

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

# **PLANNING COMMISSION**

**February 2, 2012**

# **CITY OF PORTAGE PLANNING COMMISSION**

## **A G E N D A**

**February 2, 2012  
(7:00 p.m.)**

**Portage City Hall Council Chambers**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **APPROVAL OF MINUTES:**

- \* January 19, 2012

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

- \* 1. Final Plan: Oakland Hills Condominiums (Phase III), 8716 Oakland Drive

### **PUBLIC HEARINGS:**

### **OLD BUSINESS:**

### **NEW BUSINESS:** (Convene meeting to Conference No. 1, Portage City Hall)

- \* 1. Romence Road Parkway Corridor Study - discussion
- \* 2. Home Occupation Ordinance - discussion

### **STATEMENT OF CITIZENS:**

### **ADJOURNMENT:**

### **MATERIALS TRANSMITTED**

December 2011 Summary of Environmental Activities Report  
January 10, 2012 City Council meeting minutes

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

PLANNING COMMISSION

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January 19, 2012

The City of Portage Planning Commission meeting of January 19, 2012 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Four citizens were in attendance.

**MEMBERS PRESENT:**

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

**MEMBERS ABSENT:**

None.

**MEMBERS EXCUSED:**

Miko Dargitz.

**IN ATTENDANCE:**

Christopher Forth, Deputy Director of Planning, Development and Neighborhood Services 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 January 5, 2012 meeting minutes. A motion was offered by Commissioner Welch, seconded by Commissioner Patterson, to approve the minutes as submitted. The motion was approved 8-0.

Chairman Cheesebro introduced David Felician as the new Planning Commissioner.

**SITE/FINAL PLANS:**

None.

**PUBLIC HEARINGS:**

1. Final Report: Tentative Plan Amendment and Final Plan for The Homestead Planned Development, 3821 West Milham Avenue. Prior to discussion of this agenda item, Commissioner Stoffer indicated he would be abstaining from discussion due to residing within 300-feet of the subject property.

Mr. Forth summarized the staff report dated January 13, 2012 regarding a request by Mr. Patrick Lynch and American Village Development to amend the previously approved tentative plan. The plan amendment involves elimination of the attached residential condominium buildings, addition of three single-family parcels located south of the historic homestead site, reestablishment the cottage offices and retention of the themed restaurant/office. Mr. Forth also indicated the applicants are requesting approval of a final plan that involves only the three proposed single-family parcels. Staff is recommending approval of the tentative plan

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amendment subject to four conditions and approval of the final plan subject to City Council approval of the tentative plan amendment. Commissioner Welch asked if the screening along the east property line between the historic homestead site and McGillicuddy Lane residences would be addressed with this tentative plan amendment or upon submittal of a final plan. Mr. Forth indicated the type of screening, amount and location would be addressed upon submittal of a final plan for development. At this time, it is unknown where specific site improvements will occur.

Mr. Jack Gesmundo of American Village Development and Mr. Patrick Lynch were present to support the proposed tentative plan amendment. Mr. Gesmundo explained that the three single family residential home sites along the north side of McGillicuddy Lane would visually and physically connect the residential portions of The Homestead. This area is heavily wooded and Mr. Gesmundo indicated the existing vegetation will be retained as much as possible. Mr. Gesmundo also stated a change back to the cottage offices represents the highest and best use of the property. With regard to the staff recommendation involving a combined West Milham Avenue driveway, Mr. Gesmundo indicated that Mr. Lynch may decide to live there and if so, he wouldn't want the residential drive to be combined with the cottage offices, if and when developed. Finally, Mr. Gesmundo indicated the two signs (one near Arbutus Trail and the other near Hollow Wood) advising the general public that the pedestrian path that connects to the Arbutus Trail neighborhood is for Homestead residents only will be removed and replaced once the sign company's router has been repaired.

Chairman Cheesebro reconvened the public hearing. Mr. Lou Cherico, 6130 McGillicuddy Lane and Brian Gallagher, 6090 McGillicuddy Lane, spoke in regards to the proposed tentative plan amendment. Mr. Cherico and Mr. Gallagher didn't have any objections to the plan but were concerned about future screening improvements along the east property line of the historic homestead site. Mr. Cherico and Mr. Gallagher asked that when development plans are submitted, additional screening be provided and they be given an opportunity to participate in the discussion. Mr. Gallagher also suggested that the West Milham Avenue driveway not be moved closer to McGillicuddy Lane. No additional citizens spoke regarding the proposed tentative plan amendment.

Mr. Forth indicated that when plans are submitted for redevelopment of the historic homestead site and subsequent review by the Planning Commission and approval by City Council, a public hearing and notification are not required. However, staff will advise the developer/property owner to engage the adjacent McGillicuddy Lane residents. Mr. Forth also stated that if the historic homestead site remains a residential use, the driveway would not have to be combined with the cottage office development. There being no further public comment, a motion was made by Commissioner Bosch, seconded by Commissioner Felician, to close the public hearing. The motion was approved 7-0-1.

There being no further discussion, a motion was made by Commissioner Welch, seconded by Commissioner Reiff, to recommend to City Council that the Tentative Plan Amendment for The Homestead Planned Development, 3821 West Milham Avenue, be approved subject to 1) City Council approval of the request to modify the boundaries of the Van Riper historic district; 2) Consistent with the 2006 approved tentative and final plans, the access drive for the cottage offices must be moved east, shared with the theme restaurant/office, and align with future development activities planned on the north side of West Milham Avenue; 3) When a final plan for development is submitted involving the existing historic home site, the adequacy of the screening/buffering along the east property line be evaluated and supplemental screening/buffering be required as may be necessary; 4) Removal or replacement of the sign located near the south end of pedestrian path that connects the Homestead neighborhood to the Arbutus Trail neighborhood that prohibits non-Homestead residents from using this path; and 5) Approval of the Final Plan for the three McGillicuddy Lane land divisions subject to City Council approval of the tentative plan amendment. The motion was approved 7-0-1.

**OLD BUSINESS:**

None

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**NEW BUSINESS:**

None

**STATEMENT OF CITIZENS:**

None

**ADJOURNMENT:**

There being no further business to come before the Commission, the meeting was adjourned at 7:29 p.m.

Respectfully submitted,

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

**TO:** Planning Commission **DATE:** January 27, 2012  
**FROM:** Vicki Georgeau, <sup>ba</sup> Director of Community Development  
**SUBJECT:** Final Plan for Oakland Hills Condominiums (Phase III), 8716 Oakland Drive.

**I. INTRODUCTION/BACKGROUND:**

A final plan has been submitted by American Village Development for approval to construct Phase III of the Oakland Hills Condominiums Planned Development (PD). Phase III of the project proposes construction of 22 single-family attached condominium units, extension of the interior private street network and associated site improvements along the southwest portion of the subject property.

As background for the Commission, the Oakland Hills Condominiums PD rezoning/tentative plan was initially approved in February 2005. The final plan for Phase I of the development, which involved construction of 54 attached single family residential condominium units, a clubhouse, off-street parking areas and associated improvements on approximately 39 acres, received City Council approval in November 2005. In August 2006, City Council approved an amendment to the tentative plan that resulted in a 23% reduction in the total number of dwelling units from 180 units to 138 units, and also approved changes to the construction phasing plan, storm water management system and modifications to the 100-year floodplain adjacent to the Portage Creek. In January 2010, City Council approved the final plan for Phase II of the development, which involved construction of 30 attached single family residential condominium units, extension of interior private streets and associated improvements on approximately 24 acres. The final plan for Phase II also included a revised phasing schedule that proposed construction of the remaining condominium units (referenced as "Phase II Future" on the approved plan) between Fall 2011 and Fall 2013.

**II. FINAL PLAN REVIEW/ANALYSIS:**

The final plan for Phase III of the Oakland Hills Condominiums planned development has been designed in substantial conformance with the 2006 approved tentative plan and Section 42-375.H (Standards for final plan). The overall development plan for the Oakland Hills Condominiums remains virtually identical to the 2006 approved tentative plan amendment in areas of total dwelling units, gross residential density, building layout and coverage, common open space, access and the location/design of streets and utilities. The applicant is, however, proposing to modify the phasing schedule as indicated in the attached letter. As shown in the table below, Phase II Future was anticipated to occur between Fall 2011 and Fall 2013. However, challenging economic conditions have slowed the originally anticipated application/construction schedule. The developer is now proposing to split Phase II Future into Phases III and IV with Phase III ready to begin construction in 2012 and Phase IV between 2013 and 2015. As information for the Commission, a separate final plan for Phase IV will be submitted by the developer for Planning Commission/City Council review and approval at a later date.

The following table summarizes the consistency between the 2006 Tentative Plan amendment and approved/proposed final plans for the Oakland Hills Condominiums development. A copy of the 2006 Tentative Plan as approved by City Council is attached for Commission review.

OAKLAND HILLS CONDOMINIUMS		
Element	2006 Tentative Plan	2012 Final Plan (Phase III)
Building Setbacks	40-foot perimeter 25-foot (front) back from road 20-foot between buildings	40-foot perimeter 25-foot (front) back from road 20-foot between building

Element	2006 Tentative Plan	2012 Final Plan (Phase III)
Phasing	Phase I (Fall 2005--Fall 2007) Phase II (Fall 2006--Fall 2010) Phase II Future (Fall 2011--Fall 2013)* * Revised January 2010	Phase I (Spring 2006 – Fall 2010) Phase II (Winter 2010 – Fall 2011) Phase III (2012 – 2014) Future IV (2013 – 2015)
Units/Phase	Phase I - 54 units Phase II - 30 units Phase II Future - <u>54 units</u> 138 units (Total) * Revised January 2010	Phase I - 54 units Phase II - 30 units Phase III - 22 units Future IV - <u>30 units</u> 136 units (Total)
Streets (private)	26-foot wide, rolled concrete curbs	26-foot wide, rolled concrete curbs
Sidewalks	One side of interior private street Portion of Oakland Drive frontage Future pedestrian trail (open space)	One side of interior private street Portion of Oakland Drive frontage Future pedestrian trail (open space)

Access to the Oakland Hills Condominiums development will continue through the existing boulevard entrance from Oakland Drive and the stabilized gravel drive (for construction and emergency vehicle access) located further south on Oakland Drive. The stabilized gravel drive will be paved upon completion of Phase IV. The internal private street network will be extended to accommodate Phase III and will be maintained by the condominium association. Installation of 5-foot wide concrete sidewalks along one side of all interior private streets will continue with Phase III. Municipal water and sanitary sewer will be extended to serve Phase III and storm water runoff will be directed to a series of existing retention areas with two emergency overflow pipes extended beneath Oakland Hills Circle within Phase IV. These emergency overflow discharges will protect single family residential condominiums and will only be necessary in the event of an unusual rain event (100-year storm event).

Located adjacent to Portage Creek is a 100-year floodplain boundary. All construction activities associated with the project must occur outside of this area unless otherwise permitted by the Michigan Department of Environmental Quality (MDEQ). As described in the 2006 Tentative Plan Amendment and shown on the final plan, several condominium buildings located in Phase IV and related improvements are proposed to be constructed within a portion of the 100-year floodplain. The proposed floodplain modification involves a minor amount of filling (less than 500 cubic yards) and approximately 2-6 inches across the floodplain area. In conjunction with the proposed floodplain modification, the applicant is also considering potential enhancements to a section of Portage Creek including elimination of the “drain-channel” appearance and re-establishment of a more natural path and installation of boulders and vegetation. The applicant is aware that any proposed modification to the 100-year floodplain and/or Portage Creek will require appropriate approvals/permits from the MDEQ.

Also located on this site, including an area adjacent to Portage Creek, are designated wetlands as identified in a revised January 2005 report prepared by an environmental consultant retained by the applicant. The consultant acknowledges that the report was prepared “...outside the growing season for this area.” The consultant further states that wetland resources are dynamic and the wetland assessment is valid for one year (one growing season) only. Given the time of year the wetland delineation was completed, length of time that has elapsed since the initial delineation and Phase III construction activities planned to occur in close proximity to the 2005 wetland boundary, it is appropriate that the 2005 wetland boundary be reconfirmed, with concurrence from the MDEQ, before commencement of building construction adjacent to the wetland area.

**III. RECOMMENDATION:**

The final plan has been reviewed by the City Administrative departments. Staff advises that the Planning Commission recommend to City Council that the Final Plan for Oakland Hills Condominiums (Phase III), 8716 Oakland Drive, be approved subject to the applicant reconfirming the wetland boundary, with concurrence from the MDEQ, before issuance of building permits for those units located adjacent to the wetland area.

Attachment: January 27, 2012 Letter from Jack Gesmundo (American Village Development)  
Final Plan Sheets for Phase III  
Approved Tentative Plan Amendment (August 2006)

S:\2011-2012 Department Files\Board Files\PLANNING COMMISSION\PC Reports\Site Plans\Oakland Hills Condos (Phase III), 8716 Oakland Drive - Final Plan.doc



American Village Builders, Inc.

RECEIVED  
JAN 27 2012  
COMMUNITY DEVELOPMENT

January 27, 2012

City of Portage  
Mr. Christopher Forth, AICP  
2900 S. Westnedge Ave.  
Portage, MI 49002

**RE: Oakland Hills Phase II Final Plan and Utility Review**

We are excited to submit to you phase III of Oakland Hills for Final Plan and Utility Review. This submittal is for a previously approved phase Planned Unit Development.

The Oakland Hills Community has been established as one of the premier condominium communities in Portage and Southwestern Michigan. As with all of our developments, our focus is on creating great neighborhoods that have lasting value.

Oakland Hills is an exceptional community starting with a beautiful natural winding entry that creates a "sense of arrival". At the heart of this community is a clubhouse and swimming pool. The land adjacent to the west is the Gourdneck State Forest, to the south is the Portage Creek and to the north we boarder wetlands.

Oakland Hills Phase I & II included 84 units of attached condominiums. The first condominium unit was completed and sold in June 2006. To date, we have sold a total of 72 condominiums plus 1 more home is under contract.

We are fortunate to have the sold 72 homes since opening, but due to the economy we are behind in our overall development plan. The previously approved "Phase II future" has been broken down into Phase III and Phase IV. The previously approved and proposed times for application and construction are as follows:

**Previously Approved**

Phase I	Fall of 2005 through fall of 2007
Phase II	Fall of 2006 through fall of 2010
Phase II Future	Fall of 2011 through fall of 2013

**Proposed**

Phase III	Spring of 2012 through fall of 2014
Phase IV	Winter of 2013 through fall of 2015

Phase III will include 22 condominium homes. The condominiums will consist of two unit buildings. The development phase lines have been included on the submitted plans. The site plan and the associated phasing lines shows how each stage of the development is independent yet designed to integrate into the development. Phase III sites plus the remaining nine sites in phase II will give us 31 available units or approximately two years of inventory.

The new lending requirements for loans to be saleable on the secondary market (Freddie Mac & Fannie Mae) minimize the number of condominium units you can have available compared to the number of units under contract and/or sold. The maximum number of units you can have available cannot exceed 30% of the total units developed to have marketable mortgages for the individual purchaser. Upon recording of Phase III master deed, Oakland Hills will have a total of 106 units x 70% = 74 units need to be sold and/or under contract to have marketable mortgages.

Oakland Hills Circle serves as the collector road and connects to Oakland drive at two locations. The portion of Oakland Hills Circle that is in Future Phase IV has been graveled and is maintained and plowed for snow removal to allow full time access for emergency and construction traffic.

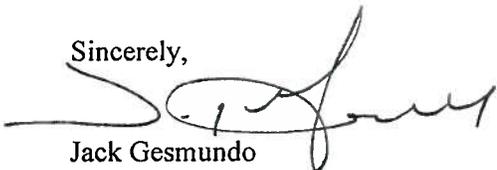
We are currently offering of nine different floor plans. This includes six plans in our Creekside series and three plans in our Forestview series. The square footage range is from 1,200 to 2,500 square feet on the main level. It is anticipated that the average sale price will range from \$275,000 to \$400,000+/-.

Parking will be accommodated in the driveways of each unit. Additionally, the 26 foot wide streets will be posted for parking on one side of the street only. We have used a 40' set back around the entire perimeter of the property. In addition we will maintain 20' between each building and a 25' front setback from the edge of road.

Sidewalks are included on one side of the interior roads per the drawings and a sidewalk has been established along a portion of the west side of Oakland Drive in the approved areas in order to further provide pedestrian access along Oakland Drive.

We look forward to the opportunity to discuss this plan with City Staff, Planning Commission and City Council. We feel this will be an extension of a first-class development for the City of Portage and American Village Development II, L.L.C.

Sincerely,



Jack Gesmundo  
Principal

CC. Joseph Gesmundo, Daryl Rynd & Greg Dobson



# Civil Construction Drawings

# Oakland Hills - Phase III

City of Portage  
Kalamazoo County, Michigan  
1/27/12

**OWNER**  
AMERICAN VILLAGE DEVELOPMENT II, LLC  
400 W. CENTRE AVENUE  
PORTAGE, MI 49024  
268.328.4900

**CONSTRUCTION MANAGER**



AVB CONSTRUCTION, INC.  
4200 W. CENTRE AVENUE  
PORTAGE, MI 49024  
268.328.2022

**PLANS PREPARED BY:**



hurley & stewart, llc  
200 W. CENTRE AVENUE  
KALAMAZOO, MICHIGAN 49001  
268.328.4800, fax: 268.328.4881  
www.hurleyandstewart.com



**UTILITY CONTACTS:**

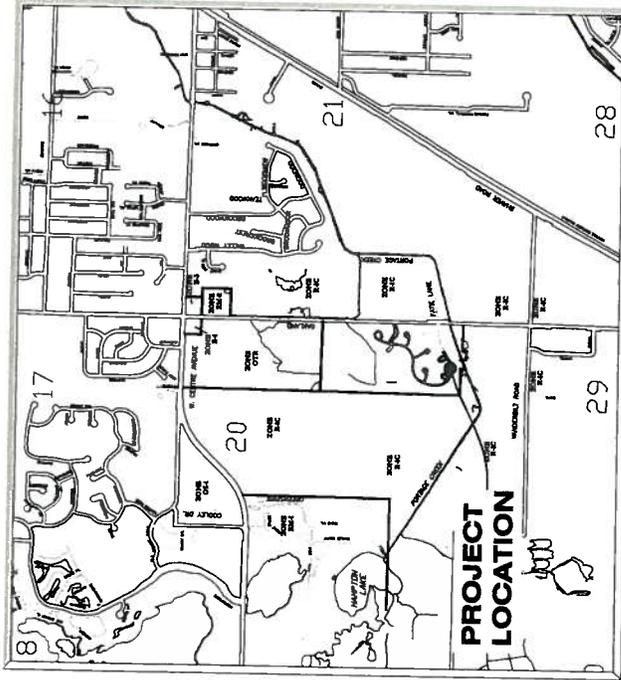
- COMMERCIAL ENERGY CO.  
STEVE WALKER, SERVICE MGR.  
200 W. CENTRE AVENUE  
KALAMAZOO, MI 49001  
268.337.2259
- CABLE TELEVISION  
QUANTUM COMMUNICATIONS  
1070 COMMERCIAL AVE.  
PORTAGE, MI 49024  
268.317.8155
- TELEPHONE  
ALBERT HALLIKEN  
2811 ALLEGRO ST.  
PORTAGE, MI 49001  
268.384.1477
- WATER / SANITARY  
CITY OF PORTAGE  
5 EAST WHEELER  
PORTAGE, MI 49024  
(268) 338-1422

RECEIVED  
JAN 27 2012  
COMMUNITY DEVELOPMENT

**DRAWING INDEX**

SHT.#	DESCRIPTION
C-0	TITLE SHEET
C-1	OVERALL DEVELOPMENT PLAN
C-2	EXISTING CONDITIONS & DEMOLITION PLAN
C-3	SITE LAYOUT PLAN
C-4	GRADING & SOIL EROSION PLAN
C-5	UTILITY PLAN
C-6	PROFILES
C-7	SITE DETAILS
C-8	UTILITY DETAILS

**NOTE:** STRUCTURE FOR THESE PLANS SHOW ONLY PHASE 3 IS PHASE 3 AND PHASE 4 BUILDING UTILITIES PHASES WILL BE OCCUPANCY'S. BUILDING PHASES WILL BE OCCUPANCY'S. PHASES 3 AND 4 WILL BE OCCUPANCY'S.

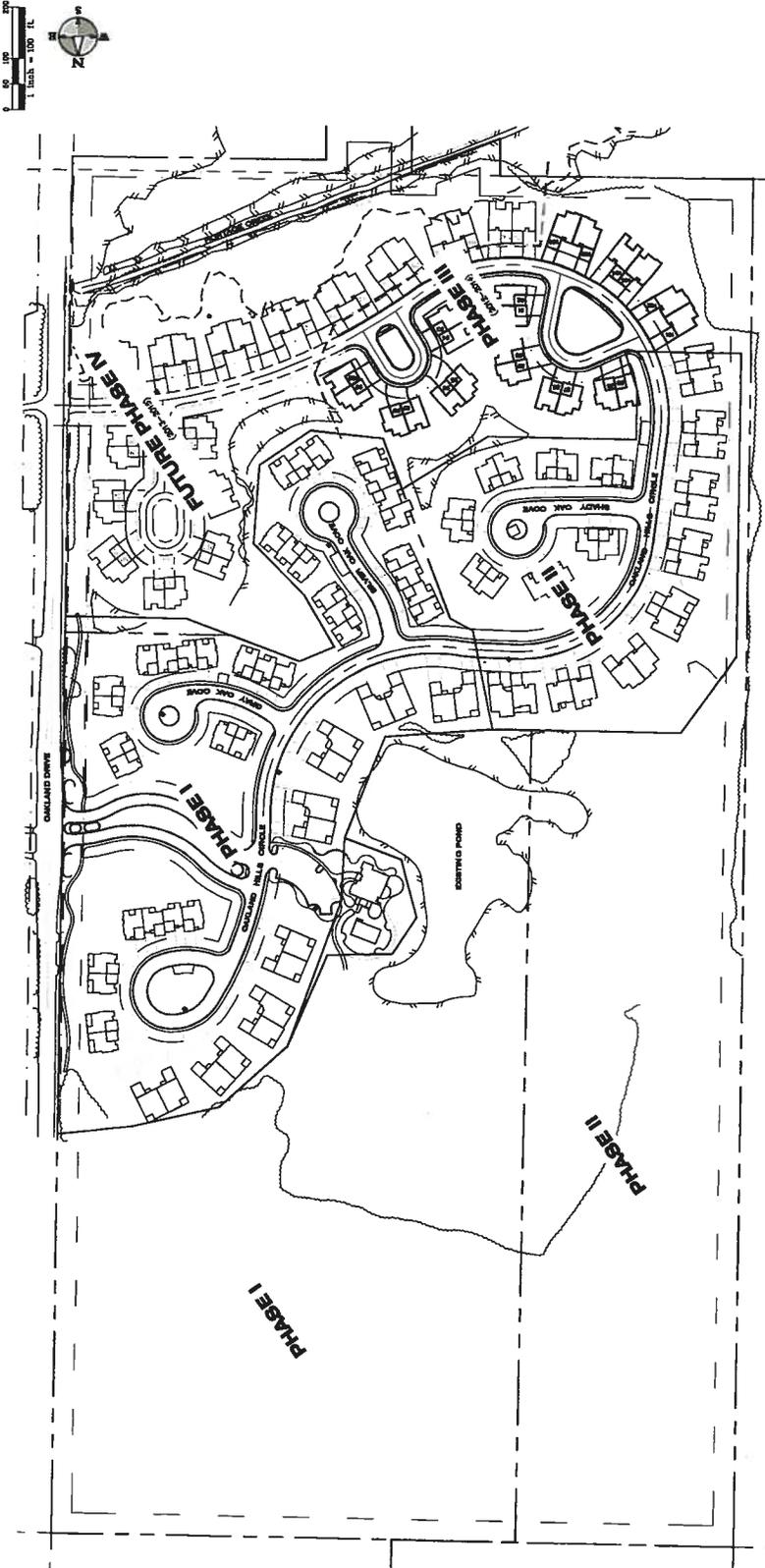


**SITE LOCATION MAP**  
SCALE: 1" = 500'



CALL 811 TO REPORT ANY PROBLEMS OR CONCERNS WITH YOUR UTILITY SERVICE. THIS SERVICE IS PROVIDED BY THE CITY OF PORTAGE, MI. FOR MORE INFORMATION, CONTACT THE CITY OF PORTAGE, MI. UTILITY PROFESSIONAL SERVICES

ISSUED FOR:  
BULLETIN 1 - CITY COMMENTS & PERMITS  
1/27/12



**SITE STATISTICS (CONT'D)**

**PHASE I**  
 28,869 ACRES  
 34 TOTAL UNITS = 140 UNITS PER ACRE  
 TOTAL DWELLING UNITS = 34 CONSTRUCTION TYPE U-S  
 (1) TYPE A UNITS 1,800-2,500 SF UP TO 30' STREET HEIGHT  
 (2) TYPE B UNITS 1,200-2,000 SF UP TO 30' STREET HEIGHT  
 (3) TYPE C UNITS 1,200-2,000 SF UP TO 30' STREET HEIGHT  
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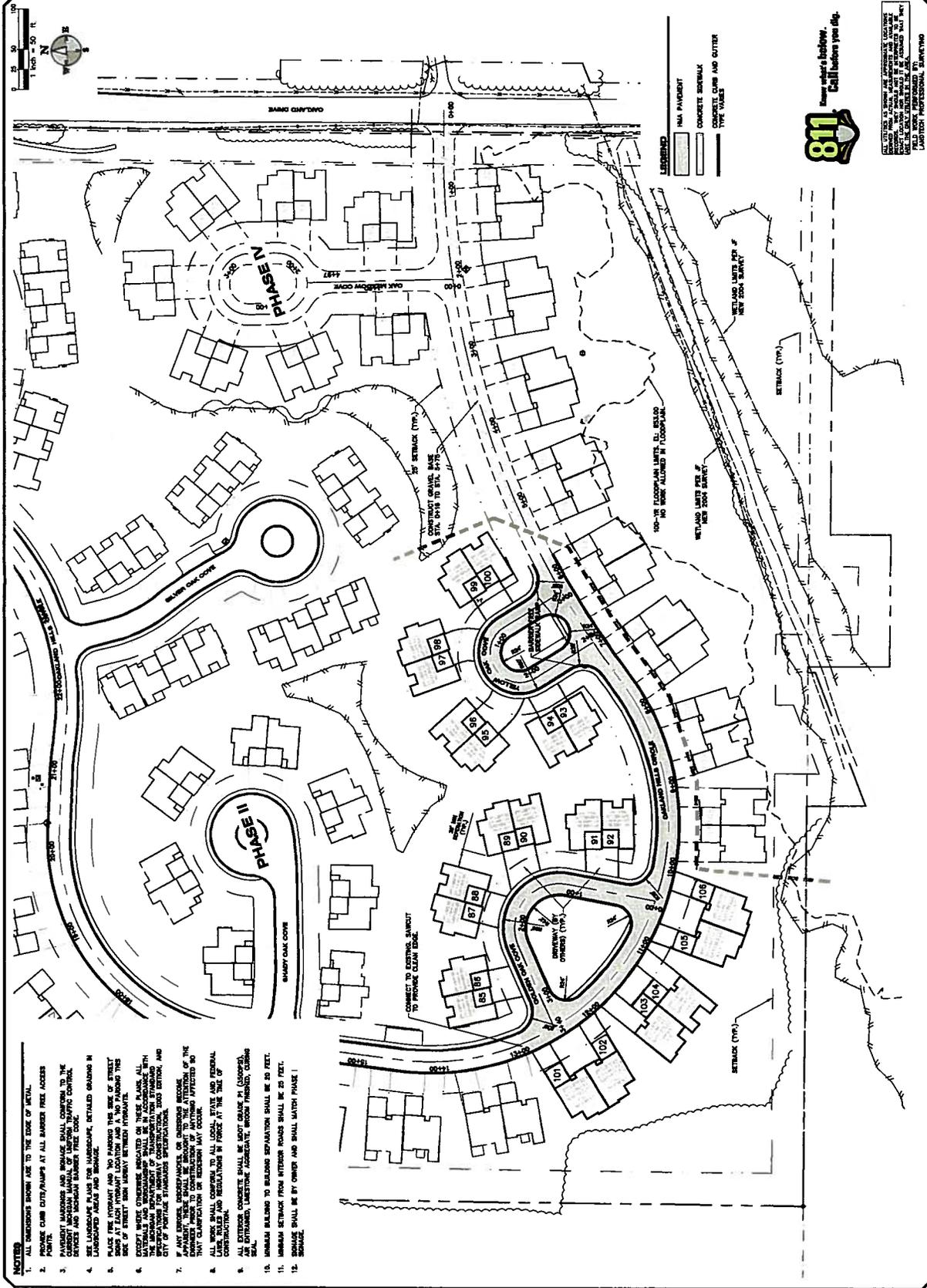


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 2855 S.W. 49th Ave.  
 Kalamazoo, Michigan 49009  
 269.552.4961  
 www.hurlayandstewart.com

Hurlay & Stewart, Inc.  
 12/21/11  
 1. RECORD & SITE PLAN REVIEW  
 2. BULKHEAD & CITY COMMENTS & PERMITS  
 3. DESIGN REVISIONS

**SITE LAYOUT PLAN - PHASE III**  
**OAKLAND HILLS - PHASE II**  
**AVD II**

Sheet No. 1/27/13  
 Scale  
**C-3**



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- NOTES**
1. ALL DIMENSIONS SHOWN ARE TO THE EDGE OF CURB.
  2. PAVEMENT CURB CUTS/PUMPS AT ALL BARBER FREE ACCESS.
  3. ALL SIDEWALKS AND DRIVEWAYS SHALL CONFORM TO THE CURRENT MICHIGAN MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES AND TECHNICAL BARBER FREE CODE.
  4. ALL SIDEWALKS SHALL BE 48" WIDE, DETAIL DRAWING IN THE LAYOUT.
  5. PLACE FIRE HYDRANT AND NO PARKING SIGN ON THE SIDE OF STREET AT EACH HYDRANT LOCATION AND A NO PARKING SIGN ON THE SIDE OF STREET SIGN BETWEEN HYDRANTS.
  6. ALL SIDEWALKS SHALL BE 48" WIDE, DETAIL DRAWING IN THE LAYOUT.
  7. IF ANY UTILITY DEVICES, MANHOLES, OR CONDUITS OCCUR, THE CONTRACTOR SHALL BE RESPONSIBLE FOR LOCATING AND MARKING THEM TO THE SATISFACTION OF THE CITY OF PORTLAND. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF PORTLAND.
  8. ALL WORK SHALL CONFORM TO ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND REGULATIONS IN EFFECT AT THE TIME OF CONSTRUCTION.
  9. ALL EXTERIOR CONCRETE SHALL BE NOT CRACK P1 (UNCRACKED).
  10. HUMAN WALKING TO BUILDING SEPARATION SHALL BE 50 FEET.
  11. HUMAN SETBACK FROM EXTERIOR ROADS SHALL BE 20 FEET.
  12. SETBACK SHALL BE BY OWNER AND SHALL MATCH PHASE I.

100' WETLAND LIMITS TO BE MAINTAINED IN FLOODPLAIN  
 WETLAND LIMITS PER NEW 2004 SURVEY  
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 SETBACK (TYP.)  
 SETBACK (TYP.)  
 SETBACK (TYP.)

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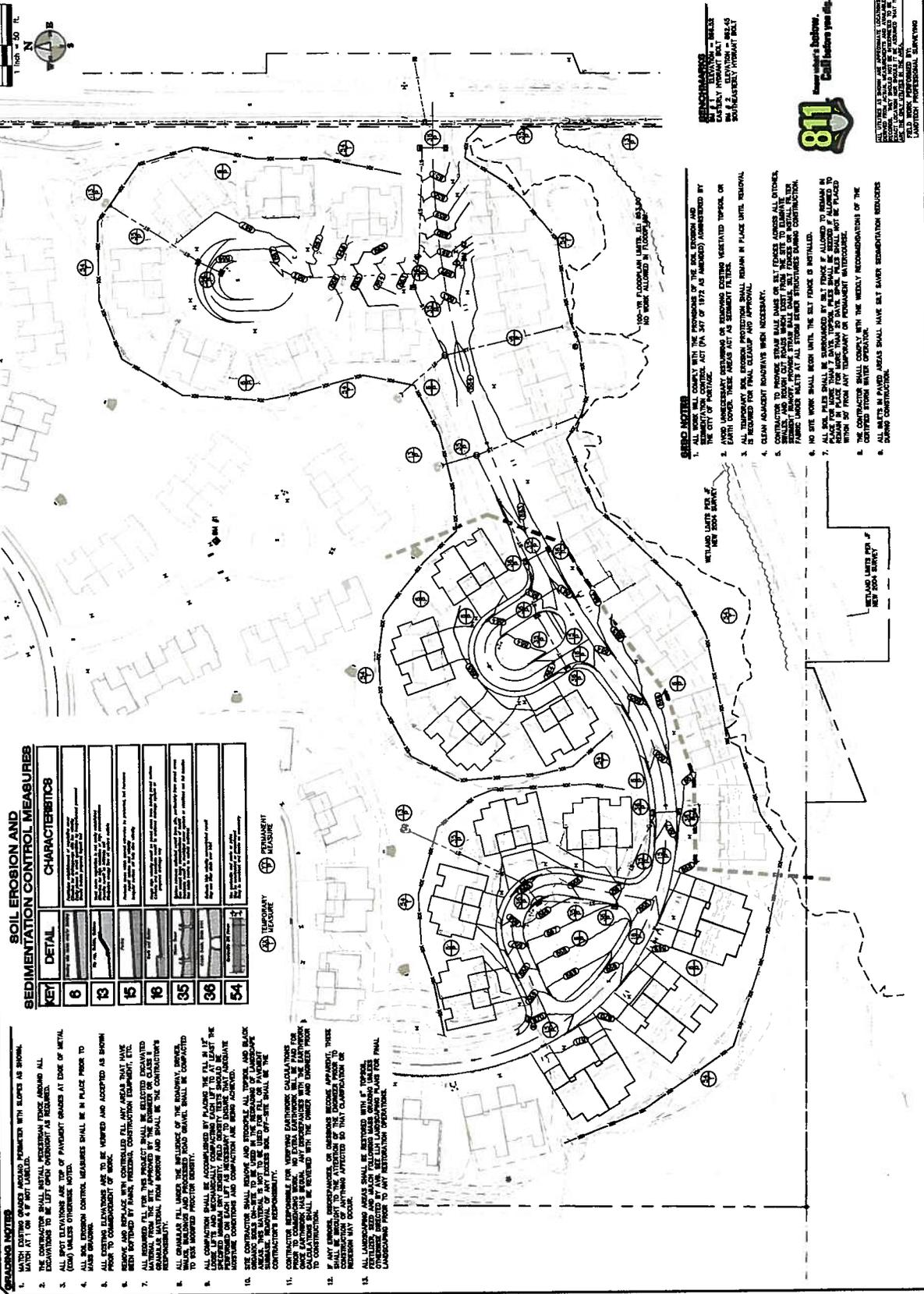


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 269.522.4850  
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COMPANY OF Hurley & Stewart, LLC  
 12/2/11  
 1. BULKHEAD - CITY COMMENTS & PERMITS  
 2. BULKHEAD - CITY COMMENTS & PERMITS  
 3. BULKHEAD - CITY COMMENTS & PERMITS

**GRADING & SOIL EROSION PLAN**  
**OAKLAND HILLS - PHASE III**  
**ADD II**

DATE: 1/27/12  
 SHEET: C-4  
 PROJECT: OAKLAND HILLS - PHASE III  
 SHEET TITLE: GRADING & SOIL EROSION PLAN



**SOIL EROSION AND SEDIMENTATION CONTROL MEASURES CHARACTERISTICS**

KEY	DETAIL	CHARACTERISTICS
6	...	...
12	...	...
15	...	...
18	...	...
35	...	...
36	...	...
54	...	...

1. THE CONTRACTOR SHALL INSTALL PERMANENT EROSION CONTROL MEASURES WITH SLOPES AS SHOWN.
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3. ALL SLOPE ELEVATIONS ARE TOP OF FINISH UNLESS OTHERWISE NOTED.
4. ALL SLOPE EROSION CONTROL MEASURES SHALL BE IN PLACE PRIOR TO COMMENCEMENT OF WORK.
5. ALL SLOPE EROSION CONTROL MEASURES ARE TO BE MAINTAINED AND ACCEPTED AS SHOWN.
6. REMOVE AND REPLACE WITH CONTROLLED FILL ANY AREAS THAT HAVE BEEN DISTURBED BY TRUCK, TRAILER, CONSTRUCTION EQUIPMENT, ETC.
7. ALL SLOPE EROSION CONTROL MEASURES SHALL BE MAINTAINED AND ACCEPTED AS SHOWN.
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9. ALL SLOPE EROSION CONTROL MEASURES SHALL BE MAINTAINED AND ACCEPTED AS SHOWN.
10. THE CONTRACTOR SHALL REMOVE AND REPAIR ALL DAMAGES TO EXISTING UTILITIES AND STRUCTURES.
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- SEEDING NOTES**
1. ALL WORK SHALL COMPLY WITH THE PROVISIONS OF THE SOIL EROSION AND SEDIMENTATION CONTROL ACT (ENR 10.01) OF 1972 AS AMENDED ADMINISTERED BY THE CITY OF PLYMOUTH.
  2. SEEDING SHALL BE PERFORMED ON EXPOSED SOILS WITHIN 14 DAYS OF EARTH COVER. THESE AREAS MUST BE SEEDING WITHIN 14 DAYS.
  3. ALL TEMPORARY SOIL EROSION PROTECTION SHALL REMAIN IN PLACE UNTIL PERMANENT SEEDING IS COMPLETED.
  4. CLEAN SEEDING TECHNIQUES SHALL BE USED.
  5. SEEDING SHALL BE PERFORMED BY THE CONTRACTOR. SEEDING SHALL BE PERFORMED BY THE CONTRACTOR.
  6. NO SITE WORK SHALL BE PERFORMED UNTIL THE SEEDING IS COMPLETED.
  7. ALL SEEDING SHALL BE APPROVED BY THE CITY OF PLYMOUTH. SEEDING SHALL BE APPROVED BY THE CITY OF PLYMOUTH.
  8. THE CONTRACTOR SHALL COMPLY WITH THE WEEKLY RECOMMENDATIONS OF THE CITY OF PLYMOUTH.
  9. ALL SEEDING SHALL BE APPROVED BY THE CITY OF PLYMOUTH.
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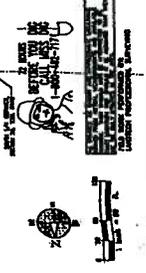
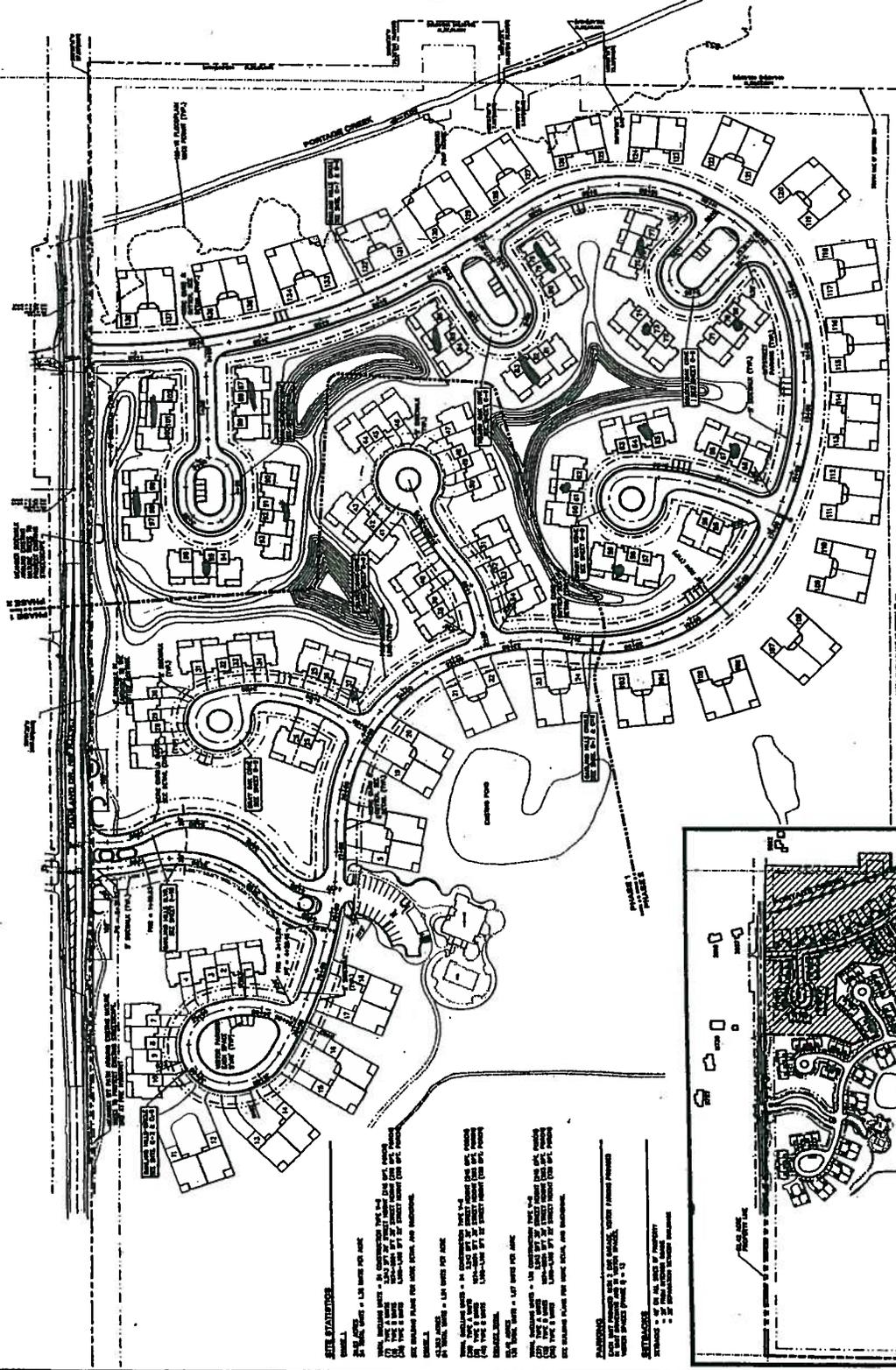
CONSTRUCTION MANAGER  
**AVE**  
 1000 N. CENTRAL AVENUE  
 SUITE 200  
 DENVER, CO 80202  
 303.733.4000

Architect & Engineer  
**HS**  
 1000 N. CENTRAL AVENUE  
 SUITE 200  
 DENVER, CO 80202  
 303.733.4000

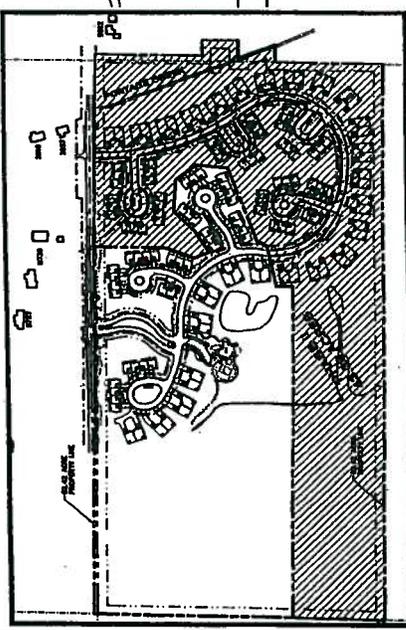
OWNER  
**AVD II, INC**  
 1000 N. CENTRAL AVENUE  
 SUITE 200  
 DENVER, CO 80202  
 303.733.4000

CONCEPTUAL LAYOUT PLAN  
 OAKLAND HILLS CONDOMINIUMS PH 2  
 AVD II, INC

C-3  
 PLAN



- NOTES:**
1. ALL DIMENSIONS SHOWN ARE TO THE FACE OF WALL.
  2. PROVIDE CURB RAMPING AT ALL BUILDING EXITS ACCORDING TO THE LATEST STANDARD AND REQUIREMENTS.
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  4. SEE ARCHITECT FOR EXISTING SITE WORK.
  5. PROVIDE LAND FOR LANDSCAPE AND PLANTING.
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OVERALL PLAN  
 1/4" = 1' - 0"

**UNIT IDENTIFICATION**

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2006 Approved Tentative Plan Amendment

**TO:** Planning Commission **DATE:** January 27, 2012  
**FROM:** Vicki Georgeau, Director of Community Development  
**SUBJECT:** Romence Road Parkway Corridor Study (Lovers Lane to Portage Road)

**I. INTRODUCTION:**

At the October 20, 2011 meeting and after review/recommendation of Rezoning Application #11-01 involving a 1.3 acre portion of 1901 Romence Road Parkway proposed to be rezoned from R-1B, one family residential to I-2, heavy industry, the Planning Commission determined that further study of the Romence Road Parkway corridor from Lovers Lane to Portage Road was appropriate. The corridor study was prompted by comments from area residents and Commissioners regarding the existence of heavy industry zoning adjacent to single family residential zoning/land use and the Future Land Use Map designation of subject property and surrounding properties as appropriate for Research & Development/Technology land use, which corresponds to the OTR, office, technology and research zoning district. Consideration of possible OTR rezoning changes in the area was also briefly discussed.

To assist the Planning Commission, staff has assembled information and maps that summarize the following:

- Romence Road Parkway extension.
- Development of the Research & Development/Technology future land use map designation.
- OTR, office, technology and research zoning district.
- Differences between the I-2 and OTR zoning districts.
- Existing land use patterns.

The information presented below begins with a review of a larger study area that corresponds with the area designated on the Future Land Use Map as appropriate for Research & Development/Technology (RDT). The report then focuses on a smaller study area involving properties located along Romence Road Parkway, between Lovers Lane and Portage Road, as discussed by the Planning Commission during consideration of Rezoning Application #11-01.

**II. BACKGROUND INFORMATION – RDT PLANNED AREA:**

Romence Road Parkway Extension. In 2000, the City of Portage in a cooperative effort with the Pharmacia & Upjohn Company extended Romence Road Parkway from Lovers Lane to Portage Road. Construction of this four-lane boulevard, minor arterial street represented an important component in the overall transportation system for the city and resulted in another east/west roadway from US 131 to the east corporate limits. As a result, improved traffic flow along portions of Milham Avenue, Centre Avenue and South Westnedge Avenue has been experienced. The 2008 average daily traffic (ADT) count on Romence Road Parkway was 10,600 vehicles per day with a corresponding capacity of 32,500 vehicles per day (level of service “D”).

Research & Development/Technology - Future Land Use Map Designation. The RDT future land use map designation was first developed and included in the 2002 Comprehensive Plan and retained in the 2008 Comprehensive Plan update. Prior to 2002, industrial land use designations were

identified in one general “Industrial” classification. The RDT designation is one of three industrial-related land use classifications identified in the 2008 Comprehensive Plan/Future Land Use Map.

The purpose of the RDT designation is *“To provide a location for certain industrial-related uses distinct from other types of industrial or commercial businesses...”* The designation intends to concentrate compatible uses *“..in a planned, campus-like setting with more extensive landscaping, higher quality architecture and more site amenities than typically found in general industrial areas.”* Representative uses envisioned for the RDT designation include research facilities and centers, technology and pilot testing facilities, microelectronic and biotechnology uses, large-scale corporate or professional offices and pharmaceutical production operations, along with supporting businesses such as accommodation/motels, conference facilities and service oriented businesses. The RDT designation corresponds to the OTR, office technology and research zoning district.

Currently, the RDT designation encompasses approximately 1,100 acres of land located in the eastern portion of the city generally defined as south of East Milham Avenue and north of East Centre Avenue, between Lovers Lane and Portage Road (see attached Future Land Use Map). The majority of the 1,100 acres is currently zoned I-2, heavy industry. There are, however, smaller areas zoned I-1, light industry; B-3, general business; R-1B, one-family residential and R-1T, attached residential. A copy of a Zoning Map for this area is attached for Commission reference.

OTR, Office Technology and Research – Zoning District. In conjunction with development of the RDT designation with the 2002 Comprehensive Plan/Future Land Use Map, a corresponding OTR, Office Technology and Research zoning district was also created and included with the 2003 Zoning Code Update. The OTR district replaced two previous zoning districts: OS-2, Office Service (High-Tech, Research Use) and RC, Research Park. Given the recent creation of the OTR zoning district, uncertainty regarding future plans for Pfizer, Inc. (majority owner of property designated for RDT land use) and the lack of new development/redevelopment activity in the central area of the city, rezoning of land to the OTR district has not yet been requested or initiated.

Differences Between OTR, Office Technology and Research and I-2, Heavy Industry districts. Similar to the Research & Development/Technology and General Industrial land use designations in the Comprehensive Plan/Future Land Use Map, there are also differences between the OTR, Office Technology and Research and I-2, Heavy Industry zoning districts. A primary difference between the two districts is the OTR zone is a planned development zoning district that has a two-step review and approval process: 1) Conceptual Plan (Planning Commission recommendation/City Council approval); 2) Specific Plan (Planning Commission approval). Other differences between the two zoning districts are summarized in the table below.

<b>Differences Between I-2 and OTR Zoning Districts</b>		
	<b>I-2</b>	<b>OTR<sup>1</sup></b>
<b>Intent</b>	Designed primarily for manufacturing, assembling and fabrication activities including large scale or specialized industrial operations whose external effects will be felt to some degree by surrounding districts.	Designed to provide for a community of production and research and development facilities, rather than for a single research structure, and to ensure compatibility between production, research and development operations and the activities and character of the community in which the operations are located. Further intended to permit the design and development of larger land areas in a campus setting submitted as a unified form of land development. Land areas to be designed with suitable open space and

<b>Differences Between I-2 and OTR Zoning Districts</b>		
	<b>I-2</b>	<b>OTR<sup>1</sup></b>
Intent (continued)		landscaping and to be harmonious and compatible with the environment and adjacent residential and/or nonresidential areas.
Allowable Uses (examples)	Manufacturing, Processing, Compounding, Packaging and/or Warehousing; Heating and Electrical Power Generating Plants, Central Dry Cleaning Plants and Laundries; Railroad and Truck Terminal Freight Facilities; Recycling Facilities; Junkyards; Trade or Industrial Schools; Veterinary Clinics; Warehouses or Wholesale/Retail Outlets; Outdoor Theatres.	Research, Design and Experimental Product Development; High Technology, Research & Development Uses; Laboratories; University-Based Research Facilities; Product Testing & Analysis; Computer & Hardware Design; Telecommunications; Biotechnology; Pharmaceutical Research and Production; Vocational and Business Schools; Office Buildings; Data Processing Facilities; Medical Facilities; Health & Fitness Clubs; Restaurants (except drive-in and drive-thru).
Setbacks	<u>Front:</u> 100' (50' for office/parking) <u>Rear:</u> 12' or ½ building height (75' from residential district) <u>Side:</u> 12' or ½ building height (100' from residential district)	<u>Front:</u> 50' <u>Rear:</u> 50' (25' for parking) <u>Side:</u> 50' (25' for parking unless adjacent residential district)
Height	60' (one-story and 25' if adjacent residential district; increases in height permitted subject to PC/CC approval)	35' (one-story and 25' if adjacent residential district; increases in height permitted subject to PC/CC approval)
Screening	6' landscaped berm, if greater than 3 acres. 6'- tall screen, 10 foot greenstrip, if less than 3 acres	Same
Development Approval Process	<u>One-Step</u> -- PC review/approval -- Site Plan and Special Land Use Permit, if necessary	<u>Two-Step</u> -- Conceptual Plan – public hearing (PC recommendation/CC approval) -- Specific Plan (PC review/approval)
Minimum Land Area	<u>None Specified:</u> Determined based on building size, setbacks, parking, storm water, etc.	<u>Project Area:</u> 10 acre minimum <u>Lot Area:</u> 2 acre minimum (within the project area)

<sup>1</sup> City Council may waive or modify the standards or requirements for a conceptual plan in the OTR district.

Uses allowed in the OTR district are generally less intensive than those allowed in the I-2 district. To ensure a more unified and compatible project, developments in the OTR zone are required to first obtain conceptual plan review/approval by the Planning Commission and City Council. The Planning Commission then subsequently review/approves a specific/site plan prior to development.

**Existing Land Use.** As shown on the attached Aerial Photo Map, a large portion of the approximate 1,100 acres designated for RDT is currently vacant land. Larger tracts of vacant land include the following areas: south of East Milham Avenue and north of Ramona Avenue (between Lovers Lane and Portage Road); east side of Portage Road (south of the Air Zoo and north Romence Road); south side of Romence Road Parkway (between Lovers Lane and Portage Road); and the northwest corner of Portage Road and Romence Road Parkway.

A significant area also designated for future RDT includes the Portage Heights single family residential subdivision located along the south side of Ramona Avenue (Lansing Avenue, Gertrude Avenue, Linneman Avenue and Kromdyke Avenue). The Portage Heights subdivision was platted in 1925 and 1943 and currently includes approximately 65 single family dwellings along with several

vacant lots. While the Portage Heights subdivision is an established neighborhood, it has been designated appropriate for future non-residential redevelopment activities beginning with the 1981 Comprehensive Plan. This future non-residential designation is also referenced in the 1996, 2002 and 2008 Comprehensive Plans. The 1981 and 1996 Plans designated the area appropriate for industrial uses and the 2002 and 2008 Plans appropriate for RDT uses. Single family dwellings also exist near the northeast and southeast corners of Lovers Lane and Romence Road Parkway.

Areas of industrial/commercial land use exist near the: southeast corner of Lovers Lane and Ramona Avenue; northeast corner of Portage Road and Romence Road Parkway; the vicinity of Portage Road and Ramona Avenue; and along the north side of Romence Road Parkway east of Lovers Lane (former Upjohn Quad building currently occupied by Stryker Corporation).

**III. ROMENCE ROAD PARKWAY – LOVERS LANE TO PORTAGE ROAD:**

During review of Rezoning Application #11-01 (1901 Romence Road Parkway), the Planning Commission determined that further study of the Romence Road Parkway corridor for possible OTR rezoning consideration was appropriate. While the above information includes an overview of a larger study area involving the approximate 1,100 acres designated for RDT land use on the Future Land Use Map, the Planning Commission during the October 20, 2011 meeting discussed a more specific study area involving the Romence Road Parkway corridor, between Lovers Lane and Portage Road.

Between Lovers Lane and Portage Road, there are six parcels with frontage on Romence Road Parkway. These six parcels are under three different ownerships and three of the six parcels involve vacant land. Four of these parcels are zoned I-2, heavy industry, while the other two parcels are zoned R-1B, one family residential. The table below and attached aerial photo of this section of Romence Road Parkway summarizes the ownership, zoning and land use of these six parcels.

<b>Romence Road Parkway (Lovers Lane to Portage Road)</b>				
<b>Parcel</b>	<b>Ownership</b>	<b>Acres</b>	<b>Zoning</b>	<b>Land Use</b>
1901 Romence Road Parkway	1901 Romence LLC	34.0	I-2/R-1B	Offices/Vacant
7013 Lovers Lane	Meyers & Pacheco	1.5	R-1B	Single Family Residential
7019 Lovers Lane	Meyers & Pacheco	2.0	R-1B	Single Family Residential
7005 Lovers Lane	Pfizer, Inc.	16.5	I-2	Vacant
7000 Portage Road	Pfizer, Inc.	80.5	I-2	Vacant
2301 Romence Road Parkway	Pfizer, Inc.	33.2	I-2	Vacant
		<b>Total:</b>	<b>167.7 acres</b>	

The continued use of the former Upjohn/Pfizer Quad Building for offices is protected under the existing I-2 district and is permitted in the OTR district. A zoning change from R-1B to OTR for the two single family residential parcels located at the southeast corner of Lovers Lane and Portage Road would cause these two residences to become nonconforming, however, the residential uses could continue until redevelopment was desired. Although currently under the same ownership, the two parcels collectively do not meet the minimum 10-acre project area standard in the OTR zone. Therefore, development of these two parcels would either require additional land assemblage, a waiver/modification from City Council or an alternative zoning classification such as OS-1, office service. As information for the Commission, recent discussions with a real estate agent for these parcels indicated a desire by the owners to market these properties for nonresidential redevelopment.

In addition to the six parcels listed above that have frontage on Romence Road Parkway, consideration could also be given to including additional adjacent properties in an OTR rezoning review. For example, 6941 Lovers Lane near the northeast corner of Lovers Lane and Romence Road Parkway is owned by Mr. George Slomp and occupied by nonconforming single family dwellings and accessory buildings within an I-2, heavy industry zoning district. If the 1901 Romence Road Parkway parcel listed in the table above were rezoned to OTR, this would leave the 6941 Lovers Lane parcel as a strip of I-2 zoned land approximately 72-feet wide by 550-feet long. A change in zoning from I-2 to OTR for 6941 Lovers Lane would not change the nonconforming status of the single family residential uses on the property.

As shown on the Romence Road Parkway Aerial Photo Map, Pfizer, Inc. (Pharmacia/Upjohn) also owns several vacant lots located in the adjacent Portage Heights subdivision to the north, along Kromdyke Avenue, Gertrude Avenue, Linneman Avenue and Lansing Avenue. Five of these lots located at the southwest corner of Portage Road and Lansing Avenue are currently zoned I-2 and could be included in an expanded OTR rezoning consideration. While these lots individually or collectively do not meet the 10-acre minimum project area standard in the OTR zone, they could be joined with the larger 2301 Romence Road Parkway parcel to the south that is also currently owned by Pfizer, Inc.

Finally, the Commission should also review the parcel addressed as 6646 Portage Road, located between Lansing Avenue and Ramona Avenue. This parcel contains an approximate 4,500 square foot office building owned by ImagineStream Properties and has split zoning (southern 1/3 zoned OS-1, office service and northern 2/3 zoned I-2). Including this parcel in a rezoning consideration would provide an opportunity to address this split zoning while addressing the I-2 zoning that is present immediately adjacent to a single family residence to the west. Since this parcel is approximately 1.9 acres, it would not meet the minimum 10 acre project area standard in the OTR zone. Therefore, development of this parcel would either require a waiver/modification from City Council under an OTR classification or an alternative zoning classification such as OS-1, office service could be considered.

Further expansion of the OTR rezoning consideration to include additional properties located to the north, south and/or northeast (across Portage Road) could be considered by the Commission, however, may result in property owner concerns or resistance, creation of additional nonconformities and/or other development issues.

#### **IV. SUMMARY:**

The Planning Commission is advised to review and discuss the information contained in the staff report during the February 2, 2012 meeting. Staff will be present to discuss the report and answer questions from the Commission. After a thorough review and analysis of the information, several options are available for Planning Commission consideration, which include but are not limited to, the following:

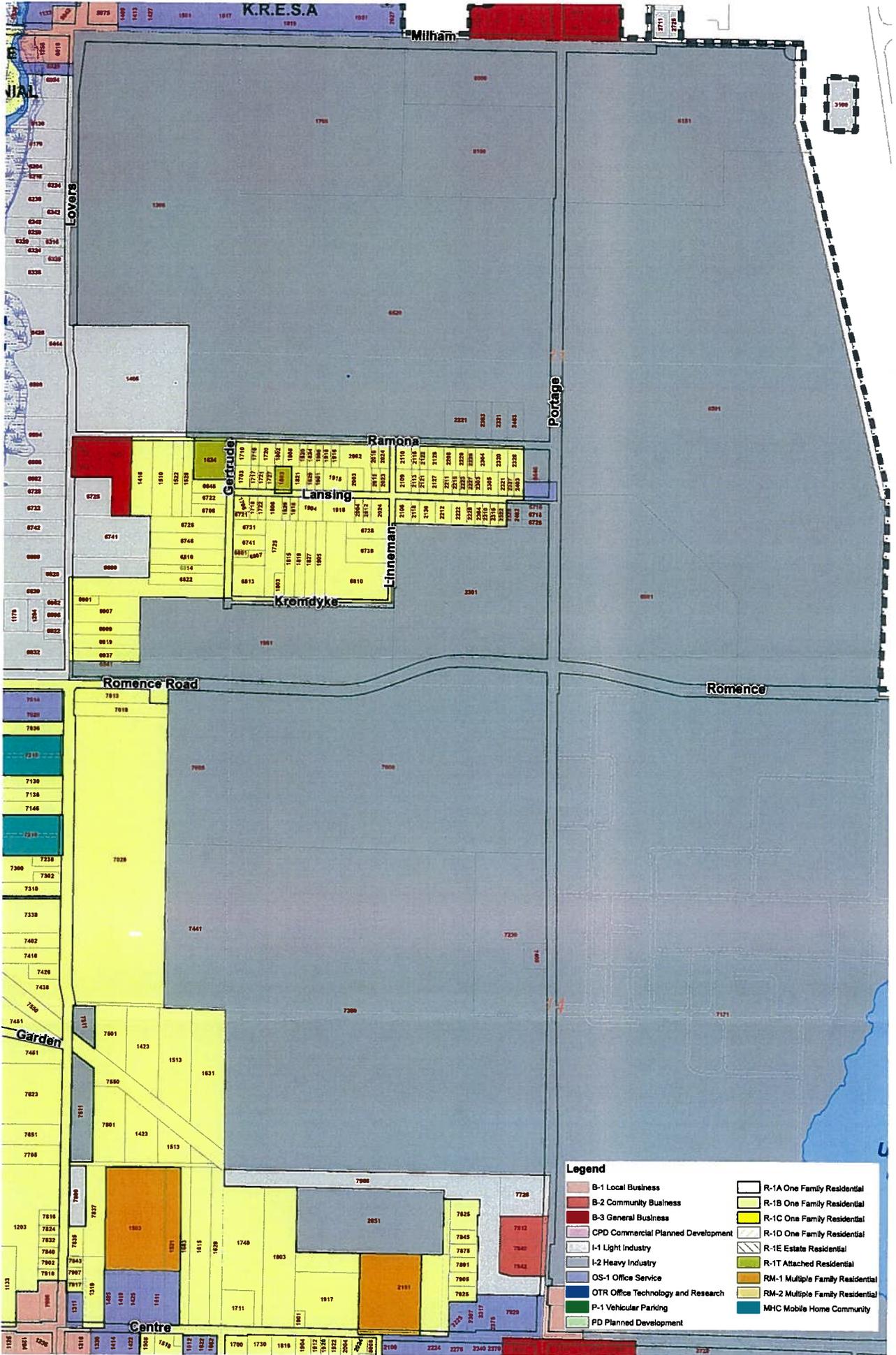
1. Initiate OTR rezoning consideration of the 1901 Romence Road Parkway parcel only.
2. Initiate OTR rezoning consideration of the properties located along the north side of Romence Road Parkway where adjacent single family residential zoning/land use exists, including 1901 and 2301 Romence Road Parkway, 6941 Lovers Lane, the five vacant Pfizer lots located at the southwest corner of Portage Road and Lansing Avenue (6710-6726 Portage Road and 2328 and 2404 Lansing Avenue), and 6646 Portage Road.

3. Initiate OTR rezoning consideration of the six properties with frontage along Romence Road Parkway, between Lovers Lane and Portage Road (1901 and 2301 Romence Road Parkway, 7005, 7013 and 7019 Lovers Lane, 7000 Portage Road).
4. Initiate OTR rezoning consideration of the six properties with frontage along Romence Road Parkway listed above in Option 3, plus adjacent properties to the north including 6941 Lovers Lane, the five vacant Pfizer lots located at the southwest corner of Portage Road and Lansing Avenue, and 6646 Portage Road.
5. Initiate OTR rezoning consideration of a larger area designated on the Future Land Use Map as appropriate for RDT land use. However, this option may be most appropriately pursued subsequent to a complete update of the Comprehensive Plan, scheduled to occur in 2013
6. Do not initiate any OTR rezoning consideration at this time and wait for applicant driven requests.

With regard to rezoning 1901 Romence Road Parkway, the Planning Commission could consider excluding the existing R-1B zoned portion located near the northwest corner adjacent to 6901 Lovers Lane and 6822 Gertrude Avenue in any of the applicable options above.

Attachments:   Future Land Use Map (larger study area)  
                  Zoning Map (larger study area)  
                  Aerial Photo Map (larger study area)  
                  Aerial Photo/Zoning/Land Use/Ownership Map (Romence Road Parkway Corridor)  
                  Romence Road Parkway Corridor – Option 1 Map  
                  Romence Road Parkway Corridor – Option 2 Map  
                  Romence Road Parkway Corridor – Option 3 Map  
                  Romence Road Parkway Corridor – Option 4 Map





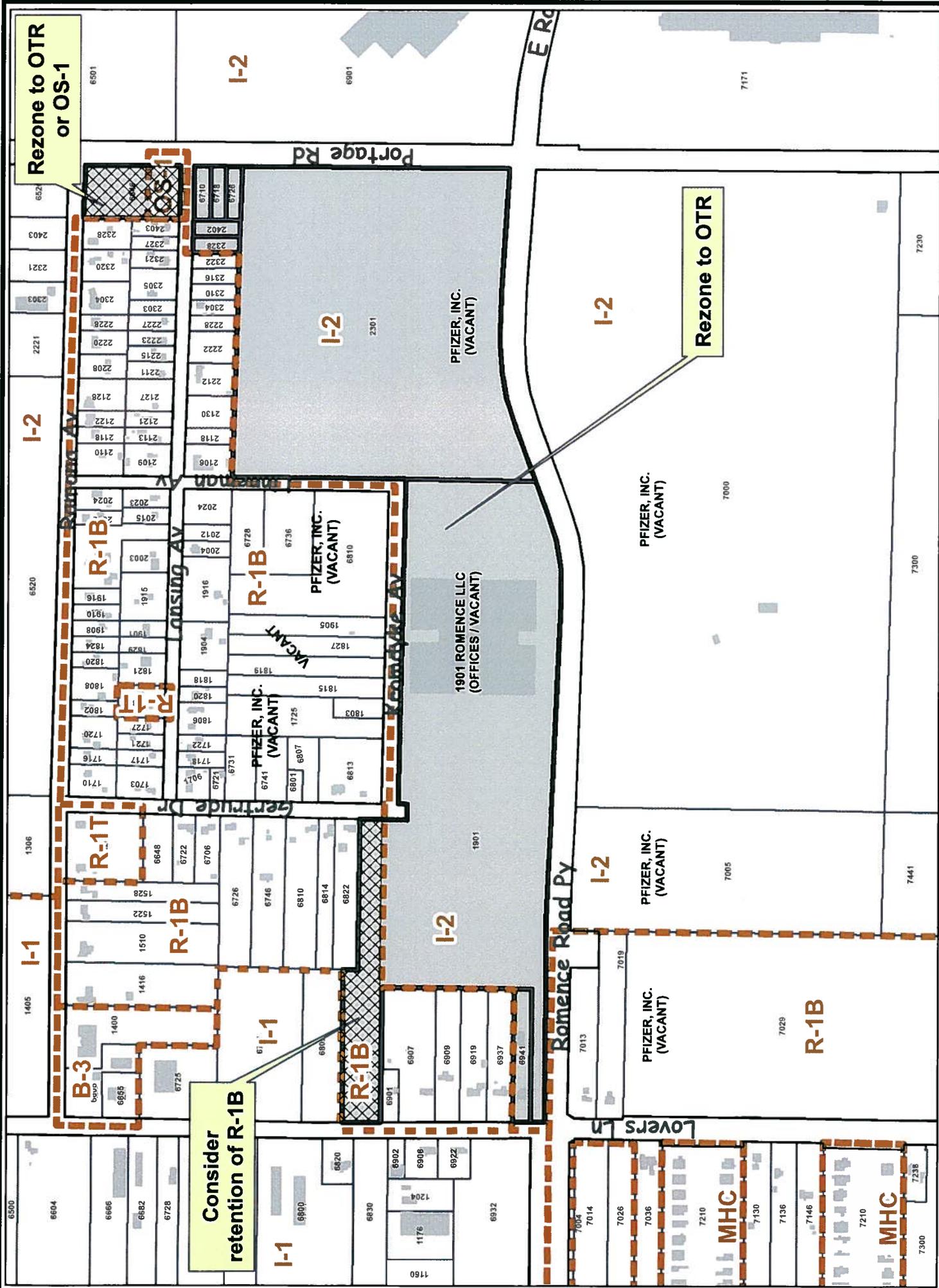




Romence Road Parkway Corridor Aerial Photo

Map is for informational purposes only. It is not intended to be used as a legal document. All rights reserved. © 2023



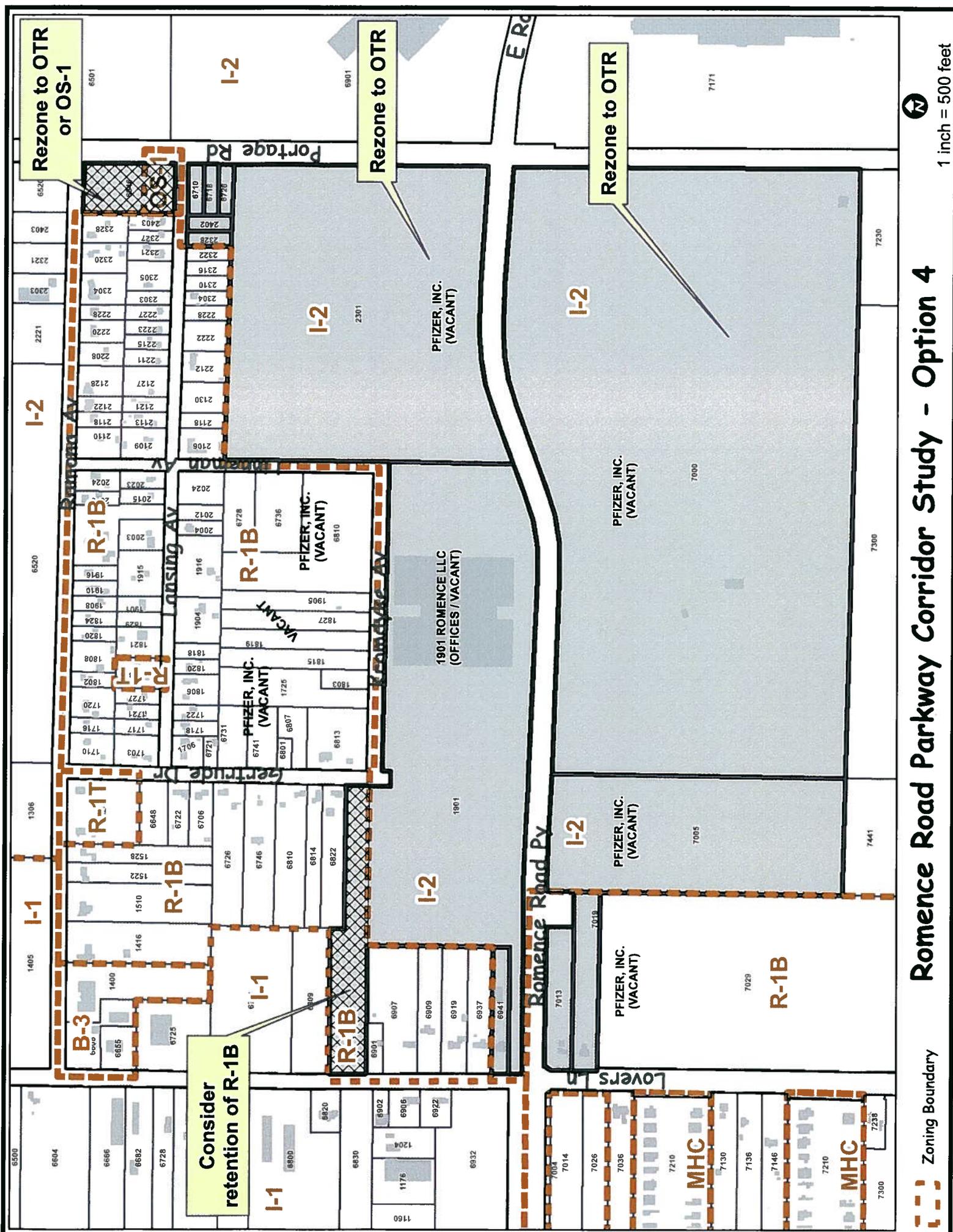


Zoning Boundary

# Romence Road Parkway Corridor Study - Option 2

1 inch = 500 feet





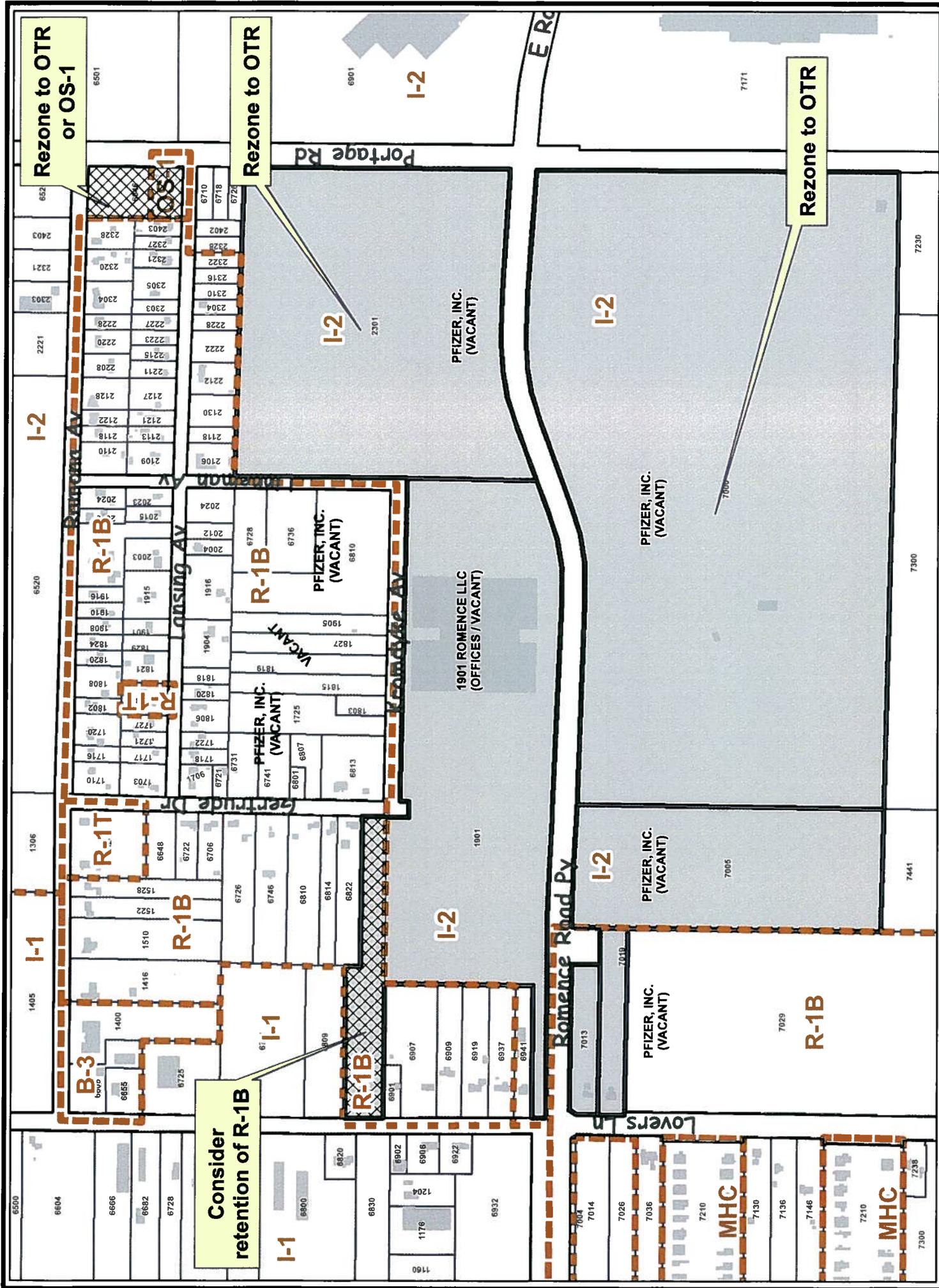
# Romence Road Parkway Corridor Study - Option 4

Zoning Boundary



1 inch = 500 feet

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**TO:** Planning Commission

**DATE:** January 27, 2012

**FROM:** Vicki Georgeau, <sup>jk</sup> Director of Community Development

**SUBJECT:** Home Occupation Ordinance

## I. INTRODUCTION

Following the January 5, 2012 Planning Commission action regarding the Arrow Car Service Active Home Occupation Permit request, the Commission expressed interest in reviewing the current Home Occupation ordinance language and, subject to this review/discussion, consider conveying potential ordinance changes to City Council. This report provides background information involving development of the Home Occupation ordinance, application of the ordinance and concludes with a recommendation for consideration by the Commission.

## II. HOME OCCUPATION ORDINANCE DEVELOPMENT

Consistent with the Planning Commission FY2009-10 Goals and Objectives assigned by City Council, a draft Home Occupation ordinance was presented to the Commission in October 2009. On January 21, 2010, the Planning Commission recommended to City Council that the Home Occupation ordinance be adopted. Attached for Commission review is a copy of the recommended January 2010 ordinance and meeting minutes.

City Council considered the recommended ordinance on March 9, 2010 but did not approve the ordinance. Council referred the ordinance to the Neighborhood Revitalization and Engagement Ad Hoc Committee for review. On November 16, 2010, Council accepted a revised Home Occupation Ordinance as recommended by the Ad Hoc Committee and referred the revised ordinance to the Planning Commission to again initiate the Zoning Code amendment process. Attached are the meeting minutes from the March 9, 2010 and November 16, 2010 City Council meetings. The substantive changes between the ordinance recommended by the Planning Commission on January 21, 2010 and revised ordinance referred to the Commission by Council on November 16, 2010 are listed below:

### Generally

1. Home Occupations are limited to service-oriented businesses only. Retail sales are not permitted.
2. Instruction in outdoor recreational activities (e.g. swimming or tennis lessons) has been added to the definition of a home occupation.
3. Window displays are not permitted.

### Passive Home Occupations

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

### Active Home Occupations

1. Zoning lot does not have to abut a major thoroughfare.
2. Home occupation permit is not transferable without Planning Commission approval.
3. The Planning Commission may allow an increase in floor area from 25% up to 50% used for the home occupation.
4. Instruction in outdoor recreational activities (e.g. swimming or tennis lessons) has been added as an active home occupation.
5. Criterion No. 9 from the January 2010 recommended ordinance pertaining to the number and type of vehicles and/or trailers was removed with the exception of 9(a) and (b), which were incorporated as 11(b)(iv) and (v) in the revised ordinance.
6. A restriction on the hours of operation (criterion No. 14 in the January 2010 recommended ordinance) was removed. However, criterion No. 12 in the revised ordinance allows the Planning Commission to attach conditions to the application, including hours of operation, to mitigate negative impacts on the surround residential land uses.

On December 2, 2010, the Planning Commission discussed the revised Home Occupation ordinance referred by Council and recommended one change to allow up to two full-time, non-occupant employees subject to Planning Commission review and approval. After additional discussion, on January 20, 2011 the Commission recommended the revised ordinance be approved. City Council subsequently adopted the Home Occupation ordinance on March 8, 2011. Attached are the meeting minutes from the December 2, 2010 and January 20, 2011 Planning Commission meetings and the March 8, 2011 City Council meeting. Also attached is a copy of the adopted ordinance.

During development of the ordinance language, it was understood that there can be many different types of home-based businesses and the potential impacts on adjacent residential uses can vary depending on the operational characteristics of the use and location. Consequently, each request for an active home occupation will likely be different and must be evaluated by the Commission on a case-by-case basis. The language of Section 42-129.B.11 was written to provide the Commission with flexibility to evaluate the individual operational characteristics associated with each home-based business, surrounding neighborhood characteristics and potential impacts. This flexibility includes the evaluation of physical characteristics of the proposed location and surrounding area, type of use, type of vehicles, number of vehicle trips generated, impact on public facilities and services, among several others.

### **III. APPLICATION OF THE HOME OCCUPATION ORDINANCE**

Since adoption of the ordinance in March 2011, only one Active Home Occupation has been considered by the Planning Commission, Arrow Car Service. As proposed by the applicant, the operation of Arrow Car Service as a home-based business, which initially included three fleet vehicles, two nonresident employees and two shift changes (app. 6:00 a.m. and 6:00 p.m.), appeared consistent with the vision to permit home-based businesses: The ability of a Portage resident to start and grow a small business from their home, but with controls/conditions intended to protect the surrounding residential uses.

As presented by the applicant, impacts associated with Arrow Car Service were anticipated to be minimal since the three proposed fleet vehicles were sedans typically seen in single-family residential neighborhoods and vehicle trips in and out of the neighborhood, including the nonresident employees and fleet vehicles, would occur only twice a day during the two shift changes. At the conclusion of the public hearing process on November 22, 2011, the Planning Commission found neighborhood impacts were too great and denied the application. A revised application involving the use of only one vehicle for business and personal use and no on-site employees was submitted by the applicant and subsequently approved by

the Commission on January 5, 2012. While there was strong opposition to the request to establish a home-based business at this location and the initial proposal was determined to be too intensive, it was apparent that some of the neighborhood opposition was related to personal issues and not the actual operation of the home-based business.

As additional information, in an effort to assist residents in evaluating whether or not their proposed home-based business is passive, active or not permitted, staff has developed an informational form (attached) that includes a user-friendly checklist. Since approval of the home occupation ordinance in March 2011, staff has responded to four inquiries regarding the operation of a home-based business:

- Photography business: After reviewing the checklist criteria for both the passive and active permits, the resident concluded the photography business meets the passive criteria at this time.
- Small engine repair: After reviewing the checklist criteria, staff as well as the resident, concluded this type of use was most appropriately located in a commercially-zoned area.
- Landscape contractors: Two home-based landscape businesses have been addressed by staff. The first involved an existing landscape business, which had several employees and vehicles/trailers and was the subject of neighborhood complaints. After providing information regarding ordinance requirements, no permit application was submitted and the resident relocated outside of Portage. The second involved an inquiry from a resident regarding the ordinance requirements to establish a landscape business. At this time, no additional information regarding the proposed home-based business has been received.

#### IV. RECOMMENDATION

The Planning Commission has expressed interest in discussing potential changes to the ordinance language as a result of concerns expressed during review of the Arrow Car Service application, and the Commission is advised to discuss this matter during the February 2, 2012 meeting. As the Planning Commission reviews the ordinance, a determination should be made as to whether the ordinance requires amendment, or the standards of review are appropriate and the review/approval process functions as intended. Importantly, the Commission is advised to consider the considerable time and resources allocated to develop the recent amendment. In this regard, staff believes it is premature to revisit the home occupation ordinance language since the Commission has reviewed only one Active Home Occupation Permit request. Should the Planning Commission wish to recommend ordinance changes, an informational communication from the Commission summarizing these potential changes can be conveyed to City Council.

Attachments: January 2010 Planning Commission recommended Home Occupation ordinance  
January 21, 2010 Planning Commission meeting minutes  
March 9, 2010 City Council meeting minutes  
November 16, 2010 City Council meeting minutes  
December 2, 2010 Planning Commission meeting minutes  
January 20, 2011 Planning Commission meeting minutes  
March 8, 2011 City Council meeting minutes  
2011 adopted Home Occupation ordinance  
Home Occupation informational form

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

THE CITY OF PORTAGE ORDAINS:

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

**Section 42-112. Definitions.**

*Home occupation:* A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and/or accessory use involving the sale or exchange of goods, materials or services. Home occupations may include, but are not limited to, administrative offices, instruction in crafts or fine arts, art, photographic studios, sale of fruits, vegetables or flowers grown on site, personal service establishments, sale of goods. For purposes of this section, family day care home shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

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

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

- A. Passive home occupations: The director shall approve a passive home occupation after a finding that the following requirements are satisfied:
  1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.
  2. The occupation is conducted wholly within the dwelling unit.
  3. No person outside the family is employed in the home occupation.
  4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.
  5. The home occupation does not require interior or exterior alterations or the use of mechanical or electronic equipment not customarily used in a dwelling unit.
  6. No sign identifying the home occupation is permitted.

7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted to produce or store any hazardous materials.
  8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.
  9. No other vehicular parking other than the off-street parking facilities normally required for the residential use is permitted.
- B. Active home occupations: The Planning Commission may approve an active home occupation after a public hearing and finding that the application meets the standards set forth in this section. Active home occupations shall comply with the following requirements:
1. An active home occupation shall only be conducted on a zoning lot where there is a one-family residential dwelling unit.
  2. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation.
  3. The zoning lot shall have at least one property line abutting a major or collector thoroughfare as defined in the City of Portage Major Thoroughfare Plan.
  4. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation.
  5. Storage of goods, materials, equipment or products associated with the active home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
  6. The active home occupation, or any part thereof, shall not be conducted in any attached, detached or accessory building or structure nor on any patio, deck or lawn area. This section shall not prohibit the growing of fruits, vegetables or flowers nor any other farm product protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, in any outside area, provided that the farm product is grown, raised or produced on the zoning lot occupied by the active home occupation.
  7. No inventory or materials shall be displayed, directly sold or delivered to customers on the premises of the one family dwelling in a manner which is visible from adjacent properties except for the sale of fruits, vegetables and flowers as permitted in Section 42-129(B)(6).
  8. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance.

9. Not more than one vehicle and/or trailer used in conjunction with the active home occupation shall be used or stored on the zoning lot unless otherwise approved by the Planning Commission. In its consideration of a vehicle and/or trailer, the Planning Commission may consider factors including, but not limited to, the following:
  - a. The size and weight of vehicles to be used in the active home occupation;
  - b. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property.
10. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the application:
  - a. Promotes the intent and purpose of this section;
  - b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
    - i. The proximity of the surrounding uses to the active home occupation;
    - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot.
    - iii. The seasonal nature of the active home occupation.
  - c. Does not unduly affect the capacities of public services or facilities;
  - d. Is consistent with the public health, safety and welfare;
  - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
  - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.
11. The Planning Commission may attach conditions deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act. The Planning Commission may, after public hearing, eliminate, clarify and/or modify any condition attached to the active home occupation approval as deemed necessary if facts and circumstances have changed.

12. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to produce or store any hazardous materials.
13. Off-street parking provided for the active home occupation shall be provided on an improved driveway surface. Improved driveway shall meet the requirements of Article 5, Section 24-111, Definitions.
14. An active home occupation shall have a right to operate from the hours of 7:00 a.m. to 9:00 p.m. All activities conducted at other times shall be consistent with the character of the residential area and shall not disturb the peace and quiet of the surrounding residential neighborhood.
15. No freestanding signage is permitted. Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit.

FIRST READING:  
 SECOND READING:  
 EFFECTIVE DATE:

\_\_\_\_\_  
 Peter J. Strazdas, Mayor

CERTIFICATION

STATE OF MICHIGAN        )  
   )SS  
 COUNTY OF KALAMAZOO    )

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

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

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

Approved as to form  
 Date: 1/12/10  
 \_\_\_\_\_  
 City Attorney

COPY

ordinance. Mr. Eckstrand specifically referenced the Valley Family Church – Kalamazoo located on Vincent Avenue. Mr. Forth stated the Zoning Board of Appeals approved the wall sign variance for Valley Family Church – Kalamazoo subject to no freestanding sign. No additional citizens spoke in regards to the proposed ordinance amendment. A motion was then offered by Commissioner Cheesebro, seconded by Commissioner Welch, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to recommend to City Council that Ordinance Amendment 09-B, Sign Ordinance Regulations, be approved. The motion was unanimously approved.

4. Final Report: Ordinance Amendment 09-C, Home Occupation Regulations. Mr. Forth summarized the final staff report dated January 15, 2010 regarding proposed changes to the home occupation regulations. The public hearing was reconvened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Welch, seconded by Commissioner Pearson, to recommend to City Council that Ordinance Amendment 09-C, Home Occupation Regulations, be approved. The motion was unanimously approved. Commissioner Pearson indicated staff and the Planning Commission spent a considerable amount of time developing the ordinance language and was pleased with the final outcome. Chairman Fox added that the ordinance amendment was also a product of goals and objectives identified during the Portage 2025 Visioning Project.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

None.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

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

Respectfully submitted,

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

## CITY COUNCIL MEETING MINUTES FROM MARCH 9, 2010

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

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

Mayor Strazdas introduced Associate Pastor Bill Vande Giessen of the Cherry Creek Community Church, who gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

**APPROVAL OF MINUTES:** Motion by O'Brien, seconded by Reid, to approve the February 23, 2010 Special and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember O'Brien to read the Consent Agenda. Motion by O'Brien, seconded by Sackley, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF CHECK REGISTER OF MARCH 9, 2010:** Motion by O'Brien, seconded by Sackley, to approve the Check Register of March 9, 2010. Upon a roll call vote, motion carried 7 to 0.

### **PUBLIC HEARINGS:**

**WEST LAKE MANAGEMENT PROGRAM SPECIAL ASSESSMENT DISTRICT NO. 011-Q – RESOLUTION NO. 5:** Mayor Strazdas opened the public hearing and introduced City Engineer Christopher Barnes, who provided an overview of the request from the West Lake Board. He indicated that the West Lake Board currently has \$85,273 in the weed remediation fund, that the cost of the improvement is \$159,335, that the share of the Special Assessment District is \$59,250 and that the share of the City-at-Large is \$14,812. Mr. Barnes indicated that the assessment was figured on a per parcel basis as each lake owner recognizes that they each have equal access and use of the lake. The assessment per parcel is \$250 for a five-year period or \$50 per year.

Mayor Strazdas opened the public hearing to comments from the public and Bob Erickson, 619 South Shore Drive, thanked City Council for their support and Chris Barnes and Dallas Williams for getting all of the information together on the matter. Mayor Strazdas reciprocated with an expression of his appreciation for his leadership and stewardship of the lake and recognized Mr. Barnes and the Administration for their assistance in the matter.

Motion by O'Brien, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Campbell, seconded by O'Brien, to adopt Resolution No. 5, confirming the Special Assessment Roll for the West Lake Management Program Special Assessment District No. 011-Q. City Attorney Randy Brown interjected that he wanted City Council to understand that this action does not preclude the use of other methods of special assessment with any future assessments that may come before City Council. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 489 of City of Portage Resolution Book No. 43.

**ORDINANCE AMENDMENT #09-C, HOME OCCUPATION REGULATIONS:** Mayor Strazdas indicated that this proposed ordinance was in response to some of the findings of the Portage 2025 Visioning Project and the 2009 City Council retreat that resulted in a work topic sent to the Planning Commission, who independently focused on this topic. Mayor Strazdas opened the public hearing and introduced Jeff Erickson, Director of Community Development, who reviewed the process and some of the language of the proposed ordinance. Mr. Erickson distinguished between passive home

occupations and active home occupations and indicated that passive home occupations have been a part of the city since its inception. Discussion followed. Mayor Strazdas summarized that the passive home occupations ordinance has been on the books since the 1980's and there is no proposed change, and the only change is with active home occupations. Mr. Erickson indicated that the city has only received eleven applications for home occupation permits since July 2007 and all have been approved. Discussion followed.

At the request of Mayor Pro Tem Sackley, Mr. Erickson distinguished section 42-129.B.3 saying that the Home Occupation Ordinance expands where home occupation based activities would be best placed. Mr. Erickson further explained that if one of the desires is to expand activity, then protecting the neighborhood is critical, so a set of standards is important and this standard along with the rest of the standards, the fifteen conditions in section 42-129.B, have to be considered by the Planning Commission before an active home occupation is allowed. Discussion followed. Mr. Erickson pointed out that it was important that active home occupations not be situated in the interior of a neighborhood as there can be a certain amount of angst associated with some home businesses in the neighborhoods, and there are a limited number of back lots in Portage.

In response to Councilmember Reid, Mr. Erickson discussed enforcement, complaints, adding one or more employees to an active home occupation business, business signs and types of vehicles in the neighborhood and the importance of protecting the neighborhood.

In response to the concerns of Councilmember Urban, Mr. Erickson indicated that staff attempts to adhere to the standards in the Code of Ordinances and based on the review by the Administration of other municipal ordinances and tools available, overlay zoning and distance separation, as with day care centers, were not considered as alternatives. Discussion followed.

Mr. Erickson assured Councilmembers Randall and O'Brien that all fifteen standards would be considered by the Planning Commission when granting active home occupations, not just section 42-129.B.3. Discussion followed regarding fees, the amount of square footage in the home devoted to the business and hours of operation.

John Zull, 416 Barberrry Street, spoke in opposition to the ordinance as presented as there is a process for reevaluating property through the rezoning process. He spoke in support of protecting neighborhoods, to only allow passive home occupations in Portage neighborhoods and to expend more effort to enforce the blight ordinance.

Philip Stinchcomb, 1607 Bellaire Avenue, viewed the proposed active home occupations portion of the ordinance as pitting "neighbor against neighbor" and objected to allowing the government to tell him that he cannot do something in his neighborhood saying that he sees nothing wrong with placing a sign in the yard advertising a business, that it is okay to bring more business into the neighborhood and viewed the ordinance as an attempt to dissect/micromanage all of the households in the city. Discussion followed.

Planning Commissioner Jim Pearson, 3004 East Shore Drive, indicated that the Planning Commission first considered the property line language in section 42-129.B.3, agreed that the economy is changing and businesses may need a better accommodation in neighborhood settings and addressed the cul-de-sac issue, but had not thought of the cul-de-sac next to a thoroughfare. He then compared the proposed ordinance to the wind turbine ordinance saying that this ordinance represents a compromise as it allows the homeowner to gradually bring businesses into the neighborhood, and if things (sic) do not improve, then it (sic) can be changed. He agreed that, after a review by City Council and the City Attorney, the "shall" can be change to "must" and suggested the distance and density issue be treated much like day care centers are with an application for a waiver as an option in order to allow another business in the neighborhood. Discussion followed.

Andrea Stork, 1515 Dogwood Drive, indicated that a passive home occupation business immediately becomes active when the business owner hires an individual, so the goal envisioned by the Portage 2025 Visioning Project becomes difficult to accomplish. Discussion followed.

Dave Norris, 3683 Bellflower Drive, concurred with Councilmember Randall and her concern for the survival of businesses in today's failing economy and objected to full transparency by a business

owner in front of the Planning Commission. Mayor Strazdas asked for input from anyone regarding the number of employees it would take to change a home occupation from passive to active in the neighborhood.

Seth Giem, 10234 East Shore Drive, owner of the Train Barn, described his business, explained that he rarely had a lot of cars on the property and complained about the boats in the water in Austin Lake in the front of his house. Discussion followed.

In answer to Andrea Stork, Mr. Erickson explained that the process for applying for a home occupation permit requires consistency with the established ordinance and administrative approval where possible. He indicated that a passive home occupation becomes active once the Planning Commission finds that the standards have been met. Discussion followed.

City Attorney Randy Brown opined that deciding where the passive home occupation becomes active is basically a policy issue for City Council; because of the zoning, people are supposed to live at the residence and home occupation is an accessory use of the property. He explained that "accessory" is defined as passive in the current ordinance, so the question is how much should the ordinance change to accommodate an "active" classification; if "no employee" is considered accessory, then "one employee" changes the character, so one employee is enough to make it active. Also, he said that the whole area of the home could be a business; therefore, a guideline had to be established, so 25% was selected. Discussion followed.

Councilmember O'Brien determined that the controlling factor should be "jobs." She indicated that people work differently today than in the past, and the impact on the neighborhood could actually decrease. She cited webmasters and independent contractors as possible examples and argued that the Planning Commission should be able to look for the uniqueness of a business and the amount of impact on the neighborhood in their determinations.

Mayor Strazdas summed up and Mayor Pro Tem Sackley asked that the ordinance not address active versus passive, but should address the limits and the number of people is irrelevant because they could walk, bike or be dropped off at the residence. Discussion followed.

Councilmember Urban disagreed that it was about jobs because it is about protecting the neighborhood and spoke in favor of the current ordinance in its present form. Discussion followed.

Councilmember Reid spoke in support of using impact on the neighborhood as a standard, to allow people to work in their homes without providing a burden on the neighbors, and recommended that the Neighborhood Revitalization/Engagement Committee review and provide a recommendation to City Council.

Councilmember Campbell likened home occupation use to a day care operation, disagreed with section 42-129.B.3 and suggested a special meeting between City Council and the Planning Commission.

Councilmember Randall mentioned the principle resident state tax exemption for home-based businesses. Discussion followed.

Motion by Reid, seconded by Campbell, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Urban, seconded by Reid, to deny the proposed Ordinance to amend the Code of Ordinances of the City of Portage by amending Section 42-112, Definitions, and 42-129, Home occupations, of Chapter 42, Land Development Regulations. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

Motion by Urban, seconded by Sackley, to ask the Neighborhood Revitalization/Engagement Committee to either amend the Home Occupation Ordinance or refer it to the Planning Commission and to recommend the next step to be taken in the process. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

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

\* **ORDINANCE AMENDMENT #09-B, SIGN REGULATIONS:** Motion by O'Brien, seconded by Sackley, to accept Ordinance Amendment #09-B, sign regulations, for first reading and

## CITY COUNCIL MEETING MINUTES FROM NOVEMBER 16, 2010

COPY

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

At the request of Mayor Strazdas, Mr. Jason Toman of the St. Michael Lutheran Church of Portage gave the invocation and the City Council and the audience recited the Pledge of Allegiance led by Scout Troop 255.

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

**APPROVAL OF MINUTES:** Motion by O'Brien, seconded by Reid, to approve the November 2, 2010 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember O'Brien to read the Consent Agenda. Mayor Strazdas added Item F.6, Fiscal Year 2011-2012 Goals and Objectives, to the Agenda. Motion by O'Brien, seconded by Reid, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF NOVEMBER 16, 2010:** Motion by O'Brien, seconded by Reid, to approve the Accounts Payable Register of November 16, 2010. Upon a roll call vote, motion carried 7 to 0.

### **REPORT FROM THE ADMINISTRATION:**

**HOME-BASED BUSINESS ORDINANCE:** After recognition of the work performed by the Community Development Department, Councilmembers O'Brien and Urban and Mayor Pro Tem Sackley, discussion followed regarding active versus passive home occupations, outside occupations, retail sales which home occupations would require Planning Commission approval. Motion by O'Brien, seconded by Sackley, to refer the revised Home Occupation Ordinance recommended by the City Council Neighborhood Revitalization and Engagement Ad Hoc Committee, to the Planning Commission to initiate the amendment process to the Zoning Code. Upon a roll call vote, motion carried 7 to 0.

**PRESENTATION AND REPORT FROM POLICE CHIEF RICHARD WHITE:** City Council received a presentation and report from Police Chief Richard White regarding Portage Police Department cooperative and collaborative law enforcement activities and efforts. Discussion followed.

\* **HOLIDAY TREE LIGHTING/TRADITIONAL HOLIDAY CELEBRATION – INFORMATION ONLY:** Motion by O'Brien, seconded by Reid, to receive the communication from the City Manager regarding the 2010 annual Holiday Tree Lighting/Traditional Holiday Celebration as information only. Upon a roll call vote, motion carried 7 to 0.

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

\* **DEPARTMENT MONTHLY REPORTS:** Motion by O'Brien, seconded by Reid, to receive the Department Monthly Reports from the various city departments. Upon a roll call vote, motion carried 7 to 0.

COPY

**PUBLIC HEARINGS:**

None.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

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

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

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

## PLANNING COMMISSION

COPY

January 20, 2011

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

### MEMBERS PRESENT:

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

### MEMBERS ABSENT:

None.

### MEMBERS EXCUSED:

Jim Pearson.

### IN ATTENDANCE:

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

### PLEDGE OF ALLEGIANCE:

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

### APPROVAL OF MINUTES:

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

### SITE/FINAL PLANS:

None.

### PUBLIC HEARINGS:

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

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

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

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

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

None.

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

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

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

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

Respectfully submitted,

Christopher Forth, AICP  
Deputy Director of Planning and Development Services

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## CITY COUNCIL MEETING MINUTES FROM MARCH 8, 2011

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

At the request of Mayor Strazdas, Elder Del Belcher of the Cherry Creek Community Church of Portage gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

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

**APPROVAL OF MINUTES:** Motion by Sackley, seconded by Urban, to approve the February 22, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Councilmember Urban asked that Item L.1, Police Protective Ballistic Vests, be removed from the Consent Agenda. Mayor Strazdas added J.4, Presentation by Councilmember Campbell Regarding the Customer Service Committee, and K.1, City Manager Salary Review/Evaluation Committee, to the Agenda. Discussion followed. Motion by Urban, seconded by Sackley, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF MARCH 8, 2011:** Motion by Urban, seconded by Sackley, to approve the Accounts Payable Register of March 8, 2011. Upon a roll call vote, motion carried 6 to 0.

### **PUBLIC HEARING:**

**ORDINANCE AMENDMENT 10-B, HOME OCCUPATION ORDINANCE:** Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson, who provided background information on the ordinance and an overview of the process involved to initiate an ordinance through the Planning Commission. He acknowledged several non-substantive changes and mentioned that the Planning Commission recommended two full-time non-occupant employees be allowed under Section B.1. He also covered the Administration recommendation under B.5 that outlines the limitations on outdoor activities associated with an active home occupation business. He distinguished the new resolution requiring a fee of \$150.00 and referred to his cost analysis regarding staff resources, required legal notices and document preparation and retention costs in his communication to City Manager Maurice Evans dated February 14, 2011. He distinguished active versus passive home occupations and Mayor Strazdas opened the public hearing for comment by the public. There being no comment, motion by Sackley, seconded by Urban, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Councilmember Urban discussed the deliberations of the City Council Neighborhood Revitalization and Engagement Ad Hoc Committee regarding retail sales, coffee shops, outside buildings for storage only and the fact that the committee recommended only one full-time non-occupant

employee for an active home occupation permit. He said the guideline throughout the discussion by the Committee was, "When does it become a business that needs to move on?"

Mayor Pro Tem Sackley indicated that the initial requirement that the active home occupation about a major street was deemed as not necessary, and an active home occupation could be conducted at any residential property in the city. He also pointed out that the resident could also have a sign directly mounted on the home, but it cannot be lighted. He cited the ordinance as an opportunity for Portage citizens as a stimulant to start or grow a business and still protect the neighborhoods. Discussion followed.

Motion by Sackley, seconded by Urban, to approve an Ordinance to amend the City of Portage Code of Ordinances by amending Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, known as Ordinance Amendment 10-B, Home Occupations, and adopt the resolution establishing an application fee of \$150.00 for home occupations, and to receive the communication from the City Manager in response to Councilmember Reid regarding the proposed Home Occupation Ordinance Application Fee. Discussion followed regarding the fee by Councilmember Urban.

City Council received a communication from the City Manager in response to Councilmember Reid regarding the proposed Home Occupation Ordinance Application Fee, and Councilmember Urban asked how the \$150.00 fee compares with other fees since the actual cost is reflected as \$415.00. Mr. Erickson indicated that the effort of the Administration over time has been to recover a portion of the cost associated with services of this nature, and the one cost that can be quantified for recovery, the legal publication cost, is reflected in the \$150.00. He surmised that a balance is necessary, so the Administration asks what constitutes the best cost recovery effort, knowing that full recovery would create a difficulty. He pointed out that the General Fund comes from the city property tax and helps offset the cost for the staff to review and process applications, so the \$150.00 represents a balance of the actual \$415.00, and is a reasonable cost recovery amount to attempt to collect for an active home occupation. Discussion followed. Mayor Strazdas called for the question. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 151 of City of Portage Ordinance Book No. 12. Resolution recorded on page 127 of City of Portage Resolution Book No. 44.

**PETITIONS AND STATEMENTS OF CITIZENS:** Former Mayor Betty Lee Ongley, 8620 Tozer Court, mentioned that today is the 100<sup>th</sup> Anniversary of National Women's Day celebrated around the world and personally thanked Councilmember Reid in her absence, Councilmembers Randall and Campbell and former Councilmember and State Representative O'Brien, who was present. Discussion followed.

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

**\* ORDINANCE AMENDMENT, CHAPTER 24, ARTICLE 5, SAFETY,**

**SANITATION AND HEALTH:** Motion by Urban, seconded by Sackley, to accept the Ordinance Amendment to Chapter 24, Article 5, Safety, Sanitation and Health, with provisions for nuisance abatement and cost recovery, for first reading; subsequent to the second reading on March 22, 2011, consider approval of the Ordinance Amendment; and consider adoption of the resolution establishing the nuisance abatement fee. Upon a roll call vote, motion carried 6 to 0.

**\* ORDINANCE AMENDMENT 10-A, KEEPING OF CHICKENS AND OTHER**

**ANIMALS:** Motion by Urban, seconded by Sackley, to accept Ordinance Amendment 10-A, Keeping of Chickens and Other Animals, for first reading and set a public hearing for April 12, 2011, at 7:30 p.m.

ner without first applying for and receiving the approval of the planning commission as provided in this section.

2. Further, if a use subject to the control of this section is discontinued or abandoned, the use may not be reestablished without applying for and receiving the approval of the planning commission as provided in this section.
3. For purposes of this section, enlarging, increasing or expanding an adult regulated use shall mean an increase in floor areas occupied by the establishment or business by more than 25 percent as the floor areas exist on the date the special land use permit is granted.

G. Revocation or modification of special land use permit:

1. The planning commission may revoke or modify a special land use permit granted to an adult regulated use after a public hearing noticed pursuant to the requirements of the Zoning Act for special land uses, and upon finding by a preponderance of the evidence that one or more of the conditions required by this section has been violated.
2. Additionally, no special land use permit under this section shall be revoked or modified by the planning commission unless both the owner of record of the zoning lot occupied by the adult regulated use and the owner or operator of the adult regulated use have been sent written notice by first class mail of the basis for the revocation not less than five and not more than 15 days before the public hearing. If, subsequent to revocation, the applicant demonstrates that the basis for the revocation has been corrected or abated, the planning commission may reissue a special land use permit if at least 90 days have elapsed since the date the revocation became effective.

H. Judicial review: After denial of an application under this section, or denial of a reapplication of an application, or revocation or modifica-

tion of any special land use permit, the applicant may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The action shall be promptly reviewed by the court in accordance with all applicable statutes and court rules.

(Ord. No. 03-01 (Exh. A, § 42-307), 2-18-2003)

**Sec. 42-128. Lakefront lots.**

A. On lakefront lots, the rear yard shall be considered as the portion of the lot facing the waterfront.

B. See section 42-121.B.2 for requirements for accessory buildings on lakefront lots.

C. Fences on lakefront lots may be erected, but only chain link, wire and/or split rail fences not higher than four feet are permitted in the rear (lake side) yard.

(Ord. No. 03-01 (Exh. A, § 42-308), 2-18-2003)

**Sec. 42-129. Home occupations.**

A. A passive home occupation on a zoning lot conducted by the occupant that meets the following requirements is allowed as an accessory use with no permit being required:

1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.
2. The occupation, or any part thereof, shall be conducted wholly within the dwelling unit and shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area.
3. No person outside the family is employed in the home occupation.
4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.
5. The home occupation does not require interior or exterior alterations of the dwelling unit or the use of mechanical or electronic equipment not customarily used in a dwelling unit.

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

- occupation complies with the requirements contained in section 42-129.B.11.a. through f. below.
3. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance.
  4. Off street parking provided for the active home occupation shall be provided on an improved driveway that fulfills the requirements of Article 5, Section 24-111, Definitions. There shall be no other vehicular parking other than the off-street parking facilities normally required for the residential use.
  5. No goods or products shall be directly sold or delivered to customers on the premises of the one-family dwelling except goods and products which are incidental to the services of the home occupation.
  6. Storage of materials, equipment and goods which is incidental to the services of the home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.
  7. The active home occupation, or any part thereof, shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area, except outdoor areas may be used for instruction in recreational activities customarily associated with residential uses including, but not limited to, swimming lessons and tennis lessons.
  8. Materials, equipment and goods shall not be visible from adjacent properties.
  9. There shall be no sign of any nature identifying the home occupation except a non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit. The use of window displays are not permitted.
  10. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to use, store or produce any hazardous materials in excess of quantities permitted in residential structures.
  11. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation application submitted by the occupant is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the use and expected conduct of the use specified in the application by the occupant:
    - a. Promotes the intent and purpose of this section;
    - b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:
      - i. The proximity of the surrounding uses to the active home occupation;
      - ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;
      - iii. The seasonal nature of the active home occupation;
      - iv. The size and weight of vehicles to be used in the active home occupation; and
      - v. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;
    - c. Does not unduly affect the capacities of public services or facilities;

- d. Is consistent with the public health, safety and welfare;
  - e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and
  - f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.
12. The Planning Commission may attach conditions to the application by the occupant to conduct an active home occupation deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land including the number of customers allowed on the zoning lot at any one time, hours of operation, and similar factors, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act, as amended.
13. No condition or requirement stated for active home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, provided that the farm produce is grown, raised or produced on the zoning lot occupied by the home occupation and is for commercial purposes and meets all other applicable laws and rules, including the Generally Accepted Agricultural and Management Practices ("GAAMPs") as promulgated by the Michigan Department of Agriculture.
- (Ord. No. 03-01 (Exh. A, § 42-309), 2-18-2003; Ord. No. 11-04, 3-8-2011, eff. 4-2-2011)

**Sec. 42-130. Riparian access.**

A. The requirements of this section are intended to limit the number of users of lake frontage in order to preserve the quality of the

waters, to promote safety, and to preserve the quality of recreational use of all waters within the city.

B. The restrictions of this section shall apply to all lake front lots and parcels, as defined in division 2 of this article, regardless of whether access to the lake waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, lease, or similar method.

C. The restrictions of this section shall also be applicable to any planned development or special land use projects or developments approved under the provisions of this article. Where a planned development or special land use project or development is considered, the planning commission and city council shall consider, in addition to the approval standards applicable to the proposed project that the use will not lead to conflicting waterfront use or additional water surface overcrowding.

D. Lakefront lots reserved for the use of owners of riparian rights shall conform, in all respects, to the minimum lot area and width requirements of the districts in which they are located.

E. Use of lakefront lots for the purpose of providing access to such body of water for nonriparian property owners or the occupants/tenants thereof shall not be permitted in any district.

F. In all zoning districts, no lake access, boat ramps, dock, boat launch, or shoreline abutting a lake shall be utilized for commercial purposes, outdoor recreation (or entertainment) facilities, institution or nonresidential uses or purposes unless such use is authorized under the provisions of the zoning district in which such facilities are to be located.

G. In addition to the limitations imposed by this section, the nonriparian access and use of lake front lots is prohibited pursuant to section 42-121.A.

(Ord. No. 03-01 (Exh. A, § 42-310), 2-18-2003)

## ESTABLISHING A HOME-BASED BUSINESS -- WHAT YOU NEED TO KNOW

The City of Portage has expanded opportunities for residents to operate a home-based business, also known as a home occupation. The following information will answer commonly asked questions about a home occupation. For your convenience, the home occupation ordinance may be reviewed in the City of Portage Code of Ordinances, in the Zoning Code, and can be found at Section 42-129.B.

**What is a Home Occupation?** A home occupation is a business activity involving the sale or exchange of services conducted by the people who live in the home. A home occupation is an accessory use to the primary use of your property, which is a place of residence. Home occupations may include, for example, administrative offices, photographic studios, personal service establishments and instruction in outdoor recreational activities such as swimming or tennis lessons. The sale of products and goods from your home is not permitted unless the sale is incidental to the services provided, or involves the sale of fruits, vegetables or flowers grown on site.

**Are there different types of Home Occupations?** There are two types of home occupations that can be conducted from your home:

Passive Home Occupation – This type of home occupation would not likely have any impact on your neighbors. Passive home occupations are permitted in all residential dwelling units and do not require a permit from the city.

Active Home Occupation – This type of home occupation is a more intensive home-based business and is permitted only in one-family residential detached dwelling units. Residents who want to establish an Active Home Occupation are required to meet specific ordinance requirements and obtain a home occupation permit that is approved by City of Portage Planning Commission. The Planning Commission will hold a public hearing and property owners within 300 feet will be notified and given an opportunity to comment on the requested home occupation.

**How do I know if my accessory business use is a Passive or Active Home Occupation?** The following checklist will help you. If you can place a check mark in each box below indicating you meet the condition, your proposed home occupation would be considered a Passive Home Occupation and you do not need to obtain a home occupation permit from the City of Portage and there is no home occupation permit fee.

- 1. The people engaged in the home occupation are full-time residents who live in the home. There will be no non-resident employees who work at the home.
- 2. The home occupation will be conducted completely within the home.
- 3. The home occupation will not be conducted in any attached or detached accessory building or structure.
- 4. The home occupation will occupy 25% or less of the total floor area of any one floor or basement.
- 5. The home occupation will not involve interior or exterior alterations to the dwelling unit and will not require mechanical or electronic equipment not customarily used in a residence.
- 6. No sign will be used that identifies the home occupation.
- 7. The home occupation will not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances that would cause negative effects on surrounding property.
- 8. The home occupation will not involve the use, storage or production of hazardous materials beyond that normally associated with a residential use.
- 9. The operation of the home occupation will not create pedestrian or vehicular traffic beyond that normally generated by a residential use.
- 10. The home occupation will not require any additional vehicular parking area other than the off-street parking facilities normally required for the residential use.
- 11. No goods or products will be sold or delivered to customers at the place of residence except when incidental to the services of the home occupation.
- 12. No farm products produced under the Michigan Right To Farm Act is involved in your home occupation.

If one or more boxes cannot be checked, please contact the Department of Community Development for assistance.

**What is an Active Home Occupation?** With Planning Commission review and approval, an Active Home Occupation can involve many types of home-based business activities that can fulfill the following conditions:

1. Up to two additional, non-resident persons can be engaged in the active home occupation.
2. An increase in the total floor area maximum of 400 square feet used in the active home occupation may be granted.
3. Alterations or exterior modifications to the residence, structures or property that change the residential character or appearance are not allowed.
4. An off-street parking area is permitted, but the residential character of the property must be maintained.
5. Sale or delivery of good and products that are incidental only to the services of the active home occupation are permitted.
6. Use of up to 50% of the floor area of a completely enclosed accessory building may be used to store goods, materials or equipment incidental to the active home occupation.
7. No portion of the active home occupation can be conducted in any accessory building or outdoors, on a patio or deck, except for those areas used for recreational instruction, such as swimming and tennis lessons.
8. To maintain the neighborhood, storage of goods, materials or equipment is permitted so long as this is not visible from adjacent properties.
9. Wall signage (maximum six square feet) may be used on the house to name the active home occupation.
10. The active home occupation may not produce noise, odor, dust, fumes, smoke, glare or comparable nuisances that would negatively affect surrounding property. In the interest of safety, there can be no use, storage or production of hazardous materials in excess of amounts permitted in residential structures.
11. A variety of home based business activities may be permitted by the Planning Commission that are within an acceptable range of compatibility with the surrounding area and that do not involve safety hazards. The Planning Commission will consider various factors such as the home occupation, operational issues, the property and location, driveway and access, number of vehicle trips, types of vehicles, public health, safety and welfare matters, and community objectives, among other factors.
12. Conditions of approval may be established by the Planning Commission that are necessary for the protection of property rights and to mitigate any impacts on surrounding residential uses.
13. Growing of fruits, vegetables or flowers or other farm product that is consistent with the Michigan Right to Farm Act is allowed and is not considered to be a home-based business activity.

Please feel free to contact the Department of Community Development for assistance. For convenience, an Active Home Occupation Permit Application can be obtained from the Department, or on the City of Portage website.

**Is there a fee to apply for an Active Home Occupation?** There is a \$150 fee that must accompany a completed application form (attached), site/building sketch and any additional information as may be necessary.

**How long will the Active Home Occupation review and approval process take?** The review and approval process will take approximately 30 days. The Planning Commission meets twice a month (first and third Thursday). In order to meet State of Michigan public notice requirements to the community and neighboring property owners, the application and related information from you must be submitted approximately 30 days in advance of the Planning Commission meeting date.

You are encouraged to contact the Department of Community Development at 269-329-4477 if you have any questions, require additional assistance or would like a copy of the Home Occupation Ordinance. The Home Occupation Ordinance and the application for an Active Home Occupation Permit are also available at the City of Portage website at [www.portagemi.gov/Departments/Community-Development](http://www.portagemi.gov/Departments/Community-Development).

**THANK YOU. CONGRATULATIONS ON YOUR DECISION TO CONDUCT A HOME OCCUPATION !**

# **MATERIALS TRANSMITTED**

SUMMARY ENVIRONMENTAL ACTIVITY REPORT  
December 2011 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-City Council awarded a 3 year contract to American Hydrogeologic Corporation on February 23, 2010 to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. Sampling shows continued improvement in groundwater quality. Sampling completed in April 2010. Annual report submitted to MDNRE in June 2010. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. 2011 sampling completed in March. 2011 annual report submitted to MDEQ, with moderate groundwater quality improvements. <i>Investigation into methane gas presence is underway.</i>
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	-Coordination with property owners and City or State agencies ongoing. <i>-Review of 4 site/building plans and/or plats completed in December 2011.</i>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<i>-Sanitary sewer hookup permits issued in December 2011: 3 residential, 0 commercial. One property owner on Mandigo Avenue has received a deferral from the Environmental Board.</i>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions.	-Five Year Lake Management Assessment District process was approved by City Council on March 23, 2010. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008. The 2011 lake survey and treatment preparations are complete. <i>Additional areas requested by the Association for treatment.</i> Amendment to the 2011 Treatment Program approved by City Council on August 9, 2011. <i>The 2011 program is complete.</i>
Retention Basin Sampling Program	Investigation regarding potential impact of retention basins on groundwater levels.	-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to stormwater infiltration. Alternative road salt practices continue to be considered and evaluated. On March 23, 2010, City Council awarded a four-year contract to Wightman Environmental. Program will focus primarily on groundwater level information. Sampling of retention basins was completed on

June 25, 2010. The 2010 year report received in January 2011. The 2010 results show declining groundwater levels throughout the city. Surface storm water outfall sampling shows stable results. *2011 report due to be received in January 2012. Current groundwater table measurements show the December 2011 level to be approximately the same as the June 2011 levels.*

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

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

-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Stormwater Pollution Prevention Initiative (SWPPI) as required by NPDES permit. SWPPI submitted on October 21, 2005. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year timeframe with first work item (updating the Public Participation Plan) due December 11, 2009. Plan update completed with other local governments and submitted November 24, 2009. Staff completed an updated SWPPI submittal to MDNRE. SWPPI was submitted for MDNRE approval on June 25, 2010. Permit implementation is ongoing. Received a notice from MDNRE rescinding the 2008 permit due to a recent court case ruling. MDNRE reinstated the 2003 permit for implementation. Information on new permit requirement was received February 2011. *MDNRE expected to issue new permit in 2014.* City staff presented public information with other local agencies at the 2011 Home Expo on March 9-12, 2011. Tour of Liberty Park Stormwater treatment was held September 6, 2011 for the Southwest Michigan Soil Control

Wellhead Protection Program (WHPP) Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.

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

National Pollution Discharge Elimination System (NPDES) permit implementation Five year plan to implement the current NPDES stormwater permit.

Association. 2010-11 annual report preparation is underway. Implementation is ongoing.

National Pollution Discharge Elimination System (NPDES) permit implementation  
Kalamazoo River Mainstem Watershed Management Plan

-First meeting was held September 17, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Water Festival was held on August 14, 2010 with City of Portage participation. Preliminary grant request submitted September 16, 2010 for West Fork of Portage Creek storm water enhancements. Complete grant application was submitted on October 25, 2010. Notice received July 18, 2011 that grant application was not awarded. Kalamazoo River Watershed council completed a watershed update in November.

Portage River Watershed Management Plan

-Public participation plan submitted June 28, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Follow-up meetings are held monthly to facilitate an implementation schedule. Portage River Watershed public meeting held in Vicksburg on April 11, 2006. Review comments received from MDEQ and revised watershed plan due November 2006. Revised Watershed Plan submitted November 30, 2006, follow up meetings to be held as necessary. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009. Interest has been raised by local conservation groups to update the current Watershed Plan using grant funds. Meeting held on May 9, 2011 among stakeholders to determine interest in updating the current watershed plan. Second meeting held on June 20, 2011, and grant application submitted by Kalamazoo and Calhoun County Conservation District to update the Watershed Plan. *Grant outcome pending.*

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

-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections". On April 28, 2004, City Council accepted a grant

from the State of Michigan in the amount of \$152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of \$184,264 for the remainder of the IDEP for the entire city. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDNRE on June 25, 2010, and part of the SWIPPI. *Implementation is ongoing.*

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

-City Council approved an agreement with Fishbeck, Thompson, Carr & Huber, Inc. on January 10, 2006 to prepare a feasibility study to meet new USEPA arsenic standards for drinking water. Feasibility study completed in August 2006. Engineering proposals for the project were received August 14, 2007. Project engineering awarded to Earth Tech by City Council on September 11, 2007. Contract awarded by City Council on December 16, 2008 to Adams Building Contractors, Inc., Jackson, Michigan. Preconstruction meeting was held January 29, 2009. Facility is in operation with ribbon cutting held August 2, 2010. City staff gave a presentation on August 9, 2010 to the Michigan Chapter of the American Water Works Association about the arsenic removal of the facility. The facility is producing approximately one million gallons of water per day. Staff conducted a tour of the facility on April 27, 2011 to the local Chapter of the National Society of Professional Engineers. Facility is in regular operation.

Environmental Incident/Spill Clean Up Notification  
 Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.

-The number of environmental incident/spill investigations performed in December 2011 – 0. Number of environmental cleanups in November – 0. Emergency spill response contract for 2012-13 with Terra Contracting is in place.

Localized Groundwater Table Investigation  
 Hydrogeologic study of the Portage area, especially in the Sprinkle Woods plat area, to determine causes of increase in groundwater elevation.

-On April 29, 2008, City Council awarded a contract to American Hydrogeology Corporation to investigate the reason and extent of seasonally high groundwater elevation. Special emphasis will be placed on the Black Forest plat area to suggest possible solutions to the basement leaking problems experienced in the area. Study was transmitted to City Council on July 22, 2008. Work was completed on October 31, 2008. City staff continues to investigate other remedies for local groundwater table issues. Work complete on compiling a history of local groundwater table elevations at 19 city-owned retention basins with data from 1994 to 2009. Data from the analysis shows a general upward trend through the Portage area from 2005 to present. Five monitoring wells were installed in the Jamaica Lane area as a result of a number of citizen concerns. Analysis of the Jamaica Lane wells shows that seasonal groundwater table levels

have dropped approximately 24" from spring 2009 levels and level has stabilized through December 2011. Current sampling continued to show a slight decline in the groundwater table. *Current groundwater levels are approximately the same as the June 2011 levels.*

Hampton Wetland Area Water Level  
Assistance with the Inverness Condominium Association to Review Surface Water Levels

-Ongoing assistance with the Condominium Association to develop appropriate measures to regulate the rising water level in Hampton Wetlands Area located on the north side of West Centre Avenue and east of Angling Road. Met with MDNRE staff to determine feasible method to lower water levels. Association currently working with MDNRE permit staff on February 26, 2010 to clarify permit requirements. Lower groundwater table elevation has reduced the concerns from the Condominium Association. Conference call with MDNRE held on December 8, 2010 to discuss permit submission updates. Condo Association discussing project with other property owners for support. Association submitted a letter to City Administration asking that the city consider the Wetland Water Level Regulation a municipal project. On March 22, 2011, city staff response recommending the Association consider governmental lake board. The Association is considering next steps. No new developments.

Southwest Michigan Regional Sustainability Covenant

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

-On May 12, 2009, City Council approved the Southwest Michigan Regional Sustainability Covenant. A sustainability work session was held April 14, 2010, to review elements of the covenant in cooperation with the City of Kalamazoo and the City of Battle Creek. A grant application was made to MDNRE for a greenhouse gas inventory study of the area. Notice received July 15, 2010 that the grant application was not successful. City staff attended a September 10, 2010 meeting in Grand Rapids to discuss sustainable economic, environment, and society programs. No new developments.

## **CITY COUNCIL MEETING MINUTES FROM JANUARY 10, 2012**

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

At the request of Mayor Strazdas, Pastor Bill Abernathy of the Berean Baptist Church of Portage gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Jim Pearson, Patricia M. Randall, Terry R. Urban and Mayor Pro Tem Claudette S. Reid and Mayor Peter J. Strazdas. Councilmember Edward J. Sackley was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Randall, to approve the December 20, 2011 Regular Meeting Minutes as revised. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda with the addition of Item K.1, Appointments to Various Boards and Commissions, to the Consent Agenda. Mayor Pro Tem Reid asked that Item H.1, Secondhand Dealer/Pawnbroker Ordinance be removed. Motion by Urban, seconded by Campbell, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JANUARY 10, 2012:** Motion by Urban, seconded by Campbell, to approve the Accounts Payable Register of January 10, 2012. Upon a roll call vote, motion carried 6 to 0.

**PETITIONS AND STATEMENTS OF CITIZENS:** Tim Higley, 8104 Newells Lane, issued a complaint about the neighbor's new wood burning stove. Paul White, 8116 Newells Lane, corroborated Mr. Higley's concerns and both emphasized the nuisance factor created by billowing smoke in and around neighboring homes. Discussion followed. Mr. Higley asked for a change in the city ordinance to address this type of situation. Discussion followed. Mayor Strazdas asked the City Administration to reconfirm that the specifications on the wood burning stove(s) at 8046 Newells Lane are appropriate and that all City codes are met. Discussion followed. Councilmember Randall indicated that she would present this issue to the Wednesday session of the Kalamazoo County Environmental Board and would report back. Discussion followed.

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

\* **MICHIGAN MUNICIPAL LEAGUE DUES:** Motion by Urban, seconded by Campbell, to authorize payment to the Michigan Municipal League in the amount of \$8,329 for year 2012 membership dues. Upon a roll call vote, motion carried 6 to 0.

### **UNFINISHED BUSINESS:**

**SECONDHAND DEALER/PAWNBROKER ORDINANCE:** Mayor Pro Tem Reid asked an equity question concerning the proposed \$50 application fee and the subsequent \$50 fee for renewals each year as she presumed a renewal is simpler than an original application. Discussion followed.

At the request of Mayor Strazdas, Director of Public Safety Richard White explained that the ordinance mirrors the state statute. He also pointed out that the City of Portage used drug seizure funds to write the software to catalogue all stolen articles after it was discovered that businesses across the state must report these items using the software of a sole vendor. He stressed that the intent of the ordinance is not to burden legitimate businesses and that the ordinance did not apply to non-profit organizations such as the Salvation Army or Goodwill Industries. Discussion followed. Mayor Strazdas encouraged each Councilmember to approach the City Manager with any ideas or thoughts on the fee requirements.

Motion by Reid, seconded by Urban, to amend the Code of Ordinances of the City of Portage, Michigan, Chapter 14, Businesses, by adding Article 8, Secondhand Dealers, Section 14-202 through Section 14-213. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 217 of City of Portage Ordinance Book No. 217.

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

Portage Planning Commission of November 22 and December 1, 2011.  
Portage Human Services Board of December 1, 2011.  
Portage Park Board of December 7, 2011.

**NEW BUSINESS:**

\* **APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS:** Motion by Urban, seconded by Campbell, to reappoint Wes Mazurek and Bill Fries and appoint Michael Quinn with terms ending January 31, 2013 to Board of Review #1; reappoint Michael Simon and William Stannard to serve with Jay Olweean with terms ending January 31, 2013, to Board of Review #2; appoint Dave Felicijan with unfulfilled term ending May 31, 2012, to the Planning Commission; reappoint Lowell Seyburn and appoint Daniel Rhodus with terms ending February 28, 2015, and appoint D. Glen Smith as Alternate with term ending February 28, 2015, to the Zoning Board of Appeals; appoint Cody Dekker with unfulfilled term ending October 1, 2013, to the Human Services Board; and appoint William Beck with unfulfilled term ending October 1, 2012, and Samuel Garceau with unfulfilled term ending October 1, 2013, to the Environmental Board. Upon a roll call vote, motion carried 6 to 0.

**BID TABULATION:**

\* **REPLACEMENT PURCHASE OF 2011 FORD CROWN VICTORIA POLICE VEHICLE:** Motion by Urban, seconded by Campbell, to approve the replacement purchase of one 2011 Ford Crown Victoria Police Vehicle from Gorno Ford in Woodhaven, Michigan, in the amount of \$22,720.20 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Pearson noted that nine applicants attended the Board and Commission interviews and all were appointed.

City Manager Evans commended Finance Director Daniel Foecking, especially Accounting/Budget Deputy Director Pat Fitnitch along with the assistance of the Accounting Department, for being granted the Distinguished Budget Presentation Award by the Government Finance Officers Association for the twenty-fourth year in a row.

Mayor Strazdas complimented Mr. Evans for regularly recognizing City employees and their accomplishments. He also asked all of the newly formed City Council Committee Chairpersons to work with the City Manager's Office to set meeting times to work on goals and objectives.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:12 p.m.

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James R. Hudson, City Clerk

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