

CITY OF
PORTAGE

A Place for Opportunities to Grow

**PLANNING
COMMISSION**

May 5, 2011

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

**May 5, 2011
(7:00 p.m.)**

Portage City Hall Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

- * April 21, 2011

SITE/FINAL PLANS:

PUBLIC HEARINGS:

- * 1. Special Land Use Permit: Group Child Care Home (Rogers), 3125 Coachlite Avenue
- * 2. Rezoning Application #10-02, 4815 West Milham Avenue and 6027 South 12th Street
-- request to adjourn to June 2, 2011

PLATS/RESIDENTIAL CONDOS:

OLD BUSINESS:

- * 1. Preliminary Report: Proposed Medical Marihuana Home Occupation Ordinance
- * 2. Mixed Use Zoning Ordinance Proposals

NEW BUSINESS:

- * 1. Proposed Business Banner Ordinance (referral from City Council)

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

March 2011 Summary of Environmental Activities Report
April 12, 2011 City Council meeting minutes
April 14, 2011 City Council special joint meeting minutes
April 19, 2011 City Council budget work session meeting minutes

PLANNING COMMISSION

April 21, 2011

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The City of Portage Planning Commission meeting of April 21, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 12 citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Wayne Stoffer.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

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

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the April 7, 2011 regular meeting minutes. A motion was made by Commissioner Dargitz, seconded by Commissioner Patterson, to approve the minutes as submitted. The minutes were unanimously approved.

SITE/FINAL PLANS:

1. Site Plan (re-approval): Fifth-Third Bank, 2610 East Centre Avenue. Mr. West summarized the staff report dated April 15, 2011 involving a site plan to construct an approximate 4,300 square foot bank building and associated site improvements. Mr. West indicated the site plan had been previously reviewed and approved by the Planning Commission in May 2009, November 2009, May 2010 and then again in November 2010, however, construction had not yet commenced and the approval was scheduled to expire on May 4, 2011. Mr. West stated the site plan is being resubmitted for approval with no changes from the November 4, 2010 approval.

Mr. Craig Hondorp, Progressive AE, was present to support the plan. Mr. Hondorp stated that Fifth-Third Bank prefers to keep the site plan approval active, as oppose to allowing the approval to expire. After a brief discussion, a motion was made by Commissioner Dargitz, seconded by Commissioner Bosch, to re-approve the Site Plan for Fifth-Third Bank, 2610 East Centre Avenue. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Preliminary Report: Rezoning Application #10-02, 4815 West Milham Avenue and 6027 South 12th Street. Mr. Forth summarized the preliminary staff report dated April 15, 2011 regarding the request received from Milham Crossings, LLC to rezone 4815 West Milham Avenue and 6027 South 12th Street from B-2, community business to B-3, general business. Mr. Forth discussed the three adjacent properties that were also zoned B-2, but not included in the rezoning consideration, and the impact the proposed rezoning of the two parcels would have on these adjacent properties. Mr. Forth indicated that staff believes all five B-2 zoned parcels located at the southeast corner of South 12th Street and West Milham Avenue should be included for rezoning

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consideration. Mr. Forth summarized the zoning history at the southeast corner of West Milham Avenue and South 12th Street, discussed the Comprehensive Plan designations and the differences between the B-2 and B-3 districts in regards to building height, setbacks and permitted/special land uses. Finally, Mr. Forth referred the Commission to an April 20, 2011 email communication from the applicant, Mr. Terry Patterson, requesting the rezoning consideration be tabled.

Commissioner Dargitz asked if the existing B-2 zoning is consistent with the Future Land Use Plan designation of general business. Mr. Forth stated it was and then discussed the three business designations contained in the Comprehensive Plan (local business, regional business and general business). Mr. Forth also noted the area is designated as a secondary commercial node.

The public hearing was opened by Chairman Cheesebro. Two citizens spoke in regards to the proposed rezoning: 1) Dave Szybala (4836 Golden Ridge Trail) and 2) Mr. Aaron Conant (4670 Golden Ridge Trail). Mr. Szybala read a statement into the record expressing concerns with the proposed B-3, general business zone and the wider variety of uses that are allowed. Mr. Szybala indicated a major concern was a possible gas station at the corner if the property was rezoned to B-3. Mr. Szybala stated many others in the Andover Woods subdivision oppose the rezoning and asked that the Commission and City Council protect the neighborhood and retain the existing B-2 zoning designation for these properties. Mr. Conant stated the neighborhood opposes the proposed zoning change and questioned the possible expanded rezoning consideration. The Commission, staff and Attorney Brown next discussed the proposed rezoning and related impacts, the three "concept" rezoning scenarios included in the staff report and whether to expand the rezoning consideration to include the additional three properties also zoned B-2. Commissioner Reiff stated the report indicates that staff suggested the applicant contact these three additional property owners; however, the applicant did not initiate contact. Commissioner Reiff asked if staff knew why the applicant chose not to contact the adjacent property owners. Mr. Forth indicated staff had suggested on more than one occasion that contact be initiated regarding an expanded rezoning consideration and was unaware why the applicant chose not to make these contacts. Mr. Forth stated the owners of the three adjacent B-2 zoned properties have been provided notice of the rezoning but have not contacted the Department of Community Development. The Commission asked staff to contact these three adjacent property owners to obtain input regarding a possible expanded rezoning application. After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Welch, to adjourn the public hearing for Rezoning Application #10-02 to the May 5, 2011 meeting. The motion was unanimously approved.

2. Final Report: Rezoning Application #10-01, Portage Road and Fairlane Avenue. Prior to discussion of the agenda item, Commissioner Reiff indicated he would be abstaining due to a potential conflict of interest and excused himself from the Council Chambers.

Mr. West then summarized the final staff report dated April 15, 2011 regarding the request received from Residential Opportunities, Inc. (ROI) to rezone 9616 and 9602 Portage Road, 1704 South Shore Drive and 1712, 1720, 1726 and 1806 Fairlane Avenue from I-1, light industrial and R-1C, one family residential to OS-1, office service. According to the applicant, Mr. West stated the rezoning was being requested to facilitate reuse of the former Moose Lodge building/site for the Great Lakes Center for Autism Treatment and Research, a residential treatment center for up to 12 children combined with an outpatient clinic. Mr. West reviewed the Comprehensive Plan and Future Land Use Map designations, surrounding zoning/land use pattern, differences between the I-1/R-1C and OS-1 districts and the impacts of the proposed zoning change. Mr. West stated that staff was supportive of the proposed zoning change to OS-1, office service. Mr. West then referred the Commission to a letter from Ken and Suzanne Andres received on April 19, 2011 and a short response from the Department of Community Development that were included in the final agenda packet.

Mr. Tom Ihling (Residential Opportunities, Inc. - ROI) was present to support the rezoning application and explain the planned reuse of the former Moose Lodge building and site. Mr. Ihling stated ROI would ensure the facility is secured and the children were confined to the building and site at all times. Mr. Ihling also indicated that ROI would retain the existing mature trees that were present along the west and southwest portions of the site. The public hearing was then reconvened by Chairman Cheesebro. No citizens spoke in regards to the

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proposed rezoning. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved.

After a brief discussion, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to recommend to City Council that Rezoning Application #10-01 be approved and the seven parcels/lots be rezoned to OS-1, office service. The motion was approved 7-0.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Proposed Medical Marihuana Home Occupation Ordinance (referral from City Council). Mr. Forth reviewed the April 15, 2011 staff report and the April 4, 2011 transmittals to City Council regarding the proposed medical marihuana home occupation ordinance as referred by City Council. Mr. Forth summarized the major provisions of the proposed ordinance that would allow a caregiver to operate from a dwelling unit as a home occupation and provide medical marihuana for up to five patients. Mr. Forth indicated the proposed ordinance is consistent with the State Act and retains the caregiver/client relationship and confidentiality and privacy provisions. Mr. Forth stated the Commission is advised to review and discuss the proposed ordinance and set a public hearing for the May 19, 2011 meeting: A recommendation from the Planning Commission to City Council was needed by June 3, 2011.

Commissioner Welch inquired as to whether the home occupation approval would follow the caregiver or the address of the caregiver operation. Attorney Brown stated that as currently written the ordinance does not require a permit or registration, however, additional consideration may be given to a registration process to ensure distance requirements of the ordinance are satisfied. Commissioner Welch asked if a caregiver established the medical marihuana home occupation at a particular location and a public pool was established next door, would the caregiver need to discontinue the home occupation. Attorney Brown indicated the caregiver would be allowed to continue if the caregiver use was established prior to the public pool. Commissioner Patterson stated he believes a registration process, at a minimum, should be considered to allow the city to know where these caregivers are located. Attorney Brown indicated the City Administration committee decided not to require a permit or use a registration element to preserve confidentiality clauses of the State Act, but additional discussion could occur. Commissioner Pearson and Attorney Brown next discussed the confidentiality clauses of the State Act the permit requirement, FOIA issue, penalties in the statute and the requirement for any local ordinance to maintain the privacy and confidentiality of the caregivers and patients per the intent of the Act. Commissioner Pearson asked if the "white paper" referenced in the agenda materials was available for Commission review. Attorney Brown stated the "white paper" is very lengthy and he believes is available on-line.

Commissioner Dargitz stated she was having difficulties understanding the differences between dispensaries, which are prohibited in the ordinance, and the dispensing of marihuana between a caregiver and a patient. Also, Commissioner Dargitz asked why sales of marihuana was allowed under the proposed ordinance, but was removed from the recently adopted passive/active home occupation ordinance. There was a discussion of retail sales and the prior home occupation ordinance as approved by Council. Attorney Brown stated the issue of dispensaries and the dispensing of marihuana to people other than qualified patients was still not resolved in the court system. Attorney Brown stated the State Act prohibits the "sale" of marihuana, but does allow a caregiver to be compensated for costs incurred. Commissioner Dargitz asked why the ordinance could not restrict the exchange between a caregiver and a patient to a commercial district and prohibit in residential districts. Attorney Brown stated some communities have and further commented the courts have not yet decided on the dispensing aspects of the Act. However, he does not believe that restricting the activity to commercial districts is consistent with the intent of the Act. The Act is silent with regard to roll of municipalities and that creates difficulties. In his opinion,

he did not believe a caregiver relationship with five patients would be economically feasible in a commercial zone. Attorney Brown indicated preserving the personal relationship between a caregiver and patient seems more appropriate in residential districts as a home occupation similar to the ordinances recently adopted by the City of Kalamazoo and City of Grand Rapids. This was consistent with the intent of the Act. Although there is no permit as indicated, Attorney Brown emphasized it is still a regulation and can be enforced. Mr. Forth commented that when a complaint is made, as is current practice, it would be researched and enforced. Additionally, Commissioner Dargitz commented that she preferred that caregivers travel to the patient home to provide care. There was a discussion of the use of medical marihuana at the caregiver residence. Attorney Brown commented that the ordinance does not regulate qualifying patients. Ordinance is a regulation from a zoning perspective involving caregiver activities, and these activities could be looked at and discussed. Discussion ensued about the City Administration decision to not allow in a commercial, business setting. Concern was about larger establishments and this did not seem consistent with the Act. Commissioner Patterson also commented about the responsibility of both the caregiver and patient to act responsibly wherever they are located inasmuch as Kalamazoo and other communities have similar medical marihuana uses and applicable ordinances. There was brief additional discussion of a permit requirement, other municipal approaches that were reviewed, the "sales" issue with the home occupation and limited number of "customers" involved, and the medicinal purpose of the Act.

Mr. Chris Chiles spoke in regards to the proposed ordinance. Mr. Chiles stated he is a registered caregiver and is currently operating from a business district in the City of Portage. Mr. Chiles indicated he would not conform with the proposed ordinance since he does not operate from his home. Mr. Chiles stated he believes medical marihuana operations are better suited for commercial districts. Commissioner Patterson asked Mr. Chiles if locating in a business district was economically viable serving only five patients. Mr. Chiles stated there are current court cases that may allow patient-to-patient transfers and/or dispensing operations where more than five patients are served. Mr. Chiles also stated that the Act allows a caregiver to recover costs that he believes can also include services provided. Mr. Chiles indicated that he does not want to operate his business from his home and prefers a professional business environment that is maintained, controlled and safe. Attorney Brown stated the Act does not provide for patient-to-patient transfers and he believes the courts will confirm this opinion. Additionally, Attorney Brown indicated that he believes these patient-to-patient transfers and dispensing activities would be necessary to make operation from a commercial district economically viable. In response to an inquiry from Commissioner Dargitz, Attorney Brown commented that the distance requirements and definitions referenced on the map are consistent with the ordinance language and will be again reviewed, and discussed with the Planning Commission, particularly, for example, wording involving daycare activities.

After additional discussion, a motion was made by Commissioner Welch, seconded by Commissioner Reiff, to set a public hearing for Medical Marihuana Home Occupation Ordinance for the May 19, 2011 Planning Commission meeting. The motion was unanimously approved.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

TO: Planning Commission

DATE: April 29, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Special Land Use Permit: Group Child Care Home, 3125 Coachlite Avenue

I. INTRODUCTION:

An application has been submitted by Ms. Sarah Rogers requesting approval to establish a group child care home for up to 12 children at her residence. As information for the Commission, Ms. Rogers currently operates a group child care home at her current residence located at 5231 Hitching Post, in Texas Township. Pending Planning Commission review/approval, the applicant has indicated she will work with the State of Michigan to transfer the group child care home license to her new residence at 3125 Coachlite Avenue. Per the applicant, the residence located at 3125 Coachlite Avenue is owned by Richard and Cynthia Deane. The group child care home will operate Monday to Friday from 7:00 a.m. to 5:30 p.m. with one non-resident assistant, as required by the State.

II. BACKGROUND INFORMATION:

Existing Land Use/Zoning	<ul style="list-style-type: none"> The 0.40 acre parcel is zoned R-1B, one-family residential and occupied by a 2,020 square foot ranch-style, walk-out home with an attached two-car garage and finished basement. The parcel is a corner lot (125-feet by 140-feet) and is located at the southwest corner of Coachlite Avenue and Rothbury Street. Single-family residences also zoned R-1B border the site to the north, south, east and west.
Comprehensive Plan	<ul style="list-style-type: none"> The Future Land Use Map of the Comprehensive Plan identifies the subject site and surrounding properties are appropriate for low density residential land use.
Environmental/Historic District	<ul style="list-style-type: none"> These characteristics/issues are not applicable in this instance.
Land Development Regulations	<ul style="list-style-type: none"> The application is submitted pursuant to Section 42-182(I), Special Land Uses in the R-1C, One-Family Residential District. Subject to review and approval by the Planning Commission, this section permits "Group child care homes" subject to conditions; and Section 42-462, General Standards for Review of Special Land Uses.

III. ANALYSIS:

Michigan statute (PA 110 of 2006, Zoning Enabling Act and PA 116 of 1973, Child Care Organizations) permits family and group child care homes in residential zoning districts including the R-1B zone. The application fulfills the conditions set forth in the Zoning Code for issuance of a special land use permit. The subject parcel is not situated within 500 feet (measured from nearest property line) nor within 1,500 feet (measured as a traveled distance along public streets) from another licensed group child care home, adult foster care home or other similar use. The site has an attached two-car garage and associated driveway from Rothbury Street that provides adequate drop-off, pick-up and parking for the site.

An outdoor play area is planned in the rear yard of the site, southwest corner of property, which is enclosed by a 4-foot tall chain link fence. Section 42-182(I)(3) of the Zoning Code allows the Planning Commission to consider installation of up to a six foot tall screening fence around an outdoor play area "...in order to mitigate and/or avoid possible adverse impacts on surrounding property and to improve safety". The

attached aerial photograph map and digital photographs identify the location of the fenced outdoor play area in relation to surrounding homes and adjacent streets (Rothbury Street and Coachlite Avenue).

In addition to the special land use requirements, the special land use permit application is also subject to the General Standards of Review contained in Section 42-462. A listing of the General Standards of Review, along with a brief analysis, is presented below:

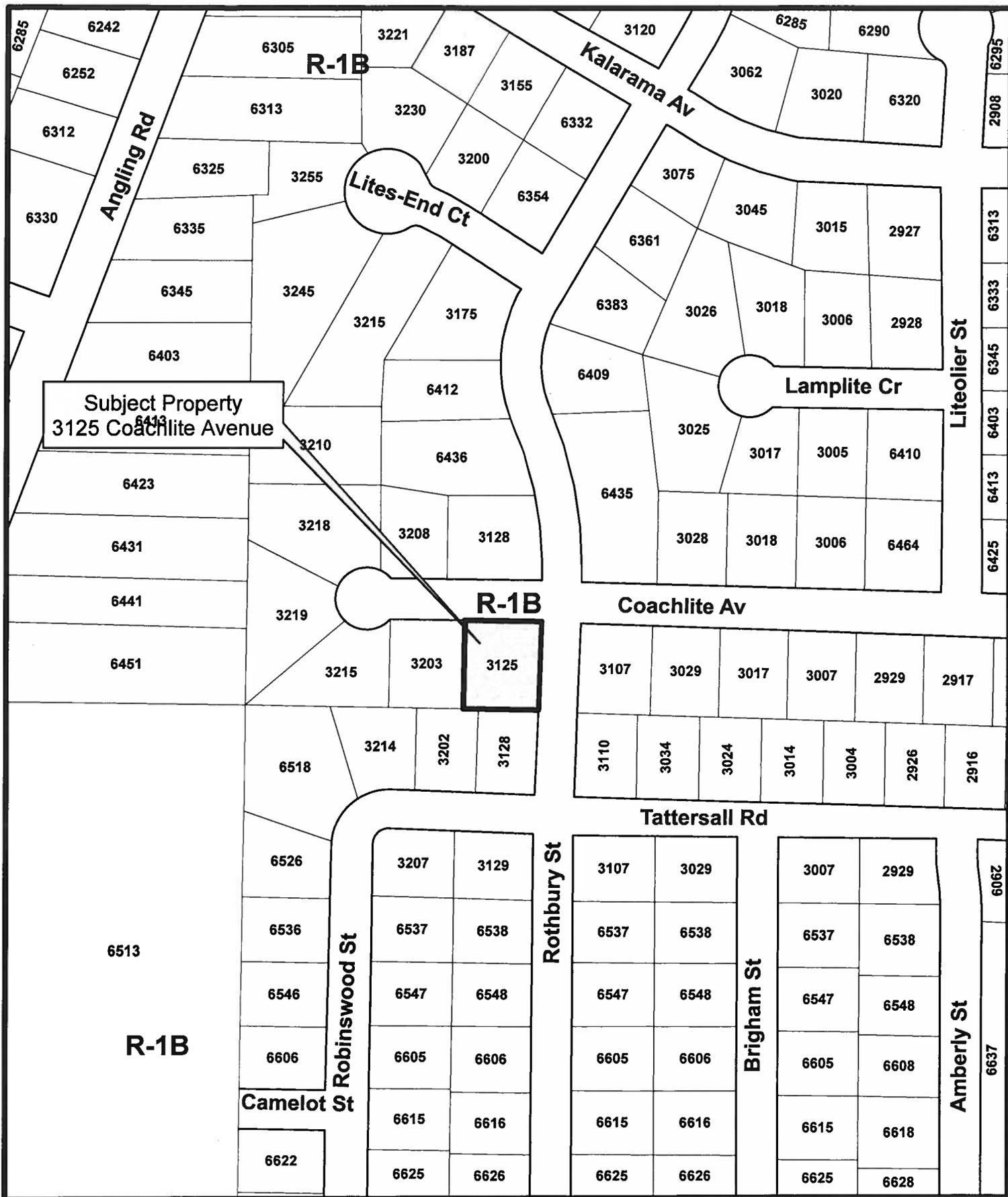
- Promote the intent and purpose of this article. Article 4, Zoning, promotes the public health, safety, comfort, convenience and general welfare through orderly development. A group child care home promotes this article by providing a valuable service for working parents who desire quality child care in a residential setting.
- Be compatible with adjacent uses of land and the natural environment. The care of children in a residential setting is compatible with adjacent uses and the natural environment since children are associated with most every residential neighborhood. Recognizing that higher concentrations of children beyond those normally associated with a single-family residential home may impact adjacent homeowners, reasonable conditions such as screening can be required as part of the special land use approval process.
- Not unduly affect the capacities of public services or facilities. No impact anticipated.
- Be consistent with the public health, safety and welfare. Operation of a group child care home from a single-family residence located in the neighborhood would be consistent with the public health, safety and welfare.
- Be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan. A group child care home would promote Goal 2, Housing - Objective 2.6, and address housing and services for special groups such as families in need of child day care.
- Be planned and designed to ensure that the nature and intensity of the principal use and all accessory uses, and the site layout and its relation to the streets giving access to it, shall not be hazardous or otherwise detrimental to the area or unduly conflict with normal traffic to and from the use. The operation of a group child care home from this location will not be detrimental to the area or unduly conflict with normal traffic. The care for up to twelve children at this location will likely result in a maximum of 48 vehicle trips (drop-off and pick-up) during an average weekday: Comparatively, a family child care home (up to six children), which is permitted by right in the residential districts, would likely generate one-half this traffic volume in an average weekday (24 vehicle trips). A single family residence typically generates between 8-12 vehicles trips during an average weekday. These additional vehicles at various times during the day are considered minimal and will not negatively impact traffic flow and safety within the surrounding neighborhood.

