent the city from prosecuting persons under this section for violation of this section in conjunction with or in lieu of any other remedy provided. The notice required in this section shall not be required for such prosecution.

(f) *Refuse Containers and City Sponsored Pickup Programs.* No change.

Dated: \_\_\_\_\_, 2011

\_\_\_\_\_  
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 \_\_\_\_\_, 2011.

\_\_\_\_\_  
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: 2/8/11  
RLB  
\_\_\_\_\_  
City Attorney

**CITY OF PORTAGE  
RESOLUTION FOR COMMUNITY DEVELOPMENT FEES**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on \_\_\_\_\_, 2010 at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

The following resolution was offered by:

Councilmember: \_\_\_\_\_, and supported by:

Councilmember: \_\_\_\_\_.

WHEREAS, under the Safety, Sanitation and Health Ordinance, Chapter 24, Article 5, Section 24-113(e), Abatement Procedure, City of Portage Code of Ordinances, it is necessary for the Council to establish by resolution a minimum cost for nuisance abatement and an administrative fee for the city to abate nuisances;

NOW, THEREFORE, BE IT RESOLVED: That the following rates are hereby established for nuisance abatement in the City of Portage:

**SERVICE**

Nuisance Abatement authorized  
by City Ordinance Section 24-113(e)

**FEE**

The documented cost of abatement,  
plus a minimum administrative fee of  
\$350, plus \$50 per hour or fraction  
thereof of staff time to complete the  
abatement

YES: Councilmember \_\_\_\_\_

NAYS: Councilmember \_\_\_\_\_

ABSENT: Councilmember \_\_\_\_\_

RESOLUTION DECLARED ADOPTED: \_\_\_\_\_

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of this resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on \_\_\_\_\_, 2010, the original of which is in the official proceedings of the City Council.

\_\_\_\_\_  
James R. Hudson, City Clerk

Approved as to form:

Date 6/24/2010

          
City Attorney

## CITY OF PORTAGE

## COMMUNICATION

---

**TO:** Honorable Mayor and City Council

**DATE:** February 25, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Ordinance Amendment 10-A, Keeping of Chickens and Other Animals

**ACTION RECOMMENDED:** That City Council:

- a. accept Ordinance Amendment 10-A, Keeping of Chickens and Other Animals for first reading and set a public hearing for April 12, 2011;
- b. subsequent to the public hearing, consider approval of Ordinance Amendment 10-A, Keeping of Chickens and Other Animals; and
- c. consider adoption of the resolution establishing a permit fee for the keeping of chickens and other animals.

At the October 7, 2010 meeting, the Planning Commission received a written proposal from Mr. Fernando Costas in support of an amendment to the Zoning Code that would allow the raising of chickens (hens) on all single family residential properties and subsequently voted unanimously to initiate the ordinance amendment process. Since October 2010, the Planning Commission, Community Development Department and the City Attorney have researched and discussed this topic, considering numerous citizen comments both in support and in opposition to the proposed ordinance. At the February 17, 2011 meeting, the Planning Commission voted unanimously to recommend to City Council that Ordinance Amendment 10-A, Keeping of Chickens and Other Animals be approved. Background information about the ordinance proposal, citizen correspondence received and other information is provided in Materials Transmitted in a booklet entitled "Planning Commission Background Information and Citizen Comments – Ordinance Amendment 10-A, Keeping of Chickens and Other Animals."

The recommended ordinance amendment to Zoning Code Section 42-121, Accessory buildings and uses, would establish new animal definitions and allow the occupants of a one-family residential dwelling to keep up to six hen chickens as a locally grown food source subject to several conditions designed to minimize impacts on adjacent properties. Additionally, the proposed ordinance establishes a procedure that would allow the Planning Commission to consider requests to keep more than six chickens and requests to keep other types of fowl or animals either as pets, a locally grown food source, or for educational purposes such as a 4-H project.

Additionally, a permit fee of \$50 is recommended for applications involving only administrative review and approval, while a permit fee of \$100 is recommended for applications that involve Planning Commission approval. A portion of the administrative resources including site inspections, Planning Commission activities (where applicable) and document retention necessary to process these applications would be recovered with the proposed fees, which is consistent with various community development applications.

It is recommended that City Council accept Ordinance Amendment 10-A for first reading, establish a public hearing on April 12, 2011 and, subsequent to the public hearing, consider adoption of the proposed ordinance and associated fee resolution.

Attachment: Communication from the Department of Community Development

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Maurice S. Evans, City Manager

**DATE:** February 25, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Ordinance Amendment 10-A, Keeping of Chickens and Other Animals

At the October 7, 2010 meeting, Mr. Fernando Costas presented a written proposal to the Planning Commission supporting an amendment to the Zoning Code that would allow the keeping/raising of chicken (hens) on all single family residential properties. After discussing the proposal, the Commission voted unanimously to "...initiate an ordinance amendment to consider the keeping/raising of chickens, and other possible poultry/animals, and schedule a public hearing for the November 18, 2010 meeting." Since October 2010, the Planning Commission, Department of Community Development and the City Attorney have extensively researched and discussed this matter. The written proposal submitted by Mr. Costas, along with previous staff reports, Planning Commission meeting minutes and citizen correspondence received have been assembled in booklet form for City Council consideration.

After more than four months of discussion, review of draft ordinance language and consideration of citizen comments, the Planning Commission finalized ordinance language regarding the keeping of chickens and other animals at the February 17, 2011 meeting. A summary of the key provisions of the ordinance that would amend Zoning Code Section 42-121, Accessory buildings and uses, follows:

**Definitions:** Three animal definition categories are established. Domestic animals that are "...normally and customarily kept for pleasure and companionship as household pets..." are permitted as accessory to a residential use. Farm/livestock animals are defined to be allowed as a general agricultural or farm use and, therefore, permitted on unplatted properties with a minimum of 10 acres in single family zones and on unplatted properties with a minimum of five acres in attached and multiple family zones. Exotic animals are defined to include dangerous or vicious animals that are not permitted anywhere in the city, unless approved by the Chief of Police pursuant to Chapter 10-4 (Keeping dangerous animals).

**Number of Chickens (Hens) Permitted:** Occupants of a one-family dwelling may keep up to six chickens on a non-commercial basis and as a locally grown food source for the consumption of eggs or meat. The keeping of roosters is specifically prohibited and requests to keep/raise more than six chickens will require Planning Commission review/approval.

**Permitting and Processing:** All citizens interested in keeping/raising chickens are required to obtain a permit that will be nontransferable with a review fee established by City Council.

**Location on Property and Coop/Pen Requirements:** Chickens are required to be kept in a coop and attached pen that is completely enclosed (all sides and top). During daylight hours, chickens may be allowed to roam outside of the coop/pen within an area completely enclosed by a 6-foot tall opaque fence when supervised. Also, the coop/pen is restricted to a maximum of six feet in height and collectively can not exceed a total of 80 square feet in area. The coop/pen must be setback a minimum of ten feet from all property lines and a minimum of 30-feet from the nearest wall of any adjacent dwelling unit. Additionally, for a lake lot, the coop/pen must maintain a minimum 40-foot rear yard (lakeside) setback. The proposed ordinance included general coop/pen design

requirements and prohibits the use of corrugated metal/fiberglass, sheet metal, plastic tarps, scrap lumber or other similar materials.

Keeping of other Fowl and Animals: The keeping of other types of fowl (ducks, turkeys, guinea hens, etc.) and animals (rabbits, etc.) either as pets, a locally grown food source, or for educational purposes such as a 4-H project may be allowed subject to Planning Commission review and approval.

Nuisance/Sanitation Provisions: General nuisance and sanitation provisions are included in the ordinance to address safe and healthy living conditions, the storage of feed and other items and to address potential concerns related to noise, odors, dust, fumes, sanitation and health. The outdoor slaughter of chickens is also prohibited.

At the conclusion of the public hearing at the February 17, 2011 meeting, the Planning Commission voted unanimously to recommend to City Council approval of Ordinance Amendment 10-A. Attached is a highlight and strike version of the proposed ordinance that illustrates the proposed changes in comparison to the existing Zoning Code language. Additionally, the ordinance for First Reading as recommended by the Planning Commission and City Administration is attached for formal action.

A resolution to establish a permit fee for applications involving the keeping of chickens and other animals also accompanies this report. A permit fee of \$50 is recommended for applications involving only administrative review/approval (the keeping of up to six chickens), while a permit fee of \$100 is recommended for applications involving Planning Commission review/approval (the keeping of more than six chickens or the keeping of other fowl/animals). A portion of the administrative resources, Planning Commission activities and document retention requirements to process these applications would be recovered with the proposed fees.

The Planning Commission transmittal, meeting minutes, Department of Community Development staff report and related materials are attached for your information and review.

- Attachments:   Final ordinance (First Reading)  
                  Fee Resolution  
                  Planning Commission transmittal dated February 25, 2011  
                  Planning Commission meeting minutes dated February 17, 2011  
                  Department of Community Development report dated February 11, 2011

**FIRST READING  
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 Section 42-121 of Chapter 42, Land Development Regulations of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on \_\_\_\_\_, 2011, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on \_\_\_\_\_, 2011, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Section 42-121 of Chapter 42, Land Development Regulations of the Codified Ordinances of Portage, Michigan reads as follows:

That Section 42-121 of Chapter 42, Land Development Regulations, is hereby amended to add Section 42-121(D), Keeping of certain animals as an accessory use, as follows:

THE CITY OF PORTAGE ORDAINS:

**Section 42-121. Accessory buildings and uses.**

- A. General Requirements. No change.**
- B. Accessory Buildings – Residential Zoning Districts. No change.**
- C. Accessory uses. No change.**
- D. Keeping of Certain Animals as an Accessory Use.**

1. Definitions.

All definitions, unless otherwise specifically stated shall, for the purposes of this Section, have the meaning as follows:

- a. **Animal, Domestic.** Any animal normally and customarily kept for pleasure and companionship, that has adapted to human interaction, typically resides within a dwelling and is commonly considered to be domesticated. This category includes those animals typically kept as household pets exclusively by the person(s) occupying the premises. Examples include a dog, cat, rabbit, small domesticated rodent such as hamster, gerbil, ferret and chinchilla, guinea pig, caged bird, non-venomous reptile, amphibian and common aquarium fish, excluding however, exotic animals, farm animals (whether kept for commercial profit or for pleasure and companionship) and animal ferae naturae.

- b. Animal, Farm or Livestock. Any animal that is commonly raised or kept in an agricultural setting, for commercial profit and primarily utilized for the production of food or fiber products. This category includes those animals typically referred to as livestock but not including a domestic animal. Examples include cattle, sheep, goats, pigs, donkeys, mules, poultry and other fowl.
  - c. Animal, Exotic. Any animal that may be dangerous or vicious or that is not customarily kept, confined or cultivated by humans as a domestic animal, or farm animal, but may be used for display with appropriate permits. Examples include marsupials such as kangaroos and opossums, non-human primates such as a monkeys and gorillas, canines and felines (not including domestic dogs and cats), poisonous reptiles and amphibians, and the like.
2. Household Pets. Domestic animals that are normally and customarily kept for pleasure and companionship as household pets as defined in Section 42-121(D)(1)(a) and do not conflict with or violate any other law or regulation of the state, county or city applicable to the keeping of such animal is permitted as accessory to a residential use.
3. Chickens (hens). The purpose of this section is to provide standards and requirements for the keeping of chickens. Roosters are not permitted. It is intended to enable residents to keep up to 6 chickens on a non-commercial basis while limiting and mitigating any potential adverse impacts on surrounding properties and neighborhood. The keeping of up to 6 chickens that are utilized exclusively by the person(s) occupying a one-family dwelling as a locally grown food source for the consumption of eggs or meat, is permitted as accessory to the residential use if all of the following are satisfied:
- a. Chickens shall be kept only in the rear yard secured within a coop and attached pen during non-daylight hours. During daylight hours, chickens may be allowed to roam outside of the coop and pen, if supervised, and only within an area completely enclosed by a 6 foot opaque fence.
  - b. The accessory use, coop and pen shall be designed to provide safe and healthy living conditions for chickens while minimizing adverse impacts on other residents and the neighborhood. The coop and pen shall meet the following additional requirements:
    - (1) The coop and pen shall be setback a minimum of 10 feet from all property lines of adjacent property and be located a minimum of 30 feet from the nearest wall of any adjacent dwelling. Additionally, a coop and pen located on a lake front lot shall have a 40 foot rear yard setback. Public streets and public easements shall not be considered adjacent property lines for purposes of this section.

- (2) The coop and pen shall be a maximum of 6 feet in height and shall not exceed a total of 80 square feet.
  - (3) The use of corrugated metal/fiberglass, sheet metal, plastic tarps, scrap lumber or similar materials is prohibited. The coop and pen must be completely enclosed with a top and/or cover.
  - (4) The coop and pen may be movable only if the dimensional/setback restrictions contained in this section are satisfied.
- c. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access or coming into contact with them.
- d. The outdoor slaughter of chickens is prohibited.
- e. The accessory use shall comply with all provisions of the City of Portage Code of Ordinances pertaining to noise, odors, dust, fumes, sanitation and health or other comparable nuisances to ensure the public health, safety and welfare.
- f. No person shall keep chickens without first securing a permit from the City on a form provided and without paying a permit fee as prescribed by the Portage City Council by resolution. The permit shall be issued by the Director. Such permit may be revoked by the Director if it is determined that any provision of this section is violated.
- g. Establishment of an accessory use and/or accessory building under this section shall not confer a vested right in the provisions contained herein or a right to continue such use. Further, a permit granted under this section is personal to the applicant occupying the dwelling and is not transferable.
- h. This section shall not regulate the keeping of chickens in those areas where a form of agriculture is a permitted principal use or special land use under other sections of this zoning code.
- i. All licensing required by the State of Michigan and Kalamazoo County, as well as all other statutes, ordinances and codes, shall be satisfied.
- j. The following shall require Planning Commission approval:
  - (1) The keeping of more than 6 chickens as an accessory use under this section;
  - (2) The keeping of other fowl or other animals, not dangerous or exotic, as an accessory use; and

- (3) The keeping of chickens in an attached or detached accessory building where the dimensional restrictions contained in this section cannot be satisfied.

k. For paragraph (j)(1) through (3) above, the following shall apply:

- (1) Applicant shall submit written proof to the Planning Commission signed by an owner and occupant, (if different than the owner), of adjacent properties stating that the owner and occupant are aware of the applicant's request and the date, time and place of the meeting. If the applicant is unable to obtain necessary signatures after diligent effort is made, applicant may submit written proof in the form of a signed affidavit that the request and the date, time and place of the meeting has been mailed by first class mail or hand delivered to the owner and occupant's last known address from the City of Portage tax records no later than 15 days prior to the Planning Commission meeting;
  - (2) In its determination, the Planning Commission shall consider the size of the lot or parcel, proximity of surrounding uses, topography, nature of the animal being requested and any other factor relevant to assure public health, safety and welfare;
  - (3) The Planning Commission may attach conditions to the accessory use and/or accessory building deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impact on the surrounding uses of land and any other condition reasonably related to, and consistent with, public health, safety and welfare; and
  - (4) All other applicable conditions and requirements of this section (the keeping of chickens) shall be satisfied.
- l. No permit shall be issued by the Director or the Planning Commission without the written authorization from an owner of the property (if different from the applicant) consenting to the application on a form provided. Once authorization is obtained it shall continue for as long as the applicant is in possession of the property.

PLEASE TAKE FURTHER NOTICE that if the owners of at least twenty percent (20%) of the area of land included in the proposed zoning change, or if the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred feet (100') from any point on the boundary of the land included in the proposed change, excluding public right-of-way or other publicly owned land, file a written protest petition against the proposed amendment presented to the City Council before final legislative action on the amendment, a two-thirds vote of the City Council will be required to pass the amendment.

Dated: \_\_\_\_\_

\_\_\_\_\_  
James R. Hudson, City Clerk

APPROVED AS TO FORM.

DATE 3/4/11

*Ray*

\_\_\_\_\_  
**CITY ATTORNEY**

**CITY OF PORTAGE  
RESOLUTION FOR PERMIT FEE UNDER SECTION 42-121 OF CHAPTER 42  
LAND DEVELOPMENT REGULATIONS**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on \_\_\_\_\_, 2011 at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

The following resolution was offered by:

Councilmember: \_\_\_\_\_, and supported by:

Councilmember: \_\_\_\_\_.

WHEREAS, under Section 42-121 of Chapter 42, Land Development Regulations, it is necessary for the Council to establish by resolution the permit fee for the keeping of chickens and other animals as an accessory use;

NOW, THEREFORE, BE IT RESOLVED: That the permit fee of \$50 is hereby established for applications involving the keeping of up to six chickens, and a permit fee of \$100 is hereby established for applications involving the keeping of more than six chickens or other types of fowl or animals where Planning Commission review and approval is required.

YES: Councilmember \_\_\_\_\_

NAYS: Councilmember \_\_\_\_\_

ABSENT: Councilmember \_\_\_\_\_

RESOLUTION DECLARED ADOPTED: \_\_\_\_\_

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of this resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on \_\_\_\_\_, 2011, the original of which is in the official proceedings of the City Council.

\_\_\_\_\_  
James R. Hudson, City Clerk

Approved as to form:

Date 2/28/11

[Signature]

City Attorney

**TO:** Honorable Mayor and City Council

**FROM:** Planning Commission

**DATE:** February 25, 2011

**SUBJECT:** Ordinance Amendment 10-A, Keeping of Chickens and Other Animals

At the request of a Portage resident (Mr. Fernando Costas), the Planning Commission on October 7, 2010 initiated consideration of an ordinance amendment that would allow the keeping/raising of chicken (hens) on all single family residential properties. Since October 2010, the Planning Commission has reviewed and discussed various aspects of the proposed ordinance. A public hearing to formally consider Ordinance Amendment 10-A was first convened during the November 18, 2010 Planning Commission meeting. Seventeen citizens spoke in support of the ordinance, while seven citizens spoke in opposition during this initial meeting. The public hearing was reconvened again on December 16, 2010 where seven citizens spoke in support; January 6, 2011 where nine citizens spoke in support and three citizens spoke in opposition; February 3, 2011 where three citizens spoke in support and February 17, 2011 where one citizen spoke in support.

During the February 17<sup>th</sup> meeting, the Planning Commission finalized ordinance language that would amend Section 42-121 (Accessory buildings and uses) of the Zoning Code and establish three new animal category definitions (domestic animal, farm/livestock animal and exotic animal) and allow the occupant of a single-family residential dwelling to keep up to six hen chickens as a locally grown food source subject to several conditions intended to minimize impacts on adjacent properties. The ordinance also establishes a process whereby a citizen could request to keep more than six chickens or request to keep other fowl or animals subject to Planning Commission review and approval.

After more than four months of consideration and a thorough review of the ordinance amendment and related issues, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to recommend to City Council that Ordinance Amendment 10-A, Keeping of Chickens and Other Animals, be approved. The motion was unanimously approved.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



James Cheesebro  
Chairman

DRAFT

**PUBLIC HEARINGS:**

1. **Final Report: Ordinance Amendment #10-A, Keeping of Hens and Other Animals.** Mr. Forth summarized the February 11, 2011 staff report regarding an amendment to the Zoning Code, initiated by the Planning Commission in response to a request from a Portage resident, to raise/keep chickens and other animals in residential areas. Mr. Forth summarized the ordinance changes requested by the Commission during the February 3, 2011 meeting including: 1) Removed reference that would allow the occupants of a “two family dwelling” to keep chickens; 2) Allow a resident to keep up to six chickens without Planning Commission review/approval; 3) Allow chickens to roam in the rear yard outside of the coop/pen, if the rear yard area is enclosed by a 6-foot tall opaque fence and the chickens are supervised; and 4) Require authorization from the property owner (if the occupant/applicant is not the owner) for all applications involving the keeping of chickens and require both the owner and occupant (if different than the owner) of adjacent properties to receive notification for applications requiring Planning Commission consideration. Mr. Forth also referred the Commission to the final agenda packet and the February 17<sup>th</sup> email communication and Powerpoint presentation from Ms. Katie Drenth supporting the proposed ordinance.

Commissioner Stoffer suggested a slight change to Section 42-121.D.3.a that would not require the coop and pen to be located within and completely enclosed by a 6-foot tall opaque fence to allow the chickens to roam. The Commission discussed the intent of the proposed language change that would allow a citizen to enclose a separate area within the rear yard of the site with a 6-foot tall opaque fence where the chickens could roam outside of the coop and pen. If the Commission concurs on the ordinance change, Attorney Brown asked that the Commission allow him and staff to develop specific language to address the intent of the change. A motion was then made by Commissioner Stoffer, seconded by Commissioner Dargitz, to modify Section 42-121.D.3.a of the proposed ordinance language as discussed. After a brief discussion, the motion was approved 6-2 with Commissioner Welch and Chairman Cheesebro voting no.

Chairman Cheesebro reconvened the public hearing. One citizen, Fernando Costas (7639 Harvest Lane), spoke in support of the proposed ordinance. Mr. Costas stated he supports the proposed change that would allow chickens to roam outside of the coop and pen, in a smaller fenced enclosed area. Mr. Costas requested the Planning Commission consider increasing the maximum coop/pen height requirement above 6-feet to allow easier access for taller people to clean the coop/pen area. After a brief discussion, the Commission agreed to retain the maximum 6-foot tall coop/pen requirement citing numerous coop design examples that are less than 6-feet in height. Mr. Costas thanked the Commission for their efforts over the past several months in the ordinance development process. No additional citizens spoke during the public hearing. A motion was then made by Commissioner Welch, seconded by Commissioner Pearson, to close the public hearing. The motion was unanimously approved. After additional discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to recommend to City Council approval of Ordinance Amendment #10-A, Keeping of Hens and Other Animals with the proposed language change to Section Section 42-121.D.3.a, as previously discussed. The motion was unanimously approved. Commissioner Welch thanked staff for their hard work and research with the ordinance development and also thanked Mr. Costas for his patience during the process.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

TO: Planning Commission

DATE: February 11, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Final Report: Ordinance Amendment #16-A, Keeping of Hens and Other Animals

## I. INTRODUCTION/BACKGROUND

Consideration of this subject began on October 7, 2010 when a proposal was presented to the Planning Commission supporting an amendment to the Zoning Code that would allow the keeping/raising of chicken (hens) on all single family residential properties. The Commission has reviewed and discussed this matter since October 2010. The written proposal, citizen communications, previous staff reports, Commission meeting minutes and related information is provided in a separate booklet. The following summary of activities and Planning Commission actions is provided in chronological order.

October 1, 2010 Department of Community Development report – Original request received from Mr. Fernando Costas with ordinance language samples used by other communities, suggested language and a May 2008 University of New Mexico study entitled Residential Urban Chicken Keeping: An Examination of 25 Cities. The staff report included preliminary fact finding information for Commission consideration. Mr. Costas and seven additional citizens spoke in support of the ordinance amendment during the October 7<sup>th</sup> meeting. The action approved by the Planning Commission at this meeting was to "...initiate an ordinance amendment to consider the keeping/raising of chickens, and other possible poultry/animals, and schedule a public hearing for the November 18, 2010 meeting."

November 12, 2010 Department of Community Development report – A summary of existing City of Portage ordinances/regulations pertaining to the keeping of animals, past Zoning Board of Appeals actions and City Attorney opinions, survey of community ordinances involving the regulation of chickens and other animals, ordinance alternatives and options and a proposed "working draft" ordinance were provided. Seventeen citizens spoke in support of the ordinance amendment and seven citizens spoke in opposition during the November 18<sup>th</sup> meeting. The Commission discussed various issues including permitting and processing, chickens as pets, coop/enclosure requirements, number of chickens allowed and limiting the ordinance to chickens only.

December 10, 2010 Department of Community Development report – Updated information, research and options were provided regarding the following discussion topics: permitting and processing; chickens as pets; "specified fowl" and other animals; location on lot/parcel and coop/enclosure requirements; number of chickens allowed and Michigan Right-to-Farm Act applicability. Seven citizens spoke in support of the ordinance amendment during the December 16<sup>th</sup> meeting. It was determined that additional discussion and consensus was necessary by the full Commission and the public hearing was again adjourned.

December 30, 2010 Department of Community Development report – Nine citizens spoke in support of the proposed ordinance, while three citizens spoke in opposition during the January 6<sup>th</sup> meeting. The Commission continued discussion of the proposed ordinance and reached consensus on the following issues: 1) Chickens should not be considered pets; 2) Lot size requirements based on the zoning district with additional consideration for substandard and/or lakefront lots; 3) Allowance for four to six chickens (hens only) with additional chickens or other animals subject to Planning Commission review/approval; 4) General coop/enclosure design standards; 5) A one-time permit fee to ensure dissemination of information and ordinance requirements and assist with compliance; 6) Rear yard placement and minimum coop/enclosure

setbacks from property line (10-feet) and adjacent residences (30-feet); 7) Confinement of chickens to the coop/pen enclosure; and 8) Inclusion of sanitation related provisions. The Commission adjourned the public hearing to the February 3, 2011 meeting.

January 28, 2010 Department of Community Development report – Three citizens spoke in support of the ordinance amendment while expressing concerns over certain restrictions contained in the draft language. The Commission continued discussion of the proposed ordinance and made the following changes to the draft language: 1) Removed reference that would allow the occupants of a “two family dwelling” to keep chickens; 2) Allow a resident to keep up to six chickens without Planning Commission review/approval; 3) Allow chickens to roam in the rear yard outside of the coop/pen, if the rear yard area is enclosed by a 6-foot tall opaque fence and the chickens are supervised; and 4) Require authorization from the property owner (if the occupant/applicant is not the owner) for all applications involving the keeping of chickens and require both the owner and occupant (if different than the owner) of adjacent properties to receive notification for applications requiring Planning Commission consideration. The Commission adjourned the public hearing to the February 17, 2011 meeting.

## **II. REVISED ORDINANCE LANGUAGE**

The following paragraphs summarize major provisions of the proposed ordinance that would amend Section 42-121 (Accessory buildings and uses) of the Zoning Code:

Definitions: Section 42-121.D.1 establishes three animal categories (domestic animals, farm/livestock animals and exotic animals). Section 42-121.D.2 also states domestic animals that are “...normally and customarily kept for pleasure and companionship as household pets...” are permitted as accessory to a residential use. Farm/livestock animals are defined to be allowed as a general agricultural or farm use and, therefore, permitted on unplatted properties with a minimum of 10 acres in single family zones and on unplatted properties with a minimum of five acres in attached and multiple family zones. Exotic animals are defined to include dangerous or vicious animals that are not permitted anywhere in the city, unless approved by the Chief of Police pursuant to Chapter 10-4 (Keeping dangerous animals).

Number of Chickens (Hens) Permitted: The ordinance language now states that occupants of a one-family dwelling may keep up to six chickens on a non-commercial basis and as a locally grown food source for the consumption of eggs or meat (Section 42-121.D.3). The keeping of roosters is specifically prohibited and requests to keep/raise more than six chickens will require Planning Commission review/approval (Section 42-121.D.3.j).

Permitting and Processing: Section 42-121.D.3.f requires all citizens interested in keeping/raising chickens to obtain a permit that will be nontransferable with a nominal review fee established by City Council.

Location on Property and Coop/Pen Requirements: Chickens are required to be kept in a coop and attached pen that is completely enclosed (all sides and top). The language would allow chickens to roam outside of the coop/pen in the rear yard if the area is enclosed by a 6-foot tall opaque fence and the chickens are supervised. Section 42-121.D.3.a of the ordinance language has been revised.

Also, the coop and pen is restricted to a maximum of six feet in height and collectively can not exceed a total of 80 square feet in area. Restricting the coop/pen to a maximum of 80 square feet in area and six feet in height allows flexibility in design while minimizing the size, appearance and related visual impacts on adjacent properties. The coop/pen must be located in the rear yard and must be setback a minimum of ten feet from all property lines and a minimum of 30-feet from the nearest wall of any adjacent dwelling unit. Consistent and uniform setback standards for non-lake lots is considered appropriate, while an increased rear yard setback for lake lots is necessary to help preserve lake view for adjacent residents. Section 42-121.D.3.b.1 requires a coop/pen to additionally maintain the established a 40-foot rear yard (lakeside) setback when located on a lake lot.

General coop/pen design requirements and the prohibition of the use of corrugated metal/fiberglass, sheet metal, plastic tarps, scrap lumber or other similar materials are specified in Section 42-121.D.3.b.3.

