

PLANNING COMMISSION

November 22, 2011

The City of Portage Planning Commission meeting of November 22, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 35 citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Mark Siegfried.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the October 20, 2011 meeting minutes. A motion was offered by Commissioner Welch, seconded by Commissioner Bosch, to approve the minutes as submitted. The motion was approved 7-0.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

1. Special Land Use Permit: Wiggles, Waggles and Tails (indoor kennels), 8585 Portage Road. Mr. West summarized the staff report dated November 15, 2011 regarding the request by Ms. Shannon Reeves to establish a commercial kennel at the existing Wiggles, Waggles and Tails facility. Mr. West summarized the previous Planning Commission special land use permit approval for a dog day care facility in October 2010 and the Zoning Board of Appeals variances approved in October 2011 regarding two site development conditions contained in the commercial kennel. Mr. West discussed the applicant's proposal to construct up to 15 indoor kennels within the existing building and stated no building addition or exterior site changes were proposed. Mr. West reviewed the ordinance requirements for a commercial kennel and indicated staff was supportive of the application subject to the three conditions listed in the staff report. If the commercial kennels are approved by the Planning Commission, Mr. West stated the dog day care special land use permit granted in October 2010 should be rescinded to ensure no conflicts between the requirements and conditions of approval.

Commissioner Dargitz indicated that she may have a conflict of interest. Attorney Brown stated that he discussed this matter with Commissioner Dargitz prior to the meeting and confirmed that there was no financial benefit or personal/business relationship with the applicant and she can participate in the discussion.

Ms. Shannon Reeves was present to support and explain the application. Ms. Reeves summarized the business operation and discussed the increasing demand from her clients for overnight boarding. Chairman Cheesebro opened the public hearing. No citizens spoke regarding the proposed indoor kennels. A motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to close the public hearing. The motion was unanimously approved.

After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Stoffer, to approve the Special Land Use Permit for Wiggles, Waggles and Tails to establish a commercial kennel at 8585 Portage Road subject to the following conditions: 1) All conditions of the October 10, 2011 Zoning Board of Appeals variance approval also apply to the Special Land Use Permit; 2) Similar to the Special Land Use Permit issued in October 2010 for the dog daycare, and to limit the intensity of the proposed commercial kennel, no breeding or selling of dogs is permitted; and 3) Compliance with all applicable City of Portage Code of Ordinances including Community Quality (Chapter 24) related to the operation of this use including noise, odors, sanitation and health. The motion also included a provision to rescind the Special Land Use Permit approval from October 2010 to ensure no conflicts between the requirements and conditions exist. The motion was unanimously approved.

2. Active Home Occupation Permit: Arrow Car/Taxi Service, 3617 Wedgewood Drive. Mr. Forth summarized the staff report dated November 15, 2011 and the request by Robert and Kimberly Tatum to operate a car/taxi service business (Arrow Car Service) from their residence located at 3617 Wedgewood Drive. Mr. Forth stated the applicants have been operating Arrow Car Service from their residence since August 2011 without knowledge that an active home occupation permit was needed. Mr. Forth provided a brief history of the development and adoption of the expanded home occupation ordinance and reviewed the specific requirements for an active home occupation. Mr. Forth summarized the applicant's proposal for Arrow Car Service and the analysis section of the staff report. Mr. Forth also referred the Commission to the numerous citizen communications and petition received regarding the proposed active home occupation permit. Given the significant concerns expressed by the neighborhood, Mr. Forth indicated the Planning Commission has the option of hearing from the applicant, accepting public comment and then adjourning the public hearing to a subsequent meeting to allow additional time to consider the various issues. Should the Commission decide to approve the active home occupation permit, Mr. Forth summarized several recommended conditions from the staff report.

The Commission, Mr. Forth and Attorney Brown discussed aspects of the applicant's proposal and the ordinance requirements for an active home occupation permit including the number of non-occupant employees allowed, hours of operation, number/times of shift changes and conditions that can be attached to an approval to mitigate potential adverse impacts on the surrounding neighborhood.

Mr. Robert Tatum was present to support the application and explain the business operations. Mr. Tatum stated he has three fleet vehicles (a van and two Lincoln Town Cars) associated with the business and these vehicles are parked on his concrete driveway when not in use. Mr. Tatum indicated he currently has two employees that are serving as night drivers and that his third employee (day driver) recently quit and his wife is helping to cover this shift. Mr. Tatum discussed how the shift changes occur with the employees driving to his house to pick-up the fleet vehicles/paperwork, parking their personal vehicles in his driveway, and then leaving for an approximate 12 hour shift. Mr. Tatum stated there were two shift changes each day, one at approximately 6:00 a.m. (day driver) and one at approximately 6:00 p.m. (night drivers), and the entire shift change takes approximately 10 minutes. Mr. Tatum indicated his employees do not return to his residence until the end of their shift and clients never come to his residence. Mr. Tatum briefly discussed a domestic issue that occurred in September 2011 in which the police were called to his residence. Mr. Tatum stated the incident was non-related to the business and apologized to the neighborhood for this disruption.

Attorney Brown provided guidance to the Planning Commission regarding personal issues that may have occurred at the residence which were non-related to the active home occupation and stated the focus of the Commission's review should be the proposed use of the land and the 13 requirements set forth in the ordinance. Additional discussion occurred between the Commission and Attorney Brown.

The public hearing was convened by Chairman Cheesebro. A total of six citizens spoke regarding the proposed active home occupation permit: Yvone Asken, 3707 Wedgewood Drive; Paul Macher, 5326 Tamsworth Street; Shannon Anderson, 3601 Wedgewood Drive; Jack Yee, 5313 Tamsworth Street; Jim Stordell, 3427 Wedgewood Drive; and Cheryl Morrissey, 3728 Wedgewood Drive. These citizens all spoke in opposition to the proposed active home occupation expressing concerns regarding traffic, vehicle speed through the neighborhood, noise and headlights. Additionally, the citizens stated the business has not been operating as described by the applicant and vehicles arrive and depart from the site at various times of the day and night causing disruption to the residential neighborhood. Mr. Tatum responded to the citizen comments and stated the business would operate as described in the application materials and he would further instruct his drivers to be more careful about speeding, noise, slamming doors and headlights. Mr. Tatum stated he wants to be a good neighbor and needs time to grow the business and build capital to a point when he could move the business to a commercial location. No additional citizens spoke regarding the proposed active home occupation permit. After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to close the public hearing. The motion was approved 6-1 with Commissioner Dargitz voting in opposition stating she would prefer to adjourn the public hearing to a future meeting to allow time for the Commission to consider the public comment and possibly receive additional information.

The Commission, Mr. Forth and Attorney Brown discussed of the proposed application and the specific ordinance requirements for active home occupations. Commissioner Patterson stated that he believes the outdoor storage of the three fleet vehicles constitutes equipment and, therefore, would not be consistent with requirements #6 and #8 of the ordinance. Commissioner Stoffer concurred and stated the number of employees, outdoor shift/vehicle changes, outdoor parking of equipment (fleet vehicles) and hours of operation are not appropriate on a residential cul-de-sac and also not consistent with requirements #1, #6, #7 and #8 of the ordinance. In response to a question from the Commission, Mr. Forth stated the intent of the ordinance was to allow vehicles in conjunction with an active home occupation, as illustrated in requirement #11.b.iv. Mr. Forth also indicated that if the applicant operates the business as stated in the application materials and with the recommended conditions, impacts would be minimal. Commissioner Dargitz asked staff to confirm that the initial version of the Active Home Occupation ordinance that the Planning Commission recommended to City Council included a major thoroughfare requirement but was changed by Council. Commissioner Dargitz mentioned that if the major thoroughfare requirement had not been removed, this active home occupation would not be allowed in this neighborhood. Mr. Forth stated the comments from Commissioner Dargitz were correct. Commissioner Welch stated he can support the request with the recommended conditions since he does not believe this proposal falls outside of the boundaries for an active home occupation. The ordinance provisions allow for discretion and establishment of reasonable conditions and if the business was conducted consistent with the proposal, there would not be any detrimental impacts to the neighborhood. Commissioners Bosch and Dargitz stated they concur with Commissioners Patterson and Stoffer. Commissioner Reiff stated that he could not support the application since he does not believe requirements #1, #6, #7 and #8 of the ordinance have been satisfied.

A motion was then made by Commissioner Reiff, seconded by Commissioner Bosch, to deny the Active Home Occupation Permit for Arrow Car Service, 3617 Wedgewood Drive, on the basis that the outdoor storage of equipment (fleet vehicles) and visibility of this equipment from adjacent properties does not satisfy requirements #6 and #8 of the ordinance and, furthermore, that other outdoor aspects of the business do not satisfy condition #7 of the ordinance. After additional discussion and a roll call vote: Patterson (yes), Reiff (yes), Bosch (yes), Dargitz (yes), Stoffer (yes), Welch (no) and Cheesebro (no), the motion was approved 5-2.

PLATS/RESIDENTIAL CONDOS:

None

OLD BUSINESS:

None

NEW BUSINESS:

Chairman Cheesebro discussed the recently vacated position of Vice-Chairman and asked the other Commissioners if there were any interested candidates. Commissioner Welch stated he is interested in being Vice-Chairman. No other Commissioners expressed interest in this position Commissioner Welch was unanimously approved as Vice-Chairman. Chairman Cheesebro then asked if any Commissioners were interested in the position of Secretary. Commissioner Stoffer stated he would be interested in the position of Secretary. No other Commissioners expressed interest in this position and Commissioner Stoffer was unanimously approved as Secretary.

STATEMENT OF CITIZENS:

None

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning, Development and Neighborhood Services