Residents/property owners within 300 feet of this property have been notified in writing of the application and Planning Commission meeting. A notice was also placed in the local newspaper. Two letters from adjacent neighbors expressing concerns regarding the proposed group child care home (i.e., “change in zoning”, opening a “commercial establishment” in a residential area, increased traffic, noise and safety issues) have been received. As the Commission is aware, the request does not constitute a zoning change and the group child care home is not a commercial establishment. Zoning Code provisions such as no signage, distance/separation requirements and fencing of the outdoor play area help ensure the group child care home is compatible within a residential neighborhood.

IV. RECOMMENDATION:

Based upon the above analysis and subject to any additional information brought before the Planning Commission during the public hearing, staff recommends that the Special Land Use Permit for Ms. Sarah Rogers (group child care home), 3125 Coachlite Avenue, be approved. The Commission is also advised to consider the screening fence provision of Section 42-182(1)(3) of the Zoning Code.

Attachments: Vicinity/Zoning Map
Aerial Photograph Map
Digital Photographs of Subject Site
Special Land Use Permit Application and Supporting Documentation
Citizens correspondence received



1 inch = 207 feet

Special Land Use Permit 3125 Coachlite Avenue

Legend

- 3125_COACHLITE
- Zoning Boundary



1 inch = 60 feet

Special Land Use Permit 3125 Coachlite Avenue

Legend

 Subject Property



APPLICANT INFORMATION			
Name Sarah Rogers		Telephone Number 269.270.9376	
Address 3125 Coachlite	City Portage	State MI	Zip code 49024
OWNER INFORMATION (if different)			
Name Richard and Cindy Deane		Telephone Number 231.386.7068	
Address 8205 Swede Road	City Northport	State MI	Zip code 49670
PROPERTY INFORMATION			
Address of property 3125 Coachlite	Zoning District RESIDENTIAL-R-1B	Land Area (acres) 0.40 ACRES	
Legal Description (or attach separate page) COACH LITE ESTATES LOT #21		<div style="text-align: right;"> <p>RECEIVED APR 07 2011 COMMUNITY DEVELOPMENT</p> </div>	
PROPOSED USE			
Description of proposed Special Land Use (attach additional page(s), if necessary) To operate a group childcare program in my home in a with the State of Michigan childcare licensing guidelines. Licensed for 7-12 children with a hired assistant.			
OWNER CERTIFICATION			
I hereby certify that I am presently the legal owner for the above-described property and all of the above information is true and accurate. I further acknowledge that approval of this Special Land Use Permit constitutes an agreement with the City of Portage and all conditions or limitations imposed shall be fulfilled.			
Signature <i>RP Deane</i> Sarah R. Rogers		Date 3.28.11 3.28.11	

March 21, 2011

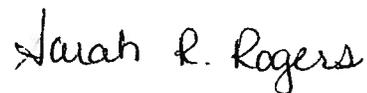
Dear Portage Planning Commission:

My name is Sarah Rogers and I am seeking approval for a Special Land Use Permit, in order to move my existing childcare program to the residence located at 3125 Coachlite Avenue. I am currently licensed for 7- 12 children in my home in the Rudgate neighborhood, and would like to relocate my childcare business to 3125 Coachlite Avenue. My hours of operation will be 7:00 a.m. to 5:30 p.m. Monday- Friday. I have one non-resident employee who will be employed during the hours of operation.

My new home at 3125 Coachlite is currently completely fenced in with a 4' chain link fence.

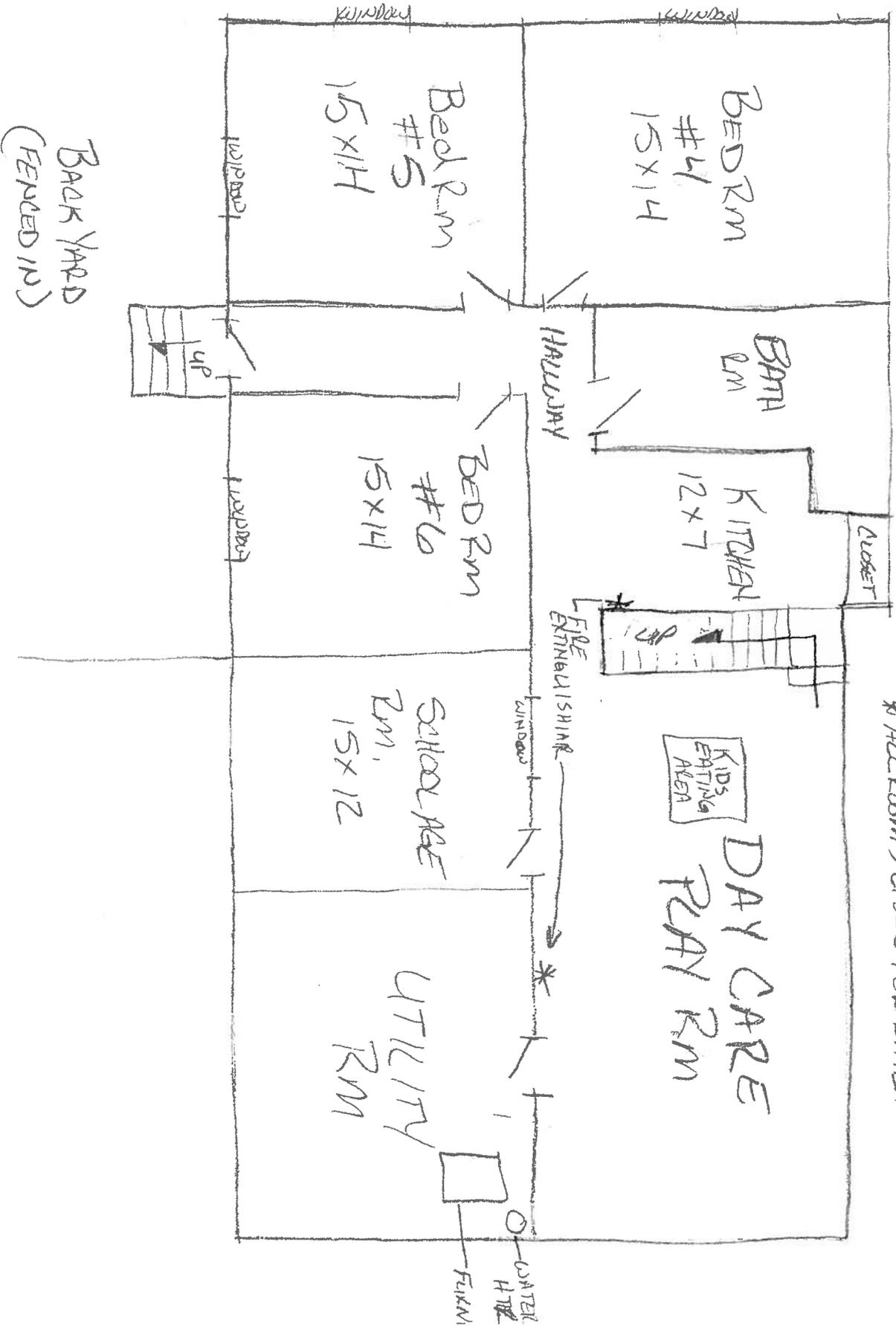
Your approval of this zoning request will allow me to continue my successful childcare business. I am a single mother and continuing my childcare business will allow me to continue to provide for and care for my family. Caring for children has been a very rewarding career for the past 15 years. I hope to continue to provide high quality childcare in my new Portage neighborhood.

Sincerely,



Sarah R. Rogers
3125 Coachlite Avenue
Portage, MI 49009
(269) 353-7311
(269) 270-9376
sarahrogers5213@comcast.net

3125 COACH LITE
LITTLE ANGEL'S DAYCARE



Mr. Jeffrey M Erickson
Director of the Department of Community Development
7900 South Westnedge Ave
Portage, MI 49002
April 27, 2010

RECEIVED

APR 28 2011

COMMUNITY DEVELOPMENT

Mr. Erickson:

This letter is in response to the notice that we recently received advising us that an application for a group child care home had been submitted in our neighborhood. As a property owner who lives within 300 feet of the location, we have concerns with opening a commercial establishment in a residential area.

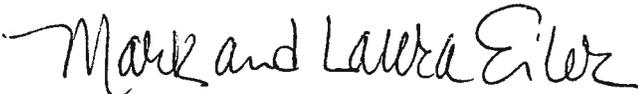
Given that the business is requesting a permit to care for up to 12 children, we are concerned with the potential for increased traffic as parents drop off and pick up their children. Especially in the summer, our neighborhood has quite a few children who ride bikes and walk to the pool. We want to ensure that our children have a safe environment in which to play.

One of the features that attracted us to the Coachlite neighborhood, when we moved in six years ago, was the quiet community setting. We are concerned that introducing a business into our neighborhood, with the increased noise and traffic, will jeopardize this.

We also question the need for an additional child care facility in this area given the fact that there is a Curious Kids location at Amberly Elementary, which is less than three blocks away from the proposed group child care home.

We appreciate the opportunity to voice our concerns and hope that they will be taken into account as you consider the application.

Sincerely,



Mark and Laura Eiler
3028 Coachlite
Portage, MI 49024

RECEIVED

APR 28 2011

COMMUNITY DEVELOPMENT

April 27-2011

We have read the information regarding the request for the property at 3125 Coacalite to change the zoning.

We do not think that should be allowed. This is a single dwelling residence (A) is our whole neighborhood).

This location is on a very busy street.

I hope you will re-consider this request.

Teff & Ginger Gibson
3029 Tattersall
323-2357

TO: Planning Commission

DATE: April 15, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Rezoning Application #10-02, 4815 West Milham Avenue and 6027 South 12th Street – request to adjourn

Attached for Commission review is an email communication dated April 28, 2011 from Mr. Terry Patterson, on behalf of Milham Crossings LLC, requesting that the public hearing for Rezoning Application #10-02 be adjourned to the June 2, 2011 meeting.

As discussed during the April 21, 2011 meeting and as requested by the Commission, staff initiated additional contact with the owners of the three adjacent B-2 zoned properties situated south and east of the rezoning site (6035 South 12th Street, 4713 West Milham Avenue and 4721 West Milham Avenue) to solicit input regarding a possible expanded rezoning consideration. Letters were sent to these three property owners on April 22, 2011 requesting that they contact the Department of Community Development by April 26, 2011. At the time of this report preparation, none of these three property owners have contacted the Department of Community Development.

At the request of the applicant, the Planning Commission may wish to adjourn the public hearing for Rezoning Application #10-02 to the June 2, 2011 meeting.

Attachment: April 28, 2011 email communication from Mr. Terry Patterson (Treystar/Milham Crossings LLC)

s:\commdev\2010-2011 department files\board files\planning files\pc reports\rezonings\rezoning application 10-02, 4815 west milham & 6027 south 12th street - request to adjourn (4-29-11).doc

Christopher Forth - RE: May 5th Planning Commission Meeting

From: "Terry Patterson" <tpatterson@treystar.com>
To: "Christopher Forth" <forthc@portagemi.gov>
Date: 4/28/2011 4:34 PM
Subject: RE: May 5th Planning Commission Meeting

Chris:

Thanks for the note. At this time, we would like to table the public hearing to the June 2 Planning Commission Meeting.

In the meantime, we would still appreciate the opportunity to meet with you and Vicki (and/or whoever you would like in attendance) to further discuss the rezoning request and the contents of the April 15th Preliminary report.

Thanks Chris.

Terry



TREYSTAR

Terry Patterson
7950 Moorsbridge Rd.
Portage, Michigan 49024
269-329-1808 Office
269-488-1715 Direct
269-323-8705 Fax
269-217-1684 Cell
www.treystar.com

From: Christopher Forth [mailto:forthc@portagemi.gov]
Sent: Thursday, April 28, 2011 9:10 AM
To: Terry Patterson
Cc: Jeffrey Erickson; Mike West
Subject: May 5th Planning Commission Meeting

Terry:

As I noted in my Monday e-mail correspondence, the Planning Commission tabled (adjourned) the public hearing involving the 12th/West Milham rezoning application until the May 5, 2011 meeting. In order for the Commission to consider this matter on

May 5th, agenda materials need to be finalized and distributed by Friday, April 29th. Since you needed to cancel and reschedule the Wednesday, April 27th meeting you requested, the Planning Commission agenda materials regarding the rezoning application cannot be finalized by tomorrow. Consequently, the Planning Commission will need to be advised that the public hearing will again need to be adjourned.

Please forward to me written correspondence requesting the Planning Commission adjourn the public hearing to a specific date (Commission meets the first and third Thursday of every month). Receipt of this correspondence by tomorrow morning would be helpful so it can be included in the May 5th Planning Commission agenda.

If you have any questions, please contact me at your earliest convenience.

Sincerely,

Christopher Forth, AICP
Deputy Director of Planning and Development Services
Department of Community Development
7900 South Westnedge Avenue
Portage, Michigan 49002
Telephone: (269) 329-4474
Facsimile: (269) 329-4506
www.portagemi.gov

TO: Planning Commission

DATE: April 29, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Preliminary Report: Proposed Medical Marihuana Home Occupation Ordinance

At the April 21, 2011 meeting, the proposed medical marihuana home occupation ordinance that was recommended by the City Administration committee (committee) and referred to the Planning Commission by City Council was discussed. The committee is comprised of Attorney Brown and Attorney Bear, Police Chief White, City Manager Evans and me. The committee members, each with areas of expertise – public safety, the legalities of ordinance language, public administration, community planning perspective, and so forth – have dedicated significant time over a number of months to carefully review the subject and a recommended approach for consideration. Copies of the City Council transmittals and the draft ordinance proposal were provided as information. The major provisions of the Michigan Medical Marihuana Act (“Act”), the proposed regulatory framework of the ordinance and the basis for the recommended ordinance were reviewed.

After presenting the City Council transmittals, proposed ordinance and related materials, staff and the planning commissioners discussed the information and heard comments from Mr. Chiles, who attended the meeting and voluntarily disclosed that he is a registered medical marihuana caregiver and patient. No other persons were present at the meeting.

Following is information in response to the discussion at the April 21st meeting that is intended to provide responses to commissioner inquiries and to provide further clarification of the proposal. Four topic areas have been identified based on the Commission discussion including home occupation permitting (and registration/licensing), the home occupation versus commercial use issue, the marihuana “dispensary” issue, and the home occupation distance provisions/requirements/definitions in the proposal.

1. Home Occupation Permitting (and registration/licensing)

The proposal presented to the Commission accommodates the statutory-allowed use of medicinal marihuana as a home occupation in a manner similar to the “passive” category of home occupation recently incorporated into the Zoning Code. No permit would be required, and from a legal perspective, a permit requirement may increase the risks that the confidentiality provisions in the Act may be violated. As discussed with the Commission at the April 21st meeting, the Act sets forth the intent that the relationship is a private/confidential one and the transfer of medical marihuana should be conducted within the strict limits of this relationship. The home occupation activity, as an accessory use to a residential use, is most appropriate to further this stated intention. Additionally, given the privacy and confidentiality provisions contained in the Act, the committee is of the opinion that requirements for a permit, registration, or licensing, are problematic. Storing and keeping caregiver and patient information could result in criminal and monetary sanctions upon release of confidential information: This burden and potential liability to the city is not acceptable. Further, to enforce the ordinance provisions should a complaint be received, it is recognized that research and review will be necessary. This review and research is required regardless of whether or not a permit, registration or licensing is required or granted. Recall that the Act grants immunity from arrest, prosecution and penalty to primary caregivers and qualifying patients who possess registry identification cards for the medical use of marihuana. Compliance with local ordinance provisions will still be necessary, however. Given the variety of issues that are involved, the required research and review is complex and is best conducted by the city police agency and city planning staff in conjunction with the Office of the City Attorney. As the commissioners may know, this joint effort to

administer and enforce the ordinance, should it be necessary, is acknowledged and also incorporated into Section 2-319 Penalty, of the moratorium ordinance adopted by Council.

As final comments on this topic area, the home occupation approach has been successfully used in other communities. The proposed ordinance is similar to the adopted City of Kalamazoo medical marihuana home occupation ordinance. As also discussed and as pertains to all other local ordinances, the responsibility to understand the provisions of the ordinance rests with the medical marihuana caregiver and patient. The proposed ordinance does not regulate the “use” of marihuana and, therefore, the use of marihuana by persons is subject to criminal prosecution if not in compliance with the Act. While the Act is silent as to the authority of municipalities, if no ordinance were adopted, the absence of regulation of the activities of a primary caregiver under the Act could result in undesirable conditions/community impacts associated with this Schedule 1 Controlled Substance, as further discussed below. Given the likelihood that definitive court decisions and/or action by the Michigan Legislature is potentially years away, adopting this ordinance is the preferred option. Also, should the courts and/or legislature further clarify the Act in the future, review of the local ordinance would be accomplished and appropriate changes considered and made as necessary.

2. Home Occupation Versus Commercial Use Issue

Consistent with the Act, the proposed ordinance would regulate the distribution of medical marihuana by a primary caregiver for up to five qualifying patients only. As mentioned, 61% of Portage voters approved this limited, legal use of marihuana by qualifying patients who have a debilitating medical condition. With the clear intent of the Act, which narrowly tailors protections to qualified persons for certain narrowly defined medicinal purposes, the proposed ordinance would not allow dispensaries, or other form of caregiver- or patient-to-patient transfer of marihuana. The Act requires the qualifying patients to be “connected” to a primary caregiver through a State registration process and allows the primary caregiver to have up to 2.5 ounces of marihuana, as well as 12 plants, for each qualifying patient. The Act also states that the primary caregiver can only receive “compensation for costs.”

Importantly, the recommended home occupation approach allows the city to avoid issues associated with “business” activities and the “secondary” effects that are referenced in the Michigan Municipal League-commissioned White Paper. These “secondary” effects could be associated with, for example, the operation of a business-like “dispensary” or multiple “dispensaries” in various business zones potentially involving multiple caregivers/patients. It is the opinion of the committee that a regulation confining primary caregiver activities only to commercial, or other similar districts, with the restriction of five qualifying patients, would not be economically feasible. The development of dispensary “business” activities is problematic, and as again emphasized, is not consistent with the personal/confidential relationship that is intended and clearly conveyed by the Act.

3. Marihuana Dispensary Issue (and patient-to-patient transfers)

Although this topic area is also related to the topic addressed in #2, the Act lacks specific direction regarding the dispensation of medical marihuana. While some groups continue to argue that the Act permits the distribution of marihuana by a primary caregiver to more than five qualifying patients as well as patient-to-patient transfers, or as a “dispensary” activity, the committee is of the opinion that this is not permitted by the Act. There is an absence of specific provisions in the Act concerning “dispensaries.” This fact can very well mean that it is more likely for Michigan Courts to find that “dispensaries” can be prohibited by local ordinance. As previously conveyed in the communication to City Council, the advantages to the proposed ordinance include the prohibition of commercial dispensaries and prevention of the potential for illicit drug activities and related “secondary” effects referenced above that have been reported by law enforcement officials in California. Similar issues have been the subject of concern in other Michigan municipalities because some groups have asserted that there are ambiguities about distribution in the Act. Nonetheless, per the proposed ordinance, “dispensaries” would not be permitted in Portage.

4. Home Occupation Distance Provisions/Requirements/Definitions

As discussed with the commissioners, the regulatory provisions in the proposed ordinance are self explanatory. Certain standards address several operational issues (activity must be in the main residential structure, lighting requirements, nuisance regulations and sign prohibitions). Location standards are proposed that establish minimum distances from schools, youth centers and other specified uses. As mentioned during the meeting, these provisions were continuing to be refined. Under the proposed ordinance, which would not require the primary caregiver to obtain a permit, or register, the ordinance requirements would be enforced should a complaint be received about the home occupation. As referenced above, the home occupation approach is preferred based on the language in the Act. Additionally, enforcement, when needed, will require joint action of the city police agency, city planning staff and the city attorney. In this coordinated effort, effective administration and assuring compliance with the ordinance requirements can be accomplished.

