

CITY OF
PORTAGE
A Place for Opportunities to Grow

PLANNING COMMISSION

June 16, 2011

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

June 16, 2011

(7:00 p.m.)

Portage City Hall Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

- * June 2, 2011

SITE/FINAL PLANS:

PUBLIC HEARINGS:

- * 1. Final Report: Ordinance Amendment #10-D, Business Banner Regulations
- * 2. Preliminary Report: Ordinance Amendment #10-E, Mixed Use Zoning Proposals

PLATS/RESIDENTIAL CONDOS:

OLD BUSINESS:

- * 1. Valley Family Church – Kalamazoo, 2500 Vincent Avenue (noise complaint update)

NEW BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

May 9, 2011 Zoning Board of Appeals meeting minutes

Star (*) indicates printed material within the agenda packet.

PLANNING COMMISSION

June 2, 2011

 DRAFT

The City of Portage Planning Commission meeting of June 2, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Three citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Rick Bosch.

IN ATTENDANCE:

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

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 May 19, 2011 meeting minutes. A motion was made by Commissioner Welch, seconded by Commissioner Patterson, to approve the minutes as submitted. The minutes were unanimously approved.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

1. Rezoning Application #10-02, 4815 West Milham Avenue and 6027 South 12th Street. Mr. Forth referred the Commission to a May 26, 2011 e-mail correspondence from Mr. Terry Patterson, on behalf of Milham Crossings LLC, requesting the public hearing for Rezoning Application #10-02 be adjourned to the July 21, 2011 meeting.

The public hearing was reconvened by Chairman Cheesebro. Two citizens spoke in regards to the proposed rezoning: 1) Dave Szybala, 4836 Golden Ridge Trail and 2) Allan Mueller, 6055 Andover Woods Road. Mr. Szybala expressed concern regarding the continued requests for adjournment by the applicant without representation at the meetings. Mr. Szybala also stated two attempts by the neighborhood to contact the applicant have not been returned. Mr. Szybala indicated the neighborhood would be presenting a suggestion for the zoning and use of the property located at the southeast corner of South 12th Street and West Milham Avenue at the July 21, 2011 meeting. Mr. Mueller stated the continued delays by the applicant have created confusion among the neighborhood. Mr. Mueller asked the Planning Commission to dismiss the rezoning request since the applicant has not appeared at three different meetings to explain or support the proposed rezoning. No additional citizens spoke regarding the proposed rezoning.

A large, stylized stamp with the word "DRAFT" in bold, slanted capital letters. To the left of the text is a small icon of a document with a checkmark.

The Commission and staff discussed the continued requests for adjournment by the applicant and the lack of a specific development proposal with the requested rezoning. Attorney Brown stated there is no requirement that the applicant present a development proposal with a rezoning request. Attorney Brown further indicated the Planning Commission should consider the appropriateness of the requested zoning district and all uses that are allowed. Commissioner Dargitz referenced previously discussed e-mail correspondence between the applicant and surrounding area neighbors and stated she has not seen copies in any agenda packet. Mr. Forth stated he was provided copies of the e-mail correspondence but they were not requested to be provided to the Planning Commission. Mr. Forth stated the e-mails could be provided to the Commission for the July 21, 2011 meeting.

After additional discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Pearson, to adjourn the public hearing for Rezoning Application #10-02 to the July 21, 2011 meeting, as requested by the applicant. The motion included a statement that the applicant has not been present during the previous three meetings and this would be the last adjournment granted by the Commission unless the applicant was present and provided good cause for another adjournment. The motion was unanimously approved.

2. Final Report: Ordinance Amendment 10-C, Medical Marihuana Home Occupation Ordinance. Mr. Forth summarized the May 27, 2011 staff report regarding the proposed medical marihuana home occupation ordinance. Mr. Forth summarized previous Planning Commission review and discussion regarding the proposed ordinance amendment and the two primary issues that resulted from the May 19th Commission discussion: 1) The home occupation approach vs. the commercial zoning district approach and 2) accessory building use. Mr. Forth summarized the staff analysis regarding these two issues and indicated that staff is advising the Commission to recommend to City Council approval of Ordinance Amendment 10-C, Medical Marihuana Home Occupation as recommended by the City Administration.

Commissioner Dargitz asked if language could be added to the ordinance that specifically prohibits dispensary operations from a commercial area. Attorney Brown stated there is language in the ordinance that prohibits commercial medical marihuana operations. Further discussion ensued between Attorney Brown and Commissioner Dargitz regarding commercial dispensaries. Commissioner Dargitz indicated she could support caregivers operating in residential areas but wants to make sure impacts are mitigated. Commissioner Dargitz also stated that the ordinance should include commercial day care facilities in the 1,000 foot distance separation from a medical marihuana home occupation. Chairman Cheesebro reconvened the public hearing. No citizens spoke regarding the proposed ordinance. A motion was made by Commissioner Welch, seconded by Commissioner Dargitz, to close the public hearing. The motion was unanimously approved.

A motion was then made by Commissioner Reiff to recommend to City Council that Ordinance Amendment 10-C, Medical Marihuana Home Occupation, be approved. Commissioner Welch suggested hearing additional Commission comments before finalizing the motion. Commissioner Dargitz then discussed other ordinance provisions along with suggested changes including adding the word "current" to the registry identification card references, requiring a caregiver to deliver the medical marihuana to the patient or limiting the number of patients that can visit a caregiver to not more than one at a time, and additional language under the definition of a qualifying patient. Commissioner Patterson stated the amount of traffic generated by a medical marihuana caregiver is minimal compared to other types of home occupations including group child daycare homes. Commissioner Welch concurred. Commissioner Welch also stated he could support specifically prohibiting dispensary operations from a commercial area. The Commission and Attorney Brown continued discussion of these issues and other ordinance provisions including patient-to-patient transfers and a definition of medical marihuana dispensaries. As a result of this additional discussion, the original motion offered by Commissioner Reiff was seconded by Commissioner Welch. Attorney Brown indicated the he believes the proposed ordinance is the best approach at this time; however, the ordinance may need to be amended in the future. Commissioner Stoffer stated he would support adding commercial daycare facilities to the 1,000 foot distance requirement and limit the number of qualifying patients that can visit a caregiver to no more than one at a time. If these two provisions are not included in the motion, Commissioner Stoffer said he would have a difficult time supporting the current motion. There being no further discussion, Chairman Cheesebro called for a vote on the motion. The motion was approved 6-2 with Commissioners Dargitz and Stoffer opposing the motion.

 DRAFT

3. Preliminary Report: Ordinance Amendment 10-D, Business Banner Regulations. Mr. West summarized the May 27, 2011 preliminary staff report regarding proposed changes to business banner regulations that have been forwarded by City Council for Planning Commission review and recommendation. Mr. West discussed the City Council Ad Hoc Sign Committee review of historical sign related issues and indicated the proposed amendment would expand the opportunity for banner use and provide additional options and flexibility for businesses interested in using banner signs.

Chairman Cheesebro opened the public hearing. No citizens spoke in regard to the proposed ordinance amendment. A motion was made by Commissioner Welch, seconded by Commissioner Reiff, to adjourn the public hearing for Ordinance Amendment 10-D, Business Banner Regulations, to the June 16, 2011 meeting. The motion was unanimously approved.

