

CITY OF

PORTAGE

A Place for Opportunities to Grow

**PLANNING
COMMISSION**

December 20, 2012

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

December 20, 2012

(7:00 p.m.)

Portage City Hall Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

- * December 6, 2012

PUBLIC HEARINGS:

- * 1. Special Land Use Permit for Xtreme Clean Car Wash, 5121 South Westnedge Avenue

SITE/FINAL PLANS:

- * 1. Site Plan for Xtreme Clean Car Wash, 5121 South Westnedge Avenue

NEW BUSINESS:

- * 1. Donation Box Ordinance Amendment
-- adjourn meeting to City Hall Conference Room #1

OLD BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

November 12, 2012 Zoning Board of Appeals meeting minutes
November 20, 2012 City Council meeting minutes

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

PLANNING COMMISSION

December 6, 2012

 **DRAFT**

The City of Portage Planning Commission meeting of December 6, 2012 was called to order by Vice-Chairman Welch at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. No citizens were in attendance.

MEMBERS PRESENT:

Wayne Stoffer, Miko Dargitz, Allan Reiff, Dave Artley and Paul Welch.

MEMBERS ABSENT:

Dave Felicijan.

MEMBERS EXCUSED:

James Cheesebro, Bill Patterson and Rick Bosch.

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

Vice-Chairman Welch led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Vice-Chairman Welch referred the Commission to the November 15, 2012 meeting minutes contained in the agenda packet. A motion was offered by Commissioner Dargitz, seconded by Commissioner Reiff, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

None.

PUBLIC HEARINGS:

None.

NEW BUSINESS:

None.

7:05pm - The Commission convened the meeting to City Hall Conference Room No. 2

OLD BUSINESS:

1. City of Portage 50th Anniversary Celebration – Recognition of Portage Businesses. Mr. Forth referred the Commission to the information contained in the agenda packet and clarified the direction from City Council regarding this item of business. Mr. Forth advised the Commission they should be ready to implement any idea suggested to City Council. The Commission reviewed and discussed the suggestions that were identified during the November 1st and 15th meetings and summarized in the November 30, 2012 Department of Community Development staff report. Vice-Chairman Welch indicated that ideas 4, 5, 6 and 7 previously

identified by the Commission were already being coordinated by City Council or were determined by City Council to be too costly to pursue. Vice-Chairman Welch suggested focusing Commission discussion on ideas 1, 2 and 3 listed in the November 30, 2012 staff report.

Commissioner Dargitz suggested combining ideas 1 (creation of a “pass book” of area businesses) and 2 (establishment of a business-sponsored raffle) and suggesting idea 3 (establishment of a listing of Portage business with a short profile) as a secondary suggestion. Commissioner Reiff and Vice-Chairman Welch expressed concerns about time limitations and whether other volunteers, such as the Portage Senior Center or Portage Rotary, could provide assistance. Commissioner Stoffer asked whether staff would be available to assist the Commission and whether the Commission would have access to the Portage web site for implementation. Mr. Forth stated that staff could provide some resource assistance and depending on the proposal, use of the city web site could be considered. The Commission suggested recommending to City Council that the creation of a pass book to support and recognize Portage businesses be considered. While the Commission agreed that the specific details would need to be identified later, if City Council accepts the idea, the pass book concept would include a list of participating businesses and citizens who patronize these businesses would have the pass book validated. At the end of a specific time period, those citizens who participated in the activity would have their name entered in a drawing to win a prize. The prize(s) would likely be donated from the participating businesses.

After additional discussion, a motion was made by Commission Artley, seconded by Commissioner Dargitz, to recommend to City Council that consideration be given to the creation of a “pass book” of Portage businesses that citizens could patronize as a way of recognizing area businesses as part of the City of Portage 50th Anniversary Celebration. The motion was unanimously approved.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 7:30 p.m.

Respectfully submitted,

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

TO: Planning Commission **DATE:** December 14, 2012
FROM: Vicki Georgeau, ^{VB} Director of Community Development
SUBJECT: Special Land Use Permit and Site Plan: Xtreme Clean Car Wash, 5121 South Westnedge Avenue.

I. INTRODUCTION:

Special Land Use Permit and Site Plan applications have been submitted by Xtreme Clean Car Wash of Michigan requesting approval to establish a two-bay automatic car wash and associated site improvements at 5121 South Westnedge Avenue. The overall zoning lot is occupied by the Meijer retail store (5121 South Westnedge Avenue) zoned B-2, community business and the Meijer gas station/convenience store (5231 South Westnedge Avenue) zoned B-3, general business. The automatic car wash building is proposed to be located east of the Meijer gas station/convenience store, along the north side of Andy Avenue, within the B-2 zoned portion of the overall zoning lot.

II. BACKGROUND INFORMATION:

The following background information is provided for Commission consideration:

Existing Land Use/Zoning	<ul style="list-style-type: none"> • <u>Site:</u> The overall Meijer zoning lot is occupied by an approximate 216,500 square foot retail building, an approximate 2,500 square foot gas station/convenience store building and associated parking lot zoned B-2, community business and B-3, general business. • Various commercial businesses zoned B-3 and CPD, commercial planned development border the subject site to the west (across South Westnedge Avenue), north (across Old Kilgore Road) and southwest (across Andy Avenue). • Single family residential neighborhoods zoned R-1A, one family residential and R-1C, one family residential border the site to the east and southeast.
Comprehensive Plan	<ul style="list-style-type: none"> • Future Land Use Map component of the Comprehensive Plan identifies the overall Meijer retail and gas station/convenience store zoning lot, along with properties located along the west side of South Westnedge Avenue, as appropriate for regional business use. Adjacent properties to the north and south are designated for general business land use while properties located to the east and southeast are designated for low density residential land use.
Access	<ul style="list-style-type: none"> • No new driveways are proposed with the automatic car wash project: Existing access drives associated with the Meijer retail store and gas station/convenience store along Andy Avenue, South Westnedge Avenue and Old Kilgore Road will be utilized. • South Westnedge Avenue is designated as a 4-5 lane major arterial with approximately 21,462 vehicles per day (2011); capacity of 34,200 vehicles per day (level of service "D").
Environmental Issues	<ul style="list-style-type: none"> • Review of the Sensitive Land Use Inventory Map does not identify any environmentally sensitive areas (100-year floodplain, wetlands) at the subject site.
Historic District/ Structure	<ul style="list-style-type: none"> • The subject site is not located within a historic district and does not contain any historic structures.
Land Development Regulations	<ul style="list-style-type: none"> • The application has been submitted under Section 42-261.C.3, <i>Special Land Use</i> in the B-2 zoning district: "<i>Automatic carwashes</i>" subject to conditions.

Land Development Regulations (cont)	• Section 42-462, <i>General Standards for Review of Special Land Uses</i> , sets forth additional criteria for evaluating a special land use and allows conditions to be established.
-------------------------------------	--

III. ANALYSIS:

The proposal to establish an automatic car wash at the subject site fulfills the requirements for issuance of a Special Land Use Permit. All services will be performed within a completely enclosed building with the exception of exterior vacuum devices which will be located along the west side of the car wash building and situated at least 100-feet from a residential district/use line. The site has been designed so as to provide vehicle stacking space that is equal to at least five times the maximum capacity of the car wash building. Finally, the car wash use will be located on the periphery of the Meijer zoning lot and will not create vehicular circulation obstructions or pedestrian movement conflicts. No additional access to the adjacent public street network is proposed, as the automatic car wash use will utilize existing driveways present on the Meijer zoning lot.

Consistent with the City of Portage Comprehensive Plan and in conjunction with the automatic car wash project, the applicant will also be installing a concrete sidewalk along the north side Andy Avenue, between South Westnedge Avenue and 227 Andy Avenue. Installation of this section of sidewalk will fill in an existing gap and will facilitate safe and convenient pedestrian movements between South Westnedge Avenue, Meijer and the adjacent residential neighborhood.

During administrative review of the project, the Department of Community Development and the applicant reviewed noise generated by the carwash in general and the dryers, in particular. The dryers associated with the automatic car wash are located on the north side of the proposed building. Ordinance requirements and possible impacts on existing single family residences located along the south side of Andy Avenue were considered.

As part of the site plan review process, the applicant retained Dr. William Clark, Professor of Otolaryngology and Director of the Audiology and Communication Sciences program at the Washington University of School of Medicine located in St. Louis, Missouri. Dr. Clark previously performed a noise assessment associated with the construction of the first Trade Centre building located west of South Westnedge Avenue adjacent to Interstate 94. Attached is a cover letter and assessment completed by Dr. Clark. Also attached is follow-up e-mail communication between Dr. Clark and staff dated October 30, 2012. In summary, Dr. Clark has concluded that based on the ambient (background) noise level, noise generated from the carwash dryers and distance from the adjacent neighborhood, the noise levels are not anticipated to exceed ordinance requirements. However, and to provide additional protection for the residences in the vicinity, the applicant is proposing to install a six foot high screen consisting of pyramidal arborvitae trees that will block the view of the carwash from the residents to the south.