With regard to refinements in the proposed ordinance, the distance provisions have been further clarified. The distance provisions are best established using the federal Drug Free School Zone provisions. Attached is a copy of the modifications to Section 42-129 C. 3. Essentially, the distance provisions will apply to the specified protected uses/facilities. Removed from the proposed ordinance are adult regulated uses and public community centers (there are none of either in Portage). Also removed from the ordinance are day care facilities and other primary caregivers conducting a home occupation under this section (to be consistent with the intent of the Act establishing the private/confidential caregiver-patient relationship). Use of the federal Drug Free School Zone provisions serves to standardize this element and provide consistent guidance concerning the proposed ordinance. While using the federal Drug Free School Zone provisions is a conservative approach, it is used by other Michigan municipalities and is believed to be appropriate in this community. The refined distance provisions that involve a number of identified, protected uses/facilities can be viewed on the attached Distance Provisions Map, which shows the protected uses/facilities and the corresponding excluded areas.

Conclusion

As conveyed to the Commission, the proposed ordinance has been developed in consideration of how medical marihuana would be distributed, the language of the Act, other ordinances passed by other municipalities, the potential impact on the community and taking into account law enforcement issues. Banning the use of medical marihuana, as four Michigan communities have done, is clearly inconsistent with the Act and would invite unwarranted litigation. Also, it is not known when the appellate courts will decide the relevant legal issues and/or the legislature will "fix" the Act. However, it is prudent to move forward with the proposed home occupation approach, which is similar to ordinances that have been adopted in other Michigan communities. It is recognized that future revisions may be necessary as appellate court decisions or legislative actions occur.

As requested by the Commission, following is the link to the White Paper on the internet, which can be found at <http://www.mama-online.org/sites/default/files/mimedicalmarijuanawhitepaper.pdf>. Commissioners may view the information, print all or the relevant sections, or staff can provide a copy upon request.

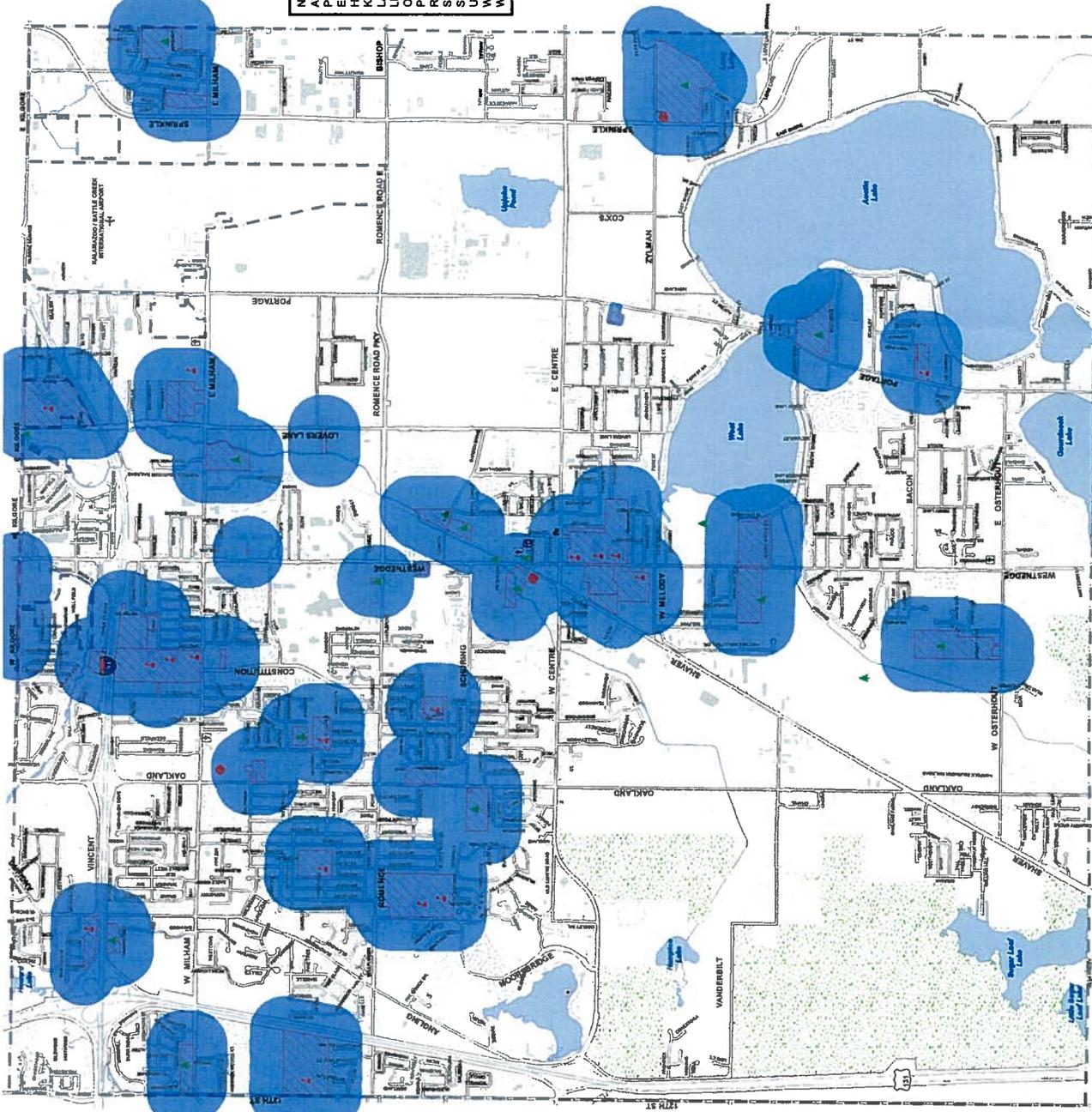
Department of Community Development staff and the Office of the City Attorney will be present at the upcoming meeting to further discuss this issue with the commissioners in advance of the scheduled May 19th public hearing.

Attachments

3. The following shall apply to a primary caregiver conducting a home occupation under this section:
- a. To ensure community compliance with the federal “Drug Free School Zone” requirements, the home occupation shall not be located:
 - i. Within one thousand (1,000) feet from the real property comprising a public or private elementary, vocational or secondary school or a public or private college, junior college or university, or a playground, or housing facility owned by a public housing authority; or
 - ii. Within one hundred (100) feet of a public or private youth center, public swimming pool, or video arcade facility.
 - b. Measurements for purposes of subsections (i) and (ii) above shall be made from the property boundary of the zoning lot occupied by the home occupation to the nearest point of the property occupied by any of the uses listed above, using a straight line without regard to intervening structures or objects. “Zoning lot” is defined by Article 42, Section 42-112, Definitions, of the Portage Code of Ordinances, as amended. A map showing the uses and facilities listed in Section 3(a) above, as well as the protected areas, is available for review in the Department of Community Development at the Portage City Hall and on the City’s website under the Department of Community Development.
 - c. No change.

Proposed Medical Marihuana Primary Caregiver Distance Provisions

NAME	ADDRESS	TYPE	DISTANCE
ALL PORTAGE PUBLIC SCHOOLS		SCHOOL	1000
PORTAGE PARKS		PARK	1000
EMPIRE BEAUTY SCHOOL	609 CONSTITUTION	SCHOOL	1000
HACKETT CATHOLIC CENTRAL H.S.	1000 W KILGORE RD	SCHOOL	1000
KALAMAZOO ACADEMY, INC	4221 E MILHAM AV	SCHOOL	1000
LAZAR LAND	8302 PORTAGE RD	ARCAD	100
LLOY NORRIS H.S.	E KILGORE	SCHOOL	1000
OAKLAND ACADEMY	OAKLAND DR	SCHOOL	1000
PATTERS FAMILY FUN CENTER	7206 S WESTNEDGE AV	ARCAD	1000
ROSS MEDICAL	6235 S WESTNEDGE AV	SCHOOL	1000
ST MICHAEL LUTHERAN CHURCH SCHOOL	7211 OAKLAND DR	SCHOOL	1000
ST MONICA SCHOOL	530 W KILGORE RD	SCHOOL	1000
UNIVERSITY OF PHOENIX	950 TRADE CENTRE WA	HIGHER ED	1000
WOODSEDGE LEARNING CENTER (KRESA)	1501 E MILHAM AV	SCHOOL	1000
WRIGHT BEAUTY ACADEMY	6666 LOVERS LN	SCHOOL	1000



Excluded Areas for Primary Caregiver
 Schools, Parks etc.
 City Boundary
 State Game Area


 1 in = 0.59 miles
 Date: 4/28/2011

TO: Planning Commission

DATE: April 28, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Mixed-Use Zoning Ordinance Proposals

During the March 28, 2011 special Planning Commission meeting, the Commission discussed the three separate City Council referred zoning ordinance proposals that would allow “mixed-use” elements within business zoning districts. The three ordinances include: City Centre Area – Mixed-Use Floating Zone; Commercial Corridor Mixed-Use Floating Zone; and the Work/Live Accommodations. The three “mixed-use” proposals would permit residential uses within business zones when ordinance standards have been met. Attached for Commission review is a copy of the March 28, 2011 meeting minutes.

The following briefly summarizes each zoning ordinance proposal, major points of discussion that occurred on March 28th and modifications made to the ordinance language. Attached are copies of the revised ordinances.

City Centre Area – Mixed-Use Floating Zone. This zoning district is intended 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 the CCA.

During the March 28th meeting, the Commission retained the proposed ten acre minimum. Attached is a map of the City Centre – Detailed Area with six potential areas highlighted that could accommodate or be modified to accommodate a larger mixed use development: Three areas exceed 10 acres, one area is nearly ten acres (9.2) and the fifth area is approximately six acres and the sixth and final area is more than three acres. Each area consists of several parcels of land some of which are vacant and others developed. The areas that are developed consist of older and perhaps obsolete buildings, nonconforming dwelling units or land uses, such as greenhouses or a concrete facility, which could be considered (re)developable. Many of the parcels are under separate ownership, so assemblage of land would be needed.

The Commission also briefly discussed other suburban communities where these types of mixed-use projects have been developed. Attached is information obtained from Terra Land Group website regarding Legato Point located in Walled Lake, MI. The Terra Land Group has several mixed-use projects underway in six other Detroit-area communities.

The Planning Commission did not discuss the proposed CCA sign regulations during the March 28th meeting and staff is refining these regulations to ensure community objectives regarding business signage are fulfilled. A final copy of these regulations will be provided to the Commission during the May 19th meeting.

Finally, and as indicated by the City Attorney during the March 28th meeting, the language of the preliminary ordinance was reviewed from a legal perspective and additional, minor changes were made such as clarification of a zoning lot as indicated in the accompanying, highlight and strike ordinance format.

Commercial 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. During the March 28th meeting, the Commission did not have any specific comments regarding the preliminary ordinance language. Similar to the CCA zoning district, minor changes such as clarification of a zoning lot were made to the ordinance language and are indicated.

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) element with the residential unit (live) is accessory to the business.

At the March 28th meeting two primary issues were discussed: Owner and/or employee occupying the residential unit and size of the residential unit. Staff has modified the language to permit the business owner or an employee of the business to live in the residential unit. A definition of business owner and employee has also been added to the ordinance. The ordinance has also been clarified to indicate one residential unit is permitted per commercial space.

With regard to the size of the residential unit, the model ordinance language obtained from the Smart Codes: Model Land-Development Regulations published by the American Planning Association recommends the area devoted to the residential unit not exceed one third of the total floor area if the work/live unit are at street level (i.e. both on the ground floor). The intent is not to compromise the commercial environment of an area by allowing residential units and this objective can be accomplished by limiting the ground floor area (square footage) to no more than one third of the total floor area and requiring the residential unit to be located in the rear portion of the area of the building. The one third of the total floor area provision should be retained but with flexibility by allowing the area of a residential use (live unit) located above a commercial use (work unit) not exceeding the area of the commercial use (work unit) below. The attached ordinance language has been modified to reflect this change. Finally, other minor changes were made to the ordinance language, which are shown on the accompanying highlight and strike ordinance.

The Planning Commission is advised to review the revised preliminary ordinance language. Additional discussion can occur during the May 5, 2011 meeting. Subject to any further comments, the Planning Commission may also set a public hearing date. Staff and the City Attorney will be present to answer any further questions from the Commission. Unusual

Attachments: March 28, 2011 Planning Commission meeting minutes
Revised CCA district ordinance and City Centre Area Map with areas highlighted
Terra Land Group Webpage - Legato Point, Walled Lake, MI
Revised Corridor Mixed-use Floating District with Future Land Use Plan Map
Revised Work/Live Accommodations

PLANNING COMMISSION

March 28, 2011

COPY

The City of Portage Planning Commission special meeting of March 28, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Conference Room No. 1 of Portage City Hall, 7900 South Westnedge Avenue. No citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

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

APPROVAL OF MINUTES:

None.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

None.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Mixed-Use Zoning Ordinance Proposals. Mr. Forth referred the Commission to the previously provided March 11, 2011 staff report and the three mixed-use ordinance proposals referred by City Council and the Housing and Neighborhood Ad Hoc Committee. Mr. Forth discussed the origins for the three mixed-use ordinance proposals including the Portage 2025 Visioning project and the 2008 City Centre Area Plan. Mr. Forth and Attorney Brown stated changes to ordinance language and format would be forthcoming and asked that the Commission discussion focus on concepts contained in the three proposals. Mr. Forth and Attorney Brown indicated the Commission would have opportunities to comment on specific ordinance language at future meetings.

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Mr. Forth began with a review of the City Centre Area (CCA) – Mixed Use Floating Zone, a voluntary, incentive-based floating zone that could be initiated by a property owner or developer in a manner similar to the PD, planned development district. Mr. Forth stated the detailed plan area portion of the City Centre Area encompasses approximately 175 acres and then reviewed areas where redevelopment was likely to occur. Commissioner Pearson asked for the rationale behind the ten acre minimum project area provision contained in the draft language. Mr. Forth stated the ten acre provision was intended to encourage a larger, more coordinated form of development and would likely require parcel assemblage and redevelopment activities. Mr. Forth also indicated the ordinance contains a provision whereby City Council can waive the ten acre minimum. The Commission discussed the pros and cons of the ten acre minimum standard, redevelopment areas within the CCA where ten acres could be readily assembled and whether a reduction to a five acre minimum project area would be more appropriate. The Commission next discussed the differences between the CCA and older, more urban communities where integrated commercial/residential development has occurred. Commissioner Pearson stated he believes the CCA needs to include a “catalyst” such as a large feature, landmark and/or building to help encourage development. Commissioner Welch asked what incentives were being offered with the proposed ordinance. Mr. Forth discussed the various incentives including allowance for residential uses in the commercial development, reduced building setbacks, no maximum lot coverage and no building height restrictions. Commissioner Reiff asked why the ordinance only allowed for one type of outdoor lighting (Shepard’s hook). Mr. Forth stated the intent was to establish a consistent and unifying theme. Mr. Forth concluded with a short description of the project review and approval process.

Mr. Forth reviewed the Commercial Corridor Mixed-Use (CCMU) Floating Zone, another voluntary, incentive-based floating zone that could be initiated by a property owner or developer in a manner similar to the PD, planned development district. Mr. Forth stated the CCMU zone would allow for up to 20% residential land use in any of the business zoning districts (B-1, B-2, B-3, CPD and OS-1 zones) located within a designated commercial corridor or primary/secondary commercial node. Mr. Forth indicated the CCMU could not be applied to any property located within the CCA. Mr. Forth stated a five acre minimum project area was required in the CCMU zone and briefly reviewed the site development incentives including integration of residential land use, mixed use buildings and reduced building setbacks. Mr. Forth concluded with a short description of the project review and approval process. At this time, the Commission did not have any comments on the CCMU Floating Zone.

Mr. Forth reviewed the Work/Live Accommodations (WLA) ordinance and its applicability in the business zoning districts (B-1, B-2, B-3, CPD and OS-1 zones). Mr. Forth reviewed the general provisions of the WLA proposal and stated it would be allowed as a special land use subject to Planning Commission review and approval after a public hearing. Commissioner Pearson suggested modification to Section 42-137.A to allow the living quarters to be occupied by the owner of the business and/or employee. The Commission concurred that additional flexibility should be built into the living quarters section of the ordinance. The Commission then also discussed allowing the living area to be more than 1/3 of the total floor area, possibly up to 50%. Mr. Forth discussed the intent of the WLA ordinance not to allow the living quarters to be rented or leased to any individual, but rather provide flexibility to the owner of the business to also live at the premises. Attorney Brown suggested allowing him and the staff to consider a broader scope of options for the living quarters portion of the WLA ordinance. The Commission and staff discussed various sections of the proposal including the provision that prevented the business portion of the use from being situated on a floor above the residential portion of the use.

At the conclusion of the Commission review, Mr. Forth indicated that staff and the City Attorney would consider Commission comments and make appropriate modifications to the proposals and schedule another special meeting for future Commission discussion in either April or May.

STATEMENT OF CITIZENS:

None.

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ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Christopher Forth, AICP
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 multi-family 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 identified in the 2008 City of Portage Planning Commission approved 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 applicant as approved by City Council.

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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 contiguous lots under single ownership or control of the applicant comprising a zoning lot.

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Deleted: or parcels

3. In the event that the application for the proposed City Centre Area - Mixed Use Floating District includes more than one lot 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. The property comprising the development project shall be considered a zoning lot for the purposes of this section.

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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 contained in this section and the underlying district requirements shall apply to all development projects and where there are inconsistencies, the regulations contained in this section shall apply.

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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:

Deleted: 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.¶

A. Any principal permitted use in the OS-1, Office Service district and special land uses subject to the same conditions.

B. Any principal permitted use in the B-1, Local Business district and special land uses subject to the same 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. The use shall 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.

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.

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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 zoning lot intended for development shall not be less than ten acres. 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

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Deleted: The lot or parcel intended for development shall be considered a zoning lot as defined by this article.

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 curbline 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. 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 to the following:
 - 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

Deleted: Alternative building wall materials may be used if modified per an approved development project.

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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, (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. If a zoning lot in a development project application for conceptual plan approval includes less than the entire zoning lot owned by the applicant, the following shall be provided by the applicant:
 - i. The anticipated relationship between the development project and any existing use on the remaining lot or parcel, and
 - ii. The future development and access to the remaining lot or parcel.
 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.

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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.

Yeas: _____

Nays: _____

Dated: _____, 2011

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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

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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

S:\2010-2011 Department Files\Board Files\PLANNING COMMISSION\PC Reports\Ordinance Amendments\City Centre Area - Mixed Use Floating District\2011 02 16 City Centre Area Overlay District with Brown Revisions.doc

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City Centre Area

Map 1

- Recent Construction
- Civic Facilities
- Planned School Construction
- Historic Structure
- Areas prime for (re)development
- Bikeway Trail Planned
- Bikeway Trail
- H Planned Private Construction



Portage Central
Campus
Improvements

Portage
Central
Plaza
10.4 acres

6.3 acres

3.4 acres

9.2 acres

14.4 acres

Portage Creek
Landings
City Centre

Portage City
Campus

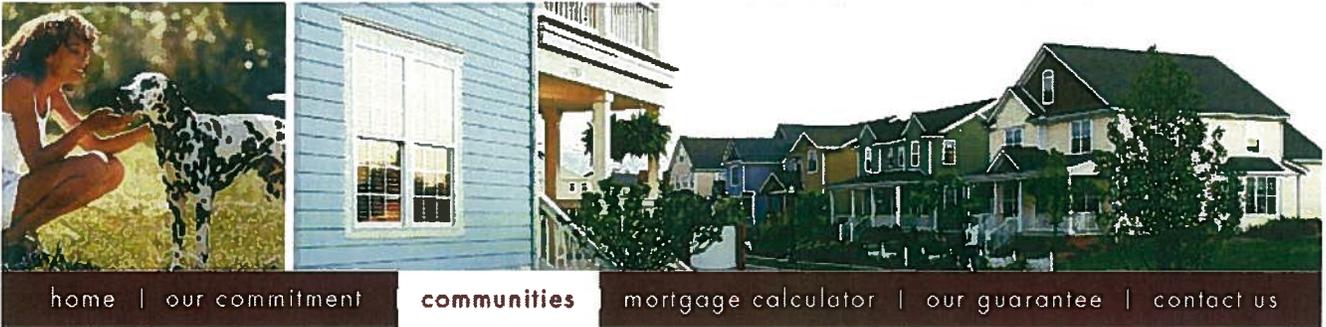
37.3 acres

Detailed Plan Area

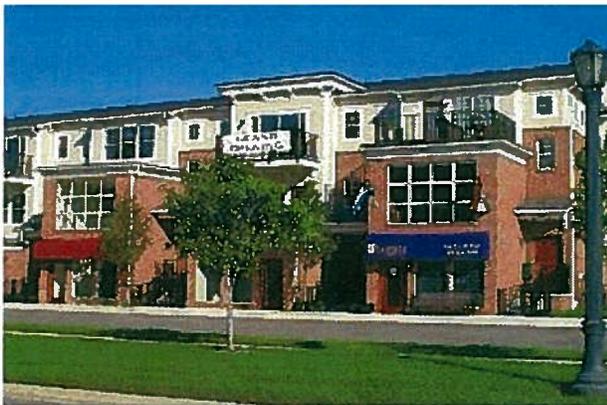
Study Area



innovative development and housing solutions to meet your needs



Buy, Lease or Lease to Own. Call 248-624-5400 for more details.