Commissioner Pearson read a memo dated June 2, 2011 that he had emailed to the Commission earlier in the day regarding the issue of temporary signage. Commissioner Pearson stated that small businesses in Portage have expressed concerns regarding the temporary sign permit process and regulations. Commissioner Pearson indicated he had emailed the Ad Hoc Sign Committee on two different occasions requesting additional information and comments regarding possible changes to the temporary sign ordinance and has not yet received a response. Commissioner Pearson indicated he would report back to the Commission on this issue once he has received a response from the Ad Hoc Sign Committee.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

TO: Planning Commission **DATE:** June 10, 2011
FROM: Jeffrey M. Erickson,  Director of Community Development
SUBJECT: Final Report: Ordinance Amendment #10-D, Business Banner Regulations

I. INTRODUCTION/BACKGROUND

On January 18, 2011, the City Council Ad Hoc Sign Committee met to discuss business signage and Zoning Code regulations pertaining to signs. A November 3, 2010 communication provided a historical overview for the City Administration of sign issues and regulations within the City of Portage. The various business signs that are permitted by the Zoning Code including freestanding signs, wall signs, temporary signs, banner signs, changeable copy boards, and electronic message displays that provide advertising opportunities were discussed. After reviewing the information and as recommended by the Ad Hoc Sign Committee, on April 12, 2011 City Council voted unanimously to refer the proposed business banner ordinance proposal to the Planning Commission for consideration and to initiate the Zoning Code amendment process.

The proposed ordinance language would amend the sign ordinance regulations and expand the ability of a business to use a banner. Attached for Commission review is a copy of the March 30, 2011 communication from the City Manager to the City Council that includes background information, the proposed zoning ordinance and the April 12, 2011 City Council meeting minutes.

The original ordinance language that was conveyed from City Council to the Planning Commission has been modified slightly to clarify the amount of the banner that can be devoted to sign copy. It was intended that Condition 6 allow not more than 50% of the banner to be devoted to sign copy (previously stated not more than 10 square feet). This clarification has been made and the revised ordinance language is included in the attachments.

II. ZONING ORDINANCE PROVISIONS

The Zoning Code defines a *Banner* as “A sign made of cloth or a similar flexible material bearing a name, design, motto or other form of advertisement, identification or information that is secured to the support structure on all corners and/or sides. A flag, pennant or standard may be considered a “banner”, provided that it meets the definition of banner.” Section 42-552.J of the Zoning Code allows banners in the B-2, community business, B-3, general business and CPD, commercial planned development districts subject to seven conditions regarding minimum setback from a property line, maximum height, minimum distance from the ground surface, size, mounting/attachment, square footage devoted to the name of the business and banner maintenance/repair. While business banners have not been widely utilized by area businesses, Crossroads Mall and Art Van Furniture provide examples of a typical business banner (see attached photographs).

The proposed ordinance amendment would expand banner use and provide additional options and flexibility for businesses interested in using banner signs. The ordinance language would:

- Eliminate the phrase “...to identify only the name of the business” (Section 42-552.J).
- Increase the area of the banner devoted to sign copy including the name of the business and related message from four square feet to up to 50% of the banner area (Section 42-552.J.6).
- Add the business banner ordinance language to the B-1, local business and PD, planned development districts (Sections 42-548.F and 42-551.C).

The intent of the expanded signage is to provide additional advertising options and flexibility for area businesses while helping to prevent the proliferation of temporary signs that contribute to sign clutter and confusion along public streets. The availability of other types of permanent and temporary signs including freestanding, wall, reader-boards, electronic and directional will also remain for business use.

III. PLANNING COMMISSION REVIEW/CONSIDERATION

The Planning Commission received the proposed ordinance, along with the City Council background information, during the May 5, 2011 meeting. The Commission reviewed the materials and then voted unanimously to set a public hearing for the June 2, 2011 meeting. The proposed ordinance amendment was again discussed during the May 19, 2011 meeting and the Commission convened the public hearing at the June 2, 2011 meeting. No citizens spoke regarding the proposed ordinance amendment during the May 5th or May 19th meetings, or during the June 2nd public hearing.

IV. RECOMMENDATION

It is recommended that the Planning Commission review the ordinance language, reconvene the public hearing and accept public comment during the June 16, 2011 meeting, and then recommend to City Council approval of Ordinance Amendment No. 10-D, Business Banner Regulations.

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
Business Banner Photographs (Crossroads Mall and Art Van Furniture)

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.

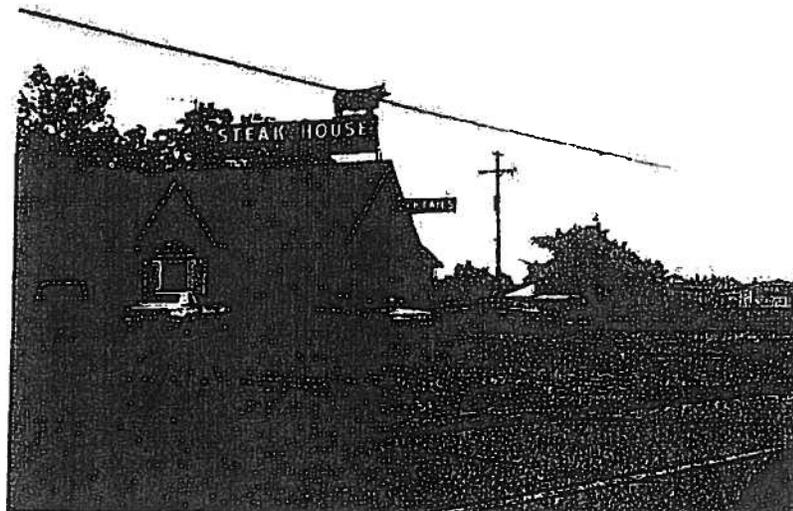
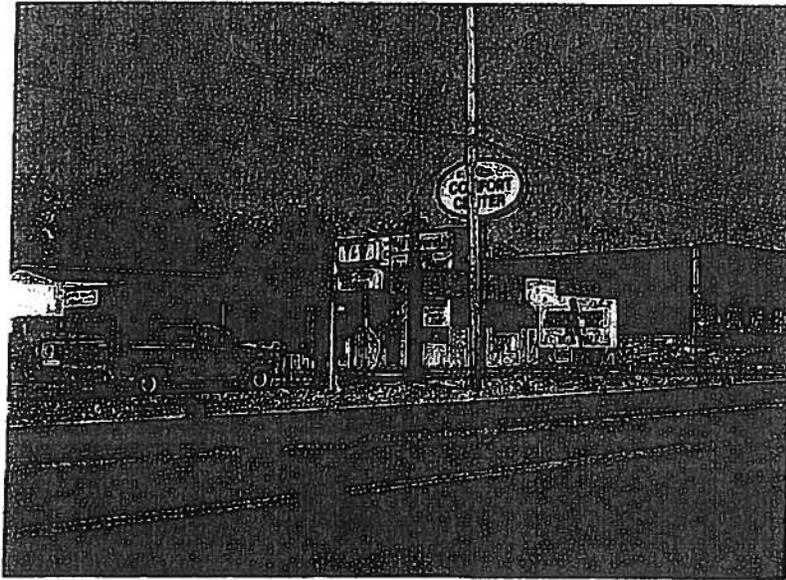
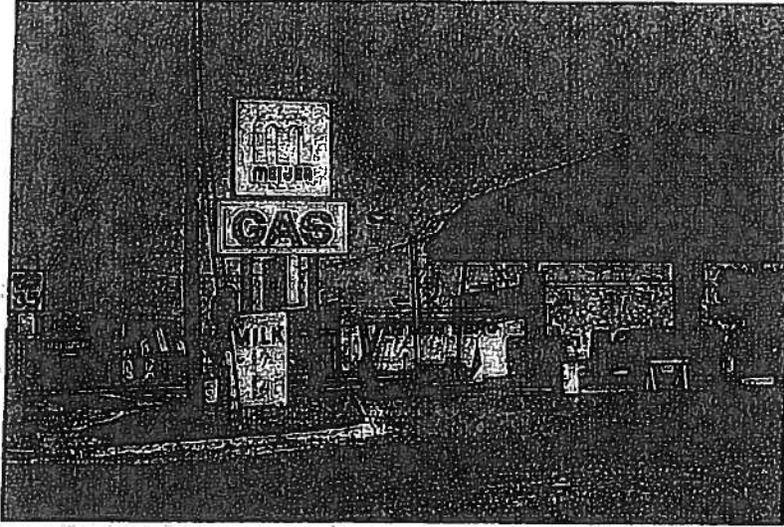
Conclusion

