



# PLANNING COMMISSION

January 7, 2016

# **CITY OF PORTAGE PLANNING COMMISSION**

## **A G E N D A**

**January 7, 2016  
(7:00 p.m.)**

**Portage City Hall Council Chambers**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **APPROVAL OF MINUTES:**

- \* December 17, 2015

### **SITE/FINAL PLANS:**

### **PUBLIC HEARINGS:**

- \* 1. Special Land Use Permit: Angelworks Photography, 865 Lenox Avenue
- \* 2. Preliminary Report: Rezoning Application #15/16-3, 328 and 414 West Milham Avenue

### **OLD BUSINESS:**

### **NEW BUSINESS:**

### **STATEMENT OF CITIZENS:**

### **ADJOURNMENT:**

### **MATERIALS TRANSMITTED**

December 1, 2015 City Council regular meeting minutes  
November 2015 Summary of Environmental Activity Report

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

## PLANNING COMMISSION

December 17, 2015

 DRAFT

The City of Portage Planning Commission meeting of December 17, 2015 was called to order by Chairman Welch at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Four citizens were in attendance.

### **PLEDGE OF ALLEGIANCE:**

Chairman Welch led the Commission, staff and citizens in the Pledge of Allegiance.

### **IN ATTENDANCE:**

Christopher Forth, Deputy Director of Planning, Development & 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: Bosch (yes), Stoffer (yes), Welch (yes), Felicijan (yes), Dargitz (yes), Somers (yes), Schimmel (yes), and Richmond (yes). A motion was made by Commissioner Felicijan, seconded by Commissioner Bosch, to approve the roll excusing Commissioner Patterson. The motion was unanimously approved 8-0.

### **APPROVAL OF MINUTES:**

Chairman Welch referred the Commission to the December 3, 2015 meeting minutes contained in the agenda packet. A motion was made by Commissioner Felicijan, seconded by Commissioner Stoffer, to approve the minutes as submitted. The motion was unanimously approved 8-0.

### **SITE/FINAL PLANS:**

None.

### **PUBLIC HEARINGS:**

None

### **NEW BUSINESS:**

None.

### **OLD BUSINESS:**

1. Rezoning Application #15/16-2. 480 Admiral Avenue – expanded rezoning consideration. Mr. Forth summarized the staff report dated December 11, 2015 and the Planning Commission decision at the December 3, 2015 meeting to consider additional areas for rezoning consideration under Rezoning Application #15/16-2. Mr. Forth discussed the original rezoning application submitted by Mr. Chad Scott for 480 Admiral Avenue and also reviewed various maps of the surrounding area that depicted existing zoning, existing land use and future land use designations. Mr. Forth indicated the Future Land Use Map designations were intended to serve as a general guide for future development and specific zoning district boundaries need to be determined on a case-by-case basis considering several other factors. Mr. Forth reviewed the historic development pattern of the single family and multiple family residential uses located along Admiral Avenue, Cameo Avenue and Dorset Street and also discussed three rezoning decisions that occurred in this area in 1968. Mr. Forth then summarized the three specific areas identified in the staff report where additional rezoning of properties could be considered by the Commission.

Chairman Welch asked for further direction and clarification of Planning Commission expectations regarding the expanded rezoning consideration. Mr. Forth stated the original rezoning request involving 480 Admiral Avenue has been adjourned to the January 21, 2016 meeting and, if desired by the Commission, the additional properties identified in the staff report could be added to the application and noticed for joint consideration during the January 21, 2016 meeting. Attorney Brown advised the Commission to focus tonight's discussion on the additional properties that could be considered for rezoning and not specifically discuss the original rezoning request involving 480 Admiral Avenue. The Commission and staff discussed various aspects of expanding the rezoning to include other properties such as the historic development/zoning patterns in the area, nonconforming duplex properties on Dorset Street, Future Land Use Map designations and other factors.

Three people spoke in regard to the expanded rezoning consideration: Mr. Rick Dueweke (606 Dorset), Ms. Kelly Cavanaugh (Nederveld Associates, representing the applicant of 480 Admiral Avenue rezoning request) and Mr. Bryan Cedarberg (612 Dorset Street). Mr. Dueweke presented a petition signed by the owners of 514, 532, 606, 612 and 618 Dorset Street requesting the seven properties located on Dorset Street be rezoned from R-1T to R-1A. Ms. Cavanaugh discussed the historic development/zoning pattern within the neighborhood and stated she believes the purpose and intent of these past decisions was to encourage a mixed use development with commercial land use along South Westledge Avenue and then a transition from multiple family apartments, four-unit attached residential buildings, two-unit attached residential dwellings to single family detached residential dwellings as you move inward along Admiral Avenue, Dorset Street and Cameo Avenue. Ms. Cavanaugh stated the current I-1 zoning of the northern portion of 480 Admiral Avenue was not consistent with the surrounding neighborhood and the requested down zoning of the property to R-1T and construction of two-unit attached residential dwellings would be consistent and compatible with the surrounding development/zoning pattern. Ms. Cavanaugh also restated the southern portion of 480 Admiral Avenue was identified wetlands and not planned for development. Mr. Cedarberg stated that he disagrees with Ms. Cavanaugh's statements and indicated duplexes constructed at the end of Cameo Avenue would not be compatible with adjacent single family detached residential dwellings and would change the character of the neighborhood. Mr. Cedarberg stated he would not have purchased his home if he knew duplexes would be constructed at the end of Cameo Avenue and also expressed concerns about possible negative impacts on property values in the neighborhood.

The Commission discussed potential areas for inclusion in an expansion rezoning consideration. Commissioner Felicijan suggested retaining the existing R-1T zoning on the seven lots located on Dorset Street and including the five lots to the south (including the three existing duplex lots) in an expanded rezoning consideration to R-1T to create a consistent R-1T zoning pattern along the east side of Dorset Street. Commissioner Felicijan also suggested including the city-owned parcel addressed as 6979 South Westledge Avenue in an expanded application to change the zoning from I-1, B-2 and RM-1 to R-1A. Commissioner Bosch stated he agrees with Commissioner Felicijan. Commissioner Dargitz stated she disagrees with Commissioners Felicijan and Bosch and believes the seven R-1T zoned lots located on the east side of Dorset Street should be considered for rezoning to R-1A to more accurately reflect the single family detached residential development pattern that occurred following the 1968 rezoning. Commissioner Dargitz also stated she agrees with Mr. Cedarberg and believes an R-1T zoning and construction of duplexes at the end of Cameo Avenue would not be consistent with the surrounding single family detached residential dwellings. Commissioner Dargitz stated a R-1T zoning district involving the three duplex units located at the south end of Dorset would be consistent with the existing land use and would create a transition into the multi-family residential along Admiral Street.

Following further discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Felicijan, to expand Rezoning Application #15/16-2 to consider rezoning 6843, 422, 426, 502, 508, 514, 520, 526, 532, 606, 612 and 618 Dorset Street from R-1A, R-1T and I-1, to R-1A and/or R-1T and a set a public hearing for January 21, 2016. The motion was unanimously approved 8-0. A motion was then made by Commissioner Bosch, seconded by Commissioner Felicijan, to expand Rezoning Application #15/16-2

 **DRAFT**

to consider rezoning 6979 South Westnedge Avenue from I-1, RM-1 and B-2, to R-1A and a set a public hearing for January 21, 2016. The motion was unanimously approved 8-0.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

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

Respectfully submitted,

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

**TO:** Planning Commission **DATE:** December 30, 2015  
**FROM:** Vicki Georgeau, <sup>Ms.</sup> Director of Community Development  
**SUBJECT:** Special Land Use Permit: Angelworks Photography, 865 Lenox Avenue

## I. INTRODUCTION:

An application has been submitted by Ms. Charity Finstrom requesting a Special Land Use Permit to establish a photography studio (Angelworks Photography) within a portion of the existing building located at 865 Lenox Avenue. The approximate 1.0 acre property is zoned I-1, light industry and is located at the west end of Lenox Avenue within the Bel-Aire Industrial Park.

