

PLANNING COMMISSION

April 5, 2012

The City of Portage Planning Commission meeting of April 5, 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, Miko Dargitz, Dave Felicijan, Allan Reiff, Paul Welch and Chairman James Cheesebro.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Rick Bosch, Wayne Stoffer and Mark Siegfried.

IN ATTENDANCE:

Michael West, Assistant City Planner and Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the March 15, 2012 meeting minutes. A motion was offered by Commissioner Patterson, seconded by Commissioner Dargitz, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

1. Site Plan (reapproval) for Fifth-Third Bank, 2610 East Centre Avenue. Mr. West summarized the staff report dated March 29, 2012 involving a site plan to construct an approximate 3,285 square foot bank building and associated site improvements at 2610 East Centre Avenue. Mr. West indicated the site plan had been previously reviewed and approved by the Planning Commission on six different occasions between 2009 and 2011, however, construction had not yet commenced and the approval was scheduled to expire on April 6, 2012. Mr. West stated that Section 42-484 of the Zoning Code requires that construction activities commence within six months of site plan approval or the approval becomes null and void. Mr. West indicated that staff has advised the applicant that they could allow the site plan to expire and then resubmit when construction is more definite, however, the applicant has indicated a desire to maintain an "approved" site plan. Mr. West stated the site plan is being resubmitted for approval with no changes from the October 2011 approval.

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

PUBLIC HEARINGS:

1. Special Land Use Permit: Group Child Care Home, 1225 Warwick Street. Mr. West summarized the staff report dated March 29, 2012 regarding a request by Ms. Christine Whitt to establish a group child care home at her residence located at 1225 Warwick Street. Mr. West indicated Ms. Whitt has been operating a family child care home for up to six children from her residence since September 2011 and would now like to expand her child care license. Mr. West reviewed the Zoning Code requirements for a group day care home and stated the application fulfills requirements for issuance of a Special Land Use Permit with one exception related to the proximity to another licensed group day care home. Mr. West stated the Zoning Code requires a lot containing a group day care home not be located within 500 feet (measured from nearest property line) and 1,500 feet (measured as a traveled distance along public streets) from another licensed group day care home, adult foster care home or other similar use. Mr. West indicated that two existing group child care homes are located within these distance requirements: 1) Rosemary Stevens at 6217 Avon Street (approximately 400-feet north) and 2) Cristy Cate at 1225 Brent Avenue (approximately 1,300-feet north). In considering applications where separation requirements are not satisfied, Mr. West stated the Zoning Code allows the Planning Commission to waive this requirement. Mr. West indicated the two group child care homes at 6217 Avon Street and 1225 Brent Avenue and the family day care home at the subject site have coexisted since November 2008 and no complaints or documented code violations associated with these child care operations have been received by the Community Development Department. Mr. West stated the property is a corner lot with frontage on both Warwick Street and Avon Street and discussed the four-foot tall chain link fencing around the backyard that is utilized as an outdoor play area. Mr. West indicated the Zoning Code allows the Planning Commission to consider requiring installation of a 6-foot tall screening fence around the outdoor play area in order to mitigate potential adverse impacts on surrounding properties.

The Commission and Mr. West next discussed the distance separation requirements, previous group child care approvals, fencing of the backyard, hours of operation and the number of nonresident employees. Ms. Christine Whitt (applicant) and Mr. Shawn Shutter (applicant's fiancé) were present to support the application. Mr. Shutter indicated he and Christine would be the two primary caregivers and also stated that they have spoken with some of their neighbors and was unaware of any opposition to the request. The public hearing was opened by Chairman Cheesebro. No citizens spoke in regard to the proposed group child care home. A motion was then made by Commissioner Welch, seconded by Commissioner Reiff, to close the public hearing. The motion was unanimously approved.

The Commission, Mr. West and Attorney Brown next discussed issues associated with the application including the distance separation requirements between group day care homes, screening of the outdoor play area and related neighborhood impacts and previous Planning Commission approvals of group child care homes. Attorney Brown provided guidance to the Commission regarding the ordinance requirements for a group day care home and the criteria the Commission should focus on when considering the distance separation requirements and whether or not to require installation of a screening fence around the backyard. Attorney Brown indicated the Commission should consider the characteristics of the subject site, surrounding properties and the facts and circumstances of each request when considering both the distance separation and fencing provisions of the ordinance.

After additional discussion, a motion was made by Commissioner Welch, seconded by Commissioner Patterson, to approve the Special Land Use Permit for Ms. Christine Whitt (group child care home), 1225 Brent Avenue, including a waiver from the separation requirements set forth in Section 42-182(I)(1) with a finding that the three group child care homes are sufficiently separated so as not to create a combined noise and/or traffic problem for area residents. Traffic can be distributed to/from West Milham Avenue and Oakland Drive from Avon Street, Devon Street, Marlow Street, and Haverhill Street as well as other local streets in this neighborhood. In regard to the fencing around the backyard of the site, the Commission concurred that additional screening was not necessary. The motion was unanimously approved.

2. Final Report: Rezoning Application #11-03, Romence Road Parkway Corridor. Mr. West summarized the final staff report dated March 29, 2012 regarding the Planning Commission initiated rezoning consideration of several properties located along the north and south sides of Romence Road Parkway, between Lovers Lane and Portage Road. On February 2, 2012, Mr. West indicated the Planning Commission conducted an initial review of the Romence Road Parkway Corridor Study and decided to initiate rezoning consideration of 13 properties from I-2, heavy industry and R-1B, one family residential to OTR, office technology and research. Concurrent with the public notice, Mr. West stated that all property owners involved in the rezoning consideration were contacted to further explain the proposed zoning change. Although none of the affected property owners provided written comments, Mr. West stated the owner of 1901 Romence Road Parkway did not object to the proposed OTR zoning or retaining the R-1B zoned strip of land located within the northwest portion of the parcel. Mr. West indicated a Pfizer representative did not object to OTR zoning for the Pfizer properties located on the north side of Romence Road Parkway, however, asked that the existing I-2 zoning be retained for the two Pfizer properties located along the south side of Romence Road Parkway. Mr. West stated the other property owners also did not object to a zoning change but preferred the alternative OS-1, office service district given the OTR requirements and small parcel sizes. Mr. West discussed the development standards under the OTR, I-2 and OS-1 zones and then summarized the staff recommendation.

The Commission next discussed various aspects of the rezoning consideration including the impacts of a zoning change for the two residential parcels at the southeast corner of Lovers Lane and Romence Road Parkway. If rezoned to OS-1, Mr. West stated the two residences would become lawfully nonconforming. The Commission, Mr. West and Attorney Brown discussed the nonconforming regulations contained in the Zoning Code. When considering zoning changes, Attorney Brown stated the Commission should be focus deliberations on legal rezoning criteria such as consistency with the Comprehensive Plan/Future Land Use Map and surrounding land use/zoning patterns. The Commission and staff then discussed the individual properties involved in the rezoning consideration, the staff recommendation and rationale for the recommendation.

The public hearing was reconvened by Chairman Cheesebro. No citizens spoke regarding the proposed rezoning. A motion was made by Commissioner Welch, seconded by Commissioner Reiff, to close the public hearing. The motion was unanimously approved. A motion was then made by Commissioner Patterson, seconded by Commissioner Welch, to recommend to City Council that Rezoning Application #11-03 be approved as follows: 1) Rezone 1901 Romence Road Parkway to OTR, office technology and research with the exception of the northwest portion of the parcel that is to remain zoned R-1B, one family residential, and, the southwest portion of the parcel (48.59-feet by 550-feet) which is recommended to be rezoned to OS-1, office service; 2) Rezone 2301 Romence Road Parkway, 6710, 6718 and 6726 Portage Road and 2328 and 2402 Lansing Avenue to OTR, office technology and research; 3) Rezone 6646 Portage Road and 6941, 7013 and 7019 Lovers Lane to OS-1, office service; and 4) At the request of Pfizer, retain the current I-2, heavy industry zoning designation for 7005 Lovers Lane and 7000 Portage Road. Given the potential future development plans for these two parcels by Pfizer and since the property is not adjacent to an existing single family residential neighborhood, there is no current development activity that necessitates a rezoning of these properties at this time. The motion was unanimously approved.

OLD BUSINESS:

None.

NEW BUSINESS:

1. Rezoning Application #11-04, East Centre Avenue between Lakewood Avenue and Garden Lane – expanded rezoning consideration. Mr. West summarized the staff report dated March 29, 2012 regarding a joint application received from several property owners located along the north side of East Centre Avenue, between Lakewood Avenue and Garden Lane, requesting that 775, 801, 809, 821, 827 and 903 East Centre Avenue be rezoned from R-1A, one family residential and R-1B, one family residential to OS-1, office service. After reviewing the application, Future Land Use Map and surrounding land use/zoning pattern, Mr. West indicated staff believes it is appropriate to expand the rezoning consideration to include 7932 Lakewood Drive, 707, 743 and 815 East Centre Avenue.

Commissioner Dargitz discussed the mixed use zoning ordinances that were recently adopted and whether the subject properties were situated within the City Centre Area. Commissioner Dargitz also discussed the upcoming Comprehensive Plan Update and whether the existing office designation on the Future Land Use Map for this section of East Centre Avenue was still appropriate. Commissioner Reiff expressed concern over the ability of the property owners to obtain conventional mortgages if their properties were rezoned and the residential use was to become nonconforming.

Mr. Thomas Rogers (owner of 775 and 801 East Centre) was present to support the rezoning application and to discuss his efforts to contact other property owners located between Lakewood Avenue and Garden Lane regarding their interest in joining the rezoning application. No additional citizens spoke regarding the rezoning application and discussions to expand the rezoning consideration.

The Commission and staff further discussed the nonconforming use regulations of the Zoning Code and whether or not the four additional properties should be included in the rezoning consideration. Commissioner Dargitz expressed concerns about moving forward with an OS-1 rezoning of these properties if the Future Land Use Map was to be changed with the Comprehensive Plan Update in fiscal year 2013-14 and if a new mixed use zoning district was to be developed in the future. Mr. West stated that Centre Avenue has long been designated as an office corridor in the Comprehensive Plan and any future mixed use ordinance development would likely be in the form of an overlay district that could be applied in the OS-1 zoning designation. Mr. West indicated a change in zoning from R-1A to OS-1 would not likely affect the ability to develop a future mixed use overlay district for this area of the city. While public comment and property owner preferences should be considered by the Commission, Attorney Brown again discussed how the Planning Commission deliberation of a zoning change should be primarily based on legal principles such as the adopted Comprehensive Plan and surrounding land use/zoning patterns. Attorney Brown also discussed issues associated with rezoning land that creates legal nonconforming uses.

After additional discussion, a motion was made by Commissioner Welch, seconded by Commissioner Reiff, to expand Rezoning Application #11-04 to include 7932 Lakewood Avenue and 707, 743, 775, 801, 809, 815, 821, 827 and 903 East Centre Avenue and set a public hearing for May 3, 2012. The motion was unanimously approved.

2. 2011-2012 City Council Assigned Goals and Objectives Update (April 2012) and Recommended 2012-2013 Goals and Objectives. Mr. West introduced the item and referred the Commission to the draft transmittal to City Council regarding progress made on the 2011-2012 Assigned Goals and Objectives and Recommended Goals and Objectives for 2012-2013. The Commission discussed the wording of No. 2 in the Recommended 2012-2013 Goals and Objectives and possibly renumbering the nine goals and objectives. After additional discussion, it was the consensus of the Commission to add the following language to No. 2 “..and consider the protection of environmentally sensitive areas such as those identified in the City of Portage Sensitive Land Use Inventory Map, including regulated wetlands, groundwater and surface water..” and renumber the goals and objectives by switch the order of No. 1 to No. 9. A motion was then made by Commissioner Welch, seconded by Commissioner Dargitz, to forward the 2011-2012 City Council Assigned

Goals and Objectives Update (April 2012) and Recommended 2012-2013 Goals and Objectives to City Council with the above changes. 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 8:50 p.m.

Respectfully submitted,

Michael West, AICP
Assistant City Planner