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.

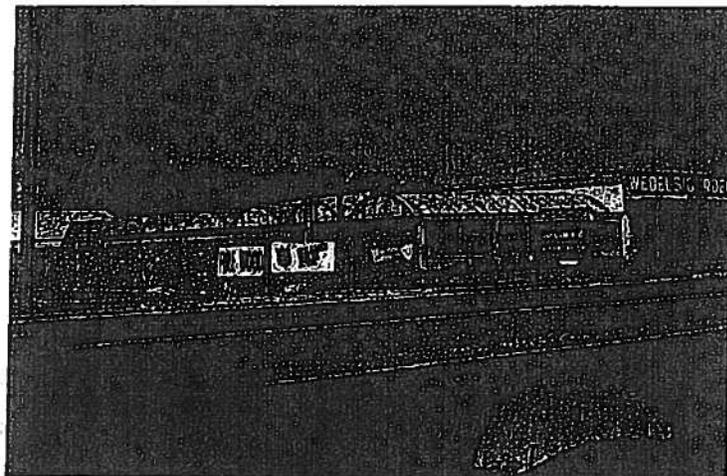
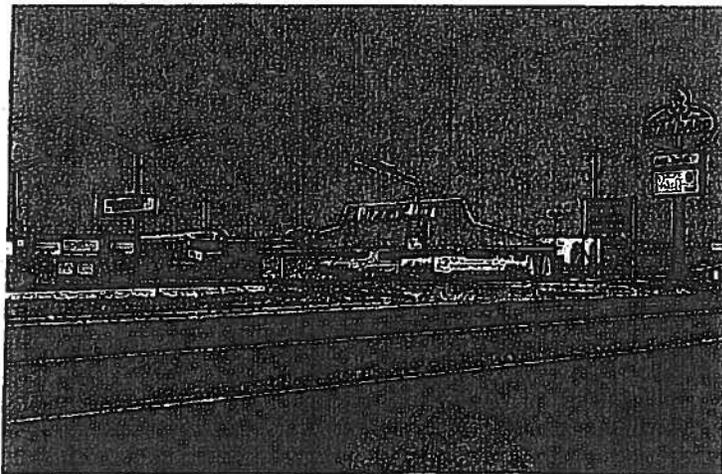
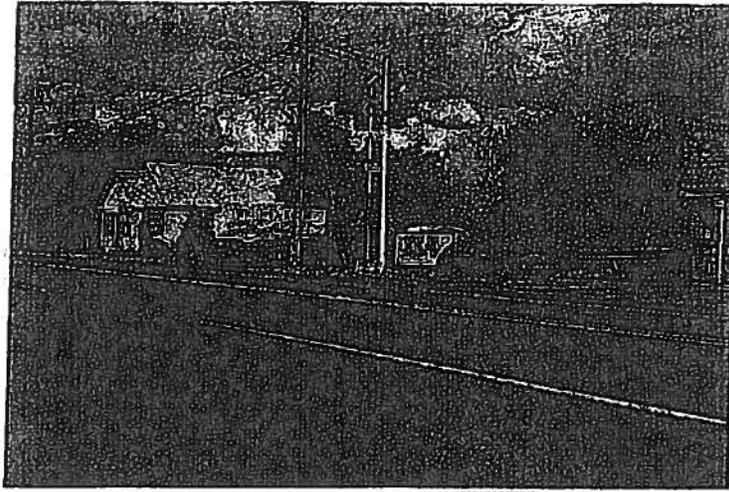
Attachments: Sign Photos from 1979-era City of Portage
2003 Zoning Code Update: Sign changes (#25 Signs)
2010 Zoning Code Sign Regulations Applicable to Businesses Table

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

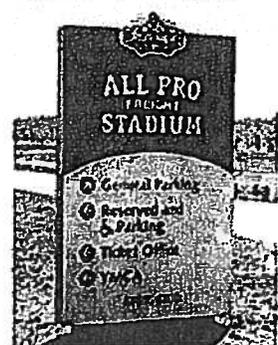
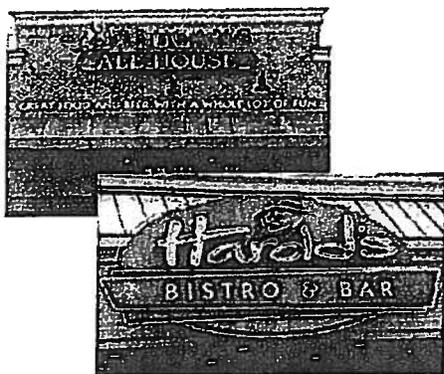
Summary Guide To Business Signs

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.

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

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 and 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.

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

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!

S:\2010-2011 Department Files\Subject Files\S\Signs\2011 Sign Brochure V 3.doc

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

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 Section 42-542 of Chapter 42, Land Development Regulations, is hereby amended as follows:

Section 42-542. General requirements.

A. No new sign shall be erected and no existing sign shall be changed, structurally altered or relocated except in conformity with the provisions of this chapter.

1. A new sign shall require a permit from the director of community development except when a sign permitted by this chapter is expressly stated to not require a permit.
2. Any change, structural alteration or relocation of an existing sign shall require a permit from the director of community development subject to the following exceptions:
 - a. A sign permitted by this chapter is expressly stated to not require a permit;
 - b. A sign face on an existing, freestanding sign that is located on a zoning lot with multiple business uses and which freestanding sign and sign face are in conformance with this chapter may be changed so long as the:
 - i. sign measurements of the freestanding sign are not changed or structurally altered; and the
 - ii. sign measurements of the sign face are not changed or structurally altered.

B. Sign measurements (no change)

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 50 percent of the total area per side 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~~ 50 percent of the total area per side 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~~ 50 percent of the total area per side 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.





TO: Planning Commission

DATE: June 10, 2011

FROM: Jeffrey M. Erickson *JME/vb* Director of Community Development

SUBJECT: Preliminary Report: Ordinance Amendment 10-E, Mixed-Use Zoning Ordinances

I. INTRODUCTION:

The City Administration has prepared three separate zoning ordinance proposals that would allow "mixed-use" elements within business zoning districts and presented each to the City Council Housing and Neighborhoods Ad Hoc Committee. The three ordinances include: City Centre Area – Mixed-Use Floating Zone; Commercial Corridor Mixed-Use Floating Zone; and the Work/Live Accommodations. The ordinances were prepared consistent with the Portage 2025 Visioning recommendations and the 2008 City Centre Area Plan, A Sub-Area Plan for Central Portage adopted by the Planning Commission. The three "mixed-use" proposals would permit residential uses within business zones when ordinance standards have been met.