Finally, as information for the Commission, Chapter 10 (Animals) of the Code of Ordinances contains requirements for dogs, cats and other animals including poultry to be maintained on the premises of the owner and prohibits “running at large.” However, this provision does not address appearance, noise and related issues and potential impacts specifically associated with the keeping of chickens, or other different animals kept as a locally-grown food source, in platted residential neighborhoods.

Keeping of other Fowl and Animals: Since keeping of other types of fowl (ducks, turkeys, guinea hens, etc.) and animals (rabbits, etc) either as pets, a locally grown food source, or for educational purposes such as a 4-H project is known to occur in urban/suburban communities and can be anticipated in Portage, Section 42-121.D.3.j establishes a process whereby a citizen can request the Planning Commission permit the keeping/raising of other fowl or animals not considered dangerous or exotic on a case-by-case basis.

Nuisance/Sanitation Provisions: General nuisance and sanitation provisions are included in the ordinance language. Section 42-121.D.3.b requires the use, coop and pen to be designed to provide “...safe and healthy living conditions for chickens while minimizing adverse impacts on other residents and the neighborhood.” Section 42-121.D.3.c. addresses the storage of feed and other items, while Section 42-121.D.3.d prohibits the outdoor slaughter of chickens. Finally, Section 42-121.D.3.e states that the use “...shall comply with all provisions of the City of Portage Code of Ordinances pertaining to noise, odors, dust, fumes, sanitation and health...”

### III. RECOMMENDATION

It is recommended that the Planning Commission review the ordinance language, reconvene the public hearing and accept public comment during the February 17, 2011 meeting, and then recommend to City Council approval of Ordinance Amendment #10-A, Keeping of Hens and Other Animals.

Attachments: Ordinance Amendment

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** March 3, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Senior Citizens Advisory Board Ordinance and Rules Revisions

**ACTION RECOMMENDED:** That City Council:

- a. accept the proposed amendments to Chapter 2, Article 7, Section 2-293 of the Code of Ordinances for the Senior Citizens Advisory Board to lower the age for advisory board members and Section 2-297 to clarify distribution of records for first reading;
- b. subsequent to the second reading, consider for adoption on March 22, 2011, and;
- c. consider approval of the revised Senior Citizen Advisory Board rules of operation

The Senior Citizen Advisory Board recently performed a review of the city Code of Ordinances relating the Advisory Board and board rules. Per the attached communication from Senior Citizens Advisory Board Chair Ruth Ann Meyer, the board noted two sections of the code that they have recommended for amendments:

- Chapter 2, Article 7, Section 2-239 – Alter the minimum age for Senior Citizen Advisory Board appointment from 55 to 50. This will make the age consistent with the age requirement for Senior Center membership. In order to promote more participation at the Senior Center, membership age was lowered from 55 to 50 several years ago. The Advisory Board believes that all Senior Center members should be eligible to participate on the Board.
- Chapter 2, Article 7, Section 2-297 – Clarify that the written record of all business and transactions (minutes) of the board be forwarded to City Council following approval by the board. The Senior Citizen Advisory Board must approve meeting minutes prior to submittal to City Council.

Furthermore, the Senior Citizen Advisory Board reviewed the rules of operation and noted several revisions necessary to bring the rules to current practice. Consistent with city ordinance, all rules must be approved by City Council. With the exception of one amendment in 1998 altering the meeting day, no rule revisions have been approved by City Council since the original rules were adopted in 1993. A copy of the original rules and the proposed rules recently adopted by the Senior Citizen Advisory Board are attached for further City Council information. The

City Administration has reviewed the proposed code and rule amendments from the Senior Citizen Advisory Board and concurs with the recommendations.

It is recommended that City Council accept for first reading amendments to Chapter 2, Article 7, Section 2-239 and 2-297 of the Code of Ordinances for the Senior Citizens Advisory Board and consider adoption on March 22, 2011, as well as approve the revised Senior Center Advisory Board rules of operation.

Attachments

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** The Honorable Mayor Strazdas and City Council **DATE:** Feb. 16, 2011  
**FROM:** Senior Citizen Advisory Board, Ruth Ann Meyer, Chair *RA Meyer*  
**SUBJECT:** Request to amend City of Portage Senior Center Advisory Board Rules of Operation and Related Ordinances

In accordance with City Ordinance SEC 2-295, “the senior citizens advisory board shall prescribe rules of operation subject to the approval of the council and provide for regular meetings of the board.” The Board is submitting a revised Rules of Operation that was approved by a unanimous vote of members at the February 16, 2011 meeting of the Senior Citizens Advisory Board.

The original Senior Citizens Advisory Board Rules of Operation were adopted in 1993 and last amended in 1998. In light of the fact the original Rules are almost two decades old, with only one amendment from over ten years ago, the Advisory Board felt that the appropriate action would be to submit a completely revised Rules of Operation that does incorporate much of the original content from 1993 but at the same time features verbiage that more accurately reflects operations of the Senior Citizens Advisory Board as it has evolved over the past 18 years.

Additionally the Senior Citizens Advisory Board would like to request the following changes be considered to the existing Code of Ordinance:

**SEC. 2-293. Membership:** In section (a), first sentence, change “...at least 55 years of age...” to “... at least 50 years of age...”.

The minimum age to be eligible for Portage Senior Center membership was lowered to 50 approximately five years ago. We suggest the eligible minimum age to serve on the Senior Citizen Advisory Board be consistent with membership eligibility.

**SEC. 2-297. Records:** First sentence, change “...shall be forwarded to the city council following each meeting of the board” to “shall be forwarded to the city council upon approval by the board”.

**CITY OF PORTAGE SENIOR CENTER ADVISORY BOARD**

**Rules of Operation**

**ARTICLE I**

**APPOINTMENTS, ELECTIONS, TERMS, COMPENSATION**

- A. All members of the Advisory Board shall be appointed by a majority of members of the City Council. All members are appointed for terms of two (2) years. Individuals may be reappointed four (4) consecutive times, but may not serve longer than ten (10) years. Persons may reapply for the board appointment after an absence of one year. Members serve without compensation.
- B. All letters of resignation are to be submitted to the Chairman and/or Secretary who will inform the City Clerk.
- C. In the event of death, resignation, or removal, Advisory Board members will review the applications on hand and make a recommendation to City Council of individuals qualified and willing to serve. City Council shall appoint a board member from the applicants on hand and that person will complete the term of the person who has resigned.

**ARTICLE II**

**ORGANIZATION**

- A. The Officers are elected by majority vote at the November meeting of the board.
- B. The Chairman shall preside at all meetings and appoint all committees with the approval of the board.
- C. The Vice-Chairman shall serve as Chairman in the absence of or at the request of the Chairman and may act as an ex-officio member on all committees.
- D. The Secretary shall record the minutes and activities of all regular and special meetings and shall conduct all correspondence.

- E. The Secretary shall keep the records of its resolutions and recommendation and a copy shall be available at the Portage Senior Center for review by citizens.

**ARTICLE III**

**MEETINGS**

- A. The Senior Citizen Advisory board shall meet on the first (1st) Wednesday of the month at 2:30 p.m. at the Senior Center. If, due to scheduling conflicts, the meeting place has to be changed, the meeting will take place at Portage City Hall. Members will receive notification of the meeting one (1) week in advance.
- B. Special meetings may be called on a two- (2) day notice by the Chairman.

**ARTICLE IV**

**POWERS & DUTIES**

- A. The Advisory board shall be charged with the responsibility of representing the concerns and needs of the senior citizens of the City of Portage and serve in an advisory capacity to the City Council and to Senior Center staff.
- B. The board shall recommend programs and priorities for service directly related to the needs of the senior citizens.
- C. The board shall forward minutes of its meetings to the City Council for review and to the City Clerk for permanent file.

Rules of the Advisory Board may be amended by the Board upon approval of the Portage City Council.

ADOPTED BY THE SENIOR CITIZEN ADVISORY BOARD ON THIS 4<sup>th</sup> DAY OF August, 1993.

8  
Yes

0  
No

**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** December 9, 1998

**FROM:** Michael L. Stampfler, City Manager

**SUBJECT:** Senior Citizens Advisory Board Rules of Operation

**ACTION RECOMMENDED:** That City Council approve a modification to the Rules of Operation of the Senior Citizen Advisory Board changing the meeting date from the first Wednesday to the third Wednesday of the month.

The Senior Citizens Advisory Board has made a request to amend the Rules of Operation (Article IIIA) changing the meeting date from the first Wednesday to the third Wednesday. The City Administration recommends approval of this change.

6.3

# COMMUNICATION



**Date:** December 7, 1998

**To:** The Honorable Mayor Gary Brown and City Council

**From:** Senior Citizen Advisory Board, Roger Bullock, Chair *RB*

**Subject:** Request to amend CITY OF PORTAGE SENIOR CENTER  
ADVISORY BOARD Rules of Operation

We would like to Amend Article III A. " ... first (1st) Wednesday... " to " ... third (3rd) Wednesday ..."

Several times in the past few months the Senior Citizen Advisory Board had to meet the on the second or third Wednesday of the month. We have discovered that the third Wednesday of the month is the best time for our meetings.

Part of our meeting is a discussion of the Director's report on the prior month's activities and attendance. It is extremely difficult for the Director to have the report completed if the first Wednesday of the month is one of the first 3 days of the month.

c Michael L. Stampfer, City Manger  
Josephine Arnold, Senior Citizens Advisory Board Liaison

## Senior Citizens Advisory Board Rules of Operation

### **Article I      Resignation of Members**

- A. All letters of resignation are to be submitted to the chairperson. The Chairperson will immediately inform the City Clerk, and the PSC Manager, of the resignation. In the event of the resignation or death of a board member, the City Council shall appoint a board member from the qualified applicants on hand, and that person will complete the term of office, or an alternate member may be appointed to complete this vacant term of office.**

### **Article II     Organization**

- A. There are three (3) officers of the senior center Advisory Board: the Chairperson, Vice Chairperson, and Secretary. Other officers may be established by the Chairperson, if needed. Officers of the advisory board are elected by a majority vote at the October meeting of the board.**
  
- B. The Chairperson shall preside at all meetings and appoint all committees with the approval of the board. The Chairperson may appoint board members to act as a liaison to other committees or groups (Friends of the PSC, Trip Committee, etc). The Vice Chairperson shall serve as Chairperson in the absence of, or at the request of, the Chairperson and may act as an ex-officio member on all committees.**
  
- C. The Secretary shall record the minutes and activities of all regular and special meetings, and maintain records of meeting minutes, resolutions, and recommendations. Within 10 days the PSC Secretary sends copies of approved meeting minutes to the PSC management and the City Clerk for the permanent file and for distribution to the City Council.**

### **Article III Meetings**

- A. The Senior Center Advisory Board shall meet on the third (3<sup>rd</sup>) Wednesday of the month at 2:30 PM, at the Senior Center, or other site if decided by the Chairperson. Members of the Advisory Board will receive notification of the meeting (including agenda and unapproved minutes) one week in advance of the meeting.**
  
- B. Alternate members actively participate in all board discussions and committees. An alternate board member will assume voting privilege in the event of an absent regular board member.**
  
- C. Special meetings may be called in accordance with the Open Meetings Act.**
  
- D. Advisory Board members are expected to notify the Chairperson if they are unable to**

**attend a meeting. If a board member exceeds three (3) unexcused absences the Chairperson will notify the City Clerk for initiation of removal of the member from the board.**

- E. The Advisory Board chairperson may authorize the electronic mail approval of minutes of the Advisory Board meeting.**

**Article IV Powers and Duties**

- A. The board, serving in an advisory capacity, has the responsibility of representing the concerns and needs of the senior citizens of the City of Portage to the Senior Center Staff and to the City Council.**
- B. The board shall recommend programs, activities, and priorities of service directly related to the needs of the senior citizens.**
- C. The board shall forward approved minutes of its meetings to the City Council for review, and to the City Clerk for permanent file.**
- D. The Chairperson of the PSC Advisory Board is responsible for an annual presentation of a summary of the board activities to the City Council.**
- E. In cooperation with the Advisory Board members, the Chairperson is responsible for preparing annual topics of study, goals and objectives, and updates for the City Council.**

**The Rules of Operation of the Advisory Board may be amended by the Board upon approval of the Portage City Council**

**ADOPTED BY THE SENIOR CITIZEN ADVISORY BOARD ON**

**16th DAY OF FEBRUARY, 2011**

**YES \_\_\_X\_\_\_NO \_\_\_\_\_**

[COUNCIL REVIEW VERSION  
NOT FOR PUBLICATION]

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 2-293 AND SECTION 2-297, ARTICLE 7 OF CHAPTER 2  
ADMINISTRATION

THE CITY OF PORTAGE ORDAINS:

That Chapter 2, Article 7, Section 2-293 and 2-297 shall be amended as follows:

Section 2-293. **MEMBERSHIP; APPOINTMENT AND TERM OF MEMBERS;  
ALTERNATE MEMBERS.**

(a) The senior citizens advisory board shall consist of nine electors of the city at least ~~55~~ 50 years of age appointed by the council. The members shall be appointed by the council for terms of three years, so arranged and appointed that the terms of three of the members shall commence on October 1 of each year.

(b) In addition, the council may, if it so wishes, appoint not more than two alternate members for two-year terms. An alternate member may be called on to sit as a regular member of the board in the absence of a regular member. An alternate member may also be called on to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reason of a conflict of interest. In such case, the alternate member shall serve until a final decision is made. An alternate member shall have the same voting rights as a regular member of the board.

Section 2-297. **RECORDS.**

The secretary of the senior citizens advisory board shall keep a correct written record of all business and transactions of the board, a copy of which shall be forwarded to the city council upon approval by following each meeting of the board. The records shall be filed with the city clerk and shall be a public record available for inspection.

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 \_\_\_\_\_, 2011.

\_\_\_\_\_  
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: 2/23/11

RLB  
\_\_\_\_\_  
City Attorney

[PUBLICATION VERSION]

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 2-293 AND SECTION 2-297, ARTICLE 7 OF CHAPTER 2  
ADMINISTRATION**

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(b) In addition, the council may, if it so wishes, appoint not more than two alternate members for two-year terms. An alternate member may be called on to sit as a regular member of the board in the absence of a regular member. An alternate member may also be called on to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reason of a conflict of interest. In such case, the alternate member shall serve until a final decision is made. An alternate member shall have the same voting rights as a regular member of the board.

**Section 2-297. RECORDS.**

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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 \_\_\_\_\_, 2011.

\_\_\_\_\_  
James R. Hudson, City Clerk

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

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** February 25, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue

**ACTION RECOMMENDED:** That City Council consider re-approving the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue

Attached is a report from the Department of Community Development Director concerning the final plan submitted by H & G II, Incorporated, to construct the initial phase of the Greenspire Retail project, which involves the construction of a one-story 13,400 square foot retail building and associated site improvements. The project is located along the south side of West Centre Avenue, across from Cooley Drive, within the Greenspire Planned Development, an approximate 102 acre area that was rezoned on April 13, 2010. Consistent with Section 42-375 of the Zoning Code, final plans in a PD, planned development zoning district require City Council approval after the review and recommendation of the Planning Commission.

As background, during the July 1, 2010 Planning Commission meeting, the Final Plan for Greenspire Retail (Phase I) was reviewed and recommended for approval. City Council subsequently reviewed and approved the final plan at the July 13, 2010 regular meeting. Section 42-375(J) of the PD, planned development ordinance of the Zoning Code stipulates that if development does not begin within 120 days of approval, the final plan must be submitted for re-approval. Since more than 120 days have elapsed, the applicant is requesting re-approval. According to the applicant, construction of the project was delayed due to economic and construction related issues, but the project is now ready to move forward. The final plan has been resubmitted with no changes from the July 2010 approved plan.

In a February 11, 2011 report to the Planning Commission, the Department of Community Development recommended that the final plan be re-approved as it is consistent with the Zoning Code and Greenspire Planned Development tentative plan including maps and narrative as approved by City Council on April 13, 2010. The Planning Commission reviewed the project during the February 17, 2011 meeting and voted unanimously to recommend re-approval of the final plan.

It is recommended that City Council re-approve the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue.

Attachment: Department of Community Development Communication

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Maurice S. Evans, City Manager

**DATE:** February 25, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue.

A final plan has been submitted by H & G II, Incorporated, to construct Phase I of the Greenspire Retail project that involves a one-story, 13,400 square foot retail building and related improvements. This final plan was previously reviewed and approved by City Council on July 13, 2010, after review and recommendation by the Planning Commission. Since the development project did not begin within 120 days, the final plan approval expired. Consistent with PD, planned development section of the Zoning Code, the applicant has resubmitted the final plan for re-approval with no changes from the original July 2010 approval.

As background, the Greenspire PD rezoning and tentative plan were approved by City Council on April 13, 2010 with modifications. The land area along West Centre Avenue is proposed to be developed in three phases of retail and office uses while the remaining interior land is planned for three additional phases of multiple family residential apartments. The first phase involves the proposed one-story, 13,400 square foot retail building and associated site improvements. Access to the site will be provided through a full service driveway from West Centre Avenue, opposite Cooley Drive with appropriate modifications to the West Centre Avenue boulevard. Vehicular connections between the retail parking lot and existing Greenspire Apartment complex will be accomplished. Storm water collection/retention will be completed consistent with applicable requirements. The applicant is proposing to balance the site by using excess soil from the western portion of the property to fill in the lower area to the east. An 80 foot "vegetative buffer" area will be maintained until such time the applicant is ready to proceed with further development. Access to West Centre Avenue via Shirley Court will be maintained. Finally, the applicant is proposing to construct 70 spaces (116 required) and bank 54 additional parking spaces in greenspace consistent with Section 42-520.N (Deferred Parking) of the Zoning Code. Staff and the Planning Commission support this proposal as a means to preserve green/open space until such time as parking spaces may be needed.

In a staff report dated February 11, 2011, the Department of Community Development recommended re-approval of the Final Plan for Greenspire Retail (Phase I). The final plan is consistent with the tentative plan and narrative approved by City Council on April 13, 2010. At the February 17, 2011 meeting, the Planning Commission voted unanimously to also recommend that City Council re-approve the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue. Attached find the Planning Commission transmittal and meeting minutes, Department of Community Development communication and related materials.

**Attachments:** Planning Commission transmittal dated February 25, 2011 with meeting minutes  
Department of Community Development report dated February 11, 2011 with attachments

**TO:** Honorable Mayor and City Council  
**FROM:** Planning Commission  
**DATE:** February 25, 2011  
**SUBJECT:** Final Plan: Greenspire Retail (Phase I), 3201 West Centre Avenue.

During the February 11, 2011 meeting, the Planning Commission reviewed and discussed the Final Plan for the above captioned development project. Mr. Greg Dobson of H & G II, Inc. was present to support the proposed project. No citizens spoke in regards to the proposed final plan.

Following a brief discussion, a motion was offered by Commissioner Patterson, seconded by Commissioner Stoffer, that the Planning Commission recommend to City Council the final plan for Greenspire Retail (Phase I), 3201 West Centre Avenue, be re-approved. The motion was unanimously approved.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cheesebro". The signature is written in a cursive, flowing style.

James Cheesebro  
Chairman

## PLANNING COMMISSION

DRAFT

February 17, 2011

The City of Portage Planning Commission meeting of February 17, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Five citizens were in attendance.

### **MEMBERS PRESENT:**

Miko Dargitz, Wayne Stoffer, Paul Welch, Jim Pearson, Mark Siegfried, Bill Patterson, Allan Reiff, and Chairman James Cheesebro.

### **MEMBERS ABSENT:**

None.

### **MEMBERS EXCUSED:**

Rick Bosch.

### **IN ATTENDANCE:**

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

### **PLEDGE OF ALLEGIANCE:**

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

### **APPROVAL OF MINUTES:**

Chairman Cheesebro referred the Commission to the February 3, 2011 meeting minutes. A motion was made by Commissioner Welch, seconded by Commissioner Patterson, to approve the minutes as submitted. The minutes were unanimously approved.

### **SITE/FINAL PLANS:**

1. Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue. Mr. West summarized the staff report dated February 11, 2011 involving a final plan submitted by H & G II, Inc. to construct Phase I of the retail portion of the Greenspire Planned Development (PD). Mr. West stated Phase I involves a 13,400 square foot retail building and associated site improvements along the eastern portion of the subject site, opposite Cooley Drive. Mr. West indicated the plan was previously reviewed and recommended for approval by the Commission on July 1, 2010 and subsequently approved by City Council on July 13, 2010. Consistent with the PD ordinance and since construction did not begin within 120 days of final plan approval, Mr. West stated the final plan has expired. Mr. West indicated the applicant has resubmitted the final plan with no changes from the previously approved plan. Mr. West stated the final plan is consistent with the Greenspire PD tentative plan approved by City Council in April 2010 and was recommended for re-approval.

Mr. Greg Dobson of H & G II, Inc. was present to support and explain the retail project. Mr. Dobson stated the project was delayed due to a variety of factors, however, now the project is ready to move forward and construction is expected to begin within 60 days. No citizens spoke in regard to the development project. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Stoffer, to recommend to City Council the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue, be re-approved. The motion was unanimously approved.

DRAFT

**PUBLIC HEARINGS:**

1. Final Report: Ordinance Amendment #10-A, Keeping of Hens and Other Animals. Mr. Forth summarized the February 11, 2011 staff report regarding an amendment to the Zoning Code, initiated by the Planning Commission in response to a request from a Portage resident, to raise/keep chickens and other animals in residential areas. Mr. Forth summarized the ordinance changes requested by the Commission during the February 3, 2011 meeting including: 1) Removed reference that would allow the occupants of a “two family dwelling” to keep chickens; 2) Allow a resident to keep up to six chickens without Planning Commission review/approval; 3) Allow chickens to roam in the rear yard outside of the coop/pen, if the rear yard area is enclosed by a 6-foot tall opaque fence and the chickens are supervised; and 4) Require authorization from the property owner (if the occupant/applicant is not the owner) for all applications involving the keeping of chickens and require both the owner and occupant (if different than the owner) of adjacent properties to receive notification for applications requiring Planning Commission consideration. Mr. Forth also referred the Commission to the final agenda packet and the February 17<sup>th</sup> email communication and Powerpoint presentation from Ms. Katie Drenth supporting the proposed ordinance.

Commissioner Stoffer suggested a slight change to Section 42-121.D.3.a that would not require the coop and pen to be located within and completely enclosed by a 6-foot tall opaque fence to allow the chickens to roam. The Commission discussed the intent of the proposed language change that would allow a citizen to enclose a separate area within the rear yard of the site with a 6-foot tall opaque fence where the chickens could roam outside of the coop and pen. If the Commission concurs on the ordinance change, Attorney Brown asked that the Commission allow him and staff to develop specific language to address the intent of the change. A motion was then made by Commissioner Stoffer, seconded by Commissioner Dargitz, to modify Section 42-121.D.3.a of the proposed ordinance language as discussed. After a brief discussion, the motion was approved 6-2 with Commissioner Welch and Chairman Cheesebro voting no.

Chairman Cheesebro reconvened the public hearing. One citizen, Fernando Costas (7639 Harvest Lane), spoke in support of the proposed ordinance. Mr. Costas stated he supports the proposed change that would allow chickens to roam outside of the coop and pen, in a smaller fenced enclosed area. Mr. Costas requested the Planning Commission consider increasing the maximum coop/pen height requirement above 6-feet to allow easier access for taller people to clean the coop/pen area. After a brief discussion, the Commission agreed to retain the maximum 6-foot tall coop/pen requirement citing numerous coop design examples that are less than 6-feet in height. Mr. Costas thanked the Commission for their efforts over the past several months in the ordinance development process. No additional citizens spoke during the public hearing. A motion was then made by Commissioner Welch, seconded by Commissioner Pearson, to close the public hearing. The motion was unanimously approved. After additional discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to recommend to City Council approval of Ordinance Amendment #10-A, Keeping of Hens and Other Animals with the proposed language change to Section Section 42-121.D.3.a, as previously discussed. The motion was unanimously approved. Commissioner Welch thanked staff for their hard work and research with the ordinance development and also thanked Mr. Costas for his patience during the process.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

**TO:** Planning Commission

**DATE:** February 11, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue.

## **I. INTRODUCTION:**

During the July 1, 2010 Planning Commission meeting, the Commission reviewed and recommended approval a final plan submitted by H & G II, Inc. to construct Phase I of the Greenspire Retail project (13,400 square foot retail building and associated site improvements) located within the Greenspire Planned Development (PD). On July 13, 2010, City Council approved the final plan. Attached are copies of the July 1, 2010 Planning Commission meeting minutes and July 13, 2010 City Council meeting minutes.

Section 42-375(J) of the PD, planned development zoning district stipulates that if development does not begin within 120 days of final plan approval, the final plan must be resubmitted for re-approval. Since more than 120 days have elapsed, the applicant is requesting re-approval. According to the applicant, construction of Phase I of the Greenspire Retail project was delayed due to economic and construction related issues, but the project is now ready to move forward. The final plan has been resubmitted with no changes from the previously approved plan.

## **II. APPROVED TENTATIVE PLAN:**

The Greenspire PD rezoning and tentative plan were approved by City Council on April 13, 2010 with modifications. The final plan submitted for re-approval is consistent with the approved tentative plan as modified and approved by City Council. Attached is a copy of the April 13, 2010 meeting minutes, approved tentative plan and written narrative.

The land area along West Centre Avenue is proposed to be developed in three phases of retail and office uses. The first phase involves the proposed 13,400 square foot retail building. The second retail building is planned for the Fall of 2014, While unknown at this time, the third retail/office phase is anticipated to begin after the Spring of 2015. The entire retail/office component of the planned development is expected to involve 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 approved tentative plan also includes six multi-family residential phases. The first three Greenspire Apartment phases including 384 apartment units plus the clubhouse, pool and tennis courts have already been constructed. 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 308 apartment units.

## **III. FINAL PLAN:**

Consistent with the approved tentative plan, the 13,400 square foot retail building will maintain a minimum 30-foot setback from the perimeter of the overall property (85-90 foot setback from West Centre Avenue right-of-way proposed). Storm water from the development will be collected and conveyed to an underground treatment, storage and infiltration system situated beneath the parking lot. Outdoor lighting

units associated with the proposed development will include light poles and building mounted fixtures with shielded fixtures and will conform to applicable ordinance standards.

Access to the site will be provided through a full service driveway from West Centre Avenue, opposite Cooley Drive. Appropriate modifications to the West Centre Avenue boulevard will be accomplished to accommodate this access. Monitoring of the West Centre Avenue/Cooley Drive intersection will continue inasmuch as future signalization has been requested and will depend on traffic. A cross access connection between the retail parking lot and Stonebridge Court (internal private street) will be constructed to provide a second access to West Centre Avenue for the adjacent Greenspire Apartment complex. Connection to Greenspire Drive is also proposed.

The location for the retail building is lower in elevation and must be filled to raise it to street level (refer to Sheet C-1). Since the area to the west is higher in elevation, the applicant is proposing to balance the site by using excess soil to the west to fill in the lower area to the east. This area is delineated on Sheet C-1. In order to minimize the visual impact along West Centre Avenue, all tree removal and grading activities will occur at least 80 feet south of the curb line of West Centre Avenue. Within this 80 foot "vegetative buffer" area, all existing trees will be maintained in an effort to maintain the current viewshed until such time the applicant is ready to proceed with further development of the commercial/office portion of the planned development project. Finally, the grading activities will impact Shirley Court but the applicant has indicated access to West Centre Avenue via Shirley Court will be maintained.

Based on the proposed combination of retail and restaurant tenants, a total of 116 parking spaces are required for the proposed building. The applicant, however, is proposing to construct 70 spaces. Consistent with Section 42-520.N (Deferred Parking) of the Zoning Code, the applicant is proposing to bank 54 additional parking spaces in greenspace (44 spaces south of the building and five spaces along the east and west sides of the building). In support of the request, the previously submitted June 23, 2010 communication from the applicant describes the parking rationale for the retail building. Staff continues to support the deferral of 54 parking spaces as a means to preserve green/open space until such time as parking spaces may actually be needed.

## **II. RECOMMENDATION:**

The final plan has been reviewed by the City Administrative departments and is consistent with the Greenspire Planned Development tentative plan including maps and narrative that was recommended by the Planning Commission and approved, as amended, by City Council on April 13, 2010. Staff advises the Planning Commission to recommend to City Council re-approval of the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue.

Attachments: July 1, 2010 Planning Commission meeting minutes  
July 13, 2010 City Council meeting minutes  
Email Communication from Mr. Greg Dobson dated February 10, 2011  
Final Plan Sheets for Greenspire Retail (Phase I)  
Retail Building Elevation  
City Council approved Tentative Plan Map and narrative (April 2010)  
April 13, 2010 City Council meeting minutes  
Correspondence from Mr. Greg Dobson dated June 23, 2010 (deferred parking request)

## PLANNING COMMISSION

July 1, 2010

The City of Portage Planning Commission meeting of July 1, 2010 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Three citizens were in attendance.