The existing 8,400 square foot building and related site improvements were originally constructed in 1973 as a light industrial/contractor facility for Bel-Aire Heating & Cooling. The building is currently divided into several tenant spaces and partially occupied by RJO Mechanical, an automobile detailing business, an automobile stereo installation business and administrative offices. As detailed in the application materials, Angelworks Photography would occupy approximately 3,500 square feet of the overall 8,400 square foot building with the tenant space being utilized as a full service photography studio including a client greeting area, office area, photographic rooms, design area for sets and props, and a warehousing/storage area. The applicant currently does not have any employees (other than herself), however, envisions a possible future assistant and/or receptionist. According to the applicant, there would typically only be one or two clients on-site at any time with the exception of small group events where up to 10 clients could be present, perhaps once a month. No interior building modifications or exterior site improvements are proposed by the applicant.

## II. BACKGROUND INFORMATION:

The following background information is provided for Commission consideration:

Existing Land Use/Zoning	<ul style="list-style-type: none"> <li>• <u>Subject Site:</u> Approximate 8,400 square foot industrial building and associated site improvements zoned I-1, light industry.</li> <li>• <u>North/East/South:</u> Various industrial buildings located along Lenox Avenue within the Bel-Aire Industrial Park zoned I-1.</li> <li>• <u>West:</u> Storm water retention basins and vacant land located along the northwestern portion of the Walmart parcel zoned CPD, commercial planned development.</li> </ul>
Access	<ul style="list-style-type: none"> <li>• Existing full service driveway from Lenox Avenue: No additional driveways are proposed.</li> <li>• Lenox Avenue is a local industrial street with 10 light industrial parcels and traffic count information is not available.</li> </ul>
Environmental	<ul style="list-style-type: none"> <li>• Review of the City of Portage Natural Resources Map does not identify any environmentally sensitive areas (100-year floodplain, wetlands) at the subject site.</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>

Land Development Regulations	<ul style="list-style-type: none"><li>The application has been submitted under Section 42-280.B.10, <i>Special Land Use</i> in the I-1 zoning district: <i>"Other uses similar to, and not more objectionable than, the uses permitted in this section, which will not be injurious or have an adverse effect on adjacent areas, and may, therefore, be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare."</i> Section 42-462, <i>General Standards for Review of Special Land Uses</i> is also applicable and sets forth the criteria for evaluating a special land use and allows conditions to be established.</li></ul>
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### III. ANALYSIS:

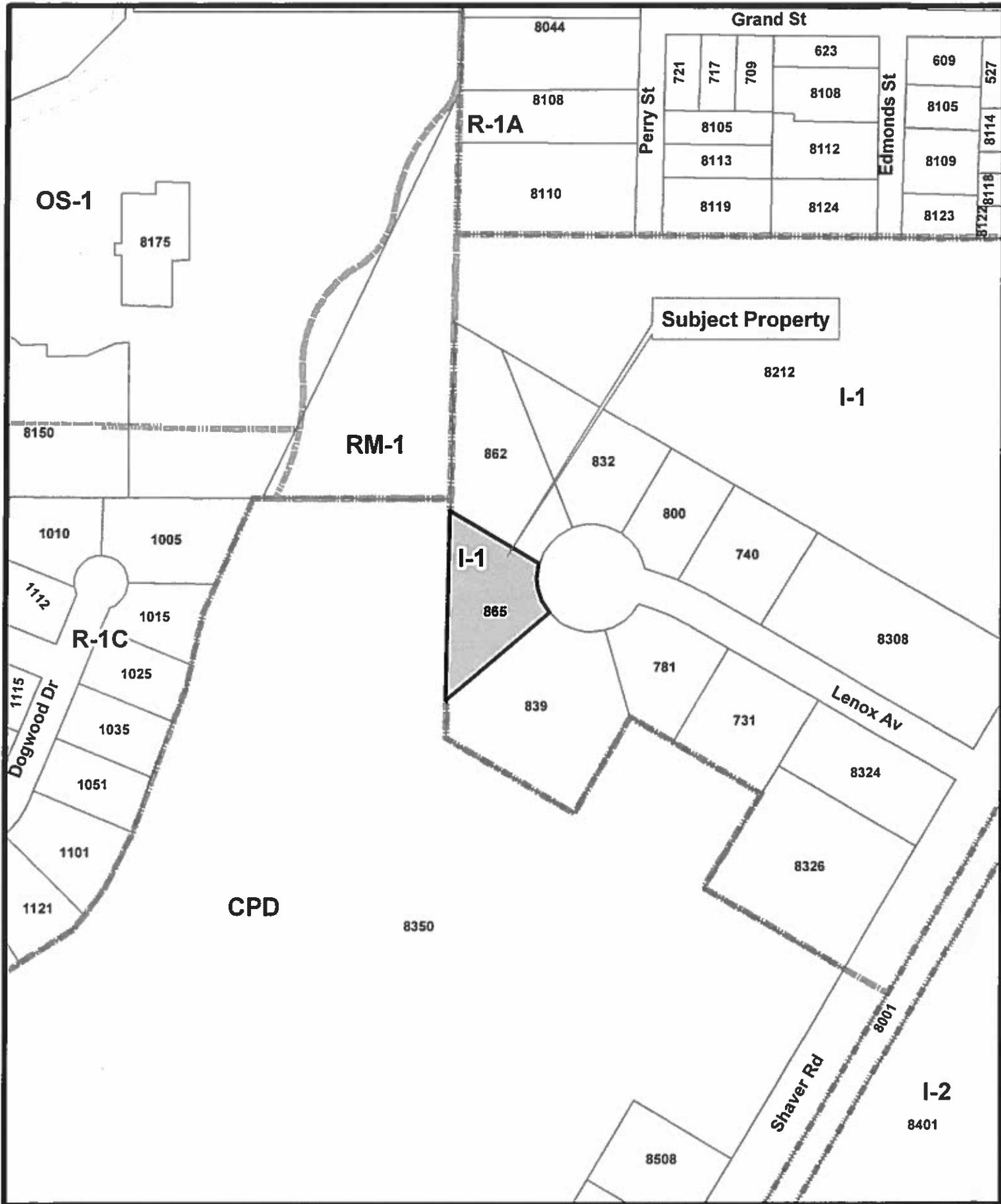
The proposal to establish a photography studio within a portion of the existing building located at 865 Lenox Avenue fulfills the requirements for issuance of a Special Land Use Permit. The proposed use is similar to and not more objectionable than other uses allowed in the I-1 zoning district (e.g., trade school, offices for building, plumbing, electrical, mechanical and environmental contractors). All activities associated with the photography studio will be conducted indoors, within the existing building. Sufficient parking is available at the site and the low intensity nature of the proposed use will mitigate any potential adverse impacts on adjacent land uses located within the industrial park. In the context of the general standards of review in Section 42-462, the proposal represents an appropriate, compatible reuse of the existing building consistent with the Comprehensive Plan and Zoning Code/Map. Finally, no environmental issues are evident and public facilities (water, sewer and street infrastructure) can accommodate the proposed use.

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

### IV. RECOMMENDATION:

Based on the above analysis and subject to any additional information brought before the Planning Commission during the public hearing, staff recommends the Special Land Use Permit for Angelworks Photography, 865 Lenox Court, be approved.

Attachments: Vicinity/Zoning Map  
Aerial Photograph Map  
Special Land Use Permit Application



# Special Land Use Permit 865 Lenox Ave

 Zoning Boundary  
 Subject Property



1 inch = 233 feet



Subject Property

 Subject Property

# Aerial Photo 865 Lenox Ave



1 inch = 100 feet

DEC 09 2015



COMMUNITY DEVELOPMENT  
Department of Community Development

**APPLICANT INFORMATION**

Name <b>CHARITY FINSTROM (PROPOSED TENANT)</b>		Telephone Number <b>269-823-3746</b>	
Address <b>2120 OAK LEAF TRL</b>	City <b>PORTAGE</b>	State <b>MI</b>	Zip code <b>49024</b>

**OWNER INFORMATION (if different)**

Name <b>ROBERT OSTROWSKI</b>		Telephone Number <b>(269) 324-3363 (WORK#)</b>	
Address <b>156 PRETTY LAKE DR.</b>	City <b>MATTAWAN</b>	State <b>MI</b>	Zip code <b>49071</b>

**PROPERTY INFORMATION**

Address of property <b>865 LENOX AVE, SUITE C</b>	Zoning District <b>I1</b>	Land Area (acres) <b>.920</b>
Legal Description (or attach separate page) <b>BEL-AIRE INDUSTRIAL PARK LOT 5 (PARCEL 00720-005-0)</b> <b>SEE ATTACHED</b>		

**PROPOSED USE**

Description of proposed Special Land Use (attach additional pages if necessary)

**SEE ATTACHED**

**PROPOSED TENANT**

**OWNER CERTIFICATION**

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

Signature **Charity Finstrom**

Date **12/8/15**

December 11, 2015

I give my permission for Charity Finstrom to apply for a special use permit for operating a photography studio in the suite she intends to rent at 865 Lenox, of which I am the owner.