During the March 8, 2011 meeting, City Council accepted the Housing and Neighborhoods Ad Hoc Committee recommendation to refer three mixed-use Zoning Code proposals to the Planning Commission for consideration and initiate the Zoning Code amendment process. The Planning Commission reviewed and discussed the three proposed ordinances during the March 17th, March 28th and May 5th meetings. The Commission suggested minor modifications to the Work/Live Accommodations Ordinance that would allow an employee of the business occupying the residential unit and would provide flexibility in the size of the residential unit. A summary of each ordinance is provided below.

II. PROPOSED MIXED-USE 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 a more urban setting in the CCA. Attached is a draft of the ordinance and a map that shows the location identified for the proposed CCA zone(s).

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

1. Minimum tract of land established at 10 acres to facilitate development and redevelopment of larger tracts that are more likely to result in a significant project with unifying qualities, better incorporate existing uses (and avoid creating nonconformities) and produce a more "urban" orientation.
2. Multi-family residential dwelling units above the first floor are permitted per requirements of the RM-1 district for floor area and density.

3. Development requirements specified including setbacks at a public street of 10 feet from the front lot line. Architectural design and building wall materials to be of a unified character, compatible and mutually supportive to proposed and existing buildings in the surrounding area.
4. A degree of protection for existing business and office properties adjacent to the project area.
5. City Council maintains the flexibility to modify or waive standards of development.

The proposal is a method to promote an "urban" development pattern in a suburban environment and the establishment of an urban, walkable center has been successfully accomplished by other suburban communities. There are areas within the CCA as identified on the attached City Centre Area Map likely to redevelop and consideration of this development option has merit.

As indicated to the Planning Commission during the May 5th meeting, the Department has continued to review and refine this proposed ordinance language. As a related element to this proposal is the inclusion of signage provisions. The proposed CCA sign regulations are intended to ensure community objectives regarding business signage are fulfilled and a level of consistency with current regulations. The substantive modifications are summarized below.

1. Barrel designed awning and canopy are allowed.
2. The size and location of banners is consistent with the proposed ordinance language now being considered by the Planning Commission.
3. Regarding the ground/pylon sign section:
 - a. This section now references one freestanding sign (reference to ground/pylon sign has been removed) is permitted at each vehicular entrance that provides access to an off-street parking facility to identify only the CCA development.
 - b. Area of the sign has been reduced from 50 square feet to 32 square feet.
 - c. Height of the sign has been standardized at 15 feet.
 - d. Setback distance has been reduced from ten feet to five feet to provide better visibility due to the position of the buildings near the property line and smaller sign size.
5. A section that allows a marquee sign for a theater, cinema or performing arts center has been added.

For comparison purposes, attached for Commission review is a copy of the initial, proposed sign regulations.

Also, Section 42-437(D)(7) pertaining to awnings and canopies has been added. In summary, awnings and canopies must be canvas cloth or an equivalent, bottom of the awning or canopy must be at least nine feet above the sidewalk and cannot be backlit, but downward illumination is permitted.

Finally, at the conclusion of the May 5th meeting, discussion of extending the northern boundary of the CCA zoning district to Garden Lane occurred. Staff recommends the northern boundary of the CCA zoning district remain at Schuring Road consistent with the adopted City Centre Area Plan. Also, the area between Schuring Road and Garden Lane is not likely to redevelop in the near future given recent and ongoing development activities.

Commercial Corridor Mixed-use Floating District. This zoning district proposal is another incentive-based floating zone that would be initiated by a property owner/developer to create a more compact/pedestrian-friendly development. The district would be applicable along major thoroughfares and located in/adjacent to a primary or secondary commercial node or commercial corridor per the Comprehensive Plan. The attached Commercial Corridor Mixed-use Floating District (CCMU) is a "planned development" with conceptual plan and final (site) plan approval stages. Following are primary elements:

1. Applicable only in OS-1, office service; B-1, local business; B-2, community business; B-3, general business; or CPD, commercial planned development districts: 50% of the minimum 5 acre area must be so zoned. A developer could expand the development proposal (and rezoning application) to abutting areas zoned for other purposes.
2. Single-family units are permitted, as are multi-family units above the first story, or in a separate freestanding building.

3. Development standards specified including front setbacks along public and private streets/maneuvering lanes. Architectural design and building wall materials must be a unified character, compatible and mutually supportive to proposed and existing buildings in the surrounding area.
4. City Council maintains the flexibility to modify or waive standards of development.

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

1. Applicable only in the OS-1, office service; B-1, local business; B-2, community business; B-3, general business; or CPD, commercial planned development districts. The residential unit can be occupied by the business owner(s) or an employee of the business.
2. Subject to review and approval by the Planning Commission as a special land use, or in the CPD district, as part of the CPD approval process.
3. A residential unit located adjacent to and on the same level as the commercial use cannot exceed one-third of the total floor area for the business use. A residential unit located above a commercial use cannot exceed the square footage of the commercial use below.
4. An interior connection must be maintained between the living and work portions of the building.

The minor modifications involving an employee of the business being permitted to live in the attached residential unit and the overall size of the residential unit provide additional flexibility options to the business owner and is supported by staff.

The proposed City Centre Area and Commercial Corridor Mixed Use zoning ordinances attempt to provide for residential activities through "mixed-use" development concepts. The proposed Work/Live Accommodations zoning ordinance is directed toward the idea that residential uses could be permitted within business districts in Portage. The context is to provide for a business owner or employee to live at the workplace if so desired, but to minimize impacts on nearby businesses and owners of business properties, some of which are individual business uses and some are multi-use business centers on one zoning lot.

III. RECOMMENDATION

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 17, March 28 and May 5, 2011 Planning Commission meeting minutes
CCA district ordinance with revised Sign Regulations
Previous CCA Sign Regulations
Corridor Mixed-use Floating District with Future Land Use Plan Map
Work/Live Accommodations Ordinance

additional discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Dargitz, to accept the 2011 Major Thoroughfare Plan Status Update Report. The motion was unanimously approved.

NEW BUSINESS:

1. Mixed-Use Zoning Ordinance Proposal (referral from City Council). Mr. Forth reviewed the March 11, 2011 staff report and the three mixed-use ordinance proposals recommended by the Housing and Neighborhood Ad Hoc Committee. Mr. Forth summarized the major provisions of the three proposals: 1) City Centre Area – Mixed Use Floating Zone; 2) Commercial Corridor Mixed-Use Floating Zone; and 3) Work/Live Accommodations. Mr. Forth suggested a special meeting of the Planning Commission to further discuss the three mixed-use ordinance proposals. The Commission briefly discussed the preliminary concepts contained in the three ordinance proposals and reviewed potential special meeting dates. After additional discussion, a motion was made by Commissioner Reiff, seconded by Commissioner Patterson, to schedule a special meeting for Monday, March 28, 2011 at 7:00pm to discuss the Mixed-Use Zoning Ordinance proposals subject to the availability of Commissioner Welch and Commissioner Bosch. Chairman Cheesebro indicated he would contact Commissioner Welch and Commissioner Bosch to confirm their availability and suggested an alternative date of Tuesday, March 29, 2011. The motion was unanimously approved.

