



# PLANNING COMMISSION

September 18, 2014

# CITY OF PORTAGE PLANNING COMMISSION

## A G E N D A

September 18, 2014

(7:00 p.m.)

Portage City Hall Council Chambers

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### APPROVAL OF MINUTES:

- \* August 21, 2014

### SITE/FINAL PLANS:

### PUBLIC HEARINGS:

- \* 1. Active Home Occupation (Denisa Darsow), 249 Equestrian Drive
- \* 2. Preliminary Report: Rezoning Application #15-1, 6291 South 12<sup>th</sup> Street

### OLD BUSINESS:

### NEW BUSINESS:

1. Planning Commission Training – Access Management, Site Plan Review and Storm Water  
-- Adjourn to Conference Room No. 1

### STATEMENT OF CITIZENS:

### ADJOURNMENT:

### MATERIALS TRANSMITTED

“Officially Yours: The Community Planning Process” (article)  
July 22, 2014 City Council regular meeting minutes  
August 12, 2014 City Council regular meeting minutes  
August 18, 2014 City Council regular meeting minutes  
August 18, 2014 City Council special meeting minutes  
August 11, 2014 Zoning Board of Appeals meeting minutes  
July 2014 Summary of Environmental Activity Report

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

## PLANNING COMMISSION

August 21, 2014

The City of Portage Planning Commission meeting of August 21, 2014 was called to order by Vice-Chairman Felicijan at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. One citizen was in attendance.

### PLEDGE OF ALLEGIANCE:

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

### IN ATTENDANCE:

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

### ROLL CALL:

Mr. Forth called the roll and the following Commissioners were present: Patterson, Felicijan, Bosch, Dargitz, Schimmel, Somers and Richmond. A motion was made by Commissioner Patterson, seconded by Commissioner Dargitz, to approve the roll excusing Chairman Welch and absence of Commissioner Stoffer. The motion was unanimously approved 7-0.

### APPROVAL OF MINUTES:

Vice-Chairman Felicijan referred the Commission to the July 24, 2014 meeting minutes contained in the agenda packet. A motion was made by Commissioner Dargitz, seconded by Commissioner Patterson, to approve the minutes as submitted. The motion was unanimously approved 7-0.

### SITE/FINAL PLANS:

1. Peterman Concrete Company (storage building), 333 and 444 Peterman Lane. Mr. Forth introduced the item and summarized the staff report dated August 16, 2014 regarding a request by Mr. Frank Peterman to construct a 4,752 square foot storage building along the northwest portion of the existing Peterman Concrete Company zoning lot. Mr. Frank Peterman (owner) was present to support the plan. After a brief discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to approve the Site Plan for Peterman Concrete Company (storage building), 333 and 444 Peterman Lane. The motion was unanimously approved 7-0.

### PUBLIC HEARINGS:

None.

### OLD BUSINESS:

None.

### STATEMENT OF CITIZENS:

None.

7:05 p.m. - The Commission took a short recess.

7:10 p.m. - The Commission reconvened the meeting in City Hall Conference Room No. 1

Commissioner Stoffer arrived at approximately 7:08 p.m.

**NEW BUSINESS:**

1. FY 2013-2014 Final Work Program Update and proposed FY 2014-2015 Work Program. Mr. Forth referred the Commission to the staff report dated August 15, 2014 that included a final update of the FY 2013-2014 Work Program and a copy of the proposed FY 2014-2015 Work Program. The Commission did not have any comments on the FY 2013-2014 Work Program final update. Mr. Forth summarized Item 9) of proposed FY 2014-2015 Work Program and discussed quarterly training presentations planned by staff and the City Attorney for the upcoming fiscal year. Commissioner Dargitz discussed the idea of adding select topics (emerging planning issues) for additional discussion at the end of regularly scheduled meetings. Mr. Forth and Mr. West discussed how these topics could be scheduled for discussion as “New Business” at the end of regularly scheduled meetings and/or how articles regarding emerging planning issues could be added as “Materials Transmitted” to the agenda packet. After additional discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Somers, to adopt the 2014-2015 Work Program, as presented. The motion was unanimously approved.

2. 2014 Comprehensive Plan – Implementation Strategies (review/prioritization). Mr. Forth summarized the staff report dated August 15, 2014 and discussed the five staff recommended Implementation Strategies from the recently adopted 2014 Comprehensive Plan that could be considered during the upcoming fiscal year: 1) Inconsistencies between the Zoning Map and Future Land Use Map; 2) Development of a Complete Streets Policy; 3) Lake Center Business Area Overlay Zoning District; 4) Lake Front Regulations and 5) Zoning Code Text Amendments. Mr. Forth then asked for Commission comments regarding the recommended implementation strategies. Vice-Chairman Felicijan stated consideration and development of Lake Front Regulations will likely be very time consuming and controversial, while consideration and development of a Complete Streets Policy would likely be more straight-forward. Mr. Forth discussed the State of Michigan Complete Street Policy model and the purpose for the policy and also indicated that the Kalamazoo Area Transportation Study (KATS) was also in the process of finalizing their policy. Mr. Forth then provided an update on the Lake Center Business Area concepts including a possible “road diet” and consideration of a roundabout at the Portage Road/East Osterhout intersection and indicated bids have been received from traffic engineering companies to complete the analysis. Commissioner Dargitz suggested inclusion of natural resources protection strategies (described on page 2) and lake/stream protections during consideration of Lake Front Regulations. Commissioner Somers suggested addition discussion of Lake Front Regulations during the winter months. After additional discussion, it was the consensus of the Commission to move forward with the consideration and discussion of the five Implementation Strategies identified by staff as part of the Planning Commission FY 2014-2015 Work Program.

**ADJOURNMENT:**

There being no further business to come before the Commission, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

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

**TO:** Planning Commission

**DATE:** September 12, 2014

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

**SUBJECT:** Active Home Occupation Permit (Denisa Darsow), 249 Equestrian Drive

**I. INTRODUCTION:**

An application has been submitted by Denisa Darow requesting an Active Home Occupation Permit to operate a one chair hair salon from her residence located at 249 Equestrian Drive. The following background information regarding the location and surrounding area is provided for Commission consideration:

Existing Land Use/Zoning	<ul style="list-style-type: none"> <li>• <u>Subject Site:</u> Single-family residence (approximately 2,177 square feet) with an attached 566 square foot garage zoned R-1C, one family residential.</li> <li>• Single family residences also zoned R-1C surround the subject site to the east, west, north and south (across Equestrian Drive).</li> </ul>
Comprehensive Plan	<ul style="list-style-type: none"> <li>• Future Land Use Map of the Comprehensive Plan identifies the subject site along with surrounding properties as appropriate for low density residential land use.</li> </ul>
Access	<ul style="list-style-type: none"> <li>• Access to the site will be from Equestrian Drive. The site is located approximately 500 feet from South Westledge Avenue, a major thoroughfare.</li> </ul>
Environmental Issues	<ul style="list-style-type: none"> <li>• A review of the City of Portage Sensitive Land Use Inventory Map, does not identify any environmentally sensitive areas (100-year floodplain, wetlands) on or near the subject property.</li> </ul>
Land Development Regulations	<ul style="list-style-type: none"> <li>• Section 42-129.B, <i>Active home occupations, subject to several conditions.</i></li> </ul>
Historic District/Structure	<ul style="list-style-type: none"> <li>• The subject site is not located within a historic district and does not contain any historic structures.</li> </ul>

**II. PROPOSED ACTIVE HOME OCCUPATION:**

As described in the application materials, the applicant/homeowner will be the only cosmetologist operating at this location and will provide haircuts, perms and hair coloring to clients. To accommodate the hair salon inside the dwelling, the applicant proposes to convert a portion of the attached garage (approximate 8-foot by 12-foot area) into living space. The hours of operation will be Monday-Friday 9:00 a.m. to 6:00 p.m. and on Saturdays the hours will be 9:00 a.m. to 1:00 p.m. The applicant expects to have between 5-12 clients per day, however, only one client vehicle is expected to be parked within the driveway at any one time: A two-car garage and associated concrete driveway is present at the property to accommodate residential and client parking.

**III. ANALYSIS:**

In March 2011, the City Council approved an amendment to Section 42-129, Home Occupations of the Zoning Code that expanded opportunities for residents to operate home-based businesses. The ordinance amendment established two categories of home occupations: 1) Passive Home Occupations that are low impact home-based businesses permitted by right in all residential dwelling units; and 2) Active Home Occupations that represent more intensive home-based businesses which may be allowed

Active Home Occupation Permit  
249 Equestrian Drive

subject to a public hearing and Planning Commission review/approval. In order to minimize impacts on adjacent properties and to determine the appropriateness of the use in a single family residential district, the Active Home Occupation ordinance includes several provisions that must be considered by the Planning Commission. A summary of these requirements along with an analysis of the proposed active home occupation is provided below.

- 1) *No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation on the zoning lot. The Planning Commission may allow two full-time non-occupant employees upon request.*

The applicant/property owner will be the only employee of the proposed active home occupation.

- 2) *Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation.*

As indicated in the application materials, approximately 100 square feet of the existing attached garage will be renovated to living space to accommodate the active home occupation (one-chair hair salon, wash sink, etc.).

- 3) *There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance.*

The proposed interior renovation of a portion of the attached garage will not change the residential character of property. With the exception of a walkway along the east side of the dwelling and client entrance/exit door, no exterior treatments to the zoning lot or structure are proposed.

- 4) *Off-street parking provided for the active home occupation shall be provided on an improved driveway.*

The zoning lot has an attached garage and associated concrete driveway with access from Equestrian Drive that will accommodate both residential and client parking.

- 5) *No goods or products shall be directly sold or delivered to customers on the premises of the one-family dwelling except goods and products which are incidental to the services of the home occupation.*

According to the applicant, small quantities of hair products such as shampoos, conditioners, gels, hairspray, etc. that are incidental to the business will be made available for purchase by clients of the active home occupation.

- 6) *Storage of materials, equipment and goods which are incidental to the services of the home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of the completely enclosed accessory building.*

Supplies and equipment associated with active home occupation will be stored within the proposed 8-foot by 12-foot salon room.

- 7) *The active home occupation, or any part thereof, shall not be conducted in any attached or detached accessory building or structure nor on any patio, deck or lawn area, except outdoor areas may be used for instruction in recreational activities customarily associated with residential uses including, but not limited to, swimming lessons and tennis lessons.*

The applicant will not conduct any portion of the active home occupation outdoors or within an attached or detached accessory building.

8) *Materials, equipment and goods shall not be visible from adjacent properties.*

Supplies and equipment associated with active home occupation will be stored outdoors or otherwise visible from adjacent properties.

9) *There shall be no sign of any nature identifying the home occupation except non-illuminated wall signage (maximum of six square feet) identifying the name of the home occupation may be affixed to the one-family dwelling unit. The use of window displays are not permitted.*

The applicant has indicated no freestanding/wall signs or window displays will be used in conjunction with the active home occupation.

10) *The active home occupation shall not produce or generate excessive or undue noise, odors, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property.*

The active home occupation will not produce any nuisances that cause negative effects on surrounding properties.

11) *The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation application submitted by the occupant is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the use and expected conduct of the use specified in the application by the occupant:*

- a. *Promotes the intent and purpose of this section;*
- b. *Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:*
  - i. *The proximity of the surrounding uses to the active home occupation;*
  - ii. *The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot;*
  - iii. *The seasonal nature of the active home occupation;*
  - iv. *The size and weight of vehicles to be used in the active home occupation; and*
  - v. *The number of trips the vehicle to be used in the home occupation is expected to make to and from the property;*
- c. *Does not unduly affect the capacities of public services or facilities;*
- d. *Is consistent with the public health, safety and welfare;*
- e. *Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and*
- f. *Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.*

As described in the attached application, only one client will be on-site at any one time and sufficient parking is available for the single family residence and accessory hair salon active home occupation. Traffic generation associated with the active home occupation and 5-12 clients per day is equivalent to 10-24 vehicle trip ends during business hours (5-12 incoming vehicle trips, 5-12 outgoing vehicle trip). This number of vehicle trips is not considered excessive. As stated previously, the active home occupation is situated near the perimeter of the interior residential neighborhood, approximately 500-feet from South Westnedge Avenue, a minor arterial roadway.

Active Home Occupation Permit  
249 Equestrian Drive

- 12) *The Planning Commission may attach conditions to the application by the occupant to conduct an active home occupation deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land including the number of customers allowed on the zoning lot at any one time, hours of operation, and similar factor.*

Based on the information provided by the applicant regarding the nature and operation of the proposed active home occupation and subject to any public comment received, specific conditions of approval do not appear to be necessary in this particular application.

- 13) *No condition or requirement stated for active home occupations shall prohibit the growing of fruits, vegetables or flowers, or any other farm product, protected by the Michigan Right to Farm Act.*

Not applicable to the proposed active home occupation.

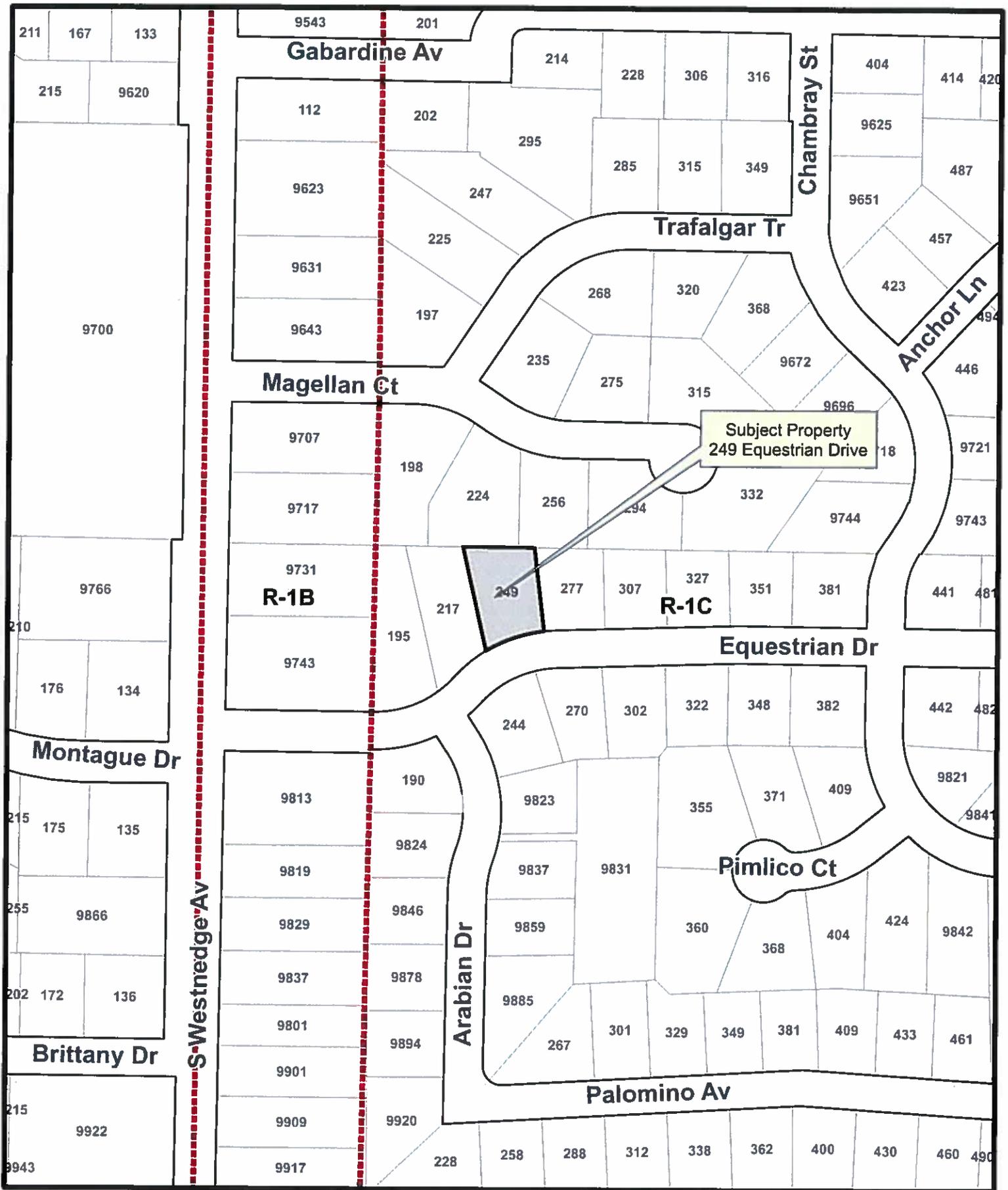
Residents/property owners within 300 feet of this property have been notified in writing of the application and Planning Commission meeting. A notice was also placed in the local newspaper.