### **MEMBERS PRESENT:**

Cory Bailes, Mark Siegfried, Paul Welch, Jim Pearson, Miko Dargitz, Bill Patterson, and Chairman James Cheesebro.

### **MEMBERS ABSENT:**

None.

### **MEMBERS EXCUSED:**

Wayne Stoffer and Rick Bosch.

### **IN ATTENDANCE:**

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

### **PLEDGE OF ALLEGIANCE:**

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

### **APPROVAL OF MINUTES:**

Chairman Cheesebro referred the Commission to the June 17, 2010 meeting minutes. A motion was made by Commissioner Welch, seconded by Commissioner Bailes, to approve the minutes as submitted. The minutes were unanimously approved.

### **SITE/FINAL PLANS:**

1. Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue. Mr. Forth summarized the staff report dated June 25, 2010 involving a final plan submitted by H & G II, Inc. to construct Phase I of the retail portion of the Greenspire Planned Development. Mr. Forth indicated the project proposes construction of a one-story, 13,400 square foot retail building and associated site improvements. Mr. Forth discussed the proposed access arrangement from West Centre Avenue, opposite Cooley Drive, and interconnections that would be constructed with the adjacent Greenspire Apartment complex at Stonebridge Court and Greenspire Drive. Mr. Forth reviewed the proposed grading changes associated with the development project and the commitment by the applicant to retain an approximate 80-foot wide vegetative buffer along West Centre Avenue until such time that further commercial/retail development was proposed. Mr. Forth also summarized the applicant's proposal to bank 54 parking spaces in greenspace consistent with Section 42-520.N (Deferred Parking) of the Zoning Code. Mr. Forth referred the Commission to the June 23, 2010 letter provided by the applicant and indicated staff was supportive of the deferred parking proposal.

The Commission and staff discussed various elements of the project and the previously approved tentative plan/narrative. Commissioner Pearson asked if installation of the deferred parking at a future date could be administratively review/approved. Mr. Forth said installation of the deferred parking could be administratively

approved. Commissioner Dargitz asked for clarification involving the increase in the floor area from 12,000 sq. ft. as shown on the approved tentative plan to 13,400 sq. ft. as shown on the final plan. Mr. Forth explained that the increase floor area did not exceed the criteria listed in Section 42-375(H) of the Zoning Code. Mr. Greg Dobson of H & G II, Inc. was present to support and explain the retail project. No citizens spoke in regard to the development project. After a brief discussion, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue, be approved. The motion was unanimously approved.

2. Final Plan for Greenspire Apartments (Phase IV), 8380 Greenspire Drive. Mr. Forth summarized the staff report dated June 25, 2010 involving a final plan submitted by H & G II, Inc. to construct Phase IV (36 additional apartment units) within the Greenspire Planned Development. Mr. Forth indicated Phase IV includes two, three-story apartment buildings (24 units in one building and 12 units in another), one 12 stall garage and associated site improvements. Mr. Forth reviewed the proposed building and parking lot setbacks from the east property line. Mr. Forth also discussed the proposed access arrangement and stated a second access drive from West Centre Avenue, opposite Cooley Drive with interconnections with the adjacent Greenspire Apartment complex, would be constructed in conjunction with Phase IV.

The applicant, Mr. Greg Dobson, H & G II, Inc., was present to support and explain the apartment project. Mr. Dobson mentioned that to his knowledge, these two buildings will be the first LEED certified multi-family buildings in the City of Portage. No citizens spoke in regard to the development project. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Welch, to recommend to City Council the Final Plan for Greenspire Apartments (Phase IV), 8380 Greenspire Drive, be approved. The motion was unanimously approved.

3. Final Plan for Lake Michigan Credit Union, 4100 West Centre Avenue. Mr. Forth summarized the staff report dated June 25, 2010 involving a final plan submitted by American Village Builders to construct a new 3,000 square foot credit union building and associated site improvements. Mr. Forth stated the credit union project was proposed on a portion of the 3.8 acre tract of land and the applicant was preparing the site for two additional future development projects. Mr. Forth briefly discussed the history of the Woodbridge Hills Planned Development (PD) and indicated the credit union project was proposed in a portion of the PD designated for commercial/retail land use. Mr. Forth also discussed the proposed access arrangement and stated the site would be served through cross access connections with the existing Marsh Pointe Drive (private) to the west and the existing Woodbridge Shopping Drive (private) to the east. No new access drives from West Centre Avenue are proposed.

Commissioner Dargitz asked if the Marsh Pointe residents were aware of the cross access arrangement. Mr. Forth indicated that when Woodbridge Development sold the Marsh Pointe property several years ago, an easement for access and utility connection was retained. Mr. Forth mentioned he did speak with one Marsh Pointe resident who did not object to the cross access. This resident also believed the planned cross access connection with the Woodbridge Shopping center is benefit to the Marsh Pointe residents. Mr. Greg Dobson, American Village Builders, was present to support and explain the credit union project. Chairman Cheesebro asked about sidewalk installation along Marsh Pointe Drive and the internal east/west maneuvering lane. Mr. Dobson explained why sidewalk installation was problematic such as topographic differences and lack of connecting sidewalks. Commissioner Siegfried mentioned he jogs in this area and asked if anything is planned to improve the visibility at the southeast corner of the property adjacent to Woodbridge Shopping Drive. An existing wall and vegetation creates a vision obstruction for vehicles turning onto West Centre creating a conflict point between vehicles and pedestrians using the sidewalk. Mr. Dobson said he also jogs in this area and has experienced similar problems. Mr. Dobson said he would further evaluate the situation. No citizens spoke in regard to the development project. After a brief conversation, a motion was made by Commissioner Pearson, seconded by Commissioner Bailes, to recommend to City Council the Final Plan for Lake Michigan Credit Union, 4100 West Centre Avenue, be approved. The motion was unanimously approved.

**PUBLIC HEARINGS:**

None.

**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 7:45 p.m.

Respectfully submitted,

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

Robert Jones, 3228 West Michigan Avenue, Kalamazoo, complimented Raghuram Elluru and Councilmember Randall for challenging city property assessment practices and made the suggestion that the City Council determine a mechanism to look into the matter.

Isaac King, 3352 Bellflower Drive, spoke in opposition to his tax assessment, indicated that he travels a lot and missed getting his assessment change notice, so Mayor Pro Tem Sackley offered to get him an appointment with the City Assessor. Discussion followed.

In response to Councilmember Randall's comment that she was advised to not go into the closed session regarding her neighbor, Raghuram Elluru, 6719 Oleander Lane, Catherine Gleason, 2928 Lamplite Circle, asked whether a Councilmember has ever been excluded from a meeting before, so Mayor Pro Tem Sackley and Councilmember Urban answered in the affirmative and provided some examples for her and City Attorney Brown explained the applicable law. Discussion followed.

Larry Provancher, 7414 Starbrook Street, admitted that, as a County Commissioner, he had a conflict with regard to a sale of property, was allowed to be privy to all of the information regarding the matter, but did not vote on it. Discussion followed.

Michael Quinn, 7025 Rockford Street, expressed the opinion that a conflict means a person may have an advantage and said he could not imagine what the conflict would be; therefore, it is up to the Councilmember to decide. Discussion followed.

#### **REPORTS FROM THE ADMINISTRATION:**

\* **AVALON WOODS CIRCLE – PROPOSED STREET NAME CHANGE:** Motion by Urban, seconded by O'Brien, to approve Resolution No. 1 and set a public hearing for July 27, 2010, at 7:30 p.m. or as soon thereafter as may be heard and subsequent to the public hearing, consider approving Resolution No. 2 renaming the street from Avalon Woods Circle to Avalon Woods Court. Upon a roll call vote, motion carried 6 to 0.

\* **FINAL PLANS FOR THE GREENSPIRE PLANNED DEVELOPMENT:** Motion by Urban, seconded by O'Brien, to consider approving the Final Plan for Greenspire Retail (Phase I), 3201 West Centre Avenue, and the Final Plan for Greenspire Apartments (Phase IV), 8380 Greenspire Drive. Upon a roll call vote, motion carried 6 to 0.

\* **FINAL PLAN FOR LAKE MICHIGAN CREDIT UNION, 4100 WEST CENTRE AVENUE:** Motion by Urban, seconded by O'Brien, to approve the Final Plan for Lake Michigan Credit Union, 4100 West Centre Avenue. Upon a roll call vote, motion carried 6 to 0.

\* **HILLSMOOR LANE STREETScape ENHANCEMENT:** Motion by Urban, seconded by O'Brien, to approve the installation of the Hillsmoor Lane cul-de-sac island landscape treatments located in the public right-of-way and authorize the City Manager to execute the Streetscape Enhancement Agreement. Upon a roll call vote, motion carried 6 to 0.

**PUBLIC MEDIA NETWORK BOARD OF DIRECTORS MEMBER:** Councilmember Urban explained that Jeremy Vryhof expressed a great deal of enthusiasm when he was appointed to the Public Media Network Board of Directors. However, he has since indicated that he accepted a temporary assignment overseas, making it difficult to serve on the Public Media Network Board of Directors. Councilmember Urban volunteered to serve on an interim basis until Mr. Vryhof returns from his assignment.

Motion by Campbell, seconded by O'Brien, to appoint Councilmember Terry Urban on an interim basis until Jeremy Vryhoff returns from assignment overseas to the two-year position effective immediately with the term ending on May 31, 2012, to the Public Media Network Board of Directors. Upon a roll call vote, motion carried 6 to 0.

## Mike West - Fwd: Greenspire Retail Plan Approval

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**From:** Christopher Forth  
**To:** West, Mike  
**Date:** 2/10/2011 12:36 PM  
**Subject:** Fwd: Greenspire Retail Plan Approval  
**Attachments:** C of Portage Approved Site Layout Plan v1 7-13-10.pdf

---

>>> "Greg Dobson" <gdobson@avbinc.com> 2/10/2011 12:18 PM >>>

Dear Neighbors,

We received two approvals for Greenspire Apartments and Greenspire Retail last year. One a rezoning approval to PD, the second the final plan (the actual engineered site plan) approval. The final plan approvals are only good for 120 days. The rezoning approval is still in place. Unfortunately for us, the 120 day time period has expired, now that we are really ready to start work on the Greenspire Retail building. Therefore we are required to have our site plan approved again at both the City Council and the Planning Commission levels.

We have made no changes to the plans that were approved 7-13-10. However, if you have an interest, we'd be happy to review those plans with you again, at your convenience. I have attached a pdf, so you can see the layout of what we are asking to be approved. Obviously, this plan, as it was in July, is consistent with the rezoning and the corresponding tentative plan that council approved 4-13-10.

Please call or email if you have any questions or if you'd like to get together to review our site plan for the retail buildings.

Sincerely,

**Greg Dobson**  
**AVB COMPANIES**  
**direct 269 329 3636**  
**direct fax 269 329 3637**  
**email [gdobson@avbinc.com](mailto:gdobson@avbinc.com)**  
**4200 W. Centre Ave**  
**Portage, MI 49024**  
**[www.avbconstruction.com](http://www.avbconstruction.com)**  
**[www.avbhomes.com](http://www.avbhomes.com)**

If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you believe that you have received this e-mail message in error, please respond to the sender and delete all copies.

# Civil Construction Set

# GREENSPIRE RETAIL PHASE I

3201 WEST CENTRE AVE  
PORTAGE, MI  
01/27/11

**OWNER**  
H & G II, LLC  
760 TRADE CENTRE WAY, SUITE 100  
PORTAGE, MI 49002  
(269) 342-8600

**CONSTRUCTION MANAGER**  
  
AVB CONSTRUCTION, INC.  
4200 W. CENTRE AVENUE  
PORTAGE, MI 49024  
269.329.2022

**ARCHITECT**  
  
DESIGN +, INC.  
230 E. FULTON STREET  
GRAND RAPIDS, MI 49503  
616.468.0875

**PLANS PREPARED BY:**  
  
hurley & stewart, llc  
2800 south 11th street  
Kalamazoo, Michigan 49009  
269.352.4960 fax 269.4961  
www.hurleystewart.com

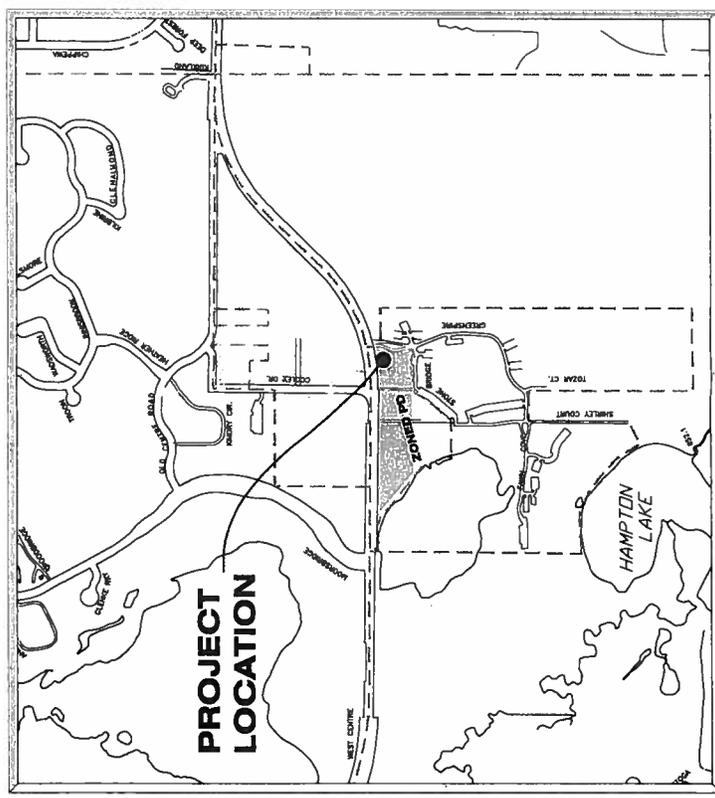


**UTILITY CONTACTS:**

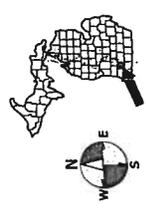
CHRYSLER ENERGY CO. 2500 E. CORK STREET PORTAGE, MI 49001 269.337.2314	ELECTRIC/GAS
CHARTER COMMUNICATIONS 4176 COMMERCIAL AVE. PORTAGE, MI 49002 269.317.8182	CABLE TELEVISION
4342 SHIBAYAMA 2915 MILCORK ST PORTAGE, MI 49001 269.384.5591	TELEPHONE
CITY OF PORTAGE 7718 S. WESTWINDGE AVENUE PORTAGE, MI 49024 269.324.9235	WATER/ SANITARY

**DRAWING INDEX**

SHT #	DESCRIPTION
C-0	TITLE SHEET
C-1	EX CONDITIONS AND DEMOLITION PLAN
C-2	SITE LAYOUT PLAN
C-3	UTILITY PLAN
C-4	GRADING PLAN
C-5	SITE DETAILS
C-6	STORM WATER DETAILS



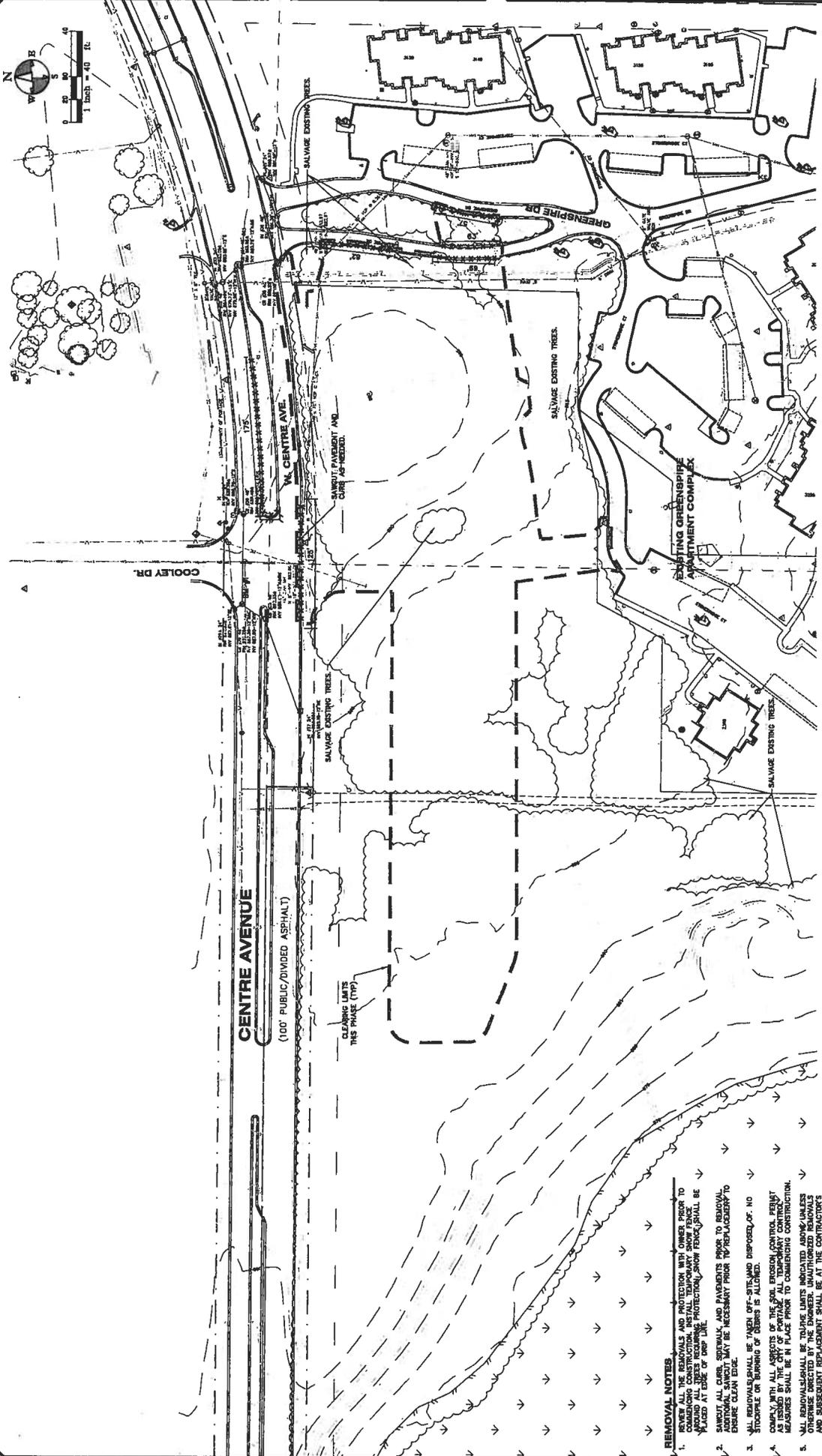
**SITE LOCATION MAP**  
SCALE 1" = 300'



**RECEIVED**  
JAN 28 2011  
COMMUNITY DEVELOPMENT

**811**  
Know what's below. Call before you dig.  
REGULATORY AGENCIES: ALL UTILITIES, INCLUDING GAS, WATER, AND SEWER, MUST BE LOCATED AND MARKED BEFORE ANY EXCAVATION OR DRILLING. CALL 811 AT LEAST 48 HOURS BEFORE ANY WORK BEGINS. THIS SERVICE IS PROVIDED BY THE CITY OF PORTAGE.

**ISSUED FOR:**  
CITY RESUBMITTAL  
01/27/11



**REMOVALS LEGEND**

--- (dashed line)	CURB REMOVAL
--- (dashed line)	PAVEMENT/SIDEWALK REMOVAL
--- (dashed line)	SANITARY
--- (dashed line)	TREE REMOVAL & GRADING
--- (dashed line)	REMOVE
--- (dashed line)	SALVAGE
--- (dashed line)	LIMITS OF CONSTRUCTION

- REMOVAL NOTES**
1. REVIEW ALL THE REMOVALS AND PROTECTION WITH OWNER PRIOR TO COMMENSING CONSTRUCTION. INSTALL TEMPORARY SNOW FENCE PLACED AT EDGE OF DROP LINE. PROTECTIVE SNOW FENCE SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
  2. SANITARY ALL CURB, SIDEWALK AND PARADEWAYS PRIOR TO REMOVAL. ADDITIONAL SANITARY MAY BE NECESSARY PRIOR TO REPLACEMENT TO ENSURE CLEAN EDGE.
  3. ALL REMOVALS SHALL BE TAKEN OFF-SITE AND DISPOSED OF. NO STOCKPILE OR BURNING OF DEBRIS IS ALLOWED.
  4. COMPLY WITH ALL ASPECTS OF THE SOIL EROSION CONTROL PERMIT. ALL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO COMMENSING CONSTRUCTION.
  5. ALL REMOVALS SHALL BE TAKEN LIMITS INDICATED ABOVE UNLESS OTHERWISE DIRECTED BY THE ENGINEER. UNAUTHORIZED REMOVALS AND SUBSEQUENT REPLACEMENT SHALL BE AT THE CONTRACTOR'S EXPENSE.
  6. REMOVE STONE AND REKEY ANY EXISTING SIGNS AS DIRECTED BY THE OWNER/OWNER.
  7. MAINTAIN THE CLEANING LIMITS AS SHOWN. REMOVE ALL EXISTING CURB, SIDEWALK AND BRUSH FROM THE SITE AS NECESSARY TO CONSTRUCT THE IMPROVEMENTS.
  8. REVIEW CLEANING LIMITS WITH OWNER PRIOR TO COMMENSING WORK. PRESERVE TREES WHERE INDICATED.
  9. IF ANY ERRORS, DISCREPANCIES, OR OMISSIONS BECOME APPARENT, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER IMMEDIATELY. NO WORK SHALL BE PERFORMED UNTIL THE ENGINEER CLARIFICATION OR REVISION MAY OCCUR.
  10. FOR PROTECTION OF UNDERGROUND UTILITIES, THE CONTRACTOR SHALL CALL 1-800-482-7171 A MINIMUM OF THREE (3) WORKING DAYS PRIOR TO ANY EXCAVATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR EACH EXCAVATION IN AREAS WHERE PUBLIC UTILITIES HAVE NOT BEEN PREVIOUSLY LOCATED. MEMBERS WILL TRIP BE ROUTINELY LOCATED BY THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE OF NOTIFYING OWNERS WHO MAY NOT BE A PART OF THE "MISS DIG" ALERT SYSTEM.

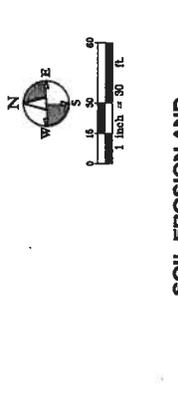


BENCHMARKS  
 BM 1 100' ELEVATION = 252.43  
 BM 2 100' ELEVATION = 252.43  
 ALL BENCHMARKS SET BY  
 COOLEY DRAKE AND W. CENTRE AVE.  
 LAND SURVEY PROFESSIONAL SURVEYING



**UTILITY PLAN**

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### SEDIMENTATION CONTROL MEASURES

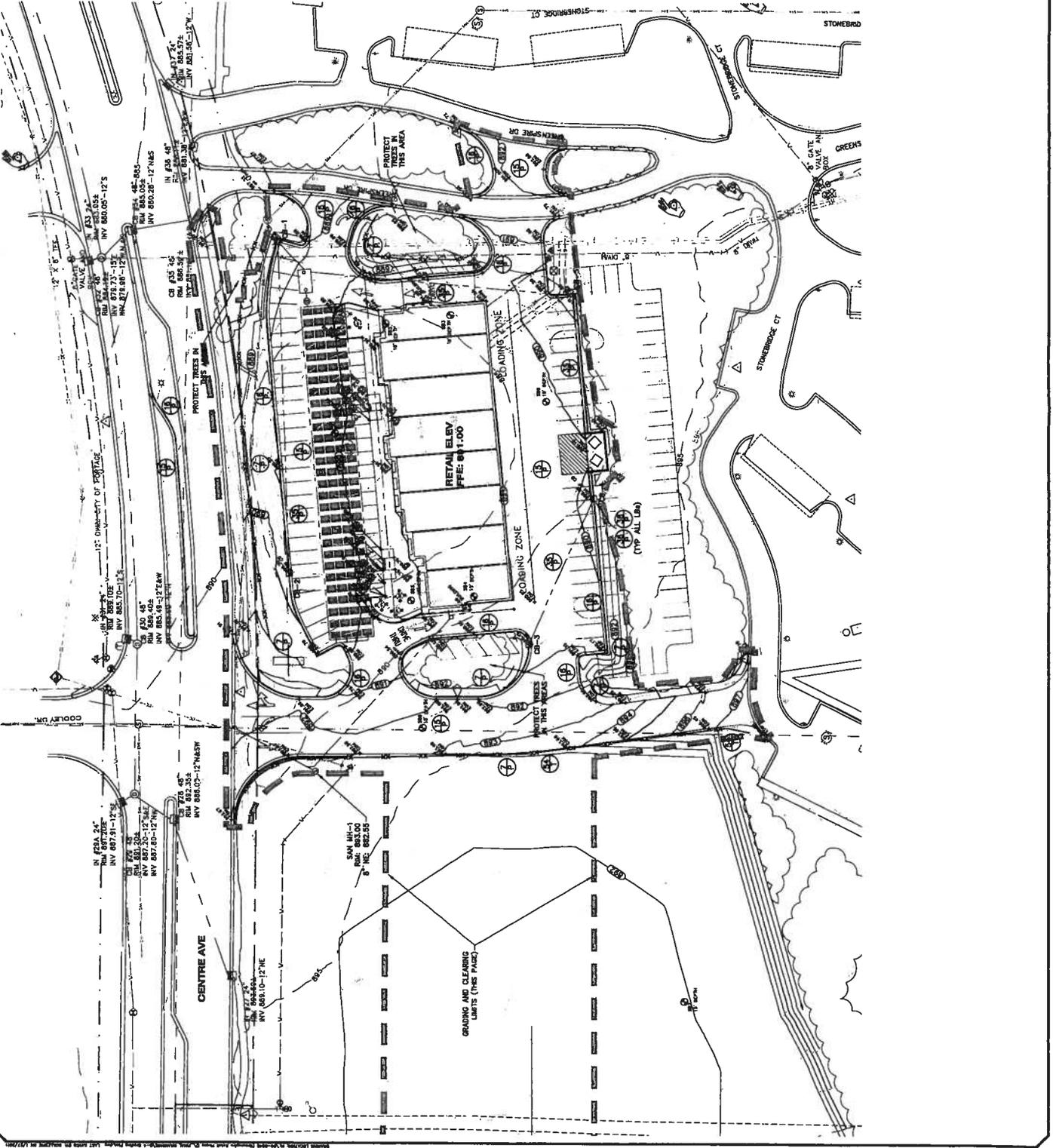
KEY	DETAIL	CHARACTERISTICS
1		Approved for use on all construction sites as per state regulations.
7		Approved for use on all construction sites as per state regulations.
15		Approved for use on all construction sites as per state regulations.
16		Approved for use on all construction sites as per state regulations.
35		Approved for use on all construction sites as per state regulations.
36		Approved for use on all construction sites as per state regulations.
38		Approved for use on all construction sites as per state regulations.
54		Approved for use on all construction sites as per state regulations.