2. 2010-2011 City Council Assigned Goals and Objectives Update (April 2011) and Recommended 2011-2012 Goals and Objectives. Mr. West introduced the item and summarized the staff report dated March 11, 2011. Mr. West then reviewed the draft memo from the Planning Commission to City Council and asked for comments. Commissioner Stoffer suggested Item 8 be added to the Recommended 2011-2012 Goals and Objectives that would reference the conveyance of updates to the City Council in November 2011 and April 2012 and recommended goals for FY 2012-2013 in April 2012. Commissioner Dargitz suggested a revision to the third bullet under Item 2 in the Recommended 2011-2012 Goals and Objectives to read as follows: "Protection of environmentally sensitive areas such as those identified on the City of Portage Sensitive Land Use Inventory Map including regulated wetlands, ground water and surface water." After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Dargitz, to forward the 2010-2011 City Council Assigned Goals and Objectives Update (April 2011) and Recommended 2011-2012 Goals and Objectives to City Council with the above changes. The motion was unanimously approved.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

Commissioner Stoffer asked when update of the Comprehensive Plan was scheduled. Mr. Forth stated the Comprehensive Plan was scheduled for review and update in FY 2012-2013. Mr. Forth indicated that U.S. Census information should be available and the City would retain the services of a consultant to assist in the process.

Chairman Cheesebro congratulated Commissioner Welch and his wife and the recent birth of their twins.

There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

PLANNING COMMISSION

March 28, 2011

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.

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.

Commission had no further comments at this time. Mr. Forth noted the public hearing is scheduled for the May 19, 2011 Planning Commission meeting.

2. Mixed-Use Zoning Ordinance Proposals. Mr. Forth summarized the April 28, 2011 staff report regarding the three mixed-use ordinance proposals referred by City Council. Mr. Forth stated these proposals were previously reviewed and discussed by the Commission during the March 28, 2011 meeting. Mr. Forth reviewed the three different ordinance proposals (City Centre Area – Mixed Use Floating Zone, Commercial Corridor Mixed Use Floating District and Work/Live Accommodations) and changes that were made from the March 28th meeting and discussion.

Commissioners Patterson and Reiff indicated the previous Planning Commission comments regarding the Work/Live Accommodations ordinance had been adequately addressed with the revised ordinance. Chairman Cheesebro asked staff if any additional thought was given to expanding the boundary of the City Centre Area – Mixed Use Floating Zone, particularly further north near Garden Lane. Mr. Forth indicated staff would provide additional information regarding this issue with the preliminary report. After additional discussion, a motion was made by Commissioner Stoffer, seconded by Commissioner Patterson, to set a public hearing for the Mixed-Use Zoning Ordinance Proposals for the June 16, 2011 meeting. Attorney Brown referenced the specific Zoning Code sections that would be added or amended with the proposed mixed-use zoning ordinance proposals. The motion was unanimously approved.

NEW BUSINESS:

1. Proposed Business Banner Ordinance (referral from City Council). Mr. Forth reviewed the April 27, 2011 staff report and the transmittals to City Council regarding the proposed business banner ordinance as referred by City Council. Mr. Forth stated the proposed language would amend the sign ordinance regulations and expand the ability of a business to use a banner by eliminating the provision regarding the “name of business”, increasing the area for “copy” to 50% of the banner and by adding the language to all of the business zones (B-1, B-2, B-3, CPD and PD districts). The Commission discussed what meeting date was appropriate to schedule the public hearing. Mr. Forth stated that due to statutory notification requirements, the earliest the public hearing could be scheduled is June 2nd. In the event the Commission desires to further discuss this matter before the scheduled public hearing, Mr. Forth indicated the staff report and proposed ordinance could be included in the May 19th agenda. After a brief discussion, a motion was made by Commissioner Reiff, seconded by Commissioner Stoffer, to set a public hearing for the Proposed Business Banner Ordinance for the June 2, 2011 meeting. The motion was unanimously approved. Attorney Brown stated the specific Zoning Code sections that would be amended with the proposed mixed-use zoning ordinance proposals.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

Commissioner Stoffer stated the Kalamazoo County Marathon was Sunday, May 8, 2011 and asked that the community support this event. There being no further business, the meeting was adjourned at 8:15 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.

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.

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.
- 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.

Sec. 42-436. Principal permitted uses

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

- A. Any principal permitted use in the OS-1, Office Service district 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.

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

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. 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. When an awning or canopy is incorporated into a building, the following requirements must be met:
 - a. Awnings must be canvas cloth or equivalent (glossy or reflective materials are prohibited).
 - b. Minimum height as measured from grade to the bottom edge of the awning or canopy shall not be less than 9 feet.
 - b. Downward lighting is permitted. Backlit illumination is prohibited.
 8. 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.
 9. 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).
- E. Projections into Right-of-Way. An awning, canopy or marquee 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 curb or edge of road of a public street.
 3. Is at least nine feet in height as measured at its lowest point above the sidewalk.
 4. A permit and maintenance/indemnification agreement are required.
- F. Open Space/Common Area. A minimum of 10 percent of the gross site area of the development project shall be devoted to permanent open space/common area accessible to the public and shall be maintained by the owner of the development project.
- G. Off-street Parking and Loading. The following provisions shall apply in the district:
1. Off-street parking must be provided and designed for permitted uses in accordance with Division 6, Subdivision 1, Off-Street Parking and Loading. The applicant may request a reduction or waiver of parking standards based on submittal of a parking impact study

that may include, among others, estimated peak use, reductions due to pedestrian accessibility, availability of transit service, likelihood of car pool use and adjacent on-street parking. The parking study shall be subject to review by the Planning Commission and the City Council.

2. Off-street parking must be located in the side or rear yard.
 3. Off-street parking facilities may be shared between two or more adjacent zoning lots and not meet the minimum combined number of parking spaces for each use if the applicant(s) demonstrates the peak parking needs do not overlap, per an approved development plan.
 4. A loading area must be provided in the rear yard in accordance with Division 6, Subdivision 1, Off-Street Parking and Loading.
- H. Signs. Signage is permitted and shall fulfill the sign requirements established in Section 42-554. CCA, City Centre Floating district.
- I. Site Lighting
1. Site lighting must comply with Division 6, Subdivision 4 – Lighting Standards.
 2. Freestanding, pole-mounted light fixtures must be consistent with the “Shepard’s hook” style of light fixture .
- 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:
 - a. The anticipated relationship between the development project and any existing use on the remaining lot or parcel, and
 - b. 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 City Centre Area - Mixed Use Floating District shall be fixed to the Zoning Map to show the extent of the floating district. The record of the approval including the approved conceptual plan and related documents shall be filed in the Office of the City Clerk.
- E. Time limit for submission of specific plan: The approved conceptual plan shall be effective for a period not to exceed two years. If no specific plan for development is received during this two-year period or if no specific plan is received during any four year period after the initial specific plan had been submitted, conceptual plan approval shall expire. City Council may, after receipt of a written request from the applicant before the expiration of the two-year period, grant an additional one-year extension of the conceptual plan.
- F. Time limit for commencing construction: Conceptual plan approval shall expire if construction pursuant to an approved specific plan is not started within two years from the previous specific site plan approval.
- G. Resubmission: If the conceptual plan expires or if modifications are needed, the conceptual plan must be resubmitted in the same manner as provided for review and approval of the original conceptual plan.
- H. Development plan (specific plan):
1. Required; conformance with conceptual plan. Subsequent to approval of the conceptual plan, development of an individual lot or parcel, or multiple lots or parcels as a development phase, a specific plan shall be permitted pursuant to an approved site plan subject to the requirements specified in division 5, subdivision 2, Site Plan Review. The site plan for the specific plan shall be in substantial conformance with the approved conceptual plan.
 2. Time limit for commencing construction. After the site plan for a specific plan is approved pursuant to division 5, subdivision 2, Site Plan Review, development shall commence within six months of approval of the specific plan. If development is not begun within this period, the specific plan must be resubmitted for approval per division 5, subdivision 2, Site Plan Review.
 3. Resubmission. If the specific plan expires or if modifications are needed, the specific plan must be resubmitted in the same manner as provided for the review and approval of the original specific plan.