#### IV. RECOMMENDATION:

Based on the above analysis and subject to any additional information that may be presented during the public hearing, staff recommends that the Active Home Occupation Permit for Denisa Darsow (one chair hair salon), 249 Equestrian Drive, be approved.

Attachments: Zoning/Vicinity Map  
Aerial Photograph Map  
Active Home Occupation Permit Application and supporting materials

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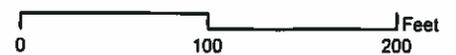
# Active Home Occupation Permit

## 249 Equestrian Drive





**Aerial Photo  
249 Equestrian Drive**





RECEIVED

AUG 04 2014

COMMUNITY DEVELOPMENT

ACTIVE HOME OCCUPATION PERMIT APPLICATION

Applicant Name: Denisa Darsow Address: 249 Equestrian Drive
Business Name: Denisas House of Hair Telephone No: 269-760-9403
E-mail address: denisa.darsow@hotmail.com Is the property owned or leased/rented? Owned.

If leased/rented, written permission from the property owner must be submitted.

Describe the active home occupation to be conducted: It will be a hair salon with one chair & one sink operated by a single cosmetologist. I will service cuts, perms and colors to men, women and children.

Will persons other than the full-time occupant(s) of the dwelling be involved with the active home occupation? [ ] Yes [X] No. If yes, please indicate the number of additional persons involved 0

Indicate where inside the home the active home occupation will be conducted (1st floor, 2nd floor or basement)? I would like to convert a portion of the existing garage (12x8) adjacent to the laundry room to liveable space that will house the active home occupation. 12 x 8 (attach a sketch of the floor or basement and area used for the active home occupation)

Will an attached/detached accessory building be used for storage purposes? [ ] Yes [X] No. If yes, please describe and indicate the total area of the accessory building and the amount of floor area used for storage (attach a sketch of accessory building and area used for storage): N/A

Will any products or goods incidental to the service provided be sold from your home? [X] Yes [ ] No. If yes, please describe type of products or goods and where they will be stored? Hair products will be sold such as shampoos, conditioners, gels, hairsprays etc and will be stored on shelves within the salon.

Will the home-based business generate additional vehicular traffic (e.g. customers or deliveries)? [X] Yes [ ] No. If yes, please describe and indicate the approximate number of vehicles per day: Customers will come on a day to day basis, anywhere from 5-12 per day. Only one customer will be parked in driveway at a time. Only one client will be serviced at one time also.

Will the home-based business generate any noise, odors, dust, fumes, smoke, glare or other nuisances that would impact surrounding property owners? [ ] Yes [X] No. If yes, please explain. N/A

Will a wall sign intended to advertise the business be installed? [ ] Yes [X] No. If yes, please indicate the size (maximum six square feet) and the wall where the sign will be attached. N/A

If more information describing the active home occupation needs to be provided, attach additional page(s).

I, the undersigned, acknowledge that I am aware of the requirements for approval of my active home occupation and all regulations and obligations thereto will be fulfilled as required by ordinance.

Signature of applicant: Denisa Darsow

Date: 8-4-14

Print name: Denisa Darsow

NOTE: The records of the City of Portage are public records and are available for inspection by members of the public.

"Denisa's House of Hair."

8-4-14

I am requesting an active Home Occupation.  
I would like to open a hair salon in my home. It would be solely for myself and would include one chair and one sink.  
I would be performing haircuts, perms, and hair colors, to men, women and children.  
My hours of operation would be Mon-Friday 9-6 and Saturdays 9-1.

I would like to convert a portion of the existing garage (an 8x12 ft section) adjacent to the laundry room to liveable space that will house the active home occupation/salon.

I would likely have anywhere from 5-10 clients per day. Only one would be parked in the driveway at a time. We currently have a 2 1/2 car garage and an extra wide driveway where clients can park.

# SKETCH/AREA TABLE ADDENDUM

Parcel No 07710-003-O

File No 07710-003-O

SUBJECT

Property Address 249 EQUESTRIAN DR

City PORTAGE

County KALAMAZOO

State MI

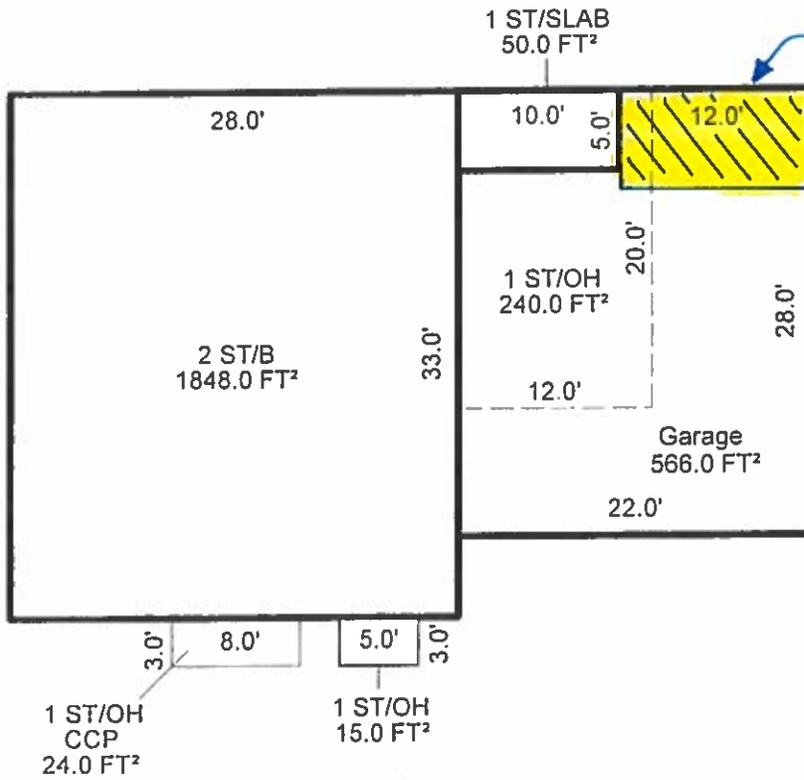
Zip 49002

Owner DARSOW, BRIAN & DENISA

Client

Appraiser Name

IMPROVEMENTS SKETCH



Scale: 1" = 12'

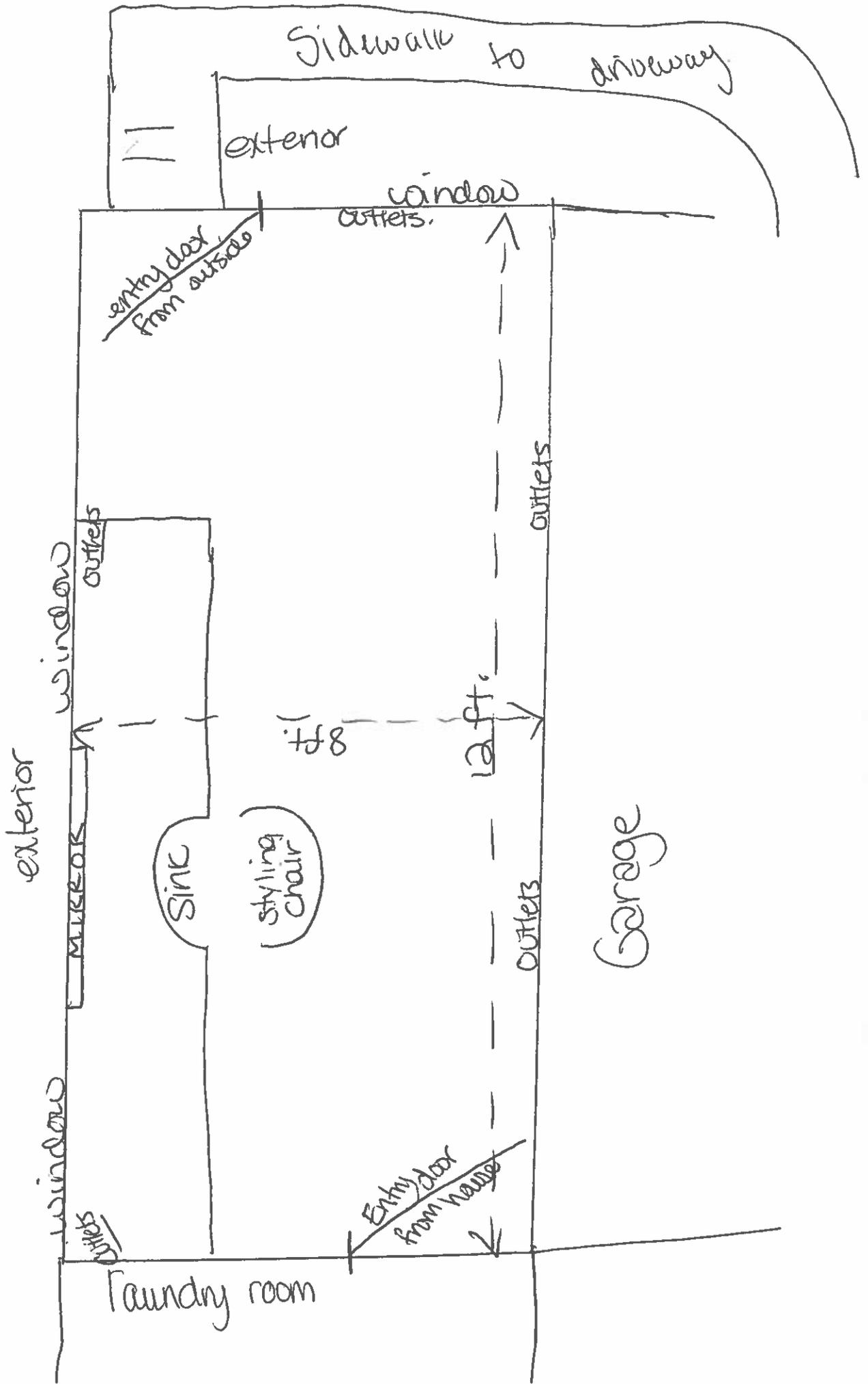
AREA CALCULATIONS

### AREA CALCULATIONS SUMMARY

Code	Description	Factor	Net Size	Perimeter	Net Totals
1SS	1 ST/SLAB	1.00	50.00	30.0	50.00
1SOH	1 ST/OH	1.00	240.00	64.0	
	1 ST/OH	1.00	15.00	16.0	
	1 ST/OH	1.00	24.00	22.0	279.00
2SB	2 ST/B	2.00	1848.00	122.0	1848.00
G/GAR	Garage	1.00	566.00	100.0	566.00
P/CCP	CCP	1.00	24.00	22.0	24.00
Net LIVABLE Area (rounded w/ factors)					2177


# Denise's house of hair Salon.

8-4-14.



**TO:** Planning Commission

**DATE:** September 12, 2014

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

**SUBJECT:** Preliminary Report: Rezoning Application #15-1, 6291 South 12<sup>th</sup> Street

**I. INTRODUCTION:**

An application has been received from Pinefield, LLC requesting that 6291 South 12<sup>th</sup> Street be rezoned from R-1B, one family residential to R-1T, attached residential. According to the applicant, the rezoning would facilitate future expansion of the Pinefield Townhomes development project.

Applicant	Property Address	Parcel Number	Zoning	
			Existing	Proposed
Pinefield, LLC	6291 South 12 <sup>th</sup> Street	00007-170-G	R-1B	R-1T
One parcel – 5.3 acres				

**II. EXISTING CONDITIONS:**

Land Use/Zoning	<p><u>Rezoning Site:</u> Outdoor recreation area (walking path, volleyball court, children play equipment, picnic area, etc) for the adjacent Pinefield Townhomes development zoned R-1B, one family residential.</p> <p><u>East/South:</u> Pinefield Townhomes development zoned RM-1, multiple family residential and R-1T, attached residential.</p> <p><u>West:</u> Single family residences zoned R-1B and South 12<sup>th</sup> Street.</p> <p><u>North:</u> Vacant land zoned R-1B. Further north, single family residences zoned R-1B.</p>
Zoning/Development History	No rezoning of properties in the surrounding area have occurred in the past 10 years.
Historic District/ Structures	The subject site is not located within a historic district and does not contain any historic structures.
Public Streets	South 12 <sup>th</sup> Street is designated a 2-lane minor arterial roadway with 5,571 vehicles per day (2013); capacity of 17,200 vehicles per day (level of service "D").
Public Utilities	Municipal water and sewer are available.
Environmental	The City of Portage Sensitive Land Use Inventory Map does not identify wetland and/or floodplain areas on the subject site.

**III. PRELIMINARY ANALYSIS:**

The following analysis has been prepared based on general land use considerations, the Comprehensive Plan, traffic conditions and surrounding development patterns. Issues to be considered are consistency with the Future Land Use Plan Map and Development Guidelines, suitability of the existing zoning classification and the impacts of the proposed zoning classification.

**Comprehensive Plan/Future Land Use Map Consistency.** The Future Land Use Plan Map component of the 2014 Comprehensive Plan identifies the rezoning site, along with properties situated to the south and west, as appropriate for medium density residential land use. The medium density residential land use designation covers the transition from detached to attached dwelling units including duplexes, attached condominiums and townhomes and certain apartment buildings (4 to 8 units per acre) and corresponds to the R-1T, attached residential, RM-2, multiple family residential and PD, planned development zoning districts. Properties situated east of the rezoning site are identified for high density residential land use, while properties situated to the north of the rezoning site are designated for low density residential land use. While these designations are intended to serve as a general guide for future development and rezoning considerations, specific zoning district boundaries need to be determined on a case-by-case basis considering overall consistency with the Comprehensive Plan/Future Land Use Map, surrounding land use/zoning pattern, development/redevelopment potential, impacts on adjacent properties and other factors.

**Development Guidelines.** The Development Guidelines are intended to be used by the Commission and staff when reviewing private development proposals, infrastructure improvement programs (i.e. public expenditures on streets, sewers and water mains that influence the location, intensity and timing of development) and public programs that affect the physical environment. The guidelines also provide direction and underpinning for regulations that affect land use (e.g. zoning, subdivision, parking, landscaping and others) and may suggest incentives to influence community development and adjustments to other policies that influence the use of land for consistency with community development objectives. An evaluation of the Development Guidelines will be provided with the staff recommendation.

