



PLANNING COMMISSION

January 23, 2014

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

**January 23, 2014
(7:00 p.m.)**

Portage City Hall Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

- * January 9, 2014

SITE/FINAL PLANS:

PUBLIC HEARINGS:

- * 1. Special Land Use Permit: Great Lakes Convenience, 710 and 732 East Centre Avenue
- * 2. Ordinance Amendment #14-A, Sign Regulations

OLD BUSINESS:

NEW BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

December 9, 2013 Zoning Board of Appeals meeting minutes
December 17, 2013 City Council meeting minutes

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

PLANNING COMMISSION

DRAFT

January 9, 2014

The City of Portage Planning Commission meeting of January 9, 2014 was called to order by Chairman Welch at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. One citizen was in attendance.

MEMBERS PRESENT:

Bill Patterson, Dave Felicijan, Betty Schimmel, Wayne Stoffer, Paul Welch and Allan Reiff.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Miko Dargitz, Brian Somers and Rick Bosch

IN ATTENDANCE:

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

PLEDGE OF ALLEGIANCE:

Chairman Welch led the Commission in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Welch referred the Commission to the December 19, 2013 meeting minutes contained in the agenda packet. A motion was made by Commissioner Patterson, seconded by Commissioner Reiff, to approve the minutes as submitted. The motion was approved 6-0.

SITE/FINAL PLANS:

None

PUBLIC HEARINGS:

1. Special Land Use Permit: Paragon Auto Sales, 7215 South Westnedge Avenue. Mr. West summarized the staff report dated January 2, 2014 regarding the request by Mr. Irfan Gill, on behalf of Paragon Auto Sales, to establish an automobile dealership at 7215 South Westnedge Avenue. Mr. West indicated the site is improved with a 3,072 square foot building and 44-car parking lot and approximately 2,000 square feet of the building was currently occupied by Paragon Leather. Mr. West stated the applicant was proposing to establish the auto sales office in the remaining approximate 1,072 square feet of the building and display vehicles for sale in 15 existing parking spaces located along the southern portion of the site. Mr. West indicated that no exterior site improvements or modifications were proposed with the automobile dealership.

Mr. Irfan Gill, owner/operator of Paragon Leather and Paragon Auto Sales was present to support the application. No citizens were present to speak during the public hearing. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Reiff, to approve the Special Land Use Permit for Paragon Auto Sales, 7215 South Westnedge Avenue. The motion was approved 6-0.

DRAFT

OLD BUSINESS:

1. City of Portage 50th Anniversary Celebration – December Passbook Drawing. Commissioner Felicijan conducted the December Passbook drawing and Valeri Vuk was selected the winner of a radio controlled helicopter from Hobby Sports.

7:07 p.m. - The Commission took a short recess.

7:12 p.m. - The Commission reconvened the meeting in City Hall Conference Room No. 2

Attorney Brown indicated the Planning Commission meeting has been adjourned to Conference No. 2 to discuss proposed amendments to the sign regulations and a copy of the agenda stating such has been posted on the door of Council Chambers informing any interested citizen.

As a follow-up to discussions during the December 19th meeting, Mr. Forth distributed to the Commission a table that identified job distribution by sector in Portage from 1980 to 2011.

NEW BUSINESS:

1. Ordinance Amendment #14-A, Sign Regulations: Mr. Forth summarized the January 3, 2014 staff report and draft ordinance language regarding proposed amendments to the sign regulations. Mr. Forth indicated the proposed amendments are a result of comments received during the Business Sign Forum, as well as input received from the Planning Commission, Zoning Board of Appeals and City Council Ad Hoc Sign Committee. Mr. Forth discussed each proposed amendment and the rationale for the change: 1) Section 42-541, Definitions (sign, sign face and electronic message display); 2) Section 42-542(H), Removal of Signs and Section 42-1284, Removal of Hazardous Signs; 3) Section 42-542(I), Electronic or Mechanical Sign Elements (sign transitions, glare and/or brightness); 4) Section 42-542(J), General Requirements; 5) Section 42-543, Signs Permitted in All Districts (public event signs, new business, change in business or going out of business, temporary signs, temporary pedestrian oriented signs, banner signs, holiday decorations, substitution clause); 6) Section 42-544, Nonconforming Signs; 7) Section 42-522, B-2, B-3 and CPD districts); 8) Section 42-132, Special Events; and 9) Section 42-138, Murals.

The Commission and staff discussed various aspects of the proposed amendments. Commissioner Reiff asked why the terms “dissolve” and “fade” have been removed from the Definition section, however, referenced throughout other sections of the ordinance. Attorney Brown and Mr. Forth stated this was done for consistency since other terms referenced in conjunction with Electronic Message Display regulations are also not defined. There being no further discussion, Mr. Forth indicated the public hearing for further consideration of Ordinance Amendment #14-A, Sign Regulations has been scheduled for the January 23, 2014 meeting.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business to come before the Commission, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

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

TO: Planning Commission **DATE:** January 17, 2014
FROM: Vicki Georgeau, ^{MA} Director of Community Development
SUBJECT: Special Land Use Permit: Great Lakes Convenience, 710 and 732 East Centre Avenue

I. INTRODUCTION:

A Special Land Use Permit application has been submitted by Great Lakes Convenience, Inc. requesting approval to establish a gasoline station, convenience store and drive-thru restaurant with associated site improvements at 710 and 732 East Centre Avenue. The 2.24 acre zoning lot contains split zoning with the 710 East Centre Avenue parcel zoned P-1, vehicular parking (with the exception of the west 5-feet along Lakewood Drive which is zoned R-1A, one family residential) and the 732 East Centre Avenue parcel zoned B-3, general business. The zoning lot is improved with a 1,624 square foot market building (formerly Centre Street Market), a 567 square foot office building and associated parking and loading/unloading areas. The applicant proposes to demolish these existing buildings and construct a gasoline station consisting of a fueling canopy with five pump islands (10 fueling stations), a 4,000 square foot convenience store building with an attached 1,550 square foot drive-thru restaurant and associated site improvements.

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> Former Centre Street Market with 1,624 square foot market building, 567 square foot office building and associated site improvements zoned B-3, general business (732 East Centre) and P-1, vehicular parking (710 East Centre). • <u>South/West:</u> Single family residences within the established Loehr Acres subdivision zoned R-1A, one family residential. • <u>East:</u> Otis Montessori Academy preschool/day care (810 East Centre) zoned B-3. • <u>North:</u> Across East Centre Avenue, nonconforming single family residences zoned OS-1, office service.
Zoning History	<ul style="list-style-type: none"> • The former Centre Street Market parcel (732 East Centre Avenue) and properties located to the east, along the south side of East Centre Avenue, have been zoned B-3 since the comprehensive rezoning of the city in 1965. • In 1998, a request was received to rezone 710 East Centre Avenue from R-1A to B-3 to accommodate an expansion of the Centre Street Market. After considering the request, City Council approved a zoning change to P-1, vehicular parking with the exception of the west 5-feet along Lakewood Drive that was to remain zoned R-1A to prevent vehicular access to/from Lakewood Drive.
Comprehensive Plan	<ul style="list-style-type: none"> • Future Land Use Map component of the Comprehensive Plan identifies the subject property and adjacent properties to the east and west north, along both the north and south sides of East Centre Avenue, as appropriate for office land use. Centre Avenue is also designated as an office corridor in the Comprehensive Plan. Adjacent properties to the south, within the Loehr Acres neighborhood, are designed for low density residential land use.

Access	<ul style="list-style-type: none"> • Two full service driveways from East Centre Avenue proposed to serve the development project. • East Centre Avenue is designated as a 5 lane major arterial with 20,233 vehicles per day (2011); capacity of 37,100 vehicles per day (level of service “D”).
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 42-262.C.4, <i>Special Land Use</i> in the B-3 zoning district: “<i>Automobile service stations for the sale of gasoline, oil and minor accessories only, but not including major vehicle repair or other activities where any adverse external effects could extend beyond the property line.</i>” • 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:

During the initial meeting with the applicant to discuss the proposed project, staff expressed concern that the development project, as proposed, may be too intensive given the size, configuration, traffic flow/safety on the adjacent streets and location of the property in relation to surrounding land uses. Over the course of the past several weeks, staff and the applicant have engaged in meetings and reviews regarding the proposed development project to identify solutions to eliminate or at least minimize impacts associated with access, traffic generation/distribution and potential adverse impacts on the adjacent single family residential neighborhood. The applicant believes these issues are satisfactorily addressed and decided to move forward with the proposal and requested consideration of the required special land use permit. The following is a summary of the efforts to address these impacts.

To assess issues associated with access and traffic generation/distribution, the applicant hired RS Engineering, LLC to perform a Traffic Impact Study for the development project. RS Engineering submitted a draft copy of the Traffic Impact Study November 18, 2013 and recommended two full-service driveways from East Centre Avenue to serve the development project (access to Lakewood Drive is prohibited due to the 5 foot wide strip of R-1A, one-family residential zoning). Subsequent to the November 18th submission, discussions with RS Engineering concerning the background information and recommendations contained in the traffic study have been ongoing. In addition, staff advised that within 600-ft of the proposed development there are four driveways and two side streets, creating a minimum of 76 conflicting turn movements within the impact area. In an effort to ensure traffic flow and safety, staff advised the applicant that conflict points be reduced through the use of appropriate access management techniques such as the elimination driveways, driveway consolidation with adjacent uses, restricted turning movement driveways, appropriate driveway/street spacing and use of auxiliary lanes. The traffic study that was submitted does not consider any site specific access management techniques to reduce these vehicular conflict points to ensure traffic flow and safety along East Centre Avenue, a five-lane major thoroughfare. Consistent with the City of Portage Access Management Ordinance, staff requested access and site design be revised to provide a single full-service driveway or a one-way paired driveway arrangement (entrance-only and exit-only).

The revised traffic study submitted prior to the close of business on January 9, 2014 maintained a recommendation for two full-service driveways on East Centre Avenue. The traffic study was reviewed by staff and comments provided on January 14, 2014. On Thursday, January 16th, RS Engineering resubmitted a revised Traffic Impact Study. A cursory review of the study indicated many of the staff concerns/comments were not addressed by RS Engineering. RS Engineering concluded that East Centre Avenue "has adequate capacity to accommodate the projected site traffic volumes" and that the "preferred operations for this development is to provide full service driveways." The study further concluded that while "not warranted," designating the driveways as one-way enter/exit, "may be considered as an alternative access option for the proposed development plan." Due to the late submission, a complete review of the Traffic Impact Study by staff and formulation of a recommendation was not possible prior to finalization of this report.

In support of the special land use permit, the applicant has also submitted a preliminary site plan that identifies the location of the proposed building, fueling canopy and pumps, parking, storm water, screening and related improvements. The applicant has indicated that a finalized, engineered site plan will be submitted at a future date, pending Planning Commission review and approval of the special land use permit. While a Traffic Impact Study has been submitted (although not yet accepted by staff), a revised preliminary site plan that illustrates a paired driveway arrangement (entrance-only on the west side of the site and exit-only on the east side of the site) has not been submitted by the applicant. In the January 14, 2014 response to the applicant, the Department of Community Development communicated that two full-service driveways are not acceptable. At this time, if the applicant still desires two full-service driveways, an Access Management appeal must be submitted in accordance with the provisions of Section 66-84 of the City Code.

Additionally and to fully assess potential adverse impacts on the adjacent single family residential neighborhood, staff has also requested information regarding outdoor lighting, noise generation and hours of operation for the proposed development project. While information regarding hours of operation has been submitted by the applicant, discrepancies exist between the information contained in the revised Traffic Impact Study (which indicates 6am-9pm) and information contained in a supporting cover letter (which indicates 6am-11pm Monday thru Friday; 7am-11pm Saturday & Sunday).

Discrepancies also exist between parking calculations previously provided by the applicant and parking facilities identified on the preliminary site plan that make it unclear whether minimum parking requirements will be satisfied for the various uses. Initial plans and calculations indicated 50 parking spaces were required and provided. However, subsequent plans dated January 8, 2014 show 37 parking spaces and contain no parking calculations. Finally, and in regard to outdoor lighting and noise, the applicant has indicated that this information is not yet available, however, stated this information would be provided in conjunction with the formal site plan and the development project would meet all applicable ordinance requirements. For Commission information, the maximum footcandle level for outdoor lighting (0.3 footcandle at property line where abutting single family zoning/use and no glare) and maximum decibel levels for noise (55 dB(A) between 7am-10pm; 50 dB(A) between 10pm-7am) would be met. Potential impacts on adjacent properties are proposed to be

minimized by the provision of conflicting land use screening consisting of a 6-8 foot tall wood screening fence and tree plantings, as required by the Zoning Code.

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:

Although important details related to this development project have not been finalized, notice of the public hearing has been provided as requested by the applicant. Given the intensity of the proposed development project and potential impacts on the adjacent single-family residential neighborhood, the Planning Commission is advised to accept public comment during the January 23rd meeting and then adjourn the public hearing to the February 6th meeting. This will allow the applicant additional time to address staff comments/concerns related to traffic study; revise the preliminary site plan to demonstrate that external and internal site circulation and off-street parking will properly function and meet City Code requirements; revise supporting information to provide consistency with regard to the development proposal; and consider citizen comment provided during the public hearing. While it is understood the applicant is seeking final action on the special land use permit during the January 23rd meeting, the above information is needed prior to such action to ensure all aspects of the proposed use, and the associated impacts, are properly considered.

Attachments: Special Land Use Permit Application,
Vicinity/Zoning Map
Aerial Photograph Map
Hurley & Stewart letter dated January 16, 2014
Department of Community Development letter dated January 14, 2014
Preliminary site plan
Proposed building elevations

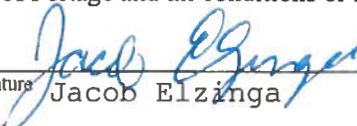
S:\2013-2014 Department Files\Board Files\Planning Commission\PC reports\Special Land Use Permits\2014 01 17 Great Lakes Convenience, 710 and 732 East Centre (SLUP)v2.doc

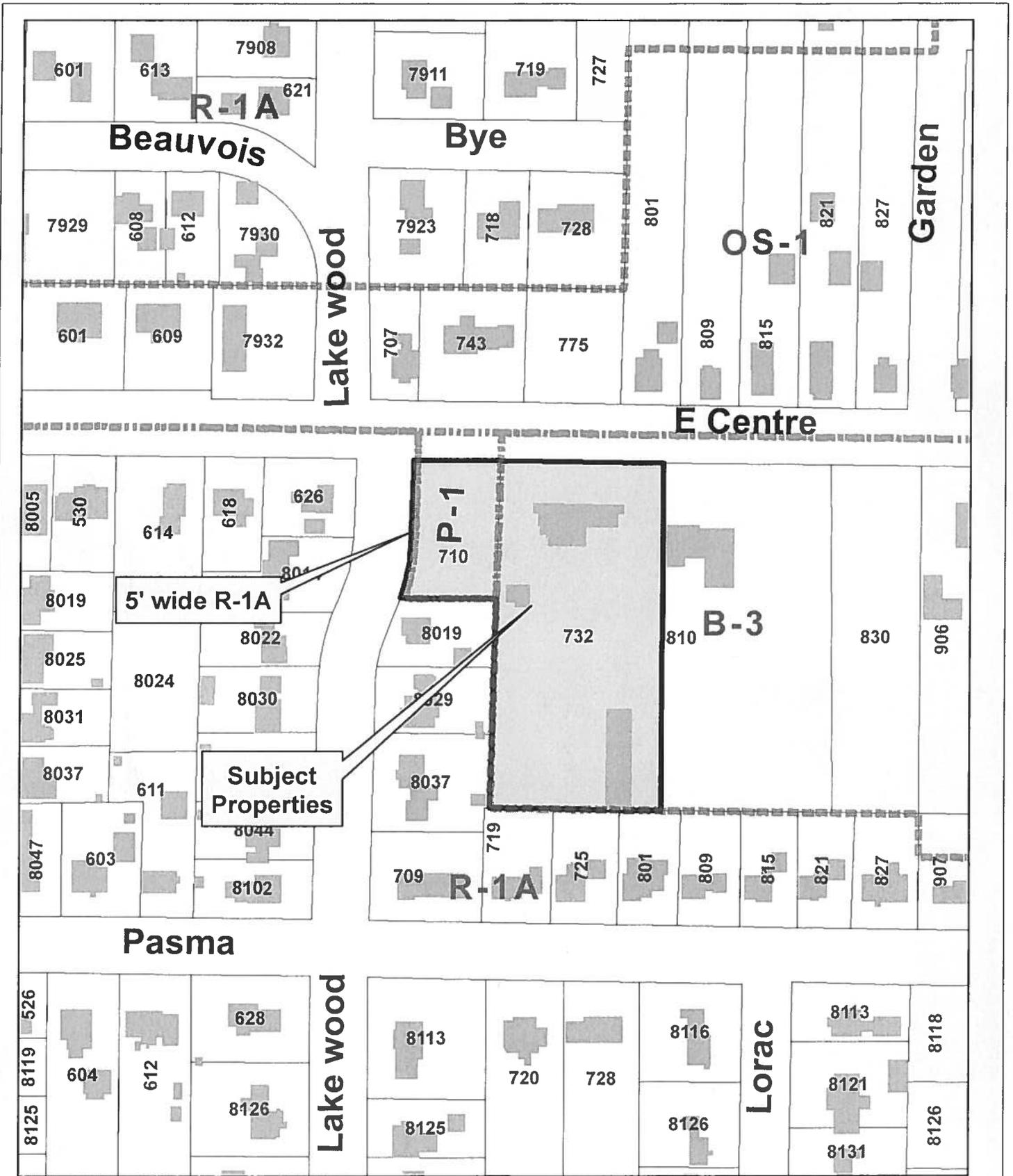


RECEIVED
NOV 27 2013

COMMUNITY DEVELOPMENT

Department of Community Development

APPLICANT INFORMATION			
Name DON ZIEMKE, JR. - GREAT LAKES CONVENIENCE, INC.		Telephone Number (616)437-7475	
Address 7404 KETTLE LAKE	City ALTO	State MI	Zip code 49302
OWNER INFORMATION (if different)			
Name Jacob Elzinga		Telephone Number 269-271-7016	
Address 2217 E. Centre	City Portage	State MI	Zip code 49002
PROPERTY INFORMATION			
Address of property 732 AND 710 E. CENTRE AVE.	Zoning District B3 AND P1	Land Area (acres) 2.24 COMBINED	
Legal Description (or attach separate page) SEC 22-3-11 COM N 1/4 POST SEC 22 TH W 297 FT FOR PL OF BEG TH S 440 FT TH W 198 FT TH E ALG N LI SD SEC 198 FT TO PL OF BEG. RES N 33 FT FOR HWY AND LOEHR ACRES LOT 16 & 17.			
PROPOSED USE			
Description of proposed Special Land Use (attach additional page(s), if necessary) A 4,000 SF CONVENIENCE STORE AND GAS STATION COMBINED WITH A 1,550 SF RESTAURANT WITH A DRIVE THROUGH WINDOW AND ASSOCIATED SITE IMPROVEMENTS.			
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  Jacob Elzinga		Date 11/27/2013	