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

DRAFT

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

Sec. 42-541. Definitions.

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

Projecting Sign: A sign attached to a building wall that extends outward from the building wall or a sign suspended below an awning, canopy or marquee.

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

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

Sections a through g unchanged

Sec. 42-554. CCA, City Centre Area – Mixed Use Floating District.

In the CCA, City Centre Area - Mixed Use Floating district:

- A. One freestanding accessory sign per zoning lot to identify the CCA development project may be erected at each vehicular entrance that provides access to an accessory off-street parking lot located in the side or rear yard, provided that such sign:
 1. Does not exceed 32 square feet in area per side;
 2. Is at least five feet from any property line; and
 3. Does not exceed 15 feet in height.
- B. For each use on a zoning lot, there are permitted wall signs, awning and/or canopy signs, and projecting wall signs, the combined area of which does not exceed 15% of the total wall area of the wall to which the signs are attached. The total shall not exceed 100 square feet per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.
 1. Wall Signs in the CCA district must meet the following:
 - a. Wall Signs: Shall not extend above the sill of the second story window or 16 feet in height, whichever is less.

2. Projecting Signs:

- a. The area of the sign attached to a building wall shall not exceed 20 square feet per side.
- b. Signs attached to a building wall shall not extend above the sill of the second story window or 16 feet in height, whichever is less.
- c. Signs suspended below an awning, canopy or marquee shall not exceed 4 square feet in area per side.
- d. The minimum height as measured from grade to the bottom edge of the sign shall not be less than 8 feet.

3. Awning and Canopy Signs:

- a. Awning signs shall not extend above the sill of the second story window or 16 feet in height, whichever is less.
- b. Backlit graphics or other types of interior illumination are prohibited.

C. Marquee Signs:

1. A marquee sign is only permitted in conjunction with a theater, cinema or performing arts facility and may include the name of the facility and changeable copy or electronic message display to advertise current or future events.
2. The permitted area of the marquee sign shall be determined by the Planning Commission consistent with the design and scale of the building and the surrounding environment.

D. 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 50% of the sign area to sign copy.
7. The owner of the zoning lot or banner shall keep the banner in reasonable repair.

Yeas: _____

Nays: _____

Dated: _____, 2011.

Peter J. Strazdas, Mayor

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

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

James R. Hudson, City Clerk

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

Approved as to Form:

Date: _____

City Attorney

DRAFT

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

Sec. 42-541. Definitions.

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

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

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

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

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

Sections a through g unchanged

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

In the CCA, City Centre Floating district:

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

Placement, projection (con.)	<ul style="list-style-type: none"> • A minimum six inch space between the banner and building wall must be maintained. • Banner shall not extend more than 42 inches from the building wall.
Message	Not more than 50% of the banners shall be devoted to the name, address or logo of the business.
Right-of-way	A banner that projects into the public right-of-way requires a right-of-way permit.
Electronic Message Display Sign	
See section 42-542(I) for requirements pertaining to size, location, display characteristics and related provisions.	
Ground/Pylon Sign	
Location	At the vehicular entrance to a development to identify the project and uses therein.
Number, maximum	One per vehicular entrance.
Area, maximum	<ul style="list-style-type: none"> • 50 square feet. • For each additional use of a zoning lot (initial use excluded), eight additional square feet of sign is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the zoning lot.
Height, maximum	<ul style="list-style-type: none"> • Ground Sign - Eight feet • Pylon sign – 15 feet
Ground sign base	A base not exceeding one-third the height of the sign shall be excluded from the sign area calculation but shall be included in the overall height calculation.
Property line setback	Ten feet
Projecting Sign	
Area, maximum	12 square feet
Distance from building, maximum	5 feet
Ground clearance	8 feet as measured from bottom edge of sign
Distance from curb	2 feet
Height, maximum	The sign shall not extend above the sill of the second story window or 16 feet in height, whichever is less.
Number, maximum	One sign per ground floor establishment
Placement	The sign shall project vertically from the wall at an angle of 90 degrees and shall attach to the wall with a minimum 6-inch space between the building and the sign.
Right-of-way	A permit is required for any sign that projects into a public right-of-way
Wall Sign	
Area, maximum	Wall signs for ground level tenants shall not exceed 15 percent of the total wall area to which the sign is attached or 100 square feet, whichever is less.
Area, maximum (con.)	
Number, maximum	<ul style="list-style-type: none"> • More than one wall sign is permitted but the combined area of all wall signs shall not exceed the maximum area as noted above. • For a lot with frontage on more than one street, each frontage may be treated separately for the purpose of calculating wall signage. Wall signage for one street frontage cannot be combined with another street frontage
Height, maximum	The sign shall not extend above the sill of the second story window or 16 feet in height, whichever is less.

Yeas: _____

Nays: _____

Dated: _____, 2011.