General Property Information

- Exterior Photos** [View 1](#) | [View 2](#) | [View 3](#) | [View 4](#) | [All](#)
- Interior Photos** [View 1](#) | [View 2](#) | [View 3](#) | [View 4](#) | [All](#)
- Floor Plan** [View All](#)
- Site Plan** [View All](#)
- Map of Location** [Google Maps](#) | [MapQuest](#)

Welcome to Legato Point where our goal is to simplify your life. Whether you are a young entrepreneur, retired go-getter or a first-time home buyer looking for an affordable home, the Legato Point Live/Work environment offers its residents the flexibility they need to live, work and relax. With 4 unique, flexible Live/Work, Townhome and loft floor plans, Legato Point can meet not only your needs but your wants.

Loft Condos

Conveniently located in Walled Lake, Legato Point offers beautiful loft condominiums with 2 bedrooms, 2 full baths, gourmet kitchens, 2 car attached garages, balconies, state of the art appliances and much more. Best of all, move in today and we'll pay your mortgage for 8 months*.

Live/Work Unit

Ideas for small businesses often progress through different space needs, from a spare room at home, to a garage (of Apple Computer and Hewlett Packard fame and fame), and often next to a Live/Work space. The use of the term Live/Work indicates the predominant use of a unit is residential and commercial activity is a secondary use; Employees and walk-in trade are not typical but are acceptable.

Owning a Live/Work Unit:

In a live/work unit, the owner has complete control on how they use their space. As a business grows, it may expand from just the work portion of the unit to using both floors for the business. If it continues to grow it may eventual move into its own larger space outside of Legato Point. If this happens, the work space can be leased out to another tenant or simply converted to living space.

We have also found that these 300-square-foot units with private entrances, optional kitchenettes and full baths make ideal living quarters for aging parents and college students.

Typical Live/Work Tenants:

- Architects
- Graphic Designers

 [Virtual Tour](#)
Urban A2

 [Virtual Tour](#)
Greenwich

 PRINT THIS PAGE

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Discounts & Specials

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Call 248-624-5400 for details

Unit #	Unit Type	Address	Asking Price
11	Urban A	111 Legato Drive Walled Lake, Mi 48390	SOLD
12	Greenwich	112 Legato Drive Walled Lake, MI 48390	LEASED
13	Urban A2	113 Legato Drive Walled Lake, Mi 48390	SOLD
14	Greenwich	114 Legato Drive Walled Lake, Mi 48390	SOLD
15	Urban A2	201 Legato Drive Walled Lake, Mi 48390	SOLD
16	Greenwich	202 Legato Drive Walled Lake, Mi 48390	SOLD
18	Greenwich	204 Legato Drive Walled Lake, Mi 48390	SOLD
19	Urban A2	205 Legato Drive Walled Lake, Mi 48390	SOLD
20	Greenwich	206 Legato Drive Walled Lake, MI 48390	LEASED
21	Urban A	207 Legato Drive Walled Lake, Mi 48390	SOLD
25	Urban A	211 Legato Drive Walled Lake, MI 48390	\$232,900
27	Soho	212 Legato Drive Walled Lake, MI 48390	LEASED
3	Urban A	103 Legato Drive Walled Lake, Mi 48390	SOLD
36	Greenwich	308 Legato Drive Walled Lake, MI 48390	LEASED
37	Urban A	309 Legato Drive Walled Lake, MI 48390	SOLD
4	Greenwich	104 Legato Drive Walled Lake, Mi 48390	SOLD
41	Urban A2	313 Legato Drive Walled Lake, Mi 48390	SOLD
6	Greenwich	106 Legato Drive Walled Lake, MI 48390	LEASED
7	Urban A	107 Legato Drive Walled Lake, Mi 48390	SOLD
8	Greenwich	108 Legato Drive Walled Lake, MI 48390	LEASED
9	Urban A2	109 Legato Drive Walled Lake, MI 48390	SOLD

- Artist
- Attorneys
- Dentist
- Florist
- Caterers
- Software Designers
- Cyber Cafes
- Any Single Practitioner

Amenities:

- Located in Downtown Walled Lake
- Close to Expressway
- Recreation facility nearby
- Minutes from Novi
- Flexible housing space

FOR MORE INFORMATION ON LEGATO POINT CALL 248-624-5400

[Back to Top](#)

Contact Information

The Terra Land Group
45500 Grand River Avenue
Novi, MI 48376

Phone: 248-735-4883
Fax: 248-735-3817
E-mail: info@terralandgroup.com

Customer Warranty

All of our homes are carefully inspected before you move in. However, as you settle in, you may discover a few items in need of minor repair. This is common and generally isn't detected until the home is occupied on a daily basis. To better serve you, we have contracted with ProHome, a widely respected national home warranty service company. Simply click on the icon for more information on ProHome and the services they provide.



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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 applicant 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

Deleted: property owner(s), or the developer,

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 **consists of one or more contiguous lots under single ownership or control comprising a zoning lot**. In the event that an application for a proposed CCMU district includes more than one lot 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. **The property comprising the development project shall be considered a zoning lot for the purposes of this section.**

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Deleted: or parcels

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Sec. 42-441. Permitted land uses

A. 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.

B. 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 one or more the following specified uses unless otherwise permitted by the article;**

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1. Principal permitted uses and special land uses **subject to the same conditions** 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. Multi-family residential dwellings**

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Sec. 42-442. Site development incentives and standards

- A. **Project Area.** The **zoning lot** intended for development shall be not less than five acres. 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.

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Deleted: The tract of land intended for development shall be considered a zoning lot as defined by this article.

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 ~~(conceptual plan)~~ and an approved site plan or subdivision plan (specific plan) as required by this section.
- B. Unified form of land development ~~(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:

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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. If a zoning lot in a development project application for conceptual plan approval includes less than the entire zoning lot owned by the applicant, the following shall be provided by the applicant:
 - i. The anticipated relationship between the development project and any existing use on the remaining lot or parcel, and
 - ii. The future development and access to the remaining lot or parcel.
 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

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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:

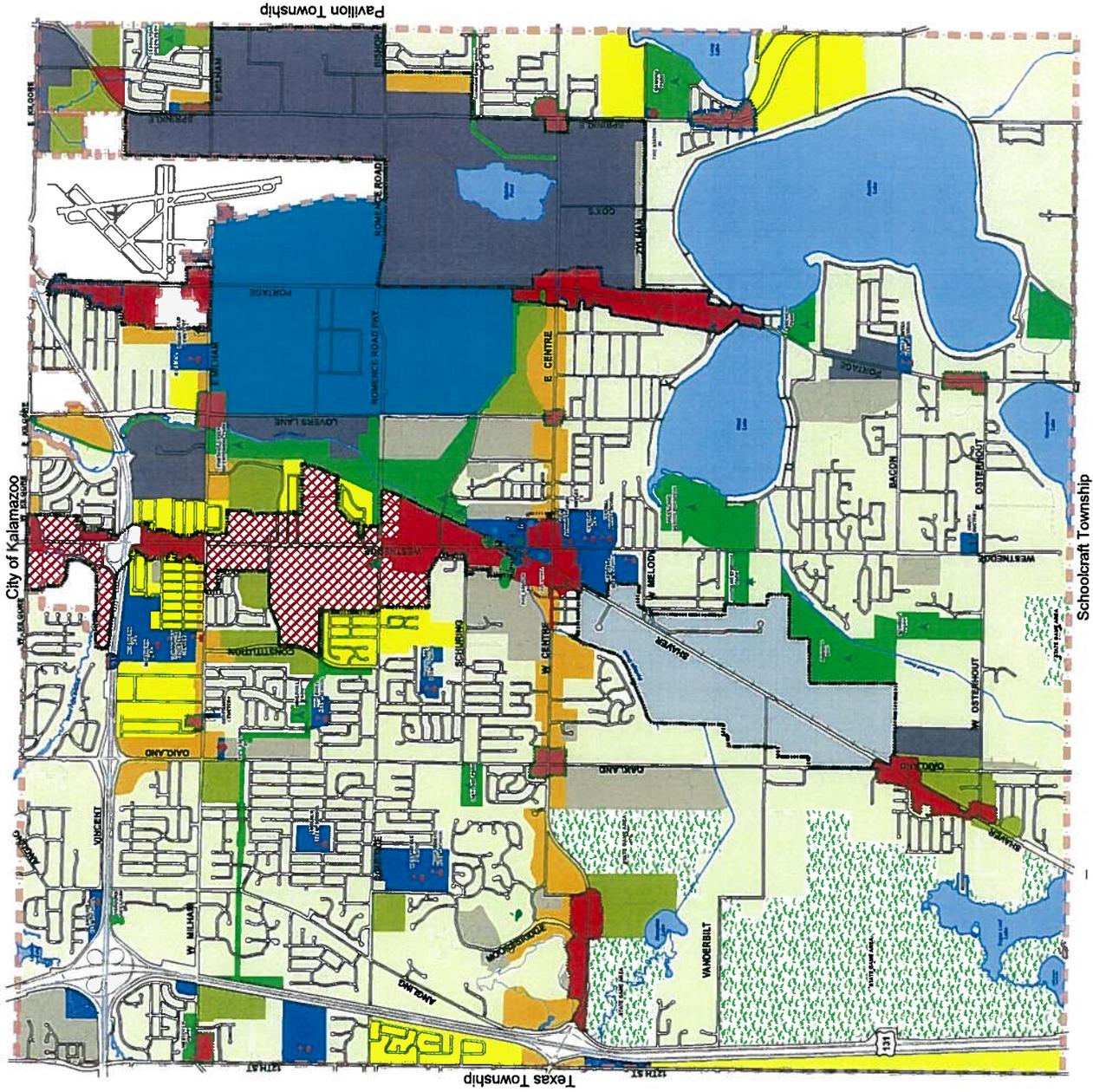
1. A requirement is inconsistent with the development project as a whole;
2. The objectives of the standard or requirement can be satisfactorily met without strict adherence to it;
3. The waiver or modification will not be detrimental to the public welfare or injurious to other surrounding property; and
4. Because of the particulars of the facilities proposed in the development project, it would be unreasonable to require strict adherence.

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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 building or portion of a building that combines a commercial activity that is allowed as a principal permitted or special land use subject to conditions in the zoning district with one accessory residential living space per commercial space for the owner or employee of the commercial business and that person's household.

Business owner or employee: Means a person who participates in the enterprise of the commercial activity performed on-site at least 20 hours per week.

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 or employee 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 by the planning commission as 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

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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.
 - i. ~~If a living unit is located above a permitted commercial use, the square footage of the living unit cannot exceed the square footage of the permitted commercial use below.~~
 - ii. If the living unit is adjacent to and located on the same level as the permitted commercial use, the living unit must be located in the rear yard and shall not exceed one third of the total floor area.
 - 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. ~~The work/live building must meet applicable building and fire code requirements for the type and activity/use undertaken.~~
 - e. The residential dwelling unit of the building shall be accessory to the commercial activity and the commercial activity shall remain the principal use of the property.
 - f. Only owners or employees of the business associated with the work/live building and who meet the definition of a business owner or employee 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.

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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.

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TO: Planning Commission

DATE: April 27, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Proposed Business Banner Ordinance

During the April 12, 2011 meeting, City Council referred the proposed business banner ordinance proposal to the Planning Commission for consideration and to initiate the Zoning Code amendment process. The ordinance language would amend the Sign Ordinance regulations and expand the ability of a business to use a banner by eliminating the regulation about the "name of the business," increasing the area for "copy" to 50% of the banner, and by adding the language in all of the business zones (B-1, B-2, B-3, CPD and PD districts). Attached is the March 30, 2011 communication from the City Manager to the City Council that includes additional background information, copy of the proposed zoning ordinance and a copy of the April 12, 2011 City Council meeting minutes.

The Planning Commission is advised to review the proposed amendment to the Sign Ordinance and set a public hearing. Department Staff and the City Attorney will be present to assist with the preliminary review and discussion on May 1st.

Attachments: March 30, 2011 communication from the City Manager to the City Council and related material
Proposed Business Banner Ordinance
April 12, 2011 City Council meeting minutes

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CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: March 30, 2011

FROM: Maurice S. Evans, City Manager

SUBJECT: City Council Ad Hoc Sign Committee Business Sign Information

ACTION RECOMMENDED: That City Council receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process.

Information about the work of the Ad Hoc Sign Committee was presented to the City Council at the March 22, 2011 meeting. The following is provided to convey the recommendations made by the Committee for further action by the City Council.

On January 18, 2011, the City Council Ad Hoc Sign Committee met to discuss business signage and the Zoning Code regulations pertaining to signs. The City Administration provided a historical overview of sign issues and regulations within the City of Portage. Business signs permitted by the Zoning Code that provide opportunities for advertising include freestanding signs, wall signs, various temporary signs, the use of banners and changeable copy boards, and electronic message displays. Issues discussed by the Ad Hoc Sign Committee included the history of the sign regulations, current sign provisions in the Zoning Code, the increased potential for "banner signs" to be used by businesses, permit requirements for changes to "business tenant panels" in existing freestanding signs, window displays, and the advantages to educational materials that could be provided to the business community about the current sign regulations.

The City Administration prepared a "Summary Guide To Business Signs," which incorporated Frequently Asked Questions (FAQs), background information on regulatory issues concerning allowing changes to "business tenant panels" in existing freestanding signs and proposed Zoning Code language that included provisions to expand the use and increase the flexibility for businesses to use "banner signs." After additional review by the Ad Hoc Sign Committee at a March 21, 2011 meeting, the Committee concurred that the "Summary Guide To Business Signs" be utilized as an educational/informational brochure and recommended that City Council refer the proposed "banner sign" language to the Planning Commission to consider as a modification to the Zoning Code. Attached are communications from the Community Development Director that were considered by the Ad Hoc Sign Committee with the final version of the "Summary Guide To Business Signs" brochure and the draft language concerning "banner signs."

It is recommended that City Council receive the information from the Ad Hoc Sign Committee and refer the "banner sign" language to the Planning Commission for consideration and to initiate the Zoning Code amendment process as recommended by the Committee.

Attachments: November 3, 2010 communication from the Community Development Director
March 4, 2011 communication from the Community Development Director (with updated attachments)

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: November 3, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Zoning Code Signage Issues – City Council Retreat Information

Per prior discussions, previous written communications provided on the subject of sign requirements specified in the Zoning Code and the brief City Council discussion at the October 5, 2010 meeting, following is information for your review. The following information is organized to assist the City Council and City Administration as this subject is discussed:

- A brief historical overview/background on sign regulations in the community
- Summary of the Zoning Code sign regulations applicable to businesses
- Review of 2005 – 2010 period and business sign permits
- Overview of 2005 – 2010 Zoning Board of Appeals variance applications

A conclusion/summary is at the end of this communication.

Historical Overview/Background

From time-to-time, signage issues seem to come to the forefront. There are various factors that may generate this discussion that could include the declining economic situation/business environment, efforts by businesses to advertise, attract consumers and differentiate themselves, attempts to adapt new technology/techniques, among others. Notwithstanding these factors, regulations to address the use of advertising signs are common by municipalities across the country. In Michigan, sign regulations were the subject of Michigan Supreme Court decision as early as 1937 (Michigan Zoning and Planning, 3rd Edition, Clan Crawford, Jr., page 328). The intent of sign regulations is straightforward and the Portage Zoning Code intent and purpose section presents the overall objective of community sign regulations:

“...regulate the use, construction, reconstruction, placement and design of signs in order to protect the public health, safety, peace and general welfare. The regulations involve a recognition that the individual user’s right to convey a message must be balanced against the public’s right to be free of signs which unreasonably compete, distract drivers and pedestrians, and produce confusion.” (Section 42-540 A. and B.)

The Zoning Code identifies several reasons that sign regulations are desirable, which include in summary:

“...prevent traffic injuries and property damage...minimize risk of damage from signs that are dilapidated, wind blown, electric shock hazards...achieve uniformity...enhance aesthetics of the community...prevent blight...encourage equality among business and property...(and)...protect the public health, safety, peace and general welfare.” (Section 42-540 D.)

There is some history to sign regulations in the City of Portage. In the late 1970s, there was considerable concern about signage in the community and the City of Portage Environmental Board was instrumental in the development of the first, comprehensive sign regulations that were incorporated into the Zoning Code. As reflected in the March 17, 1976 Environmental Board meeting minutes, the board members were particularly concerned about the “...*design, size and position of signs as well as with blinking and portable signs which can distract one while driving.*” The Board also discussed the existing regulations and expressed concern that the 1976 sign code and zoning ordinance were “*incomprehensible*” (September 16, 1976 meeting minutes). The Planning Commission assisted the Environmental Board over the course of several years, and culminating on August 14, 1979, City Council approved a comprehensive amendment to

the Zoning Code establishing sign regulations with an effective date of September 7, 1979. Attached are several photos of business signage that were taken in the late 1970s within Portage business areas that help illustrate the concerns expressed by the Environmental Board and other community members.

The community discussion about the sign regulations continued for a number of years. Amendments to the sign regulations occurred during this period. In the effort to reach agreeable regulatory compromise, City Council formed ad hoc committees on several occasions in the early to mid 1980s to suggest amendments to the sign regulations. Of note, on December 20, 1983, City Council convened a work session on sign regulations and at the following regular meeting established a seven member Ad Hoc Sign Committee with business, citizen at-large, sign industry, City Administration and Environmental Board participants. The charge to the committee was to report back in February 1984 and: *"...to see what areas they can still improve the overall appearance of our city but still modify the present ordinance to be easier for the businesses to comply."* (December 20, 1983 Council meeting minutes, page 469). The results of this effort are summarized in January 31, 1984 correspondence from the committee chairperson that recommended changes to allow temporary signs (40 square foot sign, increased use/display days and for non-commercial public service events), changes to nonconforming signs (five-year non-conforming sign agreement), and changes to existing freestanding signs (allow changeable copy signage to be permanently attached to a sign).

In 1986, with continuing discussion of signage, a formal survey of residents and businesses was authorized by City Council that involved mailing of 2,142 surveys. All businesses in Portage received a survey and every 12th resident in the Property Tax Master File also received a survey. A very good response rate of 28% (605 returned surveys) resulted. While there were differences between the responses from businesses and the responses from residents about signage, the report to City Council indicated that, in general, respondents believed that the sign regulations in the Zoning Code were reasonable and appropriate. The report concluded that no modifications were recommended. The conclusion was also based, in part, on the concern that too-frequent code changes and modifications would create confusion, inequities and inconsistencies in administration with additional negative impacts on the community.

In December 2001, the Zoning Code was the subject of a comprehensive update that concluded with approval by City Council of the ordinance update on February 18, 2003. In this amendment, 29 substantive changes were recommended, which included sign regulation changes. Additional sign flexibility was incorporated for business wall signage, for example, as were changes to definitions, sign measurements, among others. A copy of the changes to the sign regulations that was summarized and provided to the City Council in January 2003 is attached.

In addition, the sign regulations in the Zoning Code have been the subject of regular review and, where appropriate, amended. The purposes for this review include incorporating emerging sign technology and techniques, clarification and correction of sign provisions and improved/uniform administration. Following is a summary of sign regulation changes since 2003:

2006:

Section 42-552(E), Signs in the B-2/B-3 Zoning Districts -- Distance between two freestanding signs. Before the amendment, this section referred to "a developed B-2 parcel." Consistent with other sections of the Zoning Code, this section was amended to refer to zoning lot since there may be more than one parcel of land. This section also uniformly applies to signs in the B-3 district.

Section 42-553(C)(2), Billboard Sign Area -- When the Zoning Code was updated in 2003, the consultant inadvertently changed the maximum sign area: The maximum area was corrected and is 300 square feet as previously established.

2007:

Section 42-542(I), Electronic or Mechanical Sign Elements -- Electronic message display (EMD) signs added.

2009:

Section 42-545(C), Single-family Residential Subdivision Signs – Construction of a sign to identify a single-family residential subdivision in R-1A, R-1B R-1C R-1D, R-1E and R-1T residential districts has been permitted and now pertains to the PD, planned development district.

2010:

Section 42-545(B)(C), Signs Permitted in the Single-family and Attached Districts -- Increased the size of wall and freestanding signs for non-residential uses permitted in the R-1A through R-1T districts.

Section 42-546(D), Signs Permitted in the RM-1 and RM-2 Districts -- Increased the size of wall and freestanding signs for non-residential uses permitted in the RM-1 and RM-2 districts.

Section 42-550(A), Signs Permitted in the OS-1 and OTR districts; and Section 42-551(A), Signs Permitted in the B-1, local business District. Modifications to these two sections involved clarification of the statement "...with a minimum sign size of 32 square feet..." The changes to Sections 42-550(A) and 42-551(A) clarified that 1) a variance from the ZBA is not required if a smaller sign size is desired by a business owner and 2) the maximum sign size for a lot less than 80 feet in width is 32 square feet.

2010 Zoning Code Sign Regulations Applicable to Businesses

A two-page summary table of the existing sign regulations applicable to the business community is attached. As apparent, freestanding, wall and other types of signage are permitted for all businesses. Signage is regulated by zoning lot and by business use to ensure fairness, consistency and uniformity with applicable law and judicial decisions. A variety of signage is permitted with significant flexibility to assist retail, office, service, specialty business uses that operate in differing situations (i.e., in individual buildings, in multi-use business centers, on small and large parcels, in ownership/lease tenancies, in new business development projects, redevelopment projects, and so forth). Additionally, "temporary" signage is specifically permitted for business purposes and can be standard signs, strings of flags, streamers, balloons, etc., electronic message signs, or other types. These various types of signs are allowed within the context of the applicable sign regulations and in: "... the recognition that the individual user's right to convey a message must be balanced against the public's right to be free of signs which unreasonably compete, distract drivers and pedestrians and produce confusion."

With specific regard to stationary/mobile electronic message signs for business use, these signs are permitted and can be permanent or temporary signs. Stationary/permanent electronic message display (EMD) sign examples include among others the new Sonic Restaurant sign, the Mulligan's Restaurant sign, the electronic elements on the Walgreens signs and, also, the Shoppes at Romence Village sign. For mobile/temporary sign examples, EMD signs can be/have been used as a 40 square foot grand opening, change/going out of business sign and, also, as a 64 square foot public noncommercial service event sign.

Finally, the sign regulations include other elements that provide "flexibility" in the interests of assisting businesses. First, legal, nonconforming signs are allowed to continue to exist and be used. It is intended that these signs conform to the regulations over time. Provisions that allow re-use and encourage eventual conformity have been incorporated into the regulations including allowing unlimited sign changes for a five year period after which the legal nonconforming sign must conform and the attachment of changeable copy signage to any sign to assist businesses with temporary sales, special event activities, and so forth. Also, the standards for variances involving re-use of legal nonconforming signs (i.e., reduction in the degree of nonconformity and replacement signs that are more in conformance with the code) assist the business community. Further, there are unregulated sign/messaging options available to businesses. These options include, among others, advertising on licensed motor vehicles, costumed/mascot advertising in the parking area or along a public street and interior window displays, which are commonly employed by businesses. Finally, the Zoning Code provides the Zoning Board of Appeals with the responsibility to hear appeals and to consider interpretations of code provisions, which can be helpful to businesses seeking clarification or the ability to use certain sign/messaging technologies/techniques.

FY2005 – 2010 Sign Permit and Zoning Board of Appeals Information

A brief analysis of sign permits that were issued and Zoning Board of Appeals (ZBA) sign variance/appeal applications that were acted on during the FY2005/06 to FY2009/10 period was accomplished. With regard to the issuance of permits, 797 sign permits were issued during this five-year period. These permits were for the following sign types:

Permit Type	Number of Permits
Freestanding sign	333
Wall Sign	348
Temporary Sign	116

On an annual basis, 159 sign permits were issued during this period. As for fees, a sign permit cost is as follows – Permanent freestanding or wall sign is \$110.00; Temporary sign is \$55.00. (The fees associated with sign permits have not been increased since January 2006.) For convenience, sign permits may be submitted by mail, or electronically, for review and approval.

The ZBA applications involving signage that were acted on during this five-year period were also reviewed. A total of 37 signage applications were considered (involving 28 properties), or an average of seven applications annually. Twenty-nine (29) applications were approved by the ZBA (78%), while eight were not approved (22%). Specifically regarding signs for businesses that were considered by the ZBA over the five-year period, 22 applications were considered, with 16 applications (73%) approved. Seven applications involved freestanding signs and required sign area, setback or separation distance. Also, six applications involved changes to nonconforming signs. The next category of business sign application considered by the ZBA was wall sign area (four applications), where a larger wall sign(s) was requested. The remaining five applications involving businesses considered by the ZBA involved one appeal of a denied permit, one roof sign variance and three non-accessory (billboard) requests. In summary, during the past five years, an average of 159 sign permits have been annually issued. During this same period, an average of only seven ZBA sign applications was annually received.

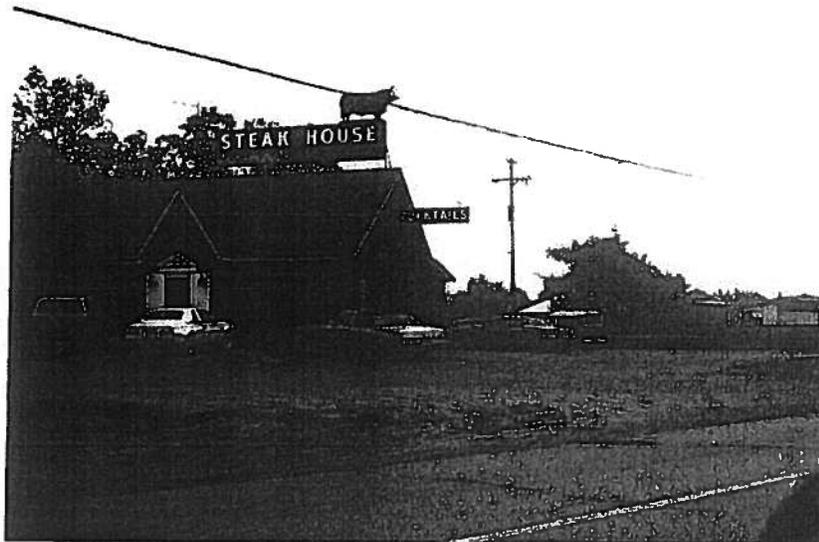
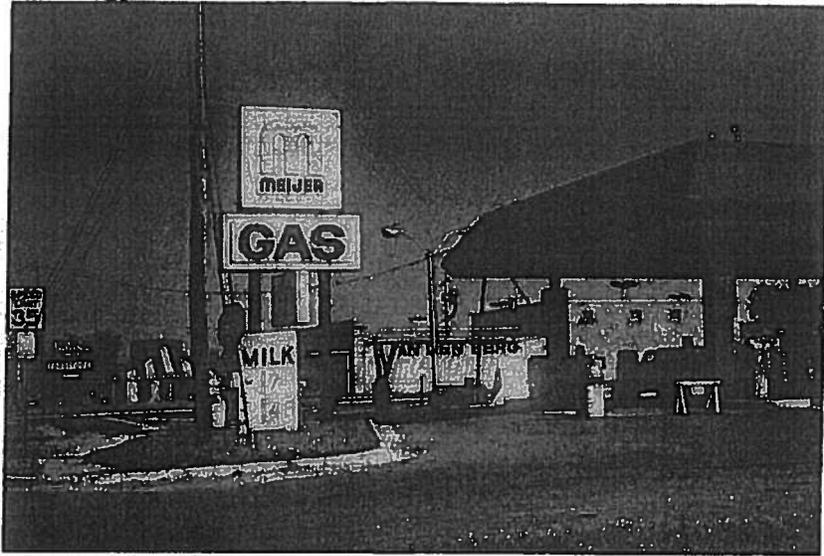
Conclusion

There exists considerable history regarding the subject of sign regulations in the community. A comprehensive sign ordinance amendment occurred in 1979 that more effectively regulated signs that could be erected in the city. Regular efforts have been made to ensure reasonable sign options for businesses by various advisory board, ad hoc committee and professional staff, with the most recent comprehensive amendment approved in 2003. Ongoing review of signage including provisions that provide flexibility for business advertising purposes and to incorporate new technology and techniques is also evident. A significant number of sign permits, including business sign permits, have been issued on an annual basis over the past five fiscal years. Also, comparatively few applications for sign variances submitted by businesses have been considered by the ZBA over this same five-year period. Where the ZBA has considered sign variance applications, a majority of applications by businesses have been approved. The sign regulations appear to have achieved an effective balance between the need for business advertising while reducing clutter and motorist distractions to enhance community quality and traffic safety.

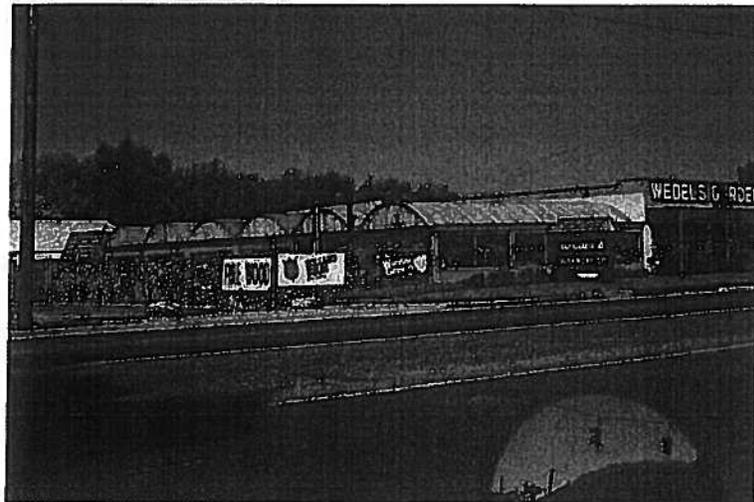
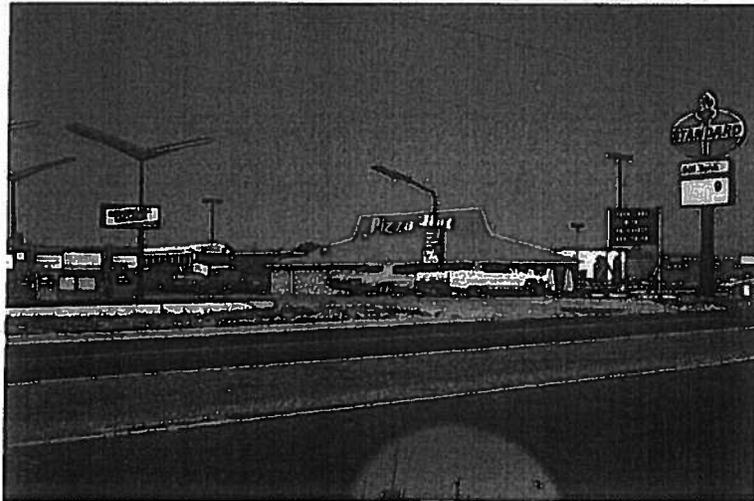
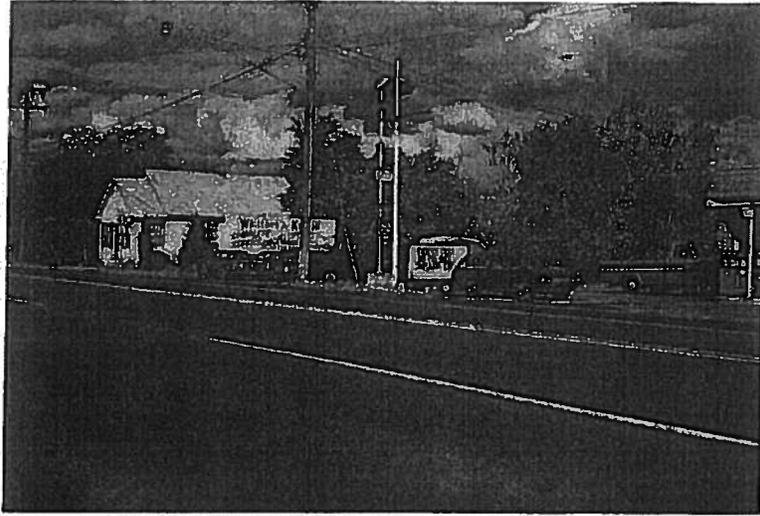
Attachments: Sign Photos from 1979-era City of Portage
2003 Zoning Code Update: Sign changes (#25 Signs)
2010 Zoning Code Sign Regulations Applicable to Businesses Table

c: Brian J. Bowling, Deputy City Manager

Historical Business Sign Photos



Historical Business Sign Photos



2003 Zoning Code Update – Sign Changes

25. Signs (Division 6, Subdivision 2)

- a. The Intent and Purpose section has been added.
- b. Several definitions were added including sign face, awning/canopy sign, construction sign and identification sign.
- c. A section related to sign measurements has been added to eliminate confusion on how to calculate and locate signage.
- d. The erection of a one-family residential construction sign identifying the builder, contractor or subcontractor is now permitted. No permit is required.
- e. A 64 square foot maximum has been established for public event signs. The current code section did not specify a maximum square footage.
- f. A section has been added which requires removal of a nonconforming sign if a substantial improvement is made to the site or building that equals or exceeds 25% of the market value of the structure or site improvement.
- g. The R-1E, OTR and CPD zoning districts have been added.
- h. In response to court decisions and Zoning Board of Appeals (ZBA) decisions involving the size of wall signs, a section has been added that allows an increase in the size of wall signs based on the size of the wall and the setback distance from a public or private street. The proposed increases are consistent with recent ZBA variances granted to several retail establishments.
- i. The current sign regulations permit one additional freestanding sign if the property is within 200 feet of any US-131 or I-94 interchange. This section has been eliminated. Uses intended to attract the interest of freeway motorists are encouraged to use the Michigan Logo Signing Program. This program allows eligible businesses to display their business logos to motorists at interchanges along freeways. Elimination of this section will create several nonconforming signs at the South Westnedge and Portage Road interchange areas. An inventory of these signs has been completed.

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: March 4, 2011

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Business Sign Issues – City Council Sign Committee

The City Council Sign Committee met during the morning of January 18, 2011 to discuss the above issue. As you know, the Committee was provided with a copy of the November 3, 2010 communication on sign issues as background information. There was a further discussion of several sign issues and Zoning Code regulations including temporary signs, changes in “business tenant panels” in existing freestanding signs and permit requirements, banner signs, window displays, a method to convey sign regulatory information to the business community such as in frequently asked question (FAQ) format that included “visuals” for general use and posting on the city website.

The City Administration indicated to the Committee that an ordinance proposal would be prepared that addressed the “business tenant panels” and permit matter, and the suggested more popular use of “banners” by businesses. An FAQ format with some “visuals” would also be prepared for discussion purposes. A subsequent Committee meeting would be scheduled at which further discussion of the business sign issues would occur.

Attached please find two items that can be considered by the City Administration and with your approval, forwarded to the Committee for discussion purposes:

1. A draft of a proposed Summary Guide to Business Signs with FAQs that incorporates photographs of signs from award entries to an annual sign competition by the International Sign Association based in Alexandria, VA. The guide is four pages and is intended to cover the basics regarding Zoning Code requirements for business signs. The guide incorporates the intent and purpose of the sign regulations, a summary table of business signs and temporary and other signs that are permitted in the Portage Zoning Code.
2. A draft of proposed regulations that would allow accomplish two things:
 - a. The changes to Section 42-542 would allow changes to business tenant panels in existing, freestanding signs where changes are permitted with no review or sign permit.
 - b. The changes to Section 42-548, 42-551 and 42-552 would allow a banner sign and expands the ability of a business to use a banner by eliminating the regulation about the “name of the business,” increasing the area for “copy” to 50% of the banner, and by adding the language in all of the business zones (B-1, B-2, B-3, CPD and PD districts).
(This draft is shown in ordinance format, but has not been reviewed by the City Attorney and is a preliminary proposal for further discussion.)

With regard to 2.a., while this approach may be considered to be more business friendly, it is noted that challenges with the proper administration of the sign regulations may arise as a result of allowing permanent or temporary business sign changes in some, or only limited, situations with no permit. First, basic administration and enforcement involves uniform and consistent application of the applicable code requirements. Essentially, for businesses, freestanding signs

are based on property frontage and wall signs are based on building wall area. There are many situations where a formal review of an existing sign – freestanding, wall, other – is necessary and appropriate. These situations occur because businesses (tenants) open and close, property is bought and sold, or divided and combined, buildings are altered or enlarged including business tenant suites, public infrastructure is constructed/reconstructed/streets widened, and Zoning Code sign regulations are modified to achieve community objectives. Review of applications to change business signage together with permit approval and issuance, then, will allow proper and effective administration and enforcement and avoid confusion within the business community and the assertion of unfairness, or other charge. Second, some freestanding and wall signs may be legal, nonconforming signs, but not known by the business tenant, owner, or sign company. This fact would place the city and the tenant/owner/sign company in the unenviable position of needing a variance after the change has occurred, and which may not be granted. Third, a limited number of businesses, certainly a minority number, do not apply for, or obtain, required sign permits. With primary reliance on a complaint basis for administration and enforcement, issues of fairness and consistency now occur and could increase. From experience, there is no positive outcome in these “catch me if you can” situations, which will potentially increase with allowing business sign changes in some “no permit” situations. Finally, these above-noted problems have surfaced in the City of Wyoming, where staff has indicated that administration and enforcement where the ordinance has been changed to allow some changes with “no permit” has caused added problems and concern expressed by some of the business community.

To address the above-noted problems and issues, an alternative approach could be considered where a “reduced fee” permit could be established. As an example, if a permit is needed to change a freestanding sign and it is determined to be in conformance with the Zoning Code, a fee equal to one-half of the normal fee could be charged. While there will be review and research required by the City Administration to ensure fair and consistent application of the ordinance, it is believed that a minor change to an existing, freestanding sign, such as only a replacement business tenant, for example, should necessitate less time to review and be more easily finalized for permit issuance purposes.

The Department understands the importance of balancing the goal to be “business friendly” regarding the conduct and cost of business, the identification of businesses and consumer information, while at the same time ensuring that community objectives are also met in terms of appearance of business properties along commercial corridors, pedestrian and motorist safety and so forth.

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

Attachments: draft Sign Guide and FAQs
 draft ordinance-format language

c: Brian J. Bowling, Deputy City Manager

Summary Guide To Business Signs

The City of Portage recognizes the importance of signs to local businesses and the economy. Standards have been adopted by Portage that promote the effective use of signs as a directional and communication tool, while protecting public safety and property values, and promoting community character. The intent and purpose of Portage sign regulations¹ is to:

- Balance the right to identify a business location and attract customers with the public right to be free of signs that unreasonably compete, distract drivers and pedestrians, and produce confusion.
- Provide businesses with equal opportunity to attract customers by achieving uniformity in the size, number and placement of signs.
- Protect public health and safety by regulating the construction of signs.
- Enhance the aesthetics of the community.

In addition to the specifications included in city sign regulations, businesses are encouraged to carefully consider the following design elements regarding signs²:

- Signs should use creative and dynamic design, yet be compatible with the surroundings.
- Signs should be designed and located in a manner that enhances sign legibility.
- Signs should be constructed and designed to avoid hazards and distractions.
- Signs should be located so they do not block pedestrian or motorist vision or line of sight.
- Signs should be constructed of durable, quality material, and should be kept in good repair.



¹ The Code of Ordinances is available on the city web site at: www.portagemi.gov. (See the Code of Ordinances, Land Development Regulations, Chapter 42 of the Code of Ordinances, Article 4, Zoning, and Article 11, Signs.)

² Photos of select award entries in the 2010 Sign Competition by the International Sign Association (Alexandria, VA)

**If you have additional questions about business signs, please
contact the Department of Community Development at 269-329-4477**

Frequently Asked Questions Regarding Signs

1. *What type of sign requires a sign permit?*

Sign permits are required to ensure that signs situated on business-zoned property meet applicable city codes. This ensures fairness and consistency for all businesses. A sign is defined in the Zoning Code, as are the rules for various freestanding signs and wall signs that are permitted. A permit is required for new signs and alterations or changes to existing signs on business-zoned property and for some temporary signs.

2. *Are there business signs that do not require a sign permit?*

- Signs that do not require a sign permit (and must meet location, size and duration of display requirements) include: real estate signs, election campaign signs, construction signs, holiday decorations, and household goods signs (e.g., garage/yard sale). Signs inside a building do not require a sign permit.
- Interior window displays and advertising on the inside of a building window glass are not regulated by the Zoning Code, and provide added business advertising options.

3. *How much does a sign permit cost?*

Fees are annually established by City Council. The current fee for a sign permit is: \$110 for a wall sign permit application; \$110 for a freestanding sign permit application; and \$55 for a temporary sign or a directional sign permit application.

4. *What kinds of temporary signs are permitted to promote my business?*

Businesses can promote special events and sales by using an electronic message display (EMD) or changeable copy sign display. These types of signs can be incorporated into or added to a freestanding sign, for example. In addition, a temporary wall sign or a freestanding sign is permitted for business grand openings, change of business or going out of business events and must meet location, size and duration of display requirements.

5. *How many freestanding signs and wall signs can a business use?*

- For freestanding signs on the property, the number and size permitted is dependent on the business zone where the property is located, the amount of frontage on the street and the number of business uses or tenants on the property.
- For wall signs on the building, the number and size permitted is dependent on the business zone where the property is located, and the wall area of the building where the business is located (*building width x building height*).
- Also, additional freestanding signs and wall signs are permitted for a business-zoned property that has frontage on more than one street, such as a corner property.

6. *What is a "legal nonconforming sign" and can changes be made to the sign?*

A sign is a "legal nonconforming sign" if it does not fulfill the sign requirements in the Zoning Code, but did comply with the sign requirements when it was placed on the business-zoned property. Changes are allowed in the following instances:

- The sign face may be changed after an "Agreement to Remove Nonconforming Sign" is completed by the sign owner, property owner and the City of Portage.
- The sign may be changed after an application for a variance is requested and approved by the City of Portage Zoning Board of Appeals. A variance may be authorized if the Zoning Code provisions for a variance are met.

SUMMARY OF SIGN REGULATIONS APPLICABLE TO BUSINESSES

ZONING DISTRICT	FREESTANDING SIGNS ¹	WALL SIGNS ¹
<p>OS-1, Office Service</p> <p>and</p> <p>OTR, Office, Technology Research</p> <p>and</p> <p>B-1, Local Business</p>	<p><u>Sign(s) per business-zoned property (zoning lot):</u></p> <ul style="list-style-type: none"> ▪ One (with additional sign for a zoning lot with more than 300 ft. of street frontage) ▪ In an OTR district, 1 additional sign is permitted for each vehicular entrance <p><u>Sign Area:</u></p> <ul style="list-style-type: none"> ▪ 32 sq. ft. minimum to 50 sq. ft. maximum, with area based on street frontage ▪ May be increased up to 50% for multiple use zoning lots, or from 48 sq. ft. to 75 sq. ft. <p><u>Sign Setback / Height:</u> 10 ft. from all property lines, 15 ft. next to one-family residential / 15 ft. high</p>	<p><u>Sign(s) per business-zoned property (zoning lot):</u> One or more wall signs permitted per business use</p> <p><u>Sign Area:</u></p> <ul style="list-style-type: none"> ▪ 15% of the wall area per street frontage, up to 100 sq. ft. ▪ If no freestanding sign, wall sign area may be increased by 33% per street frontage <p><u>Sign Setback / Height:</u> NA</p>
<p>B-2, Community Business</p> <p>and</p> <p>B-3, General Business</p> <p>and</p> <p>CPD, Commercial Planned Development</p>	<p><u>Sign(s) per business-zoned property (zoning lot):</u></p> <ul style="list-style-type: none"> ▪ One, with an additional sign for a: <ul style="list-style-type: none"> - zoning lot with more than 320 ft. of street frontage - zoning lot that is on a street corner, or - zoning lot with frontage on more than one street <p><u>Sign Area:</u></p> <ul style="list-style-type: none"> ▪ 50 sq. ft. minimum to 120 sq. ft. maximum, with area based on street frontage ▪ May be increased up to 50% for multiple use zoning lots, or from 75 sq. ft. to 180 sq. ft. ▪ For corner lot, if only one sign, area may be increased 100% up to a maximum of 120 sq. ft. <p><u>Sign Setback / Height:</u> 10 ft. from all property lines / 25 ft. high</p>	<p><u>Sign(s) per business-zoned property (zoning lot):</u> One or more wall signs permitted per business use</p> <p><u>Sign Area:</u></p> <ul style="list-style-type: none"> ▪ 15% of the wall area per street frontage, up to 100 sq. ft. ▪ May be increased, up to an additional 125 sq. ft. for buildings with at least 200 ft. of lineal wall frontage. ▪ Area may be further increased, up to an additional 125 sq. ft. for buildings with 200 ft. of lineal wall frontage <u>and</u> a building setback of 300 ft. or greater ▪ If no freestanding sign, wall sign area may be increased by 33% per street frontage <p><u>Sign Setback / Height:</u> NA</p>
<p>PD, Planned Development</p>	<p><u>Sign(s) per business-zone property (zoning lot):</u> One (with additional sign for a zoning lot with more than 300 ft. of street frontage)</p> <p><u>Sign Area:</u></p> <ul style="list-style-type: none"> ▪ Up to 50 sq. ft. ▪ May be increased up to 50% for multiple use zoning lots, or up to 75 sq. ft. <p><u>Sign Setback / Height:</u> 10 ft. from all property lines, which increases based on sign area, when abutting one-family zones / 15 ft. high</p>	<p><u>Sign(s) per business-zoned property (zoning lot):</u> One or more wall signs permitted per business use</p> <p><u>Sign Area:</u></p> <ul style="list-style-type: none"> ▪ 15% of the wall area per street frontage, up to 100 sq. ft. ▪ If no freestanding sign, wall sign area may be increased by 33% per street frontage <p><u>Sign Setback / Height:</u> NA</p>

¹ Electronic Message Displays (EMD): These signs may be stationary/permanent freestanding signs or wall signs, (and electronically or mechanically changed) and are permitted in zoning districts per the provisions in the Zoning Code. For example, EMD sign messages must be static (limited motion/movement) and may change not more than once per four seconds. To protect neighborhoods, the EMD message may not change between 10 p.m. and 7 a.m., when the EMD sign is located 200 feet from a residential zoning district and use.

TEMPORARY AND OTHER SIGNS ALLOWED IN BUSINESS ZONING DISTRICTS

- Copy Board Sign: An additional 15 square foot changeable letter/panel sign may be added to any freestanding sign including a legal, nonconforming sign in any zoning district (except on new EMD signs erected since October 2007)
- Banner Sign: One 20 square foot banner sign per business-zoned property to identify business with additional banner permitted for each 2 acres of zoning lot subject to location requirements (B-2, B-3, CPD zoning districts only)
- Directional Sign: Up to 4 square feet in area (no limit on the number of directional signs)
- Grand Opening, Change of Business, or Going out of Business Sign:
 - One 40 square foot sign per business use on a business-zoned property for 14 days (with an additional 30-days if permanent sign not available, or other important reason)
 - Flags, banners, balloons, etc. may be used in lieu of, or in combination, up to the maximum 40 square foot sign area
- Development Sign: One, 64 square foot sign per development on the property may be displayed during active development for a period of up to 2 years
- Real estate Sign: One, 64 square foot sign per building or property, while the building or property is on the market for sale/rent/lease and 30 days thereafter (No permit required)
- Holiday Decorations: Decorations associated with a national, state, local or religious holidays may be displayed for not more than 10 days [except decorations may be displayed from the day after Thanksgiving to January 2nd] (No permit required)
- Public (noncommercial service) Event Sign:
 - One, 64 square foot sign for a property and for each street where the property has frontage on the street with an additional 64 square foot sign for each 2 acres of property (zoning lot)
 - The public event sign may be displayed 7 days before and 2 days after event
- 20 square foot Public Event Banner Sign: A banner may be mounted on a municipal pole on public property/right-of-way for up to 60 days per calendar year with the approval of a permit from the City of Portage to use the municipal pole

The Department of Community Development is available and happy to assist businesses, property owners, and sign companies with verifying the number, size and location of permitted signs.

Thank you and please call on us for assistance!

DRAFT

**ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-542 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Sections 42-548, 42-551, and 42-552 of Chapter 42, Land Development Regulations, are hereby amended as follows:

Section 42-548. PD, planned development district.

F. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:

1. The banner shall be setback ten feet from any property line.
2. The banner shall not exceed 25 feet in height.
3. The banner shall be not less than six feet from the surface of the ground.
4. The banner shall not exceed 20 square feet in area per side.
5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.
6. The banner shall not devote more than a total of 10 square feet to sign copy.
7. The owner of the zoning lot or banner shall keep the banner in reasonable repair.

G. (former F.)

H. (former G.)

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

C. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:

1. The banner shall be setback ten feet from any property line.
2. The banner shall not exceed 25 feet in height.
3. The banner shall be not less than six feet from the surface of the ground.
4. The banner shall not exceed 20 square feet in area per side.
5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.
6. The banner shall not devote more than a total of 10 square feet to sign copy.
7. The owner of the zoning lot or banner shall keep the banner in reasonable repair.

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

- J. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:
1. The banner shall be setback ten feet from any property line.
 2. (no change)
 3. (no change)
 4. (no change)
 5. (no change)
 6. The banner shall not devote more than a total of 10 square feet to sign copy.
 7. (no change)

Mayor Pro Tem Sackley cited other facilities in the community that could be used for meetings and indicated that City Hall should not be in competition with them. He said that the use of the facility by any elected official outside working hours, where there is additional cost, the elected official should be advised that there is a cost. He said that if the elected official has an office in the community, he or she should use his or her own facility, but under no circumstances should the official be charged as it is inappropriate. Discussion followed.

Motion by Randall to have the Customer Service Committee look into creating an Administrative Order that would open up the use of City Hall by elected officials (with day time being exempt) and to possibly look into reimbursement for weekends and after hours for cost incurred. Mayor Strazdas asked City Attorney Brown whether the motion was construed narrowly enough and Mr. Brown answered in the affirmative, but the Committee would be creating a "Council Policy" or directing the Administration to devise an "Administrative Order," and Councilmember Randall indicated her preference for a Council Policy. The motion was then seconded by Councilmember Reid.

Councilmember Reid asked that the Committee consider how scheduling would be handled. Mayor Pro Tem Sackley asked that the Committee consider or discuss reimbursement for weekends and after hours for cost for elected officials outside campaign times, not that there has to be a charge schedule. 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 Board of Education Regular Business of February 21 and Special Meeting and Committee of the Whole Work Session of March 7, 2011.
Portage Historic District Commission of March 2, 2011.
Portage Park Board of March 2, 2011.
Portage Planning Commission of March 17 and March 28, 2011.

AD HOC COMMITTEE REPORTS:

CITY COUNCIL AD HOC SIGN COMMITTEE BUSINESS SIGN INFORMATION:

At the request of Councilmember Urban, Councilmember Campbell indicated that permit requirements on multitenant buildings to accommodate changes more easily needs further review and Councilmember Reid referred to a request to make the language in the sign ordinance more easily understood by local business owners and she referred to the new chart enclosed in the Agenda Packet. Councilmember Urban reviewed the suggested banner ordinance amendment and explained the reasoning behind the proposed changes. Discussion followed. Motion by Urban, seconded by Reid, to receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process. Upon a roll call vote, motion carried 7 to 0.

COMMUNITY SURVEY COMMITTEE: Councilmember Reid reviewed the plan by the Survey Committee to seek approval of the contract with the Kercher Center to phrase the questions to get the information needed and to present the overview of the questions anticipated, the questions that were dropped, the questions that were modified and the questions that were added and to obtain input from the City Council and Western Michigan University Kercher Center for the contract. Discussion followed.

MATERIALS TRANSMITTED

SUMMARY ENVIRONMENTAL ACTIVITY REPORT

March 2011 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-City Council awarded a 3 year contract to American Hydrogeologic Corporation on February 23, 2010 to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. Sampling shows continued improvement in groundwater quality. <i>Sampling completed in April 2010.</i> Annual report submitted to MDNRE in June 2010. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. <i>2011 sampling completed in March. Sample analysis underway.</i>
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	-Coordination with property owners and City or State agencies ongoing. <i>-Review of 3 site/building plans and/or plats completed in March 2011.</i>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<i>-Sanitary sewer hookup permits issued in March 2011: 2 commercial and 10 residential. One connection made as part of the Mandatory Sewer Program. Three properties have court appearances scheduled in response to non-compliance.</i>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions.	-Five Year Lake Management Assessment District process was approved by City Council on March 23, 2010. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008. On July 8, 2008, City Council awarded contracts to Aquatic Services, Inc. for the 2008 Weed Treatment Program and awarded a contract to ASI Environmental to perform watershed and vegetation survey. The 2009/2010 lake treatments are complete. The 2011 lake survey and treatment preparations are under way.
Retention Basin Sampling Program	Investigation regarding potential impact of retention basins on groundwater levels.	-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to stormwater infiltration. Alternative road salt practices continue to be considered and evaluated. On March 23, 2010, City Council awarded a four-year contract to Wightman Environmental. Program will focus primarily on groundwater level information. Sampling of retention basins was completed on June 25, 2010. The 2010 year report received in January 2011. The 2010 results

show declining groundwater levels throughout the city. Declining levels range from 6" to 3' - 0". Surface storm water outfall sampling shows stable results. *Next monitoring will occur in June 2011.*

-Wellhead Protection Grant award received from MDEQ on August 30, 1999 and Council accepted the grant on October 5, 1999. Council also awarded contract to Earth Tech to complete WHPP. Earth Tech completed the final wellhead protection plan and MDEQ submittal was made on October 14, 2000. Plan was reviewed by MDEQ with written approval received in March, 2001. *Staff has met internally to discuss the future needs to update the plan. Plan implementation is ongoing.*

-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi annual sampling was performed from 2002 to 2009 in June and January. Sampling and analysis results continue to show no groundwater impacts from the leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. The 2010 report was received with results showing minimal impact on groundwater. Next sampling scheduled for July 2011.

-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Stormwater Pollution Prevention Initiative (SWIPPI) as required by NPDES permit. SWIPPI submitted on October 21, 2005. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year time frame with first work item (updating the Public Participation Plan) due December 11, 2009. Plan update completed with other local governments and submitted November 24, 2009. Staff completed an updated SWIPPI submittal to MDNRE. SWIPPI was submitted for MDNRE approval on June 25, 2010. Permit implementation is ongoing. Received a notice MDNRE rescinding the 2008 permit due to a recent court case ruling. MDNRE reinstated the 2003 permit for implementation. Information on new permit requirement was received February 2011. MDNRE expected to issue new permit in 2012. *City staff presented public information with other local agencies at the 2011 Home Expo on March 9 - 12, 2011.*

-First meeting was held September 17, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Draft watershed

Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.

Monitoring and analysis of groundwater at the new Oakland Drive Leaf Compost site.

Five year plan to implement the current NPDES stormwater permit.

Kalamazoo River Mainstem Watershed Management Plan

Wellhead Protection Program (WHPP)

Leaf Compost Monitoring Program

National Pollution Discharge Elimination System (NPDES) permit implementation

National Pollution Discharge Elimination System (NPDES) permit implementation

plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Water Festival was held on August 14, 2010 with City of Portage participation. Preliminary grant request submitted September 16, 2010 for West Fork of Portage Creek storm water enhancements. Complete grant application was submitted on October 25, 2010. No update on application status.

Portage River Watershed Management Plan

-Public participation plan submitted June 28, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Follow-up meetings are held monthly to facilitate an implementation schedule. Portage River Watershed public meeting held in Vicksburg on April 11, 2006. Review comments received from MDEQ and revised watershed plan due November 2006. Revised Watershed Plan submitted November 30, 2006, follow up meetings to be held as necessary. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009. *Interest has been raised by local conservation groups to update the current Watershed Plan using grant funds. Discussion will continue.*

Plan to implement and maintain an Illicit Discharge Elimination Program (IDEP).

-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections". On April 28, 2004, City Council accepted a grant from the State of Michigan in the amount of \$152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of \$184,264 for the remainder of the IDEP for the entire city. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDNRE on June 25, 2010, and part of the SWIPPI.

Garden Lane Arsenic Removal Facility

Construction of a water treatment facility at the Garden Lane Wellfield to remove arsenic, iron and manganese from the groundwater.

-City Council approved an agreement with Fishbeck, Thompson, Carr & Huber, Inc. on January 10, 2006 to prepare a feasibility study to meet new USEPA arsenic standards for drinking water. Feasibility study completed in August 2006. Engineering proposals for the project were received August 14, 2007. Project engineering awarded to Earth Tech by City Council on

September 11, 2007. Project design to include Leadership in Energy and Environmental Design (LEED) criteria. Project construction bids were received on November 25, 2008. Contract awarded by City Council on December 16, 2008 to Adams Building Contractors, Inc., Jackson, Michigan. Preconstruction meeting was held January 29, 2009. Start up activities began in May 2010. Facility is in operation with ribbon cutting held August 2, 2010. City staff gave a presentation on August 9, 2010 to the Michigan Chapter of the American Water Works Association about the arsenic removal of the facility. The facility is producing approximately one million gallons of water per day.

-The number of environmental incident/spill investigations performed in March 2011 – 0. No investigations and none requiring emergency cleanup. Emergency spill response contract for 2011-13 with Terra Contracting is in place.

-On April 29, 2008, City Council awarded a contract to American Hydrogeology Corporation to investigate the reason and extent of seasonally high groundwater elevation. Special emphasis will be placed on the Black Forest flat area to suggest possible solutions to the basement leaking problems experienced in the area. Study was transmitted to City Council on July 22, 2008. Work was completed on October 31, 2008. City staff continues to investigate other remedies for local groundwater table issues. Work complete on compiling a history of local groundwater table elevations at 19 city-owned retention basins with data from 1994 to 2009. Data from the analysis shows a general upward trend through the Portage area from 2005 to present. Five monitoring wells were installed in the Jamaica Lane area as a result of a number of citizen concerns. Analysis of the Jamaica Lane wells shows that seasonal groundwater table levels have dropped approximately 24” from spring 2009 levels and level has stabilized through December 2010. Current sampling continued to show a slight decline in the groundwater table. *Sampling will continue through the spring/summer months as staff time permits.*

-Ongoing assistance with the Condominium Association to develop appropriate measures to regulate the rising water level in Hampton Wetlands Area located on the north side of West Centre Avenue and east of Angling Road. Met with MDNRE staff to determine feasible method to lower water levels. Association currently working with MDNRE permit staff on February 26, 2010 to clarify permit requirements. Lower groundwater table elevation has reduced the concerns from the Condominium Association.

Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.

Hydrogeologic study of the Portage area, especially in the Sprinkle Woods flat area, to determine causes of increase in groundwater elevation.

Assistance with the Inverness Condominium Association to Review Surface Water Levels

Environmental Incident/Spill Clean Up Notification

Localized Groundwater Table Investigation

Hampton Wetland Area Water Level

Conference call with MDNRE held on December 8, 2010 to discuss permit submission updates. Condo Association discussing project with other property owners for support. Association submitted a letter to City Administration asking that the city consider the Wetland Water Level Regulation a municipal project. *On March 22, 2011, city staff response recommending the Association consider governmental lake board.*

Southwest Michigan Regional Sustainability Covenant

Collaborative effort with local government, academic, and other stakeholders to lead toward environmental, economic and social sustainability.

-On May 12, 2009, City Council approved the Southwest Michigan Regional Sustainability Covenant. A sustainability work session was held April 14, 2010, to review elements of the covenant in cooperation with the City of Kalamazoo and the City of Battle Creek. A grant application was made to MDNRE for a greenhouse gas inventory study of the area. Notice received July 15, 2010 that the grant application was not successful. City staff attended a September 10, 2010 meeting in Grand Rapids to discuss sustainable economic, environment, and society programs.

CITY COUNCIL MEETING MINUTES FROM APRIL 12, 2011

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

At the request of Mayor Strazdas, Deacon Karen McDonald of the St. Barnabas Episcopal Church of Portage gave the invocation and Boy Scout Troop 277 led the City Council and the audience in reciting 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, City Attorney Randy Brown and City Clerk James R. Hudson.

PROCLAMATION: Mayor Strazdas issued a Fair Housing Resolution and received comment from Executive Director of the Fair Housing Center of Southwest Michigan, who reviewed some of the activities of the Center and praised Vicki Georgeau for her assistance.

APPROVAL OF MINUTES: Motion by Reid, seconded by Campbell, to approve the March 22, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. Motion by Sackley, seconded by Bailes, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF APRIL 12, 2011:** Motion by Sackley, seconded by Bailes, to approve the Accounts Payable Register of April 12, 2011. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARING:

ORDINANCE AMENDMENT 10-A, KEEPING CHICKENS AND OTHER ANIMALS: Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson and asked him to summarize the events leading up to the public hearing. Mr. Erickson provided a brief summary of his communication to City Manager Maurice Evans dated February 25, 2011, which is contained in the City Council Agenda Packet as part of Item D.1, Ordinance Amendment 10-A, Keeping of Chickens and Other Animals, and provided the history of the process thus far. He cited the animals that are included in the ordinance, those animals that are not included, the requirement of a coop with an attached pen, the six foot opaque fence requirement for roaming hens, the set back requirements and materials that are not permitted in the construction of the coop and pen. Discussion followed regarding the requirement for Planning Commission review and approval for 4H projects; the storage of feed; other possible nuisance items; the Resolution establishing the permit fees; further restrictions for lake front lots; when was "Keeping of Fowl and other Animals" added to the ordinance; and, the responsibility of the notification of the neighbors by the applicant instead of the City of Portage

and whether written approval of adjacent land owners in the sample Ann Arbor ordinance should be required. City Attorney Randy Brown indicated that he did not recommend the Ann Arbor ordinance approach. Discussion followed. Mayor Pro Tem Sackley expressed his concern that the Ann Arbor ordinance notification procedure was not allowed as an option to be considered and there was no case law or legal reasoning for dismissal provided. Community Development Director responded that he is comfortable providing professional judgments, that he would review the matter but had no recollection of the issue ever being posed. Mayor Strazdas asked City Manager Evans to follow up with a response to these comments by Mayor Pro Tem Sackley. Discussion followed.

Discussion followed regarding the requirement of the six foot opaque fence requirement; nuisance abatement; the classification of rabbits as a domestic animal; vicious ducks versus pet ducks; geese; dogs and cats; the inclusion of "fowl and other animals" provision; natural screening such as plantings instead of the opaque fence requirement; and land use that is onerous or causes problems. Discussion followed.

Mayor Strazdas recognized Planning Commission Chair James Cheesebro and, in response to Councilmembers Bailes, Reid and Urban, he agreed with Mr. Erickson that the opaque fence provision was a response to a visual concern, not a containment or protection issue. He indicated that he did not recall other barriers being discussed, though the fence itself was minimally necessary for containment purposes. Discussion followed. Mayor Pro Tem Sackley objected to the fortress environment created by the opaque fence. Mr. Cheesebro responded. Discussion followed.

Mayor Strazdas opened the discussion for comment from the public. The following individuals spoke in favor of the ordinance: Dave Ostrem, 1515 Dogwood; Tony Kaufman, 5884 E P Avenue, Pavilion Township; Lynda Stewart, 329 East Van Hoesen Boulevard; Mildred Taraszka, 410 Marylynn Court; Tracey Tyler, 3109 Hill an Brook Drive; Bryan Mohny, 7911 Lake Wood Drive; Jacquelyn Stasevich, 9100 N 27th Street, Richland, and her 4H participant, Jacob Booth; Michelle Blesing, 324 Boston Avenue; and Fernando Costas, 7639 Harvest Lane. Mr. Erickson responded to their questions about fencing; he listed some of the communities that do not allow chickens at all or in a platted situation; he indicated that Planning Commission approval would be required for other animals such as those raised through the 4H Club; he pointed out that a coop and a pen do not require an opaque fence, but to free roam the chickens requires an opaque fence; and, he indicated that the Zoning Board of Appeals has made several decisions over the years and have denied having chickens in certain areas owing to problems or difficulties unique to specific situations. Discussion followed.

Motion by Campbell, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Mayor Strazdas asked for dialogue from City Council. Discussion followed. Councilmember Reid expressed her opinion that rabbits remain a domestic animal and not be considered livestock. Discussion followed. Councilmember Urban was not in favor of moving forward on the ordinance at this time owing to too many concerns and objections still remaining with the proposed ordinance that would have to be incorporated in a final version of the ordinance. Discussion followed. In response to Mayor Strazdas, Mr. Evans indicated that a revised ordinance could be brought back at the April 26, 2011 Regular City Council Meeting. Discussion followed.

Motion by Sackley, seconded by Campbell, to approve an Ordinance to amend the City of Portage Code of Ordinances by amending Section 42-121 of Chapter 42, Land Development Regulations, by adding Section 42-121(D), Keeping Certain Animals as an Accessory Use, also known as Ordinance Amendment 10-A, and to adopt the resolution establishing an application fee of \$50 for

applications involving the keeping of up to six chickens. Mayor Pro Tem Sackley stopped to add that the ordinance as drafted should be revised to specify a fence of any type should be a minimum four feet in height, and animals other than chickens should not be included in this ordinance. Councilmember Urban asked for clarification. Mayor Pro Tem Sackley explained.

City Attorney Brown repeated the specifics of the motion to ensure that he is clear of the intent of the motion. He indicated that Section 42-121.D.3.a should read, "...During daylight hours, chickens may be allowed to roam outside the coop and pen, if supervised, and only within an area completely enclosed by a fence with minimum height of 4 feet." Upon questioning, Mayor Pro Tem Sackley also confirmed that the language, "an application fee of \$100 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" was purposely left out of the motion. In effect, this eliminated Section 42-121.D.3.j.1 and Section 42-121.D.3.j.2. Discussion followed. Councilmember Urban took exception with Section 42-121.D.3.j.3 and indicated that if Section 42-121.D.3.j.3 were eliminated, Section 42-121.D.3.k, would be eliminated, also, and the Zoning Board of Appeals was the proper forum for deciding this matter, not the Planning Commission. City Attorney Brown concurred. Discussion followed.

Motion by Urban, seconded by Reid, to eliminate Section 42-121.D.3.j.3 and all of Section 42-121.D.3.k. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed. City Attorney Brown confirmed that a rabbit is classified as a domestic animal and no permit is necessary to keep a rabbit. At the request of Councilmember Urban, Mayor Pro Tem Sackley reread the original motion. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed. Mr. Evans indicated that he would provide City Council with a copy of the revised ordinance as amended and passed. Ordinance recorded on page 161 of City of Portage Ordinance Book No. 12. Resolution recorded on page 191 of City of Portage Resolution Book No. 44.

REPORTS FROM THE ADMINISTRATION:

PRESENTATION OF THE PROPOSED FISCAL YEAR 2011-12 BUDGET: City Council received the Proposed Budget for Fiscal Year 2011-12, Supplemental Budget and Detail Line Item Budget. At the request of Mayor Strazdas, City Manager Evans presented the proposed 2011-12 Fiscal Year Budget to City Council and indicated that there are no surprises, that a conservative approach was utilized in formulating the \$60.3 million down from the \$61.8 million budget for Fiscal Year 2011-12. He indicated that Police and Fire, Parks Maintenance, Streets Maintenance, the Capital Improvement Program (CIP) are all still in the budget, just not at desired levels. He also indicated that there would be a continuing decrease in revenue stream that is attributable to declining property tax revenues for the second year in a row, with a drop this year of 2.9%. Under the new program outlined by Governor Snyder, the City of Portage would be competing for revenue sharing with other cities, but the City is planning for the day when revenue sharing is gone as a consequence of the poor fiscal health of the State of Michigan that will inevitably be addressed. He indicated that the City of Portage maintains a low overall 10.8916 mills and that the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level.

He indicated that the recent trend analysis that was shared with City Council was taken into account when determining the budget, and the Administration continues to take additional reductions. He also indicated that there are continued staff reductions through attrition, for example, the number of employees is 184, down from 188, when just a few years ago Portage had 215 employees. Also, he

pointed out that the General Fund continues to support the CIP, the Curbside Recycling Fund is in need of extra funding and the Spring Clean-up Fund has been depleted because of the storms. He reviewed the planned activity in the Street and Utility Funds. He summed up by saying that the fiscal year 2011-2012 proposed budget is balanced and services will continue in this wonderful community.

Mayor Strazdas announced that the budget review will take place, Tuesday, April 19, 2011; that he heard that there were no lay-off's, that public safety remains a priority, appropriate resources for CIP, infrastructure and roads and the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level. City Manager Evans concurred and said that there is one grant position will not be replaced next year, either. Discussion followed. Motion by Reid, seconded by Sackley, to receive the Presentation of the proposed Fiscal Year 2011-12 Budget. Upon a voice vote, motion carried 7 to 0.

* **ADOPTION OF BOND RESOLUTIONS:** Motion by Sackley, seconded by Bailes, to adopt the Bond Resolution authorizing the sale of Capital Improvement Bonds, Series 2011, in the amount of \$1,700,000; and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2011. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on pages 173 and 185 of City of Portage Resolution Book No. 44.

* **ADOPTION OF BOND REFUNDING RESOLUTION:** Motion by Sackley, seconded by Bailes, to adopt the Resolution Authorizing Refunding of the City of Portage Building Authority Bonds, Series 1998, 2001 and 2002 and Approve of the Undertaking to Provide Continuing Disclosure. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 187 of City of Portage Resolution Book No. 44.

* **PROPOSED MEDICAL MARIHUANA HOME OCCUPATION ORDINANCE:** Motion by Sackley, seconded by Bailes, to receive the proposed Medical Marihuana Ordinance amendment to the Zoning Code, and refer the ordinance to the Planning Commission for consideration and initiation of the Zoning Code amendment process, with submission of the recommendation on the amendment not later than June 3, 2011. Upon a roll call vote, motion carried 7 to 0.

* **TAX EXEMPTION FOR KALAMAZOO FAMILY NON-PROFIT HOUSING CORPORATION:** Motion by Sackley, seconded by Bailes, to accept for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant the Kalamazoo Family Non-Profit Housing Corporation a tax exemption, establish a payment in lieu of taxes for 1506 Schuring Road and take final action on April 26, 2011. Upon a roll call vote, motion carried 7 to 0.

* **CORE TECHNOLOGY CORPORATION:** Motion by Sackley, seconded by Bailes, to approve the purchase of software upgrades through CORE Technology Corporation in the amount of \$16,750 for Talon Client – Law Enforcement Information Network systems for crime analysis, crime mapping, and data sharing and authorize the City Manager to execute all documents related to the purchase. Upon a roll call vote, motion carried 7 to 0.

* **FARMLAND AND OPEN SPACE PRESERVATION APPLICATION FROM 7905 WEST RS AVENUE, TEXAS TOWNSHIP:** Motion by Sackley, seconded by Bailes, to accept the Farmland and Open Space Preservation Application from Stephen Woolam, 7905 West RS Avenue, Texas Township. Upon a roll call vote, motion carried 7 to 0.

* **SPECIAL MEETING WITH BOARD AND COMMISSION APPLICANTS:** Motion by Sackley, seconded by Bailes, to set a Special Meeting on Tuesday, May 10, 2011, beginning at 5:30 p.m. to interview board and commission applicants. Upon a roll call vote, motion carried 7 to 0.

* **TREE CITY USA TREE PLANTING AND PROCLAMATION – INFORMATION ONLY:** Motion by Sackley, seconded by Bailes, to receive the communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation as information only. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

PRESENTATION BY MIKE ZAJAC, PORTAGE PARK BOARD CHAIR: City Council received the Presentation by Mike Zajac, Portage Park Board Chair. He thanked City Council for adjusting the schedule to allow him to speak earlier than planned. He reviewed the goals of the Park Board, some of the activities in which each member participated and future plans for the Park Board initiatives, including: expanding health and wellness in the community, a youth triathlon, a contest to build Kalamazoo County landmarks out of recycled material and volunteer development. Discussion followed.

CITY OF PORTAGE FISCAL YEAR 2011-2021 CAPITAL IMPROVEMENT PROGRAM: At the request of Mayor Strazdas, City Manager Evans explained that the Planning Commission has reviewed the proposed FY 2011-2021 Capital Improvement Program (CIP) and recommended approval. Motion by Urban, seconded by Campbell, to receive the communication from the Planning Commission regarding the City of Portage Fiscal Year 2011-2021 Capital Improvement Program. Upon a voice vote, motion carried 7 to 0.

REQUEST FROM COUNCILMEMBER PATRICIA RANDALL FOR DISCUSSION REGARDING THE CITY HALL FACILITIES USAGE POLICY: At the request of Mayor Strazdas, Councilmember Randall issued a plea to open City Hall to the public and asked for other opinions of City Council. Mayor Strazdas asked for comment from City Council. Councilmember Campbell indicated the Council Customer Service committee would be the appropriate committee for review.

Councilmember Urban asked if Mayor Pro Tem Sackley was going to address the issues he raised in his recent e-mail. Since he was not, Councilmember Urban concurred with Mayor Pro Tem Sackley and his exception to City Hall usage during election cycles and election campaigns, but he did not agree that the city budget should bear the cost of the use of City Hall by other election officials. Councilmember Reid indicated that she was open to look at this issue, but it should be used first for business of the City of Portage, so a balance may be necessary. Discussion followed. Mayor Strazdas recommended that the Council Customer Service Committee would be the appropriate Committee to study this matter. Discussion followed.

Mayor Pro Tem Sackley cited other facilities in the community that could be used for meetings and indicated that City Hall should not be in competition with them. He said that the use of the facility by any elected official outside working hours, where there is additional cost, the elected official should be advised that there is a cost. He said that if the elected official has an office in the community, he or she should use his or her own facility, but under no circumstances should the official be charged as it is inappropriate. Discussion followed.

Motion by Randall to have the Customer Service Committee look into creating an Administrative Order that would open up the use of City Hall by elected officials (with day time being exempt) and to possibly look into reimbursement for weekends and after hours for cost incurred. Mayor Strazdas asked City Attorney Brown whether the motion was construed narrowly enough and Mr. Brown answered in the affirmative, but the Committee would be creating a "Council Policy" or directing the Administration to devise an "Administrative Order," and Councilmember Randall indicated her preference for a Council Policy. The motion was then seconded by Councilmember Reid.

Councilmember Reid asked that the Committee consider how scheduling would be handled. Mayor Pro Tem Sackley asked that the Committee consider or discuss reimbursement for weekends and after hours for cost for elected officials outside campaign times, not that there has to be a charge schedule. 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 Board of Education Regular Business of February 21 and Special Meeting and Committee of the Whole Work Session of March 7, 2011.

Portage Historic District Commission of March 2, 2011.

Portage Park Board of March 2, 2011.

Portage Planning Commission of March 17 and March 28, 2011.

AD HOC COMMITTEE REPORTS:

CITY COUNCIL AD HOC SIGN COMMITTEE BUSINESS SIGN INFORMATION:

At the request of Councilmember Urban, Councilmember Campbell indicated that permit requirements on multitenant buildings to accommodate changes more easily needs further review and Councilmember Reid referred to a request to make the language in the sign ordinance more easily understood by local business owners and she referred to the new chart enclosed in the Agenda Packet. Councilmember Urban reviewed the suggested banner ordinance amendment and explained the reasoning behind the proposed changes. Discussion followed. Motion by Urban, seconded by Reid, to receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process. Upon a roll call vote, motion carried 7 to 0.

COMMUNITY SURVEY COMMITTEE: Councilmember Reid reviewed the plan by the Survey Committee to seek approval of the contract with the Kercher Center to phrase the questions to get the information needed and to present the overview of the questions anticipated, the questions that were dropped, the questions that were modified and the questions that were added and to obtain input from the City Council and Western Michigan University Kercher Center for the contract. Discussion followed.

BID TABULATION:

* **PURCHASE OF ONE HEWLETT PACKARD PROLIANT SERVER FOR SQL/.NET APPLICATIONS:** Motion by Sackley, seconded by Bailes, to approve the purchase of one Hewlett Packard Proliant server for \$10,909 provided through PC Mall Gov and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: Bryan Mohny, 7911 Lake Wood Drive, asked how to obtain permits for chicken coops and pens under the new ordinance and was informed that the Community Development Department would handle all permits.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Campbell offered congratulations to Alan Reiff for being awarded the Rotary man of the Year.

Councilmember Reid indicated that the Community Action Agency experienced some difficulties in funding, but is still in existence.

City Manager Maurice Evans invited everyone to a Special Meeting of Portage City Council, Kalamazoo City Commission and Kalamazoo County Board of Commissioners, 7 p.m., Radisson Hotel, Kalamazoo, to receive a presentation on consolidation of services to reduce costs. Mayor Strazdas concurred.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 11:12 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.

**MINUTES OF THE SPECIAL JOINT MEETING OF THE PORTAGE CITY
COUNCIL, THE KALAMAZOO CITY COMMISSION AND THE KALAMAZOO
COUNTY COMMISSION – APRIL 14, 2011**

Mayor Peter Strazdas called the meeting to order at 7:05 p.m. The following Councilmembers were present: Councilmembers Cory Bailes, Elizabeth Campbell and Patricia Randall, Mayor Pro Tem Ed Sackley and Mayor Peter J. Strazdas. Councilmembers Claudette Reid and Terry Urban were absent with excuse. Also in attendance were City Manager Maurice Evans and City Clerk James R. Hudson.

The following City Commissioners from the City of Kalamazoo were present: Commissioners David Anderson, Robert Cinabro, Don Cooney and Barbara Hamilton-Miller, and Mayor Bobby J. Hopewell. Motion by Anderson, seconded by Cooney, to excuse Vice Mayor Hannah McKinney and Commissioner Bell. Upon a voice vote, motion carried 5 to 0. Also present were City Manager Kenneth P. Collard, City Attorney Clyde Robinson and City Clerk Scott A. Borling.

The following County Commissioners from the County of Kalamazoo were also present: Commissioners Jack Urban, Carolyn Alford, Robert Barnard, Deborah Buchholtz, Brian Johnson, Michael Seals, David Buskirk, John Zull, Phil Stinchcomb, Timothy Rogowski, Brandt Iden, Jeff Heppler, Ann Nieuwenhuis, John Gisler and David Maturen. Commissioners Nasim Ansari and John Taylor were absent with excuse.

County Board Chairwoman Deborah Buchholtz deferred to Mayor Strazdas, who provided a summary of past and current efforts to consolidate, collaborate and share services among the municipalities in the County, keeping in mind the current fiscal condition of local governments in Michigan and the goals and mandates of Governor Snyder, who has proposed that local governments compete for a cut of state sales tax dollars based in part on their ability to share services. Mayor Hopewell posed the question, "Where do we go from here?" Discussion followed.

County Board Chairwoman Buchholtz introduced Eric Luper, Director of Local Affairs for the Citizens Research Council of Michigan, who provided a PowerPoint presentation regarding Opportunities for Collaboration in the Kalamazoo Communities which can be viewed on the Citizens' Research Council of Michigan website at crcmich.org. Discussion followed.

County Board Chairwoman Buchholtz opened the discussion to the elected officials present. Comments and questions were heard from Kalamazoo County Commissioner Brian Johnson, City Commissioner David Anderson, Kalamazoo County Commissioner Jack Urban, Portage Mayor Pro Tem Ed Sackley and Mayor Bobby Hopewell.

County Board Chairwoman Buchholtz opened the discussion to the citizens for comment and the following people spoke: Jim Schultz, Linda Teeter, Jim Cripps, State Representative Margaret O'Brien and Jim Pearson.

County Board Chairwoman Buchholtz reviewed the proposed “Collaboration /Consolidation Next Steps” for consideration by the three units of government:

Collaboration/Consolidation Next Steps

1. Task respective City Managers and County Administrator with bringing back a list of potential areas of collaboration/consolidation within 6 weeks, with indication as to likely difficulty (timeline, barriers) and payoff for each category. A component of this may include a listing of legislative changes proposed to make such collaboration and consolidation easier and more cost effective.
2. Convene meeting of leadership (managers/administrator, mayors/chair, vice mayor/mayor pro tem, vice chair) within 6 weeks to review and begin to prioritize the list of potential collaboration/consolidation efforts (and legislative efforts).
3. As soon as is practicable (1-3 weeks) present findings to respective boards for comments, changes, etc. and gain consensus for joint and individual priorities. Individual boards would review not only the joint proposal, but also separate recommendations from their administrator/manager for other items specific to their jurisdiction (i.e. inter-county, w/ townships, etc. opportunities.)
4. Consider scheduling another joint meeting to publicly set the agenda and priorities for investigating and pursuing collaboration and consolidation opportunities. Potentially create necessary committees or other avenues necessary for gaining input and assistance; this would include other local unit partners such as townships, cities, villages, surrounding counties, etc.
5. Commit to periodic (monthly?) meetings of the leadership of the City and County (and others as appropriate) to review progress on major initiatives. Update respective boards as applicable.

County Board Chairwoman Buchholtz asked for discussion from the elected officials and/or citizens. There were none. The Kalamazoo County Board of Commissioners and Kalamazoo City Commission approved a motion to adopt the Collaboration/Consolidation Next Steps.

Motion by Sackley, seconded by Campbell, to adopt the Collaboration/Consolidation next steps. Upon a roll call vote, motion carried 5 to 0.

ADJOURN: With the consent of County Board Chairwoman Buchholtz and Kalamazoo Mayor Hopewell, Mayor Strazdas adjourned the meeting at 9:00 p.m.

James R. Hudson, City Clerk

MINUTES OF THE BUDGET WORK SESSION OF THE PORTAGE CITY COUNCIL
APRIL 19, 2011

Meeting was called to order by Mayor Strazdas at 2:00 p.m.

The following members of Council were present: Councilmembers Cory Bailes, Elizabeth Campbell, Patricia Randall and Terry Urban, Mayor Pro Tem Ed Sackley and Mayor Peter Strazdas. Councilmember Claudette Reid arrived at 2:05 p.m. Also in attendance were City Manager Maurice Evans, Deputy City Manager Brian Bowling, Financial Services Director Bob Luders, Finance Director Daniel Foecking, Deputy Finance Director Patricia Fitnitch and City Clerk James Hudson.

City Manager Maurice Evans provided an overview of the proposed budget. He indicated that the City of Portage budget of \$60.3 million, down from the \$61.8 million budget for Fiscal Year 2011-12, and derived after the guidance of City Council at the annual retreat, was a balanced budget. He indicated that the Administration listened to City Council and streets, public safety and water and sewer remain protected with this budget. He indicated that the City is not filling positions, not sacrificing services and not counting on revenue sharing since Governor Snyder could take all of the statutory revenue sharing and property tax revenues are down because property values are down. He also indicated that there are continued staff reductions through attrition; for example, the number of employees is 184, down from 188, when just a few years ago Portage had 215 employees. He listed some of the cost-cutting measures because of the reduction in State Revenue Sharing and lowering of assessments in the city, including: operational reductions, fewer Christmas lights, no tulips and three years of no wage increases except union contracts. Discussion followed regarding the need for extra funding in the Curbside Recycling Fund and the Spring Clean-up Fund because of the storms. He reviewed the planned activity in the Street and Utility Funds. He summed up by saying that the fiscal year 2011-2012 proposed budget is balanced. Discussion followed. Mayor Strazdas announced that the Truth in Taxation Public Hearing (on the budget) will take place, Tuesday, May 10, 2011. Discussion followed.

Benefit Services Director Patti Thompson with Deputy Director Tracy Schmitt explained some of the functions and responsibilities of the Benefit Services Department, including union and non-union benefits, compensation plans, Workers' Compensation and the retiree health savings plan. She explained some of the cost control efforts of the Department including staff reduction, 312 Arbitrations, continuation of the Employee Health Management Program with 94% participation that has been negotiated into union contracts, changes to insurance carriers, a retiree health savings plan and meaningful assignments for workers compensation recipients on restricted duty. Discussion followed.

Financial Services Director Bob Luders provided a brief background of the department work functions related to the budget, including procurement of goods and services and capital improvement of the city. Mr. Luders discussed the Purchasing Department responsibilities in the areas of risk management, management of city contracts, management of city assets, property and auto insurance coverage through the Michigan

Municipal Risk Authority and the joint auction with the City of Kalamazoo. Discussion followed.

City Assessor James Bush indicated that the changes for the Assessor Budget are very minimal, basically unchanged from last year and that the Assessing Department budget is comprised of both the assessing component and the Board of Review component with the Board of Review component increased by approximately \$7,300 to account for the additional Board members compensation and the costs of training. Some of the basic responsibilities of the Assessor Department include keeper of the records related to ownership, homestead exemption and all property records, annually preparing the assessment roll and conducting the Board of Review. He indicated that the Assessor also prepares special assessment rolls, values all city property for insurance purposes, conducts the SWA annual vacancy study and prepares numerous other projects and reports for the Administration and City Council. Discussion followed.

He gave a Summary of the 2011 Assessment Roll saying that the 2011 Taxable Value is down 2.9%; Pfizer Real Estate is down 6% and Personal Property is down 2%; foreclosures continue at approximately 200 per year; and Pfizer reliance has decreased to 15% down from 17%. He indicated that the City Tax Base remains balanced with 54% Residential, 25% Commercial and 21% Industrial, with a breakdown between real estate and personal property as 82% real property and 18% personal property. He indicated that Tax Base and Revenue Forecasting is by far the most important activity that will be ongoing and will begin next month. Discussion followed.

For the 2011 Board of Review, Mr. Bush indicated that for the first time, the Board of Review consisted of two three-member panels hearing assessment appeals simultaneously in separate rooms. Each of the six board members participated in one or more Board of Review training sessions in assessing practices and customer service. He admitted that operating the dual panels had its administrative challenges, but the appointments were handled very smoothly and the Board members did not get backed up or get backlogged with paperwork and Joyce Foondle of Southwest Michigan Governmental Consultants monitored the Board appointments periodically. He said it was her opinion that there could be better uniformity between the two panels in terms of the logic of their appeal decisions. As a result, he is considering additional training opportunities leading toward further improvements in this area and is considering implementing a number of suggestions for improvements for the 2012 Board of Review that were voiced by members at an exit interview conducted. Discussion followed.

He reported that there are no pending commercial or industrial property tax appeals so the city has no uncertain future tax refund liability and all staff is committed to continuing positive public relations with citizens and the business community during extremely difficult economic times.

He indicated that the current residential inspection program was designed in response to the State Tax Commissions recommendation that at least 20% of all properties be inspected annually, in other words every

property would be inspected at least once every five years and is a test project at this time. Discussion followed.

Information Technology Services Director Devin Mackinder indicated that the IT Department reviews emerging technologies and indicated that there are increases in costs savings, customer service and computer expertise as a result of the contractual arrangement between the City of Portage and SARCOM. Mr. Mackinder explained that the \$160,000 in expenditures line item is being set aside for replacement of the current computer accounting system and explained the benefits of switching to a new system. He reviewed some of the service indicators, equipment purchase trends, cell phone usage and the future use of PDA devices by employees. Because of fewer *Portager* Newspapers being published, he is showing a reduction in desk top publishing hours, because of an increase in election activity he is showing an increase in mail processing and because of the demand for information, he is showing an increase in website updating time. Discussion followed regarding the progress of the city dashboard and Governor Snyder's mandates. He explained some of the changes, updates and advances accomplished over the past year in the technology area and announced some of the plans for new technologies for the upcoming fiscal year. He reviewed the Cable Access budget, and indicated he lost two part time employees to Mary Beth Block, who is now in charge of the Communication Services budget as Assistant to the City Manager. Discussion followed.

Streets and Equipment Director Jack Hartman with Deputy Director Ray Waurio explained the Streets and Equipment budget, including: the Major and Local Street Funds; the Routine Maintenance Fund; and the Traffic Services Fund for signals and crossings. Mr. Hartman also discussed the costs associated with administering the routine maintenance for major streets and site plan reviews and plat reviews as service indicators. Discussion followed regarding Act 151 and the subsidization of the local Street Fund using the General Fund, Special Funds, curbside recycling, leaf pickup, the spring cleanup program, brush pick-up program, road maintenance and strip paving. Discussion followed.

Planning Commissioner James Pearson, 3004 East Shore Drive, asked why the recycling fund had an increase of 37% and Mr. Foecking responded that the fund balance is not as large as desired, that the third year is more expensive, that the request for proposal and resultant contract was designed to be that way and that the decrease in the tax base is having an effect on the amount of revenue generated. He then surmised that 0.36 mills is reasonable. Discussion followed.

Parks, Recreation & Property Management Director William Deming with Deputy Director Barry Bacon and Senior Citizen Services Manager Jason Horan reviewed the Parks, Recreation & Property Management budget and emphasized that the department was engaging in increased efficiencies, reducing services, consolidation of duties, contractual services and utilizing volunteers where possible. He indicated that custodial services will be under the Community Development Department and there will be a reduction in tree plantings, flower beds and holiday decorations. Fundraising for cultural activities will be performed by

Cultural Events Coordinator and the special events banners will be eliminated. The livery will no longer be available except for special group tours and the Haunted Forest and Applefest events will no longer be supported by the Parks Department and, after some discussion, concluded that they will be possible only through private efforts. Discussion followed.

Mr. Deming indicated that the Wellness program at the Senior Center will disappear because the grant expired. He reviewed some of the activities provided at the Senior Center, and discussed buildings and grounds, cemeteries, City Center landscaping, perennials, Tree City USA, volunteers, contractual services and cultural activities. Discussion followed.

Police Chief Richard White with Deputy Kit Lirot and Deputy Dan Mills summarized the Police Department budget. Chief White discussed retirements, cross-training and movement of staff to create efficiencies and better serve the public. He mentioned that the Police Department had no lay-offs and pledged to improve customer service. He mentioned that SWEP and KVET will co-locate and share resources. He reviewed alcohol compliance checks and indicated that they will continue, especially during prom and graduation time, and indicated that four businesses were cited and will suffer license restrictions. He reviewed the Unwanted Meds Task Force for the disposal of prescription drugs program, the merging of surrounding county databases funded through Homeland Security for global crime analysis, updates in technology and the first part time police officer positions. Discussion followed.

Fire Chief Randolph Lawton with Deputy Chief John Podgorski provided a brief overview of the City of Portage Fire Department budget. Chief Lawton reviewed emergency management, fire equipment, efforts to control costs, reductions in staffing, fleet mileage and overtime, and indicated that the facilities and equipment continue to age.

Deputy Chief Podgorski reviewed the implementation of road safety data recorders and incident response by location instead of by district and the response to medical emergencies using smaller well-equipped vehicles. Discussion followed regarding the use of these vehicles and the use of volunteers on the fire teams and the elimination of the fire training for volunteer firefighters owing to a lack of attrition.

RECESS: 5:03 p.m.
RECONVENE: 6:00 p.m.

Mayor Strazdas explained the purpose of the Kalamazoo County Public Art Commission (KCPAC) and indicated that the City of Portage has been asked to appoint a liaison to KCPAC. He recommended the City council Mayor Pro Tem Sackley, who indicated that he had been approached to serve for the remainder of 2011 by Kalamazoo Institute of Arts Executive Director James Bridenstine. Discussion followed. Motion by Reid, seconded by Campbell, to appoint Mayor Pro Tem Sackley to serve as the City of Portage Liaison to the Kalamazoo County Public Art Commission for the remainder of 2011. Upon a voice vote, motion carried 7 to 0.

Mr. Foecking introduced Deputy Finance Director Patricia Fitnitch and Deputy Finance Director of Revenue/Treasury Brian Kelley. Mr. Foecking reviewed the Legislative Department Budget, including City Council and Human Services.

Community Development Director Jeffrey Erickson introduced Deputy Director Vicki Georgeau. He provided an overview of the Human Services budget and referred City Council to the Supplemental Budget Recommendation dated April 1, 2011. Mr. Erickson indicated that for

FY 2011-12, a total of \$164,461 of General Fund and Community Development Block Grant (CDBG) Program funds are estimated to be available for human public service funding from two sources: the General Fund allocation is estimated to be \$117,127 (0.55% of General Fund revenue per City Council policy); and the CDBG Program allocation is now estimated to be \$47,334 (maximum of 15% of the estimated FY 2011-12 entitlement grant of \$219,197 and FY 2009-10 program income of \$96,375). He compared and contrasted these figures with the amounts from FY 2010-11 showing reductions for FY 2011-12. He reviewed the breakdown of contribution to Portage Community Center.

Mr. Erickson indicated that the review and approval of human/public service funding is accomplished as part of the annual budget process. He said that the City Administration analysis and funding options were provided to the Human Services Board (HSB) as was the City Administration funding recommendation for human/public services. He said that the HSB considered this information during the January and February 2011 meetings and expressed his satisfaction that the human/public service funding recommendations to City Council by the City Administration and the HSB for FY 2011-12 are in agreement.

He made reference to the Human/Public Service Application Summary Forms for each of the four General Fund applications and the single CDBG Fund application as forms that highlight agency activities for which funding has been requested.

He referenced Table 2 of the FY 2011-12 Supplemental Budget on page 3 of the Communication from the City Manager dated April 1, 2011, that summarizes the current funding, funding requests, application scores and rankings by the City Administration and HSB, and the City Administration and HSB funding recommendations. He noted the agencies, their amounts and the fact that the City Administration recommendation agrees with the Human Services Board recommendation. Discussion followed.

Mr. Erickson pointed out that for FY 2010-11, the recommended human/public service funding best provides for basic human needs and supports core housing assistance and anti-poverty services for the least advantaged in the Portage community.

At the request of Mayor Strazdas, City Council heard about the relationship of Portage citizens from Craig Ross, Portage Community Center Board of Directors and Diane Schrock, Portage Community Center Director, Housing Resources, Inc. (HRI) Executive Director Ellen Kisinger-Rothi, Kelli Swiatkowski, YWCA, and Councilmember Randall,

Catholic Family Services Board of Directors. Discussion followed.

Ms. Georgeau indicated that the Gryphon Place missed the application deadline. Discussion followed.

Mr. Erickson concluded by saying that the CDBG Program will be presented to City Council on the next agenda for approval in order to meet the May 10, 2011 filing deadline.

Employee Development Director Rob Boulis reviewed the Employee Development budget emphasizing department efforts in the areas of recruitment, safety administration, training, labor and employee relations and negotiations.

City Clerk Jim Hudson cited some of the services provided by the City Clerk staff in the areas of elections, Freedom of Information Act Requests, tax abatements, record keeping, liquor licenses, cemeteries and matters before Council. Mr. Hudson indicated that staff continues to upgrade the City Clerk website and staff is currently assisting the Kalamazoo County Clerk with the May 4 Consolidated School Election. Discussion followed.

Transportation and Utilities Director Chris Barnes introduced Utilities Engineer Kendra Gwin. He then outlined future improvements to various roadways in Portage for the upcoming construction season. He reviewed the street and utility portions of the Street Budget, and discussed Street Lighting, Local Streets, Signals and Crossings, the I-94 bridge over South Westnedge Avenue and Municipal Street Fund. Discussion followed.

Utilities Engineer Kendra Gwin discussed water and sewer assessments in general, the administration of the Garden Lane Arsenic Plant Project by United Water (formerly EarthTech), the annual cost to the City of Kalamazoo for utilities, the United Water Contract, and the Water Fund. Discussion followed.

As a result of Mayor Pro Tem Sackley raising the Utilities Workers Union of America criminal charges against two (2) individuals, Mayor Strazdas directed City Manager Evans to provide information on the progress of the actual legal cause of action. Discussion followed.

Community Development Director Jeffrey Erickson introduced Deputy Directors Terry Novak, Chris Forth and Vicki Georgeau. He reviewed some of the Community Development activities, including: Building Services, Planning and Development Services and Neighborhood Services. He cited some of the service indicators and highlighted the permitting amounts thus far for the year, including \$42 million through FY2010-11 versus \$18.2 million in FY 2009-10 and \$45 million for 2008-09. He pointed out that the amount for residential permits was \$14 million this year as opposed to \$11 million last year; for office, commercial and industrial it was \$37 million; for Pfizer it was \$12 million in Building 41; for the Air Zoo it was \$6 million; for Midwest Fasteners on Shaver Road it was \$5 million; for Cole Century it was \$650,000 and for Sam's Club it was \$365,000. He also mentioned the planned senior housing approved by City Council as a new PILOT. Mr. Erickson continued to review the remaining Community Development components in detail and discussion followed.

He referred to the success of the Backflow Prevention Program,

National Insurance Requirements and the Community Development Block Grant Program (CDGB). Discussion followed.

Finance Director Dan Foecking introduced Deputy Finance Director for Accounting and Budget Patricia Fitnich and Deputy Finance Director for Revenue and Treasury Brian Kelley. Mr. Foecking outlined the budget of the City Council and indicated that the City Council sets overall policy and priorities for the city and that the budget primarily represents the salaries of Mayor and Council Members, and Michigan Municipal League membership fees.

Mr. Foecking reviewed the City Manager Department Budget, including: oversight responsibility for all phases of city operations, economic initiatives, representation and promotion of city interests, development of administrative procedures intended to improve organizational effectiveness and administrative responsibility for all city goals and objectives.

Mr. Foecking also reviewed the City Attorney budget and indicated that the City Attorney provides general legal services to the City Council and all departments regarding municipal matters. He pointed out that specialized areas of labor counsel and bond counsel are budgeted in the specific departments or programs for which the services are provided.

He then summarized the Finance Department Budget, including: developing and maintaining sound financial management systems, timely and accurate financial reporting, most notably the Comprehensive Accounting Financial Report (CAFR) Preparation and cash management. He pointed out that processing of accounts payable produced approximately 5,000 checks and a growing number of electronic fund transfer payments and 7,800 payroll checks and direct deposits annually. He listed other primary functions, including: preparation of the annual operating budget, assistance in preparing the annual Capital Improvement Program budget, the Utility Rate Study and the information for bond issues and other financing. He then indicated that the Finance Department is responsible for city-wide budget control, fixed asset management, the Brownfield Redevelopment Authority Fund and the West Lake Weed Management Fund.

Mr. Foecking introduced Deputy Director of Revenue/Treasury Brian Kelley who said that the Treasury Division of the Finance Department accounts for the costs associated with the billing and collection of all city accounts receivable. He indicated that the Treasury interacts constantly with the general public to handle a myriad of queries and to process cash receipt transactions and listed some of the statistics. He indicated that technology is utilized where appropriate and 15% of all payments are performed electronically, 27% are paid at the counter and the rest are paid by mail. When Jim Pearson asked whether any other municipalities were paying online, Mr. Foecking indicated that the City of Portage looked at the program at Mishawaka, Indiana, where in their third year they had 20%+ participation in automatic payments. Discussion followed.

Financial Services Director Bob Luders provided two graphs depicting the Debt Service for the Capital Improvement Program. He pointed out that in FY 2006-07, a management initiative was implemented to reduce the rate of increase of the CIP debt service and level its growth; otherwise,

the CIP debt service for FY 2011-12 would have been approximately \$2.5 million greater. He revealed that Debt Service as a percentage of net operating revenues for combined General Fund, Special Revenue Funds and

Debt Service Funds has reached a plateau and should begin to decline in value beginning this year. Discussion followed.

When Mayor Pro Tem Sackley advocated cutting the City Council budget, there was a consensus to eliminate the Mayor Exchange Day fund and to reduce the Training, Meetings and Education Seminars from \$14,000 to \$10,000.

Note that the next steps for 2011-2012 Budget are: on May 10, 2011, the budget hearing required by law will be held simultaneously with the Truth-in-Taxation hearing (where oral and written comments will be accepted at the hearing from the public and any questions that are posed will be addressed). Next, on May 24, 2011, the General Appropriations Act Resolution to adopt the 2011-2012 Budget (including all components such as the Capital Improvement Program) along with the Salary and Wage Resolution and the Reimbursement Resolution (for bonds to be issued in the future) will be on the agenda for City Council approval.

Community Development Director Jeffrey Erickson reviewed the development process for the Capital Improvement Program, and summarized the communication from the City Manager to Planning Commission Chairperson James Cheesebro dated February 7, 2011. Discussion followed.

Mr. Erickson then provided an overview of the categories contained within the 10-year plan: Streets, Sidewalks and Bikeways, Water, Sanitary Sewer, Police, Fire, Public Facilities and Parks & Recreation. Discussion ensued throughout his presentation. He indicated that the emphasis was on streets. Discussion followed.

Mr. Erickson advised City Council that they would be asked to approve the FY 2011-2012 Community Development Block Grant Program and authorize the Administration to submit the FY 2011-2012 One-Year Action Plan to the Department of Housing and Urban Development on May 10, 2011. Discussion followed.

Mr. Evans referred City Council to the proposed Severance Policy found in the Supplemental Budget under Section 5 for their review to be considered for approval at the public hearing.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:26 p.m.

James R. Hudson, City Clerk