\* SILT SOCKS REQUIRED AT ALL CATCH BASINS

TEMPORARY MEASURE

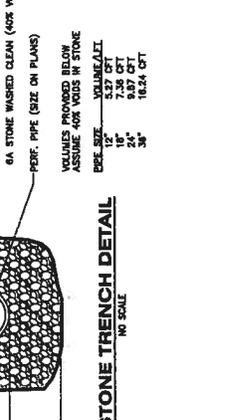
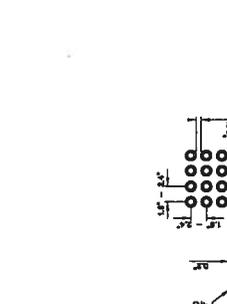
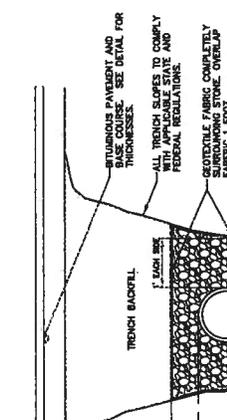
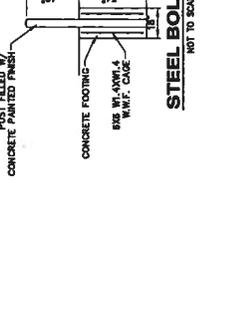
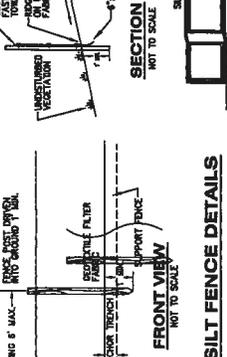
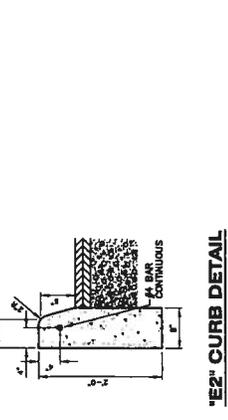
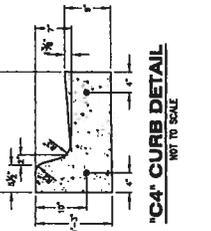
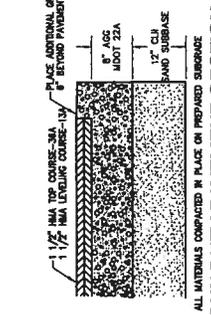
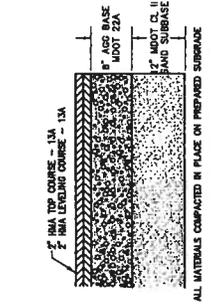
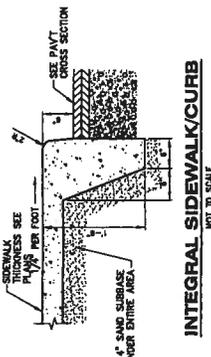
PERMANENT MEASURE

- ### GRADING NOTES
1. MATCH EXISTING GRADES AROUND PERIMETER WITH SLOPES AS SHOWN.
  2. MATCH CUT ON 6 IF NOT LABELLED.
  3. THE CONTRACTOR SHALL MAINTAIN EXISTING TREES AROUND ALL EXISTING UTILITIES AND STRUCTURES AS SHOWN.
  4. ALL EXISTING ELEVATIONS ARE TOP OF PAVEMENT GRADES AT EDGE OF METAL CURB UNLESS OTHERWISE NOTED.
  5. ALL SOIL EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO MASS GRADING.
  6. ALL EXISTING ELEVATIONS ARE TO BE VERIFIED AND ACCEPTED AS SHOWN PRIOR TO COMMENCEMENT OF WORK.
  7. REMOVE AND REPLACE WITH CONTROLLED FILL ANY AREAS THAT HAVE BEEN SOFTENED BY RAINS, FREEZING, CONSTRUCTION EQUIPMENT, ETC.
  8. ALL REQUIRED FILL FOR THIS PROJECT SHALL BE SELECTED EXCAVATED MATERIAL FROM THE SITE APPROVED BY THE ENGINEER OR CLASS II MATERIAL FROM A SOURCE APPROVED BY THE ENGINEER AND SHALL BE THE CONTRACTOR'S RESPONSIBILITY.
  9. ALL GRANULAR FILL UNDER THE INFLUENCE OF THE ROADWAY AND PROPOSED ROAD GRAVEL SHALL BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.
  10. ALL COMPACTION SHALL BE ACCOMPLISHED BY PLACING THE FILL IN 12" LIFTS TO A MAXIMUM DENSITY OF 95% MODIFIED PROCTOR DENSITY. AT LEAST THE TOP 6" OF EACH LIFT SHALL BE COMPACTED WITH A ROLLER. ALL COMPACTING OPERATIONS SHALL BE PERFORMED ON EACH LIFT AS NECESSARY TO ENSURE SUFFICIENT MOISTURE CONDITIONS AND COMPACTOR ARE BEING ACHIEVED.
  11. SITE CONTRACTOR SHALL REMOVE AND STOCKPILE ALL TOPSOIL AND BLACK TOP FROM ALL EXCAVATED AREAS. THIS MATERIAL IS NOT TO BE USED FOR FILL OR PAVEMENT. SUBGRADE REMOVAL OF ANY EXCESS SOIL OFF-SITE SHALL BE THE CONTRACTOR'S RESPONSIBILITY.
  12. CONTRACTOR RESPONSIBLE FOR VERIFYING EARTHWORK CALCULATIONS PRIOR TO CONSTRUCTION. CONTRACTOR SHALL VERIFY ALL EARTHWORK CALCULATIONS WITH THE ENGINEER. ANY DISCREPANCIES WITH THE EARTHWORK CALCULATIONS SHALL BE BRIDGED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
  13. IF ANY EROSION PROBLEMS OCCUR AS A RESULT OF THESE OPERATIONS, THESE SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER PRIOR TO CONSTRUCTION OF ANYTHING AFFECTED SO THAT CLARIFICATION OR REVISION MAY OCCUR.

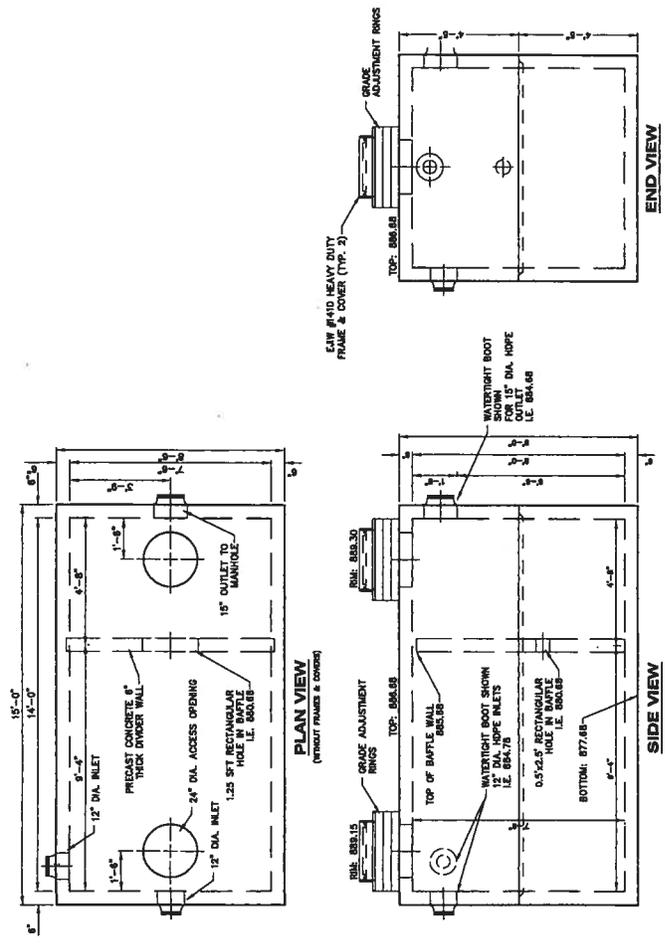


**811**  
 Know what's below.  
 Call before you dig.

ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS. CONTRACTOR SHALL VERIFY ALL UTILITIES PRIOR TO CONSTRUCTION. FIELD WORK PERFORMED BY: LANDTECH PROFESSIONAL SURVEYING

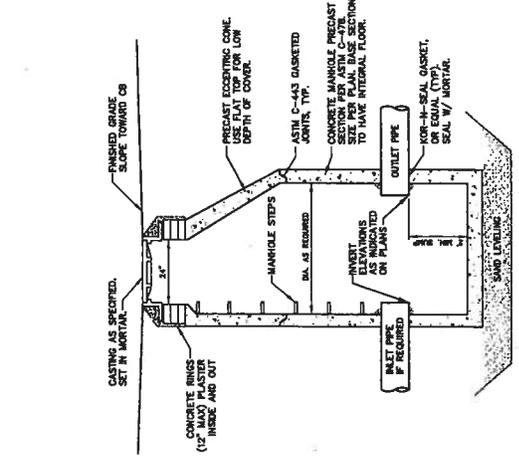


1. DETECTABLE WARNING SHALL BE CAST IRON OR BRASS DETECTABLE WARNING PLATE 24" DEEP BY VARIOUS WIDTHS TO MATCH WIDTH OF WALK.
2. DETAILS SHOWN ON THIS PLAN APPLY TO ALL CONSTRUCTION, RECONSTRUCTION, OR ALTERATION OF STREET, DRIVE, OR SIDEWALKS BY ALL PRIVATE ORGANIZATIONS CONTRACTING FOR PUBLIC USE.
3. SIDEWALK RAMP SHALL BE LOCATED AS SHOWN ON THE PLAN OR AS DIRECTED BY THE ENGINEER.
4. RAMP SHALL BE PROVIDED BY ALL CONTRACTORS OF ALL RECONSTRUCTION WORK. THE SURFACE OF THE RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB. RAMP SHALL ALSO BE PROVIDED AT WALK JOINTS.
5. SURFACE TOPSIDE OF THE RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB.
6. RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB. RAMP SHALL ALSO BE PROVIDED AT WALK JOINTS.
7. CURB SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB. CURB SHALL ALSO BE PROVIDED AT WALK JOINTS.
8. RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB. RAMP SHALL ALSO BE PROVIDED AT WALK JOINTS.
9. RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB. RAMP SHALL ALSO BE PROVIDED AT WALK JOINTS.
10. THE TOP OF THE RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB.
11. THE TOP OF THE RAMP SHALL BE FINISHED TO MATCH THE SURFACE OF THE ADJACENT SIDEWALK AND CURB.
12. DETECTABLE WARNING SHALL BE LOCATED SO THAT THE WALKER CAN FEEL THE DETECTABLE WARNING IN WITHIN 4' AND THE PARALLEL SIDE WITHIN 4' OF THE CURB BREAK ON THE RAMP.
13. DETECTABLE WARNING SHALL BE LOCATED SO THAT THE WALKER CAN FEEL THE DETECTABLE WARNING IN WITHIN 4' AND THE PARALLEL SIDE WITHIN 4' OF THE CURB BREAK ON THE RAMP.
14. DETECTABLE WARNING SHALL BE LOCATED SO THAT THE WALKER CAN FEEL THE DETECTABLE WARNING IN WITHIN 4' AND THE PARALLEL SIDE WITHIN 4' OF THE CURB BREAK ON THE RAMP.
15. DETECTABLE WARNING SHALL BE LOCATED SO THAT THE WALKER CAN FEEL THE DETECTABLE WARNING IN WITHIN 4' AND THE PARALLEL SIDE WITHIN 4' OF THE CURB BREAK ON THE RAMP.

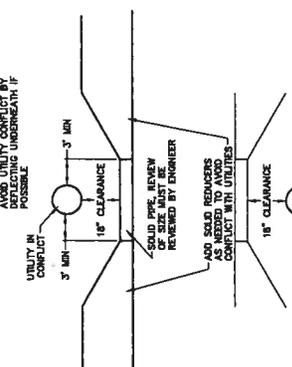


**STORM TREATMENT CHAMBER**  
NO SCALE

NOTE: USE MODIFIED 5,375 GALLON INTERSECTOR TANK MANUFACTURED BY HURLEY & STEWART. ALL CHAMBERS SHALL BE CONSTRUCTED WITH 12" MIN. WALL THICKNESS. ALL CHAMBERS SHALL SUPPORT 10-20 JOINTING. SUBMIT SHOP DRAWINGS TO ENGINEER FOR REVIEW.

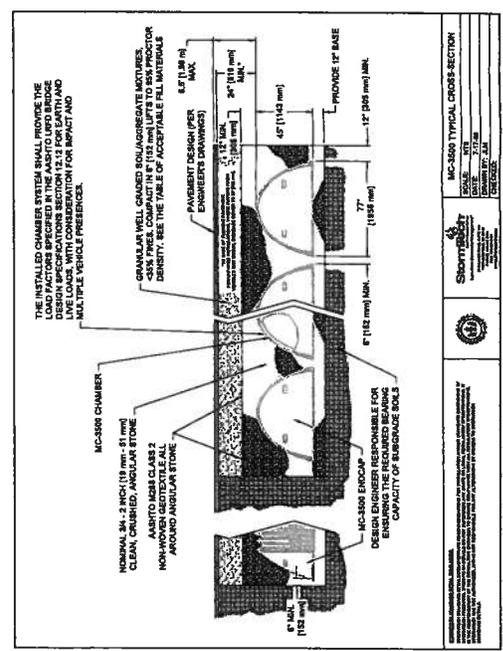


**CATCH BASIN DETAIL**  
NO SCALE



**STORM DEFLECTION DETAIL**  
NO SCALE

NOTES:  
1. ALL STORM CHAMBERS SHOWN ON PLANS ARE TO BE MC-3000 ISOLATOR ROWS.  
2. PREVENT ALL SEWAGE FROM ENTERING SYSTEM DURING CONSTRUCTION.



THE INSTALLED CHAMBERS SYSTEM SHALL PROVIDE THE LOAD FACTORS SPECIFIED IN THE ASTM L1000 BRIDGE DESIGN SPECIFICATIONS SECTION 12.3 FOR EARTH AND MULTIPLE VEHICLE PRESENCE.

GRANULAR WELL GRADED SOIL/AGGREGATE MATURES. CLEAN, CRUSHED, ANGULAR STONE. NON-WOVEN GEOTEXTILE WITH ACCEPTABLE FILL MATERIALS AROUND ANGULAR STONE.

PAVEMENT DESIGN (PER ENGINEER'S DRAWINGS)

DESIGN ENGINEER RESPONSIBLE FOR CAPACITY OF SURFACE SOILS

PROVIDE 12" BASE

18" CLEARANCE

16" CLEARANCE

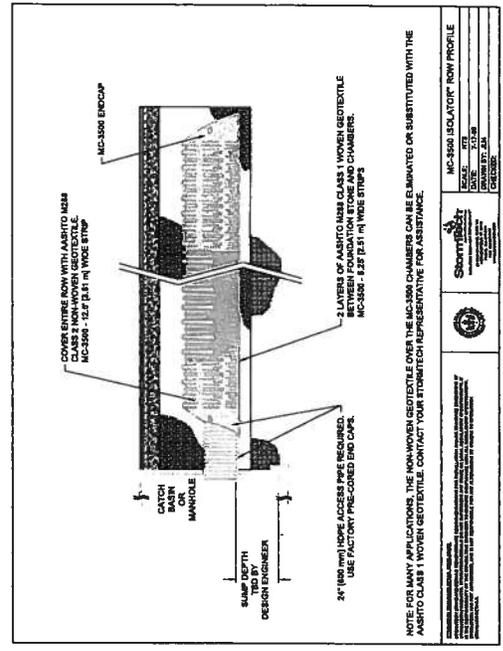
3" MIN. CLEARANCE

18" CLEARANCE

16" CLEARANCE

3" MIN. CLEARANCE

DATE: 1/27/11	SCALE: AS SHOWN	PROJECT: 08-0049
DRAWN BY: J. H. HURLEY	CHECKED BY: J. H. HURLEY	APPROVED BY: J. H. HURLEY



COVER ENTIRE ROW WITH ASTM D1228 CLASS 2 NON-WOVEN GEOTEXTILE MC-3000 - 12" PLI 1/4" WIDE STRIP

3 LAYERS OF ASBESTO 1000 CLASS 1 NON-WOVEN GEOTEXTILE BETWEEN FOUNDATION STONE AND CHAMBERS.

24" MIN. HOLE ACCESS PER REQUIRED. USE FACTORY-PRE-CORDED END CAPS.

DESIGN ENGINEER

18" CLEARANCE

16" CLEARANCE

3" MIN. CLEARANCE

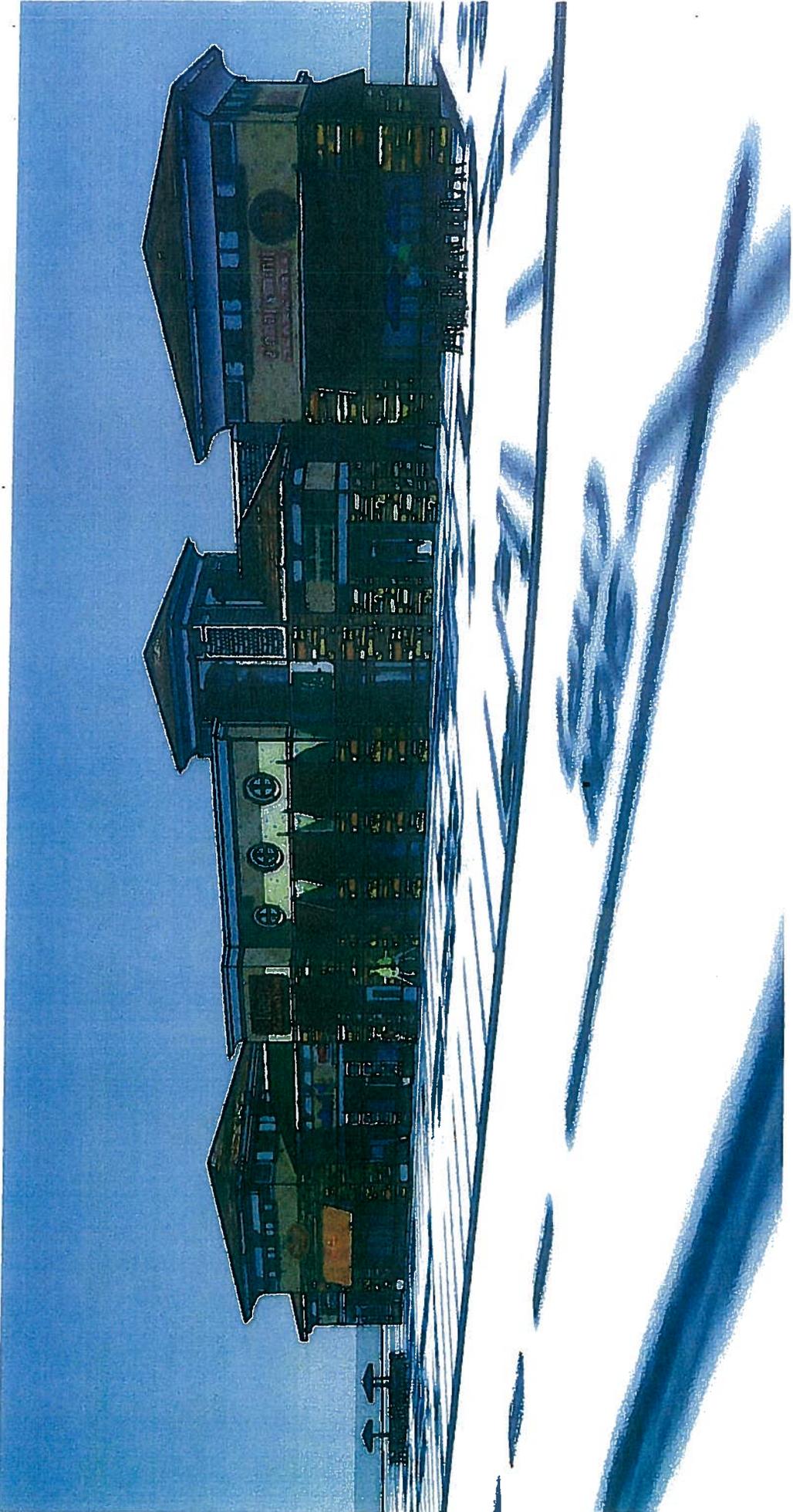
18" CLEARANCE

16" CLEARANCE

3" MIN. CLEARANCE

DATE: 1/27/11	SCALE: AS SHOWN	PROJECT: 08-0049
DRAWN BY: J. H. HURLEY	CHECKED BY: J. H. HURLEY	APPROVED BY: J. H. HURLEY

NOTE: FOR MANY APPLICATIONS, THE NON-WOVEN GEOTEXTILE OVER THE MC-3000 CHAMBERS CAN BE ELIMINATED OR SUBSTITUTED WITH THE ASBESTO CLASS 1 WOVEN GEOTEXTILE. CONTACT YOUR FURNISHER FOR ASSISTANCE.







American Village Builders, Inc.

RECEIVED

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.

- 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		
<b>Existing Buildings:</b>					
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	
<b>Proposed Buildings:</b>					
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	<b>786</b>	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 finalized 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

## CITY COUNCIL MEETING MINUTES FROM APRIL 13, 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 Pastor Richard Hertsel of the Centre Avenue Community Church of God, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

**PROCLAMATION:** Mayor Strazdas issued a Fair Housing Month Proclamation.

**APPROVAL OF MINUTES:** Motion by Sackley, seconded by Reid, to approve the March 23, 2010 Regular Meeting Minutes as presented. Upon a voice vote, both motions carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Reid to read the Consent Agenda. Mayor Pro Tem Sackley asked that Item F.9, Special Meeting to Interview Board and Commission Applicants, be removed from the Consent Agenda. Motion by Reid, seconded by Urban, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF CHECK REGISTER OF APRIL 13, 2010:** Motion by Reid, seconded by Urban, to approve the Check Register of April 13, 2010. Upon a roll call vote, motion carried 7 to 0.

### **PUBLIC HEARINGS:**

**ORDINANCE AMENDMENT #09-B, SIGN ORDINANCE REGULATIONS:** Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson, who reviewed the proposed changes to Sections 42-545(A) and 42-546(D) of the Portage Code of Ordinances that 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. He explained that the area of the signs in these districts would be standardized based upon street frontage and building wall area; that the proposed maximum freestanding sign area is 50 square feet and the proposed maximum wall sign area is 100 square feet. Mr. Erickson indicated that the proposed changes clarify that a variance from the Zoning Board of Appeals is not required if a smaller sign is desired, that the maximum size for a lot less than 80 feet frontage is 32 square feet and that the square footage is based on the measurement of one side of the sign. He summed up by saying that all of these provisions were unanimously recommended after the public hearing held by the Planning Commission on February 18, 2010.

Mayor Strazdas opened the public hearing for comment and discussion followed. Motion by O'Brien, seconded by Campbell, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Sackley, seconded by O'Brien, to approve Ordinance Amendment #09-B, sign ordinance regulations. Upon a roll call vote, motion carried 7 to 0. Ordinance recorded on page 127 of City of Portage Ordinance Book No. 12.

**REZONING APPLICATION #09-01, GREENSPIRE PLANNED DEVELOPMENT (PD):** City Clerk James Hudson indicated that the circulators who submitted the petition in opposition to Rezoning Application #09-01 were present at the meeting and wished to personally withdraw their opposition. Discussion followed. Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson, who explained that 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 Gourdneck State Game Area, Hampton Lake and several existing single family homes along Tozer Court and Shirley Court on approximately 95 acres.

Mr. Erickson indicated that the change in zoning is being requested to facilitate three additional Greenspire Apartment phases for a total of 324 units on approximately 37 acres of property with 11 additional acres being designated for retail and/or office use adjacent to West Centre Avenue. He indicated that the existing three phases of the Greenspire Apartments, 384 units on approximately 47 acres that were initiated in the 1970's and 1980's are also included in the rezoning request.

Mr. Erickson said careful consideration was necessary and has been given to the adjacent Hampton Lake and Gourdneck State Game Area, as well as several existing homes along Tozer Court and Shirley Court.

Mr. Erickson briefly reviewed the procedures and regulations from the zoning code for review and approval of Planned Developments. He indicated that there is tentative plan review and final plan review for each phase of the development; that the applicant is required to submit a tentative plan which outlines the development concept for the entire project; that although conceptual in nature, specific statements, proposals, plans and schedules for the ultimate development of the site are required; after administrative review, the tentative plan is scheduled for a review and public hearing by the Planning Commission.

Mr. Erickson indicated that the Planning Commission submits their recommendation to City Council and, if approved, the Planned Development must proceed in accordance with the tentative plan since approval of the tentative plan by City Council constitutes rezoning of the land to PD and allows for the submission of a final plan for Administrative, Planning Commission and City Council review like a site plan.

He briefly reviewed the phases of Rezoning Application #09-01, and generally commented on percentage of land use, density, pedestrian walkways, open space, storm drainage, public utilities, accesses and building setbacks. He indicated that this Rezoning was discussed at the March 23, 2010 Regular City Council Meeting and there have been additional discussions between the developer and some of the property owners in the attempt to address various development issues; that the City Manager has provided discussion in response to the concerns reflected at the March 23, 2010 Regular City Council Meeting; and, additional information has been provided from the applicant in response to the comments expressed at that meeting along with a subsequent revision by the developer. He also referred to the letter from Attorney Clifford H. Bloom on behalf of Dr. Russell Mohney that reflected some concerns regarding the PD as presented. Finally, he acknowledged the earlier comments from City Clerk Hudson regarding the desire of circulators who submitted the petition in opposition to Rezoning Application #09-01 who wished to personally withdraw their opposition. He indicated that if the protest petition passes legal muster, it would take a 2/3 vote of City Council to approve Rezoning Application #09-01. He summed up by reviewing some of the Comments in the Development Guidelines Report.

He concluded that the Administrative recommendation is that City Council approve the PD per the revised tentative plan map dated April 8, 2010, the written Narrative February 23, 2010, the seven conditions listed in the February 26, 2010 Community Development Report as recommended by the Planning Commission with the residential density at 81.9 acres and 692 dwelling units as revised by the applicants and offered to answer any questions. Discussion followed by City Council regarding RM-1 zoning requirements and development, a traffic signal at West Center Avenue and Cooley Drive, mixed use zoning and open space, sidewalk systems, wetlands, the hunting safety zone separation requirement of 450 feet, property boundaries, preferred setback requirements and height restrictions.

Mayor Strazdas asked that that all of the people who signed the petition in opposition to Rezoning Application #09-01 come forward if they wished to personally withdraw the petition.

Dr. Russell Mohny, 3500 Vanderbilt Avenue, indicated that he was speaking on behalf of all of the people who signed the petition in opposition to Rezoning Application #09-01, that they were present and that they all wished to personally withdraw the petition. City Attorney Brown confirmed that Dr. Mohny was the only one who circulated the petition and all who signed the petition were present. Discussion followed. City Attorney Brown also exposed a second petition in opposition that had to be addressed. Discussion followed. Mayor Strazdas asked City Clerk Hudson to determine the percent of property ownership of those who signed the petition and called for a recess.

RECESS: 9 p.m.

RECONVENE: 9:20 p.m.

Based upon his investigation and the fact that Mr. Terry Hall withdrew his opposition in person, Mr. Hudson determined that the petition in opposition did not pass muster and was advisory only and City Attorney Brown concurred.

Mayor Strazdas welcomed any residents to speak regarding any topics or concerns they may have related to this matter.

Joe Gesmundo, American Home Builders, 4200 West Centre Avenue, introduced his staff, spoke in favor of the PD Rezoning of the property and indicated satisfaction that all issues had been resolved. He indicated that there is an agreement regarding the setback on the Phase V parcel owned by Betty Ongley, that the westerly boundary would have a 90 foot setback, excluding garages, carports and parking lots; that there will be no windows on the west end of the building that is closest to the property owned by Terry Hall; that the screening on the west boundary of Phase V that is closest to the property owned by Terry Hall be possibly moved to the east to save trees; and that the developer will attempt to move the building that is closest to the property owned by Terry Hall to the east as much as 20 feet after final grading plan is completed. He reviewed some of the development he has accomplished in the City of Portage in the past. Mr. Gesmundo introduced his representative Gregg Dobson, who provided an overview of the development and reviewed some of the more salient features of the development in detail. Discussion followed.

Barb Wygant, 3225 Greenspire Drive, Apt 11, John Patten, 7593 MacArthur Lane, spoke in opposition to the development.

Sandy Kinzer, 3665 Fawn Cove, Apt.1, spoke on behalf of preserving the blue heron, the pair of swans, raccoons and opossums that are present on the land and cited the retail on West Centre Avenue in walking distance as an argument against placing retail in the mixed use PD Development.

Barbara Gerber, 3421 Fawn Cove Lane, Apt. 2, spoke in opposition and on behalf of Gloria Olson in opposition. She described the habitats of the Eastern Box Turtle, the only terrestrial turtle in Michigan, found mainly in Allegan, Kalamazoo and Benzie Counties, and presented photographs for City Council of the citing of one of four nests on the land east of Tozer Court and adjacent to the wetlands. She indicated that two of the nests were already crushed by core-drilling trucks across Tozer Court where a parking lot is planned, the third further into the woods where a new building is planned and the fourth nest is east of the home at 6815 Tozer Court where a building is shown on the site plan and asked that no building be allowed on this land area.

Kim Dillon, 8546 Shirley Court, indicated that she took her name off of the petition after numerous meetings with the developer and advocated the use of berms and screening and spoke in favor of the PD Rezoning change.

Carol Bartholomew, 8614 Shirley Court, expressed a deep concern for the animals in the area and spoke in favor of the PD Rezoning and development of the property by the builder.