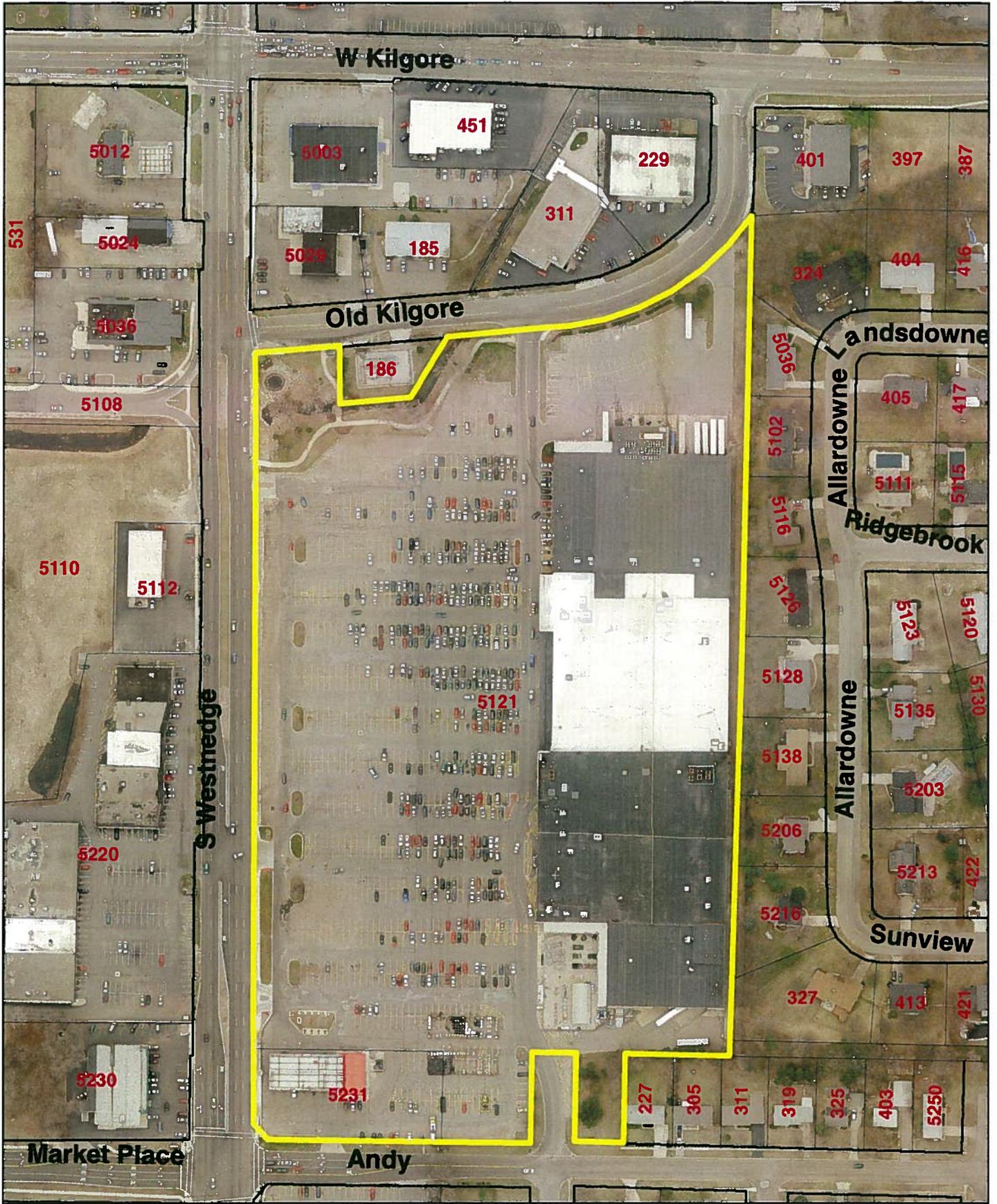
Following construction of the new facility, staff will monitor the noise levels to ensure compliance with applicable noise ordinance requirements. If corrective action is necessary, staff will work with the applicant to identify acceptable solutions including, but not necessarily limited to, modifications to the dryer units, requiring the doors be closed once a vehicle enters the carwash, construction of a sound wall or limiting the hours of operation.

Per statutory requirements, residents/property owners within 300 feet of the zoning lot have been notified in writing of the special land use permit application and Planning Commission meeting. A notice was also published in the local newspaper.

IV. RECOMMENDATION:

Based on the above analysis and subject to any additional information brought before the Planning Commission during the public hearing, staff recommends the Special Land Use Permit for Xtreme Clean Car Wash, 5121 South Westnedge Avenue, be approved. Additionally, the Site Plan for Xtreme Clean Car Wash, 5121 South Westnedge Avenue, is also recommended for approval.

Attachments: Vicinity/Zoning Map
Aerial Photograph
Special Land Use Permit Application
October 9, 2012 correspondence from Dr. Clark
October 30, 2012 e-mail correspondence from Dr. Clark
Site Plan Sheets
Artistic Rendering



Aerial Photography

5121

South Westnedge Avenue



1 inch = 200 feet

Legend

Subject Properties

Name: 5121 swa_AERIAL

APPLICANT INFORMATION

Name Xtreme Clean Car Wash or Michigan		Telephone Number 231.933.3233	
Address 121 Rivers Edge Dr., Ste 3300A	City Traverse City	State MI	Zip code 49684

OWNER INFORMATION (if different)

Name Good Will Co., Inc.		Telephone Number 616.791.3909	
Address 2929 Walker Ave., NW	City Grand Rapids	State MI	Zip code 49544

PROPERTY INFORMATION

Address of property 5121 South Westnedge Ave	Zoning District B-2/B-3	Land Area (acres) 20.9
Legal Description (or attach separate page) (See Attached Drawings)		

RECEIVED
 NOV 20 2012
 COMMUNITY DEVELOPMENT

PROPOSED USE

Description of proposed Special Land Use (attach additional page(s), if necessary)

The applicant is proposing to construct a 2 bay, self serve car wash facility. The proposed location is East of the existing Meijer Gas Station and Southwest of the main store along Andy Avenue. Hours of operation will be similar to Meijer Store and Gas Station, 24 hours a day, 7 days a week. The facility will be essentially unmanned during normal operations, although most customer concerns can be addressed remotely.

OWNER CERTIFICATION

I hereby certify that I am presently the legal owner for the above-described property and all of the above information is true and accurate. I further acknowledge that approval of this Special Land Use Permit constitutes an agreement with the City of Portage and all conditions or limitations imposed shall be fulfilled.


 Signature

11/13/12
 Date



Meijer Real Estate

Roger DeHoek
Real Estate Manager
Telephone: (616) 791-3909
FAX: (616) 735-8887
Roger.DeHoek@meijer.com

November 30, 2012

Mr. Chris Forth, Planner
City of Portage
7900 South Westnedge Ave.
Portage, MI 49002

Re: Meijer Store #22 – 5121 S. Westnedge Ave.

Dear Mr. Forth:

This letter is a Letter of Authorization for Xtreme Car Wash to proceed with their site plan and special use permit approvals as it pertains to the project at the Meijer store located at 5121 S. Westnedge Avenue. Meijer has reviewed the proposed site plan and has no comments or concerns as it relates to the Meijer site.

Sincerely,

MEIJER

Roger DeHoek
Real Estate Manager

 Washington University in St. Louis

SCHOOL OF MEDICINE

Program in Audiology and
Communication Sciences

Graduate Programs
Audiology
Deaf Education
Speech and Hearing Sciences

October 9, 2012

Mr. Chris Forth
City of Portage, Township Supervisor
7900 South Westnedge Avenue
Portage, Michigan 49082

RECEIVED
NOV 20 2012
COMMUNITY DEVELOPMENT

Dear Mr. Forth:

I have been asked by Mr. Corbin Buttleman of Extreme Clean Car Wash to provide an opinion as to whether the sound levels emitted from a dryer (International Drying 3 Motor Whisper Dryer) from a planned car wash facility in the City of Portage will be in compliance with the Code of Ordinances, Chapter 24, Community Quality, Article 4, Noise.

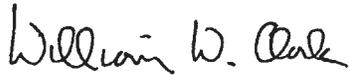
In formulating my opinion, I reviewed the current Portage Community Noise Ordinance, and I considered information provided to me by Mr. Buttleman that included a site map of the property and a letter to Mr. Buttleman from Arthur Stephens, President, International Drying Corporation, dated July 21, 2012, and measures provided by International Drying Corporation concerning sound level readings for the proposed dryer. I also visited a car wash that is located near my home, is located at an intersection of a heavily traveled street much like Westnedge and a side street that enters a residential neighborhood, and has the same layout and similar equipment as the proposed project. I made my own sound measurements at this location to validate the data I received from International Drying. I am familiar with the intersection of Westnedge and Andy Avenues. As you may remember, I made sound measurements for AVB Construction in 2004 at a location very near the intersection.

As you know, the purpose of the Portage Community Noise Ordinance, like many of its kind, is to secure the public health, safety, and general welfare of the residents and property owners by regulation of noise within the city. Health, safety, and general welfare are achieved by taking steps to be sure excessive noise does not “unreasonably disturb(s) the comfort, quiet and repose of persons in the area...” (Portage noise ordinance, 24.95, (b)1). To quantify the noise that could potentially disturb the repose of other residents, the code specifies a general limit of 50 dBA as *prima facie* evidence that an unreasonable disturbance will be created.

On the basis of my evaluation which is attached, it is my opinion to a reasonable degree of scientific certainty that the noise associated with the operation of the dryers in the above-referenced location will not violate either the spirit or the letter of the Portage Noise Ordinance, and will not disturb residents living nearby.

I have attached a biographical sketch and a CV to document my credentials in offering this opinion.

Feel free to contact me if further information is needed.
Sincerely,

A handwritten signature in cursive script that reads "William W. Clark".

William W. Clark, Ph.D.
Professor of Otolaryngology and Director
Program in Audiology and Communication Sciences
Washington University School of Medicine
660 S. Euclid Ave.
Campus Box 8042
St. Louis, MO 63110

Attachment (1)

ATTACHMENT

Foundation for opinion that the noise levels emitted by the International Dryer will not violate Portage Noise Ordinance:

- The noise from the entrance to the car wash while the dryer is running is the appropriate measure of sound that is propagating to the property line(s).
 - The dryer level measured as 80 dBA is valid, and reflects both the direct sound coming from the entrance, as well as the transmitted sound from the exit that spreads around the building
 - I measured similar levels at a similar car wash in St. Louis
- Using well-known metrics for calculating the sound reduction from a source (the so-called “inverse square law”) I calculated the level of sound produced by the dryer as a function of distance from the wash entrance. This is shown on the Figure as dashed x’s .
 - The calculated sound level at 90 feet, which is approximately the distance from the wash entrance to the property line on Andy Avenue, is 52.9 dBA.
 - The calculated level at 120 feet, which is approximately the minimum distance to the nearest property line of residents or property owners who would be exposed to the noise, is 50.4 dBA.
 - Both of these measures are smaller than the accuracy of type II sound level meters specified in the ordinance (+/- 2 dB), and violations only are counted by most regulatory agencies (OSHA, Federal Railroad Administration, etc.) if they exceed the accuracy range (4 dB). Therefore, no violations of the “general” 50 dBA limit are expected.
 - The dryer cycle represents only a portion of the car wash cycle, and depends also on the number of cars serviced per hour or day. Therefore, the ‘average’ noise, measured over, for example, a 10-minute period, caused by the 1-minute cycle of the dryer and at least 10 minutes between cars, would be 42.9 dBA at the property line.
 - It is impossible to measure the dryer noise level at the property line, or at the receiving residents’ property line because of the level of ambient sound in the environment due to traffic noise, mostly from Westnedge Avenue, which is about 60-65 dBA.
- The major source of noise in the environment comes from traffic along Westnedge Avenue, and, based upon measures from a similar road in St. Louis, is estimated at 60-65 dBA, emanates from directly south of the site, and essentially “drowns out” the noise from the car wash

- The noise from Westnedge Avenue is shown as the shaded area on the graph and is plotted conservatively at 60 dBA. This value is approximately 10 dB higher than the noise from the at the receiving property line nearest the car wash. The combined contributions of the car wash noise and traffic noise are shown as filled squares and solid lines.
- Shown is the overall level of noise, in dBA, projected as a function of distance from the entrance of the car wash, the source of the dryer noise. Shown are the separate contributions of dryer noise, (dashed line with x symbols), street noise (dashed lines with + symbols), and the aggregate sound level from the combined sources (Wash+Street; squares with solid line).
- For distances less than 40 feet from the dryer, the total noise is dominated by the dryer noise. But at 40 feet, dryer noise and noise emanating from the street are equal (60 dBA), and the overall level level is 63 dBA (overall level= $10 \cdot \log (10^{(60/10)} + 10^{(60/10)}) = 63$ dBA).
- At distances greater than 40 feet from the dryer entrance, the overall noise is dominated by the street noise, and at the property line, approximately 90 feet from the wash entrance, the dryer noise adds less than 1 dB to the ambient noise level. This difference would not be discernable to one's ears and would not create, in any sense of the word, a "disturbance".
- At distances greater than 90 feet, and at the receiving property line across Andy Avenue, the environmental ambient sound is entirely dominated by the street noise.

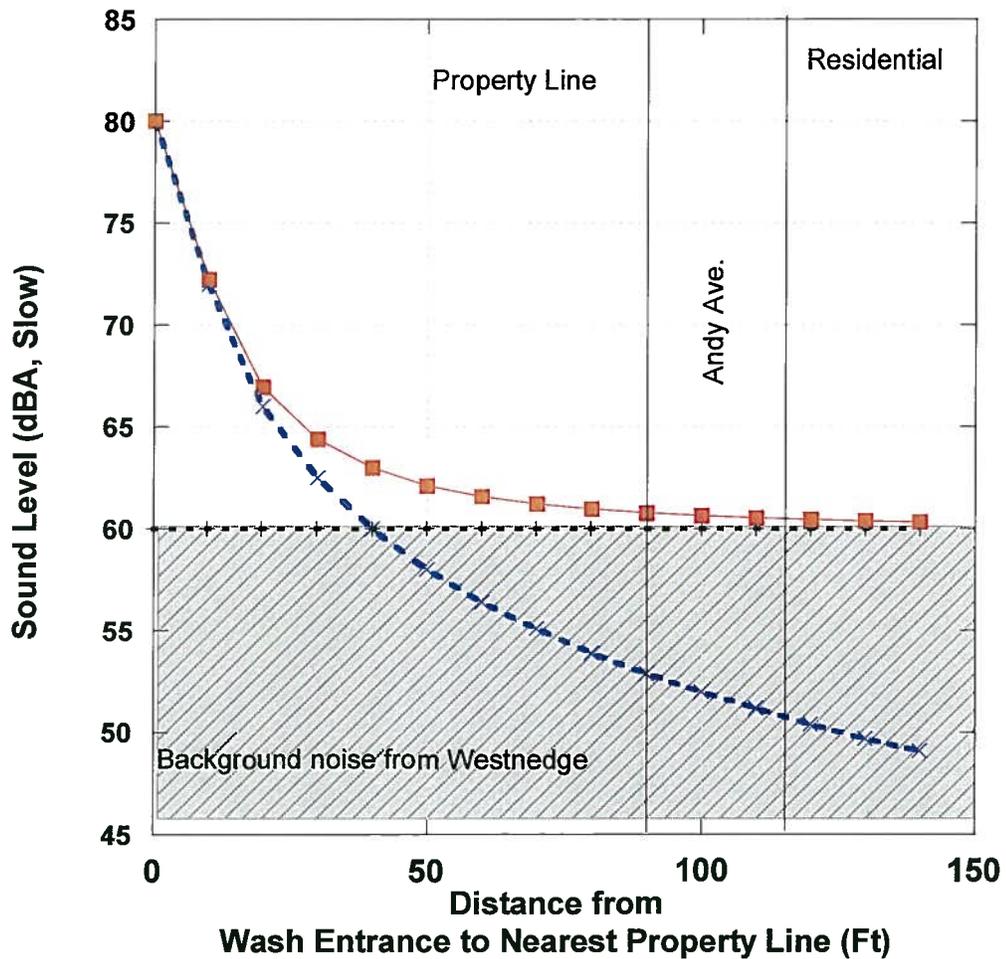


Figure showing the combined effects of noise from the dryer of the car wash and road traffic noise as a function of distance from the entrance of the wash. Shaded area is noise from Westnedge Avenue. Dashed blue line (x) represents the noise emanating from the car wash during the operation of the dryer. Red solid line is the overall level as a function of distance from the entrance to the car wash. Data are from report by International Dryer, and personal measurements taken at a similar wash in a similar location. See letter for details.

Christopher Forth - RE: Extreme Car Wash LLC planned facility in Portage MI

From: "Clark, William" <clarkw@wusm.wustl.edu>
To: forthc@portagemi.gov
Date: 10/30/2012 11:02 AM
Subject: RE: Extreme Car Wash LLC planned facility in Portage MI
CC: westm@portagemi.gov; Corbin.Buttleman@lmcu.org

Mr. Forth,

Sorry it has taken me some time to respond to your questions. My brief responses are contained below. Please understand the opinions I have expressed are qualitative only; I have made no measurements at the location, and I've only relied upon the documents provided me by Mr. Buttleman in preparing my letter. With this caveat, please see my responses and let me know (either you or Mr. Buttleman) if you need further information from me.

Your questions are all valid, and relevant to this issue. Unfortunately, the issue of "annoyance" due to noise is very difficult to quantify, and it complicates a clear-cut response to some of the questions you posed.

Bill Clark

William W. Clark, Ph.D., Program Director
Program in Audiology and Communication Sciences
Washington University School of Medicine
660 S. Euclid Ave., Campus Box 8042
St. Louis, MO 63110

Phone: (314) 747-0104 or (314) 747-0101
Fax: (314) 747-0105

From: Christopher Forth [mailto:forthc@portagemi.gov]
Sent: Wednesday, October 24, 2012 3:16 PM
To: Clark, William
Cc: Corbin Buttleman; Mike West
Subject: Re: Extreme Car Wash LLC planned facility in Portage MI

Dear Dr. Clark:

Thank you for your assessment regarding dryer noise associated with the proposed car wash and potential impacts on the nearby residents. After reviewing the report, the following questions/issues were identified that perhaps you could provide additional input:

1. Sound of the dryer noise compared to the sound of the ambient noise. Given the location of the site adjacent to South Westnedge Avenue and I-94, it is recognized the ambient noise level will be higher than other locales. Although the dBA level of the dryers and ambient noise may be similar, the sound (pitch) of the dryers is likely much different than the ambient sound. I'm certainly not an expert in sound, but assuming the dBA level at the property line is the same for both the dryers and ambient noise, is the difference between the type of sound generated by the dryers versus the sound of the ambient noise discernable to the human ear? If so, what impact might it have on the adjacent residents?

12/13/2012

-

Reply: If the dBA levels of the dryer and the ambient noise are the same, but differ in spectrum (pitch and temporal variations), the dryer noise would be discernable. In fact, listeners can detect tonal sounds in background noises even when the sound has a slightly lower overall level. The question is whether it would be annoying, or disturb the tranquility of the neighborhood. From the perspective of audibility, professionals often recommend speech levels be at least 6 dB above the background noise to be clearly understood, and auditory warning signals are recommended to exceed background noise by 9-15 dB to insure that sounds are not just "audible", but noticed, and heeded (for warning signals). Specific to your question, someone who doesn't want a car wash added to the site could legitimately say they are bothered by the sound just because they can hear it, but it would be hard for me to accept that they were really bothered by it, given that passing vehicles are allowed by your ordinance to make much more noise, day or night, and would offer much more opportunity to "disturb" them.

-

2. Automated 24/7 Car Wash Facility. As you may or may not know, this car wash facility is automated and open 24/7. It can be expected that the ambient noise level will be less at 3:00 a.m. than at 7:00 p.m. What impact does this lower ambient noise level have on your conclusions and perhaps on the adjacent residents?

I don't have any data on the differences at this site, but generally, yes, the levels would be lower due to less traffic. I would expect the difference to be on the order of 5-10 dB, depending on the volume of night time traffic. This would make the car wash noise more detectable, but I don't know that it would make it more annoying, unless someone was listening for it. Levels below 50 dBA at the residents' property would not awaken them if they are sleeping inside, would not interfere with indoor activities, would only be discernable if they were outdoors at 3 am, and would be eclipsed by every passing car on Andy Avenue. If there were complaints, perhaps the wash could be closed during wee hours.

3. Sound Wall. I have discussed with Mr. Buttleman installation of a sound wall along Andy Avenue opposite the carwash with the intent to buffer the adjacent residents from the noise emanating from the carwash. Would installation of a wall help in reducing the noise levels? If so, how high and how long should it be?

I did some calculations, using methods specified by Cyril Harris' "Handbook of Acoustical Methods and Noise Control" to determine if the sound wall would reduce the level of sound appreciably at the residents' property line. Specifically I looked at the octave band centered at 500 Hz, where the dryer noise probably has more energy than the lower frequency ambient noise. The problem here is that the barrier will be positioned a long way (90 feet) from the source of the noise, and the closest residential property is at least another 60 feet away from the barrier. To get any significant attenuation, the barrier has to be pretty tall

to have much effect; the attenuation comes mostly from making the sound go up and over the barrier to the receiving property, and increases the effective distance from the source. But due to the long distances, the height of the barrier does not add appreciably to the distance. A barrier that has a height that extends 6 feet above the line-of-sight to the top of the dryer entrance provides no appreciable difference in the sound level at the property line across Andy Avenue. Increasing the height to 9 feet above the line-of-sight will reduce the sound in the 500 Hz band by less than 3 dB, and will reduce the overall A-weighted level by even less than that, because the low frequency sounds "bend" around the barrier more effectively than higher frequency sounds.

So my "acoustic" conclusion was that the barrier would not reduce the sound levels at the receiving property line appreciably and was not indicated. HOWEVER, putting an attractive "sound wall" in can reap significant benefits in other ways. It sends a message to the community that the city and developers are paying attention to the possibility of noise effects on the community, and if the wall blocks the view of the car wash entrance, residents will be less annoyed by the sound. Numerous studies have shown that blocking the view of noise sources considered annoying reduces the perceived annoyance. So if the situation may be improved by adding the sound wall, I recommend it. Just don't expect it to reduce the sound level significantly, unless you measure right at the wall near the ground.

Your input on the above matters is greatly appreciated. City staff has recently responded to resident complaints involving dryer noise generated by another carwash so it is important for both the city and for Mr. Buttleman that a similar situation not be repeated.

If you have any questions, please contact me at your earliest convenience. For your information, I will be out of the office on Thursday, October 25th and Friday, October 26th.

Hope this is helpful.

Bill Clark

Christopher Forth, AICP
Deputy Director of Planning, Development & Neighborhood Services
City of Portage Department of Community Development
Telephone: (269) 329-4474
Facsimile: (269) 329-4506
www.portagemi.gov
>>> "Clark, William" <clarkw@wusm.wustl.edu> 10/15/2012 9:34 AM >>>

Dear Mr. Forth:

I have been asked by Mr. Corbin Buttleman of Extreme Clean Auto Wash LLC to provide an opinion as to whether the sound levels emitted from a planned car wash facility will be in compliance with the noise ordinance of the City of Portage. Attached please find my letter and an attachment providing the foundation for my opinion. I

12/13/2012

have also attached a biographical sketch and a recent curriculum vitae for your records. Please feel free to contact me if you have any further questions.

Sincerely,

William W. Clark, Ph.D., Program Director
Program in Audiology and Communication Sciences
Washington University School of Medicine
660 S. Euclid Ave., Campus Box 8042
St. Louis, MO 63110

Phone: (314) 747-0104 or (314) 747-0101

Fax: (314) 747-0105

The materials in this message are private and may contain Protected Healthcare Information or other information of a sensitive nature. If you are not the intended recipient, be advised that any unauthorized use, disclosure, copying or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this email in error, please immediately notify the sender via telephone or return mail.

The materials in this message are private and may contain Protected Healthcare Information or other information of a sensitive nature. If you are not the intended recipient, be advised that any unauthorized use, disclosure, copying or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this email in error, please immediately notify the sender via telephone or return mail.

paradigm design
 8542 3 MILE N.W.
 SUITE 8
 SUITE 8000, WASH DC 20144
 (410) 785-1556
 (410) 785-1557
 PARADIGMDC.COM

MALL CONSTRUCTION LEGEND

- 1. IMPROVED CONCRETE TO EXISTING CONCRETE
- 2. IMPROVED CONCRETE TO EXISTING CONCRETE
- 3. IMPROVED CONCRETE TO EXISTING CONCRETE
- 4. IMPROVED CONCRETE TO EXISTING CONCRETE
- 5. IMPROVED CONCRETE TO EXISTING CONCRETE
- 6. IMPROVED CONCRETE TO EXISTING CONCRETE
- 7. IMPROVED CONCRETE TO EXISTING CONCRETE
- 8. IMPROVED CONCRETE TO EXISTING CONCRETE
- 9. IMPROVED CONCRETE TO EXISTING CONCRETE
- 10. IMPROVED CONCRETE TO EXISTING CONCRETE
- 11. IMPROVED CONCRETE TO EXISTING CONCRETE
- 12. IMPROVED CONCRETE TO EXISTING CONCRETE
- 13. IMPROVED CONCRETE TO EXISTING CONCRETE
- 14. IMPROVED CONCRETE TO EXISTING CONCRETE
- 15. IMPROVED CONCRETE TO EXISTING CONCRETE
- 16. IMPROVED CONCRETE TO EXISTING CONCRETE
- 17. IMPROVED CONCRETE TO EXISTING CONCRETE
- 18. IMPROVED CONCRETE TO EXISTING CONCRETE
- 19. IMPROVED CONCRETE TO EXISTING CONCRETE
- 20. IMPROVED CONCRETE TO EXISTING CONCRETE
- 21. IMPROVED CONCRETE TO EXISTING CONCRETE
- 22. IMPROVED CONCRETE TO EXISTING CONCRETE
- 23. IMPROVED CONCRETE TO EXISTING CONCRETE
- 24. IMPROVED CONCRETE TO EXISTING CONCRETE
- 25. IMPROVED CONCRETE TO EXISTING CONCRETE
- 26. IMPROVED CONCRETE TO EXISTING CONCRETE
- 27. IMPROVED CONCRETE TO EXISTING CONCRETE
- 28. IMPROVED CONCRETE TO EXISTING CONCRETE
- 29. IMPROVED CONCRETE TO EXISTING CONCRETE
- 30. IMPROVED CONCRETE TO EXISTING CONCRETE
- 31. IMPROVED CONCRETE TO EXISTING CONCRETE
- 32. IMPROVED CONCRETE TO EXISTING CONCRETE
- 33. IMPROVED CONCRETE TO EXISTING CONCRETE
- 34. IMPROVED CONCRETE TO EXISTING CONCRETE
- 35. IMPROVED CONCRETE TO EXISTING CONCRETE
- 36. IMPROVED CONCRETE TO EXISTING CONCRETE
- 37. IMPROVED CONCRETE TO EXISTING CONCRETE
- 38. IMPROVED CONCRETE TO EXISTING CONCRETE
- 39. IMPROVED CONCRETE TO EXISTING CONCRETE
- 40. IMPROVED CONCRETE TO EXISTING CONCRETE
- 41. IMPROVED CONCRETE TO EXISTING CONCRETE
- 42. IMPROVED CONCRETE TO EXISTING CONCRETE
- 43. IMPROVED CONCRETE TO EXISTING CONCRETE
- 44. IMPROVED CONCRETE TO EXISTING CONCRETE
- 45. IMPROVED CONCRETE TO EXISTING CONCRETE
- 46. IMPROVED CONCRETE TO EXISTING CONCRETE
- 47. IMPROVED CONCRETE TO EXISTING CONCRETE
- 48. IMPROVED CONCRETE TO EXISTING CONCRETE
- 49. IMPROVED CONCRETE TO EXISTING CONCRETE
- 50. IMPROVED CONCRETE TO EXISTING CONCRETE
- 51. IMPROVED CONCRETE TO EXISTING CONCRETE
- 52. IMPROVED CONCRETE TO EXISTING CONCRETE
- 53. IMPROVED CONCRETE TO EXISTING CONCRETE
- 54. IMPROVED CONCRETE TO EXISTING CONCRETE
- 55. IMPROVED CONCRETE TO EXISTING CONCRETE
- 56. IMPROVED CONCRETE TO EXISTING CONCRETE
- 57. IMPROVED CONCRETE TO EXISTING CONCRETE
- 58. IMPROVED CONCRETE TO EXISTING CONCRETE
- 59. IMPROVED CONCRETE TO EXISTING CONCRETE
- 60. IMPROVED CONCRETE TO EXISTING CONCRETE
- 61. IMPROVED CONCRETE TO EXISTING CONCRETE
- 62. IMPROVED CONCRETE TO EXISTING CONCRETE
- 63. IMPROVED CONCRETE TO EXISTING CONCRETE
- 64. IMPROVED CONCRETE TO EXISTING CONCRETE
- 65. IMPROVED CONCRETE TO EXISTING CONCRETE
- 66. IMPROVED CONCRETE TO EXISTING CONCRETE
- 67. IMPROVED CONCRETE TO EXISTING CONCRETE
- 68. IMPROVED CONCRETE TO EXISTING CONCRETE
- 69. IMPROVED CONCRETE TO EXISTING CONCRETE
- 70. IMPROVED CONCRETE TO EXISTING CONCRETE
- 71. IMPROVED CONCRETE TO EXISTING CONCRETE
- 72. IMPROVED CONCRETE TO EXISTING CONCRETE
- 73. IMPROVED CONCRETE TO EXISTING CONCRETE
- 74. IMPROVED CONCRETE TO EXISTING CONCRETE
- 75. IMPROVED CONCRETE TO EXISTING CONCRETE
- 76. IMPROVED CONCRETE TO EXISTING CONCRETE
- 77. IMPROVED CONCRETE TO EXISTING CONCRETE
- 78. IMPROVED CONCRETE TO EXISTING CONCRETE
- 79. IMPROVED CONCRETE TO EXISTING CONCRETE
- 80. IMPROVED CONCRETE TO EXISTING CONCRETE
- 81. IMPROVED CONCRETE TO EXISTING CONCRETE
- 82. IMPROVED CONCRETE TO EXISTING CONCRETE
- 83. IMPROVED CONCRETE TO EXISTING CONCRETE
- 84. IMPROVED CONCRETE TO EXISTING CONCRETE
- 85. IMPROVED CONCRETE TO EXISTING CONCRETE
- 86. IMPROVED CONCRETE TO EXISTING CONCRETE
- 87. IMPROVED CONCRETE TO EXISTING CONCRETE
- 88. IMPROVED CONCRETE TO EXISTING CONCRETE
- 89. IMPROVED CONCRETE TO EXISTING CONCRETE
- 90. IMPROVED CONCRETE TO EXISTING CONCRETE
- 91. IMPROVED CONCRETE TO EXISTING CONCRETE
- 92. IMPROVED CONCRETE TO EXISTING CONCRETE
- 93. IMPROVED CONCRETE TO EXISTING CONCRETE
- 94. IMPROVED CONCRETE TO EXISTING CONCRETE
- 95. IMPROVED CONCRETE TO EXISTING CONCRETE
- 96. IMPROVED CONCRETE TO EXISTING CONCRETE
- 97. IMPROVED CONCRETE TO EXISTING CONCRETE
- 98. IMPROVED CONCRETE TO EXISTING CONCRETE
- 99. IMPROVED CONCRETE TO EXISTING CONCRETE
- 100. IMPROVED CONCRETE TO EXISTING CONCRETE

XTREME CLEAN MEIJER STORE #22

515 WEST WINDROSE PORTAGE, MI

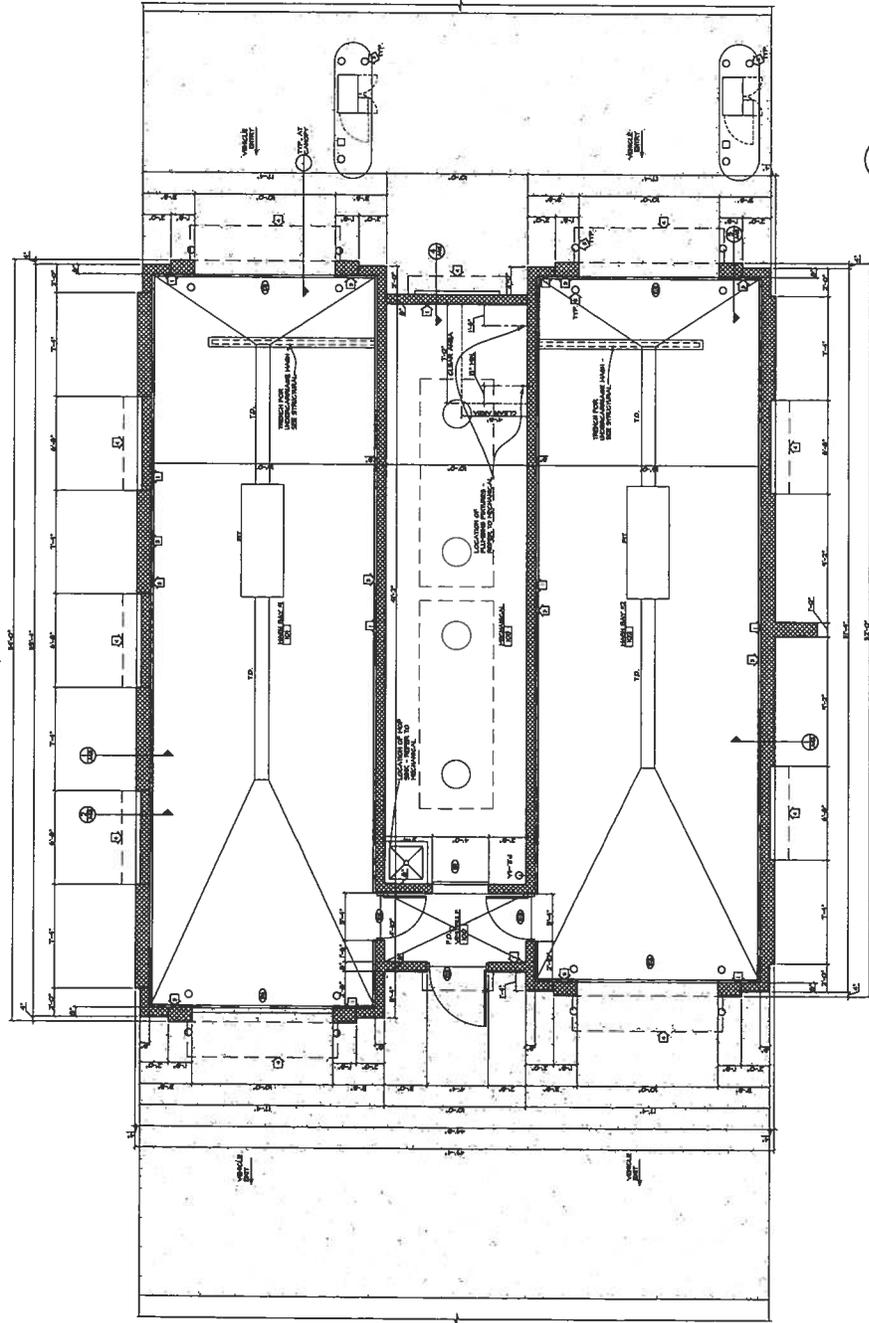
ROCHFORD CONSTRUCTION
 11111
 11111

PERMIT DATE
 11111
 11111

PROJECT
 1105037

STREET
 A 101

RECEIVED
 DEC 07 2012
 COMMUNITY DEVELOPMENT



FLOOR PLAN



*paradigm
design*

XTREME CLEAN
12.06.2012

TO: Planning Commission

DATE: December 14, 2012

FROM: Vicki Georgeau, ^{JA} Director of Community Development

SUBJECT: Donation Box Ordinance Amendment

I. INTRODUCTION:

During the past several months, donation boxes operated by non-profit and for-profit organizations for the purpose of collecting clothing, books, and other household items began to appear along commercial corridors throughout the city. As the number and location of donation boxes has increased, discussion ensued regarding potential public health, safety and community quality concerns associated with the donation boxes. During the September 25, 2012 City Council meeting, Council requested the City Administration develop ordinance language to address concerns expressed associated with the location of donation boxes. The City Administration has worked with the Office of the City Attorney to development ordinance language based on available regulatory options and best practices utilized in other communities. The following information provides additional background information concerning donation boxes currently located in the city and a summary of the proposed ordinance language.

II. BACKGROUND INFORMATION:

A survey of all commercially zoned properties has been accomplished, and 24 existing donation boxes at 18 separate locations were identified throughout the city as of December 12, 2012. The attached Donation Box Location Map illustrates the location of the donation boxes identified. A series of photos is also attached that provides the address, principal use, and illustrates the location and condition of each donation box. For Commission information, based on a field survey in late August 2012, there were a total of 18 donation boxes located at 14 different locations.

As shown in the attached photos of the identified donation boxes, many are located in a manner that is visible from the public street right-of-way, several are located within the parking lot interior, and two are located against the exterior building wall. The location of the identified donation boxes do not create problems with regard to obstruction of required parking spaces or maneuvering lanes, internal or external traffic flow, or vision obstructions. However, during the past several months, accumulation of litter and donated items placed on the ground around donation boxes has been observed and documented.

Some concern has also been expressed with regard to whether the donation boxes are operated by non-profit or for-profit organizations, and whether the donation boxes are operated by "legitimate" non-profit organizations. A variety of organizations operate donation boxes located within the city. A large number of boxes are operated by Planet Aid, while the Cancer Federation, Community Patriots, Homeless Empowerment Relationship Organization (HERO), Childhood Disease Research Foundation, USAgain, Metro Charities and Better World Books also operate within the city. Planet Aid, the Cancer Federation, HERO, Childhood Disease Research Foundation and Metro Charities are non-profit organizations, whereas Community Patriots, Better World Books and USAgain are for profit organizations.

As noted, donation boxes are operated by both non-profit and for-profit organizations. Further, the City Attorney has reviewed this matter and determined the city cannot distinguish, from a regulatory perspective, between a charitable or for-profit use. The City Attorney has indicated that there are State statutes (the Michigan Consumer Protection Act, and the Charitable Organizations and Solicitations Act) that regulate charitable clothing donation boxes, which are intended to ensure proper disclosure regarding the operation of boxes.

As required by the Michigan Consumer Protection Act, the donation boxes have wording that identifies the organization responsible for the use, which have not been considered “signs” regulated by the Zoning Code. This determination is similar to wording/advertising on vending machines, gas pumps, and ATM/ drive-through facilities that are oriented to the customer, as opposed to the public street right-of-way.

III. PROPOSED ORDINANCE LANGUAGE

The Department has contacted several communities in southwest Michigan regarding donation boxes and other similar exterior accessory uses (including: the cities Kalamazoo, Wyoming, and Kentwood, and the townships of Oshtemo, Texas, Kalamazoo, and Plainfield). None of the southwest Michigan communities surveyed have specific regulations for these types of accessory uses. With the exception of Kalamazoo Township, the manner in which these communities address concerns with donation boxes and other accessory uses is similar to the approach utilized by the City of Portage, as noted above. Kalamazoo Township has taken the approach that the donation boxes are not an approved use specified in the Zoning Code and are therefore not permitted.

Communities located in southeast Michigan and outside of the State of Michigan have recently adopted regulations for donation boxes. For example, the cities of Romulus, Grosse Ile, and Woodhaven, Michigan recently adopted regulations, and the City of Wayne, South Lyon and Brownstown Township are in the process of adopting regulations for donation boxes. Of the identified communities that have adopted ordinances for donation boxes, regulations typically include the following provisions:

- Requirement for a Permit: permit applications must include property owner permission, contact information for the donation box operator, and a drawing of the donation box location;
- Location Requirements: donation boxes are prohibited in residential zoning districts, cannot be located in a required front, side and/or rear yard area, and must be located in a manner that does not obstruct or impede fire lanes, exit doors, off-street parking and maneuvering lanes, access drives and sidewalks;
- Limits on Number of Boxes: many communities restrict the number of donation boxes on one specific property;
- Maintenance Requirements: specifications on the condition of the donation box, and prohibition of junk/debris in the immediate area surrounding the donation boxes.

Some communities have chosen to amend their Zoning Code to include donation box regulations, while others have amended their community codified ordinances to regulate donation boxes and require a business permit or license. After considering the nature of this accessory use, the proliferation and location of the donation boxes in the community, the potential to cause blight, ordinance language is proposed to be added to Chapter 24, Community Quality.

The following is a brief summary of the substantive sections of the proposed ordinance language:

- Donation boxes shall be maintained in good condition and appearance, and must be serviced and emptied so that debris and other material does not accumulate in the area surrounding a donation box.
- The property owner must submit an affidavit providing written permission to place a box(es) on the property, and a local contact for the donation box operator must be provided to the city.
- Operator information must be displayed on the box and state if it is a non-profit or for-profit entity.
- Donation boxes are not permitted on land used for residential purposes, undeveloped property, or property where the principal use has been closed or unoccupied for more than 30 days.
- No more than two boxes are allowed on a single lot of record. Donation boxes placed on separate lots of record must be at least 500 feet apart.
- A maximum donation box size is specified, with a requirement that boxes be locked or otherwise secured.
- Donation boxes must be located at least ten feet from: a public right-of-way, public sidewalk, driveway and from a side or rear property line if the adjacent property is use for residential purposes.
- The location of donation boxes must not create visions obstructions, obstruct fire lanes or building exits, or interfere/encroach into any access drive, parking lot maneuvering lane or required off-street parking space.
- Every donation box, including those that exist upon adoption and effective date of the ordinance, must apply for a permit and comply with all requirements. The permit is valid for one calendar year (or portion thereof) and must be annually renewed.
- A permit can be revoked upon proper notice for failure to comply with the requirements of the ordinance. If the permit has been revoked, the permit will not be renewed for the subsequent calendar year. In addition, if three written violation notices are provided to a permittee during any given calendar year, the permit will not be renewed for the subsequent permit year.
- Any person aggrieved by a decision of the Director can appeal that decision to the Planning Commission.
- The recommended fee for an initial annual permit is \$50, \$25 for the annual renewal, and \$150 for an appeal.

Staff has reviewed the existing donation boxes to determine what, if any, do not comply with the minimum ordinance requirements. Based on this review, the following donation boxes are not in compliance:

- 5905 South Westnedge Avenue. The donation box is not located ten feet from the adjacent public right-of-way. However, the box can be moved to a conforming location.
- 6355 South Westnedge Avenue. The building (former K-Mart) has been unoccupied for an extended period of time. However, the development is being renovated for Dick's Sporting Goods.
- 8086 Portage Road. The donation box is not located ten feet from the adjacent public right-of-way. However, the box can be moved to a conforming location.
- 5469 South Sprinkle Road. The donation box is not located ten feet from the adjacent public right-of-way. However, the box can be moved to a conforming location.
- 9119 South Sprinkle Road. Three boxes are located on the same lot of record. One must be removed.
- 8350 Shaver Road. Three boxes are located on the same lot of record. One must be removed.

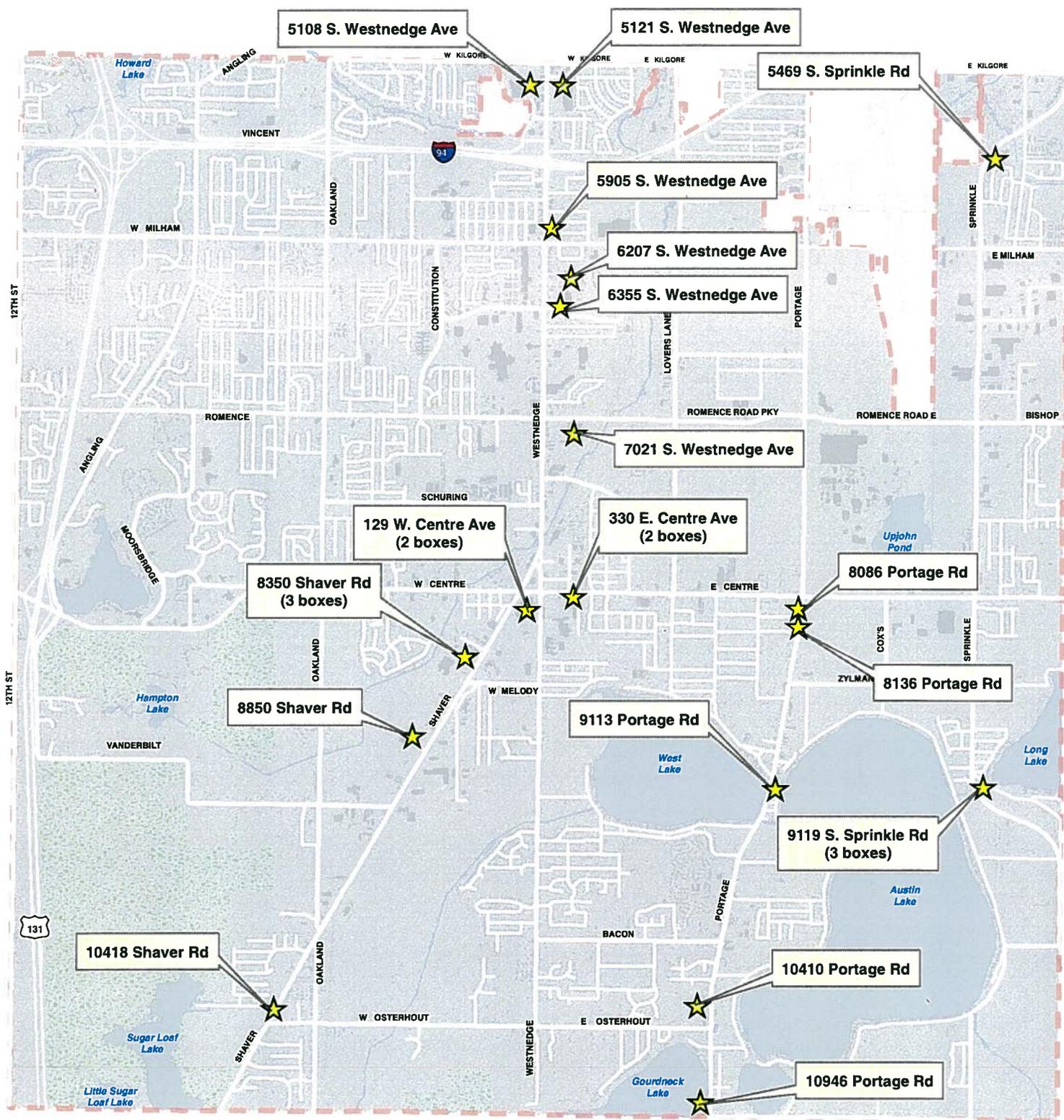
While the proposed ordinance would amend Chapter 24, Community Quality, it has been recommended by the City Attorney that the Planning Commission and City Council review the proposed amendment in the same manner as a Zoning Code amendment. This approach has been advised for several reasons, which include that: the Planning Commission is the appellate body; the ordinance has zoning elements (e.g., specifies use of land where donation boxes are permitted and provisions for the location of donation boxes) several property owners and donation box operators will be affected if the ordinance is adopted.

Consequently, the Planning Commission is advised to review the proposed ordinance during the December 20, 2012 meeting. Subsequent to initial Planning Commission review and discussion, a public hearing will be held during the January 3, 2013 meeting. After the public hearing process concludes, a recommendation from the Planning Commission can be forwarded to the City Council for additional consideration and public comment.

Attachments: Donation Box Location Map
 Photos of Donation Boxes
 Proposed Donation Box Ordinance and Fee Resolution

Donation Box Location Map

Date: 12/14/2012



★ Donation Box



1 inch = 4,200 feet



Meijer, 5121 S. Westnedge



Lowes, 5108 S. Westnedge



Hoffman Party, 5905 S. Westnedge



Toys R Us, 6207 S. Westnedge



Former K-Mart, 6355 S. Westnedge



Sam's Club, 7021 S. Westnedge



Sweets Convenience, 330 E. Centre



Portage Centre Plaza, 129 W. Centre



(North)



(South)

Wal-Mart, 8350 Shaver



Meijer, 8850 Shaver



DN's Party Store 10418 Shaver



Sprinkle Rd. Laundry, 5469 Sprinkle



Shiney Brite, 8086 Portage



Joy Fong, 8136 Portage



H & B Market, 9113 Portage



Lakeshore Market, 9119 Sprinkle



Kaps Restaurant, 10410 Portage



Connie's, 10946 Portage

CHAPTER 24, COMMUNITY QUALITY, ARTICLE 6. DONATION BOXES

Sec. 24-140. Intent and Definitions.

A. The Donation Boxes Ordinance is intended to be a regulatory ordinance in the public's health, safety and welfare for the protection of all citizens who use donation boxes. The intent of this Donation Boxes Ordinance is to impose restrictions and conditions on all donation boxes in the City so that they are, and remain, clean, safe and do not create hazards to pedestrians and to vehicular traffic. The ordinance is passed under the City's regulatory authority pursuant to MCLA 117.4, et. seq., and City Charter.

B. *Operator* means a person who owns, operates or otherwise is in control of donation boxes to solicit donations of salvageable personal property.

Director means the Director of Community Development for the City of Portage.

Permitee means the person who is issued a permit authorizing placement of donation box(es) on real property.

Real property, Property or Land means a lot of record located in the City of Portage.

Property owner means the person who is an owner of real property where the donation box(es) are located.

Donation box means any container, receptacle, or similar device that is located on any parcel or lot of record within the City and that is used for soliciting and collecting donations of clothing, household items, or other salvageable personal property. This term does not include recycle bins for the collection of recyclable material governed or regulated by the Zoning Code, any rubbish or garbage receptacle or any donation box located within a building.

Sec. 24-141. Donation Box Permit.

No later than ninety (90) days from the effective date of this article, no person shall place, operate, maintain or allow any donation box on any real property without first obtaining an annual permit issued by the Department of Community Development ("Department"), to locate a donation box.

Sec. 24-142. Application for a Permit.

- A. Any person desiring to secure a permit shall make an application to the Department of Community Development.
- B. A permit shall be obtained for each donation box(es) proposed. Combining fees for donation box(es) located on a lot of record may be addressed in the fee resolution.
- C. 1. The application for a permit shall be upon a form provided by the Department. The applicant shall furnish the following information:

- (i) Name, address and email of all partners or limited partners of a partnership applicant, all members of an LLC applicant, all officers and directors of a corporation applicant, all stockholders owning more than five percent of the stock of a corporate applicant, and any other person who is interested directly in the ownership or operation of the business, including all aliases.
 - (ii) Date of birth of individuals and date of establishment of any entity.
 - (iii) Written proof that the individual is at least 18 years of age.
 - (iv) Whether the applicant has previously received a permit for a donation box in the city or operates a donation box or similar type receptacle without a permit in the city.
 - (v) The name, address, email and telephone number of a contact person for all matters relating to a donation box located in the city.
2. The physical address of the real property where the donation box is proposed to be located.
 3. A scaled drawing sufficient to illustrate the proposed location of the donation box on the real property, the dimensions of the proposed donation box and that the location complies with the requirements of Section 24-143 of this Article 6 of Chapter 24.
 4. If not the owner of the real property, an affidavit from the property owner providing written permission to place the donation box(es) on the property, as well as an acknowledgment from the property owner of receipt of a copy of this ordinance. shall be provided on a form provided by the Director.
 5. A nonrefundable fee in an amount established by resolution of City Council.
- D. Within ten (10) days of receiving an application for a permit, the Director shall notify the applicant whether the permit is granted or denied. If the Director denies an application, the Director shall state in writing the specific reasons for denial.
 - E. No person to whom a permit has been issued shall transfer, assign or convey such permit to another person or legal entity.
 - F. A person shall be issued a permit by the Director if the requirements of this article are satisfied.

Sec. 24-143. Requirements for a permit.

- A. A Permittee shall operate and maintain, or cause to be operated and maintained, all donation boxes located in the City for which the Permittee has been granted a permit as follows:

1. Donation boxes shall be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be free of graffiti;
2. Donation boxes shall be locked or otherwise secured in such a manner that the contents cannot be accessed by anyone other than those responsible for the retrieval of the contents;
3. Donation boxes shall contain in two (2") inch type visible from the front of each donation box the name, address, email, website and phone number of the operator, as well as whether the donation box is owned and operated by a for profit company or a not for profit company.
4. Donation boxes shall be serviced and emptied as needed, but at least every thirty (30) days.
5. The Permittee and property owner shall maintain, or cause to be maintained, the area surrounding the donation boxes, free from any junk, debris or other material. The property owner shall be responsible to the extent provided by law for the City's cost to abate any nuisance, in accordance with Section 24-113(e), Abatement Procedure, of the City Code.
6. Donation boxes shall:
 - a. not be permitted on any land used for residential purposes;
 - b. not be permitted on any unimproved parcel, nor where the principal use of the land has been closed or unoccupied for more than thirty (30) days;
 - c. not be less than 500 feet from another donation box. This requirement shall not apply to donation boxes located on a single lot of record. In no event shall there be more than two (2) donation boxes on any one lot of record'
 - d. not exceed 7.0 feet in height, 6 feet in width and 6 feet in depth;
 - e. not cause a visual obstruction to vehicular or pedestrian traffic;
 - f. not be placed closer than 10 feet from: i) a public or private sidewalk except that this provision does not apply to a private sidewalk as long as the private sidewalk maintains a 5 foot clearance; ii) a public right-of-way; iii) a driveway; or iv) a side or rear property line of adjacent property used for residential purposes;
 - g. not cause safety hazards with regard to a designated fire lane or building exit;

- h. not 1) interfere with an access drive, off-street parking lot maneuvering lane and/or required off-street parking space to an extent which would cause safety hazards and/or unnecessary inconvenience to vehicular or pedestrian traffic; 2) encroach upon an access drive, off-street parking lot maneuvering lane and/or required off-street parking space; and
- i. be placed on a level, hard (asphalt or concrete) paved, dust-free surface.

Sec. 24-144. Term of Permit and Renewal of permit.

- A. The permit year shall begin on January 1 in each year and shall terminate on December 31 of the same calendar year. An annual permit issued between December 1 and December 31 of any year shall expire on December 31 of the calendar year next following issuance thereof.
- B. A donation box permit shall be renewed annually. The application for renewal must be filed not later than thirty (30) days before the permit expires. The application for renewal shall be upon a form provided by the Director.
- C. The Director shall either approve or deny the renewal of a permit within ten (10) days of receipt of the complete renewal application and payment of the renewal fee. Failure of the Director to act before expiration of the permit shall constitute approval of the renewal of the permit.
- D. A permit renewal fee set by resolution of the City Council shall be submitted with the application for renewal.
- E. Prior to expiration of the permit, the Permittee may voluntarily cancel the permit by notifying the Director in writing of the intent to cancel the permit. The permit shall become void upon the Director's receipt of a written notice to intent to cancel the permit.
- F. The Director shall approve the renewal of a permit if the Director finds that no circumstances existed during the term of the permit which would cause a violation to exist, and that at the time of submission of the application for renewal, or at any time during the renewal of the application for renewal, there were not circumstances inconsistent with any finding required for approval of a new permit. Any Permittee whose permit has been revoked shall be denied renewal of the permit for the subsequent calendar year.
- G. If the permit expires and is not renewed, the donation box(es) must be removed from the real property within a maximum of ten (10) days after expiration of the permit.

Sec. 24-145. Revocation of permit, removal of donation boxes and liability.

- A. 1. The Director shall have the right to revoke any permit issued hereunder for a violation of this article. Any of the grounds upon which the Director may refuse to issue an initial permit shall also constitute grounds for such

revocation. In addition, the failure of the Permittee to comply with the provisions of this article or other provisions of this code or other law shall also constitute grounds for revocation of the permit. The Director shall provide a written notification to the Permittee and property owner stating the specific grounds for a revocation and a demand for correction and abatement. The notice shall allow a maximum of ten (10) days from mailing of the notice to correct or abate the violation. Upon failure to make the correction or abatement, the permit shall be revoked by the Director and, thereafter, the Permittee shall not be eligible for a permit on the property for the subsequent calendar year.

2. Upon revocation, the donation box shall be removed from the real property within ten (10) days and, if not so removed within the time period, the City may remove, store or dispose of the donation box at the expense of the Permittee and/or real property owner. All costs associated with the removal of the donation box incurred by the City, or the City's contractor shall be the responsibility of the property owner. If such obligation is not paid within thirty (30) days after mailing of a billing of costs to the property owner, the City may place a lien upon such real property enforceable as a tax lien in the manner prescribed by the general laws of this state against the property and collected as in the case of general property tax. If the same is not paid prior to the preparation of the next assessment roll of the City, the amount shall be assessed as a special tax against such premises on the next assessment roll and collected thereunder.

- B. A permit for a donation box may be revoked if any governmental authority or agency determines that the donation box has violated the Michigan Consumer Protection Act and/or the Charitable Organizations and Solicitations Act.

Sec. 24-146. Appeal to Planning Commission.

Any person aggrieved by the decision rendered by the Director in granting or denying an application for a permit under this article or in revoking a permit issued under this article may appeal the decision to the Planning Commission. The appeal shall be made by filing a written notice thereof with the Department of Community Development setting forth the grounds for the appeal not later than ten (10) days after receiving notice of the decision of the Director. The Planning Commission may grant relief if the applicant presents clear and convincing evidence that there was an error in the decision of the Director.

Sec. 24-147. Penalty and Remedies.

- A. In addition to revocation of permit pursuant to Section 24-145, any person violating the provisions of this article is guilty of a civil infraction.
- B. In addition to the penalty provided in Subsection (A) of this section, any condition caused or permitted to exist in violation of the provisions of this article, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

- C. Nothing in this article shall prevent the City from pursuing any other remedy provided by law in conjunction with or in lieu of prosecuting persons under this section for violation of this article.
- D. The real property owner and Permittee shall be jointly and severally liable for each violation and for payment of any fine and costs of abatement.
- E. No fines shall be imposed for a violation of this article until ninety (90) days after its effective date. All donation boxes existing at the effective date of the ordinance shall apply for a permit as required herein within thirty (30) days of the effective date. Any donation boxes not in compliance with this article after ninety (90) days of the effective date shall be subject to all remedies for violation as provided herein.

z:\jody\portage\ord\nonzone\donation boxes h&s.121112.docx

**CITY OF PORTAGE
RESOLUTION FOR PERMIT FEE UNDER ARTICLE 6 OF CHAPTER 24
COMMUNITY QUALITY**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on _____, 20____ at 7:30 p.m. local time at the City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and supported by:

Councilmember: _____.

WHEREAS, under Chapter 24, Community Quality, Article 6, Donation Boxes, Council may establish by resolution the permit fee for donation boxes;

NOW, THEREFORE, BE IT RESOLVED that the initial permit fee of \$50; permit renewal fee of \$25.00; and appeal of administrative decision fee of \$150.00 is hereby established for permits involving donation boxes.

IT IS FURTHER RESOLVED that a single Permittee who makes application for two (2) donation boxes on a single lot of record, shall be subject to only one (1) permit fee.

YES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED: _____

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of this resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on _____, 20____, the original of which is in the official proceedings of the City Council.

James R. Hudson, City Clerk

Approved as to form:
Date _____

City Attorney

MATERIALS TRANSMITTED

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – November 12, 2012

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

MEMBERS PRESENT: Rob Linenger, Timothy Bunch, Doug Rhodus, Betty Schimmel, Jeffrey Bright, Michael Robbe, and Glenn Smith.

MEMBERS EXCUSED: Mariana Singer and Lowell Seyburn

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

APPROVAL OF THE MINUTES: Schimmel moved and Rhodus seconded a motion to approve the October 8, 2012 and October 15, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

ZBA #12-10, 1622 Forest Drive: Mais summarized the request for a variance to construct a six-foot by ten-foot covered porch/second story deck 16 feet from the (east) front property line adjacent to Glenn Drive, and 20 feet from the (west) property line along Frederick Drive, where a minimum 27-foot setback is required. Ron Sheely and Jason VanDyke were present to answer questions. Linenger inquired how long the applicant anticipated the construction would take. Mr. VanDyke said no more than two weeks.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Bright, seconded by Robbe, to grant a variance to construct a six-foot by ten-foot covered porch/second story deck 16 feet from the (east) front property line adjacent to Glenn Drive, and 20 feet from the (west) property line along Frederick Drive, where a minimum 27-foot setback is required. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the triangular shape of the property, multiple street frontages, and location of dwelling on the lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to have a protected place to sit outside, which is similar to that possessed by other properties in the same zoning district and in the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and; the variance will not impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Schimmel-Yes, Smith-Yes, Robbe-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

NEW BUSINESS:

ZBA #12-14, 3810 West Centre Avenue: Mais summarized the request for a variance to replace the sign panels on a nonconforming freestanding sign. Jerome Kamm was present to answer any questions.

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

Bright inquired if the Board incorporated staff's recommended condition to permit future tenant panel changes without additional Board review, would it apply to both tenant panels. Mais stated yes. A motion was made by Bunch, seconded by Robbe, to grant a variance to replace the sign panels on a nonconforming freestanding sign, conditioned that future sign panel replacements may be approved by the city administration, provided no structural changes are proposed and a sign permit is obtained. There are exceptional circumstances applying to the property which include the limited front lawn area, the location of the existing landscaping and sidewalk; the variance is necessary for the preservation and enjoyment of a

substantial property right, the right to adequately identify a business; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Robbe-Yes, Bright-Yes, Schimmel-Yes, Smith-Yes, Linenger-Yes, Rhodus-Yes. Motion passed 7-0.

ZBA #12-15, 501 Mall Drive: Mais summarized the requests for: a) a variance for wall signs totaling 200 square feet in area where a maximum 100 square feet is permitted, and b) a 29 square-foot variance to exceed the maximum permitted 100 square feet of wall signage on the south elevation. Doug Trout was present on behalf of American Freight. Mr. Trout admitted the signs were erected before permits had been issued. He stated they needed a larger sign on the south elevation to help identify the business from Ring Road. Linenger stated he thought the applicant already had excessive signage when viewing the property from the northeast, and asked if the applicant would be willing to give up one of the other wall signs if the Board permitted them to retain the sign on the south elevation. Mr. Trout stated yes. Linenger noted he observed some rather large signs inside the window on the south elevation and inquired if the applicant still intended to make use of the window for advertising purposes. Mr. Trout stated yes. Bright inquired if American Freight intended to be located at 501 Mall Drive permanently. Mr. Trout responded yes.

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

Robbe inquired if the Board could incorporate both requests into one motion. Mais recommended two separate motions, but Attorney Bear stated the Board could incorporate both into one motion. A motion was made by Bunch, seconded by Schimmel, to grant a variance for wall signs totaling 179 square feet in area (which includes the 50 square-foot wall sign on the north elevation and the 129 square-foot sign on the south elevation) where a maximum 100 square feet is permitted, and a 29 square-foot variance to exceed the maximum permitted 100 square feet for the wall sign on the south elevation, conditioned upon the removal of the 21 square-foot awning sign. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include JC Penney Drive functions like a public street, and the sign conceals wall scarring on the south elevation caused by a previous sign in that location; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify the new business which is similar to that possessed by other properties in the same zoning district and vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and the variance will not materially impair the intent and purpose of the Zoning Code. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Robbe-Yes, Smith-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

ZBA #12-17, 723 Lakeview Drive: Mais summarized the request for a 20-foot variance from the minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling. Alexander Hanchar, Linda Hanchar, and Bill Kozar were present to explain the request. Mr. Hanchar stated his request differed from his previous request, ZBA #11-08, in that the dwelling was smaller and would be closer to the rear lot line, but the current proposal would also result in the elimination of nonconformity with regard to the (east) side setback and a reduction in degree of nonconformity with the (north) rear setback from the existing dwelling. Mr. Hanchar stated the proposed variance also would keep the dwelling consistently in line with the rear setbacks of neighboring dwellings. Schimmel noted two neighbors did not sign the letter of support Mr. Hanchar brought with him. Mr. Hanchar stated one did not want to put their signature on any paper and the other address was an absentee landlord. Bunch inquired if they would be

willing to move their house three feet further south as recommended in the staff report. Mr. Hanchar stated that moving it back would make it out of line with the neighbor's houses. Schimmel noted the proposal was to place the dwelling 20 feet from the rear lot line and inquired how far the existing dwelling is from the rear lot line at the closest point. Mr. Kozar stated 11 feet from the northeast corner of the dwelling. Rhodus inquired who put the hand written note on 'Exhibit D' indicating the old house line. Mr. Kozar stated he did. Linenger inquired if the proposed second story deck would be covered/enclosed. Mr. Kozar stated it would.

The public hearing was opened. No one spoke for or against the request. A letter stating no objection to the request was read into the record signed by: Lori Carlson-Slater and Greg Slater, 714 Lakeview; Martha Irons, 808 Lakeview; Jackie and Jeff Drake, 707 Lakeview; Jill Liby, 809 Lakeview; Chad and Anna Keim, 653 South Shore Drive; and Darilee and Terence Scheible, 726 Lakeview. The public hearing was closed.

A motion was made by Bright, seconded by Robbe to grant a variance for a 20-foot variance from the minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include the variance will result in a reduction in the degree of nonconformity, the existence of the private walkway along the shoreline, and the shape and size of the lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to a new home similar to those in the surrounding neighborhood; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will not materially impair the intent and purpose of the Zoning Code. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Smith-Yes, Robbe-Yes, Linenger-Yes, Rhodus-No, Bright-Yes. Motion passed 6-1.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:20 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator

CITY COUNCIL MEETING MINUTES FROM NOVEMBER 20, 2012

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

At the request of Mayor Strazdas, Pastor Paul Naumann of St. Michael Lutheran Church of Portage gave an invocation and Boy Scout Troop 244 led City Council and the audience in the recitation of the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Jim Pearson, Patricia M. Randall, Edward J. Sackley and Terry R. Urban, Mayor Pro Tem Claudette S. Reid and Mayor Peter J. Strazdas. 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 Urban, to approve the November 6, 2012 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Mayor Pro Tem Reid asked that Item F.3, 50th Anniversary Events and Activities, be removed from the Consent Agenda. Councilmember Sackley asked that Item G.1, City Council Committee Appointments, be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF NOVEMBER 20, 2012:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of November 20, 2012. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS: Jan Sackley, 10314 Archwood Drive, indicated as a courtesy and respect for City Council's time, that she would be making comment on Item H.1, 10323 Archwood Drive.

REPORTS FROM THE ADMINISTRATION:

* **BOWERS MANUFACTURING COMPANY – PA 198 TAX ABATEMENT:** Motion by Urban, seconded by Reid, to adopt Resolution No. 1-12 setting a public hearing on the expansion of Industrial Development District No. 53 for December 4, 2012, at 7:30 p.m. or as soon thereafter as may be heard; and Resolution No. 3-12 setting a public hearing on the issuance of the Industrial Facilities Exemption Certificate for Bowers Manufacturing Company for real and personal property in the estimated amount of \$2.81 million for December 4, 2012, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 7 to 0. Resolutions recorded on pages 459 and 465 of City of Portage Resolution Book No. 44.

* **RESIDENTIAL SUBDIVISION SIDEWALK EXTENSION REQUESTS:** Motion by Urban, seconded by Reid, to grant an extension to November 1, 2014, for the completion of sidewalk and street tree installation, subject to submittal of a revised irrevocable bank letter of credit or other surety acceptable to the City Attorney, for the following residential plats: Avalon Forest/Avalon Woods No. 1 and 2 (T.A. Scott Construction); Austin Shores Condominium Subdivision (BEX Farms, Inc.); Holiday Village East No. 3 and South No. 3 (WTM, Incorporated); and Stateland Park Subdivision (Granite Development Properties). Upon a roll call vote, motion carried 7 to 0.

50TH ANNIVERSARY EVENTS AND ACTIVITIES: Mayor Pro Tem Reid indicated that she discussed the possibility of a production of a documentary on the history of Portage with City Manager Evans, who indicated that the resultant cost to city staff would be too burdensome. Discussion followed. Motion by Reid, seconded by Pearson, to authorize the purchase and installation of City of Portage flags along South Westnedge Avenue for the duration of the 2013 calendar year; and to refer the pursuit of the production of a City of Portage historical documentary to the Portage members of the Public Media Network Board to identify volunteers who could follow through on such a production. Upon a roll call vote, motion carried 7 to 0.

* **2012 TAX RATE SURVEY - INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the 2012 Tax Rate Survey as information only. Upon a roll call vote, motion carried 7 to 0.

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

* **OCTOBER 2012 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the October 2012 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

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

* **BOARD OF CANVASSERS REPORT:** Motion by Urban, seconded by Reid, to receive the Board of Canvassers Report with the results of the November 6, 2012 General Election. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATION:

CITY COUNCIL COMMITTEE APPOINTMENTS: Councilmember Sackley noted the Sign Committee change replacing Councilmember Campbell with Mayor Strazdas. Discussion followed. Motion by Sackley, seconded by Campbell, to approve the 2013 calendar year appointments to City Council Committees with the one change of replacing Councilmember Campbell with Mayor Strazdas. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

UNFINISHED BUSINESS:

10323 ARCHWOOD DRIVE: Once Mayor Strazdas introduced this item of business, Councilmember Sackley recused himself and indicated that he would not be involved in the discussion of this matter, nor would he be voting on this matter. He indicated that he attended the Property Committee meeting on Monday, November 12, 2012, but did not attend the meeting earlier this evening from which the recommendation came.

Councilmember Campbell discussed the role of the Kalamazoo County Land Bank versus the role of the City of Portage with regard to the property and the options reviewed by the Council Property Committee. She indicated that the long term goal of the Land Bank is to sell the property as soon as possible. Discussion followed.

Councilmember Randall noted that when the County takes it back, no taxes will accrue to the City of Portage, no revenue from the sale, plus the City will still have to pay back five years of property tax, and the highest and best use is to return it to the tax roll, so she recommended that City Council accept the property.

Motion by Campbell, seconded by Randall, to receive the presentation/recommendation from the City Council Ad Hoc Property Committee regarding the property at 10323 Archwood Drive, accept the tax reverted property addressed as 10323 Archwood Drive, authorize the City Manager to advise the Kalamazoo County Treasurer of this action by November 30, 2012, and direct the Administration to provide an appraisal of the property and present it to the City Council Property Committee to determine the next step for the marketing of the parcel and the price of the parcel itself. Discussion followed.

Mayor Strazdas cautioned that there is a cost to appraise it, market it and maintain it. Discussion followed regarding the cost to market the property, to maintain it and to obtain an appraisal. In answer to Mayor Pro Tem Reid, Councilmember Campbell indicated that there was no discussion about the neighbors going forward with a community garden. Discussion followed.

Councilmember Pearson indicated that the most important thing is to return the parcel to the property roll. Discussion followed regarding the County property auctions, the rationale behind the procedures used when bundling properties at second auctions and the amounts owed on the property.

Community Development Director Vicki Georgeau weighed in with the information that it is Council Policy to obtain an appraisal and then sell it for that amount, and that the city does not acquire property unless there is a public purpose or a strategic economic development reason. Discussion followed.

Councilmember Urban asked about the Kalamazoo County Land Bank note in their brochure indicating that the property may be sold for \$20.00 to adjacent property owners and Ms. Georgeau explained. Discussion followed. She also responded to questions regarding the reasons for bundling properties at auctions from Councilmember Randall and the level of experience of staff in selling property from Mayor Pro Tem Reid. Discussion followed.

Jan Sackley, 10314 Archwood Drive, introduced herself as a Fiduciary Consultant and past Senior Vice President of one of the largest banks in the country where one of her responsibilities was ensuring full compliance with Public Act 20. She pointed out that proceeds minus expenditures equals profit and emphasized that land speculation by the city is not permitted under Public Act 20. She further explained the City's duty under Public Act 20 and asked City Council to consider the tax consequences of the property. Discussion followed regarding all options, especially the issues surrounding accepting the property or rejecting the property. Councilmember Randall provided a letter from an interested builder, William F. Fries, Jr., 6740 Bluegrass Street, who is a Member of the City of Portage Board of Review. Discussion followed.

Upon a roll call vote, motion carried 5 to 1 with Councilmember Sackley abstaining. Yeas: Councilmembers Campbell, Pearson, Randall and Urban and Mayor Strazdas. No: Mayor Pro Tem Reid.

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

Portage Zoning Board of Appeals of October 8 and October 15, 2012.

Portage Youth Advisory Committee of October 8, 2012.

Portage Environmental Board of October 10, 2012.

Portage Park Board of October 10, 2012.

Portage Planning Commission of November 1, 2012.

AD HOC COMMITTEE REPORT:

CITY COUNCIL AD HOC SIGN COMMITTEE: Councilmember Sackley reviewed the minutes of the November 8, 2012 City Council Sign Committee meeting and referred to the consensus of the Committee as reported at the City Council retreat to host a widely attended sign workshop/forum, using the input received to administer a broader survey on business signs, and to review input from all sources and stakeholders to determine the next steps with regard to the Zoning Code sign regulations. Mayor Strazdas indicated that it was interesting to note that the Planning Commission and the Zoning Board of Appeals were given the opportunity to discuss the sign ordinance and disagreed with the amount of restrictions that need to be included in the sign ordinance. Discussion followed.

Motion by Pearson, seconded by Campbell, to receive the presentation by Councilmember Ed Sackley regarding an update on the recent activity of the Sign Committee and to adopt the three action items contained in the Committee report. Upon a voice vote, motion carried 7 to 0.

NEW BUSINESS:

2012 CITY COUNCIL GOALS SETTING SESSION RESULTS – INFORMATION ONLY: Mayor Strazdas added this item and indicated the Council Goals and Council Committee Tasks should be approved. Discussion followed. Motion by Pearson, seconded by Campbell, to adopt the global Council goals as discussed at the November 16, 2012 City Council Retreat, adopt the specific topics agreed upon at the Retreat various Topic Committees and adopt the respective task assignments agreed upon at the Retreat. Discussion followed. Upon a roll call vote, motion carried 7 to 0.

BID TABULATIONS:

* **MICHIGAN DEPARTMENT OF TRANSPORTATION - ROMENCE ROAD EAST (PORTAGE ROAD TO SPRINKLE ROAD):** Motion by Urban, seconded by Reid, to approve Contract 12-5505 between the Michigan Department of Transportation and the City of Portage concerning funding for street improvements on Romence Road East, from Portage Road to Sprinkle Road; approve an engineering services contract with Wightman & Associates, Incorporated, for construction inspection and administration for street improvements on Romence Road East, Portage Road to Sprinkle Road, in the not to exceed amount of \$46,800; adopt a Resolution authorizing the City Manager to sign Contract 12-5505; and authorize the City Manager to sign all other documents related to the Michigan Department of Transportation and consultant contracts for this project on behalf of the city. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 467 of City of Portage Resolution Book No. 44.

* **WATER MAIN ABANDONMENT UNDER THE GRAND ELK RAILROAD:** Motion by Urban, seconded by Reid, to reaffirm the emergency action taken by the City Administration in accepting the quotation by Peters Construction Company in the not to exceed amount of \$39,381.68 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 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL: Mayor and City Council wished everyone a safe and happy Thanksgiving.

Councilmember Randall reminded everyone of the 2012 Kalamazoo Area Runners Turkey Trot 5K Time Prediction Run that will be held on the cross country course at Portage West Middle School, 7145 Moorsbridge Road, Portage, at 9:00 a.m. on Thanksgiving Day, Thursday, November 22, 2012. She indicated that participants are asked to consider bringing socks (men's, women's and children's sizes) for the Kalamazoo Gospel Mission and a toothbrush, toothpaste, shampoo, conditioner or a small toy for a child for the Portage Community Center. She also reminded everyone of the annual Tree Lighting and Traditional Holiday Celebration that begins at 7 p.m. Saturday, December 1, 2012.

Councilmember Sackley highlighted the task of the Lake Center Business District Committee to investigate the applicability of the Michigan Urban Core Initiative to the Lake Center Business District corridor.

Mayor Pro Tem Reid indicated that she and Councilmembers Sackley and Urban would be enjoying the special task of reading the "I Love Portage" contest essays from local students.

Mayor Strazdas indicated that he will be in Washington, D.C., during the annual Tree Lighting and Traditional Holiday Celebration, but would very much prefer to be in Portage. He cautioned everyone to lock up their homes when they leave town. He also praised City Council for their hard work at the Annual Retreat as it was the healthiest retreat in years citing that City Council focused on growth in our community and "rallied around it."

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:23 p.m.

James R. Hudson, City Clerk

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