Peter J. Strazdas, Mayor

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

CERTIFICATION

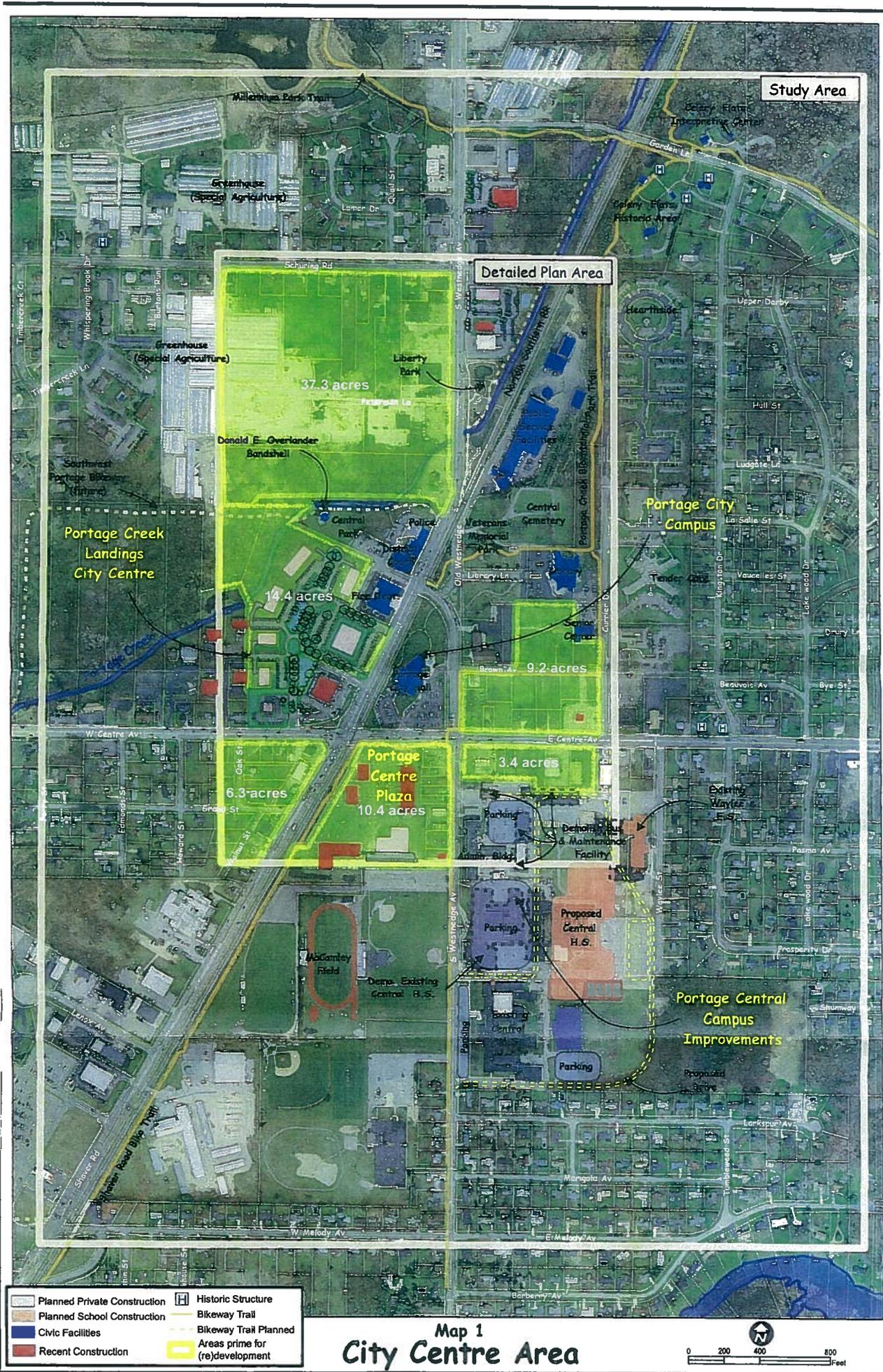
I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2011.

James R. Hudson, City Clerk

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

Approved as to Form:
Date: _____

City Attorney



Study Area

Detailed Plan Area

Portage Creek Landings City Centre

Portage City Campus

Portage Centre Plaza
10.4 acres

Portage Central Campus Improvements

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

Map 1
City Centre Area



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

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.

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:
 - 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

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.

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

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

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.

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

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.

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.

TO: Planning Commission, **DATE:** June 10, 2011
FROM: Jeffrey M. Erickson, ^{JME} Director of Community Development
SUBJECT: Valley Family Church - Kalamazoo, 2500 Vincent Avenue – noise complaint update

At the November 18, 2010 meeting, the Planning Commission concluded the review of the Special Land Use Permit for the Valley Family Church – Kalamazoo (VFC-K) at 2500 Vincent Avenue. During this review, the Commission, staff and the City Attorney discussed noise related issues associated with activities at VFC-K. The meeting concluded with a request from the Commission that staff provide an update in June 2011 regarding noise related complaints. A copy of the November 18, 2010 Planning Commission meeting minutes is attached.

Since November 2010, staff is aware of one resident complaint received in March 2011 regarding noise emanating from the church. However, a violation could not be documented since the complainant did not report the noise to the Police Department at the time it occurred.

Attachments: November 18, 2010 Planning Commission meeting minutes

S:\Commdev\2010-2011 Department Files\Board Files\PLANNING COMMISSION\PC Reports\Special land Use Permits\2010 10 01 Valley Family Church-Kalamazoo, 2500 Vincent Avenue (SLUP review - VFC provided information).doc

SITE/FINAL PLANS:

1. Site Plan: Air Zoo, 6151 Portage Road. Mr. Forth summarized the proposed site plan improvements involving construction of an approximate 46,000 square foot building addition and associated site improvements. Mr. Scott Musser, Delta Design, was present to support the plan. There being no further discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Siegfried, to approve the Site Plan for the Air Zoo, 6151 Portage Road. The motion was unanimously approved.

PUBLIC HEARINGS:

1. Final Report: Valley Family Church – Kalamazoo, 2500 Vincent Avenue, Special Land Use Permit Review. Mr. Forth introduced the item, summarized the October 21, 2010 public comment and noted all conditions of the May 1, 2008 special land use permit approval have been fulfilled. Mr. Forth also summarized the four requests made by Valley Family Church – Kalamazoo (VFC-K) to modify previous conditions of special land use permit or site plan approval. Commissioner Welch asked what happens after September 2012 when the Traffic Control Services Agreement expires. Mr. Forth responded by stating the traffic situation will be monitored by city and MDOT staff and evaluated for continuation of the Agreement and/or roadway/signalization improvements.

Attorney Dan Dalton was present to speak on behalf of VFC-K. Mr. Dalton stated VFC-K desires to withdraw three of the four requests. VFC-K would, however, like to eliminate the site plan condition that requires the center driveway to be gated accept for special events. The Commission discussed with Mr. Dalton and VFC-K representative Don DeBruyen, use of the center driveway, traffic flow before and after church services, full utilization of the west driveway (church now limits tuning movements), impacts on Vincent Avenue and at the intersection of Oakland Drive/Vincent Avenue

Chairman Cheesebro reconvened the public hearing. Mr. Mark Wollam, 5235 Greenhill Street, commended VFC-K officials for their efforts to reduce the noise levels and acknowledged MDOT efforts to fill the gap in the existing vegetative screen located along the south side of his home. In order to ensure adequate on-street parking for Angling Road Elementary School, Mr. Woolam asked how far west the no parking order extends. Mr. Barnes stated the no parking order extends to the point where the school zone speed limit begins. Mr. Woolam also asked if the dumpster located near the northeast corner of the parking lot also had to meet the 150 foot setback distance referenced in condition No. 6. Mr. Forth responded that the 150 setback distance is not applicable to the dumpster. Aaron Johnson and Richard Pilger, VFC-K representatives, also spoke in support of removing the condition that the center driveway be gated accept for special activities. Mr. Johnson and Mr. Pilger explained the internal traffic flow patterns. There being no further public comment, the public hearing was closed.

The Commission discussed the VFC-K request to allow unrestricted use of the center drive. Commissioners Welch, Patterson and Chairman Cheesebro believed use of three full service Vincent Avenue driveways would result in unnecessary and avoidable traffic conflicts and congestion along Vincent Avenue and at the Oakland Drive/Vincent Avenue intersection. VFC-K officials currently have available two full-service Vincent Avenue driveways that can be used to distribute inbound and outbound traffic. There being no further discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Dargitz, to conclude the one-year special land use permit review, with additional action to modify special land use permit Condition No. 1 and Condition No. 2 as approved by the Planning Commission on May 1, 2008:

1. VFC-K maintain the executed agreement to provide and pay for traffic enforcement/control services consistent with the terms of the Traffic Control Services Agreement through September 2012. After this date, either traffic enforcement/control services, traffic improvements along Oakland Drive and Vincent Avenue or at the Oakland Drive – Vincent Avenue intersection, or other appropriate option, will be determined by the City Council using the existing process to deliberate and consider such actions during the annual City of Portage budget process including the Capital Improvement Program.