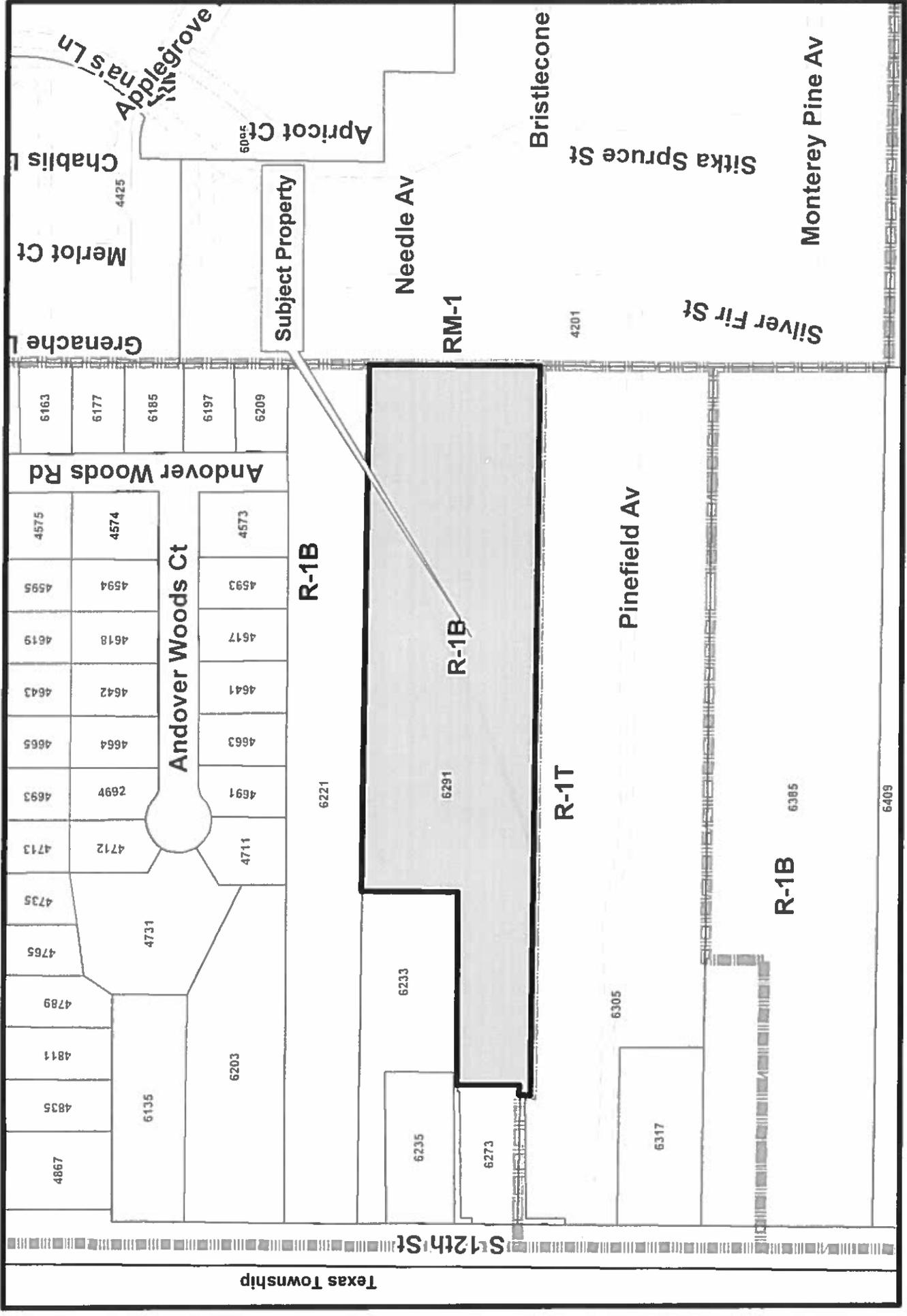
**Suitability of Existing R-1B Zone/Impacts of Proposed R-1T Zones.** The existing R-1B zoning designation is still suitable for single-family residential development and could be developed by extending Andover Woods Drive to the south. This development option would, however, require property assembly and another point of access to South 12<sup>th</sup> Street. The subject property is currently owned by the same entity that owns the existing Pinefield Townhomes development project and although zoned for single-family residential use, it is planned for attached residential. As such, the proposed R-1T zone would allow for future expansion of the Pinefield Townhomes development with existing access provided from South 12<sup>th</sup> Street (thru Pinefield Avenue, private street) and West Milham Avenue (thru adjacent Anna's Vineyard Apartment complex). While some increase in residential development density is likely with a zoning change from R-1B to R-1T, the proposed R-1T district is consistent and compatible with the surrounding land use pattern and zoning designations. As information for the Commission, the R-1T zoning district allows for construction of duplexes and attached residential buildings (maximum four connected units) subject to several conditions.

**Traffic Considerations.** Anticipated traffic generation associated with a zoning change from R-1B to R-1T will not be significant and can be accommodated by the surrounding roadway network. Specific access related issues including driveway locations, shared/cross access connections, etc. will be reviewed at the site plan stage of redevelopment.

#### **IV. RECOMMENDATION:**

Consistent with the Planning Commission policy of accepting public comment at the initial meeting and continuing the rezoning at a subsequent meeting, the Commission is advised to receive public comment during the September 18, 2014 meeting and adjourn the public hearing to the October 2, 2014 meeting.

Attachments: Zoning/Vicinity Map  
Future Land Use Map  
Aerial Photograph Map  
Rezoning Application and Supporting Materials



 Zoning Boundary  
 Subject Property  
 Notification

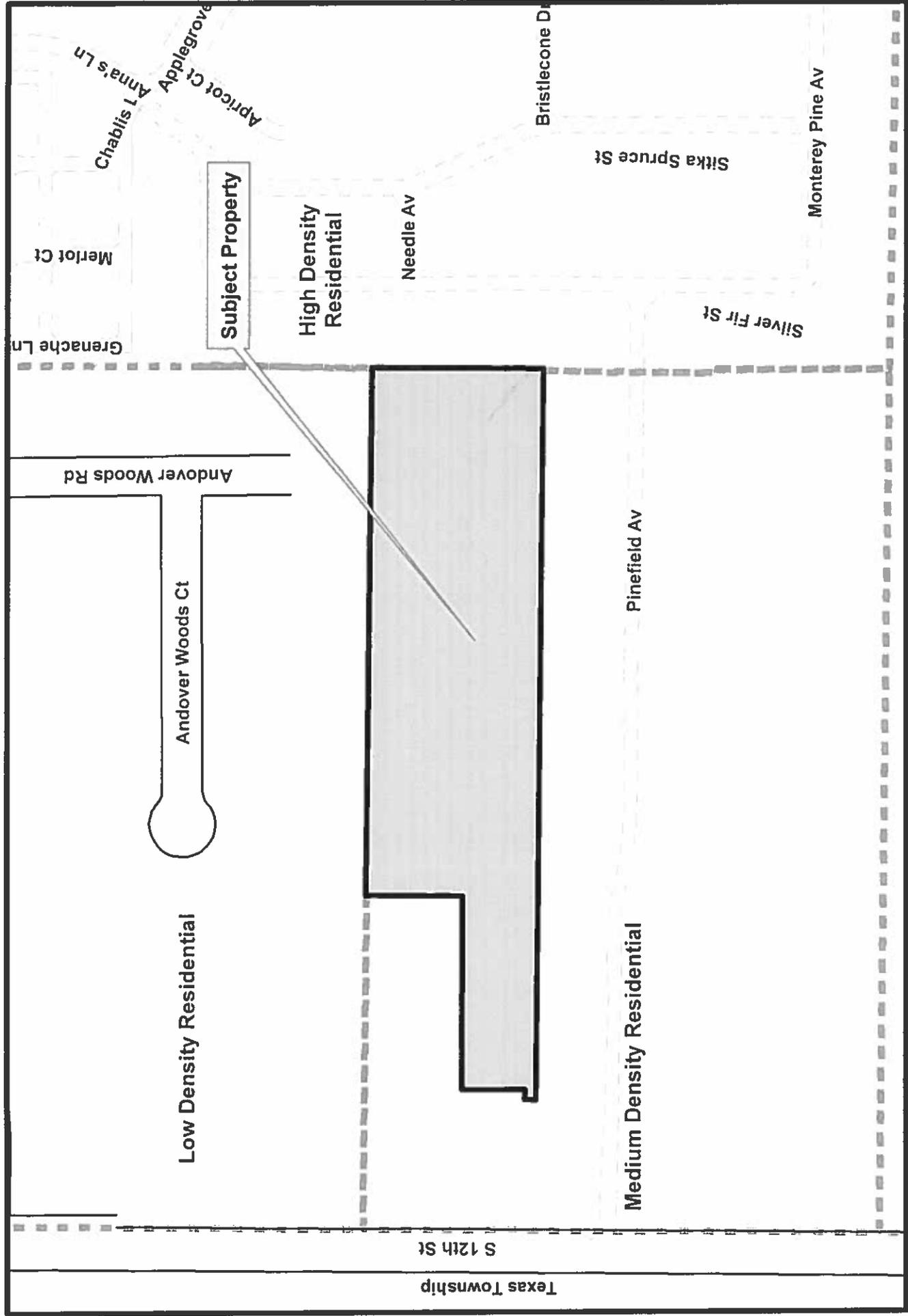
**Rezoning #15-01  
6291 South 12th Street**



1 inch = 200 feet

Texas Township

South 12th Street



# Future Land Use Map 6291 South 12th Street

[Shaded Gray Box] Subject Property  
 [Dashed Line Box] Future Land Use



1 inch = 200 feet



RECEIVED

APPLICATION FOR ZONING AMENDMENT

Application number 15-1

Date August 19 2014

APPLICATION INFORMATION:

Meetings of the Portage Planning Commission are held on the first and third Thursday of each month at 7:00 p.m. in the Council Chambers of Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan. All zoning amendment applications must be properly filled out and submitted to the Department of Community Development and the zoning amendment fee paid at least 15 working days prior to the meeting at which the public hearing is held. The applicant will be notified in writing of all such public hearing/meetings.

For more detailed information about the zoning amendment process, please refer to Portage Land Development Regulations, Article 4, Division 2, Subdivision 2.

TO THE PLANNING COMMISSION:

I (WE), the undersigned, do hereby respectfully make application and petition the Portage Planning Commission to amend the Zoning Ordinance and/or change the Zoning Map as hereinafter requested. In support of this application, the following is submitted:

**ZONING MAP AMENDMENT**

1. a. Platted Land:

~~The property is part of the recorded plat: The property sought to be rezoned is located at 6291 South 12th st between \_\_\_\_\_ Street and \_\_\_\_\_ Street on the East side of the street, and is known as Lot Number(s) N/A of \_\_\_\_\_ Plat (Subdivision). It has a frontage of 61 feet and a depth of 1,355.05 feet.~~

b. Unplatted Land:

The property is in acreage, and is not therefore a part of a recorded plat. The property sought to be rezoned is located and described as follows: (Indicate total acreage and parcel number).

6291 South 12th st.  
5.3 acres  
00007-170-6

2. a. Do you own the property to be rezoned? Yes X No \_\_\_\_\_

b. Name of the owner of the property to be rezoned: Pinefield LLC

Address 6219 Silver Fir Portage MI

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: To add to our existing Condo community

4. CURRENT ZONING: ~~R-1B~~ R-1B PROPOSED ZONING: R-1T

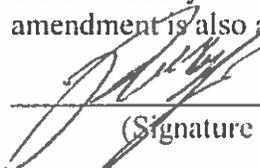
**ZONING TEXT AMENDMENT**

1. The proposed language to be considered is (attach additional sheets as necessary):

2. The Zoning Code Chapter and Section wherein the proposed text would be modified/inserted.

3. My (our) interest in and purpose for submitting the proposed Zoning Ordinance Amendment.

We attach a statement hereto indicating why, in our opinion, the change requested is necessary for the preservation and enjoyment of substantial property rights, and why such amendment will advance the public health, safety and welfare. An assessment of the impact of the proposal on the community and property of other persons in the vicinity of the amendment or affected by the amendment is also attached.

	<u>Robert Deppa Member Pinedale LLC</u>
(Signature of Applicant)	(Signature of Applicant)
<u>6219 Silver Fir St. Portage MI</u>	
(Address)	(Address)
<u>616-890-0643</u>	
(Phone)	(Phone)

A copy of all actions taken regarding this application shall be attached and shall be considered a part of this application.

\$825 / 1st ACRES  
\$175 EACH ADDITIONAL



# **MATERIALS TRANSMITTED**

The **Officially Yours** feature provides local appointed and elected officials with both basic and advanced topics addressing issues unique to the role as a local government representative.

### THE COMMUNITY PLANNING PROCESS

A major task of planning commissions is to develop and periodically to update the master plan. Many planning commissioners, however, join a planning commission that already has a plan, and as a result, never have a chance to develop a master plan from "scratch." Members who serve two or three terms, though, should become involved in a major review and updating of the master plan. Still, a real danger for nearly all planning commissions is that they get caught up in the short-term pressures and concerns and never really step back as a group and make a broad based assessment of what has happened.

Why should planning occur?

Planning should take place for a number of reasons, including:

- *State planning acts require local planning commissions to develop a master plan.* This requirement may be important if a dispute arises and develops into court proceedings.
- *Planning permits communities to make choices and set goals rather than just accept what happens.* Planning, thus, contributes to orderly growth and development.
- *Planning helps prevent wasteful expenditure of public and private funds.* Planning enables local governments to anticipate service demands and to plan, locate, and build public service facilities accordingly. Costly mistakes are thus eliminated or at least reduced.

- *Planning is a key way to allocate scarce resources.* Without a public planning process, decisions that determine how land and other community resources are used are largely private decisions. Planning, thus, permits the community at large to have a say in how the community develops.
- *Planning helps to protect property values largely by controlling the impact of one land use on a different use on adjacent or nearby land.*
- *Planning contributes to economic development.* It provides information and data to those considering major investments in a community. It allows prospective investors to access the ability of a community to meet its needs for public services.

This list of reasons for community planning is important for planning commissioners to insist on energetic and consistent community planning. But planning commissioners need not be timid in asserting that investments in planning provide a solid return.

What is the planning process?

Planning is a way of achieving specific goals, solving existing problems, and preventing undesirable conditions from developing. A close look at the process reveals eight distinctive phases.

*Identifying problems or issues* - The list of problems, or conditions to be avoided, will be long in communities just beginning the process. In places needing to update the master plan, the list will be much shorter.

*Research and analysis* - This step involves gathering information and data, analysis of which should produce a clearer understanding of the problems.

*Formulating goals and objectives* - In this phase, the group seeks to define or describe the goals and objectives to be sought on behalf of the community.

*Identify and evaluate alternatives* - Here the purpose is to develop and assess several possible plans or programs to achieve the goals agreed upon.

*Selecting a course of action* - The planning commission must next decide upon a series of policies or steps to deal with a specific problem or group of related problems. It may take the form of a policy statement in the master plan or a recommendation to the legislative body for a change in an ordinance.

*Implementing approved plans* - In this phase a planning commission considers proposals for development against its master plan.

*Evaluation* - Here the planning commission evaluates its own actions as well as those of public and private decision makers to assess progress toward goals.

*Adjusting plans and programs* - Mainly this phase involves making minor adjustments unless major problems requiring significant new data needs and analysis are identified.

The planning process, then, is a problem-identifying and problem-solving procedure that enables a group to make interrelated choices. It is a goal-directed way of thinking about the future.

Developing a community's very first master plan can be a major undertaking. But if you are working to update a plan that has proven its value, your effort will likely be more limited, focusing on particular problems such as traffic, survival of industrial plants, periodic flooding, or other conditions defined as problems or situations for which new goals and objectives are sought.

## CITY COUNCIL MEETING MINUTES FROM JULY 22, 2014

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

At the request of Mayor Pro Tem Pearson, Pastor John Moore of Pathfinder Church provided an Invocation. Pastor Moore also complimented the City on work performed improving a portion of Vanderbilt Avenue and commented that one of the curves on this road was in rough shape. The City Council and the audience recited the Pledge of Allegiance.

The Deputy City Clerk called the roll with the following members present: Councilmembers Nasim Ansari, Richard Ford, Patricia M. Randall, Claudette Reid and Terry Urban and Mayor Pro Tem Jim Pearson. Mayor Peter Strazdas was absent with notice. Also in attendance were Acting City Manager Laurence Shaffer, City Attorney Randy Brown and Deputy City Clerk Adam Herringa.

**APPROVAL OF MINUTES:** Motion by Ansari, seconded by Reid, to approve the July 8 Regular Meeting and July 10, 2014 Special Meeting Minutes. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Pro Tem Pearson asked Councilmember Randall to read the Consent Agenda. Motion by Ford, seconded by Reid, to approve the Consent Agenda Motions. Upon a voice vote, motion carried 6 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JULY 22, 2014:** Motion by Ford, seconded by Reid, to approve the Accounts Payable Register of July 22, 2014. Upon a voice vote, motion carried 6 to 0.

### **PUBLIC HEARING:**

**REZONING APPLICATION #14-2, EAST CENTRE AVENUE AND PASMA AVENUE:** Mayor Pro Tem Pearson introduced Community Development Director Vicki Georgeau, who reviewed the history of the rezoning request, actions taken by the Planning Commission and the rationale for the recommendation of the Administration. Director Georgeau also explained why the rezoning was being pursued at this time and the zoning history of the involved properties. She then explained the various types of businesses and enterprises that would be permitted in B-1, B-3 and OS-1 zoning designations and where these types of zoning designations are preferred in the community. Next, Director Georgeau shared the concerns that she has heard from the affected property owners and how they could be addressed. Director Georgeau reviewed and Mayor Pro Tem Pearson summarized the various options with regard to rezoning the properties.

Councilmember Ford inquired as to why portions of the residential properties were zoned B-3 and Ms. Georgeau acknowledged that it was an oddity and that the reason is unclear but speculated it has something to do with prior ownership of the of the parcels along Pasma and prior land use of adjoining properties as greenhouses.

Councilmember Randall stated that it was her understanding that approximately 1/3 of the properties involved, specifically 916 and 918 East Centre, would become non-conforming yet exempted from the requirements of the proposed OS-1 rezoning designation. Director Georgeau concurred and stated that under both the B-1 and OS-1 zoning possibilities the greenhouses would be non-conforming and some type of protection would be necessary.

Councilmember Ansari inquired about the application of the "Right to Farm" Act. Director Georgeau responded that the application of the Right to Farm Act can be, in many instances, nebulous and subject to change. She stated that she is uncomfortable predicting applicability at this time without a specific development plan in front of her but that some protection would be offered, she simply was not sure how much. Attorney Brown concurred with Ms. Georgeau in that some protection would be

offered but the proposed amendment to the Code of Ordinances, which is next on the agenda would secure the protection.

Councilmember Reid inquired if both the proposed zoning designation and amendment to the Code of Ordinances were to pass, whether the property owner could alter, modernize or otherwise update greenhouse activities at the property. Director Georgeau responded in the affirmative but stated that it is hard to predict future developments or technological changes. Discussion followed and Director Georgeau confirmed that, assuming the rezoning occurs and text amendment is adopted, the properties could be sold and the selected agricultural use continued.

Mayor Pro Tem Pearson opened the public hearing, recapped the rezoning options and asked the Vice-Chairperson of the Planning Commission, Dave Felicijan, to speak on the topic at hand and explain the rationale behind the Planning Commission's recommendation. Mr. Felicijan discussed the reason for the recommendation and explained that the majority of the Planning Commission believed the current zoning designation, B-3, was too intense. He also explained that there was significant capacity for office service in the community and that such a designation would place unnecessary limitations on the development potential of the properties. He continued by stating that the B-1 designation seemed to be the best alternative. Mr. Felicijan explained that, in his opinion, this rezoning process made him and some other members of the Planning Commission uncomfortable and proceeded more quickly than he would have liked. He continued by stating he would have preferred more time for the Planning Commission to explore other zoning possibilities. Councilmember Urban pointed out that this is the first rezoning of most of these properties in fifty years and that the OS-1 designation has been a part of the Comprehensive Plan for years. He asked for clarification as to why the reluctance of the Planning Commission to recommend the OS-1 designation. Mr. Felicijan responded by stating that it has been fifty years but that the recommendation to change the designation was condensed into a few meetings and he would have liked more time to weigh other options. Discussion followed and Attorney Brown clarified that the recent proposed gas station and convenience store development was not denied, the application was withdrawn.

Mr. Don Ziemke, Jr., 7404 Kettle Lake Drive, Alto, MI, spoke with regard to 710 and 732 East Centre and in opposition to the proposed rezoning. He explained that he bought the properties in December and proposed a gas station & convenience store development but that this plan was withdrawn. He explained that it is his intention to develop the properties but the rezoning process and related uncertainty has made this difficult. He contended that an OS-1 designation would be detrimental to his property value and extremely limiting to development potential. He continued by stating that more office space is not needed in Portage as the market is already saturated. He then explained that while a B-3 zoning designation is preferred, he believed he could still work with a B-1 designation. Mr. Ziemke also questioned the work of the consultant used by the Department of Community Development. Councilmember Urban inquired if Mr. Ziemke was aware that his properties were proposed to have an OS-1 designation in the Comprehensive Plan and Mr. Ziemke replied that he was not. Discussion followed.

Mr. Tim Hoeksema, co-owner of D & D Greenhouses and of 918 and 916 East Centre, spoke in opposition to the proposed rezoning. He stated that an OS-1 designation would cripple their business because they have an annual operating loan that is based, in part, on the value of the property which would be negatively affected by the proposed rezoning. He continued by stating that this understanding of the effect on his property value is based on conversations he had with his bank. Mr. Hoeksema also offered that, while an OS-1 designation would handcuff the business, a B-1 designation is something that D & D Greenhouses could work with. Discussion followed and Councilmember Urban inquired if Mr. Hoeksema was aware that his properties were proposed to have an OS-1 designation in the Comprehensive Plan when he purchased the property and Mr. Hoeksema replied that he was not. Councilmember Urban then asked Mr. Hoeksema if the proposed text amendment to permit specialized agriculture in OS-1 and B-1 zoning districts offered the protection he needed. Mr. Hoeksema responded that his understanding is that the Right to Farm Act offers the protections necessary to allow for modernization of their facilities. Councilmember Urban responded and stated that the proposed

amendment to the Code of Ordinances would provide protections for such activities as updating their facilities and cited the greenhouses along Schuring Road as an example. Discussion followed.

Motion by Reid, seconded by Ansari, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Mayor Pro Tem Pearson stated that it has been contended that there is an over-abundance of OS-1 in the City and asked Director Georgeau for her perspective. Director Georgeau responded that the studies that were discussed during the Planning Commission phase of the rezoning were not necessarily applicable to the City of Portage as they focused on large office development whereas in Portage smaller developments are the norm. She continued by stating that, depending on how the study is conducted, a case could be made that there is too much B-3 and pointed out that the properties involved have been designated B-3 since 1965 and the only new development in that area since then has been the Otis Montessori School.

Councilmember Reid inquired about the possibility of "Mixed Use" zoning and Director Georgeau cited mixed use efforts in certain areas of the city, developments at nodes of major intersections and the need for a consistent development pattern. Mayor Pro Tem Pearson inquired if any mixed use developments have occurred since 2011 when the City Council put in place several areas of mixed use zoning. Director Georgeau responded that, to date, no such developments have been undertaken.

Councilmember Randall opined that the City of Portage must take steps to become more business-friendly and reduce obstacles to development. She cited the development of Costco in Oshtemo Township and questioned why the City of Portage was not more receptive to the development. She continued by stating that tax base will only increase based on new development and that, in the situation currently under discussion, we have businesses that have a need and want to be successful and yet decisions made for development along the five lanes of Centre Street lack consistency.

Councilmember Reid questioned why a rezoning request did not occur before now given how long the proposed OS-1 designation has been on the books. Director Georgeau explained that it was likely related to the operation of the Centre Street Market and the greenhouses. Discussion followed and Councilmember Reid expressed concern that some members of the Planning Commission felt constrained by their options in this process and opined that the Planning Commission must be allowed to be proactive and be able to explore all of their options when it comes to zoning changes in the City. She concluded by stating that many aspects of this rezoning process strike her as unfortunate and have prevented the best option from being presented. Discussion followed and Attorney Brown offered that City Council rarely, if ever, "downzones" a business to make it non-conforming which may explain why the B-3 designation has been in place for so long.

Motion by Randall, seconded by Ansari, to approve Rezoning Application #14-2 and rezone 732, 810, 830, 906, 912, 916 and 918 East Centre Avenue from B-3, general business, to B-1, local business; 710 East Centre Avenue from P-1, vehicular parking, to B-1, local business (excepting the west five feet); and the northern approximate 50 feet of 907, 913 and 923 Pasma Avenue from B-3, general business, to R-1A, one family residential. Attorney Brown reminded City Council that because owners of at least 20% of the area of land included in the proposed rezoning change are opposing the change, five votes out of the seven members of City Council will be necessary to approve the change.

Councilmember Urban stated that it is difficult for him to ignore the many years Planning Commissions have spent looking at the zoning classification for these properties and this is an opportunity to put into place something that has been part of the Comprehensive Plan for years.

Councilmember Reid agreed that this is a difficult situation but expressed her support for the motion. She continued by expressing her concern for the planning process and that there is a need to look at how we determine future land use. She expressed support for ensuring planning efforts are proactive and research-based.

Mayor Pro Tem Pearson expressed his support for the motion and gave his rationale.

There being no further comment, upon a roll call vote, motion carried 5 to 1 with Councilmember Urban voting no. Ordinance recorded on page 312 of City of Portage Ordinance Book No. 12.

**ORDINANCE AMENDMENT #14-B, SPECIALIZED AGRICULTURE OS-1 AND B-1:** Mayor Pro Tem Pearson invited Community Development Director Georgeau forward and Director Georgeau reviewed the rationale for the amendment. Councilmember Reid stated that this amendment offers assurances to D & D Greenhouses that their business will be protected. Discussion followed and Chad Hoeksema, co-owner of 918 and 916 East Centre, spoke in support of the proposed ordinance and, in response to a question from Councilmember Reid, stated that the ordinance would offer the protections they need. Councilmember Ford inquired if the OS-1 designation included in the proposed amendment should be removed. Attorney Brown clarified that the ordinance amendment is exclusive to those engaged in a specialized agricultural use of land operating and in existence on the effective date of this amendment. Discussion followed on the presence of greenhouses in urban settings. Motion by Ansari, seconded by Reid to close the public hearing. Upon a voice vote, motion carried 6 to 0. There being no additional comments from City Council, motion by Urban, seconded by Randall, to approve Ordinance Amendment #14-B that would allow specialized agriculture as permitted uses in the OS-1, office service, and B-1, local business, zoning districts. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 314 of City of Portage Ordinance Book No. 12.

**STATEMENTS OF CITIZENS:** Dave Felicijan, Vice-Chairperson of the Planning Commission, expressed gratitude for comments made by City Council in the rezoning discussion and commented that, with regard to the rezoning along East Centre, many factors came together at once. He expressed his belief that more time to deliberate the proposal would have been appreciated but that the situation presents an opportunity for future change. He spoke in support of training and educational opportunities for Planning Commissioners. Mayor Pro Tem Pearson offered that such educational opportunities were available in the past and that these training opportunities need to be made available again.

Sally Kleinhans, 6095 Milham Woods Court, spoke and expressed her strong concerns and frustrations with the use of fireworks in the community, especially on days other than the 4<sup>th</sup> of July. She asked City Council if anything could be done and various Councilmembers and the Mayor Pro Tem explained that they share many of her concerns and that action has been taken by City Council to limit the use of fireworks to the extent allowed by State Legislation. Several Councilmembers explained that any change to the current laws involving the regulation of fireworks will have to originate in the State Legislature and that she should concentrate her efforts with members of that body.

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

\* **MDOT CONTRACT FOR ROMENCE ROAD TRAFFIC SIGNAL PROJECT:** Motion by Ford, seconded by Reid, to approve contract 14-5380 between the Michigan Department of Transportation and City of Portage for funding of the Romence Road Traffic Signal Interconnection Project, adopt a Resolution authorizing the Acting City Manager to sign Contract 14-5380, and authorize the Acting City Manager to execute all other documents related to the project on behalf of the city. Upon a voice vote, motion carried 6 to 0. Resolution recorded on page 289 of City of Portage Resolution Book No. 45.

\* **2014 COMPREHENSIVE PLAN – INFORMATION ONLY:** Motion by Ford, seconded by Reid, to receive the Communication from the Acting City Manager regarding the 2014 Comprehensive Plan as information only. Upon a voice vote, motion carried 6 to 0.

\* **JUNE 2014 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by Ford, seconded by Reid, to receive the communication from the Acting City Manager regarding the June 2014 Summary Environmental Activity Report as information only. Upon a voice vote, motion carried 6 to 0.

\* **DEPARTMENT MONTHLY REPORTS:** Motion by Ford, seconded by Reid, to receive the monthly departmental reports. Upon a voice vote, motion carried 6 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes of the following Boards and Commissions:

Portage Park Board of June 4, 2014.

Portage Public Schools Board of Education Candidate Information Meeting, Regular Business Meeting and Special Meeting of June 23 and Special Meeting of June 30, 2014.

#### **COUNCIL COMMITTEE REPORTS:**

**CONSOLIDATED DISPATCH UPDATE:** Mayor Pro Tem Pearson asked Councilmember Reid to provide an update on the Consolidated Dispatch Committee of the Whole meeting of July 10, 2014 and what was shared and discussed at the Consolidated Dispatch Committee Meeting of Tuesday, July 15<sup>th</sup>. Councilmember Reid reviewed and highlighted the report and indicated that a revised draft Inter-Local Agreement would be provided at least one week before the August 29<sup>th</sup> meeting of the Consolidated Dispatch Committee. She also shared the need for City Council to review the revised document in advance of the August 29<sup>th</sup> meeting and suggested that a Special Meeting be held. Mayor Pro Tem Pearson concurred. Motion by Reid, seconded by Ford, to receive the update regarding the Consolidated Dispatch meeting of July 10, 2014. Upon a voice vote, motion carried 6 to 0.

#### **BID TABULATIONS:**

\* **LOCAL AND MAJOR STREET RECONSTRUCTION PROGRAM PROJECTS:** Motion by Ford, seconded by Reid, to approve: a contract with Michigan Paving & Materials Company for the 2014 Local and Major Street Reconstruction Program in the amount not to exceed \$1,225,200.18; a contract with Jones & Henry Engineers, Ltd., for construction administration and material testing for the 2014 Local Street Reconstruction Program in the amount not to exceed \$35,970; a contract amendment with Jones & Henry Engineers, LTD, for the Gladys Street/Newport Road 2014 Major Street Reconstruction project in the amount not to exceed \$25,400; and authorize the Acting City Manager to execute all documents related to these contracts on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **MILL AND FILL ASPHALT REPAIR CONTRACT FOR LOCAL AND MAJOR STREET SECTIONS:** Motion by Ford, seconded by Reid, to award a contract for mill and fill asphalt repair of major and local street sections to Michigan Paving & Materials Company in the amount of \$317,355.38 and authorize the Acting City Manager to execute all documents related to these actions on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

#### **OTHER CITY MATTERS:**

##### **STATEMENTS OF CITY COUNCIL AND ACTING CITY MANAGER:**

Councilmember Ford commented that he participated in a Kzoo Spartans Golf Outing that has a goal to grow an endowment to benefit Kalamazoo County residents in need and that the recipient of the funding this year was a Portage graduate.

Councilmember Randall complimented the Portage Athletic Foundation and Deb Droppers on the successful Taste of Portage event which she attended and was held on July 19<sup>th</sup>. She stated that all proceeds go to benefit the Athletic Foundation. Councilmember Randall also shared that Mayor Pro Tem Pearson was quoted in a July 15<sup>th</sup> article in the Wall Street Journal with regard to prayer before meetings. She continued by stating that Portage should be proud of the diverse nature of the invocations and that it is good to see Portage represented so well.

Councilmember Ansari complimented the Portage Athletic Foundation on the successful Taste of Portage event.

Councilmember Reid shared that the Kalamazoo County Council on Governments is sponsoring a candidate debate at 7:00 p.m. on August 13<sup>th</sup> at the Fetzer Center. Candidates for State House and Senate in Kalamazoo County are being invited to attend with the topic being the relationship between state and local governance.

Acting City Manager Shaffer shared that he had met with Sean McBride, director of the Kalamazoo County Transit Authority, to discuss issues related to public transit consolidation plans. Mr. Shaffer also shared that he met with the Portage Public Schools Superintendent to discuss issues of mutual concerns, especially as they relate to capital improvement projects. Finally, Mr. Shaffer shared that he met with the Kalamazoo County Sheriff, Kalamazoo County Administrator and Kalamazoo City Manager to discuss mass public notification during emergency situations and that more information on this topic will be available in the future.

Mayor Pro Tem Pearson stated the support of City Council for maintaining quality infrastructure in Portage and \$1.6 million for street improvements was authorized by City Council this evening.

**ADJOURNMENT:** Mayor Pro Tem Pearson adjourned the meeting at 9:38 p.m.

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Adam Herringa, Deputy City Clerk

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

## CITY COUNCIL MEETING MINUTES FROM AUGUST 12, 2014

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

At the request of Mayor Strazdas, Councilmember Urban provided an invocation. The City Council and the audience recited the Pledge of Allegiance.

The Deputy City Clerk called the roll with the following members present: Councilmembers Nasim Ansari, Richard Ford, Patricia M. Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. Also in attendance were Acting City Manager Laurence Shaffer, City Attorney Randy Brown and Deputy City Clerk Adam Herringa.

**APPROVAL OF MINUTES:** Motion by Ansari, seconded by Reid, to approve the July 22 Regular Meeting Minutes. Upon a voice vote, motion carried 6 to 0 with Mayor Strazdas abstaining.

\* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Pearson to read the Consent Agenda. Councilmember Urban asked that Item F.3, West Lake Weed Management Program, be removed from the Consent Agenda. Councilmember Reid asked that Item F.4, Marketing of 10323 Archwood Drive, be removed from the Consent Agenda. Mayor Strazdas asked that Item F.6, Special Meeting Regarding Next Steps in City Manager Search, be removed from the Consent Agenda. Motion by Pearson, seconded by Ansari, to approve the Consent Agenda Motions as amended. Upon a roll call vote, motion carried 7 to 0.

Motion by Urban, seconded by Reid, to add a discussion on the communication received this evening regarding the Kalamazoo County Transportation Authority to the agenda under New Business.

Councilmember Urban stated that the information contained in the memo is of a time sensitive nature and he believed it would be prudent to begin discussion at this meeting. Upon a voice vote, motion carried 7 to 0 and the item was added to the agenda.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 12, 2014:** Motion by Pearson, seconded by Ansari, to approve the Accounts Payable Register of August 12, 2014. Upon a roll call vote, motion carried 7 to 0.

### **PUBLIC HEARING:**

**CONCEPTUAL PLAN AMENDMENT FOR WAL-MART:** Mayor Strazdas introduced Community Development Director Vicki Georgeau, who reviewed the history of the Wal-Mart development, discussed the proposed amendment to the Conceptual Plan and detailed the rationale for the requested amendment. She also highlighted the proposed modifications to the Conceptual Plan including, but not limited to, parking and size of the development. Ms. Georgeau also reviewed the zoning characteristics of adjoining properties.

Ms. Georgeau next discussed and reviewed the storm water management system in place at the Wal-Mart development, how it functions and the proposed impact on storm water runoff of the proposed modifications to the site. She continued by stating that site visits with city staff, residents, Wal-Mart representatives and professional engineers have occurred to evaluate the functionality of the storm water management system. She stated that it was the consensus of the professional engineers that the storm water management system was functioning as it was intended. However, minor repairs and actions are being recommended to improve the storm water system and overland conveyance area including:

1. Add to existing coir log "check dam" north of the basin and extend laterally to correct flanking erosion.
2. Add new coir log check dam in flow corridor east of the existing coir log and extend to tie in topographically to prevent erosion flanking.
3. Scarify and plant wetland emergent seeding to all bare earth areas in the flow corridors and in the seasonal inundated depressions. Seeding should be done in fall for best results.
4. Remove orange construction fencing located approximately 20 feet north of the sediment basin fence which inhibits natural vegetation growth.
5. At the discharge release area along Portage Creek, place vegetated coir logs to fill slightly eroded back cutting holes. Place the logs perpendicular to the storm water flow until natural adjacent ground grade is achieved. Alternate bioengineering applications may be proposed and acceptable.
6. On July 25<sup>th</sup>, the sediment basin was dry and showed evidence of the sediment captured after the spill containment basin. The depth of sediment should be checked and removed to facilitate the infiltration of the storm water through the basin bottom and stone wells.
7. In addition to the above, a Storm Water Management System Maintenance Agreement is appropriate to ensure continued optimal operation of the storm water system, as well as providing protections for Portage Creek and the adjacent wetland area. A draft agreement has been received from Walmart and will be modified to require annual inspections and maintenance of the basins and conveyance corridor.

Councilmember Urban inquired if the seven corrective actions could be included as conditions within the Conceptual Plan and Director Georgeau responded in the affirmative. Councilmember Urban then raised the issue of the need for additional barrier free parking at Wal-Mart and asked that the topic be raised in the approval of the Final Plan by the Planning Commission. Discussion followed.

Councilmember Reid stated her appreciation for the work that has gone into attempting to address storm water concerns but asked more specifically about the Storm Water Maintenance Agreement and whether it would include specific provisions to identify when a problem is occurring and what remedies would go into effect. She asked specifically for measurable standards to be included in the Agreement. Director Georgeau responded that the Maintenance Agreement provided to City Council was a very rough draft and she agreed that specific measurables designed to identify when a problem is occurring needs to be included. Councilmember Reid asked that, when the Planning Commission conducts the review of the Final Plan, attention be given to this topic to ensure that there is a clear and objective distinction in place to identify when the system is working and when it is not. Director Georgeau again concurred and stated that having such standards is in the interest of Wal-Mart as well. Mayor Strazdas asked Director of Transportation and Utilities Chris Barnes whether the inclusion of such standards in the Maintenance Agreement was possible and Mr. Barnes responded in the affirmative.

Councilmember Randall inquired of Director Barnes if what is being proposed at Wal-Mart is a new inspection and maintenance program that is unique to this development. Director Barnes shared information regarding storm water permits, "shared-use" storm water basins and storm water management plans that commercial properties may have in place. He stated that this is the first time for such a Storm Water Maintenance Agreement in which the City has the ability to take corrective actions for a basin which does not involve City storm water runoff. Councilmember Randall inquired if what makes this different is because it was built in 2003 and has different environmental standards, the presence of a housing development behind Wal-Mart or the presence of a nearby creek. Director Barnes responded that the answer is yes to all of the items cited. He went on to discuss storm water treatment activities at other commercial entities. Mayor Strazdas stated that, due to his professional responsibilities, he has knowledge in this area and offered that additional regulations regarding storm water management are being developed and the question of maintaining storm water systems will be a component of the regulations.

Councilmember Ford asked for clarification regarding a 2005 citation issued to Wal-Mart by the Department of Environmental Quality. Director Barnes explained that there was an enforcement action due to a release of silt water into Portage Creek.

Mayor Strazdas opened the public hearing and asked that a representative of Wal-Mart come forward. Paul Furtaw with Bergmann Associates, 1427 W. Saginaw Street, East Lansing, spoke and shared Wal-Mart's reasons for requesting an amendment to the Conceptual Plan. Mr. Furtaw asked that the seven repair and action items cited by Community Development not be included as a condition of approving the Conceptual Plan but stated the commitment of Wal-Mart to address the issues separately and that steps are already being taken to address them. Mr. Furtaw also stated that he believes measurable standards can be included in the Maintenance Agreement and cited sediment depth as an example. Mayor Strazdas asked specifically whether measurable and quantifiable standards can be included in the Maintenance Agreement so that it is clear when remediation efforts would be necessary. Mr. Furtaw responded in the affirmative.

Councilmember Urban inquired why the seven remediation items should not be included in the Conceptual Plan and Mr. Furtaw stated that Wal-Mart would like to address these matters prior to construction activities and that tying the remediation efforts as a condition of the Conceptual Plan would confuse matters. He continued by stating that these items are going to be done separately from the construction of the project. Councilmember Reid inquired if these items would have to be implemented as part of the store expansion or could be accomplished at any time. Attorney Brown opined that it is new ground for City Council to get into addressing specific items of a site plan but that they can do it. He continued by stating that if the seven items are made a condition of the Conceptual Plan it may hold up development activities. Attorney Brown suggested that the seven items simply be included as a requirement of the Conceptual Plan. Discussion followed.

Mr. Ed Curry, 1311 Dogwood Drive, spoke and shared that he is not opposed to Wal-Mart expanding but that he would like his concerns addressed. Mr. Curry reviewed how the storm water is discharged into Portage Creek and expressed concern that, if the system is operating as designed, those evaluating the functionality need to see the system in action. He questioned system functionality, shared that there is a tremendous volume and velocity of water entering the creek following a rain event and expressed concern that the addition of 41,000 feet of impervious surface will overwhelm the system. Mr. Curry then questioned whether a water sample has ever occurred at the discharge site while water is being discharged to gauge levels of contaminants. Mr. Barnes replied that he was not aware of any.

Ms. Audrey Curry, 1311 Dogwood Drive, shared her personal experience with discharge from Wal-Mart and stated that she has lost approximately 2 feet of property along with a retention wall due to erosion along Portage Creek. She reviewed a rain event in August 2005 along with a 2008 rain event and the resulting flooding. She stated that significant rain events happen and seem to happen with some frequency. She then asked Director Barnes if other storm water basins are the same as the one used by Wal-Mart and whether, if a permit were issued today, if the Wal-Mart design would be acceptable. Mr. Barnes responded that every storm water discharge site is a little different but cited those that are similar. With regard to the second question, Mr. Barnes responded in the affirmative. He also stated that there have been changes in rainfall data since the development and that there is now a higher standard for spill containment for fueling stations which the site currently meets.

Mayor Strazdas stated that storm water is being discharged into the creek and asked what assurances can be offered to property owners so that their homes won't be flooded and that the discharge won't get worse, but better with the added development. Mr. Barnes stated that the original system is designed to handle more impervious surface than is being proposed and that the discharge rate that occurs today will not change with the added development as it is regulated by the pipe size of the system. However, he stated that the duration of the discharge will be longer and the key is how to deal with erosion which may result from the longer discharge. Mr. Barnes then cited a map identifying the 100-year flood plain as identified by the Federal Emergency Management Agency (FEMA). He stated that, during a major rain event, regardless of Wal-Mart, there is no guarantee regarding flooding since

the properties are adjacent to the creek and within the floodplain. Mr. Barnes then clarified the terminology between "100-year event" and a 1% rain event.

Mayor Strazdas asked Mr. Furtaw what Wal-Mart was going to do to ensure that another illegal discharge does not happen, what will be done to make sure erosion does not continue and what can be done to prevent increased flooding despite the additional impervious surface. Mr. Furtaw stated that the discharge and erosion were related and can be addressed by the Maintenance Agreement. With respect to the additional runoff, he stated the system was designed to accommodate additional development and that Wal-Mart is proposing less impervious surface than originally envisioned.

Mr. Tim Earl, 6862 Shallowford Way, inquired about the models used to design the Wal-Mart system and that climate change may necessitate the use of newer models because the 100-year storm is no longer the 100-year storm.

Ms. Andrea Stork, 1515 Dogwood, shared that she is the wife of one of the residents who went on the walk with City and Wal-Mart representatives. She stated, in response to a statement by Councilmember Ansari, that the residents are not in agreement with Wal-Mart and the City on storm water efforts but rather they are hopeful the City will take the steps necessary to protect Portage Creek. She continued by stating that the creek and its tributaries are changing which may or may not be related to Wal-Mart but wants to make sure any new additional strains are not placed on the creek. She stated that the retention ponds may have been designed for the build-out and are currently functioning as designed but expressed skepticism that adding a gas station and additional impervious surfaces would not overwhelm the system. She also expressed concern that Wal-Mart will be monitoring themselves and whether this is a realistic monitoring system. She stated that the monitoring system must be reliable and that monitoring should take place when the storm water system is under stress.

Motion by Ford, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Councilmember Ford asked what avenues residents have for getting issues remedied with the Michigan Department of Environmental Quality (MDEQ). Attorney Brown replied that, assuming there is a Maintenance Agreement, this would be the first avenue for remediation and another would be litigation. Director Barnes stated that if there was a problem, the residents could call the MDEQ hotline and an investigation may occur. Mayor Pro Tem Pearson inquired how many times in the past nine years has the MDEQ contacted the City regarding an environmental concern at this location. Mr. Barnes responded there have been no calls since the 2005 issue and resultant monitoring which ended in 2007.

Councilmember Ansari inquired about flood insurance for adjacent property owners and whether a flood wall would be in order. Director Barnes replied that, while not an expert, the property owners are in a flood plain and that flood insurance should be available to them. With regard to the flood wall, Mr. Barnes stated that he has not seen any significant property damage in his 17 years at the City which would necessitate such an installation.

Mayor Strazdas stated that citizens, elected officials, Wal-Mart and the City all want to get this right and that the City Engineer and Wal-Mart engineer can get this right. He continued by stating that each party is interested in storm water management and in a Maintenance Agreement.

Motion by Urban, seconded by Reid to approve the Conceptual Plan Amendment for Wal-Mart expansion, 8350 Shaver Road, with the requested parking lot modification and adding as requirements of the Conceptual Plan the seven enumerated items concerning storm water discharge in the August 12, 2014 report from the Acting City Manager to the Mayor and City Council entitled, Conceptual Plan Wal-Mart Expansion 8350 Shaver Road, and that these seven items be incorporated into the specific Site Plan by the Planning Commission and a finding that provisions of Section 42.414.G (Authority to waive or modify standards) have been satisfied based on information provided by the applicant and characteristic of the development." Discussion followed and Councilmember Urban stated that he phrased the motion in this manner to provide the applicant some flexibility and that Wal-Mart can proceed with site plan approval from the Planning Commission without having to complete all seven items before doing so. Discussion followed regarding the inclusion of the seven items in the plan. Upon a roll call vote, motion carried 7 to 0.

## **REPORTS FROM THE ADMINISTRATION:**

\* **MOBILE VIDEO SYSTEMS AND TOUGHBOOK COMPUTERS:** Motion by Pearson, seconded by Ansari, to approve the purchase and installation of 29 Arbitrator MK3 HD Mobile Video Systems and 29 Panasonic Toughbook laptop computers from CDW-G in an amount not to exceed \$301,989.45 and installation of the equipment by Michigan Municipal Police and Fire Repair, L.L.C. in an amount not to exceed \$13,700 and authorize the Acting City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **CONTRACT RENEWAL FOR ADMINISTRATION OF OPEB TRUST FUND:** Motion by Pearson, seconded by Ansari, to award a three-year contract renewal to Michigan Employees' Retirement System (MERS) for the administration and investment of the Other Post Employment Benefit (OPEB) trust fund and authorize the Acting City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

### **WEST LAKE WEED MANAGEMENT PROGRAM – RESOLUTION NO. 1:**

Councilmember Urban raised a concern regarding City Administration being responsible for the special assessment project for weed management on West Lake while other lakes manage such a program via a governmental lake board. He questioned the fairness of the two different procedures and whether it is appropriate to use government resources to manage the program at West Lake. Councilmember Urban asked Mr. Barnes if there are tangible benefits that residents of West Lake receive, such as administrative support and legal review, which are not afforded to those lakes, such as Austin Lake, where a governmental lake board is in place. Director Barnes indicated that, since 1988, the City has looked on this no different than a water or sewer assessment where there is a city-at-large share which is based upon the frontage of the West Lake Nature Preserve. He continued by stating there are administrative costs that are part of the special assessment district at West Lake. Mr. Barnes stated that the West Lake Improvement Association has expressed to him their desire to keep this assessment process managed by the City and provided some reasons why this is the case.

Councilmember Urban inquired how many members are in the West Lake Improvement Association and expressed concerns that the Association may not represent a majority of lake residents and with non-elected individuals managing city tax dollars. Mr. Urban then reviewed the membership of a governmental lake board vs. the West Lake Improvement Association and shared that the previous City Manager expressed interest in getting City Administration out of involvement in matters it need not be involved in.

Mayor Pro Tem Pearson indicated that he serves on the Austin Lake Governmental Lake Board and Councilmember Urban serves on the Long Lake Governmental Lake Board. He continued by sharing how a governmental lake board can be formed and how representative of lake residents such a board may or may not be. He continued by stating that one of the "beefs" lake residents in Portage have is that they pay higher property taxes because they are on the lake. He continued by stating that he has heard from West Lake residents that they like the special assessment district and do not mind paying 80% of the costs. He continued by stating that he is not sure the answer is converting everyone to a governmental lake board and that he has heard from residents of West Lake who are not interested in a formal lake board and would like to continue the established special assessment practice for weed control.

Councilmember Reid asked City Attorney Brown if there is an inconsistency by having two different ways for managing weed control in the City of Portage. Attorney Brown replied that, either way, the work gets done and that the City has the authority to improve a lake. Discussion followed and Mr. Barnes stated that all work that is done and funds expended is via City contracts and purchasing. Councilmember Urban stated that this is part of the problem because those lakes which have a

governmental lake board do not receive the benefit of city resources for activities such as legal and contractual reviews. In short, he stated, people are being treated differently and raises a question of fairness.

Motion by Pearson, seconded by Randall, to adopt Resolution No. 1, accept the Acting City Manager Report and request preparation of Resolution No. 2 for the West Lake Management Program Special District No. 015-Q.

Councilmember Reid stated that this is an important issue to look at and that, before it comes up again, there should be discussion as to whether there should be more consistency among the lake boards. Councilmember Urban stated that, while he was considering supporting the motion, he likes the idea of making the project three years instead of five years. Discussion followed and Mayor Pro Tem Pearson stated that there are advantages for a special assessment district and that it affords flexibility in the program. He continued by stating that the current program at West Lake has widespread support among lake residents.

Councilmember Ansari stated that he would like more information and that he would be voting no on the motion. Mayor Strazdas stated that because he has a relative who owns property on West Lake, he would be abstaining from the motion.

Upon a roll call vote, motion failed 3 to 3 with Councilmembers Ansari, Reid and Urban voting no and Councilmembers Ford, Pearson and Randall voting yes. Mayor Strazdas abstained.

Mayor Strazdas stated that Councilmember Ansari mentioned that he needs more information and that he should work with the City Manager in this regard. Mayor Strazdas also asked that the leadership of the West Lake Improvement Association be contacted by City Administration and invited to the next meeting. Councilmember Urban asked the City Manager's office to share if there are timing deadlines with the program as it relates to funds, contracts, tax rolls, etc. Councilmember Ansari asked if there can be a motion for a three year program instead of a five year program. Acting City Manager Shaffer asked for the opportunity to meet with the West Lake Improvement Association to discuss the project and to evaluate the impact of possibly moving from a five year to a three year program. He then stated his intent to bring the item back at the next City Council Meeting. Discussion followed and it was determined to include the item at the next Regular Meeting.

**MARKETING OF 10323 ARCHWOOD DRIVE:** Councilmember Reid shared that in the report from the Acting City Manager we have had a contract with a realtor for nine months but have not been able to sell the property. She then cited a July 16, 2013, communication from the Ad Hoc Property Committee which stated that "if no offers are received during this time period, the Committee will then re-evaluate the use of the property, including the potential for a community garden as proposed by a neighbor resident." Councilmember Reid continued by stating that she had contacted the Sackley family and that she had spoken with former Mayor Pro Tem Ed Sackley who lives near the 10323 Archwood property and that he informed her that he had not heard much discussion in the neighborhood about a community garden. Councilmember Reid then stated that, based on the report of the Property Committee, a community garden should be discussed as an option. She continued by stating that while there has been some uptick in sales of houses, undeveloped properties take longer to sell and that nine months does not seem like a long enough time to necessitate dropping the price or offering incentives. She stated that she would like to have the topic discussed at a Committee of the Whole meeting and that the neighborhood should be contacted about potential uses for the property. Councilmember Reid concluded by stating her support for extending the current Agreement until City Council can determine how to proceed.

Councilmember Randall spoke and stated that she was on the Property Committee and that the other two members are no longer on City Council. She continued by stating that she was opposed to the community garden idea as it is not a good use of city assets and that selling the property is the best option since the city would benefit more by getting the property back on the tax rolls. She explained that she was not sure how the community garden language was included in the communication cited by Councilmember Reid because it was never the intention of the Property Committee. Councilmember

Randall stated that there needs to be the incentive of a lower price and purchase incentive to promote the sale of the property and that she would love to see a house on the property.

Mayor Pro Tem Pearson inquired if the previous condition placed on the sale of the property that something be built within a year of purchase was a hindrance in selling the property. Community Development Director Georgeau shared her understanding of the rationale for the one year condition and shared the history of marketing the property. Mayor Pro Tem Pearson complimented City Administration on the \$3,000 incentive. Acting City Manager Shaffer shared that he had concerns about what would happen if someone purchased the property but failed to build a house within a year and that the \$3,000 incentive is an effort to turn around and reward the building of a home rather than potentially place the City in a punitive position.

Mayor Strazdas stated that there seems to be a consensus that City Council would like a home built on the property and that another effort should be made to market the property using the new incentive approach. Discussion followed.

Motion by Urban, seconded by Pearson to modify the conditions of sale for 10323 Archwood Drive as defined in the report (August 12, 2014 staff report) and authorize the Acting City Manager to renew the Realtor Uniform Listing Agreement for the marketing of 10323 Archwood Drive for a nine month period.

Councilmember Reid stated there have been many changes in the neighborhood and that there had been discussion about a community garden in the past and the community garden idea is a part of the Property Committee Report. She stated that, should the property not sell, an example that could be followed is the community pool in the Trotwood neighborhood. She expressed her reluctance to go forward since it has been nine months and that other options should be explored.

Mayor Strazdas stated his support for attempting to continue to sell the property since the market seems to be getting better. Councilmember Randall asked for information related to how much in property taxes on an annual basis a 2,000 square foot house on this property would generate. She continued by stating that City Council could then weigh options and opportunity costs and then perhaps revisit the matter after five or six months. Councilmember Urban stated that the \$18,000 listing price is not the asking price and that all offers should be entertained. Director Georgeau estimated that the home described by Councilmember Randall would generate between \$3,500 and \$4,000 in taxes annually. Mayor Strazdas asked for a formal response from the City Manager in this regard and emphasized that any offer be brought to City Council. Upon a roll call vote, motion carried 6 to 1 with Councilmember Reid voting no.

\* **SALE OF 1512 HELEN DRIVE:** Motion by Pearson, seconded by Ansari, to authorize the Acting City Manager to proceed with negotiating the sale of 1521 Helen Drive. Upon a roll call vote, motion carried 7 to 0.

**SPECIAL MEETINGS FOR NEXT STEPS IN CITY MANAGER SEARCH:** Acting Deputy City Manager Boulis provided City Council with an update on the City Manager search and shared with City Council the plan for the upcoming special meetings. Mayor Strazdas stated that, to his understanding, the plan for the Special Meeting on Monday, August 18, is for City Council to review applications for the City Manager position and create a list of candidates to interview as well as to identify the role and level of input by the general public and other community groups and leaders. Discussion followed. Councilmember Urban pointed out that, due to confidentiality concerns, City Council may need to enter closed session to review and discuss applicants. Mayor Strazdas asked that the search consultant, Bob Slavin, be given instruction to provide City Council with a review of the confidentiality parameters of the search process and names that are being presented.

Based on the recommendation by Attorney Brown, it was determined by City Council to formalize the Special Meetings planned for September 17 and 18 at a later date.

Motion by Ford, seconded by Ansari to set a Special Meeting on August 18, 2014, at 9:00 a.m. to review applications for the City Manager position and create a list of candidates to interview as well

as to identify the role and level of input by the general public and other community groups and leaders. Upon a roll call vote, motion carried 7 to 0.

**\* SPECIAL MEETING TO REVIEW STATUS OF CONSOLIDATED DISPATCH:**

Motion by Pearson, seconded by Ansari, to set a Special Meeting on August 18, 2014 at 12 noon to review the current status of Consolidated Dispatch. Upon a roll call vote, motion carried 7 to 0.

**NEW BUSINESS:**

**PROPOSED CENTRAL COUNTY TRANSPORTATION AUTHORITY:** Acting City Manager Shaffer reviewed the communication he received from County Administrator Peter Battani and the need for City Council to recommend two appointees to the Central County Transportation Authority (CCTA) Board of Directors. Mr. Shaffer also shared a conversation he had with Sean McBride, Executive Director of the Kalamazoo County Transit Authority, in which Mr. McBride reiterated his interest in holding a public input session in Portage to discuss the proposed Central County Transportation Authority, especially as it relates to the City of Portage.

Mayor Strazdas asked that the two matters, recommending appointees and holding a public input session, be treated separately. Mayor Strazdas asked that City Administration solicit volunteers for serving on the CCTA Board of Directors and that City Councilmembers contact him directly if they are interested in serving. There was discussion on when to hold an interview session; whether none, one or two City Councilmembers should be among the recommended appointees; the critical nature of the appointments; and the desire to select individuals with expertise and familiarity with the efforts to implement the transition to the new CCTA.

Motion by Urban, seconded by Ansari, "to set a special meeting at 6:30 p.m. on August 26<sup>th</sup> to consider candidates to recommend to the County Commission for the CCTA as well as ask the City Manager to advertise the desire for applicants for that position and ask that those applications be in by the end of business on the 21<sup>st</sup> so we can have them although not make that a drop dead deadline that nobody after that will not be considered and as well as reach out to individuals that he feels that should be notified and may be appropriate for this body." Upon a roll call vote, motion carried 7 to 0.

Mayor Strazdas next raised the matter of conducting a public information session regarding the proposed CCTA especially as it relates to the two voting precincts in southern Portage that are not served by a bus route. Acting City Manager Shaffer stated that Mr. McBride would be involved in such a discussion but that the City Administration would support him in holding such a public meeting. Councilmember Urban stated that obtaining input on the proposed plan could take a number of formats and shared information on when the input session would need to happen. There was discussion on the format of obtaining public input, the desire to have both a public input session and receive written comments on the matter and when the public input session could be held.

Following discussion, Mayor Strazdas recommended that a public input session be incorporated into the Regular City Council Meeting of September 23, 2014, and that City Administration work with Mr. McBride on what specific e-mail address and mailing address citizens could use to submit comments.

Motion by Reid, seconded by Ford, to ask the Acting City Manager to add the public input session to the September 23<sup>rd</sup> Regular Meeting Agenda and to work out the details with Mr. McBride. Councilmember Urban requested that a written summary regarding the input session and topics to be discussed, along with information about how to submit comments, be incorporated into the City website and released to the news media so that the public can understand what is being discussed. Upon a voice vote, motion carried 7 to 0.

## **BID TABULATIONS:**

\* **ENGINEERING SERVICES FOR RECONSTRUCTION OF SOUTH WESTNEDGE AVENUE (MALL DRIVE TO DAWNLEE AVENUE):** Motion by Pearson, seconded by Ansari, to award a contract to perform engineering services for the reconstruction of South Westnedge Avenue (Mall Drive to Dawnlee Avenue) to Abonmarche Consultants, Incorporated, in the amount not to exceed \$155,800 and authorize the Acting City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

## **OTHER CITY MATTERS:**

### **STATEMENTS OF CITY COUNCIL AND ACTING CITY MANAGER:**

Councilmember Reid shared information about an upcoming candidate debate sponsored by the Kalamazoo County Council of Governments.

Councilmember Ford thanked City staff who provided support during the Council Meeting and complimented the Parks Department for their efforts regarding the adult softball tournament.

Councilmember Urban stated that he recently travelled to the east side of the state and commented on the wide variety of sign ordinances that are in place. He then stated that he believes the City of Portage sign ordinance provisions, after much work, have struck a fine balance.

Acting City Manager Shaffer stated that he recently attended the swearing in ceremony of Derek Henson and that he is looking forward to his tenure with the city. He continued by stating that City Council should be pleased to know that Governor Snyder will be in Portage on September 29<sup>th</sup> to cut the ribbon at Mann + Hummel and that City Council should be proud of their efforts to support this business. Next, he shared that City Council would soon be receiving the most recent proposed 911 Interlocal Dispatch Agreement. Finally, Mr. Shaffer informed that a new financial services software program for the City was pending and that this program would serve the City very well.

Mayor Pro Tem Pearson stated that he recently attended "Get Active Portage" sponsored by the Portage Park Board, shared details about the event and thanked Tim Earl, Roger Smith and especially Susan Williams, Chairperson of the Park Board, for their efforts. He also shared that the Park Board has a fundraising arm called Friends of the Parks which is working to help support park improvement efforts and encouraged residents to visit [www.friendsoftheparksportage.com](http://www.friendsoftheparksportage.com). Next, Mayor Pro Tem Pearson shared information about an upcoming golf-outing fundraising opportunity sponsored by the Portage Rotary Club with the funds raised going toward scholarships for Portage High School students and other not-for-profits in the area.

Mayor Strazdas thanked the community for supporting local businesses and shared that the Chamber of Commerce has numerous upcoming ribbon-cutting opportunities due to businesses opening, re-opening and expanding in the community. He concluded by praising the engagement of businesses, organizations, citizens and City Council in the community.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 10:38 p.m.

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Adam Herringa, Deputy City Clerk

\*Indicates items included on the Consent Agenda.

## **MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL OF AUGUST 18, 2014 – CONSOLIDATED DISPATCH EFFORTS UPDATE**

Mayor Peter Strazdas called the meeting to order at 12:20 p.m. and indicated that the purpose of the meeting is to review Central Dispatch 911 documentation. The following Councilmembers were present: Councilmembers Nasim Ansari, Richard Ford, Patricia Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. Also present were Acting City Manager Laurence Shaffer, Acting Deputy City Manager Rob Boullis, Public Safety Director Richard White, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas deferred to Acting City Manager Laurence Shaffer, who asked City Council to refer to the Interlocal Agreement Creating a Kalamazoo County Dispatch Authority Draft dated August 11, 2014, as modified by City Attorney Randy Brown on August 13, 2014, and The Agreement for the Distribution of County 911 Surcharge Revenues Draft dated August 11, 2014, as modified by City Attorney Randy Brown on August 13, 2014. Discussion followed.

City Attorney Randy Brown explained that on page 5, Section 4(A), second line, he noted that “parties and participating entities” is struck out because it is not the correct term considering how they are defined since “nine appointed agencies” are not “parties and participating entities,” so he changed the language to read, “nine appointed agencies.” Also, he noted that Section 4(A), in the paragraph that begins, “the term of the appointment shall be determined,” the word “Authority” is now capitalized appropriately as well as throughout the agreement to eliminate any confusion. Finally, he said on Page 10, Section 5(A), instead of it reading “participating party,” he offered his change to read, “whenever a recommending agency.” Discussion followed.

Mayor Strazdas again deferred to Acting City Manager Laurence Shaffer for direction. Acting City Manager Shaffer explained that the agreement Council received on Wednesday was the result of a meeting last Monday where changes were discussed and processed through Kalamazoo County Attorney Thom Canny and City Attorney Randy Brown and noted that the Draft document keeps changing. He also explained that he would provide a positive recommendation for Council to endorse an agreement among the five participating entities to enter into a Consolidated Dispatch Authority. He recognized that other issues would sometimes present themselves, but he offered his opinion that in general this document has evolved very nicely, and to the extent issues can be defined going forward, they have been identified at least to his satisfaction. Because of the overarching need to participate regionally on a host of issues, he offered his opinion that a Consolidated Dispatch Authority is important strategically to the City of Portage. He also said that Portage needs to demonstrate a willingness to participate in regional solutions to “challenges to all of our citizens” regardless of where they live; and, the notion that any one municipality going forward is suited to meet all of the needs of all of the citizens is no longer viable. He expressed his support for consolidation where it makes sense strategically and technically. He recognized the need for protections should things not go as planned, the need for an exit strategy, and the importance of consolidation owing to technology innovations plus the need to cross communicate.

Mayor Strazdas asked Mr. Shaffer if there were any milestones or deadlines to allow Council to pace themselves in this endeavor. Mr. Shaffer responded that the next important milestone is the formation of the Authority and the approval of the 42 cent surcharge. He indicated that once the revenues move into the Authority on July 1, 2015, the next most important item is the Plan. He asked: what will the Plan for the Consolidated Dispatch look like; what will it be; how will it function; how will the areas of responsibility be delineated; what about the timing issues; what is the schedule for implementation; and what will the Dispatch District look like; how will it be funded; when will it be on line; and how does it indeed enhance the services that are available. Discussion followed.

Mr. Shaffer offered to evaluate the progress thus far using the list of concerns discussed at the Thursday, July 10, 2014 Special Meeting as provided by Mayor Pro Tem Pearson which he used as a guide. Discussion followed. Mr. Shaffer did not have an answer to the question from Councilmember Reid regarding which has to come first, the formation of the Authority or the approval of the 42 cent surcharge in light of possible Board changes, but he did mention the April 14, 2014 Communication from Kalamazoo County Administrator Peter Battani where he references October 7, 2014, as the deadline on the Surcharge with the County. He also said that he has not had any further conversation regarding this matter with Mr. Battani since then.

Mayor Strazdas asked Mr. Shaffer to go through the list of concerns discussed at the Thursday, July 10, 2014 Special Meeting provided by Mayor Pro Tem Pearson. Mr. Shaffer referred to Page 14, Section B, that the term of "off-ramping" has been moved from one year to six months in accordance with the wishes of City Council. Next, he cited the language on Page 4, Section 3(B), which requires the parties adhere to this agreement. He thanked Attorneys Brown and Canny for their work with this Section as it requires that the various parties to this agreement adhere to this agreement notwithstanding any changes, conflict of laws presently or anticipated by case law, court law or court action in the future.

Mr. Shaffer indicated that the new "off-ramp" language on Page 14, Section B, answers the concerns with the detailed process to withdraw from the 911 system under the 911 Act. In answer to Councilmember Reid, Mr. Brown indicated that the original 1988 agreement is still in effect, so it survives the new agreement should it no longer be applicable as it is a novation or another layer on the 1988 agreement. Discussion followed. In answer to Mayor Pro Tem Pearson, Mr. Brown indicated that the section concerning withdrawal will be controlling, even though funds may have already been expended for upgrades in the system, and noted that this only requires a notice of six months and after all financial obligations are met. Discussion followed. In answer to Mayor Strazdas, Mr. Brown indicated that the authority to spend the funds is an Authority made up of nine agencies. Discussion followed.

Mr. Shaffer referred to Page 2 of the April 25, 2014 Communication to Portage City Council from Mr. Peter Battani reflecting the intent of the agreement which read in part that the use of the funds would be determined by the terms and conditions of the

agreement, but a term plan for eventual step by step consolidation of all separate dispatch operations including common upgrades and probably some immediate enhancements to the portion of fire dispatch which is provided by the Sheriff. Discussion followed.

Mr. Shaffer indicated that the government cannot "wash" revenue, i.e. it cannot immediately start spending revenue collected because there has to be an appropriation which could be done by the County Board of Commissioners. Discussion followed.

With reference to the 42 cents being collected under the 911 Act, Mayor Pro Tem Pearson noted there are wide ranges of assessments for dispatch and asked Public Safety Director Richard White what exactly is dispatch and why do Counties have such widely different ranges for dispatch services. Mr. White responded that a lot of it is spent on technology and equipment since the funds can be expended on anything to do with the reception of 911 calls. Mayor Strazdas offered that his research has revealed that some counties have a blend of a property tax millage and surcharge which would possibly explain the differing assessments. Mr. White noted that his budget comes from both the General Fund and the 911 fee, and the difference may also be attributable to work load. He also gave the equipment example of being able to locate a cell phone call for a number of years now in order to show another possible disparity since another entity may still have to fund that capability. Discussion followed. Mayor Strazdas summed up and asked Council to give the Administrative Team items that still need work. Discussion followed.

At the request of Mayor Strazdas, Mr. Shaffer referred to Page 14, Section D, where it is now clarified how the assets in Section 7(C) are to be distributed should a party decide to terminate. In answer to Councilmember Urban, Mr. Shaffer indicated that the party's 42 cents is pro-rated; that the Administration would look at the audit; and that the Administration is looking at the cash issue and not at carving up 911 equipment. He also mentioned that the cash can depend upon how the equipment was purchased, the obsolescence of the equipment or the condition of the equipment. Discussion followed regarding timelines.

Mr. Shaffer indicated that although it is not in the agreement, the issue of legacy costs has been brought up at every meeting and should be specifically stated in the agreement. If an employee is from another entity, that entity or ascending agency is responsible for the legacy costs of that individual, and the new Authority should not be responsible for any of these legacy costs. Mayor Strazdas said if everyone is in agreement on this, it should be put in writing. Mr. Shaffer said that there are a couple of statutory issues to be concerned about since the City is required to bargain in good faith with collective bargaining, and there is very specific language regarding the rights of employees who are moved from one entity to another as a result of the Interlocal Agreement. He reiterated that the issue of legacy costs has been brought up at every meeting, but it is not in this agreement. Mr. Shaffer provided Mayor Pro Tem Pearson a clarification that this would only apply to the employee who is presently employed as a Dispatcher for a governmental entity who is moving to a new Authority Dispatch Center, so there is no intention to transfer the legacy costs of current employees of the City or County of Kalamazoo Dispatch Centers.

In answer to Councilmember Ford, Mr. Shaffer indicated that retired individuals are no longer members of the collective bargaining unit and Mr. Boulis indicated that retirees are still governed by the collective bargaining agreement under which they retired and explained. Discussion followed. In answer to Councilmember Ford, Mr. Brown indicated that in order to prevent bringing a collective bargaining agreement over to the Authority, language could be added that any employees under the Authority must negotiate for a new collective bargaining agreement if everyone agrees to it and it is consistent with existing laws. Discussion followed. Acting Deputy City Manager Rob Boulis indicated that State law holds that the employees are under their existing collective bargaining agreement for six months and, after that, they are "fair game" and the unions would probably get involved at that point. Discussion followed.

With regard to the point that the Authority should be required to have a balanced budget, Mr. Shaffer referred Council to Page 13, Section 7(D) wherein it states that the Authority shall adopt an annual operating budget on a calendar year basis and provide it to all of the parties on an annual basis. He indicated that the reason the capital budget is not mentioned is because by its nature, the capital budget is not going to be balanced unless the Authority pays cash, and explained.

Mr. Shaffer indicated that the whole nature of the makeup and administration of the Dispatch will be determined by the Plan, so it depends upon which Plan is chosen by the Authority. He contrasted the Calhoun County model with the Kimball Report.

Mr. Shaffer indicated that on Page 13, Section F, the audit is spelled out and on Page 7, Powers of the Authority, the Authority has the right to retain an attorney, an independent auditor and any other professional services that the Board deems necessary for good governance of the Authority.

Mr. Shaffer indicated that everyone has been very cooperative in this effort because everyone wants the City of Portage to be a part of the agreement. However, he stated that the Board make-up is one area where the County is very sensitive with the issue that the County is overrepresented because the Sheriff is on the Board. He indicated that Mr. Battani quickly points out that the Sheriff is separate from the Kalamazoo County Board of Commissioners, does not report to the Board of Commissioners and even takes a position from time to time that is different from the County Board, so the Board does not see it as being overrepresented. He indicated that he made a suggestion to add one representative from Portage and one from Kalamazoo so the Authority would go from 9 to 11, but to no avail, no matter how hard he tried. Discussion followed. Mayor Pro Tem Pearson argued for more representation as Portage is funding more and being asked to participate more regionally. Discussion followed.

Mayor Strazdas summed up the concerns that still remain: the make-up of the Board - representation; legacy costs - what can be included; once 42 cents kicks in, when could it be collected and how long could it be held; the inconsistencies of legal documents; and the extra time necessary for the administrative team to find out what document trumps the other. In answer to Mayor Pro Tem Pearson, Mr. Brown indicated that if we opt out, the 42 cents has to be used for dispatch.

Councilmember Ford asked Public Safety Director White with the contract as it is now, should Portage join now or after. Mr. White quoted Councilmember Reid and said that once everything is gone, it is hard to get it back again. He said that it is difficult to get the equipment, hire and train the employees. He indicated that the second document about sharing the revenues protects the City's interests and explained Section 13(E) provides that the Board must approve all expenses. In answer to Mayor Pro Tem Pearson, he indicated a preference for Virtual Consolidation which provides the same system in different locations and Mr. Shaffer said he was intrigued by Virtual Consolidation because of its profile which gives the ability to fall back on your own system because the assets are distributed to the various entities.

Councilmember Ansari objected to giving up the equipment and the surcharge to the Authority since Portage Departments have done so well over the years. Mr. White responded that it is okay to sign on board and, absent having a final Plan, he cannot tell if he supports the Plan or not just yet, but is willing to explore the options and mentioned some of the advantages to be realized and explained. Discussion followed.

Councilmember Reid expressed her concerns that there is nothing in the document to move things forward, that citizens will be paying for two systems, and that the quality of current dispatch is very good and none of this speaks to quality. Mr. White indicated that if we go forward, the 911 Dispatch needs separate CALEA Certification, and ATCO Standards need to be a part of the training; also, being on the Board, Portage will have some of the control and influence concerning how something is handled.

Mayor Strazdas asked that City Council put together some guiding principles that can be forwarded to those forming the basis of the Consolidated Dispatch. Discussion followed. There was a consensus to remain positive and Councilmember Randall suggested a timeline to provide the protections during the changes. Discussion followed.

Councilmember Urban asked if the County is getting \$111,000 per month from the State to fund 911 Dispatch. Mayor Strazdas mentioned the Law Enforcement Millage and discussion followed.

**ADJOURN:** Mayor Strazdas adjourned the meeting at 1:56 p.m.

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James R. Hudson, City Clerk

## **MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL OF AUGUST 18, 2014 – CITY MANAGER SEARCH UPDATE**

Mayor Peter Strazdas called the meeting to order at 9:00 a.m. The following Councilmembers were present: Councilmembers Nasim Ansari, Richard Ford, Patricia Randall, Claudette Reid and Terry Urban, Mayor Pro Tem Jim Pearson and Mayor Peter Strazdas. Also present were Bob Slavin, Slavin Management Consultants (SMC), Acting Deputy City Manager Rob Boulis, City Attorney Randall Brown and City Clerk James R. Hudson.

Mayor Strazdas introduced Mr. Bob Slavin of Slavin Management Consultants (SMC), who reviewed his process and mentioned that all of the candidates requested confidentiality and explained. City Attorney Randy Brown concurred with Mr. Slavin and indicated that all interviews have to be held at an open meeting, but a closed session can be had to discuss the contents of the applications if the applicant has requested confidentiality. In answer to Councilmember Urban, Mr. Brown clarified that a closed session has to take place to discuss the contents of the applications if confidentiality is requested.

In answer to Mayor Strazdas, Mr. Slavin indicated that thirty-five people applied, that he screened this number down to about fifteen who were asked to complete a supplemental questionnaire.

In answer to the question from Councilmember Ansari regarding confidentiality, Acting Deputy City Manager Rob Boulis indicated that he has not seen the applications, and Mr. Slavin indicated that the only people who have seen the applications are his staff and himself. In fact, he indicated that he has coded each of the candidates with a letter from A through J to allow Council to discuss them without the necessity of using names and noted that he would explain this once Council is in closed session. Mr. Slavin emphasized that his main concerns are that Council has the information necessary to make an intelligent decision, that Council has enough time to make that decision, that confidentiality is maintained and that there is a process by which Council can rank the candidates in order for him to respond to Council with regards to ranking.

In answer to Mayor Strazdas, Mr. Slavin explained that his list contains ten final candidates and explained what happened to go from fifteen to ten candidates. Discussion followed. City Attorney Brown emphasized that ranking or short-listing cannot be performed in closed session and has to take place in an open meeting. He offered Council the option of each making a short list of his or her own, but admonished Council that any sharing of that ranking or short list would not be part of a "process being held in an open meeting." He also held that the process of having Mr. Boulis or Mr. Slavin tally the results from each Councilmember's short list to determine a short list for consideration by Council later in an open meeting would not be considered a "process in open session." Discussion followed.

Since all ten applicants expressed an interest in confidentiality and Council has yet to review their applications, Mayor Strazdas suggested Council go into closed session to review the applications and come back into open session, then asked Council for their preference for a meeting to discuss and determine a short-list of the applicants.

Mayor Strazdas outlined the framework of the process and discussion followed. Mr. Slavin explained his responsibilities, his role in the process and how he was able to find the information contained in his report.

In answer to Mayor Pro Tem Pearson, Mr. Slavin and Mr. Boulis agreed that when a Councilmember has a question regarding the confidential applications, he or she can e-mail it to Mr. Slavin, and Mr. Slavin then responds to all of the Councilmembers. Mayor Strazdas summed up and asked what if a super qualified individual applies at the last minute, and Mr. Slavin indicated that he or she should be considered and interviewed and explained. Discussion followed.

Mayor Strazdas began to discuss the interview process, made some suggestions and asked Council for input regarding how they wished to proceed. Councilmember Ford confirmed that Wednesday, September 17 and Thursday September 18, 2014, were still viable dates on his calendar for interview purposes. Mayor Pro Tem Pearson indicated that his search on public involvement in the interview process resulted in both a positive experience and one where there was too much public involvement and cautioned that it can become counterproductive. Mayor Strazdas concurred.

Councilmember Urban indicated that he felt that he did not have enough information at the last interview session for City Manager and asked if Mr. Slavin had any helpful suggestions to allow for more "face time" with the candidates in order to be better prepared to make a decision. Mayor Strazdas reviewed the process utilized at the last interview session and suggested that short interview sessions with the candidates may not be enough time. He noted that the professional services received from Mr. Slavin will result in getting more information on the candidates and recommended that Council narrow the group of candidates down in order to allow for more interaction with the candidate(s) of choice. He mentioned that Council had expressed an interest in somehow getting to know the applicant(s) better. Councilmember Ford mentioned that Sheri Welsh of Welsh & Associates, 141 East Michigan Avenue, Suite 300, Kalamazoo, suggested a tour and Mr. Brown agreed this would be fine as long as there is notice and the tour is open to the public. Discussion followed.

Councilmember Randall expressed her concern that if the same format is followed as was used to interview the Acting City Manager that no one from the public would show up and stated that she sees value in the community participation on some level. She suggested sending invitations to community leaders, people in development, small business owners, for example, and give them an opportunity to submit questions from their perspective to be asked through a process acceptable to all. Discussion followed.

Mr. Slavin indicated that in his experience, the only way to obtain more "face time" with the candidates is to have individual interviews. Mr. Brown indicated that individual interviews, round robin interviews or subcommittee interviews are a problem in Michigan according to the Supreme Court.

Councilmember Reid suggested asking for questions from the City and County of Kalamazoo officials as these will be two of the major entities with whom the City Manager will have to deal and for others to submit them in writing two weeks prior to the interviews so they can be reviewed beforehand.

Mr. Slavin indicated that he has participated as a moderator in such a process and that it worked well. Discussion followed.

Mayor Strazdas suggested a three-part process: first, the City Council interview process; second, solicit any community constituent group to prepare questions and have Mr. Slavin moderate; third, typical time to have public present questions.

Councilmember Urban asked for a clarification between Citizen Questions and Statements of Citizens because he did not wish to give up time that he might need to ask his questions. Mayor Strazdas suggested that the citizens also prepare questions and present them using the same process as the constituent community group as an alternative. Discussion followed. Mr. Slavin suggested using a form during Question of Citizens or Statements of Citizens to allow time to review the questions. Councilmember Ford indicated that he agreed with Councilmember Urban.

Mayor Strazdas again reviewed the three-part process: first, the City Council interview process; second, the public and any community constituent group prepare questions which Mr. Slavin will moderate; third, public comment from City Council. Discussion followed regarding the short-listing process after the initial interviews by City Council.

When Councilmember Randall expressed a concern regarding Council availability for the next few months, Mayor Strazdas asked Mr. Boulis to prepare the City Council Vacation / Out-of-Town Calendar to the end of 2014. Discussion followed.

Mayor Strazdas summed up that the City Manager's Office would be refreshing the Council Calendar between now and Christmas; that Council is reserving September 17<sup>th</sup> and 18<sup>th</sup> for the candidate interviews; furthermore, during the short list process and several days before the sessions, Mr. Boulis and Mr. Slavin will be working to obtain questions from the public to allow time to synthesize the questions, eliminate duplicate questions and eliminate illegal questions.

Mr. Slavin commented that the tour would be very helpful for the candidates; that Council does not have to be involved with the tours; and suggested that Council put all of the candidates on the same bus. He said that it would be very helpful to have it happen before the interviews.

With regard to citizen comments, Mr. Brown indicated that the public does not have the right to ask questions and that Council is allowing them to ask questions. He advised that the public write down the question so it can go through Mr. Slavin because the members of the public should not be asking questions of the candidates directly in order to make sure the question is proper to ask. Discussion followed and Mr. Brown emphasized that the questions end at Questions of Citizens and that the Statements of Citizens area be reserved for comment only, no questions. Mr. Boulis, Mr. Slavin and Brown agreed with the suggestion from Councilmember Ford that a disclaimer could be placed on the sheet indicating that the question may not get asked.

In answer to Councilmember Reid, Mr. Brown indicated that the four minute rule can be modified. Discussion followed.

Motion by Pearson, seconded by Randall, to go into Closed Session for the purpose of discussing the applications of ten candidates for the position of City Manager who have expressed an interest in confidentiality. Upon a voice vote, motion carried 7 to 0.

**RECONVENED FROM CLOSED SESSION: 11:50 a.m.**

Mayor Strazdas explained that the closed session was held for the purpose of discussing the applications of ten candidates for the position of City Manager who have expressed an interest in confidentiality. Mayor Strazdas opened the discussion of the process to be used to short-list the ten candidates and recommended that it be done by Tuesday, August 26, 2014.

Motion by Ansari, seconded by Ford, to hold a Special Meeting immediately following the Regular City Council Meeting, Tuesday, August 26, 2014, for the purpose of shortlisting the group of ten candidates for City Manager. Discussion followed. Mayor Pro Tem Pearson offered a friendly amendment to adjourn to Conference Room #1 at that time, and Councilmembers Ansari and Ford agreed.

Councilmember Ford asked that if Council determines a short list at the end of the Special Meeting, would the names become public at that time, and Mr. Slavin indicated that the key to a successful interview session is to keep the names confidential as long as possible, let the candidates know when the names would be made public, then provide a full transparency. Mr. Brown explained that this would give candidates the opportunity to withdraw. Discussion followed.

Mayor Strazdas reviewed the timeline for Mr. Slavin. He asked Mr. Slavin to share with City Council who is to be interviewed a week ahead of time, on what days and how it would be done. Upon a roll call vote, motion carried 7 to 0.

City Attorney Brown reminded City Council that if there are still items on the candidate applications they may wish to discuss, that these items will still need to be discussed in a closed session to be held after a vote of Council.

In answer to Councilmember Randall, Mayor Strazdas asked Mr. Slavin to e-mail the remaining questionnaires or confidential information received prior to the next meeting to each Councilmember. Mr. Boulis indicated that he would forward Mr. Slavin the current e-mail addresses of each Councilmember to facilitate the proper distribution of the information.

Mayor Pro Tem Pearson thanked Mr. Slavin for his report, and expressed his appreciation that only ten out of thirty-five made the recommendations list. Mayor Strazdas and Councilmember Ford also expressed their appreciation.

**ADJOURN:** Mayor Strazdas adjourned the meeting at 11:57 a.m.

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James R. Hudson, City Clerk

# CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – August 11, 2014

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

**MEMBERS PRESENT:** Tim Bunch, Randall Schau, Michael Robbe, Doug Rhodus, Jeffrey Bright, Lowell Seyburn, Glenn Smith, and Chadwick Learned.

**MEMBERS EXCUSED:** A motion was made by Bunch, seconded by Robbe to excuse Phillip Schaefer. Upon voice vote motion passed 7-0

**IN ATTENDANCE:** Jeff Mais, Zoning & Codes Administrator and Randy Brown, City Attorney

**APPROVAL OF THE MINUTES:** Robbe moved and Bunch seconded a motion to approve the June 9, 2014 minutes as submitted. Upon voice vote, motion was approved 7-0.

## **NEW BUSINESS:**

**ZBA #14-02, 2375 East Centre Avenue:** Mr. Mais summarized the request for a variance to construct a new freestanding sign 5 feet from the front property line where a minimum 10-foot setback is required. Mr. Poulsen was present to answer any questions. There were no questions.

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 grant a variance to construct a new freestanding sign 5 feet from the front property line where a minimum 10-foot setback is required for the following reasons: there are exceptional circumstances applying to the property that do not generally apply to other properties in the zoning district which include the public street right-of-way width was incorrectly shown on the original site plan; the variance is necessary for the preservation of a substantial property right, the right to have a sign visible from the right-of-way, which is similar to that possessed by other properties in the same zoning district and in the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood, and the variance will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report 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, Seyburn-Yes, Schau-Yes, Bunch-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

**ZBA #14-03, 6151 and 6000 Portage Road:** Mr. Mais summarized the requests for: a) a Temporary Use Permit to allow an outdoor promotional event, the “2014 High on Kalamazoo Balloon Fest” from September 26 through September 28, 2014; and b) a variance to modify a nonconforming non-accessory sign at 6000 Portage Road. Kim Robinson stated the Air Zoo learned from last year’s event and this year they made arrangements for overflow parking at 6901 Portage Road and would be running shuttle busses between that parking lot and the Air Zoo throughout the event. Seyburn inquired how far back the sign was from the street itself and if the city was concerned the proposed sign addition might obstruct traffic visibility. Mr. Mais stated he did not know the exact distance but it was more than 50 feet back from East Milham and did not believe the proposed sign would cause traffic visibility problems. Bright inquired how many were expected to attend the balloon fest at peak times. Ms. Robinson stated last year about 2,500 but those figures might be higher this year due to the Talons Out Honor Flight. Bright inquired who else the Air Zoo had to coordinate with for the balloon launch near the airport. Ms. Robinson said they had to coordinate with the FAA.

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

A motion was made by Seyburn, seconded by Bunch, to approve a Temporary Use Permit to allow an outdoor promotional event, the “2014 High on Kalamazoo Balloon Fest” from September 26 through

September 28, 2014 with the following conditions: 1) on-street parking is prohibited along East Milham Avenue (City of Portage Parks, Recreation and Public Services Department will provide and place necessary signage); 2) all fire lanes and apparatus access roads remain unobstructed during the event; 3) emergency plans be provided to the Fire Marshal prior to the event detailing procedures in the event of fire, power loss, or medical emergencies; and 4) plans for overflow parking be provided to city staff prior to the event. Upon roll call vote: Robbe-Yes, Rhodus-Yes, Seyburn-Yes, Schau-Yes, Bunch-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

A motion was made by Seyburn, seconded by Robbe to approve a variance to modify a nonconforming non-accessory sign at 6000 Portage Road for the following reasons: there are exceptional circumstances applying to the property that do not generally apply to other properties in the zoning district which include the city acquiring additional public street right-of-way; the variance is necessary for the preservation of a substantial property right, the right to have a non-accessory sign; 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, as it sits far back from the streets and is significantly smaller than a conforming 300 square-foot sign, 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 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, Seyburn-Yes, Schau-Yes, Bunch-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

**OTHER BUSINESS:** Mais stated city staff was looking into making arrangements for additional training for Board members as is done periodically.

**STATEMENT OF CITIZENS:**

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 7:38 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator

SUMMARY ENVIRONMENTAL ACTIVITY REPORT  
July 2014 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	<p>-Beginning in 1991, South Westledge Park (landfill) has been monitored for on-site and off-site contamination. On July 23, 2013, City Council approved a three-year contract with American Hydrogeologic Corporation (AHC) to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. Initial groundwater and methane results indicate no off-site impact. AHC currently compiling MDEQ sampling requirement costs necessary for closure at the former landfill site. Weekly methane sampling is continuing on-site to collect base line data. AHC is completing the installation of private methane detection devices at several adjacent properties. Soil boring installation was completed on May 28, 2014. Current methane readings have been below detection levels. <i>The 2<sup>nd</sup> year of AHC's contract is underway.</i></p>
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	<p>-Coordination with property owners and City or State agencies ongoing. -<i>Review of 5 site/building plans and/or plats completed in July 2014.</i></p>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<p>-<i>Sanitary sewer hookup permits issued in July 2014: 7 residential; 0 commercial.</i></p>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	<p>-Five Year Lake Management Assessment District process was approved by City Council on March 23, 2010. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008. Permitting underway for the 2014 season. Treatment to be performed by Aquatic Services, Inc. The Association has selected to use</p>

Restorative Lake Sciences, LLC for consulting services for 2014. Treatment application schedule for mid-June. Follow-up inspection of treatment will be done by Restorative Lake Sciences, LLC. The Lake Board is working on a five year plan in preparation for a new special assessment district in summer 2014. *Special assessment process for 2015-2019 scheduled to begin on August 12, 2014.*

**Retention Basin Sampling Program (Groundwater Elevation)**

Investigation regarding potential impact of retention basins on groundwater levels.

-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to storm water infiltration. Alternative road salt practices continue to be considered and evaluated. The 2013 report was received noting minimal impacts. The 2013 report is available on the website for public information. Bids were received for a new four year program on April 16, 2014. The low bidder, Nova Consultants, was awarded a four-year contract by City Council on April 29, 2014. Monitoring performed in June 2014 and will continue in the fall. Interim report is pending.

**Wellhead Protection Program (WHPP)**

Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.

- Wellhead Protection Grant awarded received from MDEQ on August 30, 1999 and Council accepted the grant on October 5, 1999. Council also awarded contract to Earth Tech to complete WHPP. Earth Tech completed the final wellhead protection plan and MDEQ submittal was made on October 14, 2000. Plan was reviewed by MDEQ with written approval received in March, 2001. Staff has met internally to discuss the future needs to update the plan pending grant opportunities. Staff participated in a MDEQ Water Supply Emergency planning roundtable on June 10, 2013. Update of the program will be initiated as part of the Water Reliability Study in conjunction with Fishbeck, Thompson, Carr & Huber update work currently underway. Wellfield delineation completed. Summer engineering intern analyzing contamination source inventory.

**Leaf Compost Monitoring Program**

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

-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi-annual sampling was performed from 2002 to 2008 in June and January. Sampling and analysis results continue to show negligible groundwater impacts from the

leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. Sampling completed in June 2014, with results pending.

**National Pollution  
Discharge Elimination  
System (NPDES)  
Permit Implementation**

Five year plan to implement the current NPDES stormwater permit.

-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Storm Water Pollution Prevention Initiative (SWIPP) as required by NPDES permit. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year timeframe with first work item (updating the Public Participation Plan) completed December 11, 2009. Received a notice from MDEQ rescinding the 2008 permit due to a recent court case ruling. MDEQ reinstated the 2003 permit for implementation. Information on new permit requirement was received in February 2011. MDEQ expected to issue new permit in 2014. MDEQ scheduled an audit of the program on July 12, 2012. Audit completed with satisfactory results. City website updated in February to provide education of Illicit Storm Water Discharge. Program implementation is ongoing. Annual 2012-13 report was submitted on December 24, 2013. Comments received back have been reviewed by staff and response submitted to MDEQ. MDEQ concurred with city staff response. Program is ongoing.

**National Pollution  
Discharge Elimination  
System (NPDES)  
Permit Implementation**

Kalamazoo River Mainstream  
Watershed Management Plan

-First meeting was held September 17, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Watershed council completed a watershed update in November, 2011. No new developments.

Portage River Watershed  
Management Plan

-Public participation plan submitted June 28, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County

Conservation Service in November 2005. Draft watershed plan submitted to MDEQ on December 30, 2005. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009. Interest has been raised by local conservation groups to update the Watershed Plan using grant funds. Grant application submitted by Kalamazoo and Calhoun County Conservation District to update the Watershed Plan in 2012. Grant for watershed update was awarded to Calhoun County Conversation District. First kick-off meeting held December 13, 2012 to introduce working partners and information gathering. A meeting was held on March 12, 2013 to discuss the designated uses of the Portage River/Little Portage Creek watershed, the total maximum daily load of E-coli from samples taken and a review of community ordinances and policies that help protect the Watershed. Meeting held on June 11, 2013 to discuss identified water quality problems in the watershed. Meeting held on December 11, 2013 to inform stakeholders of progress on data collection. *Next meeting scheduled for August 2014.*

**Plan to implement and maintain an Illicit Discharge Elimination Program (IDEP) Storm Sewer Outfall Testing.**

-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections." On April 28, 2004, City Council accepted a grant from the State of Michigan in the amount of \$152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of \$184,264 for the remainder of the IDEP for the entire city. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDEQ on June 25, 2010, and part of the SWIPPI. Two potential illicit discharges were investigated with MDEQ in February 2012. Completed an area-wide brochure to educate the public on Illicit Storm Water Discharges in conjunction with the Kalamazoo County Drain Commissioner. On April 29, 2014 City Council awarded a contract to Nova Consultants, Inc., to perform annual

investigations of storm outfalls and investigate all outfalls on a four-year cycle. *Investigations to be completed in July with report pending.*

#### Garden Lane Arsenic Removal Facility

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

Facility is in operation with ribbon cutting held August 2, 2010. The facility is producing approximately one million gallons of water per day. Facility is in regular operation. Plant tour for Stryker Engineering group was held on June 19, 2012. City Staff in conjunction with the Environmental Board is working on a sustainable native planting landscape design with Native Connections, Inc., for the facility. Regrading and installation of native landscaping seeding completed on November 16, 2012. Spring 2013 germination produced promising results. Native species plants successfully established. Native plant weeding and fall mowing is complete. Staff currently working with the Environmental Board on informative signs and long-term maintenance plans.

#### Environmental Incident/Spill Clean Up Notification

Environmental Protection Program to assist Portage Police/Fire Departments with spill containment and spill cleanup.

Emergency spill response contract for 2013-14 with Terra Contracting has been renewed. *The number of environmental incident/spill investigations performed in July – 0. Number of environmental cleanups in July – 0.*

#### Southwest Michigan Regional Sustainability Covenant

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

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