Dr. Russell Mohny spoke on behalf of Terry Hall, who had to leave, and indicated that Mr. Hall was perfectly satisfied with the proposal of Mr. Gesmundo and supported the PD Development.

Dr. Mohny expressed his appreciation for the counsel of City Manager Evans and Community Development Director Erickson and efforts of City Council throughout this process.

Betty Lee Ongley, 8620 Tozer Court, said she did not oppose the PD Rezoning classification; that she spoke before the Zoning Board of Appeals and the Planning Commission that she was not pleased with the proposed three-story apartment buildings overlooking her house and property; that Joe Gesmundo assured her that the building could be shifted 10 feet to the south; and expressed her concern for parking lots, cars and traffic on the land; that Gregg Dobson designed a planned garage opposite her garage and has offered a number of evergreens for screening and private property no trespassing signs and suggested fencing as an option. She asked that ingress and egress issues during construction be addressed. When she asked where she could address environmental concerns, such as leaking oil and solvents into the ground or parking lot run-off, Mayor Strazdas told her they should be addressed to the developer and Mr. Dobson agreed. City Manager Evans asked that he be contacted if an issue cannot otherwise be resolved.

Jean Mohny, 3800 Vanderbilt, spoke in opposition, and asked what percent of the property in question is zoned R-1, residential, and what per cent is zoned RM-1, multifamily residential. Mr. Erickson came forward with a zoning map and indicated that 98% is zoned RM-1, multifamily residential, the highest density residential zoning option in Portage, with a small part zoned R1-C, one-family residential.

Doug Rhodus, 2333 Vanderbilt Avenue, indicated he is not opposed to the rezoning and asked questions regarding procedures. He asked under Sec 42-370, what is the definition of land in the ordinance, as it could be a marsh, wetland, water, etc., and what does single ownership mean as there seems to be four separate legal entities in ownership of the property in question, so he asked why is staff looking at this as a single entity? He also indicated that the ordinance identifies the properties to be rezoned by parcel number and address and, if the City goes by what it has on file, the city would be rezoning the lake as this is what is on file. He referenced the letter from Russ Mohny's lawyer, Clifford Bloom, that only the Circuit Court can determine the property line; therefore, the property line should stop at the shoreline for rezoning purposes because the rezoning would not "follow riparian rights."

With regard to the use of the shoreline as the boundary for the rezoning, City Attorney Brown answered that the suggested motion for consideration by City Council includes a condition that that the zoning district boundary be the shoreline of Hampton Lake; also, that it may be that the property goes into the lake, but the motion will be at the shoreline of Hampton Lake. Discussion followed.

Mr. Erickson distinguished definitions in the Portage Code of Ordinances dealing with land that staff uses to guide them or that the Planning Commission might use in their deliberations. He also addressed the concept of single ownership as defined in PD and explained. Discussion followed.

Mr. Rhodus took exception with Mr. Dobson that the survey he presented at the last Regular City Council Meeting was recordable and indicated he would work that out with Mr. Dobson outside of the meeting. Discussion followed.

Motion by Sackley, seconded by Reid to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Motion by Sackley, seconded by Urban, to approve Rezoning Application #09-01 from RM-1, multi-family residential, and R-1C, one-family residential, to PD, planned development, per the revised tentative plan map received on April 8, 2010, written narrative dated February 23, 2010, and seven conditions contained in the Department of Community Development report dated February 26, 2010, with the residential density based on 81.9 acres and 692 dwelling units as revised by the applicant and that the zoning district boundary be the shoreline of Hampton Lake. Councilmember Campbell asked whether the maker of the motion would be willing to add, as condition number eight, the conditions agreed upon by the developer and the surrounding property owners and Mayor Pro Tem Sackley agreed

to add with the addition to the agreed upon conditions: that the setback on the Phase V parcel owned by Betty Ongley, regarding the westerly boundary would have a 90 foot setback, excluding garages, carports and parking lots; that there will be no windows on the west end of the building, amended to include "that is closest to the property owned by Terry Hall;" that the screening on the west boundary of Phase V that is closest to the property owned by Terry Hall be possibly moved to the east to save trees; and that the developer will attempt to move the building that is closest to the property owned by Terry Hall to the east as much as 20 feet after final grading plan is completed. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Ordinance recorded on page 131 of City of Portage Ordinance Book No. 12.

#### **REPORTS FROM THE ADMINISTRATION:**

**PRESENTATION OF FISCAL YEAR 2011-12 BUDGET:** City Council received the Proposed Budget for Fiscal Year 2011-12. At the request of Mayor Strazdas, City Manager Evans presented the proposed 2011-12 Fiscal Year Budget to City Council and indicated that a conservative approach was utilized in formulating the \$61.8 million down from the \$66 million budget for Fiscal Year 2010-11. Mr. Evans indicated that the decrease is mostly attributable to declining property tax revenues and, because of a four (4) percent reduction in property tax revenue, there is an increase in the city millage from 10.65 to 10.73 mills but this still allows the City of Portage to continue to remain in the lower 25 percent of all Michigan cities of greater than 25,000 population in terms of millage level. He indicated that this proposed increase in the millage level is due in part to a proposed 0.0714 mill increase to the Municipal Street Fund owing to the decrease in property tax revenue and from a redirection of \$550,000 by the Kalamazoo Area Transportation Study of previously anticipated federal funding for major streets. He also indicated that there are continued staff reductions through attrition, a proposed severance package, no pay increases and continued cuts in some services. He mentioned the dropping of the community survey for this year for a savings of \$10,000 and that the budget maintains the City Council-prescribed 13 percent fund balance in the General Fund. He pointed out that State Revenue Sharing continues to go down and has been estimated through the State Budget Office to be \$3,423,884 for Fiscal Year 2010-11, representing a decrease of more than \$400,000 from the 2009-2010 budgeted amount. He summed up by saying that the fiscal year 2010-2011 proposed budget includes an overall reduction in General Fund expenditures of approximately \$2.1 million from the fiscal year 2009-2010 budget. Discussion followed.

\* **RESOLUTION AWARDING BID FOR CAPITAL IMPROVEMENT BONDS, SERIES 2010:** Motion by Reid, seconded by Urban, to adopt the Bond Resolution authorizing the sale of City of Portage Capital Improvement Bonds, Series 2010, in the amount of \$3,850,000; and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2010. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 1 of City of Portage Resolution Book No. 44.

\* **CONTRACT RENEWAL WITH SARCOM FOR INFORMATION TECHNOLOGY SERVICES:** Motion by Reid, seconded by Urban, to 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. Upon a roll call vote, motion carried 7 to 0.



June 23, 2010

Mr. Christopher Forth, AICP  
Deputy Director of Planning and Development Services  
Department of Community Development  
7900 South Westnedge Avenue  
Portage, Michigan 49002

4200 W. Centre Ave.  
Portage, MI 49024  
269.323.2022 phone  
269.323.2484 fax  
avbconstruction.com

RE: Parking Deferment Request – Greenspire Retail Phase IVR

Dear Chris,

We are requesting, in concurrence with the plans that we submitted today, that we defer 54 parking spots. There are several reasons for this request which are outlined below:

- Deferring these spots is the "green" thing to do, reducing the amount of asphalt in the initial build. If additional spaces are needed, they may easily be added.
- The storm system has been designed for these additional spaces.
- The potential for drive thru on each end further reduces the parking that will be practically needed for the site. A drive thru can account for over 50% of many restaurant type business reducing the parking required for the key driver in the required City of Portage parking formula.
- The necessity for parking will be driven by the final tenant mix. This mix is presently unknown. Another good reason to wait until the mix is known as these spaces may never be needed.
- Many customers for this retail area may travel by bike, car or on foot. We have made extensive efforts to ensure sidewalk ties to both Centre Ave. and Greenspire Apartments.

In summary we feel it makes a great deal of common sense to only add these spaces should the specific tenant mix and use pattern require such space. If this is the case, market conditions will necessitate that we add these spaces to keep our clients, the retailers happy. Therefore, there should be no concern about our willingness to add these spaces should they become necessary.

Sincerely,

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

Greg Dobson



# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** February 25, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Mixed Use Zoning Ordinance Proposals

**ACTION RECOMMENDED:** That City Council refer three mixed use Zoning Code proposals, as recommended by the Housing and Neighborhoods Ad Hoc Committee, to the Planning Commission for consideration and initiate the Zoning Code amendment process.

On February 24, 2011, the City Council Housing and Neighborhoods Ad Hoc Committee met to discuss three preliminary Zoning Code proposals. The proposals developed by the City Administration would allow “mixed use” elements within business zoning districts. The ordinances were prepared consistent with the Portage 2025 Visioning recommendations and the 2008 City Centre Area Plan-A Sub-Area Plan for Central Portage adopted by the Planning Commission. The three “mixed use” proposals would permit residential uses within business zones when ordinance standards have been met. The Ad Hoc Committee discussed these proposals and recommends that the Planning Commission be requested to consider the proposals, obtain community input through the Zoning Code amendment process and provide a recommendation to the City Council.

Following are highlights of the three proposals:

1. City Centre Area – Mixed Use Floating Zone. This district is an incentive-based floating zone that would be initiated by a property owner or developer in a manner that is similar to the PD, planned development district. The intent and purpose of the zoning district is to permit residential uses in the Portage City Centre in the form of “mixed use” development projects. The proposal would also foster a more urban orientation and encourage smaller setbacks, for example, along public streets.
2. Commercial Corridor Mixed Use Floating Zone. This district is also an incentive-based floating zone that would be initiated by a property owner or developer in a manner that is similar to the PD, planned development district. This floating zone would be applicable in office and business zones and within primary and secondary commercial nodes and commercial corridors designated in the adopted 2008 City of Portage Comprehensive Plan. Residential uses would be permitted in forms that create a more compact, pedestrian-oriented development project.
3. Work/Live Accommodations. This ordinance proposal would add language to the General Provisions section and permit an accessory residential unit to any business use located in office and business zoning districts. Standards would allow the business owner to develop a residence within the business use when particular conditions are fulfilled.

Attached is a February 17, 2011 communication from Community Development Director Erickson that includes a summary of the ordinance proposals in preliminary ordinance language format.

It is recommended that City Council refer the “mixed use” proposals to the Planning Commission for consideration and initiate the Zoning Code amendment process as recommended by the Ad Hoc Committee.

Attachment: February 17, 2011 from Community Development Director Erickson

# CITY OF PORTAGE

# COMMUNICATION

**TO:** Maurice Evans, City Manager

**DATE:** February 17, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Mixed Use Zoning Ordinance Proposals

In preparation for the February 24, 2011 meeting with the Housing and Neighborhoods Committee, the Department has researched and prepared draft Zoning Ordinance language to permit individual accessory residential units and residential elements within business zones. Three ordinances have been prepared: City Centre Area – Mixed Use Floating Zone; Commercial Corridor Mixed Use Floating Zone; and the Work/Live Accommodations.

City Centre Area – Mixed Use Floating Zone. This zoning district was submitted in May 2010 in response to foster development in the City Centre Area (CCA) as identified in the 2008 City Centre Area Plan-A Sub-Area Plan for Central Portage and Portage 2025 Visioning recommendations. The zone provides an incentive by allowing residential uses to create a mixed-use development in a more urban setting in the CCA. Attached are the most recent draft and a map that show the location identified for the proposed CCA zone(s).

The CCA zone is an incentive-based floating zone that would be initiated by a property owner/developer who desires to use the approach. A floating zone would be fixed to the Zoning Map when a property owner or developer requests the district be fixed as may be approved by City Council. The site development requirements in the floating zone would take precedence over the underlying zone. The CCA zone is a "planned development" with conceptual plan and final (site) plan approval stages. Following are primary elements:

1. Minimum tract of land established at 10 acres to facilitate development and redevelopment of larger tracts that are more likely to result in a significant project with unifying qualities, better incorporate existing uses (and avoid creating nonconformities) and produce a more "urban" orientation.
2. Multi-family residential dwelling units above the first floor are permitted per requirements of the RM-1 district for floor area and density.
3. Development requirements specified including setbacks at a public street of 10 feet from the front lot line. Architectural design and building wall materials to be a unified character, compatible and mutually supportive to proposed and existing buildings in the surrounding area.
4. A degree of protection for existing business and office properties adjacent to the project area.
5. City Council maintains the flexibility to modify or waive standards of development.

Although the concept is an attempt to promote an "urban" development pattern in a suburban environment, the establishment of an urban, walkable center has been successfully accomplished by other suburban communities. There are areas within the CCA likely to redevelop and further consideration of this development option has merit.

Commerical Corridor Mixed Use Floating District. This zoning district is another incentive-based floating zone that would be initiated by a property owner/developer to create a more compact/pedestrian-friendly development. The Corridor Mixed Use Floating District (CCMU) is a "planned development" with conceptual plan and final (site) plan approval stages. Following are primary elements:

1. Applicable only in OS-1, office service; B-1, local business; B-2, community business; B-3, general business; or CPD, commercial planned development districts: 50% of the minimum 5 acre area must be so zoned. A developer could expand the development proposal (and rezoning application) to abutting areas zoned for other purposes.
2. Applicable along major thoroughfares and located in/adjacent to a primary or secondary commercial node or commercial corridor per Comprehensive Plan.
3. Single-family units are permitted as are multi-family units above the first story or in a separate freestanding building.
4. Development standards specified including front setbacks along public and private streets/maneuvering lanes. Architectural design and building wall materials must be a unified character, compatible and mutually supportive to proposed and existing buildings in the surrounding area.
5. City Council maintains the flexibility to modify or waive standards of development.

Work/Live Accommodations. The Work/Live Accommodations ordinance would add language to Section 42-137, general provisions, that would permit an accessory residential unit to any business located in specified zoning districts. As the name implies, the primary use is the business (work) portion and the residential unit (live) is accessory to the business. Following are primary elements:

1. Applicable only in the OS-1, office service; B-1, local business; B-2, community business; B-3, general business; or CPD, commercial planned development districts. The residential unit can only be occupied by the business owner(s).
2. Subject to review and approval by the Planning Commission as a special land use, or in the CPD district, as part of the CPD approval process.
3. The residential unit cannot exceed one-third of the total floor area for the business use, have an interior connection and located above/adjacent to the business. There are other limited development requirements.

The first two of the above proposed ordinances attempt to provide for residential activities through "mixed use" development concepts. The latter proposal is directed toward the idea that residential uses ought to be permitted within business districts in Portage. The context is to provide for a business owner to live at the workplace if so desired, but to minimize impacts on nearby businesses and owners of business properties, some of which are individual business uses and some are multi-use business centers on one zoning lot.

I am prepared to further discuss the issue at your convenience.

Attachments: Proposed CCA district ordinance and City Centre Area Map  
Proposed Corridor Mixed Use Floating District with Future Land Use Plan Map  
Proposed Work/Live Accommodations

- c. Brian Bowling, Deputy City Manager  
Christopher Forth, Deputy Director of Planning and Development Services

# DRAFT

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY ADDING SUBDIVISION 15 TO DIVISION 4, ARTICLE 4, OF CHAPTER 42  
LAND DEVELOPMENT REGULATIONS**

**THE CITY OF PORTAGE ORDAINS:**

**That Article 4, Division 4, of Chapter 42 shall be amended by adding Subdivision 15 to include the following:**

**Subdivision 15. CCA, City Centre Area - Mixed Use Floating District.**

**Sec. 42-434. Intent.**

- A. The intent of the City Centre Area - Mixed Use Floating district is to:
1. Support the goals and objectives of the Planning Commission-approved City Centre Area Plan, a sub area plan for central Portage, which envisions an urban, small-scale, pedestrian-friendly, governmental and business center with a cultural identity and including enhanced residential opportunities. Development and redevelopment activities that occur in the City Centre Area should strengthen the city centre as a "place" with a variety of land use activities, open/green space, pedestrian interconnections and gathering places attractive to people.
  2. Permit greater flexibility and, consequently, more creative and imaginative design for development and the efficient use of land in response to market trends than is available under conventional zoning districts.
  3. Protect and enhance access to existing natural resources including Portage Creek and public park, recreation and open space in the City Centre Area.
  4. Encourage residential development in the City Centre Area.
- B. The district is further intended to be a specialized floating district that is not mapped on the City of Portage Zoning Map when adopted. The area eligible for the floating district is land within the City Centre Area Plan, Detailed Plan Area. On a future date, the floating district will be fixed in location within the City Centre Area Plan, Detailed Plan Area at the request of the affected landowner(s) or the developer as approved by City Council.

**Sec. 42-435. Qualifying Conditions.**

- A. Applications for City Centre Area - Mixed Use Floating District must fulfill the following qualifying conditions:
1. The application shall be for a project that is
    - a. located entirely within the Portage Planning Commission-approved 2008 City Centre Area Plan, Detailed Plan Area, as may be amended; and
    - b. in an area zoned OS-1, office service; B-1, local business; B-2, community business; B-3, general business; or CPD, commercial planned development.
  2. The application shall be for a project that consists of a single lot or parcel, or a number of contiguous lots or parcels under single ownership or control of the applicant.

3. In the event that the application for the proposed City Centre Area - Mixed Use Floating District includes more than one parcel not in the same ownership, an agreement signed by the owners of all property included in the project application indicating the intent to develop the project in common shall be submitted.
- B. Where a City Centre Area - Mixed Use Floating District development project conceptual plan and development plan have been approved pursuant to this subdivision, the regulations imposed for approval of the development project shall apply.
- C. If a lot or parcel in a development project application for conceptual plan approval includes less than the entire lot or parcel owned by the applicant, an explanation shall be provided by the applicant regarding:
  1. The anticipated relationship between the development project and any existing use on the remaining lot or parcel, and
  2. The future development and access to the remaining lot or parcel.

#### **Sec. 42-436. Principal permitted uses**

In an approved development project within a City Centre Area - Mixed Use Floating District, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses unless otherwise provided in this article:

- A. Any principal permitted use in the OS-1, Office Service district or uses subject to special conditions.
- B. Any principal permitted use in the B-1, Local Business district or uses subject to special conditions.
- C. Any principal permitted use allowed in the B-2, Community Business district, excluding restaurants that provide drive-in or drive-through services.
- D. Public transit facilities
- E. Motels, hotels
- F. Micro Breweries and brew-pubs.
  1. Brewery production shall not exceed 20,000 barrels per year.
  2. No outdoor storage of any kind shall be permitted.
  3. The use shall also include a restaurant having a minimum seating occupancy of 100 persons providing full lunch and dinner service. These uses do not include those for the exclusive production and/or service of alcoholic beverages.
  4. An off-street loading space shall be required in the rear yard, as approved by the planning commission.
- G. Multiple family residential dwellings.
  1. Dwelling units must fulfill the requirements of the RM-1, Multifamily Residential district.
  2. Dwelling units must be located in a story above the first story in the same building occupied by a principal permitted use or uses listed in A through F above.

#### **Sec. 42-437. Site development incentives and standards**

- A. Minimum lot area, Building height, Lot coverage, Residential density/minimum floor area per unit and Mixed use requirements.
  1. A lot or parcel intended for development shall not be less than ten acres. The lot or parcel intended for development shall be considered a zoning lot as defined by this article. Upon application by the owner or developer, the City Council, with the recommendation of the Planning Commission, may approve an area for development that is less than ten acres, upon finding by the City Council that the proposed development fulfills the intent of this subdivision.
  2. The maximum building/structure height and number of stories shall not be regulated provided that any building or structure in excess of 35 feet shall be designed and located to be consistent with the reasonable enjoyment of nearby land uses internal to the

project area, existing land uses surrounding the project area, and the capacity of the public infrastructure to deliver necessary public services.

3. Maximum lot coverage in the City Centre Area - Mixed Use Floating District shall be determined on the basis of the zoning lot, open space, building, off-street parking and loading, landscaping and screening, setbacks and other requirements specified in this article.
  4. In a mixed use development, residential density and Minimum Floor Area Per Unit shall be established pursuant to Section 42-350 A. and B. footnote (7) for dwelling units in the RM-1, Multifamily Residential district.
  5. Permitted office and commercial uses may occupy any number of total floors within the building provided that
    - a. No permitted commercial or office use shall be located on the same floor as a permitted residential use.
    - b. No floor may be used for a permitted commercial or office purpose that is located above a floor used for permitted residential purposes.
    - c. In a building where there is mixed commercial/office use and residential use, there shall be provided a separate, private pedestrian entrance for the residential use.
- B. Use requirements. All permitted uses must be conducted in completely enclosed buildings except for accessory off-street parking and off-street loading areas, automated teller machines and approved outdoor seating and similar areas associated with a permitted use, or as determined by the Planning Commission.
- C. Building Setbacks/Perimeter Setbacks
1. Front. A majority of the front building wall (façade) must abut the front lot line or be located within ten feet of the front lot line for buildings located on the perimeter of the development project area adjacent to a public street.
  2. Side. The side yard building setback must comply with Section 42-350 B. footnote (10).
  3. Rear. The rear yard building setback must comply with Section 42-350 B. footnote (15).
  4. Perimeter setbacks. For a development project that abuts adjacent property that permits residential uses, or uses of less intensity than proposed in the development project, a peripheral transition area shall be incorporated within the development project consistent with the provisions established in Section 42-570 through Section 42-578 of this article.
  5. The above-noted setbacks may be modified where strict adherence would serve no practical purpose or where the overall intent of the City Centre Area - Mixed Use Floating district would be better served by allowing a greater or lesser setback.
  6. In addition to providing for adequate light and air, setbacks (yards) may also be required where access to land, natural resources including Portage Creek or to public park, recreation or open space or other uses beyond the building would be desirable and where it can be found that such exterior setbacks would be in keeping with the intent and purpose of the district. Where it is determined that such exterior setbacks are desirable, this area shall be developed as pedestrian plazas or courts and made an integral part of the site. Wherever such open yards shall be created, they shall be physically connected, when possible, to adjacent open yards and shall be designed and constructed so as to be in harmony of appearance and function with the connecting open yards within the development project or adjacent property.
- D. Projections into Right-of-Way.  
A marquee, awning or canopy may extend over a public sidewalk located in a public right-of-way subject to the following:
1. Does not project more than eight feet over the public sidewalk.
  2. Is at least three feet from the curblin of a public street.
  3. Is at least eight feet in height as measured at its lowest point above the sidewalk.
- E. Building Design/Development Project Design.
1. Architectural design and building wall materials within the development project must be of a unified character, compatible and mutually supportive and complimentary to existing buildings within the development project and to the existing buildings in the surrounding

area. It is not intended that contrasts in architectural design and use of building wall materials are to be discouraged, but care shall be taken so that any such contrasts do not adversely affect the stability and value of the surrounding area.

2. Elevation drawings of each side of each building in the development project must be submitted.
  3. Exterior building walls shall be primarily of brick or stone, which may include other materials complementary to brick or stone. Alternative building wall materials may be used if modified per an approved development project. A report and recommendation by the professional design or architectural consultant of the developer may be requested by the planning commission as a part of its review of alternative materials. Alternative building wall materials may be approved if all of the following conditions are satisfied:
    - a. The selected building wall materials and material combinations will be consistent with and enhance the building design concept.
    - b. The building wall materials and material combinations will be complementary to existing or proposed buildings within the site and the surrounding area.
    - c. The use of the selected building wall materials and material combinations will not detract from the future development in the district of bricks and stone buildings, augmented by materials complementary to brick and stone.
    - d. The request is accompanied by a written design statement describing how the selected building wall materials will satisfy the above requirements.
  4. A minimum of 60 percent of the front building wall (façade) between no more than three feet and not less than eight feet in height as measured from the adjacent grade is the clear window/view of indoor space standard. This front building wall area must consist of clear windows that allow views of indoor space or product display areas, and subject further to a. and c. herein:
    - a. The bottom of any window or product display window used to satisfy the clear windows/view of indoor space standard may not be more than three feet above the average grade or elevation of the adjacent sidewalk.
    - b. Product display windows used to satisfy the clear windows/view of indoor space standard must have a minimum height of four feet and be internally illuminated.
    - c. Signs placed in the front building wall (façade) windows or within three feet of the window may not cover more than 10 percent of the window opening.
  5. Each building must have a primary entrance door facing a public sidewalk. An entrance at building corners may be used to satisfy this requirement.
  6. A building entrance may include doors to individual businesses, lobby entrances, entrances to pedestrian-oriented plazas or courtyard entrances to a cluster of businesses.
  7. Appropriate pedestrian amenities are encouraged and may include street trees, outdoor seating, bus stops, refuse containers, newspaper vending machines, mailboxes, sidewalk displays, public art and other similar amenities.
  8. Architectural amenities within the development project are strongly encouraged and may include pedestrian walkways, brick or other approved decorative paving, coordinated pedestrian scale lighting, landscaping and major architectural features at entranceways and focal points of the development project (e.g., arch, gateway, bell tower, fountain).
- F. Open Space/Common Area. A minimum of 10 percent of the gross site area of the development project shall be devoted to permanent open space/common area accessible to the public and shall be maintained by the owner of the development project.
- G. Off-street Parking and Loading. The following provisions shall apply in the district:
1. Off-street parking must be provided and designed for permitted uses in accordance with Division 6, Subdivision 1, Off-Street Parking and Loading. The applicant may request a reduction or waiver of parking standards based on submittal of a parking impact study that may include, among others, estimated peak use, reductions due to pedestrian accessibility, availability of transit service, likelihood of car pool use and adjacent on-

street parking. The parking study shall be subject to review by the Planning Commission and the City Council.

2. Off-street parking must be located in the side or rear yard.
  3. Off-street parking facilities may be shared between two or more adjacent zoning lots and not meet the minimum combined number of parking spaces for each use if the applicant(s) demonstrates the peak parking needs do not overlap, per an approved development plan.
  4. A loading area must be provided in the rear yard in accordance with Division 6, Subdivision 1, Off-Street Parking and Loading.
- H. Signs. Signage is permitted and shall fulfill the sign requirements established in Section 42-554. CCA, City Centre Floating district.
- I. Site Lighting
1. Site lighting must comply with Division 6, Subdivision 4 – Lighting Standards.
  2. Freestanding, pole-mounted light fixtures must be consistent with the “Shepard’s hook” style of light fixture (*Insert picture*).
- J. Municipal Utilities. All uses in the City Centre Area - Mixed Use Floating District shall be connected to municipal water and sewer utilities.
- K. Other Utilities. All telephone, electric, television and similar communication services distributed by wire or cable shall be placed underground to serve the use and development project.

#### **Sec. 42-438. Development Project review and approval.**

- A. Development of land in the City Centre Area - Mixed Use Floating District shall be permitted subject to an approved unified form of land development plan (conceptual plan) and an approved site plan or subdivision plan (specific plan) as required by this section.
- B. Unified form of land development plan (conceptual plan): The owner or developer of the tract of land to be developed shall submit a conceptual plan to the department of community development. This conceptual plan shall include the following information:
1. A statement of purpose and objectives.
  2. A general plan of development, including the proposed and special land uses by relative intensity and proportion of land area intended for each use.
  3. A map or maps containing the date and north arrow, to be drawn at a minimum acceptable scale of one inch equals 100 feet.
  4. The name of the development, legal description, and names and addresses of the landowner and developer.
  5. All contiguous holdings of the landowner, accompanied by an affidavit of ownership which includes the date of acquisition and liber and page of the conveyance as recorded by the county register of deeds.
  6. Property lines and existing land uses of adjacent tracts of land.
  7. The location, width and names of existing streets, and public and private easements.
  8. The location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the property.
  9. The topography, drawn as contours with an interval of not more than two feet. Elevations must be based on North American Vertical Datum 88 (NAVD88).
  10. The use, approximate height, density, bulk and location of buildings and other structures.
  11. A program of development outlining the proposed stages of development, including the time schedule.
  12. A statement demonstrating the independence of any development phase and the integration of the proposed development project into the proposed or existing development pattern.
  13. The location, function, ownership and manner of maintenance of common open space.
  14. The preliminary proposals for the distribution of water and the disposition of sanitary waste and storm water.

15. The provisions for parking vehicles, the location and width of proposed streets and public ways, and the relationship of proposed streets and other public facilities in proximity to the proposed development.
  16. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures, including proposed easements for public utilities.
  17. An inventory of natural features and characteristics, including bodies of water, floodplains, wetlands, soils, groves of trees, and historical, archeological and similar irreplaceable assets.
- C. Review by planning commission: The development project review and public hearing shall be conducted by the planning commission on the conceptual plan pursuant to the Zoning Act, and a report and recommendation thereof submitted to City Council.
- D. Action by City Council: After receipt of the planning commission report and recommendation, City Council shall hold a public hearing on the conceptual plan pursuant to the Zoning Act. The conceptual plan may be approved, approved with conditions, modified or rejected by the council. If the conceptual plan is approved or approved with conditions, the City Centre Area - Mixed Use Floating District shall be fixed to the Zoning Map to show the extent of the floating district. The record of the approval including the approved conceptual plan and related documents shall be filed in the Office of the City Clerk.
- E. Time limit for submission of specific plan: The approved conceptual plan shall be effective for a period not to exceed two years. If no specific plan for development is received during this two-year period or if no specific plan is received during any four year period after the initial specific plan had been submitted, conceptual plan approval shall expire. City Council may, after receipt of a written request from the applicant before the expiration of the two-year period, grant an additional one-year extension of the conceptual plan.
- F. Time limit for commencing construction: Conceptual plan approval shall expire if construction pursuant to an approved specific plan is not started within two years from the previous specific site plan approval.
- G. Resubmission: If the conceptual plan expires or if modifications are needed, the conceptual plan must be resubmitted in the same manner as provided for review and approval of the original conceptual plan.
- H. Development plan (specific plan):
1. Required; conformance with conceptual plan. Subsequent to approval of the conceptual plan, development of an individual lot or parcel, or multiple lots or parcels as a development phase, a specific plan shall be permitted pursuant to an approved site plan subject to the requirements specified in division 5, subdivision 2, Site Plan Review. The site plan for the specific plan shall be in substantial conformance with the approved conceptual plan.
  2. Time limit for commencing construction. After the site plan for a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within six months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, Site Plan Review.
  3. Resubmission. If the specific plan expires or if modifications are needed, the specific plan must be resubmitted in the same manner as provided for the review and approval of the original specific plan.
- I. Standards for review of conceptual plan: In making their respective determinations, the planning commission and City Council shall consider the following standards and objectives in reviewing the conceptual plan for development in the City Centre Area - Mixed Use Floating District:
1. The buildings and structures are of a size and location that achieve economy and efficiency in the use of the land, natural resources and energy, and in the providing of public services and utilities.
  2. The buildings and structures are compatible with and mutually supportive of each other.

3. The buildings and structures are of a unified architectural and structural character.
  4. The plan incorporates techniques that encourage innovation in land use and variety in design size, layout and type of buildings and structures constructed. The plan incorporates useful open space in an appropriate amount and location.
  5. The landscaping is of a common unifying theme that provides integration of the sites within the development.
  6. The common drives, parking areas and service areas are designed and sized in a definite relationship to the types and sizes of uses to be located in the development.
  7. The plan is designed and will be constructed in such a way as to mitigate to the extent practical the impacts associated with the existing railroad, be compatible with the environment and with neighboring uses, especially residential areas.
  8. The transitions between the various sites and structures within the development project are of a type, nature and size that enhance the ease and safety of vehicular and pedestrian traffic flow and are consistent with the character of the development.
  9. The public services and facilities affected by the conceptual plan are capable of accommodating the increased service and facility loads caused by the development project.
  10. The conceptual plan considers the natural environment, conserves natural resources and energy and enhances access to existing natural resources including Portage Creek and public park, recreation and open space. The conceptual plan provides an attractive, comfortable and convenient setting for residents who inhabit the development and for patrons and others who desire to visit and use the development within the City Centre Area.
- J. Authority to waive or modify standards: City Council may waive or modify the site development incentives and standards specified in this subdivision for a conceptual plan on the basis of evidence submitted by the developer that:
1. A requirement is inconsistent with the development project as a whole;
  2. The objectives of the standard or requirement can be satisfactorily met without strict adherence to it;
  3. The waiver or modification will not be detrimental to the public welfare or injurious to other surrounding property; and
  4. Because of the particulars of the facilities proposed in the development project, it would be unreasonable to require strict adherence.

# DRAFT

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 42-541(B); SECTION 42-542(I) AND BY ADDING SECTION 42-  
554, ARTICLE 4 OF CHAPTER 42  
ZONING**

**Sec. 42-541. Definitions.**

B. Types of signs referred to in this subdivision are defined as follows:

**Ground Sign:** A freestanding sign resting directly on the ground, on a base or supported by short poles not attached to a building or wall, the bottom of which is no more than 24 inches above the finished grade.

**Projecting Sign:** A double-faced sign attached to a building or wall that extends outward perpendicular to the wall or building.

**Sec. 42-542(I). Electronic or mechanical sign elements.**

1. An accessory sign permitted in the B-1, B-2, B-3, CPD, OS-1, OTR, CCA and I-1 and I-2 zoning districts, and a non-accessory sign permitted in the I-1 and I-2 zoning districts, may include an EMD subject to the following requirements:

*Sections a through g unchanged*

**Sec. 42-554. CCA, City Centre Floating District.**

In the CCA, City Centre Floating district:

Awning or Canopy Sign	
Area, maximum	15% of the total area of the business establishment wall to which the awning or canopy is attached. The total area shall not exceed 100 square feet per street frontage. Awning and/or canopy signs are considered wall signs for the purposes of calculating the total area. Awning and/or canopy signs may project more than 18 inches from the wall to which they are attached.
Materials and Design	Barrel design and plastic/vinyl materials are prohibited
Illumination	External illumination only
Ground Clearance	8 feet as measured from grade to the bottom edge of the sign
Right-of-way	Encroachment into a public right-of-way requires a right-of-way permit
Banner	
Area, maximum combined for each 40 lineal feet of building frontage	40 square feet
Ground Clearance	8 feet as measured from grade to the bottom edge of the banner
Distance from curb	2 feet measured from leading edge of the banner.
Placement, projection	<ul style="list-style-type: none"><li>• Banners mounted perpendicular to the building wall must project at a 90 degree angle.</li></ul>

Placement, projection (con.)	<ul style="list-style-type: none"> <li>• A minimum six inch space between the banner and building wall must be maintained.</li> <li>• Banner shall not extend more than 42 inches from the building wall.</li> </ul>
Message	Banners are limited to the name, address or logo of the business.
Right-of-way	A banner that projects into the public right-of-way requires a right-of-way permit.
<b>Electronic Message Display Sign</b>	
See section 42-542(l) for requirements pertaining to size, location, display characteristics and related provisions.	
<b>Ground/Pylon Sign</b>	
Location	At the vehicular entrance to a development to identify the project and uses therein.
Number, maximum	One per vehicular entrance.
Area, maximum	<ul style="list-style-type: none"> <li>• 50 square feet.</li> <li>• For each additional use of a zoning lot (initial use excluded), eight additional square feet of sign is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the zoning lot.</li> </ul>
Height, maximum	<ul style="list-style-type: none"> <li>• Ground Sign - Eight feet</li> <li>• Pylon sign – 16 feet</li> </ul>
Ground sign base	A base not exceeding one-third the height of the sign shall be excluded from the sign area calculation but shall be included in the overall height calculation.
Property line setback	Ten feet
Vision obstructions	Signs shall be located so as not to create vision obstructions for motorists and pedestrians entering or exiting a site, as determined by the Director of Transportation and Utilities
<b>Projecting Sign</b>	
Area, maximum	12 square feet
Distance from building, maximum	4.5 feet
Ground clearance	8 feet as measured from bottom edge of sign
Distance from curb	2 feet
Height, maximum	The sign shall not extend above the sill of the second story window or 16 feet in height, whichever is less.
Number, maximum	One sign per ground floor establishment
Placement	The sign shall project vertically from the wall at an angle of 90 degrees and shall attach to the wall with a minimum 6-inch space between the building and the sign.
Right-of-way	A permit is required for any sign that projects into a public right-of-way
<b>Wall Sign</b>	
Area, maximum	Wall signs for ground level tenants shall not exceed 15 percent of the total wall area to which the sign is attached or 100 square feet, whichever is less.
Area, maximum (con.)	
Number, maximum	<ul style="list-style-type: none"> <li>• More than one wall sign is permitted but the combined area of all wall signs shall not exceed the maximum area as noted above.</li> <li>• For a lot with frontage on more than one street, each frontage may be treated separately for the purpose of calculating wall signage. Wall signage for one street frontage cannot be combined with another street frontage</li> </ul>
Height, maximum	The sign shall not extend above the sill of the second story window or 16 feet in height, whichever is less.

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Dated: \_\_\_\_\_, 2010.

\_\_\_\_\_  
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 \_\_\_\_\_, 2010.

\_\_\_\_\_  
James R. Hudson, City Clerk

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

Approved as to Form:

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

\_\_\_\_\_  
City Attorney



Study Area

Detailed Plan Area

Portage Creek Landings City Centre

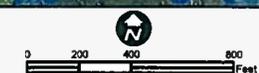
Portage Centre Plaza

Portage City Campus

Portage Central Campus Improvements

- Planned Private Construction
- Planned School Construction
- Civic Facilities
- Recent Construction
- Historic Structure
- Bikeway Trail
- Bikeway Trail Planned

Map 1  
City Centre Area



City Centre Area, Portage, Michigan, 2015. Map prepared by City of Portage, Michigan. All rights reserved.

# DRAFT

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY ADDING SUBDIVISION 16 TO DIVISION 4, ARTICLE 4, OF CHAPTER 42  
LAND DEVELOPMENT REGULATIONS**

**THE CITY OF PORTAGE ORDAINS:**

That Article 4, Division 4, of Chapter 42 shall be amended by adding Subdivision 16 to include the following:

**Subdivision 16. CCMU, Commercial Corridor Mixed Use Floating District.**

**Sec. 42-439. Intent.**

- A. The intent of the Commercial Corridor Mixed Use (CCMU) floating district is to allow residential uses together with office and business uses in a mixed use development, which is high quality, convenient and attractive to residents, consumers and visitors. The CCMU district encourages greater flexibility and more creative and imaginative design in the new development or redevelopment of land areas with a mix of different types of land uses within a single project area resulting in a more efficient use of land than is available under conventional zoning districts. The CCMU district is further intended to:
1. Foster a sustainable, more compact form of development that provides for residential uses to be within walking or biking distance of nonresidential destinations, promotes mixed uses, maintains an efficient infrastructure, and preserves open space and natural areas;
  2. Provide roadway and pedestrian connections between residential and nonresidential areas internal to the development and to adjacent land uses;
  3. Encourage a reduction in off-street parking facilities through the use of shared parking facilities;
  4. Promote the health and well-being of residents by encouraging physical activity and promoting alternate transportation modes; and
  5. Facilitate a development pattern that is consistent in intensity with the uses permitted in the existing, underlying office or business district and with the land use objectives in the Portage Comprehensive Plan.

**Sec. 42-440. Applicability of Subdivision**

- A. An application for a CCMU district may be submitted for any tract of land in which not less than 50% of the tract of land is zoned B-1, local business; B-2, community business; B-3, general business; CPD, commercial planned development; or OS-1, office service, or any combination of such districts. On a future date, the district will be fixed in location at the request of the property owner(s), or the developer, as approved by City Council.
- B. With the greater intensity of building development and mix of uses, the CCMU district is suitable only for tracts of land located along major thoroughfares and identified as a primary commercial node, secondary commercial node or commercial corridor in the Portage

Comprehensive Plan or situated abutting to a designated primary or secondary commercial node or commercial corridor.

- C. The CCMU district is not intended to replace or modify the underlying office or business zoning district, but is intended as a development alternative to foster community growth and development.
- D. The CCMU district cannot be applied in the City Centre Area, Detailed Plan Area as identified in the Planning Commission approved City Centre Area Plan.
- E. The application and use of the CCMU district shall be for a project area that is comprised of a single lot or parcel, or a number of contiguous lots or parcels under single ownership or control of the applicant. In the event that an application for a proposed CCMU district includes more than one parcel not under the same ownership, an agreement signed by the owners of all property shall be included in the application indicating the intent to develop the property as a single project area.

#### **Sec. 42-441. Permitted land uses**

Permitted uses shall provide an orderly, compatible and functional development pattern, be harmonious with existing land uses and be consistent with the Portage Comprehensive Plan. A plan for the project area shall consist of mix of residential, office and business uses as specified in this chapter.

- A. **Principal permitted uses.** In an approved CCMU district and project area, no building or land shall be used, and no building shall be erected, except for:
  - 1. Principal permitted uses and special land uses allowed in the underlying business or office zoning district; and
  - 2. The following specified residential uses:
    - a. One-family detached dwellings
    - b. Child daycare centers
    - c. One-family attached dwellings
    - d. Two-family dwellings
    - e. Adult foster care small and large family homes
    - f. Multi-family residential dwellings

#### **Sec. 42-442. Site development incentives and standards**

- A. **Project Area.** The project area that is intended for development shall be not less than five acres. The tract of land intended for development shall be considered a zoning lot as defined by this article. Upon application by the owner or developer, the City Council, with the recommendation of the Planning Commission, may approve an area for development that is less than five acres, upon finding by the City Council that the proposed development fulfills the intent of this subdivision.
- B. **Building height and number of stories.** The maximum height of buildings and structures shall be determined pursuant to the Maximum Building Height in feet provisions for the underlying zoning district in Section 42-350 A. and B. footnote (6)
- C. **Mixed Use Buildings.** Permitted uses in the underlying zoning district may occupy any number of total floors within a building provided that:
  - 1. No permitted non-residential use shall be located on the same floor in the same building as a permitted residential use.
  - 2. No floor may be used by a permitted non-residential use that is located above a floor that is occupied by a permitted residential use.
  - 3. In a building where there is an office use and/or business use and residential use, there shall be provided a separate, private pedestrian entrance for the residential use.

D. Lot coverage.

1. Maximum lot coverage in the CCMU district shall be determined on the basis of the zoning lot, open space, building, off-street parking and loading, landscaping and screening, setbacks and other requirements specified in this article.
2. A maximum of 20% of the total project area may be used for residential uses, including access roads and parking associated with such residential uses.

E. Residential dwelling unit standards and requirements.

1. Minimum land area for each one-family residential units shall be 7,800 sq. ft.
2. Minimum land area for one-family attached or a two-family dwelling unit shall be 6,000 sq. ft. per unit.
3. Multi-family residential density and minimum floor area per unit shall be established pursuant to Section 42-350 A and B(7) for dwelling unit in the RM-1, Multifamily Residential district. Density shall be based on the entire project area. No more than eighteen units are permitted per each freestanding multi-family residential building.

G. Use requirements. All permitted uses must be conducted in completely enclosed buildings except for accessory off-street parking and off-street loading areas, automated teller machines, open market areas and approved outdoor seating and similar areas associated with a permitted non-residential or a residential use, or as determined by the Planning Commission.

H. Building Setbacks/Perimeter Setbacks

1. Front (external). The minimum front yard setback for buildings located on the perimeter of the project area adjacent to a public street shall be equal to the average setback for existing buildings located between two intersecting streets or 500 feet in either direction of the project area, whichever is less.
2. Front (internal). A majority of the front building wall (façade) must be setback a minimum of 25 feet from any internal street or maneuvering lane.
3. Internal setbacks for multi-family residential structures shall meet the requirements set forth in Division 4, subdivision 10.
4. Internal setbacks for one-family detached dwellings, one-family attached dwellings and two-family dwellings shall be based on the provision of adequate light and ventilation and vehicular parking.
5. Perimeter setbacks. It is the intent of the CCMU district to incorporate adjacent residential and nonresidential land uses into the project area by providing roadway and/or pedestrian connections. For a project area that abuts adjacent property that permits residential uses, or uses of less intensity than proposed in the project area, a peripheral transition area consisting of increased setbacks, landscaping/screening or other similar measures may be required.
6. The above specified setbacks may be modified where strict adherence would serve no practical purpose, or where the overall intent of the CCMU would be better served by allowing a greater or lesser setback.
7. In addition to providing for adequate light and air, setbacks (yards) may also be required where access to land, natural resources including Portage Creek or to public park, recreation or open space, or other uses beyond the building and associated site improvements, would be desirable and where it can be found that such exterior setbacks would be in keeping with the intent and purpose of this subdivision. Where it is determined that such setbacks are desirable, the area of the setbacks shall be developed as pedestrian plazas, courts and open areas, and made an integral part of the project area.

I. Building Design/Development Project Design.

1. Architectural design and building wall materials within the project area must be of a unified character, compatible and mutually supportive and complimentary to existing buildings within the development project and to the existing buildings in the surrounding area. It is not intended that contrasts in architectural design and use of building wall

materials are to be discouraged, but care shall be taken so that any such contrasts do not adversely affect the quality and value of the surrounding area.

2. Elevation drawings of each side of each building in the project area must be submitted.
  3. Each building must have a primary entrance door facing a public sidewalk or as otherwise approved by the Planning Commission. An entrance at building corners may be used to satisfy this requirement.
  4. A building entrance may include doors to individual offices or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of office or business uses.
  5. Architectural amenities within the project area are strongly encouraged and may include pedestrian walkways, brick or other approved decorative paving, coordinated pedestrian-scale lighting, landscaping and major architectural features at entranceways.
  6. Open space/common areas accessible to the public as gathering places that may include focal points such as a plaza, arch, gateway, bell tower or fountain and are connected by pedestrian walkways are strongly encouraged.
  7. Appropriate pedestrian amenities are encouraged and may include street trees, outdoor seating, bus stops, refuse containers, newspaper vending machines, mailboxes, sidewalk displays, public art and other similar amenities.
- J. Vehicular Parking. The following provisions shall apply in the district:
1. Off-street parking must be provided and designed for permitted uses in accordance with Division 6, Subdivision 1, Off-Street Parking and Loading. The applicant may request a reduction or waiver of parking standards based on submittal of a parking impact study that may include, among others, estimated peak use, reductions due to pedestrian accessibility, availability of transit service, likelihood of car pool use and adjacent on-street parking. The parking study shall be subject to review by the Planning Commission and the City Council.
  2. Off-street parking facilities may be shared between two or more adjacent uses and not meet the minimum combined number of parking spaces for each use if the applicant(s) demonstrates the peak parking needs do not overlap, per an approved planned project area plan.
- K. Signs. Signage is permitted and shall fulfill the sign requirements established in Division 6, Subdivision 2 - Signs applicable to the underlying office or business zoning district.
- L. Site Lighting. Site lighting must comply with Division 6, Subdivision 4 – Lighting Standards.
- M. Municipal Utilities. All uses in the CCMU shall be connected to municipal water and sewer utilities.
- N. Other Utilities. All telephone, electric, television and similar communication services distributed by wire or cable shall be placed underground to serve the use and development project.
- O. Where a plan has been approved for a project area pursuant to this subdivision, the regulations imposed for approval of the project area shall apply.
- P. If a lot or parcel in an application for a CCMU district includes less than the entire lot or parcel owned by the applicant, an explanation shall be provided by the applicant regarding:
1. The anticipated relationship between the development project and any existing use on the remaining lot or parcel, and
  2. The future development and access to the remaining portions of the lot or parcel.

#### **Sec. 42-443. Development Project review and approval.**

- A. Development of land in the CCMU district shall be permitted subject to an approved unified form of land development plan (conceptual plan) and an approved site plan or subdivision plan (specific plan) as required by this section.
- B. Unified form of land development plan (conceptual plan): The owner or developer of the tract of land to be developed shall submit a conceptual plan to the Department of Community Development. This conceptual plan shall include the following information:

1. A statement of purpose and objectives.
  2. A general plan of development, including the proposed and special land uses by relative intensity and proportion of land area intended for each use.
  3. A map or maps containing the date and north arrow, to be drawn at a minimum acceptable scale of one inch equals 100 feet.
  4. The name of the development, legal description, and names and addresses of the landowner and developer.
  5. All contiguous holdings of the landowner, accompanied by an affidavit of ownership which includes the date of acquisition and liber and page of the conveyance as recorded by the county register of deeds.
  6. Property lines and existing land uses of adjacent tracts of land.
  7. The location, width and names of existing streets, and public and private easements.
  8. The location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the property.
  9. The topography, drawn as contours with an interval of not more than two feet. Elevations must be based on North American Vertical Datum 88 (NAVD88).
  10. The use, approximate height, density, bulk and location of buildings and other structures.
  11. A program of development outlining the proposed stages of development, including the time schedule.
  12. A statement demonstrating the independence of any development phase and the integration of the proposed development project into the proposed or existing development pattern.
  13. The location, function, ownership and manner of maintenance of common open space.
  14. The preliminary proposals for the distribution of water and the disposition of sanitary waste and storm water.
  15. The provisions for parking vehicles, the location and width of proposed streets and public ways, and the relationship of proposed streets and other public facilities in proximity to the proposed development.
  16. The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures, including proposed easements for public utilities.
  17. An inventory of natural features and characteristics, including bodies of water, floodplains, wetlands, soils, groves of trees, and historical, archeological and similar irreplaceable assets.
- C. Review by Planning Commission: The development project review and public hearing shall be conducted by the Planning Commission on the conceptual plan pursuant to the Zoning Act, and a report and recommendation thereof submitted to City Council.
- D. Action by City Council: After receipt of the Planning Commission report and recommendation, City Council shall hold a public hearing on the conceptual plan pursuant to the Zoning Act. The conceptual plan may be approved, approved with conditions, modified or rejected by the council. If the conceptual plan is approved or approved with conditions, the CCMU shall be fixed to the Zoning Map to show the extent of the district. The record of the approval including the approved conceptual plan and related documents shall be filed in the Office of the City Clerk.
- E. Time limit for submission of specific plan: The approved conceptual plan shall be effective for a period not to exceed two years. If no specific plan for development is received during this two-year period or if no specific plan is received during any four year period after the initial specific plan had been submitted, conceptual plan approval shall expire. City Council may, after receipt of a written request from the applicant before the expiration of the two-year period, grant an additional one-year extension of the conceptual plan.
- F. Time limit for commencing construction: Conceptual plan approval shall expire if construction pursuant to an approved specific plan is not started within two years from the previous specific site plan approval.

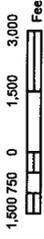
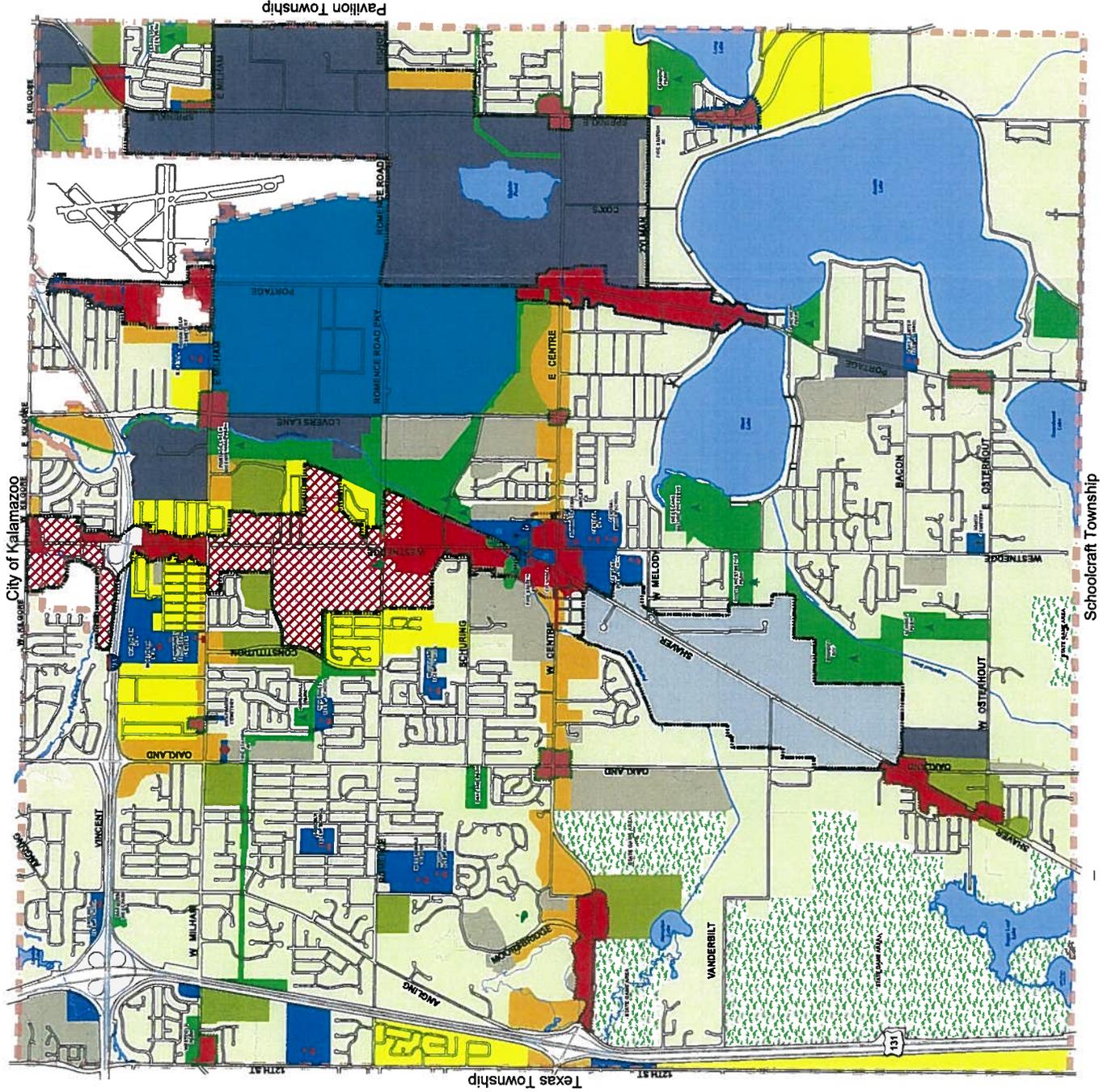
- G. Resubmission: If the conceptual plan expires or if modifications are needed, the conceptual plan must be resubmitted in the same manner as provided for review and approval of the original conceptual plan.
- H. Development plan (specific plan):
1. Required; conformance with conceptual plan. Subsequent to approval of the conceptual plan, development of an individual lot or parcel, or multiple lots or parcels as a development phase, a specific plan shall be permitted pursuant to an approved site plan subject to the requirements specified in division 5, subdivision 2, Site Plan Review. The site plan for the specific plan shall be in substantial conformance with the approved conceptual plan.
  2. Time limit for commencing construction. After the site plan for a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within six months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, Site Plan Review.
  3. Resubmission. If the specific plan expires, or if modifications are needed, the specific plan must be resubmitted in the same manner as provided for the review and approval of the original specific plan.
- I. Standards for review of conceptual plan: In making their respective determinations, the planning commission and City Council shall consider the following standards and objectives in reviewing the conceptual plan for development in the CCMU:
1. The buildings and structures are of a size and location that achieve economy and efficiency in the use of the land, natural resources and energy, and in the providing of public services and utilities.
  2. The buildings and structures are compatible with and mutually supportive of each other.
  3. The buildings and structures are of a unified architectural and structural character.
  4. The plan incorporates techniques that encourage innovation in land use and variety in design size, layout and type of buildings and structures constructed. The plan incorporates useful open space in an appropriate amount and location.
  5. The landscaping is of a common unifying theme that provides integration of the sites within the development.
  6. The common drives, parking areas and service areas are designed and sized in a definite relationship to the types and sizes of uses to be located in the development.
  7. The conceptual plan provides an attractive, comfortable and convenient setting for residents who inhabit the development and for patrons and others who desire to visit and use the development.
  8. The plan is designed and will be constructed in such a way as to be compatible with the environment and with neighboring uses, especially residential areas.
  9. The transitions between the various sites and structures within the development project are of a type, nature and size that enhance the ease and safety of vehicular and pedestrian traffic flow and are consistent with the character of the development.
  10. The public services and facilities affected by the conceptual plan are capable of accommodating the increased service and facility loads caused by the development project.
  11. The conceptual plan considers the natural environment, conserves natural resources and energy and enhances access to existing natural resources including Portage Creek and public park, recreation and open space.
- J. Authority to waive or modify standards: City Council may waive or modify the site development incentives and standards specified in Section 42-437 for a conceptual plan on the basis of evidence submitted by the developer that:
1. A requirement is inconsistent with the development project as a whole;
  2. The objectives of the standard or requirement can be satisfactorily met without strict adherence to it;

3. The waiver or modification will not be detrimental to the public welfare or injurious to other surrounding property; and
4. Because of the particulars of the facilities proposed in the development project, it would be unreasonable to require strict adherence.

# Map 13 Future Land Use Map City of Portage

## Legend

- Low Density Residential
- Single-Family Detached-Medium Density Residential
- Medium-Density Residential
- High Density Residential
- General Business
- Local Business
- Regional Business
- General Industrial
- Shaver Road Business Corridor
- Research, Development & Technology
- Office
- Park / Recreation
- Gourdneek State Game Area
- Public
- City Centre
- Primary Commercial Node
- Secondary Commercial Node
- Commercial or Industrial Corridor
- Commercial Revitalization Area
- Airport
- Cemetery
- City Park
- Court
- Fire Station
- Golf Course
- Library
- Municipal
- P.C.O.C.
- Police
- Public School
- CITY BOUNDARY



# DRAFT

**ORDINANCE TO AMEND THE CODE OF ORDINANCES  
OF THE CITY OF PORTAGE, MICHIGAN  
BY AMENDING SECTION 42-112 OF CHAPTER 42 AND ADDING SECTION 137 TO  
CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 of Chapter 42, Land Development Regulations, are hereby amended as follows:

**Section 42-112. Definitions.**

*Work/live unit or work/live space:* Means a structure or portion of a structure that (1) combines a small-scale commercial activity that is allowed in the zoning district with an accessory residential living space for the owner of the commercial business and that person's household; and (2) the resident owner of the business is responsible for the commercial activity performed.

**Section 42-137. Work/Live Accommodations.**

- A. Intent: The intent of this section is to permit an on-site accessory residential unit to a permitted commercial activity as living quarters for the owner of the business. This section is further intended to:
1. Encourage a diversity of uses that contribute to the city's total employment base and provide the services needed by the city's residents and businesses;
  2. Provide start-up locations for appropriate new business;
  3. Allow the reuse of existing buildings or the construction of new buildings designed for live/work activities; and
  4. Ensure that the exterior design of work/live buildings is compatible with the exterior design of existing commercial and residential buildings in the area.
- B. Applicability.
1. Work/live buildings are permitted in the OS-1, office service; B-1, local business; B-2, community business; B-3, general business; and CPD, commercial planned development zoning districts subject to review and approval of a special land use permit pursuant Division 5, Subdivision 1.
  2. Any commercial use permitted in the zoning district applicable to the property is permitted in the work/live unit.
  3. Single purpose residential units unrelated to commercial activities are prohibited.
- C. Site development standards.
1. Zoning District Site Development Requirements. Unless otherwise permitted by this section, development of work/live buildings and associated site improvements shall meet all the site development requirements applicable to the zoning district in which the work/live buildings are located.
  2. Live/Work Buildings. The following applies to the use and interior arrangement of work/live buildings:

- a. The living unit may be located above or adjacent to and on the same level as the permitted commercial use. If the living unit is adjacent to and located on the same level as the permitted commercial use, the living unit must be located behind the building.
  - b. No floor may be used by a permitted non-residential use that is located above a floor that is occupied by a permitted residential use.
  - c. An interior connection must be maintained between the living and work portions of the building.
  - d. Within each work/live building, the living area shall not exceed one third of the total floor area.
  - e. The work/live building must meet applicable building and fire code requirements for the type and activity/use undertaken.
  - f. The living portion of the unit shall be accessory to the work/live space and the principal use shall be maintained and classified as a business use.
  - g. Only owners of the business associated with the work/live building may occupy the living unit portion.
3. Residential dwelling unit standards and requirements
- a. The floor area for each residential dwelling unit shall meet the minimum requirements of Section 42-350(A) for a dwelling unit located in the RM-1/RM-2, Multi-family Residential district.

**Section 42-242. OS-1, Office Service – Special Land Uses**

E. Work/live accommodations in accordance with the provisions of Section 42-137

**Section 42-260(C). B-1, Local Business – Special Land Uses,**

10. Work/live accommodations in accordance with the provisions of Section 42-137

**Section 42-261(C). B-2, Community Business – Special Land Uses**

7. Work/live accommodations in accordance with the provisions of Section 42-137

**Section 42-262(C). B-3, General Business – Special Land Uses**

9. Work/live accommodations in accordance with the provisions of Section 42-137

**Section 42-412. CPD, Commercial Planned Development**

F. Work/live accommodations in accordance with the provisions of Section 42-137

F. G. Accessory uses: Accessory uses are permitted in the CPD, commercial planned development district, including but not limited to the following:

- 1. Satellite dishes, antennas and communication devices if not being used in connection with a radio or television station.
- 2. Accessory uses permitted in section 42-121, Accessory buildings and uses.

## CITY OF PORTAGE

## COMMUNICATION

---

**TO:** Honorable Mayor and City Council

**DATE:** February 23, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Comprehensive Liability, Property and Auto Fleet Insurance Coverage

**RECOMMENDED ACTION:** That City Council approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority at a total not-to-exceed cost of \$531,557 for the period of March 1, 2011 to March 1, 2012, and authorize the City Manager to execute all documents related to this action on behalf of the city.

The City of Portage has been insured by the Michigan Municipal Risk Management Authority (MMRMA) for comprehensive liability, property and auto fleet insurance since 1984. The MMRMA has quoted a one-year renewal rate in the amount of \$481,557, which includes \$15,000,000 of liability coverage and \$75,000 of self-insurance retention coverage. The renewal rate represents a decrease of 2½ percent over the premium cost paid last year.

Included in the total premium amount is a \$50,000 contribution to the Loss Fund. The Loss Fund is a City of Portage owned interest-bearing account on deposit with the MMRMA for claims adjustment, judgments and legal expenses within the self-insured retention limit that accrue during the year.

Council approval of the MMRMA liability insurance program is recommended. Funds have been allocated for the remaining Fiscal Year 2010-2011 Budget, with the balance to be included in the Fiscal Year 2011-12 Budget.

c: Robert Luders, Director of Financial Services

## CITY OF PORTAGE

## COMMUNICATION

---

**TO:** Honorable Mayor and City Council

**DATE:** February 25, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Andover Woods Residential Subdivision Signs

**ACTION RECOMMENDED:** That City Council approve the installation of the Andover Woods residential subdivision signs in the public right-of-way and authorize the City Manager to execute the Portage Andover Woods Sign Islands Agreement on behalf of the city.

The accompanying correspondence has been received from Ms. Michelle O'Neil, Andover Woods Homeowners Association, requesting permission to install permanent entry signs for the Andover Woods residential subdivision. The signs are proposed to be placed in the existing median islands located at the intersections of West Milham Avenue/Andover Woods Drive and South 12<sup>th</sup> Street/Golden Ridge Trail. Each sign will be approximately 20 square feet in area (3 feet tall by 6.7 feet wide) and five feet in height. Attached are drawings that illustrate the proposed signs and location in the median islands.

Section 42-545.D of the Zoning Code allows placement of a residential subdivision sign in the public right-of-way within R-1A through R-1E one-family zones, subject to several conditions. One of the conditions requires "compensation to the city for continued use of the property." Consistent with the 2009 and 2010 City Council approval of the Steeplechase Homeowners Association and Romence Ridge Homeowners Association sign applications, the Andover Woods Homeowners Association is also offering \$1 as compensation. If the improvements are not properly maintained by the association, there are provisions in the agreement and by-laws that allow the City of Portage to tax or place liens on the property owners for these purposes, should this action be necessary.

Attached is a copy of the Portage Andover Woods Sign Islands Agreement that has been approved by the City Attorney. Installation of the signs also required an amendment to the Portage Andover Woods Homeowners Association Bylaws. Attached is a copy of the First Amendment to the Bylaws of Portage Andover Woods Homeowners Association that has also been reviewed and approved by the City Attorney.

The City Administration recommends that the request be approved and the agreement executed.

**Attachments:** Communication from the Andover Woods Homeowners Association  
Portage Andover Woods Sign Islands Agreement  
First Amendment to the By-laws of Portage Andover Woods Homeowners Association

Andover Woods Homeowners Association

February 25, 2011

Christopher Forth, AICP  
Deputy Director of Planning and Development Services  
Department of Community Development  
7900 South Westnedge Avenue  
Portage, Michigan 49002

RECEIVED  
FEB 25 2011  
COMMUNITY DEVELOPMENT

Dear Mr. Forth:

The Andover Woods Homeowners Association is requesting that the Portage City Council consider and approve this request to construct signs within the Andover Woods Drive and Golden Ridge Trail right-of-ways. The signs will beautify our neighborhood and aid navigation of visitors to our neighborhood. Renderings of the signs, amended homeowners association bylaws, and site plans have been submitted for the signs prior to this letter. If you have any questions regarding information presented, please contact me at 353-6764.



---

Michelle O'Neill, P.E.

## EXHIBIT A

### PORTAGE ANDOVER WOODS SIGN ISLANDS AGREEMENT

This Agreement is made \_\_\_\_\_, <sup>2011</sup>~~2010~~, between the City of Portage, a Michigan municipal corporation ("City"), whose address is City Hall, 7900 S. Westnedge, Portage, Michigan 49002, and Portage Andover Woods Homeowners Association, a Michigan non-profit corporation ("Association"), whose address is PO Box 333, Portage MI 49081-0333.

1. Recitals. The Association consists of the owners of lots in the Plat of Andover Woods No. 1 ("Plat") which is described on **Exhibit A**, and was formed for the purpose of, among other things, maintaining landscaped traffic islands with signs on them ("Sign Islands") located within the rights-of-way for Golden Ridge Trail and Andover Woods Road, which are dedicated as public streets through the City, at the entrances to the Plat. The purpose of this Agreement is to permit the construction and maintenance of the Sign Islands within the rights-of-way.

2. Grant of Right. For and in consideration of the payment by the Association to the City of the sum of One (\$1.00) Dollar and the covenants and agreements herein set forth, the City grants the Association the right to have the Sign Islands within the Golden Ridge Trail and Andover Woods Road rights-of-way, as shown on **Exhibit B**.

3. Maintenance and Repair. The Association shall be fully responsible for maintenance and repair of the Sign Islands and the signs and landscaping in the Sign Islands. If the Association shall not, within thirty (30) days after notice from the City, make repairs to the Sign Islands, or maintain the landscaping and signs, the City shall be entitled to do so and tax the cost to the Association which, if not paid upon demand, shall become a lien on the property of each Association member. In the alternative, the City may remove the Sign Islands and tax the cost to the Association which, if not paid upon demand, shall become a lien on the property of each Association member. Any such lien shall accrue interest at a rate of one (1%) percent per month. In the event that, for any reason, the Association shall be dissolved, those who are members of the Association upon dissolution shall remain liable for maintenance and repair of the Sign Islands. The Association may, at any time, remove the Sign Islands, so long as the roadway shall be repaired, at the expense of the Association, to the City's specifications.

4. Indemnity. The Association shall defend, indemnify and hold the City harmless from any and all liability as a result of any personal property damage or personal injury resulting from the Sign Islands and shall provide evidence of insurance naming the City as an additional insured in an amount which reasonably protects the City. In the event that any such insurance shall not be maintained, the City shall have the right to remove the Sign Islands and the provisions of paragraph 3 regarding the obligation of the members of the Association to pay the cost thereof shall apply.

5. Sign Details. The signs in the Sign Islands shall be constructed according to the drawings attached as **Exhibit C**.

6. Access. The City shall have the right to enter the Sign Islands to conduct such activities as are reasonably necessary to or permitted under the Agreement.

7. Benefit and Burden. The covenants, conditions and agreements made and entered into by the parties hereto shall inure to the benefit of and shall be binding upon their respective successors and assigns.

8. Notice to Association Members. The maintenance and indemnity provisions hereof shall be included in the Declaration of Restrictions recorded in connection with the Plat. Such property shall also include notice to the Association members that the property of each member who owns property in the Plat shall be subject to the lien provisions hereof.

9. Amendments. No change, modification, supplement, or addition to any part of this Agreement, including this paragraph, nor any change, modification or supplement, or addition to any restriction of the Plat or bylaws of the Association concerning maintenance and repair of the Sign Islands, nor responsibility of the Association or individual members regarding the Sign Islands shall be binding unless in writing and consented to by the City.

IN WITNESS WHEREOF, this Agreement has been executed effective as of the date set forth above.

WITNESSES

PORTAGE ANDOVER WOODS  
HOMEOWNERS ASSOCIATION,  
a Michigan non-profit corporation

Amy Taylor  
Amy Taylor  
Darcee Thomas  
Darcee Thomas

By: Robert Taylor  
Robert Taylor  
By: Chad Maniscalco  
Chad Maniscalco

CITY OF PORTAGE, a Michigan  
municipal corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Prepared by: James D. Lance  
Kreiss, Enderle, Hudgins + Borsook, P.C.  
One West Michigan Avenue  
Bath, ME 49017

APPROVED AS TO FORM  
DATE 2/11/11  
[Signature]  
CITY ATTORNEY

# *Ingersoll, Watson & McMachen, Inc.*

CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS

EXHIBIT A

32217

JANUARY 11, 2001

## CORRECTED PARCEL DESCRIPTION PROPOSED "ANDOVER WOODS NO. 1"

A parcel of land situated in the Northwest fractional quarter of Section 7, T. 3 S., R. 11 W., City of Portage, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the West quarter corner of fractional Section 7, T. 3 S., R. 11 W.; thence N. 00 deg. 04 min. 23 sec. E. 1716.00 feet along the West line of the Northwest fractional quarter of said Section to the Place of Beginning; thence S. 89 deg. 57 min. 45 sec. E. 380.17 feet parallel with the South line of said Northwest fractional quarter to a point N. 89 deg. 57 min. 45 sec. W. 965.00 feet from the East line of the West fractional half of said Northwest fractional quarter; thence N. 34 deg. 09 min. 32 sec. E. 52.16 feet; thence N. 81 deg. 47 min. 09 sec. E. 159.01 feet; thence S. 89 deg. 57 min. 45 sec. E. 583.09 feet; thence S. 00 deg. 12 min. 58 sec. E. 80.73 feet; thence N. 89 deg. 47 min. 02 sec. E. 195.00 feet to said East line of the West fractional half; thence N. 00 deg. 12 min. 58 sec. W. 424.25 feet along said East line to the South line of the North 528.00 feet (perpendicular measure) of said Northwest fractional quarter; thence N. 89 deg. 50 min. 00 sec. W. 82.50 feet along said South line parallel with the North line of said Northwest fractional quarter; thence N. 00 deg. 12 min. 58 sec. W. 528.01 feet parallel with said East line to said North line; thence N. 89 deg. 50 min. 00 sec. W. 347.00 feet along said North line; thence S. 00 deg. 04 min. 23 sec. W. 528.00 feet parallel with said West line of the Northwest fractional quarter to said South line of the North 528.00 feet; thence N. 89 deg. 50 min. 00 sec. W. 910.94 feet along said South line parallel with said North line to said West line; thence S. 00 deg. 04 min. 23 sec. W. 413.41 feet along said West line to the Place of Beginning.

Exhibit "B"

12th STREET

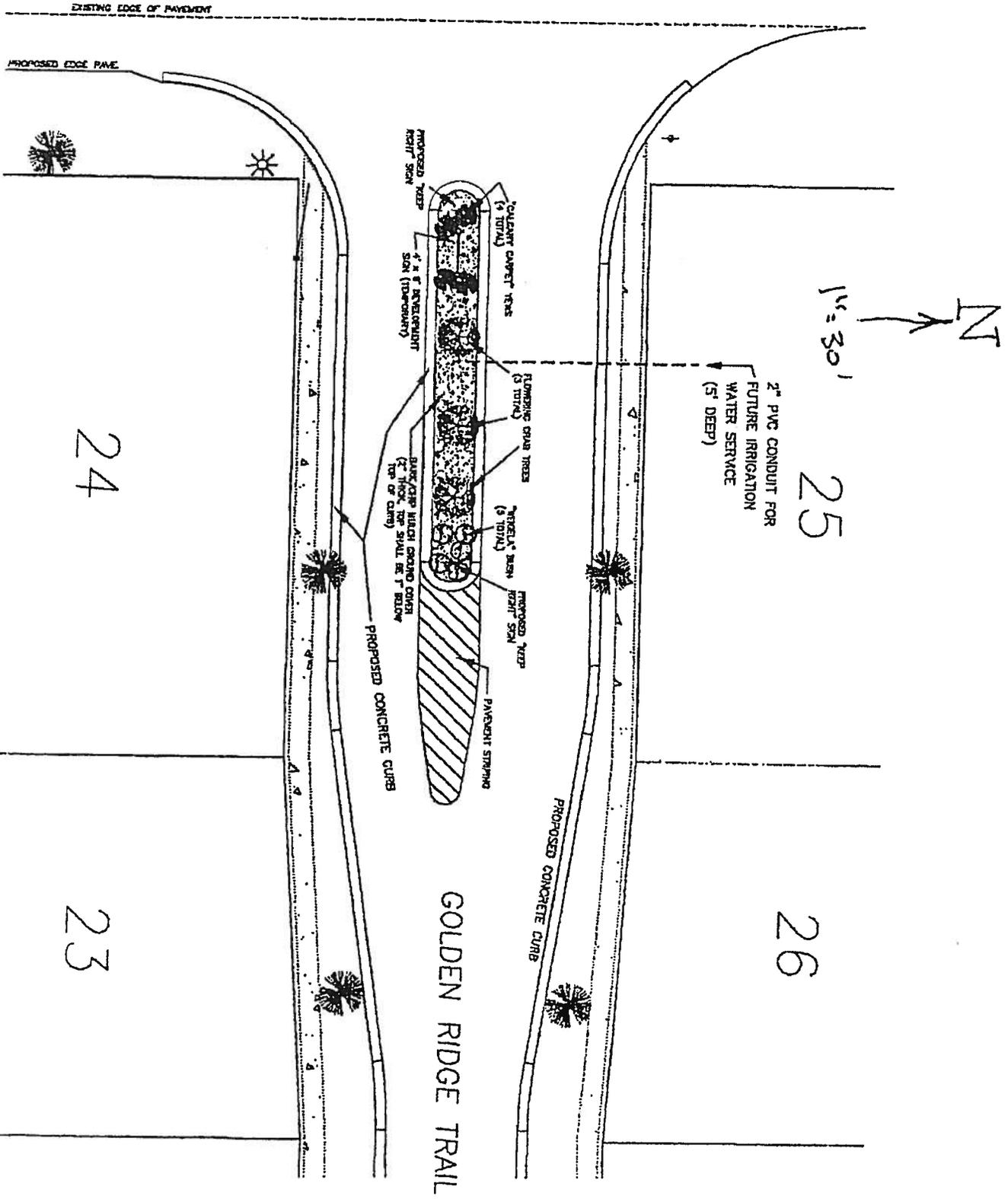
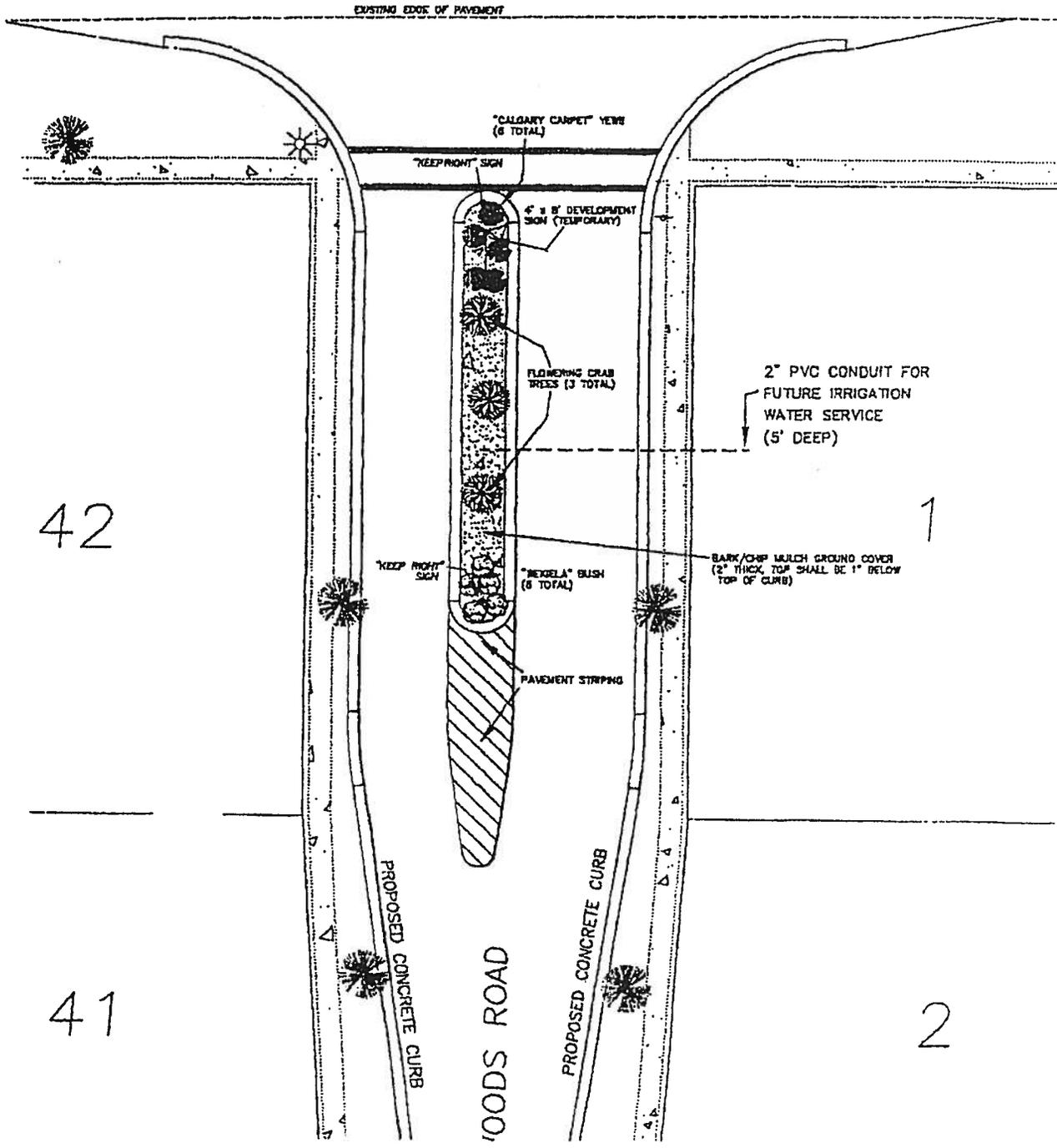


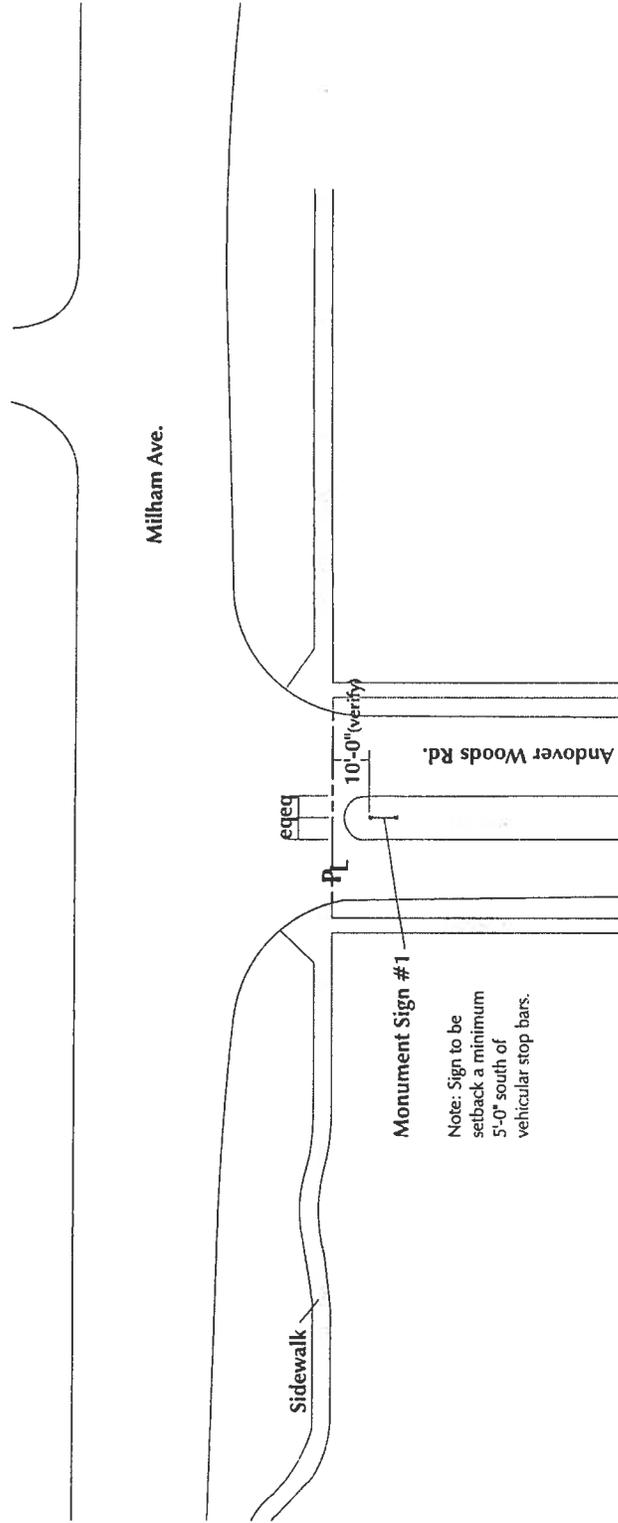
Exhibit B

Exhibit "B"

WEST MILHAM AVENUE

↑  
1" = 30'





Site Plan Scale: 1" = 50'-0"

Andover Woods — Milham Rd. & 12th St., Portage, MI

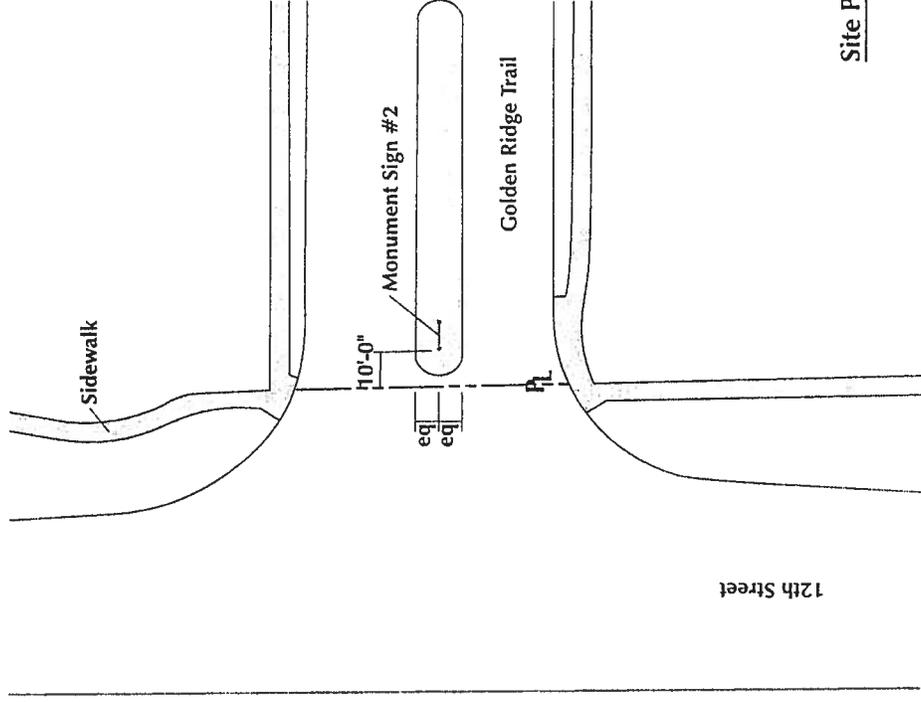
Lead #SV-0019946

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GI 2-14-11cs Approved for: \_\_\_\_\_ By: \_\_\_\_\_ Date: \_\_\_\_\_ ©2010 AndoverWoods

4-28-10  
10-14-10  
10-19-10

Exhibit C



Site Plan Scale: 1" = 50'-0"

Andover Woods — Milham Rd. & 12th St., Portage, MI

Lead #SV-0019946

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By: \_\_\_\_\_ Date: \_\_\_\_\_



**First Amendment to the  
Bylaws of  
Portage Andover Woods Homeowners Association**

RESOLVED, that the Board of Directors (the "Board") of the PORTAGE ANDOVER WOODS HOMEOWNERS ASSOCIATION, a Michigan non-profit corporation (the "Corporation"), certifies the following actions:

- (1) The Corporation desires to amend the Portage Andover Woods Homeowners Association Bylaws ("Bylaws") currently in effect.
- (2) The provisions set forth in this First Amendment supersede and replace or, where indicated, are in addition to the provisions set forth in the existing Bylaws.
- (3) Pursuant to Article VIII, Section 2 of the Bylaws, the Bylaws may be amended as follows:

"Amendments to these Bylaws may be proposed by the Board of Directors of the Association acting upon the vote of the majority of the Directors or by one-third (1/3) or more in number of the members of the Association whether meeting as members or by instrument in writing signed by them."