2. The submission of bi-monthly attendance reports by VFC-K to the City of Portage be discontinued effective immediately.

Commissioner Stoffer noted that noise appears to be a lingering issue and suggested a six month review. City Attorney Brown advised the Commission that his office is working with the church and neighbors to address the matter. His office can provide an update to the Commission in six months but at this point in time it is appropriate for the Planning Commission to conclude the public hearing. Issues involving noise complaints are outside the jurisdiction of the Planning Commission. The Commission discussed this issue and an amendment to the motion. The motion was not amended. Chairman Cheesebro asked for a roll call vote: Siegfried – Yes; Stoffer– Yes; Dargitz – Yes; Patterson – Yes; Bailes, – Yes; Cheesebro – Yes; Welch – Yes; Bosch – Yes. Motion was approved 8-0.

Chairman Cheesebro asked for a motion regarding the VFC-K request to eliminate the site plan condition that the center Vincent Avenue driveway be gated except for special events at the existing cathedral. A motion was offered by Commissioner Patterson, seconded by Commissioner Welch, that site plan Condition No. 1 not be eliminated and the center driveway remain gated and only utilized during special events at the existing cathedral. The motion was unanimously approved.

2. Preliminary Report: Ordinance Amendment #10-01, Keeping of Hens and Other Animals. Mr. Forth introduced the item and summarized the November 12, 2010 staff report regarding an amendment to the Zoning Code initiated by the Planning Commission during the October 7, 2010 meeting in response to a request from a Portage resident to raise/keep chickens in residential areas. Mr. Forth summarized the options presented in the staff report. There was a brief discussion regarding rabbits as domestic pets and as an animal for sustainability purposes. Chairman Cheesebro opened the public hearing.

The following people spoke in support of ordinance language that would allow chickens on small residential lots in the city: Charles Agusty, 1723 Romence Road; Bryan Mohny, 7911 Lakewood; Eric Myers, 7245 Balfour; Jamie Jager, 8810 South Westnedge; Janice Ryan, 225 Crockett; Melanie Brothers, 7011 Winters; Dave Ostrem, 1515 Dogwood; Andrea Stork, 1515 Dogwood; Molly Ostrem, 1515 Dogwood; Roger Schultz, 3208 Romence Road; Lynda Stewart, 329 East Vanhoesen Blvd; Lauren Wise, 710 Ludington Avenue; Cody Smith, 4465 West Milham Avenue; Fernando Costas, 7639 Harvest Lane; Mary Kindt, 1603 East Centre Avenue; Betty Ongley, 8620 Tozar Court; and Channon Mondoux, 6924 Angling Road. Reasons cited for support included sustainability, minimize government involvement, minimal odors and noise, health concerns related to avian flu and parasites are unfounded, chickens are permitted in the City of Kalamazoo and there have been no problems, chickens make good pets and teaches children responsibility.

The following people spoke in opposition of ordinance language that would allow chickens on small residential lots in the city: Laura Taylor, 2302 Abbott Avenue; Mildred Taraszka, 410 Merrylynn Court; Dana Steele, 8149 Black Forest Drive; Terry Martin, 6614 Cypress Street; Sami Taylor, 2302 Abbott Avenue; Angie Brodie, 4263 Suffield Woods; and Steve Rodia, 7220 Prestwick Lane. Reasons cited for opposition included concerns involving salmonella and e-coli, negative impact from odors, attraction of rodents and predators, financial cost to the city to administer and enforce the ordinance, farm animals do not belong in a small lot residential neighborhood, keeping of farm animals may increase tension between neighbors, decrease in property values, animal cruelty and release of chickens into the wild.

There being no further public comment, a motion was made by Commissioner Welch, seconded by Commissioner Bosch to adjourn the public hearing until the December 16, 2010 meeting. The motion was unanimously approved. Mr. Forth asked for Commissioner feedback on the several options presented to the Planning Commission. Commissioner Bosch asked for clarification regarding issuance of a permit. Mr. Forth responded by saying the staff-prepared options presented to the Commission would not require a permit but residents must comply with ordinance requirements. Mr. Forth referenced keeping a horse(s) as a similar ordinance provision not requiring a permit. Commissioners Welch, Patterson and Bailes believed issuance of a permit is needed to help regulate the placement of the coop and for enforcement action if it becomes necessary.

Attorney Brown asked if the Commission wanted to consider chickens as pets and whether or not the ordinance should be expanded to include other animals. The consensus of the Commission is chickens are not pets and to limit the ordinance language to only chickens. Commissioner Patterson also suggested allowing up to six chickens. Mr. Forth indicated staff would revise the ordinance language based on Commission comments.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

Commissioner Stoffer requested that staff provide an update to the Commission in June 2011 regarding the efforts by Valley Family Church – Kalamazoo to address the noise complaints from adjacent neighbors. After a brief discussion, it was the consensus of the Commission that staff provide a brief update in June 2011.

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

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

MATERIALS TRANSMITTED

CITY OF PORTAGE ZONING BOARD OF APPEALS
Minutes of Meeting – May 9, 2011

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Rob Linenger at 7:00 p.m. in the Council Chambers. One person was in the audience.

MEMBERS PRESENT: Timothy Bunch, David Felicijan, Rob Linenger, Betty Schimmel, Marianna Singer, Daniel Rhodus, Jeff Bright.

MEMBERS EXCUSED: Donald Mordas, Lowell Seyburn

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator, Charles Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Felicijan moved and Schimmel seconded a motion to approve the April 11, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 10-16, 10027 Oakland Drive: Staff summarized the request for a variance to establish a microbrewery with a 50 seat occupancy restaurant that provides lunch and dinner service in a B-3 General Business zone, where a minimum 100 seat occupancy restaurant is required with a microbrewery. Scot Smoker was present to answer questions. Linenger inquired what the practical difficulty was. The applicant stated he needed time to build up his brand and operate before financing an addition for a 100 seat restaurant. Staff added the 100-seat restaurant provision in the ordinance was intended to differentiate between uses of an industrial and general commercial character, and that the retail nature of the proposed use could be considered an 'exceptional circumstance'. Felicijan requested clarification where the seating would be provided. The applicant stated in the tap room. Felicijan inquired if the applicant had considered using the events/banquet hall area for seating. Mr. Smoker said the area could accommodate approximately 185, but would be shared jointly by the microbrewery and the wellness center businesses. Singer inquired of the applicant if they could provide at least 50 more seats in the events/banquet hall area, even if the use of the area for seating diners was not set up on a daily basis. The applicant stated there could be seats in the events area and they would be willing to provide however many were needed to satisfy city code requirements. Singer inquired if the events/banquet hall area were to be applied towards the restaurant occupancy requirement could it affect building or other code requirements. Staff responded it could affect fire suppression and parking requirements.

A public hearing was opened. No one was present to speak for or against the request. The public hearing was closed.

After additional discussion, a motion was made by Felicijan, supported by Singer, for an interpretation that a variance from Section 42-262(C)(8)(c) is not needed in this instance, as additional area for seating is available in the events/banquet hall. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Schimmel-Yes, Felicijan-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:38 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator