

PLANNING COMMISSION

May 17, 2012

The City of Portage Planning Commission meeting of May 17, 2012 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 10 citizens were in attendance.

MEMBERS PRESENT:

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

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Mark Siegfried and Paul Welch

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning, Development and Neighborhood Services and Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the May 3, 2012 meeting minutes contained in the agenda packet. Commissioner Dargitz indicated she would be abstaining from any discussion and vote since she was excused from the May 3, 2012 meeting. A motion was offered by Commissioner Stoffer, seconded by Commissioner Bosch, to approve the minutes as submitted. The motion was unanimously approved.

SITE/FINAL PLANS:

None

PUBLIC HEARINGS:

1. Final Report: Rezoning Application #11-04 (expanded), East Centre Avenue between Lakewood Drive and Garden Lane. Mr. Forth summarized the final staff report dated May 11, 2012 regarding the expanded rezoning consideration involving properties located at 7932 Lakewood Drive, 707, 743, 775, 801, 809, 815, 821, 827 and 903 East Centre Avenue. The applicants are requesting that the current zoning of R-1A and R-1B, one-family residential be changed to OS-1, office service. Mr. Forth summarized four alternatives for Planning Commission consideration. Staff was recommending Alternative No. 3, which involves rezoning 7932

Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.

Commissioner Dargitz asked for a brief summary of the historic nature of the house located at 903 East Centre. Mr. Forth indicated the property is located in the City of Portage Historic District and certain changes to the structure or district boundaries would require review by the Historic District Commission. Commissioner Reiff asked how much it might cost to extend water and sewer utilities to any future residential lot located on the north half of 801, 809, 815, 821 and 827 East Centre Avenue. Mr. Forth stated he did not have an estimate of cost.

Mr. Thomas Rogers, initial applicant and owner of 775 and 801 East Centre Avenue, was present to support the rezoning application. Mr. Rogers indicated he supports Alternative No. 1 and would also support a 20-30 foot buffer adjacent to the residential lots located on Drury Lane. Mr. Rogers also indicated that development of the northern half of 801, 809, 815, 821 and 827 East Centre Avenue would be difficult due to utility extensions and the availability of other residential lots in the area that have not sold.

Chairman Cheesebro opened the public hearing. Leroy Butler, 821 East Centre, also spoke in support of rezoning the entire area to OS-1 and expressed concern about the development potential of the north 198 feet if the R-1A zoning is retained. Mr. Butler indicated it would be easier to sell the property if it was all zoned OS-1. Commissioner Dargitz asked staff about future assemblage, land divisions and parcel configurations. Mr. Forth explained that three residential lots with frontage on Garden Lane could be created by assembling the north 198 feet of 815, 821 and 827 East Centre. A residential lot with frontage on Bye Street is also possible. Mr. Rogers stated that retaining the north portion of the property for residential uses would require the owners to split the parcels, one person to assemble the property and then determine if the lots will sell. Ms. Lucinda Owen, speaking on behalf of Ms. Joyce Anderson, 827 East Centre Avenue, indicated support only if the entire lot is rezoned to OS-1. Mr. Stephen Nuss, 809 East Centre, also spoke in support of the rezoning, but indicated a buffer along the north property line would be acceptable.

Commissioner Patterson indicated he does not prefer split zoning on a lot(s) unless there is a viable use for each zoning district. Commissioner Patterson did indicate he would support a change to OS-1 for the entire area with a residential buffer area long the north property line adjacent to the Drury Lane residential lots.

Brian Mahoney, 7911 Lakewood Drive, indicated he spoke with the applicant about a potential compromise and noted the alternatives presented in the staff report seemed to be an attempt to reach a compromise. Mr. Mahoney noted that while many of the applicants want to sell their property and move away, he is there to stay. Mr. Mahoney prefers option two since it provides an adequate buffer for the Drury Lane residents and also to the resident who lives at 728 Bye Street. Mr. Mahoney indicated he was concerned about noise, lighting and criminal activity if off-street parking lots were constructed near the existing single-family homes. Mr. Doug Champagne, 728 Bye Street, indicated he is the only property owner that will have OS-1 zoning on two sides (south and east) if the proposal to change the zoning to OS-1 is approved. Mr. Champagne noted that many of the trees that buffered his home from the impacts associated with East Centre Avenue traffic were removed last summer and today, trees were being removed from the property located to the east. Mr. Champagne is opposed to a zoning change adjacent to his east property line. There being no further public comment, a motion was then made by Commissioner Reiff, seconded by Commissioner Bosch, to close the public hearing. The motion was unanimously approved.

Commissioner Dargitz indicated she prefers Alternative No. 2 since it is most consistent with the Comprehensive Plan, provides protection to the existing residential neighborhood and office redevelopment options for the East Centre Avenue property owners. Commissioner Bosch agreed with Commissioner Patterson's earlier comments about split zoning. Commissioner Bosch does not believe that residential use on the north 198 feet is a viable use but would support a buffer. Commissioner Bosch also commented on the difficult task to assemble land owned by different property owners and then redraw property lines. Commissioner Bosch believed that if the residential zoning of the north 198 feet of 809, 815 and 821 East Centre

were retained, that portion of the property could be landlocked and unusable. Commissioner Felicijan concurred with Commissioners Patterson and Bosch. Chairman Cheesebro noted that due to the narrow width of 801 East Centre, recommending retention of a residential buffer along the east side of 728 Bye Street is difficult.

The City Attorney discussed the concept of a buffer to protect the adjacent residences versus an area retained for future residential development. Attorney Brown stated that incorporation of a buffer is supportable since one of the factors to consider in a rezoning request is neighborhood protection. However, the depth of the buffer must be reasonable. Attorney Brown further stated that retaining a much larger area zoned for residential use should not be considered a buffer, but rather an area for future residential development. It is also important to demonstrate that this area retained for future residential use can in fact be developed. If it cannot be developed, Attorney Brown cautioned the Commission about a potential taking issue. Commissioner Bosch asked Attorney Brown if the Commission could impose a greater setback during site plan review. Attorney Brown responded that the Commission does not have flexibility with regard to building setback distances since the setback distance is regulated in the Zoning Code. Attorney Brown did state the Zoning Code allows the Commission flexibility with regard to landscaping and conflicting land use screening.

Commissioner Reiff asked staff to comment on the size of an office building that could be constructed under Alternative No. 3. Mr. Forth responded a single story building of nearly 22,000 sq. ft. based on 25% lot coverage could be constructed if the proposed OS-1 portions of 801 through 827 East Centre Avenue were combined. Chairman Cheesebro asked if a R-1A residential buffer was retained on the north side of 601 and 609 East Centre when that property was rezoned. Mr. Forth responded no. Commissioner Dargitz noted there would likely need to be an assemblage of residential land to accommodate residential building sites as well as an assemblage of land to accommodate an office project. With the exception of Alternative No. 2, Commissioner Dargitz asked staff if there other options to protect 728 Bye Street from negative impacts. Mr. Forth mentioned there are provisions in the Zoning Code through the site plan review process that allow staff and the Commission to consider screening/buffering options. Commissioner Dargitz suggested the lots on Bye Street should be given the same amount of protection (buffer area) as those along Drury Lane. Commissioner Reiff noted the Comprehensive Plan was prepared with the intent to protect the existing residential lots but also provide the property owners with office redevelopment options. As a result, he is supporting Alternative No. 3. Commissioner Reiff acknowledged the difficulty with providing a buffer area for the Bye Street properties given the narrow width of 801 East Centre. Commissioner Dargitz noted Alternative No. 2 is most consistent with the Comprehensive Plan. Mr. Forth concurred but stated the Future Land Use Plan Map is not intended to be parcel specific and is a guide for future development. Mr. Forth stated that staff support for Alternative No. 3 was intended to provide the property owners flexibility involving future office redevelopment activities through an appropriate lot depth as well as neighborhood protection. Screening/buffering provisions intended to minimize the impacts on the Bye Street residents would be evaluated/implemented during the site plan review process.

Chairman Cheesebro stated he supports Alternative No. 1 with a buffer along the north property line adjacent to the Drury Lane lots and along the west side of 801 West Centre. Chairman Cheesebro also stated he does not believe that residential development is possible on the north portion of 801 through 827 East Centre Avenue. Commissioner Stoffer commented that rezoning the entire area to office is too much of an encroachment into the neighborhood and supports Alternative No. 3. A developer/property owner always has the option of requesting the north 198 feet be zoned to office at a later date. Commissioner Dargitz stressed the need to protect the adjacent residential neighborhood but also recognized the negative impacts on the East Centre Avenue residents as a result of current traffic volumes.

Attorney Brown clarified that the 198 feet of retained residential zoning on the north portions of 801 through 827 East Centre Avenue is not a buffer but is land to be developed. Attorney Brown noted that there should be redevelopment options for individual property owners in addition to participating in a land assembly arrangement. Attorney Brown suggested the idea of constructing a residential dwelling unit in the north portion of each individual lot be explored. Mr. Forth indicated the Zoning Code does allow storm water retention areas designed to collect storm water from buildings and parking lots to be located in an area zoned for residential use.

Mr. Forth also noted the Zoning Code would not prohibit the construction of residential dwelling unit in the north portion of each individual lot.

Commissioner Bosch reiterated his support for Alternative No. 1 with a 50 foot buffer along the north portion of lots 801 through 827 East Centre Avenue adjacent to the Drury Lane and was willing to make a motion. Commissioner Reiff reiterated his support of Alternative No. 3 and offered a motion to recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential with the understanding that the north 198 feet of retained residential zoning has the ability to be developed. The motion was supported by Commissioner Stoffer. Commissioner Dargitz asked if Commissioner Reiff would accept an amendment to the motion to include a 50 buffer along the west property line of 801 East Centre. Commissioner Reiff indicated he would not accept the amendment due to the narrow width of the 801 East Centre and the impact retaining a 50 foot buffer of residential zoning would have on future office development potential. Commissioner Dargitz asked what other options were available to protect the Bye Street residents. Commissioner Reiff responded by stating screening/buffering provisions can be considered during site plan review. Commissioner Stoffer asked for clarification regarding the last statement inserted in the motion offered by Commissioner Reiff. Mr. Forth referred the Commission to the last sentence of the last paragraph in the staff report which states "This option provides the property owners reasonable redevelopment options consistent with the Plan designations and surrounding development pattern and protects the adjacent residential neighborhood from further nonresidential encroachment." Chairman Cheesebro asked Commissioner Reiff if that was his intent. Commissioner responded yes. Chairman Cheesebro also asked Commissioner Stoffer if he was in agreement. Commissioner Stoffer responded yes as well.

Commissioner Patterson indicated he did not agree with the motion on the floor. Commissioner Patterson stated that regardless if the entire area is rezoned to office as requested by the applicants or if the zoning district boundary is moved 198 feet to the south, office zoning will still be directly adjacent to residential zoning. Commissioner Dargitz responded by saying if a person moves to the 198 foot area retained for residential use, this person would do so knowing the area to the south is zoned for office use. The residents who currently live on Drury Lane moved to the area and may have known the property to south was zoned and planned for residential use. Commissioner Patterson noted a 50 foot buffer would provide additional protection for the Drury Lane residents and screening/buffering requirements contained in the Zoning Code could be utilized to protect the Bye Street residents during the site plan review process. Commissioner Stoffer indicated Alternative No. 3 provides the property owner options for redevelopment such as operating an art studio located along the East Centre Avenue frontage and living in a house in the northern half of the property. If it were all zoned office, the option to construct a dwelling unit on the property is eliminated. Commissioner Stoffer also indicated that if a property owner is ready to move forward with a site plan involving development of the entire property, a request could be submitted to rezone the northern portion to office. Commissioner Patterson noted that he did not believe a business owner would construct an office in the front and live in a separate dwelling in the back. Access to a residential use through an office use would make the residential use less valuable. Although the Zoning Code may permit this arrangement, Commissioner Patterson did not believe it would happen. Commissioner Dargitz asked Commissioners Reiff and Stoffer if they would consider any level of residential zoning adjacent 728 Bye Street. Commissioner Reiff reiterated the narrowness of 801 East Centre and, as a result, a buffer would impact redevelopment potential. Commissioner Stoffer noted the screening/buffering adjacent to 728 Bye Street could be evaluated during the site plan review process.

Attorney Brown noted that there has been some discussion involving the value of land and under Michigan case law, a rezoning is sustainable even if it results in a decrease in property value. Also, Attorney Brown clarified that the Commission does not have to consider the highest and best use of land when deliberating zoning issues. Chairman Cheesebro commented that the proposed residential area outlined in Alternative No. 3

had little chance of being developed and will likely become a buffer area. Chairman Cheesebro indicated support for Alternative No. 1 with a 30 foot buffer area along the north portions of the 801 through 827 East Centre.

There being no further discussion, Chairman Cheesebro asked for a roll call vote: Patterson (no), Stoffer (yes), Cheesebro (no), Dargitz (yes), Bosch (no), Reiff (yes) and Felicijan (no). Motion failed 3-4. Commissioner Bosch offered a motion that the Planning Commission recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775, 801, 809, 815, 821, 827 and 903 East Centre Avenue be rezoned to OS-1, office service except for the north 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue that will remain zoned R-1A as a buffer. The motion was supported by Commissioner Patterson. Commissioner Dargitz asked if there was any support for retaining a R-1A buffer along the east side of 728 Bye Street. Commissioner Bosch responded no citing the same reasons expressed by Commissioner Reiff earlier. Chairman Cheesebro mentioned there are screening/buffering options, such as the use of trees, berms and fences during the site plan review process that are intended to minimize impacts on the adjacent resident. Commissioner Dargitz asked staff if the Commission can justify a buffer along the north end but not on the east adjacent to 728 Bye Street. Mr. Forth stated the Planning Commission must justify its recommendation; however, comments have been made by both Commissioners Reiff and Bosch why a buffer adjacent to 728 Bye Street is not being recommended. Commissioner Bosch concurred with the previous reasons and also reiterated the tools available during the site plan review process. Chairman Cheesebro stated if the Commission is inclined to require a buffer along the west side of 801 East Centre, then a buffer on the north side of 707, 743 and 775 East Centre should also be considered. However, screening in these situations will be adequate given the size of the lots.

Commissioner Reiff asked if the Planning Commission must forward the rezoning application to City Council with a recommendation. Attorney Brown responded by saying a recommendation is not required, only a public hearing per statutory requirements.

There being no further discussion, Chairman Cheesebro asked for a roll call vote: Felicijan (yes), Reiff (no) Bosch (yes), Dargitz (no), Cheesebro (yes), Stoffer (no), Patterson (yes). Motion for support failed 4-3. Commissioner Bosch asked if there could be a compromise regarding the depth of the proposed R-1A zone along the north portions of 801 through 827 East Centre. Commissioner Reiff responded no citing the need to ensure residential redevelopment options. Commissioner Reiff also stated rezoning the entire area would allow a larger office development resulting in greater impacts on the neighborhood. Commissioner Felicijan asked if Alternative No. 3 were to be recommended and approved, would Commissioner Reiff support a future rezoning application involving the northern area. Commissioner Reiff indicated he would be in a better position to consider a change in zoning if it involved a site plan for redevelopment. Commissioner Stoffer indicated Alternative No. 3 provides the most flexibility and is also consistent with the intent of the Comprehensive Plan. Retaining a portion of the residential zoning reduces the impact on the adjacent neighborhood, is still developable as it was intended and as currently zoned. Finally, Commissioner Stoffer stated Alternative No. 3 also provides the land owners an increase in property value by changing the zoning of the southern portion to OS-1. Commissioner Felicijan asked if it were all zoned to OS-1 and, at some point in future, a person desired to construct residential unit, could the zoning be changed back to residential. Mr. Forth responded that the zoning could be changed but other options exist, such as the Work/Live ordinance recently adopted by City Council.

The Planning Commission discussed whether or not to adjourn the public hearing until the June 7, 2012 meeting when there would likely be a full nine member commission. Attorney Brown indicated the discussion could be carried over to another meeting but would have to be noticed since the public hearing had been closed. Commissioner Bosch did not believe another meeting before the Planning Commission was necessary since the City Council makes the final decision, the extensive discussion that took place, the split between Commission members, and uncertainty how the other two Commission members would vote. Commissioner Bosch suggested the rezoning application be forwarded to City Council without a recommendation. Commissioner Patterson concurred and also added that it was a very good discussion with different perspectives and opinions. If the Commission cannot come to an agreement, Commissioner Patterson stated it is appropriate to forward the

application to City Council. The consensus of the Planning Commission was to forward the rezoning application to the City Council without a recommendation.

2. Final Report: Rezoning Application #11-05, 7812, 7840, 7842 and 7908 (portion thereof) Portage Road. Chairman Cheesebro stated he would be abstaining from discussion and voting on this rezoning request since his employer was one of the applicants. Commissioner Stoffer also indicated he would be abstaining from discussion and voting on this rezoning request due to a personal relationship with one of the neighboring property owners to the west. Since there was no other officer present, Chairman Cheesebro nominated Commissioner Reiff as the Chair Pro Tem. There being no discussion, Commissioner Reiff assumed the role of Chair Pro Tem. Both Chairman Cheesebro and Commissioner Stoffer left Council Chambers for the duration of the discussion.

Mr. Forth summarized the final staff report dated May 11, 2012 regarding a request received from the owners of 7812, 7840, 7842 and 7908 (portion thereof) Portage Road from B-2, community business and I-1, light industry to B-3, general business and P-1, vehicular parking. Mr. Forth stated the rezoning was being requested, in part, to facilitate construction of a micro-brewery and restaurant at 7842 and 7908 Portage Road. Mr. Forth stated staff was recommending the rezoning be approved as submitted. Commissioner Bosch asked if staff has received any other public comments since the last public hearing. Mr. Forth responded that no further comments have been received.

Mr. Todd Neuman, representing the applicant, was present to support the rezoning request. Commissioner Reiff asked if only beer and wine would be sold. Mr. Neuman responded yes, only beer and wine.

The public hearing was opened by Chair Pro Tem Reiff. There being no further public comment, a motion was offered by Commissioner Bosch, seconded by Commissioner Patterson to close the public hearing. The motion was unanimously approved. Commissioner Dargitz asked staff to explain the Comprehensive Plan designation of park/recreation that involves the Consumers Energy property. Mr. Forth explained the intent is to extend a multi-use trail to/from the Portage Road area similar to the Northwest Portage Bikeway. Upon submittal of a site plan for development of the Consumers Energy property in conjunction with the proposed micro-brewery, staff would work with the applicant to preserve a multi-use trail route to Portage Road.

There being no further discussion, a motion was made by Commissioner Felicijan, seconded by Commissioner Bosch, to recommend to City Council that Rezoning Application #11-05 be approved and 7812, 7840 and 7842 Portage Road be rezoned to B-3, general business and the portion of 7908 Portage Road (approximately 351-feet by 178-feet) located immediately south of 7842 Portage Road be rezoned to P-1, vehicular parking. The motion was approved 5-0-2 with Chairman Cheesebro and Commission Stoffer abstaining.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

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Commissioner Reiff asked about the first meeting in July since it is scheduled to occur the day after the 4th. No Commissioners indicated they would not be able to attend. There being no further business to come before the Commission, the meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Christopher Forth, AICP

Deputy Director of Planning, Development and Neighborhood Services.

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