A handwritten signature in black ink, appearing to read "Robert Ostrowski", written over a horizontal line. The signature is stylized and cursive.

Robert Ostrowski

# Angelworks Photography

2120 Oak Leaf Trl. Portage, MI 49024  
www.angelworksonline.com (269) 823-3746

## 1. Description of the special land use to be carried out:

I am a photographer currently working out of my home, with a business use permit in Portage.

I contract with clients for photography services which involves meeting with them to design a plan for their needs, creating sets for photographing them, and then designing artwork to deliver as a final product. This currently includes digital design, and will include onsite framing in the future.

I also may add an upcycling product line which would involve me building upcycled home decor pieces on-site – either built from reclaimed wood, or reinvented from salvaged vintage items. I would have pieces that would be both contracted for with clients and available for sale to clients as additional products.

I can also foresee myself contracting for group events where clients would be photographed, or would learn something about the process – such as company headshots, birthday parties, and camera/studio hands-on classes.

I do not employ anyone other than myself at this time, although I could envision having a receptionist in future years. My daughter would most likely be my first employee. I would typically only have one or two clients on-site at a time, except for group events, which I would likely limit to 10 clients perhaps up to once per month.

I would be occupying approximately 3,560 SF of the 8,400 SF building. I've attached rough drawings of the main floor and second floor, with some notes as to my intended use of each room. I would use the main floor for greeting clients, my office, a small kitchen nook, and the warehouse as my main camera room and prop storage. The upstairs would include a baby camera room, a headshot room, a dressing room with hair and makeup station, a packaging room and an ordering room. I do not intend to modify the existing space.

These uses are similar to currently allowed uses (offices for builder, plumbing/electrical contractors, and trade schools), in that my use is a service based business where I contract with individual clients to produce work to fit their needs. Also, my plan to offer training within my trade skillset is similar to a trade school.

## 2. Sketches of the building or structure

Please see the attached photo of the building front, the attached image/sketch for the original parcel – registered with the City of Portage tax system, and rough drawing of the internal layout of the suite – both main floor and second floor.

Thank you for your consideration.



Charity Finstrom  
Owner/Artist Angelworks Photography  
2120 Oak Leaf Trl.  
Portage, Mi 49024

# 865 Lenox

865 Lenox, Portage, MI 49074

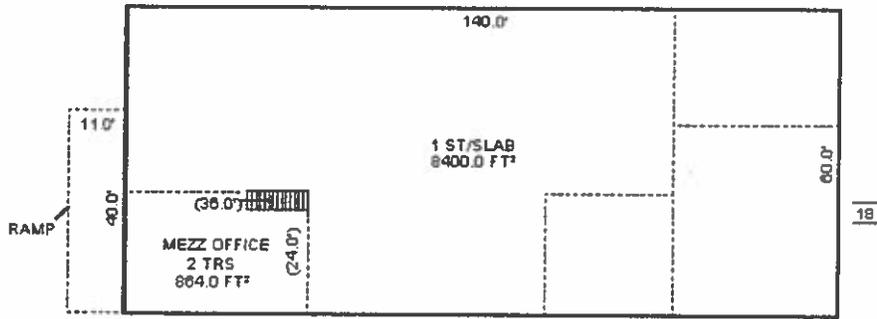


 Photo 1/1

 Map

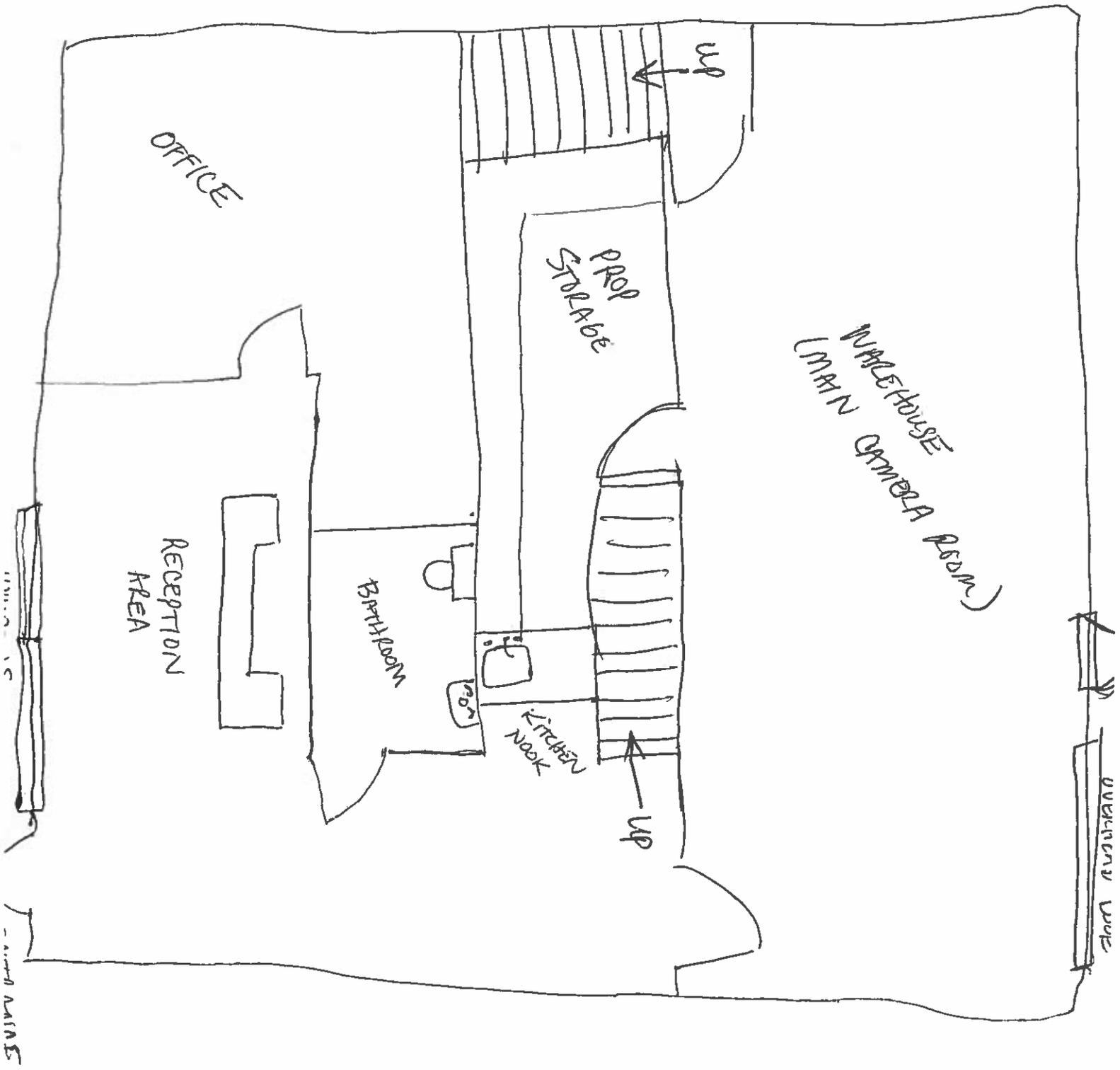
 Street View

### Image/Sketch for Parcel: 00720-005-O



Sketch by Apex IV Windows™

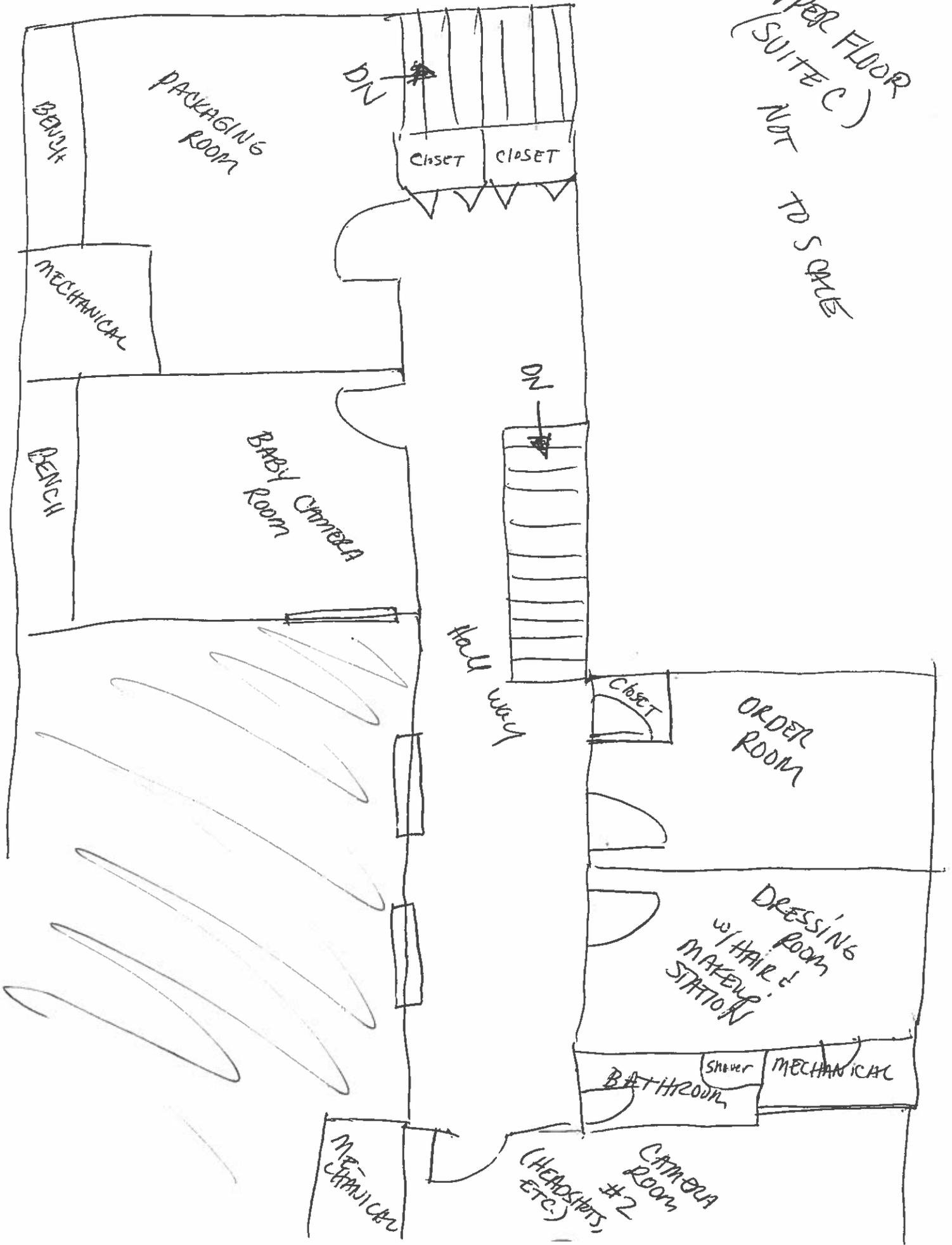
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815 Lenox Ave  
 MAIN FLOOR  
 (SUITE C)  
 ~ 3,560 SF TOTAL  
 NOT TO SCALE

UPPER FLOOR  
(SUITE C)

NOT  
TO SCALE





TO: Planning Commission

DATE: December 30, 2015

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

SUBJECT: Preliminary Report: Rezoning Application #15/16-3, 328 and 414 West Milham Avenue

**I. INTRODUCTION:**

An application has been received requesting that the northern portions of 328 and 414 West Milham Avenue be rezoned from R-1A, one family residential to OS-1, office service. The subject parcels are currently split zoned with the southern (front) portions zoned OS-1 and the northern (rear) portions zoned R-1A. According to the applicant, the rezoning request would result in consistency and conformity between the zoning map and the historical use of the rear portions of these properties for office related parking. The rezoning request would also facilitate a prospective property purchase and future redevelopment of 328 West Milham Avenue.

Applicant	Property Address	Parcel Number	Zoning	
			Existing	Proposed
DDJ LTD., LLC	328 West Milham (north 75-feet)	09053-001-O	R-1A	OS-1
Milham Ventures, LLC	414 West Milham (north 100-feet)	09053-009-O	R-1A	OS-1
Two parcels – 0.5 acre				

**II. EXISTING CONDITIONS:**

Land Use/Zoning	<p><b>Rezoning Site:</b> 328 West Milham – Lea’s Hairstyling Studio building and associated parking area zoned OS-1 (south 125-feet) and R-1A (north 75-feet); 414 West Milham – Jaqua Realtors building and associated parking area zoned OS-1 (south 125-feet) and R-1A (north 100-feet). It should be noted that 408 West Milham is also part of the Jaqua Realtors site, however, this parcel is zoned entirely OS-1 and not part of the rezoning request.</p> <p><b>North:</b> Single family residence (5923 Missouri) owned by Jaqua Realtors and parking lot (5916 Ohio) owned by Victory Baptist Church, both zoned R-1A.</p> <p><b>East (across Ohio):</b> Victory Baptist Church (308 West Milham) zoned OS-1 and R-1A.</p> <p><b>West (across Missouri):</b> Vacant parcels and a nonconforming single family residence zoned OS-1.</p> <p><b>South (across Milham):</b> Various commercial businesses zoned B-3, general business.</p>
Zoning/Development History	<p>No rezoning of properties in the surrounding area have occurred in the past 10 years.</p> <p>The northern portions of 328 West Milham and 414 West Milham are zoned R-1A, however, occupied by parking lots associated with the Lea’s Hairstyling Studio and Jaqua Realtors sites, respectively. These parking lots were in existence prior to comprehensive zoning of the city in 1965 and, therefore, are legally nonconforming uses. Based on available city records, 328 West Milham was originally developed in the 1950s, while 414 West Milham was first developed in the early 1960s.</p>

Historic District/ Structures	The subject site is not located within a historic district and does not contain any historic structures.
Public Streets	West Milham Avenue is designated a 5-lane major arterial roadway with 16,264 vehicles per day (2013) and a capacity of 38,700 vehicles per day (level of service "D"). Ohio Avenue and Missouri Avenue are local residential streets and specific traffic counts are not available.
Public Utilities	Municipal water and sewer are available.
Environmental	The City of Portage Natural Resources Map does not identify any potential wetlands, floodplain or other natural features encumbering or near the subject parcels.

### 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 Map component of the 2014 Comprehensive Plan identifies the rezoning site, along with properties situated to the east and west (along the north side of West Milham Avenue) as appropriate for office land use. The Comprehensive Plan identifies the office land use designation and the corresponding OS-1 district as an effective transition zone between residential uses and major arterial roadways since office uses typically have limited hours of operation (weekdays from approximately 8am-5pm), a building style and mass similar to residential structures and less traffic generation. Properties located north of the rezoning site are designated for Single-Family Detached - Medium Density residential land use, while properties located along the south side of West Milham Avenue are designated for Regional Business 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 final report and staff recommendation.

Suitability of Existing R-1A Zone/Impacts of Proposed OS-1 Zone. The existing R-1A zoning designation along the northern portions of 328 and 414 West Milham Avenue is not consistent with the historic use of these properties for office-related parking associated with the Lea's Hairstyling Studio and Jaqua Realtors businesses. The split OS-1/R-1A zoning pattern of these parcels appears to be a remnant from the former Township zoning map and was not adjusted with the comprehensive zoning of the city in 1965. Rezoning the northern portions of these parcels to OS-1 would result in a consistent zoning pattern across the

properties that would eliminate the nonconforming status of the existing parking lots, while also allowing for future office development/redevelopment flexibility and options. It is noted there is no parking lot screening between the single-family house at 5923 Missouri Avenue and the parking lot at 414 West Milham Avenue. Concurrent with future redevelopment of this property, installation of required screening will be reviewed.

Traffic Considerations. Traffic generation associated with a zoning change from R-1A to OS-1 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 January 7, 2016 meeting and adjourn the public hearing to the January 21, 2016 meeting.

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



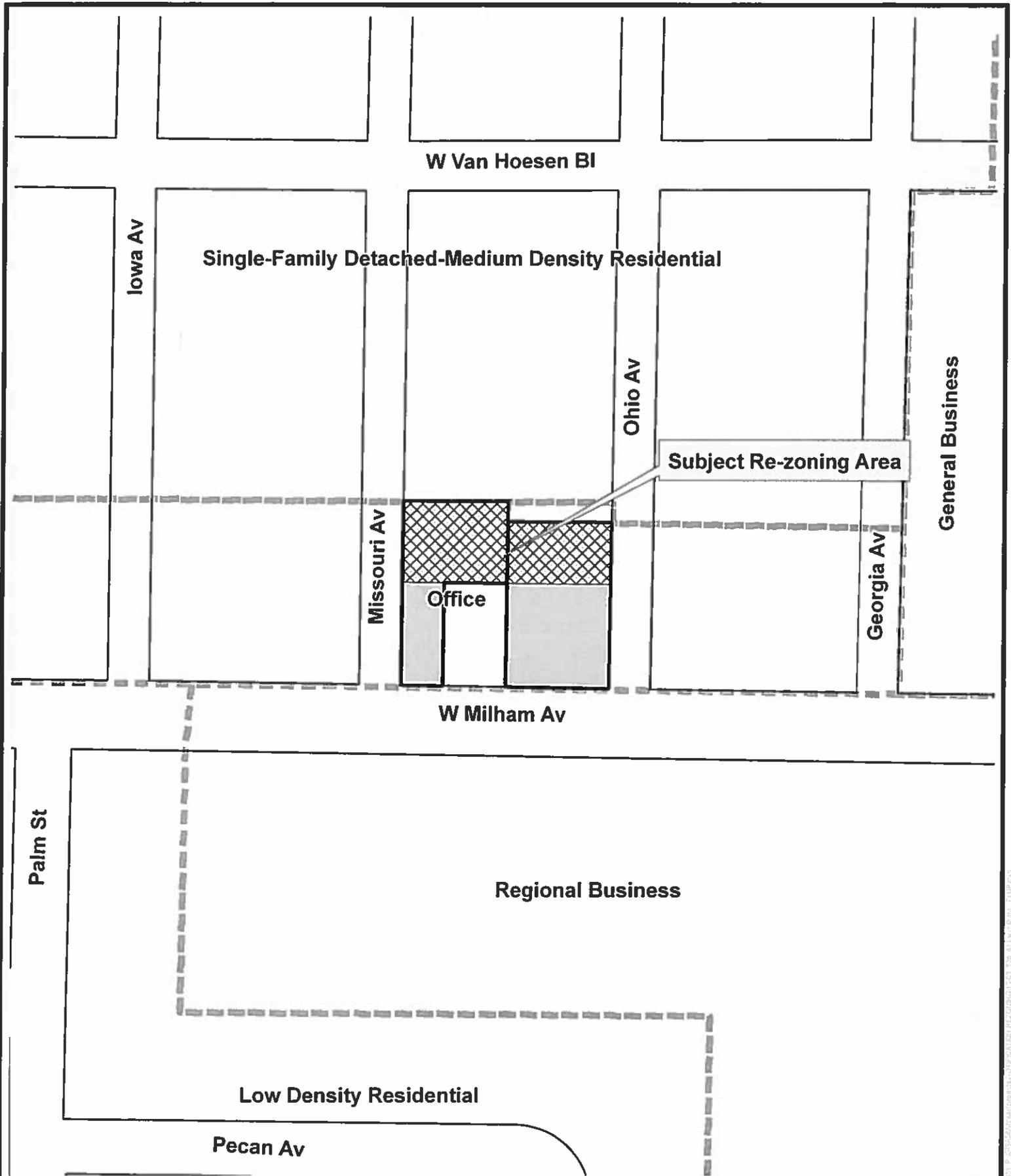
**Legend**

-  Zoning Boundary
-  Re-zoning Area
-  Subject Property

## Rezoning 15/16-03 328, 414 West Milham Avenue



1 inch = 150 feet



**Legend**

-  Re-zoning Area
-  Future Land Use
-  Subject Property

**Future Land Use Map**  
**328 & 414 West Milham Avenue**



1 inch = 150 feet



RECEIVED  
DEC 15 2015  
COMMUNITY DEVELOPMENT

## APPLICATION FOR ZONING AMENDMENT

Application number #15/16-3

Date 12/15/15

### 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 328 W. Milham between Ohio Street and Missouri Street on the North side of the street, and is known as Lot Number(s) 1-5 & \* of Westnedge Heights Plat (Subdivision). It has a frontage of 125 feet and a depth of 200 feet. Only the Northernmost 75 feet of this parcel is the subject of this request.

b. Unplatted Land:

\*46-48, Block D

*(328 West Milham)*

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).

N/A

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

b. Name of the owner of the property to be rezoned: Donald K. & Lea J. Sterns Trust

Address 10647 Sudan St., Portage, MI 49002

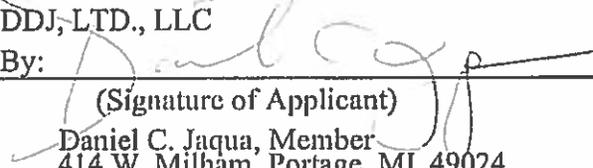
3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: purchaser under a purchase agreement

4. CURRENT ZONING: R-1A PROPOSED ZONING: OS-1

**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.

DDJ, LTD., LLC  
By:   
(Signature of Applicant) (Signature of Applicant)  
Daniel C. Jaqua, Member  
414 W. Milham, Portage, MI 49024  
(Address) (Address)  
(269) 207-2940  
(Phone) (Phone)

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

ATTACHMENT TO REQUEST TO REZONE A PART OF 328 W. MILHAM  
By DDJ, LTD., LLC  
December 15, 2015

**1. Why the change requested is necessary for the preservation and enjoyment of substantial property rights.**

The front 125 feet of the 200 foot deep parcel upon which Lea's Hairstyling Studio has been operating for many years is already zoned OS-1. Although the rear 75 feet has always been used as a parking lot to service the Lea's business, it remains zoned R-1A. This change is appropriate to bring the zoning up to date to match the actual, historical use of the land and preserve the commercial use of this property for future, continued commercial use.

**2. Why the amendment will advance the public health safety and welfare.**

The existing R-1A zone is not a reasonable use of this property which abuts commercial uses. The City's Zoning Ordinance provides in part, that the R-1A through R-1E one-family residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density single-unit dwellings along with other residentially related facilities that serve the residents in the district. Further, the intent of these regulations is to protect residential neighborhoods from incompatible land uses and associated effects. This last 75 feet will never be used for single family residential uses and does not fit the intent of the Zoning Ordinance due to its proximity to existing commercial uses. Rezoning this land will make it consistent with the surrounding properties and the pre-existing use.

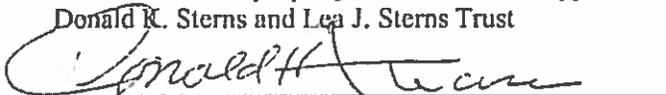
**3. The impact that the proposed rezoning will have on the community and property of other persons in the vicinity of the area.**

The rezoning will not negatively impact the community or the neighboring properties because the surrounding properties on Milham are all similarly zoned OS-1. The land behind this property contains a parking lot, and behind that there is a City retention pond. No properties in the vicinity will be negatively affected by continuing the existing commercial use of this property.

**OWNER CONSENT:**

The owner of the property consents to this Application for Zoning Amendment.

Donald K. Sterns and Lea J. Sterns Trust



By: Donald K. Sterns, Trustee



By: Lea J. Sterns, Trustee



RECEIVED

DEC 15 2015

COMMUNITY DEVELOPMENT

APPLICATION FOR ZONING AMENDMENT

Application number #15/16-3

Date 12/15/15

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 414 W. Milham between Ohio Street and Missouri Street on the North side of the street, and is known as Lot Number(s) 9-14\* of Westnedge Heights Plat (Subdivision). It has a frontage of 50 feet and a depth of 225 feet. Only the Northernmost 100 feet of this parcel is the subject of this request.

b. Unplatted Land:

\*Block D (414 West Milham)

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).

N/A

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

b. Name of the owner of the property to be rezoned: Milham Ventures, LLC

Address 414 W. Milham, Portage, MI 49002

7900 South Westnedge Avenue • Portage, Michigan 49002 • (269) 329-4477

www.portagemi.gov



ATTACHMENT TO REQUEST TO REZONE A PART OF 414 W. MILHAM  
By Milham Ventures, LLC  
December 15, 2015

**1. Why the change requested is necessary for the preservation and enjoyment of substantial property rights.**

The front 125 feet of the 225 foot deep parcel upon which Chuck Jaqua Realtor has been operating for many years is already zoned OS-1. Although the rear 100 feet has always been used as a parking lot to service the Jaqua offices, it remains zoned R-1A. This change is appropriate to bring the zoning up to date to match the actual, historical use of the land and preserve the commercial use of this property for future, continued commercial use.

**2. Why the amendment will advance the public health safety and welfare.**

The existing R-1A zone is not a reasonable use of this property which abuts commercial uses. The City's Zoning Ordinance provides in part, that the R-1A through R-1E one-family residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density single-unit dwellings along with other residentially related facilities that serve the residents in the district. Further, the intent of these regulations is to protect residential neighborhoods from incompatible land uses and associated effects. This last 100 feet will never be used for single family residential uses and does not fit the intent of the Zoning Ordinance due to its proximity to existing commercial uses. Rezoning this land will make it consistent with the surrounding properties and the pre-existing use.

**3. The impact that the proposed rezoning will have on the community and property of other persons in the vicinity of the area.**

The rezoning will not negatively impact the community or the neighboring properties because the surrounding properties on Milham are all similarly zoned OS-1. The land behind this property contains homes also owned by the applicant. No properties in the vicinity will be negatively affected by continuing the existing commercial use of this property.

# **MATERIALS TRANSMITTED**



## CITY COUNCIL MEETING MINUTES FROM DECEMBER 1, 2015

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

At the request of Mayor Pro Tem Ansari, Pastor Matt Munson of the Valley Family Church gave the invocation and City Council and the audience recited the Pledge of Allegiance.

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

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Ford, to approve the Regular Meeting Minutes of November 17, 2015, as presented. Upon a voice vote, motion carried 6 to 0.

\* **CONSENT AGENDA:** Mayor Pro Tem Ansari asked Councilmember Reid to read the Consent Agenda. Councilmember Urban asked that Item F.5, 2016 Pre-Council Meetings, and Councilmember Ford asked that Item F.7, Board and Commission Interviews, be removed from the Consent Agenda. Motion by Reid, seconded by Pearson, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 6 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF DECEMBER 1, 2015:** Motion by Reid, seconded by Pearson, to approve the Accounts Payable Register of December 1, 2015, as presented. Upon a roll call vote, motion carried 6 to 0.

**PETITIONS AND STATEMENTS OF CITIZENS:** Paul Schmidt, 9862 Fort Myers Parkway, reflected on a recent deer survey and mentioned that on November 5, 2015, on a vote of 10 to 1, the City of Ann Arbor agreed to have the United States Department of Agriculture, Animal and Plant Health Services cull the local deer herd by 100, and cited other Michigan cities that have done the same thing, including Big Rapids, Mt. Pleasant, Manistee and Grand Haven. City Manager Shaffer received the Ann Arbor News Articles on the matter offered by Mr. Schmidt.

### REPORTS FROM THE ADMINISTRATION:

**2016 FEE SCHEDULES:** City Manager Shaffer explained that this item contains various proposed fees as charges for Department activities and was originally on the Consent Agenda. However, he did not get to answer all of the questions posed by some Councilmembers, and asked that the item be postponed until December 15, 2015. Discussion followed.

Motion by Reid, seconded by Ford, to postpone item F.1, the adoption of the proposed 2016 Charges for Documents (FOIA Fees); recommended 2016 Recreation Program Fee Revisions; Resolutions for Community Development Fees, Electrical Permits, Building Permits, Plumbing Permits and Mechanical Permits; and 2016 Special Assessment Rate Resolution, until December 15, 2015. Upon a roll call vote, motion carried 6 to 0. Discussion followed.

\* **TENTATIVE AMENDMENT FOR THE OAKLAND HILLS AT CENTRE PLANNED DEVELOPMENT:** Motion by Reid, seconded by Pearson, to accept the Tentative Amendment for the Oakland Hills at Centre Planned Development and set a public hearing for January 12, 2016, at 7:30 p.m. or as soon thereafter as may be heard and, subsequent to the public hearing, approve the Tentative Plan Amendment for the Oakland Hills at Centre Planned Development subject to the two conditions cited in the October 30, 2015 Department of Community Development staff report. Upon a roll call vote, motion carried 6 to 0.

\* **SOUTH SHORE DRIVE SANITARY SEWER PROJECT #416-S:** Motion by Reid, seconded by Pearson, to adopt Resolution No. 2 for the South Shore Drive Sanitary Sewer Project #416-S, setting a public hearing of necessity on December 15, 2015, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 77 of Resolution Book No. 46.

\* **RESOLUTION FOR MOWING MDOT PROPERTIES:** Motion by Reid, seconded by Pearson, to adopt a Performance Resolution for Governmental Agencies for required permits to mow three Michigan Department of Transportation (MDOT) properties in the City of Portage. Upon a roll call vote, motion carried 6 to 0. Resolution recorded on page 75 of City of Portage Resolution Book No. 46.

**2016 PRE-COUNCIL MEETINGS:** Upon the request of Mayor Pro Tem Ansari, City Manager Larry Shaffer deferred to Councilmember Urban, who asked that this item be removed from the Consent Agenda. Motion by Urban, seconded by Reid, to waive Attorney/Client Privilege for the Opinion of City Attorney Randy Brown dated November 24, 2015, concerning this issue. Discussion followed. Upon a roll call vote, motion carried 4 to 2. Yeas: Councilmembers Reid, Urban and Ford and Mayor Pro Tem Ansari. No: Councilmembers Pearson and Randall.

Councilmember Urban indicated that he had concerns with this business item and read the two main paragraphs of the Opinion of City Attorney Randy Brown dated November 24, 2015, without citing the subparagraphs. He pointed out that City Attorney Brown had concerns with the Open Meetings Act (OMA) and the strict rules that would therefore be necessary. He stressed that the Opinion reads such that there would be so many constraints on discussion at the meeting that it would be of little use. He reminded Council that each Councilmember can always call Mr. Shaffer with questions; and he could continue to supply everyone with the answers as he has done in the past. He cited a couple of the limitations cited in the subparagraphs of the Opinion: Council could not discuss the answers received from questions at the meeting with one another, and not being able to answer the questions of a citizen who might show up. As a result, he indicated that he does not believe such a meeting serves any useful purpose since, in order to be in compliance with the Open Meetings Act, and the Public Notice required for a Special Meeting of City Council, to set these meetings up makes no sense at all. Without listing them, he noted that Council has commented to him that they have a multitude of ways to contact Mr. Shaffer with questions that he can then disseminate to the rest of Council in order to protect against Open Meetings Act violations. Finally, he questioned why the proposed time for a Pre-Council meeting was not one that was indicated on the Doodle Survey of Council that was conducted to determine a mutually convenient time to meet.

Councilmember Pearson commented that he contacted City Attorney Brown ostensibly because he objected to his Opinion since he thought it squelched transparency; and, what he wanted was extensive City Council discussion (at the Pre-Council Meetings). He recommended that Council take this matter up at the Council Retreat for an in depth analysis, line by line, in order to open up (Pre-Council Meetings) to full transparency. He said that Councilmember Urban used this document against having Pre-Council Meetings; and, that he has gone on record saying that, when he was elected to Council, his only commitment was to show up twice a month for City Council Meetings (as determined by *City Charter*). He indicated that Council has had Pre-Council Meetings in the past; Pre-Council Meetings do open up transparency; he is fully in favor of having Pre-Council Meetings; and, he is sure Council can get a mutually convenient time on their schedules as evidenced by the results of the Doodle Survey. Also, since there is no voting at these Pre-Council Meetings, the consensus, or the majority, of this Council is to be able to call in and use modern technology, and he said he asked Mr. Brown why this was not addressed in his Opinion, as he felt it should be since it should be a part of the discussion of full Council.

Councilmember Reid objected to the characterization that Councilmember Urban only signed on for two meetings a month as it is really not accurate since all Councilmembers have responsibilities beyond the Regular City Council Meetings such as serving on external/community committees, on-going committees, task groups and boards. She stressed that this is a regularly scheduled special meeting of City Council that has to meet at a time that is universally acceptable. She pointed out that Council did not get the results of the Doodle Survey, and she said she was interested in the results of the survey as she wanted to know what the time options were. She recognized from Mr. Brown's Opinion that the Pre-Council Meetings were not going to have discussion and be very constrained. She recognized that the current procedure is also somewhat constrained, but it allows Council to ask questions and get information as needed and cited item F.1, 2016 Fee Schedules, as a good example that explains how the current method works and works well for decision-making. She emphasized the effectiveness of the use of e-mails, the need to follow the Open Meetings Act guidelines to protect against legal issues as articulated by Attorney Brown, and the importance of still getting questions answered. She pointed out that if there is an interest in discussion, that is a different type of meeting than the Pre-Council Meetings being considered here; that is a different type of meeting; and, Council is not considering the type of Pre-Council Meetings that have happened in the past because that was a sub-quorum group and a different "animal."

Councilmember Reid also addressed the requirement that City Council had to have very clear rules for these Pre-Council Meetings according to Attorney Brown, and mentioned that Council cannot have Pre-Council Meetings until those rules have been developed and passed by Council. For these reasons, she said she is not in favor of approving the schedule as presented until Council has these matters solved.

Councilmember Randall expressed dissatisfaction with the Opinion of City Attorney Brown dated November 24, 2015, but did not have a chance to call him. She thought the objective was that Council would work together as a team, and that was Mayor Strazdas' intent because each Councilmember comes to a meeting with a different set of information that was verbally conveyed. She said she was virtually excluded from this information during the first four years on Council, and the scheduling of Pre-Council Meetings was meant to be a way of bringing everyone along, all on the same page, at the same time, everyone hears it together, and create some good will among the Councilmembers. She expressed her opinion that it is the job of Council to set the Agenda on how to run these meetings as a policy. She outlined how Kalamazoo County Meetings are run, and indicated that she would be speaking with a couple of individuals in order to find out how to honor transparency and still adhere to the Open Meetings Act.

Councilmember Urban indicated that the City Council has already implemented the Committee of the Whole (COW) which is what the County does for the meetings to which she referred. However, the Pre-Council Meetings are different from the COW; people have gone to jail for violating the Open Meetings Act, and he does not intend to violate the Act. He said that he has always valued the legal opinion of Mr. Brown and, as Councilmember Pearson indicated, Council needs to discuss this at the Council Retreat, so setting a schedule, starting these meetings, before the discussion of the rules and setting the rules is inappropriate.

Councilmember Ford indicated that he does not plan to attend very many of these Pre-Council Meetings; that any Special Meetings regarding the Agenda can easily be properly noticed; questions at these meetings should be limited to the Agenda items; no one on Council intends to discuss items outside the Agenda; and, he sees this as a way for Council to get information face to face, if preferred, and explained. He referenced the sub-quorum meeting format with only three Councilmembers: the Mayor, the Mayor Pro Tem and the Consent reader, as was used in the past. He said that not many or no citizens showed up at City Hall owing to the 7:30 a.m. time of the meeting, and spoke in support of the meeting as a question and answer session for the exchange of information.

City Attorney Brown interjected that the intent of his Opinion may have become somewhat exaggerated. He indicated that at the last meeting, he understood that the Council would be setting a Regular Special Meeting of Council where a quorum could be present that would be restricted to questions from City Council to the City Manager and only the answers would be provided. He indicated

that he did not talk to any Councilmember afterwards, but it occurred to him that there were some issues that needed to be resolved; and, they are not insurmountable, but they need to be resolved. He explained that his Opinion was written to clarify so there was no ambiguity and no violations later, and Mr. Shaffer agreed that it is important that Council be aware of some of these issues and how to handle them. Mayor Pro Tem Ansari concurred. City Attorney Brown indicated that the crux of the Opinion is the Special Meeting Notice and the rules that need to be set up to determine the limit of the discourse at this meeting or how to proceed and explained. In response to Mayor Pro Tem Ansari and the request from Councilmember Reid, Mr. Shaffer said from the Doodle Survey, he understood a consensus developed around the 9:00 a.m. time, so that is the time reflected on the proposed Pre-Council Meetings Schedule.

Councilmember Reid indicated that her reason for asking about the Doodle Survey was because she felt a consensus was not adequate because the time needs to be a time that is available to all of Council.

In answer to Councilmember Pearson, Councilmember Urban pointed out that the 9:00 a.m. time was not one of the survey options, but he and the rest of Council confirmed that they were available at that time. Councilmember Pearson indicated that he went to a lot of Pre-Council Meetings when it was not his turn, and found that he had more information than the other Councilmembers. Therefore, he asked to bring Pre-Council Meetings back, but saw that it was important that all Councilmembers had the same information, so he suggested that it be open to all Councilmembers, record it, take minutes, and whatever else is necessary. He stated he agreed with Councilmember Urban that this matter needs to be discussed further at the Council Retreat.

Motion by Pearson, seconded by Randall, to set the Pre-Council Meetings for the 2016 Calendar Year to start on February 8, 2016, to give City Council time to have a full discussion at the January 22, 2016 City Council Retreat.

Councilmember Ford referred to the Councilmember training for the electronic agenda on SuiteOne coming up which may be useful as a means to notify the City Manager of questions, and stressed the importance of setting some ground rules: questions only, an answer by the City Manager and possible follow-up questions and explained.

Councilmember Urban concurred with Councilmember Ford which is a reason not to schedule Pre-Council Meetings because the questions can be asked via e-mail and the answers can be disseminated to all Councilmembers by e-mail, even if the questions are asked over the phone or in person. He questioned the reasonableness of scheduling a Special Meeting and to tie staff up producing minutes for all of Council, which would have to be done fairly quickly in order to be useful in notifying Councilmembers who did not attend of what went on at the meeting. He noted that he was the one who asked that someone be allowed to fill in when there was a Councilmember who could not attend one of the Pre-Council Meetings in the past, and that he would still advocate that position if that procedure was still in place. He contrasted the proposed Pre-Council Meetings with the Pre-Council Meetings of the past because it means setting an Agenda which limits what can be discussed and questions that go beyond the Agenda of the Regular Meeting cannot be asked. He said that making Pre-Council Meetings formal is not going to add transparency to anything; no citizens are going to show up; and, quite likely most citizens will not know about the meetings. He said it makes no sense when Council can ask the same question by e-mail, by phone or by visiting the City Manager face to face as is currently the case. Discussion followed. Upon a roll call vote, motion carried 5 to 1. Yeas: Councilmembers Ford, Pearson, Randall and Reid, and Mayor Pro Tem Ansari. No: Councilmember Urban.

#### **AUSTIN LAKE GOVERNMENTAL LAKE BOARD – APPOINT NEW MEMBER:**

Councilmember Pearson provided an explanation and perspective of the necessity to appoint a member to the Austin Lake Governmental Lake Board with the vacancy created by the leaving of former Mayor Pro Tem Ed Sackley, who is leaving his position on the Board. City Clerk James Hudson confirmed that the string of e-mails with Mr. Sackley confirms his intent and no formal resignation letter is necessary. Councilmember Pearson related that Mr. Sackley will act as Chair of the Board on December 9, 2015; there will be a vote for new officers; the lake scientists will give preliminary report in January 2016, and he reflected on the wisdom of selecting a Councilmember to serve prior to the Council Retreat effective

January 1, 2016, in order to receive the report from the lake scientists and be fully on board for the first meeting in January 2016. Discussion followed. Motion by Pearson, seconded by Reid, to appoint Mayor Pro Tem Ansari to the Austin Lake Governmental Lake Board. Discussion followed. Upon a roll call vote, motion carried 6 to 0.

**BOARD AND COMMISSION INTERVIEWS:** Councilmember Ford expressed his agreement with City Council Policy to reappoint Board members in good standing, but questioned the procedure of not informing applicants of this Policy who are interested in a Board or Commission where each of the members with expiring terms wish to be reappointed. He indicated that this would allow the applicant to choose whether or not to “waste” his or her Tuesday night or not come to the interviews.

Councilmember Reid responded that there have been times when an applicant came to interview for one position, and while at the interview session found out about other positions and, if the applicant does not come at all, that opportunity is lost. She pointed out that this is a Policy that is not only based upon attendance, but also on how the applicant has worked and that is not something that can be determined ahead of time. She spoke in opposition to the idea of not inviting the applicant because she did not wish to reduce the number of people who are coming to volunteer for Boards and Commissions and explained that Council is usually able to find a good fit for the applicants who are interested and did not wish to reduce those numbers because of this. Discussion followed.

Councilmember Urban indicated that perseverance and a showing of interest has served many applicants in the past as it was deemed by Council that it was time to place an applicant on a Board who consistently showed up for the interviews, Council got to know the person and a proper fit could be found. Discussion followed.

Motion by Randall, seconded by Reid, to set a Special Meeting on Tuesday, January 12, 2016, at 5:30 p.m., to interview Board and Commission applicants. Upon a roll call vote, motion carried 6 to 0.

\* **LDFA REFUNDING BONDS SAVINGS – ANALYSIS REPORT:** Motion by Reid, seconded by Pearson, to receive the communication from the City Manager regarding the refunding of Local Development Finance Authority Bonds, Series 2004, as information only. Upon a roll call vote, motion carried 6 to 0.

#### **UNFINISHED BUSINESS:**

\* **HARRIS DRIVE VACATION REQUEST:** Motion by Reid, seconded by Pearson, to adopt the Resolution to vacate the south approximate 57 feet of Harris Drive. Upon a roll call vote, motion carried 6 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS MEETINGS:** City Council received the minutes of the Portage Public Schools District Advisory Council of October 15, 2015.

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

**STATEMENTS OF CITY COUNCIL:** Councilmember Urban referenced the discussions by Councilmembers Ford, Reid and himself of the essays from Portage Public School Children entitled, “Why I Love Portage” to determine the winning pair of students who will be given the opportunity to turn on the Christmas lights in Portage and that he was looking forward to the Annual Tree Lighting Ceremony on December 5, 2015, at 7 p.m.

Councilmember Reid mentioned the upcoming Council of Governments (COG) Meeting, December 2, 2015, 3:30 p.m. at the Kalamazoo County Road Commission, 3801 East Kilgore Road, where they will discuss the structuring of the upcoming Countywide Public Transit for the Demand Service and the County Sheriff millage campaigns. She also noted that the COG would be reviewing a recent survey to help determine how to best serve each of the municipal members within COG.

Councilmember Randall highlighted the Annual Tree Lighting Ceremony as a wonderful family event and acknowledged the passing of Communication Services Employee Janet Hughes and extended her condolences to her family.

Councilmember Ford congratulated the MSU Spartans for winning the Big 10 East Football Championship, concurred that the Annual Tree Lighting Ceremony is a great event, and shared that he recently was able to enjoy the new snow with his family on the sledding hill at Oakland Park.

Councilmember Pearson thanked Mayor Pro Tem Ansari for stepping in at the very next meeting after his appointment to run the meeting this evening.

City Manager Shaffer reflected on the comment by Councilmember Randall regarding the tragic loss of Janet Hughes, and noted that she always dreamt of traveling to Israel; she was a woman of deep faith; she made it to Israel where she passed away. He noted that many of her Church group were at the memorial service and shared some of her experiences in Israel. He said that in some ways, it was a great tragedy, but in other ways a great joy to hear that one of our own achieved something that was so high on her list of wishes.

Mayor Pro Tem Ansari indicated that he has had citizens express concern about the unknown impact of the potential merger of Pfizer, Inc., and Allergan that would create the largest pharmaceutical company in the world with a deal worth about \$250 billion. He said that the importance of Pfizer to the local economy cannot be overstated. He noted that Pfizer employs over 1,800 employees at the Portage manufacturing facility, has a taxable value of just over \$300 million and contributes more than \$2.9 million in taxes to Portage. He indicated that Pfizer has applied for a variance to the Zoning Board of Appeals for the construction of a 100,000 square foot facility on its Portage campus. He indicated that future construction has also been discussed and the goal of the City of Portage is to remain an open and credible partner to ensure that the pharmaceutical giant continues to support and enhance its largest manufacturing facility within the City of Portage.

**ADJOURNMENT:** Mayor Pro Tem Ansari adjourned the meeting at 8:40 p.m.

James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.

SUMMARY ENVIRONMENTAL ACTIVITY REPORT  
November 2015 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-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. The 2 <sup>nd</sup> year of AHC's contract is underway with annual testing ongoing.
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.	-Coordination with property owners and City or State agencies ongoing. -Review of 1 site/building plan and/or plats completed in November 2015.
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	-Sanitary sewer hookup permits issued in November 2015: 7 residential; 0 commercial.
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions. Special emphasis on weed control and non-point source pollution reduction.	-Five Year Lake Management Assessment District process was approved by City Council. The West Lake Improvement association has completed a five year plan for a new special assessment district. Special assessment process for 2015-2019 began on August 26, 2014. Resolution No. 5 completing the assessment was adopted October 21, 2014. Year-end report by the consultant is complete. The Association has selected to use

Restorative Lake Sciences, LLC for consulting services for 2015. Treatment application completed in mid-June. Follow-up inspection of treatment will be done by Restorative Lake. The 2015 weed treatment bids were received on February 24, 2015. City Council approved weed treatment contract with Professional Lake Management Company on April 10, 2015. Weed treatment was completed in June. The Association has requested to renew the contract with Restorative Lake Science for 2016.

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. 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 October 2014 and July 2015. Monthly sampling at two retention basins continues. Current findings show groundwater levels of approximately the same as 2014 levels.

Wellhead Protection Program (WHPP)

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

-Current Wellhead Protection was approved 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 has been initiated as part of the Water Reliability Study in conjunction with Fishbeck, Thompson, Carr & Huber update work currently underway. Wellfield delineation completed. Engineering intern has completed contamination source inventory. Final report preparation was submitted to the Michigan Department of Environmental Quality for review and approval. Letter of approval received from MDEQ on June 15, 2015. Program implementation is ongoing. Staff is working on annual report summary to MDEQ.

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 2015, with report submitted. No significant change in groundwater impacts.

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 (SWIPPI) 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. New permit application process announced in November 2014. New permit application was submitted in March 2015. Implementation 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. Canoe trip inspection was held on September 13, 2014. No new developments.

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

-On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections." Program implementation is ongoing. 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. 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 scheduled for 2014 were completed in July with summary report received. Report will be submitted to MDEQ as part of the annual report. Next report due in December 2015.

Garden Lane Arsenic Removal Facility	<i>Native Prairie Restoration</i>	Staff currently working with the Environmental Board on informative signs and long-term maintenance plans for the native planting landscape design in front of the Garden Lane Treatment Plant. New informational signs are complete and maintenance is ongoing. Native prairie burn is being planned for 2016.
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 2014-15 with Terra Contracting has been renewed. <i>The number of environmental incident/spill investigations performed in November – 0. Number of environmental cleanups in November – 0.</i>
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.