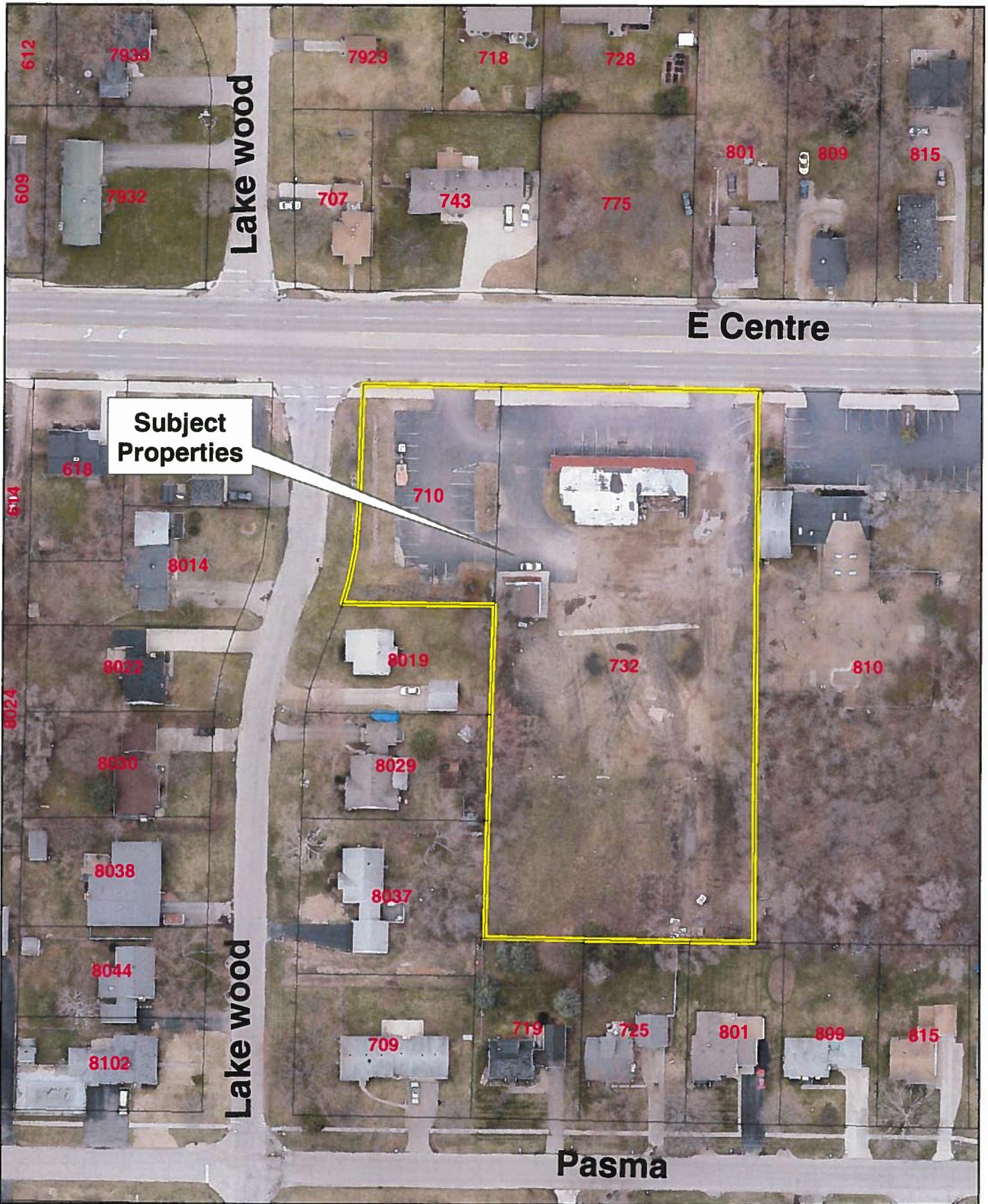


1 inch = 153 feet

Special Land Use Permit 710 & 732 East Centre Avenue

Legend

-  Zoning Boundary
-  Subject Properties



Subject Properties



1 inch = 96 feet

Special Land Use Permit 710 & 732 East Centre Avenue

Legend

 Subject Properties



January 16, 2014

Mr. Chris Forth
City of Portage
7900 S. Westnedge Avenue
Portage, MI 49002

RECEIVED
JAN 16 2014
11:50 a.m.
COMMUNITY DEVELOPMENT

RE: Special Exception Use Resubmittal
Great Lakes Convenience – 710 and 732 East Centre Avenue

Dear Chris:

Thank you for your comment and review letter dated January 14, 2014 for the proposed gas station, C-store, and restaurant development at 710 and 732 East Centre Avenue in Portage. Below please find additional information and responses to your comments.

Please note that this development will have five pumps and ten fueling stations. Not ten pumps as you mentioned in your letter. This may alleviate some perceptions of development intensity.

Attached for your information are the following documents that should address your comments:

1. Two (2) copies of the revised Traffic Impact Study from RS Engineering dated January 16, 2014.
2. Two (2) copies of the conceptual building elevations and floor plan for the proposed development.

We also offer the following responses which correspond numerically to the comments in your review letter:

1. As discussed with you, our developer commits to meeting the City's outdoor lighting level maximums of 0.3 footcandles from our development at the property lines abutting single family residential. Since we are in the early stages of this project a site lighting plan cannot be finalized. These details will be worked out during site plan approval
2. Also as discussed with you, our developer commits to meeting the City ordinance for maximum noise levels at the adjacent property lines. These details will be worked out during site plan approval since this project is currently at such a preliminary stage.
3. The hours of operation for this development will be as follows:
 - a. Monday-Friday 6am – 11pm.
 - b. Saturday 7am – 11pm.
 - c. Sunday 7am – 10pm.
4. See Section 7 of the attached Traffic Impact Study. One-way paired drives have been evaluated and are now considered a viable alternative as discussed in the report. We would prefer two full-access drives and still believe it will function the best but one-way paired drives (entrance/exit only) with a shortened turning taper on the west drive is an acceptable compromise for our developer.
5. Agreed.
6. Agreed.

January 16, 2014

Mr. Chris Forth

Page 2

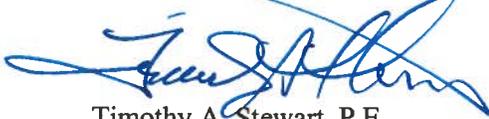
7. The trip generation tables and literature is copyrighted material and cannot be included in a public document as required by the publisher. The trip generation information used in the analysis obtained from the ITE Trip Generation Manual 9th Edition and the ITE Trip Generation Handbook 2nd Edition.
8. The table has been modified to show the 40% calculation. The trip generation assumptions are detailed in the footnotes on pages 8 and 9 of the report.
9. This study evaluated the existing driveway operations with full access. Therefore, the trips were distributed to both driveway. The analysis as described in this comment is provided in Section 7 of the report.
10. See response for #9. Please note that there may be minor (± 1) rounding error with the traffic volumes. This is typical when working with small volumes and percentages. This may account for some discrepancy in the volumes.
11. See response for #10.
12. The volumes and splits were reviewed and it was determined that the volumes shown in the analysis for the existing full access drive are correct. The analysis for the one-way entry/exit drives is provided in Section 7.

Thank you again for your cooperation on this development. We look forward to presenting our project to the January 23rd Planning Commission meeting.

Please don't hesitate to let us know if you have any additional questions or require more information.

Sincerely,

HURLEY & STEWART, LLC



Timothy A. Stewart, P.E.

Enclosures

cc: Mr. Don Ziemke – Great Lakes Convenience, Inc.





Department of Community Development

January 14, 2014

Mr. Tim Stewart
Hurley & Stewart
2800 South 11th Street
Kalamazoo, Michigan 49009

Dear Tim:

Re: Revised Traffic Impact Study/Site Plan for Great Lakes Convenience, 710 and 732 East Centre Avenue, Portage, Michigan

Thank you for submitting the revised traffic impact study (received late on January 9th) and preliminary site plan (received late on January 8th) for the above captioned development project. As you are aware, preliminary review comments regarding the development project were provided to you in two review letters dated December 3, 2013 and December 10, 2013. It was noted that many of the comments and concerns identified by the City Administration in these two letters were not addressed in the revised submittal. This information is important in order for staff and the Planning Commission to fully evaluate the proposed development project and potential impacts in accordance with Section 42-462, General standards for review of special land use permits of the Zoning Code.

As previously indicated, staff has concerns that the proposed use including five gasoline fueling islands (10 pumps), a 4,000 square foot convenience store and a 1,550 square foot fast food restaurant with a drive-thru may be too intensive given the size, configuration and location of the property in relation to surrounding land uses and traffic flow/safety on the adjacent streets. However, and in a continued effort to assist you in the design of the site and to meet ordinance provisions, the revised traffic impact study and site plan have been reviewed by the City Administration and the following comments are offered.

1. As previously requested, additional information is needed regarding the proposed fueling canopy lighting and other outdoor lighting units to ensure compliance with applicable ordinance requirements. Outdoor lighting levels from the overall development site can not exceed 0.3 footcandles at the property lines where abutting single family residential land use/zoning (west, south and north across East Centre Avenue).
2. As previously requested, additional information regarding noise generated by the vacuum/air units and menu board/speaker system for the drive-thru portion of the fast food restaurant is needed to ensure compliance with applicable ordinance requirements. Maximum noise levels from the development site including the vacuum/air units and menu board/speaker system for the drive-thru portion of the fast food restaurant, can not exceed 55 dB(A) between the hours of 7:00am-10:00pm and 50 dB(A) between the hours of 10:00pm-7:00am.

3. As previously requested, please provide a written description of the proposed use including hours of operation of each component of the use. Additionally and as previously requested, please provide color elevations of the building and fueling canopy.
4. As previously discussed and in order to facilitate traffic at adjacent intersections, it is important to designate entrance/exit only driveways. This concept needs to be more thoroughly evaluated as part of the traffic impact study.
5. Once an acceptable access arrangement has been established, entering traffic volume will determine the need for an auxiliary lane based on the criterion established by the City of Portage.
6. A raised median in the middle of a roadway prohibits left turn movements. As a result, a right-in/right-out driveway will be redundant and not appropriate.
7. Please attach trip generation tables/literature utilized for trip generation.
8. Site generated trips shown on "Table 3" need to be corrected, as it needs to be 40% of total trip generated shown on "Table 2." An explanation of your assumption for daily trip generation is needed.
9. Based on the analogy developed by the analyst for trip distribution, 51% of the eastbound traffic will enter the westerly driveway. Please comment on why this assumption was made. Similar situation exists for eastbound traffic based on the pump station location, access, convenience store and restaurant drive through location.
10. On Page 13 of the Traffic Impact Study, PM splits for eastbound traffic need adjustment.
11. On Exhibit 6 and 7, AM volume splits shown are not correct. Also, please check volume splits for all the three time periods.
12. Once the volume split is completed correctly, no further comments are offered until the traffic generation and splits are complete.

While information contained in the revised traffic impact study indicates one full-service driveway is not feasible, a reduction in the intensity of the proposed use as described above would allow for site redesign with a single full-service driveway. Alternatively, an exit/entrance only driveway arrangement similar to the Speedway gas station/convenience store on West Milham Avenue appears to be a viable option and is consistent with the City of Portage Access Management Ordinance. If you disagree with the staff decision regarding the access arrangement, you have the option to appeal the decision to the Planning Commission pursuant to Section 66-84. In addition to submitting supporting documentation, please be aware there is a \$330.00 fee.

As requested, the special land use permit for the proposed development project has been noticed and scheduled for the January 23, 2014 Planning Commission meeting. Since the agenda for this meeting, including the Community Development staff report and recommendation, will be finalized and distributed on Friday, January 17th, it is imperative that previously requested information along with any revised plans, reports, etc. be received as soon as possible but no later than 12:00 noon on Thursday, January 16th. Due to the information that must still be provided and the lack of time necessary to review the revised information and prepare a report to the Planning Commission, it may be necessary that the public hearing be held and then adjourned until the February 6th meeting. This action will allow staff and your team of

Great Lakes Convenience (revised traffic impact study and site plan)
710 and 732 East Centre Avenue
Page 3

professionals additional time to finalize important details associated with this project and a recommendation to the Commission.

If you have any questions or would like to schedule a meeting to discuss the review comments further, please feel free to contact me in the Department of Community Development at 329-4477.

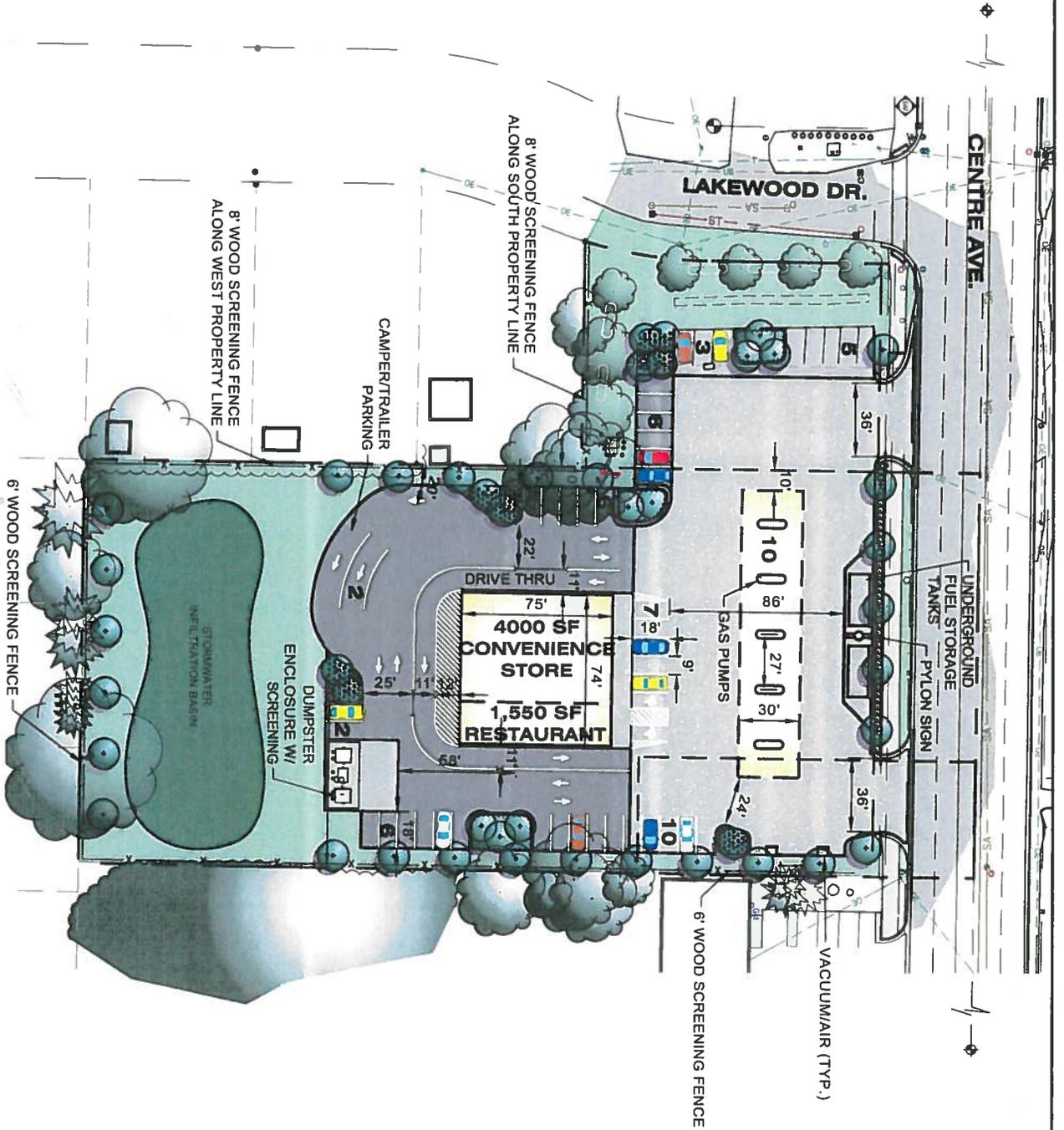
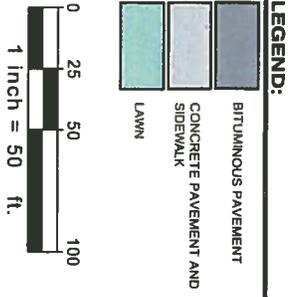
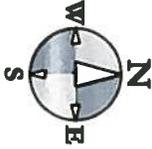
Sincerely,



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

cc: Don Ziemke Jr. (Great Lakes Convenience, 7404 Kettle Lake, Alto, Michigan 49302)
Julie Kroll (RS Engineering LLC, 915 Centennial way, Suite 380, Lansing, Michigan 48917)
Vicki Georgeau, Director of Community Development
Christopher Barnes, Director of Transportation and Utilities
John Podgorski, Senior Deputy Fire Chief
Terry Novak, Deputy Director of Building Services
Michael West, Assistant City Planner

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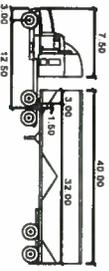
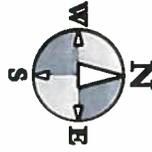
Drawing No.

Title: **PRELIM SITE PLAN TWO DRIVES**
 Project: **CENTRE AVE STATION**
 Client: **GREAT LAKES CONVENIENCE, INC.**

Job No: 13-0035D
 Date: 1/8/14
 Scale: 1"=50'
 P.M.: TAS
 D.I.: LAD
 D.A/QC: 1/8/14



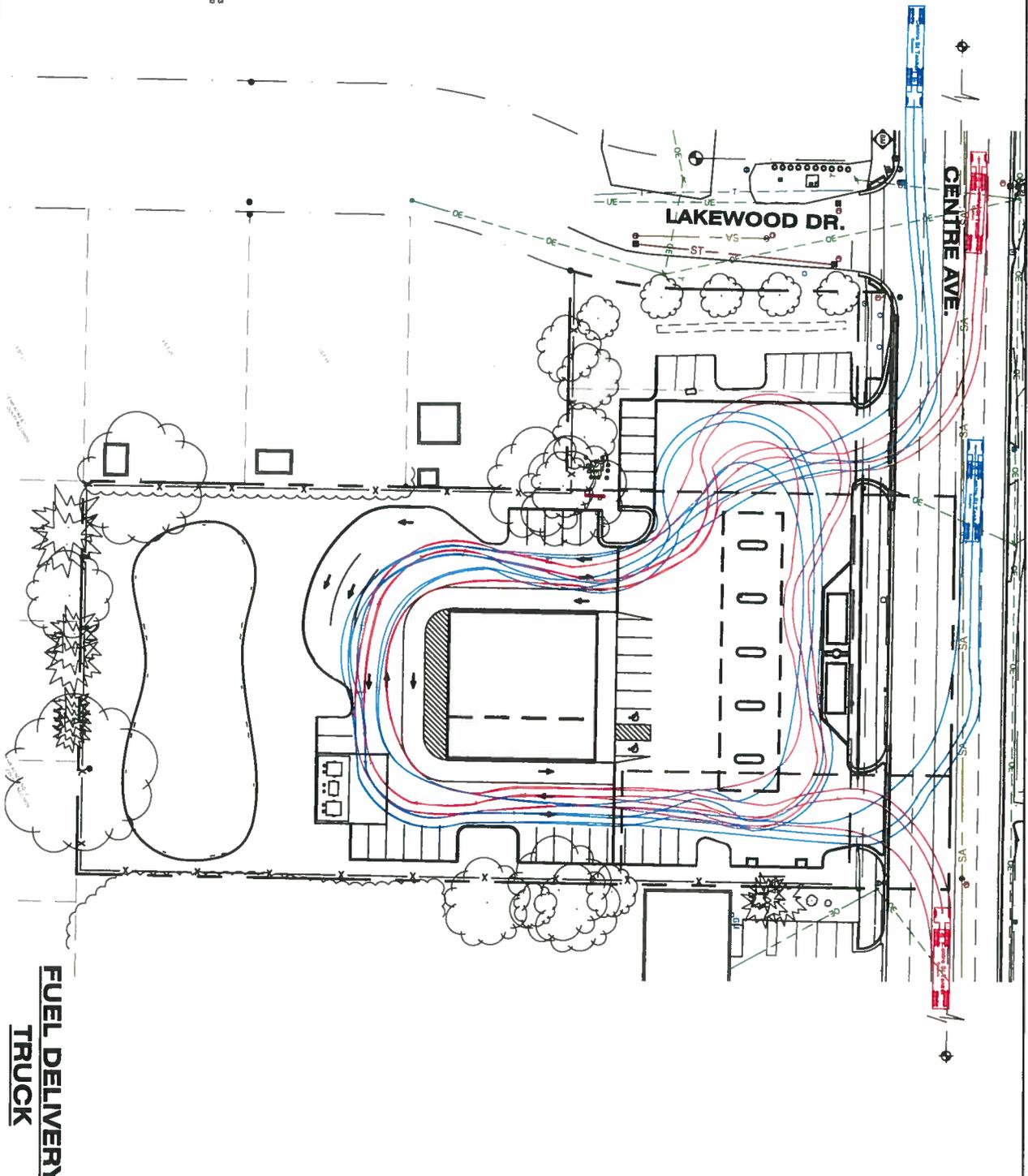
hurley & stewart, llc
 2800 south 11th street
 kalamazoo, michigan 49009
 269.552.4960 fax 269.552.4961
 www.hurleystewart.com



Centre St Tanker truck
 Trailer Width : 8.00 Lock Up Time : 8.0
 Trailer Track : 8.00 Steering Angle : 20.3
 Trailer Turn : 8.00 Articulating Angle : 70.0

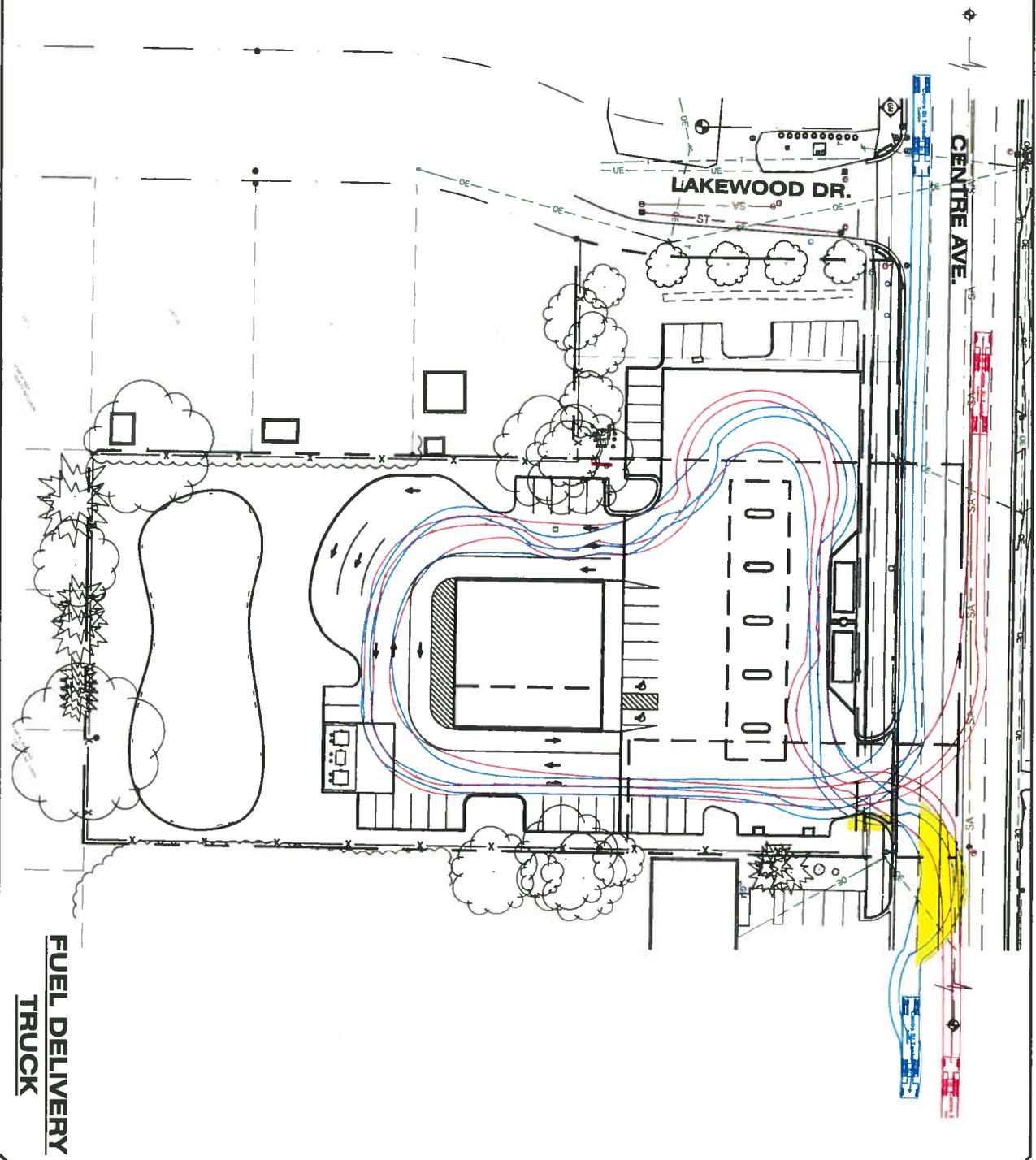
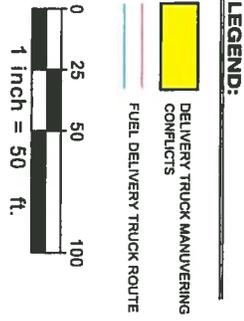
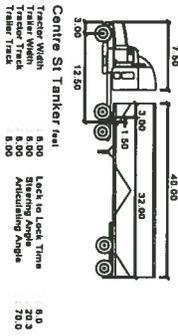
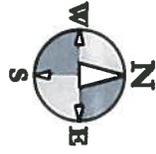
LEGEND:

— FUEL DELIVERY TRUCK ROUTE



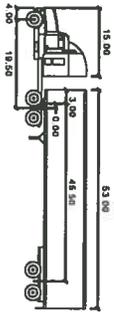
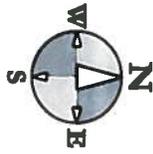
FUEL DELIVERY TRUCK

Drawing No. D-1	Title: DUAL DRIVE CIRCULATION PLAN	Job No.: 13-0035D Date: 1/8/14 Scale: 1"=50' P.M.: TAS Dft: LAD QA/QC: 1/8/14	 hurley & stewart	Title:	Project:	Client:	hurley & stewart, llc 2800 south 11th street kalamazoo, michigan 49009 269.552.4960 fax 269.552.4961 www.hurleystewart.com
	Centre Ave Station						
	GREAT LAKES CONVENIENCE, INC.						
	Title:						
	Project:						



FUEL DELIVERY TRUCK

D-3 Drawing No.	THE SINGLE DRIVE CIRCULATION PLAN	Job No.: 13-0035D	 hurley & stewart, llc 2800 south 11th street kalamazoo, michigan 49009 269 552 4960 fax 269 552 4961 www.hurleystewart.com
	Project: CENTRE AVE STATION	Date: 1/8/14	
	Client: GREAT LAKES CONVENIENCE, INC.	Scale: 1"=50' P.M.: TAS DR: LAD QA/QC: 1/8/14	

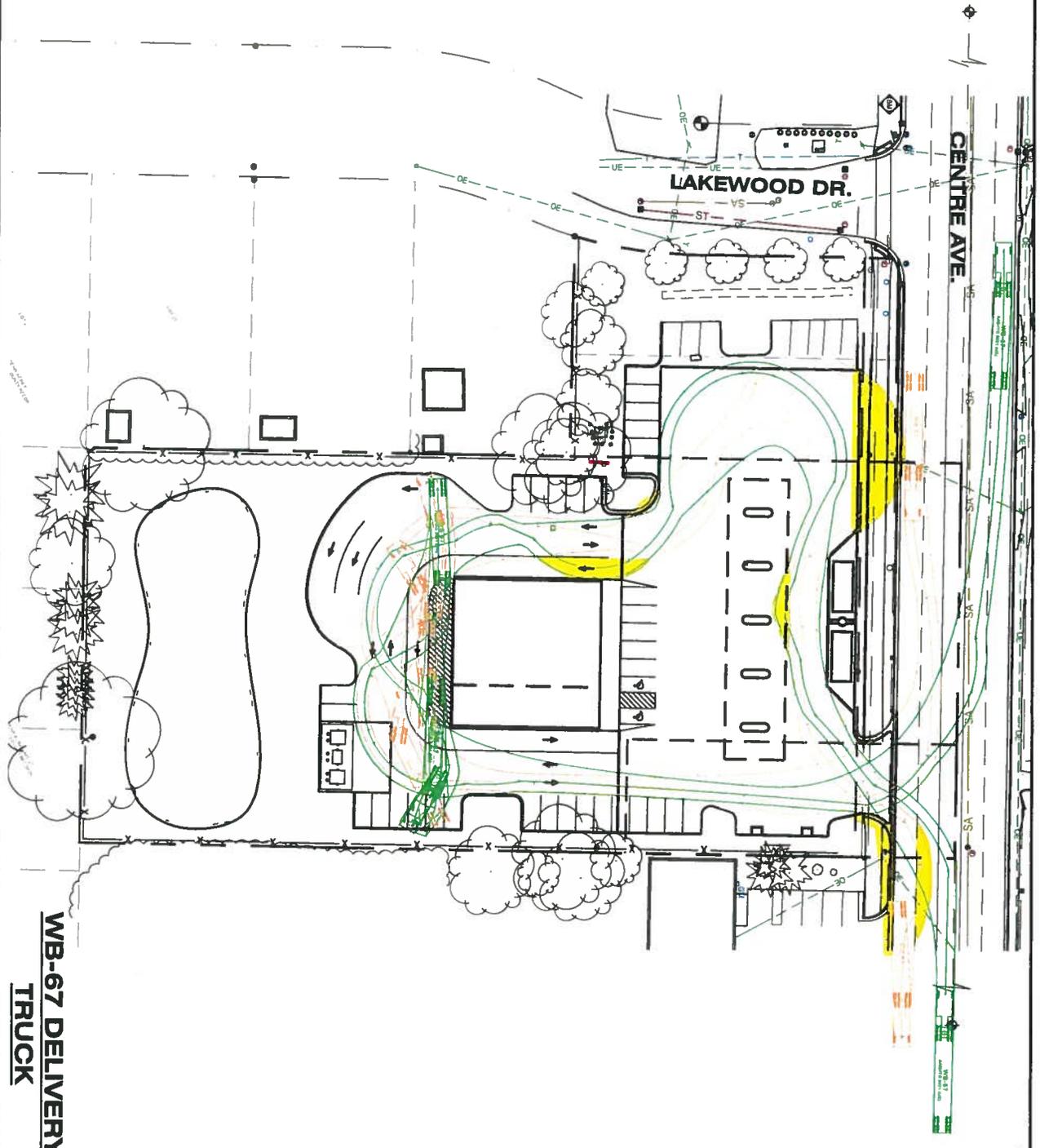


WB-67

Trailer Width	14'4"	Lock to Lock Time	5.0
Trailer Height	8'00"	Steering Angle	25.4
Trailer Track	6'00"	Articulating Angle	75.0
Trailer 19'50"			

LEGEND:

- DELIVERY TRUCK MANEUVERING CONFLICTS
- WB-67 DELIVERY TRUCK ROUTE



WB-67 DELIVERY TRUCK

<p>Drawing No. D-4</p>	<p>SINGLE DRIVE CIRCULATION PLAN Project: CENTRE AVE STATION Client: GREAT LAKES CONVENIENCE, INC.</p>	<p>Job No.: 13-0035D Date: 1/8/14 Scale: 1"=50' P.M.: TAS DR: LAD QA/QC: 1/8/14</p>	 <p>hurley & stewart 2800 south 11th street kalamazoo, michigan 49009 269.552.4960 fax 269.552.4961 www.hurleystewart.com</p>
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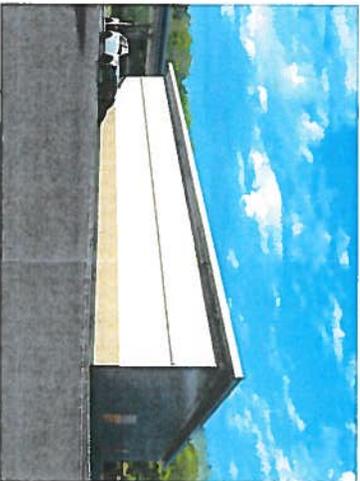
VIEW FROM CENTRE AVE



VIEW FROM NORTH EAST



VIEW FROM NORTH WEST



VIEW FROM SOUTH WEST



VIEW FROM SOUTH EAST

TowerPinkster

EXTERIOR VIEWS





TowerPinkster

FLOOR PLAN

HHS
History & Memory

CREATLANDS CONVIENCE

TO: Planning Commission

DATE: January 17, 2014

FROM: Vicki Georgeau, ¹²Director of Community Development

SUBJECT: Ordinance Amendment 14-A, Sign Regulations

I. INTRODUCTION:

The Sign Ordinance Committee Work Group, which consisted of the Council Sign Ordinance Committee and three members from the Planning Commission, met on October 22nd to review potential amendments to the sign regulations provided in the Zoning Code based on input received from the Business Sign Forum as well as the Planning Commission and Zoning Board of Appeals workshops. As background for the Commission, attached is the September 25, 2013 communication reviewed by the Sign Ordinance Committee Work Group, which summarizes recommended amendments in the areas of: wall signs, non-conforming signs; electronic message display signs; banner signs; temporary signs and the definition of “sign” to permit more flexibility and creativity. In addition, attached is a report from the Ad Hoc Sign Committee that was accepted by City Council on October 22nd and indicates concurrence with the recommendations of the September 25th staff report, but with additional modifications to banner signs and temporary signs.

II. PROPOSED SIGN AMENDMENTS:

Pursuant to the recommendations of the Sign Ordinance Committee Work Group and City Council, attached is draft ordinance language subsequently prepared by staff and the City Attorney. The ordinance language shows revisions in underline (new text) and strikeout (deleted text) and is further summarized below.

1. Section 42-541, Definitions

- Sign and Sign Face. There has been some concern expressed that the Zoning Code definition of “sign” is overly broad and/or that decorative images, graphics and other non-commercial displays, architectural and/or landscape features are not permitted. Accordingly, the definition of “sign” has been modified to:
 - eliminate the wording, “which directs attention to...” and replacing it with language that indicates a sign “identifies, depicts, or otherwise advertises” a product, service, place, activity...”
 - specifically exclude: a) murals, which are to be regulated in the General Provisions of the Zoning Code under Section 42-138; and b) graphics, illustrations, architectural or landscape features used solely for decorative purposes which do not display a business name, logo or trademark and do not identify, depict or otherwise advertise a product, business or service.

- The definition of sign has also been modified to clarify a sign includes the support structure, sign pole and/or anchoring device. This change is proposed to address a prior legal challenge to the definition of a sign.
- Electronic Message Display (EMD). The definition of “dissolve” and “fade” have been deleted from this section. These changes are proposed in combination with revisions to Section 42-542(I), which allow more flexibility in the use of EMD transitions, as discussed in more detail under item #3 below.

2. Sections 42-542(H), Removal of Signs and 42-1284, Removal of Hazardous Signs

These two sections of the Land Development Regulations address removal of a sign if determined to be a hazard to the health, safety or general welfare of the public. During the development of specific ordinance amendment language, an inconsistency between Section 42-542(H) of the Zoning Code (Article 4), and Section 42-1284 of the Sign Code (Article 11) was noted. For Commission information, Article 11 of the Land Development Regulations provides construction and maintenance standards related to signs, which compares to the Zoning Code (Article 4), which regulates the number, size and placement of signs. The proposed amendatory language corrects the inconsistency between the two sections and also stipulates the abatement procedure must be in accordance with the existing abatement procedure contained in Section 24-113(e), Abatement procedure, specified in the Community Quality Code, Chapter 24 of the Code of Ordinances.

3. Section 42-542(I), Electronic or Mechanical Sign Elements

Two issues were identified with regard to EMD sign displays that are proposed for modification: 1) Allowing different types of transitions between sign “frames” to permit a wider array of motion/movement; and 2) concerns involving glare and/or brightness.

- Sign Transitions. Under the current ordinance language, messages on an EMD must be presented in static displays only. The transition from one static display to another can be accomplished through subtle dissolve, fade or similar transitions. While business owners have expressed a concern with EMD sign restrictions, there has been continued input from the general public as well in regard to distractions and potential hazards with regard to these signs. In an effort to allow the business community to utilize more of the available EMD technology, while at the same time address the input from the general public, ordinance language is proposed that will maintain the static display for message frames, yet permit transitions that include traveling or scrolling text and images. Such transitions should occur over not more than one second and should not include images that expand or contract, flash, spin/rotate, twist, bounce or other comparable movements.
- Glare and/or brightness. The sign regulations currently require that all EMDs be equipped with dimming capabilities so that the intensity of the light source can be controlled in the event the sign causes glare. Several existing EMD signs include a manual dimmer that is

not as effective in comparison to an ambient light sensor that adjusts sign brightness according to existing exterior light conditions. The proposed ordinance language would require that all EMD signs be equipped with an automatic ambient light sensor to prevent glare. An automatic ambient light sensor would also improve sign message legibility and extend the life of the EMD.

- In addition to the proposed ordinance language, two other administrative changes will be implemented with the permit application and review process, which include: a) requiring a signed affidavit from the sign owner and operator that the EMD sign regulations have been received and reviewed prior to the issuance of any sign permit that includes an EMD display; and b) requiring a signed affidavit from the sign contractor that the ambient light sensor has been installed and calibrated to ambient light conditions within not more than 10 days after sign installation.
4. Section 42-542(J): A new subsection under General Requirements is proposed that clarifies that all exterior signs within the City of Portage are also subject to the construction and maintenance standards required in Article 11 (Signs) of the Land Development Regulations.
 5. Section 42-543, Signs Permitted in All Districts

The Zoning Code provides a number of mechanisms for businesses to routinely advertise promotions and events via temporary signage, which include: changeable copy board, electronic message displays, banner signs, public event signs (for a non-commercial event of community-wide interest) and holiday decorations. In addition, for grand openings, change of business (ownership) and going out of business events, signs are permitted for a 14-day period. In order to prevent sign clutter and due to the challenges associated with temporary sign enforcement, the current requirements pertaining to the use of temporary signs is recommended, but with the following amendments designed to allow more business flexibility:

- Section 42-543(F), Public Event Signs. Subsection 5 has been modified to clarify that one 64 square foot sign is permitted, and subsection 6 has been added to clarify a 10-foot setback for signs is required. In addition, a new subsection 7 has been added to clarify an EMD sign is permitted subject to the provisions of Section 42-542(I). Finally, a new subsection 8 has been added to clarify that public event signs six square feet in area or less do not require a permit.
- Section 42-543(H), Opening of a New Business, Change in Business or Going out of Business Sales. This section has been modified to permit the use of an EMD sign subject to the provisions of Section 42-542(I).
- Section 42-543(I), Temporary Signs-Generally. A new subsection is proposed that permits businesses to use a 40 square foot temporary sign for one display period (up to seven consecutive days) during any calendar year. This display period would be in addition to a

grand opening, change in ownership/tenancy or going out of business display event. Use of an EMD would also be permitted subject to the provisions of Section 42-542(I).

- Section 42-543(J), Temporary Pedestrian Oriented Signs. A new subsection is proposed that permits businesses to utilize a pedestrian oriented sign not exceeding six square feet in area when located within 10 feet of the main customer entrance. A permit for this type of sign would not be required.
- Section 42-543(K), Banner Signs. Currently, banner signs are only permitted in the business districts. The proposed amendment removes the existing banner provisions in each respective business district, and inserts language in Section 42-543 that permits banner signs in any zoning district (note: except for active home occupations, which are permitted a six square foot sign, such home based businesses are not permitted to have signs, including banner signs). In addition, the following changes are recommended to provide additional flexibility and options to advertise promotions and events via this type of temporary signage:
 - Allow the entire banner to be used for sign copy (current ordinance language limits the sign area to no more than 50% of the area of the banner).
 - Allow the banner to be placed at the property line (10-foot setback is currently required) as long as it does not project into the public right-of-way or over a public sidewalk.
 - In conjunction with the setback revision above, the required height above the adjacent grade has been increased from six to eight feet to address potential vision obstructions and provide more sufficient ground clearance.
 - Provisions regarding maintenance of the banner and its support structure have been clarified.
 - Provisions regarding the permit requirements for banner signs have been added. In particular, a permit is required for the initial installation. However, no permit is required for subsequent banner changes if there is no change to the support structure and/or anchoring device, and the requirements of the subsection are otherwise met.
- Section 42-543(M), Holiday Decorations. Currently, around the annual Christmas holiday, decorations are restricted to the day after Thanksgiving to January 2. It is recommended this display period be extended from November 1 to January 15 to align with more common practice within the community.
- Section 42-543(O), Substitution Clause. This new subsection has been recommended by the City Attorney and addresses First Amendment issues with regard to sign regulation. This clause has been added to comply with legal requirements which forbid the favoring of commercial speech over noncommercial speech.

6. Section 42-544(B), Nonconforming Signs.

In an effort to phase out signs that do not meet current ordinance provisions with regard to sign area, height, setback and/or number of signs on a zoning lot, Section 42-544 of the Zoning Code prohibits any changes (including wording or graphics) to an existing nonconforming sign unless a variance is received. As an alternative to obtaining a variance, a non-conforming sign may be changed and utilized over a five-year period, provided the property/sign owner enters into an agreement with the city to remove the sign at the end of the period with a sign that conforms to the Zoning Code.

In an effort to assist business owners and/or property owners, it is recommended that Section 42-544(B)(2) that prohibits changing words or symbols be deleted, while other provisions intended to gradually phase out such signs remain in place. As a significant number of nonconforming signs have been replaced with conforming signs since the initial adoption of the sign regulations, this revision is reasonable and would not impair the intent of the ordinance, yet allow additional flexibility for sign owners and businesses.

In addition to the above, two other minor changes are recommended: a) the time period provided in Section 42-544(B)(3) in which a non-conforming sign can be re-established after a business vacancy has been increased from 30 days to 180 days; and b) Section 42-544(B)(6) has been amended to clarify what is a substantial improvement to the property that would require removal of a nonconforming sign. The amendment clarifies that the substantial improvement must occur to the main building. Site improvements, such as the parking lot, landscaping or sidewalk are excluded from the market value calculation.

7. Section 42-552, B-2, Community Business, B-3, General Business and CPD, Commercial Planned Development Districts.

The following changes regarding the placement of freestanding signs for corner lots and allowable wall signs in the B-2, B-3 and CPD zoning districts are recommended:

- Section 42-552(D). Properties located on the corner of two intersecting streets are allowed to have one freestanding sign per street frontage. If only one sign is used, the area of the sign may be increased provided the sign is equally oriented to both street frontages. The requirement that the sign be “equally oriented” is proposed to be deleted and instead the one freestanding sign must be placed within 25 feet of both street frontages (i.e. near the intersection). Reducing the restriction that the sign be equally oriented to both street frontages encourages only one sign on the zoning lot, thus reducing sign clutter and provides business and/or property owners increased flexibility.
- Section 42-552(I). Businesses are typically permitted up to a maximum of 100 square feet of wall signage, while larger retailers with significant wall frontage facing the street and significant setbacks receive additional wall signage on a sliding scale. In recent years, the

city has received feedback from the business community and sign industry representatives that suggests a need for additional wall signage for retailers with less than 200 feet of lineal wall frontage. The rationale presented indicates a trend towards smaller stores for “big box” retailers, and the need for sign area that is more in scale with store fronts with larger wall areas at their entrances. In this regard, it is recommended that an additional 25 square foot “bonus” sign area be permitted for buildings with a lineal wall length of 100-200 feet as measured at the main building entrance. With this change, buildings with a minimum wall of 100 lineal feet at the main building entrance would also be eligible for a “bonus” per subsection 2 above if visibility is hindered by significant building setbacks as well.

8. Section 42-132, Special Events. The regulations for Special Events, or outdoor promotional events have been revised to permit one 40 square foot temporary sign to be displayed during the event. In addition, the amendment clarifies that an EMD sign display may be permitted for such signage. Finally, a separate sign permit is not required provided information regarding the proposed sign is submitted with the Special Event permit application.
9. Section 42-138, Murals.

The Zoning Code does not currently include provisions to allow for murals to be placed on exterior building walls. However, ordinance language has been developed to permit murals of an artistic nature, which can create a sense of place and community within the city. Because murals are defined as a non-commercial message, picture, illustration, painting or scene, murals are not proposed to be regulated as a sign and, therefore, the ordinance language is proposed under Division 3, General Provisions, of the Zoning Code. The inclusion of the mural ordinance language in the General Provisions section of the Zoning Code means they are permitted in any zoning district as long as all applicable requirements are fulfilled.

Staff and the City Attorney completed extensive research regarding community regulations and laws pertaining to murals. The requirements that have been developed are minimal so as not to be overly burdensome, and address basic health, safety and welfare issues and take into account matters related to free speech and artistic expression. The major provisions of the ordinance include:

- An intent and definition section.
- Murals cannot: cover windows or doors, project more than six inches from the wall or be located on a roof.
- Murals cannot: have animated parts or light elements, or imitate a traffic sign/device.
- Murals on a historic building must receive approval from the Historic District Commission.
- Murals cannot compromise the structural integrity of the wall/building.

- Murals less than 100 square feet are not regulated. Only one mural per wall is permitted, which may be 1,000 square feet in area or 50% of the wall on which it is placed, whichever is greater.
- Murals cannot contain obscene or offensive content.
- Provisions for maintenance of murals are provided in the ordinance language.
- If a permit is denied by the Director, the applicant can appeal the decision to the Planning Commission.

III. PLANNING COMMISSION REVIEW

During the January 9, 2014 Planning Commission meeting, staff summarized the amount of time the proposed amendments have been under development and the public input received to date. Staff explained each proposed amendment and the rationale for the change. Subsequently, the Commission and staff discussed various provisions of the proposed amendments. At the conclusion of the discussion, the Commission did not recommend any modifications in advance of the public hearing scheduled for January 23, 2014.

IV. RECOMMENDATION

Consistent with the Planning Commission policy of accepting public comment at the initial meeting and continuing the discussion involving the proposed ordinance amendments at a subsequent meeting, the Commission is advised to receive public comment during the January 23, 2014 meeting and adjourn the public hearing to the February 6, 2014 meeting. However, if there is no further public or Planning Commission comment necessitating further consideration and adjournment to the February 6th meeting, the Commission is advised to recommend to City Council that Ordinance Amendment 14-A involving several changes to the Sign Regulations be approved.

Attachments: September 25, 2013 communication Sign Ordinance Committee Work Group – Potential Sign Amendments
 October 22, 2013 Ad Hoc Sign Committee report to City Council
 Proposed ordinance amendment

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: September 25, 2013

FROM: Vicki Georgeau,  Director of Community Development

SUBJECT: Sign Ordinance Committee Work Group – Potential Sign Amendments

Subsequent to the Council Sign Ordinance Committee report on July 23rd, the Planning Commission Chairman appointed three members to serve on a Work Group with the Council Committee to assist the City Administration with drafting potential changes to the Sign Ordinance. These members are Rick Bosch, Bill Patterson and Betty Schimmel. As background information for the Planning Commission Work Group members, the attached May 21, 2013 communication was provided regarding public input received during the Business Sign Forum as well as the Planning Commission and Zoning Board of Appeals workshops.

The attached report outlined minor adjustments that may be appropriate in the areas of: wall signs, non-conforming signs; electronic message display signs; banner signs; temporary signs and the definition of "sign" to permit more flexibility and creativity. In the interim, additional research has been completed in regard to potential amendments to the Zoning Code sign regulations and the following is provided for consideration:

➤ Wall Sign area provisions: Historically, the maximum permitted wall sign area was established at 100 square feet regardless of the size of the building wall. In 2003, when a comprehensive update to the Zoning Code was accomplished, the wall sign provisions were amended to permit larger wall signs in the B-2, Community Business, B-3, General Business and CPD, Commercial Planned Development districts for larger retail uses with a minimum 200 lineal feet of building wall. Additional sign area was also permitted for retailers with significant building setbacks from a public or private street. Section 42-552(I) provides the following:

1. For buildings with wall frontage on a public or private street that exceeds 200 lineal feet:

Wall (in lineal feet)	Additional Sign Area Permitted (in square feet)
200--300	50
300--400	75
400--500	100
Greater than 500	125

2. For buildings with wall frontage on a public or private street that exceeds 200 lineal feet and with a setback greater than 300 feet from a public or private street:

Building Setback (in feet)	Additional Sign Area (in square feet)
300—400	50
400—500	75
500—600	100
Greater than 600	125

While the ordinance amendment was well received initially, the city has received feedback in recent years from the business community and sign industry representatives that suggests a need for additional wall signage for retailers with less than 200 feet of lineal wall frontage. The rationale presented indicates a trend towards smaller stores for “big box” retailers, and the need for sign area that is more in scale with store fronts with larger wall areas at their entrances. In this regard, it is recommended that an additional 25 square foot “bonus” sign area be permitted for buildings with a lineal wall length of 100-200 feet (i.e., revise table in subsection 1 above). With this change, buildings with a minimum wall of 100 lineal feet would also be eligible for a bonus per subsection 2 above if visibility is hindered by significant building setbacks as well.

- Nonconforming sign provisions: In an effort to phase out signs that do not meet current ordinance provisions with regard to sign area, height, setback and/or number of signs on a zoning lot, Section 42-544 of the Zoning Code prohibits any changes (including wording or graphics) to an existing nonconforming sign unless a variance is received. The standards for granting a variance for a nonconforming sign must be based on a practical difficulty with regard to unique physical characteristics of the property, or a reduction in the degree of nonconformity with regard to the existing sign or a replacement sign. As an alternative to obtaining a variance, the Zoning Code was amended in 1984 to permit the changes to the wording or sign face (panel) of a non-conforming sign over a five-year period, provided the property/sign owner enters into an agreement with the city to remove the sign at the end of the period with a sign that conforms to the Zoning Code.

In recent years, as variances have been requested to change the sign panel of non-conforming signs to accommodate a new use/tenant, staff has recommended, on a case-by-case basis, that future sign changes that are not structural in nature be permitted without additional review/approval of the Zoning Board of Appeals, provided a sign permit is obtained. This approach was utilized in cases where the practical difficulty causing the need for a variance was not likely to change in the future. While this approach can continue to be utilized, an alternative would be to amend Section 42-544 of the Zoning Code to remove the restrictions that prohibit wording or sign panel changes on non-conforming signs. All other provisions intended to gradually phase out such signs would remain in place. As a significant number of nonconforming signs have been replaced with conforming signs since the initial adoption of the sign regulations, this revision is reasonable and would not impair the intent of the ordinance, yet allow additional flexibility for sign owners and businesses.

- Electronic Message Display (EMD) sign provisions: There are two issues with regard to EMD sign displays that are appropriate for consideration: 1) the reported concerns with regard to glare and/or brightness of EMD signs; and 2) the interest in permitting different types of transitions between signs “frames” to permit a wider array of motion/movement.

With regard to glare, the sign regulations currently require that all EMDs be equipped with dimming capabilities so that the intensity of the light source can be controlled in the event the sign causes glare. However, several existing EMD signs in Portage include a manual dimmer that is not as effective in comparison to an ambient light sensor that adjusts sign brightness according to existing exterior light conditions (e.g., sign is brighter on sunny days, while dimmer in evening hours). It is recommended that the regulations for EMDs be revised to require all new signs with EMDs be equipped with an ambient light sensor to prevent glare, as well as improve the legibility and extend the life of the EMD).

With regard to restrictions on movement and motion, when the EMD sign regulations were being prepared in 2007, four levels of operations were considered, which included: 1) static displays only (message changes with no transitions); 2) static display with fade, dissolve or other similar subtle transition between messages; 3) static displays with travel, scrolling or similar transitions; or 4) full animation, flashing and video. After considering the character of Portage including business corridors in the community, and the operation of existing and future EMDs, a more limited mode of operation was determined appropriate that requires static messages while permitting subtle dissolve, fade or similar transitions. While business owners have expressed a concern with EMD sign restrictions, there has been continued input from the general public as well in regard to distractions and potential hazards with regard to these signs. Therefore, it is recommended that a minor change to the restrictions on motion/movement be accomplished that maintains the static display for message frames, yet permits transitions that include traveling or scrolling text and images. Such transitions should occur over not more than one second and should not include images that expand or contract, flash, spin/rotate, twist, bounce or other comparable movements.

- Banner sign provisions: To provide additional flexibility and options to advertise promotions and events via temporary signs, it is recommended that the provisions for banner signs (currently permitted only in the business districts (as specified in Sections 42-551.C and 42-552.J) be amended to allow banner signs in any zoning district. In addition, the sign regulations currently specify that only 50% of a 20 square foot banner can be used for sign copy. Again, to permit increased flexibility in the use of such signs, the restrictions on the area of the banner that can be used for sign copy is recommended for elimination.
- Temporary sign provisions: The Zoning Code provides a number of mechanisms for businesses to routinely advertise promotions and events via temporary signage, which include: changeable copy board, electronic message displays, banner signs, public event signs (for a non-commercial event of community-wide interest) and holiday decorations. In addition, for grand openings, change of business (ownership) and going out of business events, signs are permitted for a 14-day period. While other communities may permit temporary signs on a more frequent basis, in order to prevent sign clutter and due to the challenges associated with temporary sign enforcement, the current regulation of temporary signs is recommended with minor adjustments as follows:
 - Permit temporary signs for a longer period of time such as 30 days instead of 14 days.
 - Permit temporary signs for outdoor events that obtain a Business Special Event permit.
 - Permit pedestrian oriented temporary signs, not exceeding a specified area (e.g. six square feet) within close proximity to the customer entrance during regular business hours. Provisions to ensure such signs do not block the sidewalk or otherwise create a hazard would be included.
 - Permit public event signs of up to six square feet without a permit.

➤ Definition of “sign” and increased flexibility: There has been some concern expressed that the Zoning Code definition of “sign” is overly broad and/or that decorative images, graphics and other non-commercial displays are not permitted. In this regard, the following is recommended for consideration:

- Revise the definition of a “sign” to specify that graphics and illustrations used for decorative purposes only, which do not display the business name or logo, and/or do not depict a product, service or activity provided on the zoning lot are not included in the definition of a sign and/or will not be counted toward maximum permitted sign area. For example, Panera Bread has graphics illustrating wheat on the awning, Rite Aid has graphics illustrating leaves on the exterior window, Erbelli’s has Italian scenery on the exterior window, amongst others. All of the above are non-commercial messages that do not include the business name, logo and/or depict a product, service or activity on site, but are instead utilized to add interest to the building façade or serve for other utilitarian purposes (e.g. the Rite Aid graphics obscure the view of the interior shelving units).
- Include provisions to permit murals, which are generally defined as a design or illustration painted or drawn on the wall of a building that does not advertise a business, product, service or activity. Appropriate provisions for murals would be incorporated into the regulations and typically include: a permit requirement; limitations on minimum and maximum size; requirements for professional preparation; and requirements for maintenance and/or removal.

The above recommended amendments to the Zoning Code with regard to business signs are provided for review by the Council Sign Ordinance Committee Work Group. If there is support and consensus with regard to the revisions described above, Department staff will next work with the City Attorney to draft specific text amendments for further consideration by the Planning Commission, and subsequently City Council.

If you have any questions or comments regarding this matter, I am available to meet with you at your convenience. Otherwise, it is recommended that this communication be provided to the Council Sign Ordinance Committee Work Group and a meeting be scheduled to review and discuss the proposed sign regulation changes.

Attachments: May 21, 2013 communication (without attachments)

C: Brian J. Bowling, Deputy City Manager
Chris Forth, Deputy Director of Planning, Development and Neighborhood Services

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: May 21, 2013

FROM: Vicki Georgeau, ¹⁰¹Director of Community Development

SUBJECT: City Council Sign Committee – Business Sign Forum Executive Summary of Participant Feedback, and Planning Commission and Zoning Board of Appeals workshop feedback

Attached is the Business Sign Forum Executive Summary of Participant Feedback report prepared by TSI Consulting Partners, received on May 13, 2013. The April 13th forum held at City Hall was attended by 35 people in addition to City Council, staff and the forum facilitator, Tim Fallon of TSI. Those in attendance included: 7 business owners; 7 sign contractors; 6 residents; 4 Planning Commissioners; 3 commercial developers; 3 Environmental Board members; 2 Portage Public School representatives; 2 Zoning Board of Appeals members; and 1 Historic District Commission member. With regard to input received during the Business Sign Forum, two methods were utilized during the event: 1) qualitative input was received through facilitated small group discussions; and 2) quantitative input was received through administration of a short survey of the large group. The following information summarizes the feedback received during the forum and conclusions provided in the TSI report:

- Based on feedback from the survey administered:
 - Approximately 58% indicate that signage regulation is too restrictive;
 - Approximately 72% indicate existing signage is effective;
 - Approximately 61% indicate that no change or fewer signs along city streets are appropriate;
 - Approximately 52% favor no change in the size of business signs or smaller business signs;
 - Approximately 69% favor increased use of temporary signs;
 - Approximately 59% indicate interior window signs should remain exempt from regulation;
 - Approximately 69% favor more flexible use electronic message display signs;
 - Survey respondents who characterized themselves as business owners/operators are the strongest proponents of more flexible signage regulation.

- Based on feedback from the small group discussions, the following summary is provided:
 - Strengths of the current approach to sign regulation: Participants indicated the city does a good job balancing interests, communicating code requirements, and consistently enforces the code.
 - Concerns of the current approach to sign regulation: Differing opinions were expressed as to whether the code is too restrictive, adequate or permissive, and some participants indicated sign regulation is not being looked at from a business perspective, especially for small businesses.
 - Improving the approach to regulating business signage: Several recommendations were offered including: more proactive education by the city regarding sign regulations; better education by sign contractors to their customers regarding city sign regulations; consideration of small business-friendly sign regulations; increasing the consistency of sign regulation enforcement; and solicitation of additional citizen input on sign regulation.

- Freestanding signs: Participants suggested minor adjustments for larger signs should be considered, especially with regard to monument signs that use architectural elements and/or landscaping and multi-tenant freestanding signs.
- Wall signs: Most participants indicated regulations are appropriate, some suggested minor adjustments are appropriate, and others suggested small business “sign bonus” area.
- Temporary signs: A number of participants indicated concern over “pop-up” temporary signs which create clutter, while others indicated more wide-spread use of temporary signs should be permitted.
- Electronic message display (EMD) signs: Participant feedback indicated divergent opinions on EMD signs, with some participants wanting to retain or further restrict motion/movement, and others supporting more flexibility in permitting limited motion/movement on EMD signs. In addition to motion/movement, participants expressed concern over the brightness of EMDs.
- Window signs: Consistent with the survey results, most participants felt interior window signs should remain unregulated, while others expressed concern over cluttered appearance.
- Banner signs: Some participants felt banner signs should be permitted in all commercial districts and more education is needed regarding their use within the city.

As indicated in Section 3 of the TSI report, the number of Business Sign Forum participants was relatively small, and the event brought together people with a significant interest in signage regulation. While the event was valuable in obtaining a range of views, “input should not be considered a scientific sample of Portage residents”. Further, the TSI report indicates “policy makers and administrators will need to consider the input from the Sign Forum in light of other factors in developing and implementing approaches to regulating signage within the City of Portage.” In this regard, a copy of my October 26, 2012 communication is attached which also summarizes input received from the Planning Commission and Zoning Board of Appeals in regard to business signs in the community and regulation of signs within the Zoning Code.

Based on the feedback received through the Business Sign Forum and the fall 2012 workshops with the Planning Commission and Zoning Board of Appeals, it appears that the current approach to regulating signs within the community is generally appropriate, with a need to evaluate minor adjustments to the Zoning Code, which include the following:

- Evaluate the provisions for wall signs to determine if additional wall sign area for retailers is appropriate.
- Evaluate the provisions for modifications to existing non-conforming signs and consider permitting changes that are not structural in nature;
- Evaluate the provisions for EMD signs to prevent glare, such as requiring ambient light sensors. In addition, limitations on motion/movement to permit additional types of transitions between sign “frames” can be evaluated.
- Evaluate the provisions for banner signs to permit such signs in any zoning district, without limitations on the area of the sign that can be utilized for sign copy.
- Evaluate permitting temporary signs for a longer period of time (e.g. 30 vs. 14 days) for grand opening, change in business or going out of business event. In addition, permitting temporary signs for Business Special Events can also be evaluated, similar to signage permitted for public events.
- Evaluate the definition of “sign” to permit flexibility in the use of creative, non-commercial displays, paintings and other messages which may positively contribute to community character.

If the Council Sign Committee is in agreement with proceeding with the above recommended modifications to the Zoning Code, department staff and the City Attorney will begin the process of developing ordinance amendments for Planning Commission and City Council review and approval. Alternatively, if the Council Sign Committee feels it is appropriate to pursue additional substantive amendments to the Zoning Code provisions for business signage, it is recommended that prior to moving forward, additional citizen input be obtained through a broad community survey, as previously proposed.

I am available to meet with you to further discuss this matter at your convenience. Otherwise, it is recommended this report be forwarded to the Council Sign Committee and that a meeting be scheduled to discuss the Business Sign Forum report and the recommendations provided above.

Attachments: Business Sign Forum Executive Summary of Participant Feedback report
October 26, 2012 communication regarding Planning Commission and Zoning Board of Appeals input

c: Brian J. Bowling, Deputy City Manager;
Christopher Forth, Deputy Director

MEMORANDUM

DATE: October 22, 2013

TO: Mayor Strazdas, Council and City Manager Maurice Evans

FROM: Ad Hoc Sign Committee (Councilmembers Sackley – Chair, Urban and Mayor Strazdas)

SUBJECT: Report on Today's Meeting

The City Council Ad Hoc Sign Committee met with three chair-appointed representatives of the Planning Commission (Rick Bosch, Bill Patterson and Betty Schimmel), Director Georgeau and City Manager Evans to discuss Director Georgeau's September 25, 2013 Memorandum "Sign Ordinance Committee Work Group – Potential Sign Amendments." A copy of that memorandum has been provided to each council member in paper and electronic format.

During our meeting, we engaged in a thorough discussion of six areas outlined in Vicki's report: wall sign area provisions, Nonconforming sign provisions, electronic message display (EMD) sign provisions, banner sign provisions, temporary sign provisions and definition of "sign" and increased flexibility. Here is a summary of the discussion on each area:

- Wall sign area provisions – The recommendations are supported, as presented.
- Nonconforming sign provisions – The recommendations are supported, as presented.
- Electronic message display (EMD) sign provisions – The group recommends that written acknowledgment of EMD rules/ordinance by the property owner and/or lessee be obtained prior to the issuance of any sign permit. [As an aside, it may be appropriate to complete this process for all previously-permitted EMD signs, as well.] This is similar to the acknowledgment required in our recent collection box ordinance. We also discussed tying administration's proposed recommendation regarding motion/movement -- which the group supports -- to presence of a functioning ambient light sensor. Those sensors, which were not required for early-permitted EMD signs, would be required should the business desire the enhanced motion/movement flexibility.
- Banner sign provisions – The recommendations are supported, as presented. It should be noted that these provisions would not be available to home-based businesses. In addition, administration will review the ordinance language to determine whether the 10-foot setback requirement can be reduced or eliminated to address real-world application.
- Temporary sign provisions – This area attracted the most discussion. Although the group generally supported administration's recommendations, it was determined that extending the temporary sign permit length from 14 to 30 days was not desirable. The recommendation would be to keep this section of the ordinance intact for grand

opening, change of ownership and going out of business events. The group recommends that a new temporary sign category be created with a 7-day permit available to any business (without regard to zoning lot or parcel) on an annual basis.

- Definition of “sign” and increased flexibility – The recommendations are supported, as presented. Further review is required, however, to explore desirable distinction between graphics, illustrations, accessory items, etc. that may extend beyond the permanent structure elements (“blade” signs, balloons, inflatables, etc.). In permitting murals, some attention should be paid to crafting an ordinance that addresses content that may not be in conformance with community standards.

At this time, the committee is seeking the full council’s consent to move this process to the ordinance revision and creation stage. This will involve further internal processing by administration in accordance with the committee’s guidance to-date. Administration and the city attorney will prepare proposed ordinance language and support materials that will be considered by the Planning Commission and, ultimately, the Council in accordance with standard procedure.

Prepared by Councilmember Ed Sackley, Chair
Ad Hoc Sign Committee

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTIONS 42-541; 42-542; 42-543; 42-544; 42-548; 42-551;
42-552; and 42-554, ARTICLE 4 OF CHAPTER 42
ZONING**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended as follows:

Sec. 42-540. - Intent and purpose: No Change

Sec. 42-541. - Definitions.

A. Sign.

1. A "sign" is ~~considered~~defined as a name, identification, description, illustration or device, illuminated or non-illuminated, which is visible from any public place or is located on private property and exposed to the public and which ~~directs attention to~~identifies, depicts or otherwise advertises a product, service, place, activity, person, institution, business, or ~~solicitation,~~use including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designated to advertise, identify or convey information, with the exception of window displays and national, state and local government flags. ~~For the purpose of sign removal, the term "sign" includes a sign structure.~~ The definition does not include: a) Murals as defined in section 42-138(2); b) Graphics, illustrations, architectural or landscape features used solely for decorative purposes which do not display a business name, logo, or trademark and do not identify, depict or otherwise advertise a product, business or service. A sign as defined above includes the support structure, sign pole and/or anchoring device to which the sign is attached.
2. A "sign face" is defined as the area of the sign which displays the name, identification, description, illustration or device which ~~directs attention to~~identifies, depicts, or otherwise advertises a product, service, place, activity, person, institution, business or ~~solicitation,~~use. A sign face does not include any portion of the structural support of the sign.

B. Types of signs referred to in this subdivision are defined as follows:

1-18 No Change.

19. Electronic message display: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. The definitions below (a) through (e) are used in conjunction with an electronic message display ("EMD"):
 - a. ~~Dissolve. A mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.~~

- ~~b. Fade. A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.~~
- a. Frame. A complete, static display screen on an electronic message display.
- b. Frame effect. A visual effect on an electronic message display applied to a single frame to attract the attention of viewers.
- c. Transition. A visual effect used on an electronic message display to change from one message to another.

Sec. 42-542. General requirements.

Sections A-G: No Change.

H. Removal of hazardous signs.

- ~~1. A sign ordered by the director to be removed shall be removed by the owner, agent or person having the beneficial use of the building, structure or land upon which such sign is found within 30 days after written notification of removal from the department of community development.~~
- 1. Any sign which, in the opinion of the Director, is maintained in violation of the provisions of Section 42-1284, Removal of Hazardous Signs, shall be removed pursuant to the procedure of Section 42-1284. The term "sign" as used herein includes the support structure, sign pole and/or anchoring device to which the sign is attached.
- 2. ~~Upon failure to comply with such notice within the time specified therein, the department shall cause the removal of such sign, and any expense incident thereto shall be paid by the owner of the property, building or structure to which the sign is attached as billed by the city. If the owner of such property fails to pay such bill within 30 days after the bill has been rendered, the director shall report such bill to the council for collection as a single lot assessment against such property in accordance with the Charter.~~

I. Electronic or mechanical sign elements.

- 1. An accessory sign permitted in the B-1, B-2, B-3, PD, CPD, OS-1, OTR, CCA, CCMU, I-1 and I-2 zoning districts, and a non-accessory sign permitted in the I-1 and I-2 zoning districts, may include an EMD subject to the following requirements:
 - a. Such display shall contain static or still frame messages only, changed only through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, but which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity. Transitions between frame messages may utilize effects such as dissolve, fade, traveling or scrolling text and/or images, provided such transitions occur over a period of time not exceeding one second, and such effects do not include text and/or images that expand or contract, rotate, twist, bounce, flash, undulate, pulse or utilize other similar movements or optical illusions.

- b. The maximum size of an EMD on an accessory or nonaccessory freestanding sign or accessory wall sign shall not exceed the sign measurements specified in this Code for the zoning district in which the zoning lot or use is located.
 - c. Each message on the EMD is changed not more often than once every four seconds.
 - d. The EMD shall be equipped with ~~dimming capabilities so that~~ ambient light monitors which shall continuously monitor and automatically adjust the intensity/brightness level of the light source can be controlled display based on ambient light conditions to prevent glare specified in the Lighting Standards provided in Subdivision 4 of the Zoning Code.
 - e. When the EMD is 200 feet or less from a property line of a zoning lot that is located in a residential zoning district and such EMD is visible from any portion of a residential dwelling unit located within the residential zoning district, the EMD shall only:
 - i. Operate between 7:00 a.m. and 10:00 p.m.; and
 - ii. Display only one "frame" as defined in section 42-541 between 10:00 p.m. and 7:00 a.m.
 - f. When a zoning lot or use incorporates an EMD on a freestanding sign or wall sign in the zoning districts listed in 42-542(l)(1) above, a "copy board" as set forth in section 42-543 (l) shall not be permitted on the sign that incorporates an EMD.
 - g. Notwithstanding subsection 42-542(l)(1)(f), if a conforming freestanding sign or wall sign with an EMD is in existence before the effective date of this ordinance amendment and incorporates a "copy board" element consistent with the provisions of section 42-543(l), said sign shall be considered a conforming sign.
2. An accessory sign for a permitted use in the R-1A through R-1E one-family residential districts, the R-1T residential district, and the RM-1 and RM-2 residential districts, may include an EMD subject to the following requirements:
- a. One property line of the zoning lot must be abutting a major thoroughfare as designated on the major thoroughfare plan and the freestanding sign incorporating an electronic message display must be situated along the property line abutting the major thoroughfare.
 - b. Such display shall contain static or still frame messages only, ~~changed only through dissolve or fade transitions, or with the use of other subtle transitions and frame effects that do not have the appearance of moving text or images, but~~ which may otherwise not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating or varying of light intensity. Transitions between frame messages may utilize effects such as dissolve, fade, traveling or scrolling text and/or images, provided such transitions occur over a period of time not exceeding one second, and such effects do not include text and/or images that expand or contract, rotate, twist, bounce, flash, undulate, pulse or utilize other similar movements or optical illusions.

- c. The maximum size of an EMD on an accessory or nonaccessory freestanding sign or accessory wall sign shall not exceed the sign measurements specified in this Code for the zoning district in which the zoning lot or use is located.
- d. Each message on such display is changed not more often than once every four seconds.
- e. The ~~display~~ EMD shall be equipped with ~~dimming capabilities so that~~ ambient light monitors which shall continuously monitor and automatically adjust the intensity/brightness level of the light source can be controlled display based on ambient light conditions to prevent glare specified in the Lighting Standards provided in Subdivision 4 of the Zoning Code.
- f. When the EMD is visible from any portion of a one-family residential dwelling unit located within a residential zoning district, the EMD shall only:
 - i. Operate between 7:00 a.m. and 12:00 midnight; and
 - ii. Display only one "frame" as defined in section 42-541 between 9:00 p.m. and 12:00 midnight.
- g. When a zoning lot or use other than a dwelling unit incorporates an EMD on a freestanding sign or wall sign in the zoning districts listed in subsection 42-542(2), a "copy board" as set forth in subsection 42-543(l) shall not be permitted on the sign that incorporates an EMD.
- h. Notwithstanding subsection 42-542(l)(2)(g), if a conforming freestanding sign or wall sign with an EMD is in existence before the effective date of this ordinance amendment and incorporates a "copy board" element consistent with the provisions in section 42-543(l), said sign shall be considered a conforming sign.

J. All exterior signs permitted within the City of Portage shall be subject to the regulations of this section as well as the regulations of Article 11 of this Chapter 42.

Sec. 42-543. - Signs permitted in all districts.

Sections A-E: No Change.

F. Public event signs.

1. One temporary public event sign is permitted per zoning lot for the advertising of a noncommercial public service event.
2. Such temporary sign shall not be erected more than seven days before the public service event takes place and shall be removed not more than two days after the public service event is completed.
3. For a zoning lot with frontage on more than one street, one temporary sign is permitted for each street frontage.

4. For each zoning lot that exceeds two acres in area, an additional temporary sign is permitted for each full two acres.
5. The total square footage for a single sign shall not exceed 64 square feet in area per side.
6. Public event signs shall be setback 10 feet from the property line.
7. An EMD sign display may be utilized provided such signs comply with the provisions of Section 42-542(l).
8. A permit is not required for public event signs six (6) square feet in area or less.

G. No Change.

H. Opening of new business, change of business, or going out of business sales. For the grand opening of a new business in the city, or for a change in ownership or tenancy of an existing business, or for a going out of business sale, the director may grant a permit for a temporary sign for a period not to exceed 14 calendar days, subject to the following conditions:

1. One temporary sign shall be permitted per use.
2. The temporary sign shall not exceed 40 square feet in area per side.
3. The sign must be at least ten feet from any property line.
4. Flashing and/or animated signs are not permitted, except that EMD sign displays may be utilized provided such signs comply with the provisions of Section 42-542(l). When exposed bulbs are used, such bulbs shall be frosted or screened and not exceed 40 watts.
5. Flags, strings of flags, streamers, banners, pennants, balloons or other gas-filled figures may be used in lieu of, or in conjunction with, the sign so long as the maximum permitted square footage for the sign has not been exceeded.
6. The height of the sign shall not exceed the height requirement for freestanding accessory signs in the district in which it is located.
7. For a grand opening of a new business or for a change in ownership or tenancy of an existing business or for a going out of business sale, the director may grant a permit for one additional 30-calendar-day period if the accessory sign area permitted by this subsection was temporarily not available due to reasons beyond the control of the business owner and/or tenant; or upon a finding of some other significant hardship.

I. Temporary signs-generally: In addition to the temporary signs permitted in this section, each use is permitted one (1) temporary sign for one display period not to exceed seven (7) consecutive days in any calendar year. The sign shall be: a) no more than forty (40) square feet in area; b) setback ten (10) feet from the property line; and c) not exceed the height requirement for freestanding accessory signs in the district in which it is located. An

EMD sign display may be utilized provided such signs comply with the provisions of section 42-542(I).

J. Temporary pedestrian oriented signs: In addition the temporary signs permitted in subsections H & I above, each use is permitted one pedestrian oriented temporary sign not more than six (6) square feet in area. Such sign shall be located within 10 feet of the main customer entry for the business it serves, and may be displayed only when the use is open for business. In addition, the sign shall be located in a manner that does not obstruct or create a hazard for vehicular and pedestrian circulation on the property. No permit is required for temporary pedestrian oriented signs.

K. Banner Sign: For each zoning lot, there is permitted one banner. For a zoning lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:

1. The banner shall not: a) project or extend into the public right-of-way; or b) extend over a public sidewalk.
2. The banner shall not exceed 25 feet in height.
3. The banner shall not be less than eight feet from the surface of the ground.
4. The banner shall not exceed 20 square feet in area per side.
5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.
6. The banner shall be kept clean, free from fading, decay and tears. The support structure and brackets shall be maintained in a structurally sound condition.
7. A permit is required for the initial installation of the banner and support structure and/or anchoring device. Banners may be subsequently changed without a permit provided there are no changes to the support structure and/or anchoring device, and all conditions of this section remain satisfied.

L. Copy board. Fifteen square feet per side of sign surface may be added to any freestanding sign in the city, regardless of zoning district classification and also regardless of being classified as a legal nonconforming sign, if the additional square footage is in the form of copy board. For the purposes of this section, the term "copy board" means a sign on which copy is changed manually on the site, i.e., reader boards with changeable letters or changeable pictorial panels.

M. Holiday decorations. A decoration or other display customarily and commonly associated with a national, state, local or religious holiday is permitted, provided that such decoration shall not be displayed for more than ten days, except that such decoration may be displayed between ~~the day after Thanksgiving~~ November 1 and January 15. Holiday decorations shall not require a permit.

N. Election campaign signs. Election campaign signs shall not exceed six square feet in area per side and shall not be placed or project into the public right-of-way. All election campaign signs shall be removed within ten days following the general or special election to which the sign pertains. An election campaign sign shall not require a permit.

O. Substitution Clause. Any graphic, illustration or copy that can be displayed under this subdivision 2. Signs, may contain a noncommercial message.

Sec. 42-544. - Nonconforming signs.

- A. A lawfully erected sign, the maintenance of which is made unlawful by this article, may continue to be maintained exactly as such existed at the time when the maintenance thereof became otherwise unlawful under this article.
- B. No nonconforming sign shall:
1. Be changed to another nonconforming sign;
 2. ~~Have any change made in the words or symbols used or the message displayed on the sign, unless the sign is a nonnecessary advertising sign or a bulletin board or similar type of sign specifically designed for periodic changes of message;~~
 2. Be structurally altered so as to prolong the life of the sign or change the shape, size, type or design of the sign;
 3. Be reestablished after the activity, business or use to which it relates has been discontinued for ~~30~~180 days or longer; or
 4. Be reestablished after damage by accident, vandalism or an act of God if the damage requires repair of the structural supports as a result of failure or collapse of the footings, columns or other structural supports as determined by the director
 5. Be continued after any substantial improvement has taken place ~~on the site or within of~~ involving the main building. For purposes of this subsection, substantial improvement shall mean any repair, reconstruction or improvement of a ~~structure~~building, the cost of which ~~equals or exceeds~~ 25 percent of the market value of the ~~structure or site improvement (such as the parking lot, site landscaping, sidewalks, or other substantial site element),~~building either before the improvement or repair is started or, if the ~~structure or site improvement~~building has been damaged and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not such alteration affects the external dimensions of the structure ~~and when parking areas or other significant site improvement is first undertaken.~~
- C. The zoning board of appeals may permit variances from subsection B, above, or variances related to the alteration or maintenance of a nonconforming sign, only upon the following grounds:
1. The standards of section 42-622(B)(1) are met; or
 2. That granting of a variance will reduce the degree of nonconformity of an existing sign; or

3. The granting of a variance will result in the removal of a nonconforming sign and replacement by a sign that, while not meeting the requirements of this article, are, nonetheless, in keeping with the spirit and purpose of this article.

D. Variances. A sign erected as a result of a lawful grant of a variance by the zoning board of appeals shall be subject to the same restrictions and requirements which apply to nonconforming signs in subsection B above and other provisions of this Code.

E. Notwithstanding the provisions of subsection B, above, the face of a nonconforming sign may be changed provided that the owner of the sign and owner of the zoning lot upon which the sign is located (if different from the owner of the sign) shall enter into a written agreement with the city which shall be recorded with the county register of deeds by the owner of the sign and the owner of the zoning lot, and which shall state all of the following:

1. In exchange for the opportunity to change the face of the sign as often as desired, the entire nonconforming sign, which includes the entire face and structure, shall be removed within five years of entering into the agreement.
2. At the conclusion of the five years, the owner of the sign and the owner of the zoning lot shall be responsible for the entire removal of the sign.
3. The owner of the sign and the owner of the zoning lot (including subsequent owners) waive their rights to request variances from the zoning board of appeals a variance from the agreement or any other ordinance provision governing the sign.
4. The agreement shall run with the land and become binding upon any subsequent owners of the sign and zoning lot.
5. The replacement sign, itself nonconforming in any way, may not be erected at the conclusion of the five years.
6. A lien against the zoning lot and any structure on the zoning lot, in the amount of 1½ times the estimated cost of removing the nonconforming sign at the time the agreement is entered into (as established by the director on the date of the agreement) shall come into existence five years after entering into the agreement and remain in effect until the sign is removed.

Sec. 42-545. - R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts. – No Change

Sec. 42-546. - RM-1 and RM-2 districts. – No Change

Sec. 42-547. - MHC district. – No Change.

Sec. 42-548. - PD, planned development district, subsections A-E, No Change.

~~F. For each zoning lot, there is permitted one banner. For a lot more than one, one banner is permitted for each street frontage. For each zoning lot two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:~~

- ~~1. The banner shall be setback ten feet from any property line.~~

2. ~~The banner shall not exceed 25 feet in height.~~
3. ~~The banner shall not be less than six feet from the surface of the ground.~~
4. ~~The banner shall not exceed 20 square feet in area per side.~~
5. ~~The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.~~
6. ~~The banner shall not devote more than 50 percent of the total area per side to sign copy.~~
7. ~~The owner of the zoning lot or banner shall keep the banner in reasonable repair.~~

Subsections G-H, No Change.

Sec. 42-549. - P-1, parking district. - No Change.

Sec. 42-550. - OS-1, office service and OTR, office, technology and research districts. No Change

Sec. 42-551. - B-1, local business district, A-B, No Change.

C. ~~For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:~~

1. ~~The banner shall be setback ten feet from any property line.~~
2. ~~The banner shall not exceed 25 feet in height.~~
3. ~~The banner shall be not less than six feet from the surface of the ground.~~
4. ~~The banner shall not exceed 20 square feet in area per side.~~
5. ~~The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.~~
6. ~~The banner shall not devote more than 50 percent of the total area per side to sign copy.~~
7. ~~The owner of the zoning lot or banner shall keep the banner in reasonable repair.~~

Sec. 42-552. - B-2, community business; B-3, general business; and CPD, commercial planned development districts.

Subsections A-C, No Change.

D. For a corner lot, the distance between permitted freestanding signs shall be not less than 100 feet, as measured along the property lines, but in no case shall there be a distance of less than 70 feet between such signs. Each such sign shall be oriented to the street frontage it serves. If one freestanding sign is used, then the percentage of freestanding sign area permitted on one street frontage may be increased 100 percent to a maximum of 120 square feet in area per side, provided that such sign is oriented equally to located not more than 25 feet from both street frontages.

Subsections E-H, No Change.

- I. In addition to the wall signage permitted in subsection H above, the permitted wall sign area may be increased if the criteria listed below is satisfied:

1. For buildings with wall frontage at the main building entrance on a public or private street that exceeds 99200 lineal feet:

<u>Wall (in lineal feet)</u>	<u>Additional Sign Area Permitted (in square feet)</u>
<u>100-199</u>	<u>25</u>
<u>200-299</u>	<u>50</u>
<u>300-399</u>	<u>75</u>
<u>400-499</u>	<u>100</u>
<u>Greater than 500</u>	<u>125</u>

2. For buildings with wall frontage at the main building entrance on a public or private street that exceeds 99200 lineal feet and with a setback greater than ~~300~~ 299 feet from a public or private street:

<u>Building Setback (in feet)</u>	<u>Additional Sign Area (in square feet)</u>
<u>300-399</u>	<u>50</u>
<u>400-499</u>	<u>75</u>
<u>500-599</u>	<u>100</u>
<u>Greater than 600</u>	<u>125</u>

~~J. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:~~

- ~~1. The banner shall be setback ten feet from any property line.~~
- ~~2. The banner shall not exceed 25 feet in height.~~
- ~~3. The banner shall be not less than six feet from the surface of the ground.~~
- ~~4. The banner shall not exceed 20 square feet in area per side.~~
- ~~5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.~~
- ~~6. The banner shall not devote more than 50 percent of the total area per side to sign copy.~~
- ~~7. The owner of the zoning or banner shall keep the banner in reasonable repair.~~

Sec. 42-553. - I-1, light industrial and I-2, heavy industrial districts. – No Change.

Sec. 42-554. - CCA, city centre area - mixed use floating district.

Subsections A-C, No Change.

~~D. For each zoning lot, there is permitted one banner. For a lot with frontage on more than one street, one banner is permitted for each street frontage. For each zoning lot that exceeds two acres in area, an additional banner is permitted for each two acres. All banners shall be subject to the following conditions:~~

~~1. The banner shall be setback ten feet from any property line.~~

~~2. The banner shall not exceed 25 feet in height.~~

~~3. The banner shall be not less than six feet from the surface of the ground.~~

~~4. The banner shall not exceed 20 square feet in area per side.~~

~~5. The banner shall not be attached to the surface of any building, to any existing freestanding sign or to any vehicle, or be stretched between poles or trees.~~

~~6. The banner shall not devote more than a total of 50 percent of the sign area to sign copy.~~

~~7. The owner of the zoning lot or banner shall keep the banner in reasonable repair.~~

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-132, ARTICLE 4, OF CHAPTER 42
ZONING**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended as follows:

Sec. 42-132. - Special events.

Sections A-E, No Change.

- F. ~~No temporary signs are permitted; however, any~~ During the special event, an existing changeable copyboard and/or Electronic Message Display sign on the site of the special event may be utilized. In addition, one 40 square foot temporary sign may be displayed during the event. An Electronic Message Display may be utilized provided such signs comply with the provisions of Section 42-542(l). The sign shall be setback 10 feet from any property line and shall not exceed the height specified for signs in the zoning district in which it is located. The sign shall not require a separate sign permit provided information regarding the proposed sign is submitted with the application for the Special Event and is approved by the city prior to display of such sign.

Section G, No Change.

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-138, ARTICLE 4 OF CHAPTER 42
ZONING**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended to add as follows:

Sec. 42-138. Murals.

- A. Intent. A mural is permitted as a means to create a sense of place and community within the city. A mural is not regulated as a sign. It is intended that the mural be solely related to artistic expression and the graphics and illustrations used not advertise or promote any product, service or business.
- B. Defined. A non-commercial message, picture, illustration, painting or scene applied or affixed on the exterior wall of a building or structure through the use of paint, canvas, tile, panels or similar materials such that the mural is made an integral part of the exterior wall and does not identify, depict or otherwise advertise a commercial or non-commercial product, service, or business.
- C. Murals shall be subject to the following conditions and provisions:
1. Murals are not permitted to cover windows or door openings, with the exception of emergency exit doors, provided however that the mural will in no way prohibit or restrict the use of the emergency exit door for its intended purposes.
 2. Murals are not permitted to project more than six (6) inches from the building wall or structure on which they are affixed.
 3. Murals shall not have moving or animated parts, including light elements.
 4. Murals shall not be located on or project above the building roof line.
 5. Murals shall not include representations that imitate or appear to imitate any official traffic sign or device.
 6. Murals are not permitted on a building located within a historic district unless reviewed and approved by the Historic District Commission.
 7. Murals shall not have a detrimental effect on the structural integrity of the wall or structure on which it is applied or affixed.
 8. Except for murals or combination of murals under section 42-138 C (10), not more than one (1) mural is permitted on a wall and the total area of the mural shall not exceed (50%) fifty percent of the total size of the wall or 1000 sq. ft., whichever is greater.

9. Murals shall not contain obscene or offensive content. For the purposes of this section, material is obscene or offensive if applying contemporary community standards, and may include but is not limited to:

- i. A reasonable, average person would find the material depicts or describes sexual content in a patently offensive way;
- ii. A reasonable, average person would find the material lacks serious literary, artistic, political or scientific value.

10. Any mural or combination of murals measuring less than a total of 100 square feet on a single wall shall not be regulated by this section.

D. Maintenance: Murals shall be maintained in good condition and repair for the life of the mural and shall be kept clean, and free from fading, decay, corrosion and graffiti which was not an original integral part of the message displayed.

E. Permits and appeal process: No mural shall be installed prior to the issuance of a permit. The Director shall approve a completed application for a mural if the conditions contained in this Sections 42-138 are satisfied. A completed application shall be deemed approved if the Director fails to approve or deny such completed application within five (5) business days of its receipt by the City sent to the applicant by first class mail. If denied, the applicant may appeal such denial to the Planning Commission in writing no later than thirty (30) days after the date of the denial. Such appeal shall be heard by the Planning Commission at its next regular or special scheduled meeting which is no less than ten (10) business days from the date of receipt of the applicant's written appeal. The applicant shall have the right to submit relevant documentary and testimonial evidence in support of the appeal and the Director shall have the burden of proof to show that the denial was based on the applicant's failure to comply with one or more of the conditions in Section 42-138(C). The Planning Commission shall decide the appeal within the five (5) business days of the hearing either by motion made at the Planning Commission meeting or in writing. The hearing date may be adjourned to another regular or special Planning Commission meeting if requested by the applicant. An appeal shall be deemed granted and the permit approved if the Planning Commission fails to decide the appeal in the time so required by this section. The applicant shall have the right to appeal any Planning Commission decision as provided by law or equity.

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING SECTION 42-1284, ARTICLE 11 OF CHAPTER 42
SIGNS

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 11, shall be amended as follows:

Sec. Section 42-1284. - Removal of hazardous signs.

Any sign which, in the opinion of the ~~director of community development~~ Director, due to its condition or location, is hazardous to the health, safety or general welfare of the public shall be removed by the owner, agent or person having beneficial use of the building, structure or property upon which the sign is located within 30 days after written notification from the ~~department of community development~~ city. Upon the failure to comply with such notice within the time specified ~~in such order~~ herein, the department ~~is hereby directed and authorized to~~ cause ~~may initiate~~ the removal of such sign ~~through utilization of~~, in accordance with the procedure set forth ~~abatement procedures specified in article 10 of this chapter. Any expense incident to Section 24-113(e) of the removal~~ Code of such Ordinances. The sign shall be paid by ~~considered a nuisance under Section 24-113(e) if it is found to be hazardous. The term sign as used herein includes the owner of the building or support structure or property, sign pole and/or anchoring device to which such~~ the sign is attached, as billed by the city. The council is authorized to collect such charges as a single lot assessment against the property in accordance with article 13 of this chapter.

MATERIALS TRANSMITTED

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – December 9, 2013

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

MEMBERS PRESENT: Tim Bunch, Glenn Smith, Michael Robbe, Doug Rhodus, Marianna Singer, and Philip Schaefer.

MEMBERS EXCUSED: James White, Lowell Seyburn, Jeff Bright

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

APPROVAL OF THE MINUTES: Bunch moved and Smith seconded a motion to approve the November 11, 2013 minutes as submitted. Upon voice vote, motion was approved 6-0.

OLD BUSINESS:

NEW BUSINESS:

Singer advised all applicants that because the Board was short one voting member, they had the option to postpone their request until the next regularly scheduled meeting in hopes that seven members would be present at that time, or could proceed now with only six voting members.

ZBA #13-09, 5260 Bronson Boulevard: Attorney Bear advised the Board that in reviewing appeals the decision of the Board is limited to the information that was available to the officials making the decision at that time, and that while the item had been noticed as a public hearing and anyone had the right to speak, the Board was not to consider letters or statements from citizens provided after the time of staff's determination as evidence in making their decision. Mr. Bear stated garage sales are not defined or regulated in the zoning code and read a definition of 'garage sale' from the American Heritage dictionary. Mr. Bear stated staff made the decision that the sales activities at 5260 Bronson Boulevard in August, 2013 exceeded the scope of what is considered a normal garage sale and crossed the line into becoming a Home Occupation, second hand goods sale, or other home-based business activity. In evaluating this decision, the Board should consider factors such as the amount of traffic, past enforcement history (included in the supplemental agenda materials), the presence of items purchased expressly for resale, the size, duration, and intensity of the sales activities observed by staff. Mais summarized the staff report included in the agenda packet. Mr. Kragt then summarized his appeal application letter included in the agenda packet. Schaefer inquired if Mr. Kragt believed his sales activities were permitted. Mr. Kragt stated yes. Schaefer then inquired if he thought he could operate a sale every day of the year. Mr. Kragt stated no, that would be a business. Schaefer inquired how many times a year did he think he could operate a sale and not be a business. Mr. Kragt responded the code allowed him to do it three times a year. Smith inquired how many days a year the sales occurred. Mr. Kragt indicated between the three sales about nine or ten days in total for the year. Mr. Kragt stated the Saturday events were half off sales and often generated substantial traffic. Mr. Kragt stated that if people get upset about not being able to back out of their driveway they take care of the situation.

A public hearing was opened. Molly Ettwein, 5265 Bronson Boulevard, Mike Duggan, 5260 Bronson Boulevard, and Tim Dooley, 5239 Bronson Boulevard spoke in favor of affirming staff's decision. Robert Ailes, 5229 Bronson Boulevard, recommended a compromise which might allow Mr. Kragt to continue to have sales and maintain neighborhood harmony. Donna Kragt, 5260 Bronson Boulevard spoke in favor of reversing staff's decision. The public hearing was closed.

Smith inquired if it was the city's position that the resale of items was what prompted the August 30, 2013 letter. Mais clarified the resale of items was one contributing factor, but what prompted the letter was described in the middle paragraph where it stated the resale of merchandise with the intent to resell it was not consistent with the intent of a typical household garage sale, and that the larger inventories attracted larger numbers of customers which resulted in increased negative impacts on other neighborhood residents.

The city had received complaints in the past about Mr. Kragt's sales, but that it was not known for certain that the large inventories were the result of items purchased expressly for resale until Mr. Kragt stated so himself on August 30th. Bunch noted it was the position of city staff that they were not prohibiting Mr. Kragt from having any garage sales, just limiting the sales to items from his own household. Bunch inquired what staff would do in the future if Mr. Kragt held a garage sale with items from just his household and still got complaints. Mais stated he could not say without assessing the nature and extent of the complaint at that time. The Board discussed the propriety of imposing conditions on future sales and Mr. Kragt questioned how he should proceed with sales in the future. Schaefer stated the Board was not advising on the operation of future sales but, rather, was deciding whether or not staff acted correctly when it made its decision on August 30, 2013 and would either affirm or reverse that decision. A motion was made by Smith, seconded by Schaefer that the staff decision and action concerning ZBA #13-09 be affirmed, and that the staff interpretation of the intent of the code was correct. Further, the sale of items at a garage sale should be limited to items from the household, and acquiring items with the specific intent of resale, especially with the amount of items on the scale described in Mr. Kragt's Craigslist ad and that the sale caused undue amounts of traffic congestion in the neighborhood, may create safety issues, and is a nuisance to neighbors. Upon roll call vote: Robbe-Yes, Rhodus-Yes, Schaefer-Yes, Bunch-Yes, Smith-Yes, Singer-Yes. Motion passed 6-0.

ZBA #13-10, 7725 Portage Road: Mais summarized the request for a 115 square-foot freestanding sign where a maximum 48 square-foot sign is permitted. John Wright stated the sign was already manufactured and installed before they realized it didn't meet code, but was removed prior to the hearing pending variance approval. Singer noted the view of Zoetis' building was partially blocked by a number of trees. Bunch inquired if the applicant would be willing to consider a lesser variance. Mr. Wright stated because they had already purchased the sign they would prefer not.

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

A motion was made by Robbe, seconded by Rhodus to deny the request for a 115 square-foot freestanding where a maximum 48 square-foot sign is permitted. There are no exceptional circumstances applying to the property that do not apply generally to other properties in the zoning district; The immediate practical difficulty causing the need for the variance request was caused by the applicant when they ordered the sign before finding out the code requirements; the variance would materially impair the intent and purpose of the zoning ordinance. Upon roll call vote: Robbe-Yes, Schaefer-Yes, Rhodus-Yes, Bunch-No, Singer-No, and Smith-No. Motion failed 3-3.

A motion was made by Smith, seconded by Bunch, to grant a variance for an 83 square-foot freestanding sign where a maximum 48 square-foot sign is permitted. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the Zoetis building is setback from Portage Road over 1,000 feet, reducing any wall sign's visibility; the variance is necessary for the preservation of a substantial property right, the right to have a sign similar in size to others 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. In addition, the application and supporting materials, staff report, and all comments and 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: Robbe-No, Rhodus-Yes, Bunch-Yes, Singer-Yes, Schaefer-Yes, and Smith-Yes. Motion passed 5-1.

ZBA #13-11, 1006 Forest Drive: Mais summarized the request for a variance to construct a new dwelling 26 feet eight inches in height where a maximum 25 feet is permitted. Mr. Clifford stated the request was small, the slope near the lake posed a potential danger to young children, and the reason they purchased this property was so that they could build a walkout home. Mr. Clifford also stated the neighbors had no objection to the request. The applicant provided the Board information supplied by a surveyor which purported to show the average height of several houses in the vicinity were taller than 25 feet. Mais pointed out the surveyor used a different method of calculating building height than that set forth in code. Mrs.

Clifford stated they were looking for a child friendly design and she did not think the conforming alternative was as safe.

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

A motion was made by Robbe, seconded by Bunch, to deny a variance to construct a new dwelling 26 feet eight inches in height where a maximum 25 feet is permitted. There are no exceptional circumstances applying to the property that do not apply generally to other properties in the zoning district; the variance is not necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as alternative building plans that meet code; the immediate practical difficulty causing the need for the variance request was caused by the applicant; the variance would materially impair the intent and purpose of the zoning ordinance. Upon roll call vote: Robbe-Yes, Rhodus-Yes, Bunch-Yes, Singer-Yes, Schaefer-Yes, and Smith-Yes. Motion passed 6-0.

ZBA #13-12, 6225 South Westnedge Avenue: Mais summarized the request for variances to: a) construct a vestibule 45 feet from the South Westnedge Avenue, and b) erect a wall sign that extends 72 inches from the building wall where a maximum 18 inches is permitted. Mr. Rahn was present to answer any questions on behalf of the applicant. Robbe inquired why not move the vestibule to a different side of the building. Mr. Rahn stated their proposal is intended to maximize use of the existing space and alternate locations did not do this. Robbe inquired of staff if the applicant absolutely had to have this vestibule. Mais stated no, but the vestibule would protect customers from wind, cold and the elements whenever the front door opened.

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

A motion was made by Bunch, and seconded by Smith to grant variances to: a) construct a vestibule 45 feet from South Westnedge Avenue, and b) erect a wall sign that extends 72 inches from the building wall where a maximum 18 inches is permitted. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the nonconforming building's unique design; 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 ordinance. In addition, the application and supporting materials, staff report, and all comments and 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: Robbe-Yes, Rhodus-Yes, Bunch-Yes, Singer-Yes, Schaefer-Yes, and Smith-Yes. Motion passed 6-0.

OTHER BUSINESS:

STATEMENT OF CITIZENS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator

CITY COUNCIL MEETING MINUTES FROM DECEMBER 17, 2013

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

At the request of Mayor Strazdas, Pastor Ron Hansen of the Pathfinder Church gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Nasim Ansari, Jim Pearson, Patricia M. Randall 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 Randall, seconded by Reid, to approve the Special Meeting Minutes of November 25, 2013, as presented. Upon a voice vote, motion carried 6 to 0.

Motion by Ansari, seconded by Reid, to approve the Regular Meeting Minutes of December 3, 2013, as presented. Upon a voice vote, motion carried 6 to 0.

Motion by Reid, seconded by Ansari, to approve the Special Meeting Minutes of December 16, 2013, as presented. Upon a voice vote, motion carried 6 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Ansari to read the Consent Agenda. Motion by Reid, seconded by Urban, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 6 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE OF DECEMBER 17, 2013:** Motion by Reid, seconded by Urban, to approve the Check Register of December 17, 2013, as presented. Upon a roll call vote, motion carried 6 to 0.

REPORTS FROM THE ADMINISTRATION:

* **2014 MARCH BOARD OF REVIEW RESOLUTION:** Motion by Reid, seconded by Urban, to adopt the Resolution setting the dates and times for the 2014 March Board of Review sessions. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 175 of City of Portage Resolution Book No. 45.

* **2014 FEE SCHEDULES:** Motion by Reid, seconded by Urban, to adopt the Proposed 2014 Charges for Documents (FOIA Fees); the Recommended 2014 Recreation Program Fee Revisions; the Recommended 2014 Senior Center Class and Facility Fee Revisions; the Resolution for Community Development Fees; the Resolution Establishing Right-of-Way Permit Fees; the Resolution Establishing Soil Erosion Fees; and the 2014 Special Assessment Rate Resolution. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on pages 175, 181, 185, and 189 of City of Portage Resolution Book No. 45.

* **SPECIAL ASSESSMENT POLICY RESOLUTION:** Motion by Reid, seconded by Urban, to adopt a Resolution to amend the 1991 Special Assessment Policy Resolution. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 193 of City of Portage Resolution Book No. 45.

* **COPIER/PRINTER LEASE:** Motion by Reid, seconded by Urban, to approve a five-year lease on the Xerox Work Centre W7855PT multifunction system for black and white and color copying, digital printing and scanning and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

* **MICHIGAN MUNICIPAL LEAGUE DUES:** Motion by Reid, seconded by Urban, to authorize payment to the Michigan Municipal League in the amount of \$8,554 for year 2014 membership dues. Upon a roll call vote, motion carried 6 to 0.

* **REQUEST FOR A SMALL DISTILLER LICENSE:** Motion by Reid, seconded by Urban, to support the request for a Small Distiller License from The Sangria Shop, L.L.C., 5919 Sprinkle Road, Portage, Michigan 49002, Kalamazoo County. Upon a roll call vote, motion carried 6 to 0.

* **TRANSFER OWNERSHIP AND LOCATION OF CLASS C LIQUOR LICENSE:** Motion by Reid, seconded by Urban, to support the request to transfer ownership and location of Escrowed 2013 Class C Liquor License from Panda Forest Chinese Restaurant, Inc., 5216 South Westnedge Avenue, Portage, Michigan 49002, Kalamazoo County, to Lum Enterprises, LLC, 639 Romence Road, Portage, Michigan 49024, Kalamazoo County (Wild Ginger Restaurant). Upon a roll call vote, motion carried 6 to 0.

* **NOVEMBER 2013 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Reid, seconded by Urban, to receive the communication from the City Manager regarding the November 2013 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 6 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Reid, seconded by Urban, to receive the Department Monthly Reports from the various City Departments. Upon a roll call vote, motion carried 6 to 0.

UNFINISHED BUSINESS:

* **CONSUMERS ENERGY FRANCHISE ORDINANCE RENEWAL:** Motion by Reid, seconded by Urban, to approve an Ordinance to amend the Code of Ordinances of the City of Portage, Michigan, by adding Article 10, Consumers Energy Company Electric Franchise, to Chapter 14, Businesses, Sections 14-192 through 14-203. Upon a roll call vote, motion carried 6 to 0.

APPOINTMENT TO FILL CITY COUNCIL VACANCY AND OATH OF OFFICE: Mayor Strazdas provided an introduction and an opportunity for City Council to make any comments regarding the four (4) candidates interviewed for the vacancy on City Council. There being none, he asked that City Clerk James Hudson distribute the ballots. After each Councilmember voted and signed his or her respective ballots, City Clerk Hudson picked them up and read the vote. The first Ballot of Voting followed: Nasim Ansari, Jim Pearson and Patricia Randall voted for Richard Ford; and Peter Strazdas, Claudette Reid and Terry Urban voted for Betty Ongley. Discussion followed.

Mayor Strazdas asked each Councilmember to consider his or her vote and think about possibly making a change to break the tie vote, and provided another opportunity for City Council to make any comments regarding the four (4) candidates interviewed for the vacancy on City Council. There being none, he asked that City Clerk James Hudson distribute the ballots. After each Councilmember voted and signed his or her respective ballots, City Clerk Hudson picked them up and read the vote. The second Ballot of Voting followed: Nasim Ansari, Jim Pearson and Patricia Randall voted for Richard Ford; and Peter Strazdas, Claudette Reid and Terry Urban voted for Betty Ongley.

Mayor Pro Tem Reid explained that she voted for Betty Ongley because City Council is divided on this issue as well as other issues, needs someone who has experience on City Council, understands how things are done and how to function as a Councilmember. She stressed that it is important to have someone who is independent and who is not connected to any particular side or issue. She indicated that Betty Ongley is unbiased, and the most neutral a person and as wise a person she can think of and explained.

Mayor Strazdas emphasized the high quality of all four candidates and explained that this is why the decision is a tough one. He noted that the comment regarding who the citizens would elect should there be a need to change the *Charter* to accommodate a Special Election resonated with him and that he had no doubt from his discussions that the majority of citizens would want Betty Ongley.

Councilmember Ansari said that there is no doubt in his mind that Betty Ongley is one of the most respected persons in the community. He praised her for all she has done and meant to the City of Portage and the greater community and expressed his own tremendous respect for her. He stated his reason for voting for Richard Ford is based upon his opinion that the highest vote-getter in the election should be given a chance to serve on the City Council and explained.

Councilmember Pearson noted that there were four excellent candidates and that is why the Council did not reduce the field of candidates at all: two candidates who ran in the recent election and two former leaders of the City of Portage who were willing to step up and serve. He restated that Betty Ongley is an iconic symbol of all that is great about the City of Portage and the Kalamazoo area. He then indicated that a couple of weeks before the election, because of timing, there could be no election for the fourth seat. He stated his position that November 5, 2013, was a “real time” election and whoever comes in fourth place sends a “real time” message (from the voters) to him regarding who they want to serve. He explained that he also respects the time and efforts of the person who came in fourth, and that is why he supports Richard Ford.

Councilmember Urban indicated that Richard Ford had three opportunities to be elected in a “real time” election, but failed to receive the votes, and that was a message (from the voters) to him. He noted that he was not a close fourth, nor was Connor Farrell. With all due respect to Mayor Strazdas, he held no pretense regarding who would be elected to a two-year term position as this was not an option on November 5, 2013. Instead, he referred to the *Charter* where the City Council is supposed to appoint the best person that they believe should serve, not to try to interpret what the people would want when there can be no election for a Council vacancy. He said that he has always voted for the best person to serve the City of Portage for the term as required, regardless of whether he or she is the highest vote-getter or not, and emphasized that this is why this is an independent decision, and not one where Council should try to interpret any particular election results. He noted that there have been runner-up candidates who were woefully ill-prepared and inappropriate to serve the City and cited one candidate in particular as inappropriate to serve who filed petitions, was on the ballot and was never heard from again during the election, but received fifty votes.

Councilmember Randall said that City Council has a process to fill vacancies that continually changes in order to maintain the status quo. She questioned why Betty Ongley, an excellent candidate, was not chosen three years ago, and a person with no experience was chosen. She addressed Mayor Strazdas by saying that if this was not about control, you (Mayor Strazdas) would not have recruited additional candidates to run. She personally asked him to step up, lead City Council and begin the healing process that is needed to go forward in supporting the fourth highest vote-getter. Mayor Strazdas echoed her comments and asked that other Councilmembers need to also step up and make the right decision.

Next, Mayor Strazdas asked that City Clerk James Hudson distribute the ballots for what he called the last ballot of the evening. After each Councilmember voted and signed his or her respective ballots, City Clerk Hudson picked them up and read the vote. The final Ballot of Voting followed: Nasim Ansari, Jim Pearson and Patricia Randall voted for Richard Ford; and Peter Strazdas, Claudette Reid and Terry Urban voted for Betty Ongley. Discussion followed.

Councilmember Ansari indicated that since Betty Ongley and Richard Ford are both excellent candidates, and since there is a tie, in the interest of saving taxpayer dollars, rather than holding an election to change the *Charter* and an election to fill the vacancy, he suggested that the decision be made by lot, with the agreement of the candidates. Mayor Strazdas thanked him for his suggestion, reflected that he made that same suggestion at the November 25, 2013 Special Meeting for the purpose of selecting a Mayor Pro Tem, encouraged City Council to consider that option and entertained a motion to alter the process.

In answer to Mayor Strazdas, City Attorney Brown indicated that part of the motion could be that the candidates agree, but it is not required that they agree to the process. Councilmember Pearson indicated that both candidates are excellent and concurred with Councilmember Ansari in order to get on with the business of Portage. In answer to Councilmember Urban, Mr. Brown indicated that the *Charter* does not indicate what process is to be used to appoint this Councilmember, and that has been the problem all along, and now it is up to Council, if desired, to change the process by a majority vote.

Councilmember Ansari said that it depends upon whether Betty Ongley and Richard Ford agree with this change in the process and, based on that, motion by Ansari, seconded by Pearson, to draw the name of Betty Ongley or Richard Ford out of the hat.

Councilmember Urban opposed the motion because he indicated it does not meet the intent of the *Charter*, since we (as City Council) are not stepping up to fulfill the duties required of Councilmembers, the responsibility of appointing a person to fill this vacancy on City Council, and not to have it fall to chance and lot.

Mayor Strazdas spoke in favor as it was his the suggestion at the November 25, 2013 Special Meeting and an accepted method to resolve an impasse. He noted that the City Attorney at the time offered his opinion that "by lot" is the next best alternative and stressed, again, the importance of finding middle ground and compromise in government.

Mayor Pro Tem Reid reluctantly supported the motion, recognized it as the next best thing to making a decision, and expressed her disappointment that, as a City Council, they can not make this decision. Discussion followed. Upon a roll call vote, motion carried 5 to 1. Yeas: Councilmembers Ansari, Pearson and Randall, Mayor Pro Tem Reid and Mayor Strazdas. No: Councilmember Urban.

Mr. Hudson wrote the names on a piece of paper of the same size. Mr. Brown confirmed the two names and Mr. Hudson folded the names and placed them into the hat. Mr. Brown held the hat and Mr. Hudson drew the name of Richard Ford. Mr. Hudson received the resignation from Mr. Ford from the City of Portage Board of Review. Motion by Ansari, seconded by Randall, to accept the resignation of Mr. Ford from the City of Portage Board of Review. Upon a voice vote, motion carried 6 to 0. At the request of Mayor Strazdas, Mr. Hudson administered the Oath of Office to Mr. Richard Ford for the office of City Councilmember and Mr. Ford took his seat at the dias.

ELECTION OF THE MAYOR PRO TEMPORE AND OATH OF OFFICE: Mayor Strazdas opened discussion of the election of a Mayor Pro Tem and noted that City Council could open the nominations or move forward with the final two nominees for Mayor Pro Tem, Jim Pearson and Terry Urban. There was a consensus to move forward with the voting process and Mayor Strazdas asked that City Clerk James Hudson distribute the ballots. After each Councilmember voted and signed his or her respective ballots, City Clerk Hudson picked them up and read the vote. The Ballot of Voting followed: Nasim Ansari, Richard Ford, Jim Pearson and Patricia Randall voted for Jim Pearson; and Peter Strazdas, Claudette Reid and Terry Urban voted for Terry Urban. Discussion followed. City Council expressed congratulations to the newly selected Councilmember Richard Ford and Mayor Pro Tem Jim Pearson and showed a commitment to uniformity. Mr. Hudson administered the Oath of Office to Jim Pearson as Mayor Pro Tem. Discussion followed.

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

Portage Public Schools Board of Education Regular Business and Special Meeting Minutes of October 28, Policy Governance Retreat and Committee of the Whole Work Session of November 11 and Regular Business Meeting of November 25, 2013.

Portage Park Board of November 6, 2013.

Portage Youth Advisory Committee of November 11, 2013.

COUNCIL COMMITTEE REPORTS:

COMMUNICATION FROM THE PROPERTY COMMITTEE: Mayor Strazdas opened the discussion and deferred to Councilmember Randall, who provided a brief summary of the request of Mann+Hummel. She indicated that Mann+Hummel is expanding their current manufacturing site at 6400 Sprinkle Road by acquiring the Mueller facility, 6700 Sprinkle Road, which is closed. She said Mann+Hummel proposed to build an offsite road across a city-owned parcel at 6600 Sprinkle Road that the city has owned since 1998 to connect the two properties. She said the access road would consume a half acre of the 19.23 acre parcel and the term of the requisite license agreement would be for 10 years with provisions for one renewal term of 10 years. She noted that the additional building would increase their manufacturing by 70,000 square feet and that they hope to add 80 new jobs by spring 2014. Finally, she said that the Property Committee unanimously recommended moving forward on approving the License Agreement.

Mayor Pro Tem Pearson extended his appreciation to Community Development Director Vicki Georgeau and her staff for their time and effort in this matter.

In answer to Councilmember Reid, City Manager Maurice Evans indicated that the parcel was purchased for \$253,000 and the report noted it was purchased with the idea of the expansion of Mann+Hummel. Discussion followed.

Motion by Pearson, seconded by Randall, to receive the Communication from the City Council Property Committee regarding a License Agreement for Mann+Hummel Access Road/Path (6600 Sprinkle Road), adopt the Resolution of Intent to Grant a License to Locate Access Road to Mann+Hummel as presented/amended and place it on file with the City Clerk for twenty-eight (28) days. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 197 of City of Portage Resolution Book No. 45.

BID TABULATION:

* **CITY HALL IMPROVEMENTS PROJECT:** Motion by Reid, seconded by Urban, to approve the bids for carpet replacement and painting as part of the City Hall renovation project at a cost of \$145,183 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITIZENS: Phil Stinchcomb, 1607 Bellaire Avenue, congratulated Councilmember Ford for being selected to fill the vacancy on City Council and congratulated Councilmembers Urban, Reid and Ansari and Mayor Strazdas for winning the election. He wished all a Merry Christmas and noted that the Kalamazoo County Transit Authority (KCTA) was forming a second authority next year with new members on the Board in May or June.

Gary Dean, 7107 Leawood Street, expressed his appreciation for the selection of Richard Ford since he voted for him.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: City Council discussed and tentatively determined Friday, January 10, 2014, or Saturday, January 11, 2014, as optional dates for the City Council retreat.

Councilmember Ford thanked his fellow Councilmembers for considering him, said he is looking forward to working as a team for the citizens of Portage and promised to remain flexible.

Councilmember Ansari recognized Former Mayor James Graham, thanked Mayor Strazdas for his leadership and expressed his appreciation for the selection of a new Councilmember and a new Mayor Pro Tem by City Council.

Councilmember Urban wished everyone a happy and safe holiday and all Councilmembers and Mayor Strazdas joined him.

Councilmember Reid spoke in favor of Michigan State University winning the Rose Bowl football game on January 1, 2014.

City Manager Evans expressed congratulations to Councilmember Richard Ford and wished a Merry Christmas to all.

Mayor Strazdas expressed his satisfaction with the way City Council is working together, and mentioned a shooting that took place earlier in the day where the Public Safety Officers shined in the way they handled the situation.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 8:41 p.m.

James R. Hudson, City Clerk

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