NOW THEREFORE, the Bylaws of the Corporation are amended as follows:

- A. **New Provision**. Subparagraph (h) shall be added to Article III, Section 3, and it shall state:

"(h) To cause the Islands and the landscaping in the Andover Woods Sign area to be maintained in accordance with the stated purposes of the Andover Woods Sign Island Agreement."

- B. **New Provision**. Subparagraph (e) shall be added to Article V, Section 4, and it shall state:

"(e) The Board of Directors may from time to time special assess for the maintenance and repair or replacement of the Islands which includes the Sign Islands as contemplated by the Andover Woods Sign Island Agreement with the City of Portage, and the landscaping."

- C. **Amendment**. Article VII shall be amended as follows: (Additions are underlined)

"Section 1. The terms of the Andover Woods Sign Island Agreement, to be entered into between the City of Portage and the Association and attached as Exhibit A are incorporated herein by reference and shall bind the Association and its Members.

Section 2. So long as the Andover Woods Sign Island Agreement shall be in effect, the property of each member of the Association shall be subject to the lien provisions thereof."

- D. **No Other Amendments.** Except as amended by the terms of this First Amendment, the Bylaws shall remain in full force and effect.

The above actions were approved unanimously on June 21, 2009.

Robert Taylor  
Robert Taylor

Chad Maniscalco  
Chad Maniscalco

Darcee Thomas  
Darcee Thomas

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

Prepared by:  
James D. Lance  
Kreiss, Enderle, Hodgins & Borsos, PC  
One West Michigan Avenue  
Bottle Creek, MI 49017

**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** February 27, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Budget Amendment for Storm Damage Cleanup

**ACTION RECOMMENDATION:** That City Council approve the budget amendment to the Leaf Pickup Spring Cleanup Fund to provide funds needed to clean up storm damage which occurred on February 20 and 21, 2011.

On February 20 and 21, 2011, an ice storm caused significant tree damage to neighborhoods in the city of Portage. The cost to make the roads passable and gather, load and haul the broken tree limbs is estimated to be \$117,000. This expense was not included in the preparation of the 2010-2011 budget. A fund balance is maintained in most funds (including the Leaf Pickup Spring Cleanup Fund) to accommodate these eventualities.

It is recommended that \$117,000 be appropriated from the previously unappropriated fund balance in the Leaf Pickup Spring Cleanup fund to pay for the storm damage cleanup.

Kalamazoo County Public Housing Commission

P.O. Box 51545

Kalamazoo, MI. 49005

**RECEIVED**  
**FEB 24 2011**  
**COMMUNITY DEVELOPMENT**

Mayor Strazdas and Members of the Portage City Council  
City of Portage  
7900 S. Westnedge Avenue  
Portage, MI. 49002  
% Vicki Georgeau, Deputy Director of Neighborhood Services

Re: Presentation of the Local Housing Assistance Fund (LHAF) Four Year Report  
(2006-2010)

Dear Mayor and Council Members:

The Kalamazoo County Public Housing Commission encloses the above referenced report and respectfully requests time on the Council Agenda on Tuesday, March 8, 2011 to formally present the report, answer your questions, and discuss our sustainability efforts. We believe this report to be in keeping with the City of Portage's intent back in 2007/2008 when it committed funds to the Local Housing Assistance Fund and invested in the future of the residents of the community. Presenters will be David Anderson, Chair of the PHC, and myself as the volunteer staff person to the PHC.

We believe your investment had an amazing return and you feel very proud of this partnership. We look forward to the dialogue. Please contact me directly to confirm the time, and date. Thank you for your caring.

Sincerely,



David P. Artley  
10095 Pepperell Court  
Portage, MI. 49024

Email-

Cell – 569-9476

Home – 321-1788

Work – 384-8304

Encl.- LHAF Report 2/1/2011 for 2006-2010

Cc: David Anderson, Portage file

**LOCAL HOUSING ASSISTANCE FUND (LHAF)**  
(January 2007 to December 2010)

Under the auspices of  
Kalamazoo County Public Housing Commission

<b>Total LHAF Raised: \$1,001,405</b>	
Contributors: Kalamazoo County, Cities of Kalamazoo and Portage, Other Sponsors & Individuals	
<b>UTILIZATION OF LHAF FUNDS</b>	
<ul style="list-style-type: none"> <li>• <b>Homeless Prevention Services</b>.....\$88,000 (rent subsidies, housing foreclosure prevention, etc.)</li> <li>• <b>Subsidies</b>.....\$420,000 (housing vouchers through participation with sponsor programs and life roadmaps)</li> <li>• <b>Leveraging</b>.....\$390,000 (matching funds to acquire housing units – total MSHDA funds leveraged \$1,441,000 – \$600,000 for Elm Street and \$841,000 for Family Non-profit Housing Corporation) (leveraging funds for additional site based subsidies – total \$116,000 HUD “Second Base” Chronically Homeless Grant for Elm Street Residents who were Chronically Homeless commencing in January 2009) <u>Grand total all funds leveraged \$1,557,000</u></li> <li>• <b>Endowment</b>...(future seed money).....\$70,000 (endowment growth \$23,000 to a total of \$93,000)</li> <li>• <b>Audits, Accounting, Legal</b>.....\$30,000</li> <li>• <b>Other</b>.....\$3,405</li> <li>• <b>Administrative &amp; Staff &amp; Sponsors/Champions</b>.....\$0 (over 12,200 hours of donated services – 10,000 hrs Sponsors + 2,200 hrs Admin &amp; Staff)</li> </ul>	<p><b>\$1,001,405</b></p>

<b>RESULTS</b>	
<b>Homeless Prevention</b>	<p>146 households served = 408 persons (185 adults, 223 children)</p> <p>Primarily received rental assistance</p> <p>80% at or below 30% AMI</p> <p>89% stable housing as of Sep-09</p> <p>Range of assistance \$487.80 per household in 2006 to \$789.47 per household in 2010</p> <p>Geographically dispersed across the county</p> <p>This part of the program operates via subcontract with an existing service provider, Housing Resources, Inc. (HRI). Additional details are available upon request to the holder/creator noted in the footer below.</p>

**RESULTS**

<p><b>LHAF Housing Vouchers</b> (Transitional – one year with potential of 2<sup>nd</sup> yr.)</p>	<p>117 issued (2 still active)</p> <p>Paid for one security deposit; 116 found their own security deposit.</p> <p>35 included one or more children</p> <p>92 single adults/ 25 couples</p> <p>100% homeless at time of becoming voucher recipient</p> <p>100% at or below 30% AMI (Area Medium Income) at time of becoming voucher recipient</p> <p>33% had zero income at start voucher</p> <p>100% completed permanent housing stability plan</p> <p>20% Expected graduation rate Actual 40% graduation rate Graduation = increase in household income or securing permanent housing voucher such as HARP</p> <p>Average stay 13.5 months graduates Average stay 6.2 months unsuccessful recipient 2 active vouchers (23 months)</p> <p>Average monthly voucher \$381.81</p> <p>Population served ethnically and gender diverse.</p> <p>0 administrative costs = 10,000 sponsor hours and 2,200 admin and staff hours (plus 137 pro-bono unit inspections by certified housing inspectors of the KCMHSAS (Kalamazoo Community Mental Health &amp; Substance Abuse Services))</p> <p>Primarily from Cities of Kalamazoo and Portage &amp; Village of Richland</p>
<p><b>Leveraging</b></p>	<p>10 Chronically Homeless units/ Elm Street NPHC – Individuals pay up to 30% of their income and a federal HUD grant – “Second Base” \$116,000 – covers the balance of their rent. These vouchers are permanent HUD vouchers.</p> <p><u>Additionally projected for 2011:</u> 6 Families / Kalamazoo Family NPHC @ 6 sites (5 in Kalamazoo/ 1 in Portage) – Will have permanent site-based vouchers assigned by MSHDA.</p> <p>5 Women in Recovery / Bethany House (501c3) closed by Sister of St. Joseph in late 2009, bought and reopened by the Public Housing Commission. This is transitional housing (up to two years).</p>

(Source: PHC-LHAF{DPA } 2-1-2011) For further details, contact Dave Artley @ 384-8304 or dpartl@kalcounty.com

### **LESSONS LEARNED**

The 27 active landlords worked with the LHAF Vouchers providing packaged rent and utilities at or less than HUD Fair Market rates - \$486/mo. Efficiency or Studio, \$518/ mo. – 1 bedroom, \$630/mo. – 2 bedrooms. Landlords often called if the voucher recipient was in need of assistance and occasionally that assistance went way beyond rent.

Sponsors/champions are those who work with homeless in some form, are non-profits organizations and had the ability to donate service support time. Sponsors donated over 10,000 hours or an average nearly 10 hours a month per recipient. Further, the sponsors who provided the most intense championing often had the greatest success. There were 9 sponsors including:

- Emergency Overnight Shelter (now Oakland House)
- Gospel Mission
- Ministry with Community
- Open Door Next Door (now Open Doors)
- Edison Neighborhood Association
- Michigan Prison Reentry Initiative/Michigan Department of Corrections (MPRI/MDOC)
- Portage Community Outreach Center (now Portage Community Center)
- Bethany House (prior to being closed by the Sister of St. Joseph)
- Richland Community Churches (3 churches working together for Richland residents)

A Sponsors' Advisory Council was informally created and met bi-monthly and regularly shared resource access names and solved problems with recipients and of landlords. This was an unplanned, but welcomed, positive consequence.

Looking at long-range sustainability, the Housing Endowment Fund was created at the Kalamazoo Community Foundation with \$70,000 in 2008. It is now valued at over \$93,000.

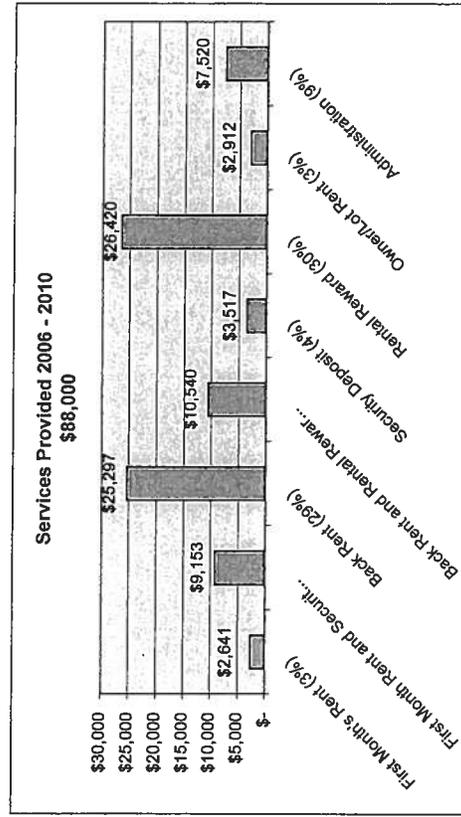
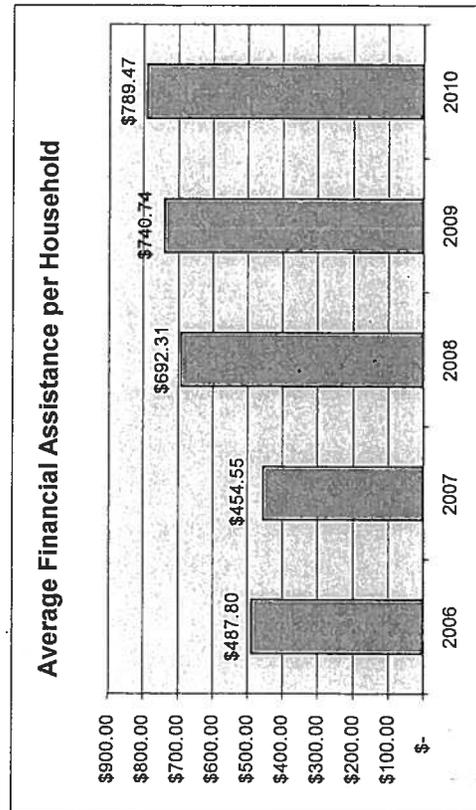
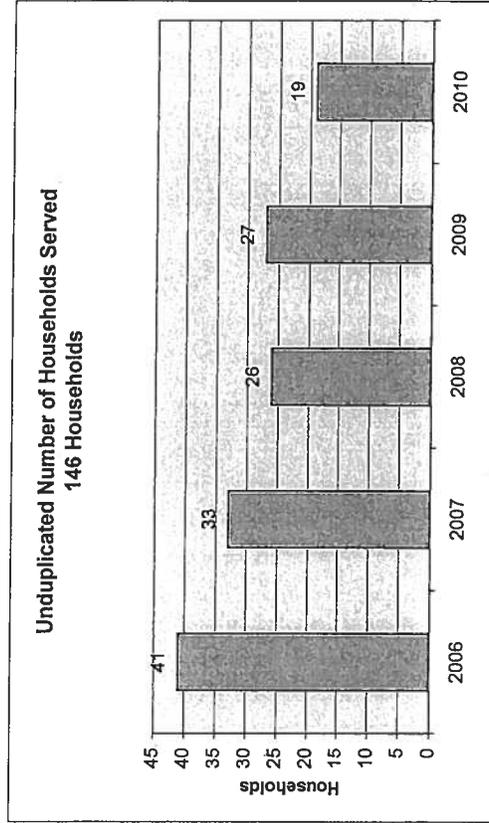
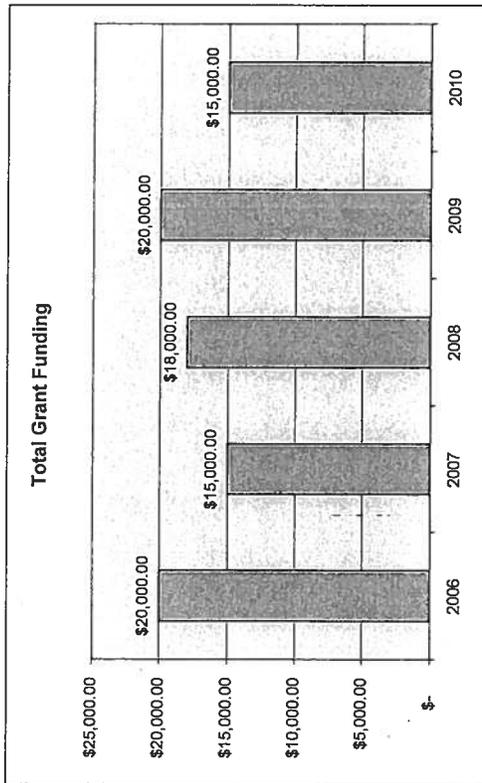
The most successful voucher recipients were those with the lowest or zero household incomes; the individuals receiving the smallest vouchers had the least success. Conclusion: those with the least income (30%AMI to 0) wanted to leave homelessness behind the most and tried the hardest.

### **OTHER VOUCHER OPPORTUNITIES INDIRECTLY RELATED TO THE WORK OF THE PUBLIC HOUSING COMMISSION, BUT ARE NOT INCLUDED ANYWHERE ELSE HEREIN.**

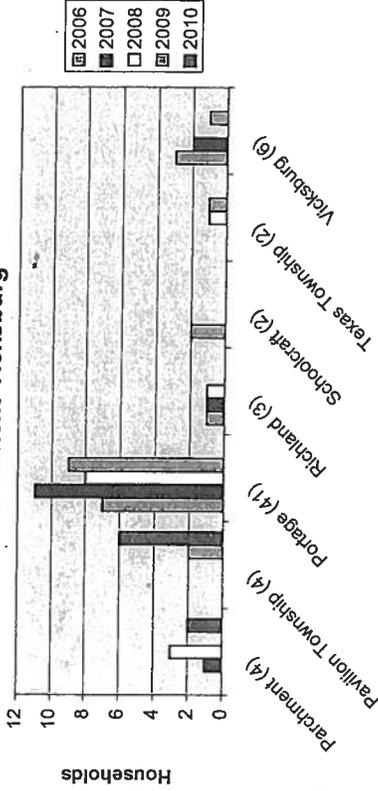
The Kalamazoo County Public Housing Commission in partnership with Kalamazoo Community Mental Health Substance Abuse Services has received an additional HUD Grant – “First Base” – that provides scattered site rental housing @ \$38,000 per year assisting up to a dozen individuals each year.

In the fall of 2010, the Kalamazoo Community Foundation and the Greater Kalamazoo United Way invited the LHAF to seek funds from LIFELINE, the community celebration of the 85th anniversary of the creation of the Kalamazoo Community Foundation because of the LHAF voucher success. The Foundation awarded \$60,000 on a 3 to 1 match. The match funds of \$20,000 were raised from a number of community sources. The total of \$80,000 will provide 15 to 18 one year transitional vouchers. The Sponsors/champions for the year 2011 of LIFELINE vouchers will include: Oakland House, Open Doors and perhaps one other entity. This was/is a giant leap of support and faith in the unique LHAF voucher program. This will again be done with donations of sponsor time and no logistical costs (KCMHSAS will pro-bono inspections & a community volunteer will provide administrative services).

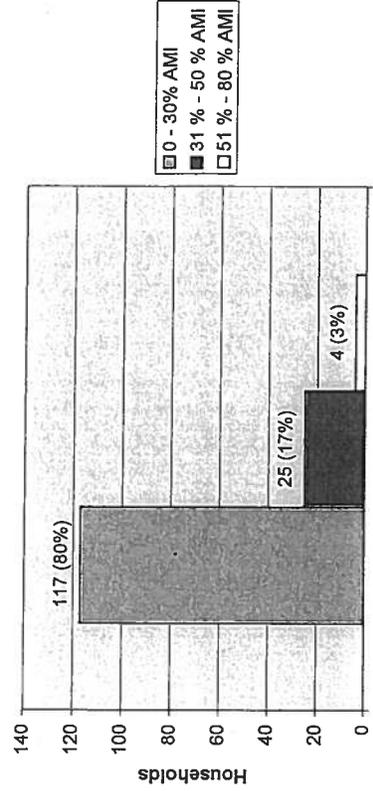
Housing Resources, Inc.  
 Kalamazoo County Public Housing Commission  
 Comparison 2006-2010



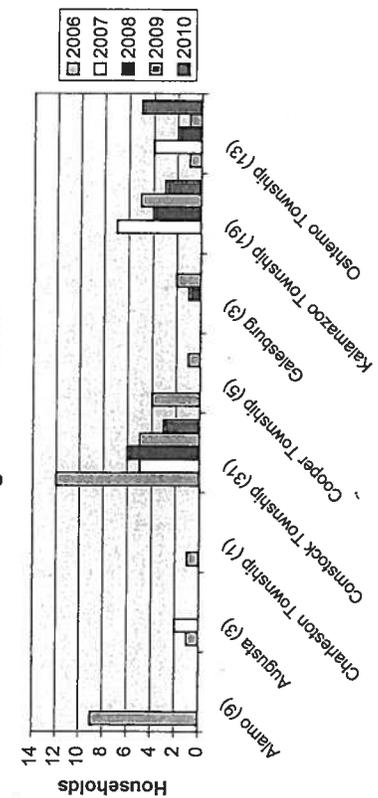
**Municipality Served  
Parchment-Vicksburg**



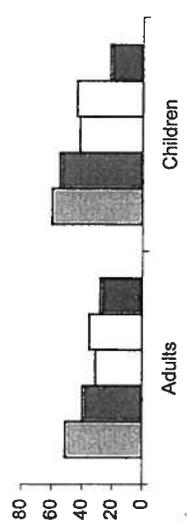
**Area Median Income by Household**



**Municipality Served  
Augusta-Oshtemo**



**408 Individuals Served 2006-2010  
185 Adults / 223 Children  
55% Children**



**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** February 22, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Kalamazoo County Local Housing Assistance Fund – Information Only

Attached as information is a February 21, 2011 communication from the Community Development Director regarding the Final End of Contract: Commitment of Funds Report from Kalamazoo County and Kalamazoo County Public Housing Commission (PHC) about activities carried out with City of Portage funding for the Local Housing Assistance Fund (LHAF).

Additionally, Mr. David Artley, Director of the Office of Resource Development, has requested an opportunity to make a presentation to City Council at the March 8, 2011 City Council meeting to provide an overview of the accomplishments and overall report on the LHAF to date.

Attachment: February 21, 2011 Communication from Community Development Director

2/22/11  
R ✓  
*[Signature]*

**CITY OF PORTAGE**

**COMMUNICATION**

**TO:** Maurice S. Evans, City Manager

**DATE:** February 21, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**RECEIVED**

FEB 21 2011

CITY MANAGER'S OFFICE  
PORTAGE, MI

**SUBJECT:** Kalamazoo County Local Housing Assistance Fund: **Final End of Contract Commitment of Funds Report**

Attached please find the final End of Contract Commitment of Funds Report received on February 18, 2011 from Kalamazoo County and Kalamazoo County Public Housing Commission (PHC). Per the contract between the City of Portage and PHC, the \$100,000 LHAF monies awarded by City Council in 2008 were to be used to provide rental-based housing vouchers and homeless prevention support, to leverage public or private funding to carry out the programs of the LHAF, or to create an endowment to support LHAF programs. Two \$50,000 payments were made in January and October 2009. Kalamazoo County provided matching funds for the LHAF as required by the contract.

As conveyed in the July 16, 2010 End of Contract Report provided by PHC, there remained \$31,411 of Portage-awarded funds, which were committed to be expended or encumbered by December 31, 2010 as follows:

- An additional \$3,000 will be allocated towards rental-based housing vouchers.
- An additional \$3,000 will be allocated towards Homeless Prevention activities.
- The remaining \$25,411 will be allocated to match Michigan State Housing Development Authority (MSHDA) grant funds for the purchase and rehabilitation of one or more single-family homes located in Portage, which will be offered at affordable rental rates. If required by MSHDA, the PHC may also request a Payment In-Lieu of Taxes (PILOT) for specific properties to facilitate the project(s).

Mr. Artley advises, however, that the prior reported remaining fund expenditures or encumbrances have been modified as follows: \$1,897 was expended for rental-based housing vouchers, \$1,264 was expended toward homelessness prevention, and \$28,250 has been encumbered as the MSHDA-required local matching funds for the planned purchase of a single-family dwelling at 1506 Schuring Road. The variations were due to the required 25% match for the purchase of the property at 1506 Schuring Road, which has a higher purchase price than estimated (\$113,000). The minor changes to the expenditures of funds have been explained and are consistent with the intent and purpose of the contract.

As information, it is anticipated that a PILOT will be requested to facilitate MSHDA financing and the project-based housing vouchers for the Schuring Road property. The PILOT will be requested by the Kalamazoo Family Non-Profit Housing Corporation, which is a separate entity created by the PHC as required by MSHDA.

Finally, PHC has requested to be placed on the City Council agenda to present an overall report on the LHAF since its inception. It is recommended that the presentation be accommodated at either the March 8<sup>th</sup> or March 22, 2011 City Council meeting. The Department can inform Mr. Artley of the date.

Attachment: Final End of Contract Commitment of Funds Report

c: Brian J. Bowling, Deputy City Manager  
ec: Vicki Georgeau, Deputy Director of Neighborhood Services

**Kalamazoo County Public Housing Commission  
P.O. Box 51545  
Kalamazoo, MI. 49005**

February 17, 2011

City of Portage  
7900 South Westnedge Avenue  
Portage, MI. 49002  
Attention: Maurice Evans, City Manager  
cc: Jeffery M. Erickson, Director, Department of Community Development

Re: FINAL END OF CONTRACT COMMITMENT OF FUNDS REPORT.

Gentlemen:

The purpose of this letter is to submit the FINAL END OF CONTRACT COMMITMENT OF FUNDS REPORT. Please accept our collective gratitude for your commitment and role in this effort which has proved to be a successful housing plan for the County of Kalamazoo and in particular, for your unwavering support to invest in the future of those at risk.

<b>Category</b>	<b>July 16, 2010 Commitment (estimates)</b>	<b>From July through End of 2010 (encumbered and/or spent)</b>
LHAF Subsidies	\$3,000	\$1,897
Homeless Prevention	\$3,000	\$1,264
Leveraging of MSHDA Funds for Family Housing in Portage	\$25,411	For 1506 Schuring - \$28,250
<b>Total</b>	<b>\$31,411</b>	<b>\$31,411</b>

The July 16, 2010 were estimates as best could be made. The items in the second column above are the exact funds encumbered through December 31, 2010. The variance is based on the actual amount that was need as MSHDA match leverage for the specific unit that was not know in July 2010; it was higher than expected. The market price of the house at 1506 Schuring was slightly higher than estimated; therefore the match amount at 25% was higher.

As to the question about the outcomes of vouchers in place on July 1, 2010 we offer the following:

\* Voucher numbers 047-08, 056-08, 097-09, and 105-09 received permanent HARP vouchers,

- \* Voucher number 099-09 received a mental health voucher and,
- \* Voucher number 106-09 was placed on a waiting list to receive a HARP voucher.

The first five with permanent vouchers are considered graduates and assuming the sixth one (106-09) receives a HARP voucher in the next 4/5 months, that too would be considered a program graduation. Graduation equals attaining the ability to maintain housing without the subsidy whether another voucher, disability payments or full or part-time work. Applying for and receiving HARP vouchers is a major effort and amount of work on the part of the recipient and their sponsor who in these cases was Portage Community Center and Keith Howell, their assigned staff person.

**For future reference, we would like to present the overall report for the life of the LHAF -2006 – 2010 to the City Council at its convenience. Please advise what date that might work.**

As always, questions, comments or concerns are welcome.

Sincerely, on behalf of the Kalamazoo County Public Housing Commission, I remain a volunteer in the journeys of the PHC.

*David P. Artley (ES20110217A1)*  
David P. Artley,  
[dpartl@kalcounty.com](mailto:dpartl@kalcounty.com)  
(269) 384-8304

cc: PHC Treasurer, PHC Chair., and PHC Members

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** March 2, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Police Protective Ballistic Vests

**ACTION RECOMMENDED:** That City Council award a contract to CMP Distributors Inc. in the amount of \$43,394.40 for replacement protective ballistic vests for all sworn police officers and authorize the City Manager to execute all documents related to this contract on behalf of the city.

Ballistic vests provide a reasonable level of protection to police officers for attacks by firearms and edged weapons. Currently, the protective vests are near the end of their five-year warranty period and are scheduled to be replaced. The city recently solicited sealed bids for protective ballistic vests from four vendors with two submitting bids. The low bid submitted by CMP Distributors Inc. in the amount of \$43,394.40 is recommended. CMP Distributors Inc. has satisfactorily provided protective ballistic vests for the Police Department in the past. It is recommended that a contract be awarded to CMP Distributors, Inc. in the amount of \$43,394.40 to supply all sworn police officers with new protective ballistic vests. Budgeted funds are available for this purchase.

BID TABULATION  
POLICE OFFICER BALLISTIC VESTS

	<u>Estimated Quantity</u>	<u>CMP Distributors</u> 6539 Westlan Way, Ste 21/22 Lansing, MI 48917		<u>Midwest Public Safety Sales</u> 160 Sorento Drive Holland, MI 49423	
		<u>Per Set</u>	<u>Total</u>	<u>Per Set</u>	<u>Total</u>
<u>Ballistic Panel &amp; Carrier Sets</u>					
Level II System with Revolution Carrier	56	\$593.00	\$33,208.00	\$619.00	\$34,664.00
Level II Ballistic System with Dress Vest Carrier	2	\$656.20	\$1,312.40	\$704.00	\$1,408.00
Level IIIA Ballistic System with Revolution Carrier	2	\$692.00	\$1,384.00	\$719.00	\$1,438.00
<u>Additional Carriers</u>					
Revolution Carrier	57	\$64.00	\$3,648.00	\$80.00	\$4,560.00
Lo-Pro Carrier	17	\$77.20	\$1,312.40	\$85.00	\$1,445.00
Dress Carrier	17	\$148.80	<u>\$2,529.60</u>	\$165.00	<u>\$2,805.00</u>
TOTAL			\$43,394.40		\$46,320.00

**MATERIALS TRANSMITTED**

Tuesday, February 22, 2011

1. Communication from the City Manager regarding the Fitch and Standard and Poor's Bond Ratings – Information Only.

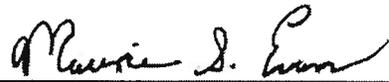
  
Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

**MATERIALS TRANSMITTED**

Friday, February 25, 2011

1. Communication from the City Manager regarding the proposed 2011-2021 Capital Improvement Program (CIP) – Information Only.



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Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager