

**CITY OF PORTAGE**

**COMMUNICATION**

---

---

**TO:** Honorable Mayor and City Council

**DATE:** August 6, 2012

**FROM:** Maurice S. Evans, City Manager

*MSE (for M. Evans)*

**SUBJECT:** Preliminary Plat of Oakland Farms North, 9810 Oakland Drive

**ACTION RECOMMENDED:** That City Council approve the Preliminary Plat of Oakland Farms North, subject to the conditions identified in the September 9, 2011 Department of Community Development report.

Attached is a report from the Department of Community Development and a transmittal from the Planning Commission concerning the Preliminary Plat of Oakland Farms North, a 19-lot single-family development on approximately six acres of land.

As background information for Council, the Planning Commission previously recommended approval of the plat on September 15, 2011 but shortly thereafter the applicant, Hyland Associates, informed the Department of Community Development of a property line dispute regarding the northern plat boundary and the adjacent property to the north (9708 Oakland Drive). Before requesting City Council approval of the preliminary plat, Hyland Associates requested Council grant three separate 90-day extensions to resolve the property line dispute. On July 25, 2012 the property line dispute was resolved and a Full and Final Boundary Line Agreement was executed between the affected property owners. The agreed upon property line location is the same as shown on the preliminary plat recommended by the Planning Commission in September 2011 so no changes to the preliminary plat were necessary.

The City Administration and the Planning Commission recommend that City Council approve the Preliminary Plat of Oakland Farms North subject to the conditions identified in the September 9, 2011 Department of Community Development report.

Attachment: Department of Community Development Communication

# CITY OF PORTAGE

# COMMUNICATION

---

**TO:** Maurice S. Evans, City Manager

**DATE:** August 6, 2012

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

**SUBJECT:** Preliminary Plat of Oakland Farms North, 9810 Oakland Drive

Hyland Associates, LLC has submitted the preliminary plat of Oakland Farms North, a 19-lot single-family development located along the west side of Oakland Drive, north of Shaver Road. The plat of Oakland Farms North represents the second phase of the single-family residential subdivision. The first phase of the subdivision (Oakland Farms), which involved construction of Oakland Farms Trail and 19 residential lots, was approved and constructed in 2006/2007 and individual house construction is nearing completion.

The Planning Commission discussed the preliminary plat during the September 15, 2011 meeting and voted 7-0 to recommend to City Council approval subject to the two conditions identified in the September 9, 2011 Community Development Department report involving design of the streets/underground utilities and temporary storm water retention basin.

Shortly after review/recommendation by the Planning Commission, the applicant informed the Department of Community Development of a property line dispute regarding the northern plat boundary and the adjacent property, 9708 Oakland Drive (Rebecca Argue-Powers). While resolution of this property line dispute was being discussed between the effected property owners, City Council granted Hyland Associates three 90-day extensions to resolve this matter (November 15, 2011, February 14 and May 8, 2012) before approving the preliminary plat. Following the last extension request, a resolution has been reached by the affected property owners. Attached is a July 31, 2012 letter from Mr. Dan Martz, Hyland Associates, stating the property line dispute has been resolved. The effected property owners have signed a Full and Final Boundary Line Agreement. The agreed upon property line location is the same as shown on the preliminary plat recommended by the Planning Commission in September 2011 so no changes to the preliminary plat were necessary.

The Planning Commission transmittal, minutes of the Planning Commission meeting of September 15, 2011, Department report and related materials are attached for review.

**Attachments:** Planning Commission Transmittal dated September 16, 2011  
Planning Commission Minutes dated September 15, 2011  
Department of Community Development Report dated September 9, 2011  
Preliminary Plat  
July 31, 2012 letter from Mr. Dan Martz, Hyland Associates, LLC

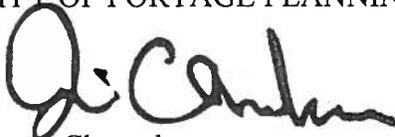
**TO:** Honorable Mayor and City Council  
**FROM:** Planning Commission  
**DATE:** September 16, 2011  
**SUBJECT:** Preliminary Plat of Oakland Farms North, 9810 Oakland Drive

At the meeting of September 15, 2011, the Planning Commission held a public hearing to review and discuss the Preliminary Plat of Oakland Farms North, a proposed 19 lot single-family development on approximately six acres. The plat of Oakland Farms North represents the second phase of the single-family residential subdivision planned along the west side of Oakland Drive.

The applicant, Mr. Dan Martz representing Hyland Associates, was present to support the plat. No other citizens were present at the meeting to comment on the proposed preliminary plat. After a brief discussion, the Planning Commission voted unanimously to recommend to City Council that the Preliminary Plat of Oakland Farms North, 9810 Oakland Drive, be approved subject to the conditions listed in the Department of Community Development staff report dated September 9, 2011.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION



James Cheesebro  
Chairman

## PLANNING COMMISSION

September 15, 2011

The City of Portage Planning Commission meeting of September 15, 2011 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. One citizen was in attendance.

### **MEMBERS PRESENT:**

Bill Patterson, Jim Pearson, Paul Welch, Wayne Stoffer, Rick Bosch, Allan Reiff and Chairman James Cheesebro.

### **MEMBERS ABSENT:**

None.

### **MEMBERS EXCUSED:**

Mark Siegfried and Miko Dargitz.

### **IN ATTENDANCE:**

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

### **PLEDGE OF ALLEGIANCE:**

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

### **APPROVAL OF MINUTES:**

Chairman Cheesebro referred the Commission to the September 1, 2011 meeting minutes. A motion was offered by Commissioner Bosch, seconded by Commissioner Patterson, to approve the minutes as submitted. The motion was unanimously approved.

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

None

### **PUBLIC HEARINGS:**

1. Preliminary Plat of Oakland Farms North, 9810 Oakland Drive. Mr. Forth summarized the staff report dated September 9, 2011 and indicated the plat of Oakland Farms North represents the second phase of the single-family residential subdivision planned along the west side of Oakland Drive, north of Shaver Road. Oakland Farms North consists of 19 additional lots on approximately six acres of land. Staff is recommending the plat be approved subject to two conditions involving design of the street/underground utilizes and the temporary storm water retention basin.

The applicant, Mr. Dan Martz representing Hyland Associates, was present to support the proposed plat. Commissioner Pearson asked Mr. Martz if he has been in communication with the property owners to the north. Mr. Martz indicated he has been in contact with those property owners. Commissioner Welch asked Mr. Martz if he was in agreement with the staff recommendation. Mr. Martz stated he concurs with the staff recommendation.

Chairman Cheesebro opened the public hearing. There being no public comment, a motion was made by Commissioner Welch and supported by Commissioner Patterson to close the public hearing. The motion was unanimously approved. There being no further discussion, a motion was made by Commissioner Patterson and supported by Commissioner Welch that the Planning Commission recommend to City Council approval of the preliminary plat of Oakland Farms North subject to the conditions outlined in the Department of Community report dated September 9, 2011. The motion was unanimously approved.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

None

**STATEMENT OF CITIZENS:**

None

**ADJOURNMENT:**

There being no further business to come before the Commission, the meeting was adjourned at 7:12 p.m.

Respectfully submitted,

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

**TO:** Planning Commission

**DATE:** September 9, 2011

**FROM:** Vicki Georgeau, Director of Community Development

**SUBJECT:** Preliminary Plat: Oakland Farms North, 9810 Oakland Drive.

**INTRODUCTION:**

The preliminary plat of Oakland Farms North has been submitted for review and approval. The plat of Oakland Farms North represents the second phase of the single-family residential subdivision planned along the west side of Oakland Drive, north of Shaver Road. The first phase of the subdivision (Oakland Farms), which involved construction of Oakland Farms Trail and 19 residential lots, was approved and constructed in 2006/2007 and individual house construction is nearing completion. Future phases of the subdivision are also planned to the west and south and upon completion, the entire plat will consist of approximately 115 lots on 46 acres.

Applicant	Lots/Area	Location
Hyland Associates, LLC	19 lots/6.0 acres	Southeast ¼ of Section 29, West of Oakland Drive and north of Shaver Road.

**BACKGROUND INFORMATION:**

The following is important background information and summarizes the requirements that are applicable to the preliminary plat application. All required improvements will comply with Article 5 – Subdivision and Land Division Regulations of the City of Portage Land Development Regulations.

Street Access	Construction of a new cul-de-sac public street from Oakland Drive (“Road A”) with provision for future street extension to the remaining vacant property to the west and south.
Storm water	Directed to a temporary/private storm water basin located west of Lots 1 and 19 and the temporary cul-de-sac.
Public Improvements	All necessary improvements (i.e., water, sanitary sewer, curb-gutter, sidewalks, streetlights and so forth) will be provided pursuant to established ordinance requirements.
Zoning	R-1B, one family residential: Minimum 80 foot lot widths (100 feet for corner lots); minimum lot size of 9,600 square feet; and minimum setbacks of 30-feet (front), 10-feet (side) and 40-feet (rear).
Environmental impacts	No wetlands, floodplain or other environmental issues are present on the property proposed for the second phase of the subdivision. The City of Portage Sensitive Land Use Inventory Map identifies areas of potential wetlands and the 100-year floodplain near the western property line of the overall property (“Future Development Area”).
Traffic	A total of 19 single-family residential dwellings can be expected to generate approximately 95-114 vehicles per day (equivalent to 190-228 vehicle trips per day).

**PUBLIC NOTICE REQUIREMENTS:**

In accordance with the Michigan Planning Enabling Act (Public Act No. 33 of 2008, as amended), a public notice was published in the local newspaper and notice was mailed to owners of land immediately adjoining the proposed plat 15 days prior to the date of the public hearing.

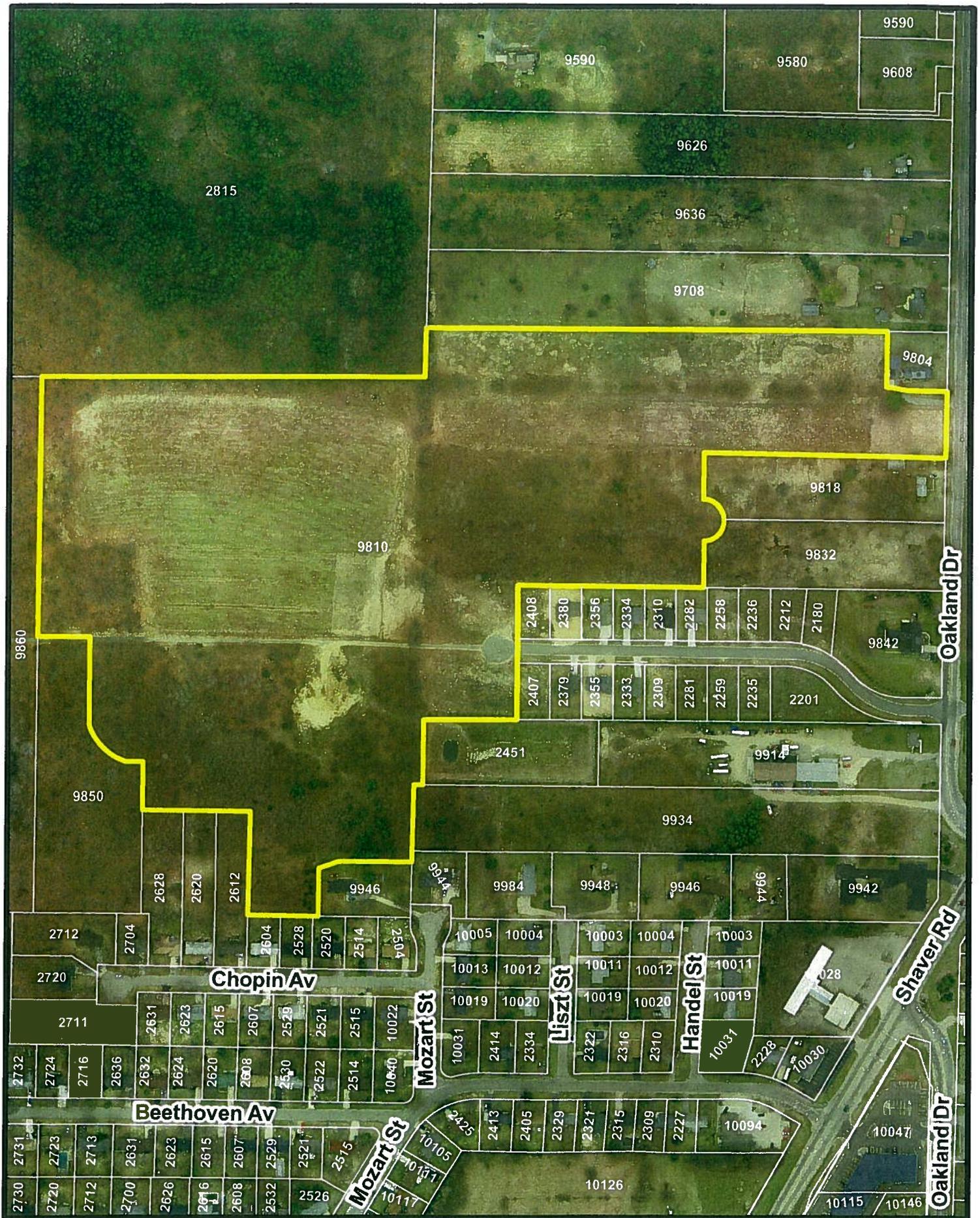
Submission of the preliminary plat is intended to provide the community with the opportunity to examine existing and proposed conditions pertaining to the development of the subdivision. After approval by the City Council, preliminary plat approval is effective for 12 months. During the 12 month period, detailed engineering drawings will be prepared and submitted to City Council for review and approval. Following construction of the plat improvements, the developer will request that City Council grant final plat approval.

**RECOMMENDATION:**

The proposed plat has been reviewed within the context of the Comprehensive Plan, Land Development Regulations and other applicable ordinance requirements. Based on the above information and subject to any additional information received during the public hearing, staff advises the Planning Commission recommend to City Council that the Preliminary Plat of Oakland Farms North, 9810 Oakland Drive, be approved subject to the following conditions:

1. Streets and Utilities – The proposed street system, municipal water and sanitary sewer are acceptable in concept. Final design, location and related issues will be addressed upon submittal of the detailed engineering drawings. Any public utility located outside of the street right-of-way will require that an easement(s) be conveyed to the city. An easement for the temporary cul-de-sac bulb at the end of “Road A” will also be provided to the city until future street extension occurs with a subsequent phase of the subdivision.
2. Storm Water Retention – Storm water run-off from “Road A” will be conveyed to a temporary, private storm water retention basin, located west of Lots 1 and 19, that will be owned and maintained by the developer/property owner until the next phase of development. At that time, the storm water will be conveyed to the existing basin located south of Oakland Farms. An easement and maintenance/indemnification agreement will be conveyed to the city for discharge of storm water from “Road A” to this temporary, private basin. Final design, location and related issues associated with this temporary basin will be addressed upon submittal of the detailed engineering drawings.

Attachments:   Aerial Photograph/Zoning Map  
                  Preliminary Plat Drawing



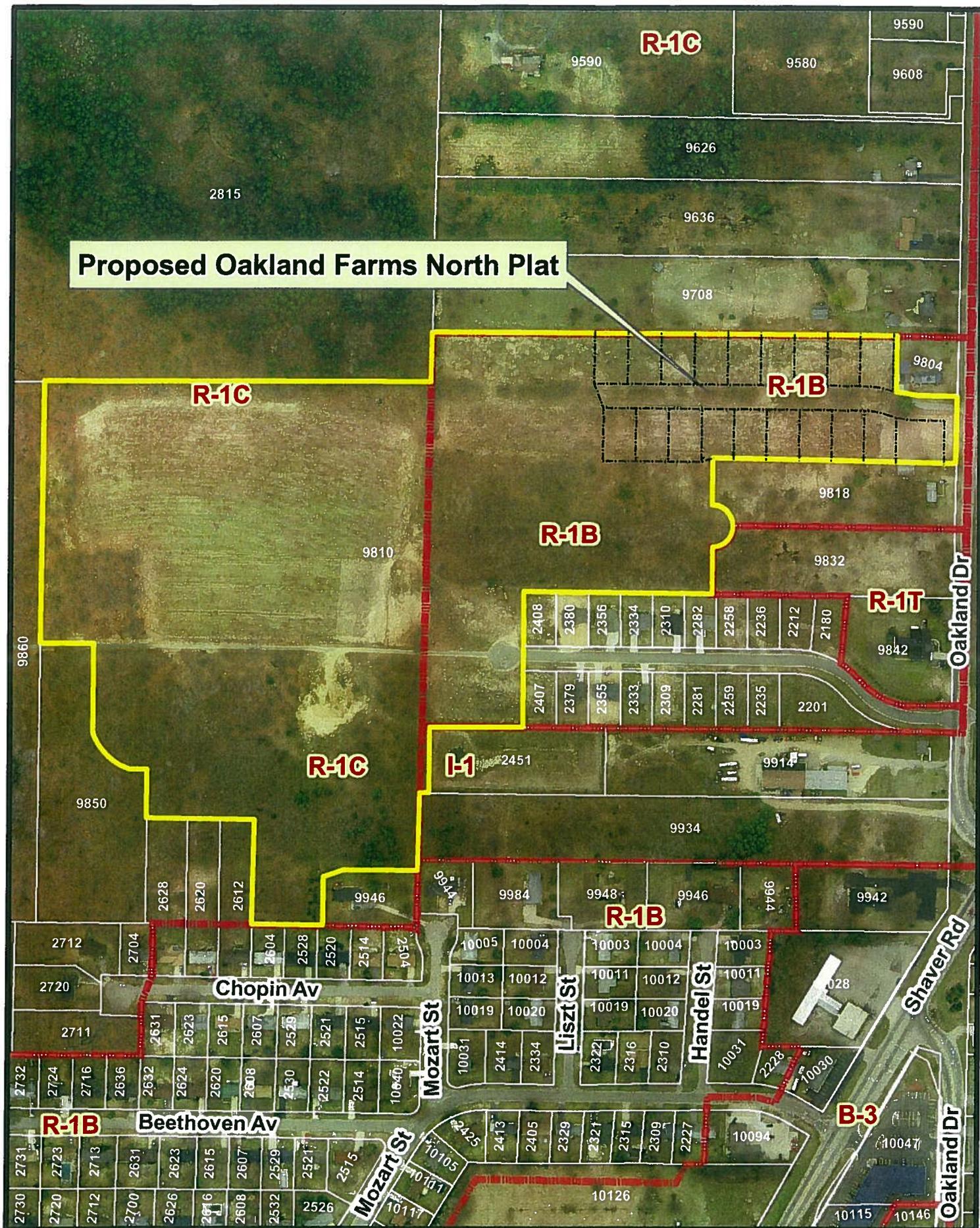
# Aerial Photography Oakland Farms North 9810 Oakland Drive



1 inch = 309 feet

## Legend

Subject Property



**Proposed Oakland Farms North Plat**

**Aerial Photography / Zoning Map  
Oakland Farms North  
9810 Oakland Drive**

- Legend**
- Proposed Oakland Farms North
  - Subject Property
  - Zoning Boundary

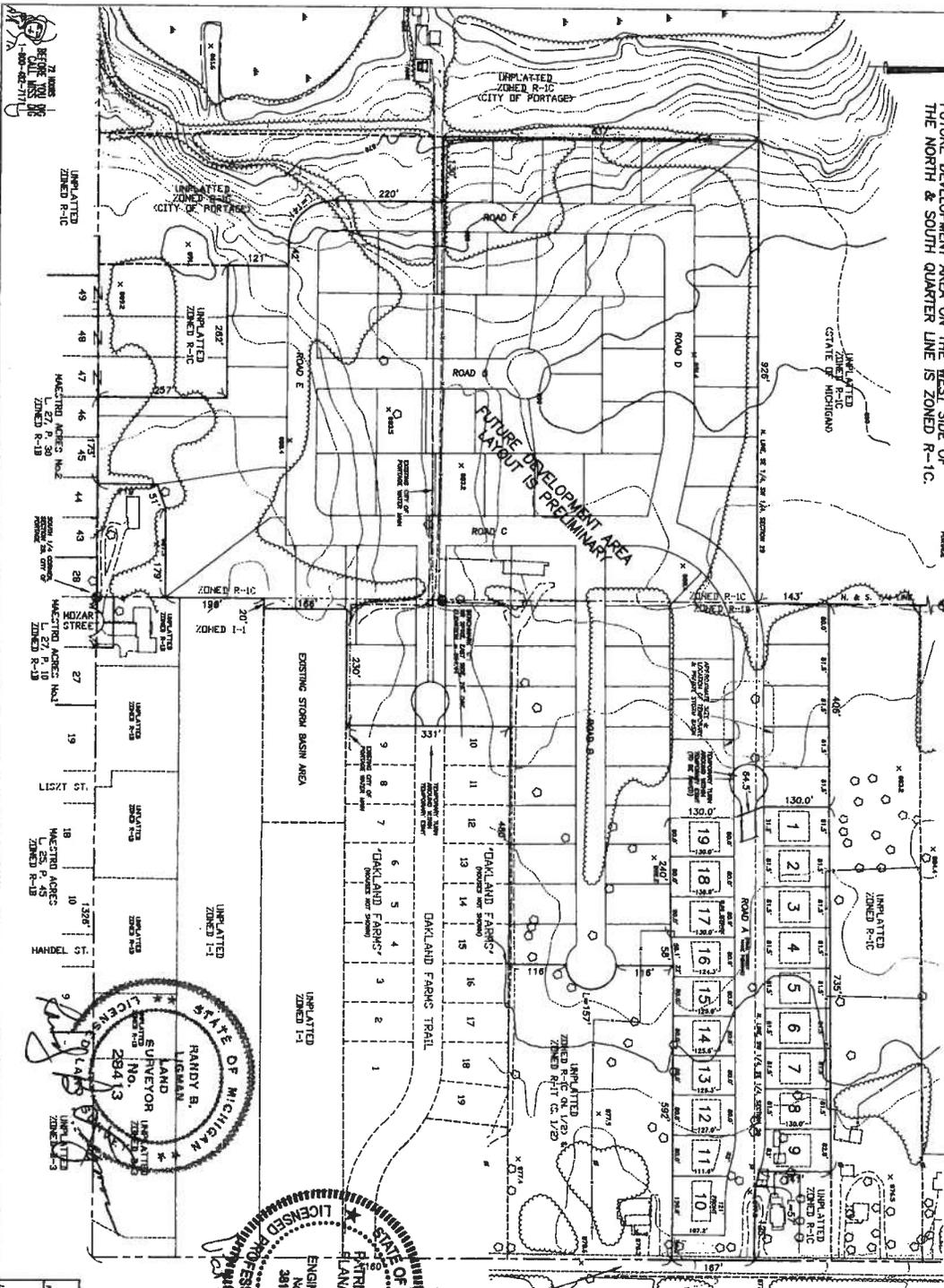


1 inch = 309 feet

NOTE: PROPOSED "OAKLAND FARMS NORTH" & FUTURE DEVELOPMENT AREA ON THE EAST SIDE OF THE NORTH & SOUTH QUARTER LINE IS ZONED R-1B. FUTURE DEVELOPMENT AREA ON THE WEST SIDE OF THE NORTH & SOUTH QUARTER LINE IS ZONED R-1C.



# PRELIMINARY PLAT for "OAKLAND FARMS NORTH"



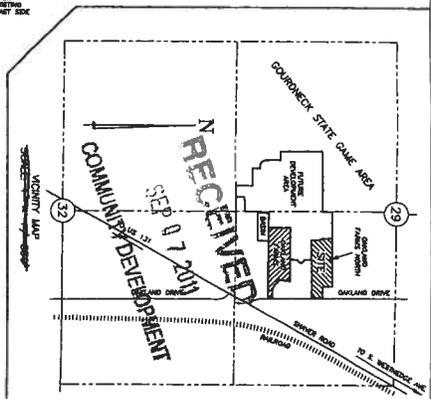
STATE OF MICHIGAN  
 RANDY B. LAND SURVEYOR  
 LICENSE NO. 28413

STATE OF MICHIGAN  
 PATRICK D. FLANAGAN  
 LICENSED PROFESSIONAL ENGINEER  
 No. 38170

APPLICANT:  
 HYLAND ASSOCIATES, LLC  
 7545 SOUTH 10th ST.  
 KALAMAZOO, MI 49009  
 207-2239 or 207-2920

PRELIMINARY PLAT for  
 OAKLAND FARMS NORTH  
 DATE: 8/17/2011  
 SHEET NO. 1  
 TOTAL SHEETS: 1  
 1235 East State Street, Kalamazoo, Michigan 49007 - Phone: 269-391-4488

- NOTES**
- 1) PROPOSED PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE CITY OF PORTAGE, MICHIGAN.
  - 2) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE STATE OF MICHIGAN.
  - 3) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE COUNTY OF HOSCHUNK, MICHIGAN.
  - 4) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE TOWNSHIP OF HOSCHUNK, MICHIGAN.
  - 5) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE VILLAGE OF HOSCHUNK, MICHIGAN.
  - 6) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE TOWNSHIP OF HOSCHUNK, MICHIGAN.
  - 7) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE VILLAGE OF HOSCHUNK, MICHIGAN.
  - 8) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE TOWNSHIP OF HOSCHUNK, MICHIGAN.
  - 9) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE VILLAGE OF HOSCHUNK, MICHIGAN.
  - 10) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE TOWNSHIP OF HOSCHUNK, MICHIGAN.
  - 11) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE VILLAGE OF HOSCHUNK, MICHIGAN.
  - 12) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE TOWNSHIP OF HOSCHUNK, MICHIGAN.
  - 13) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE VILLAGE OF HOSCHUNK, MICHIGAN.
  - 14) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE TOWNSHIP OF HOSCHUNK, MICHIGAN.
  - 15) THE PLAT IS SUBJECT TO ALL APPLICABLE ORDINANCES AND REGULATIONS OF THE VILLAGE OF HOSCHUNK, MICHIGAN.



**FIRE DEPT. NOTES**

THE FIRE DEPT. HAS REVIEWED THE PLAT AND HAS NO COMMENTS AT THIS TIME.

**R-1B ZONING INFORMATION:**

MINIMUM LOT AREA: 10,000 SQ. FT.

MINIMUM LOT WIDTH: 100 FT.

MINIMUM LOT DEPTH: 100 FT.

MINIMUM LOT FRONT SETBACK: 10 FT.

MINIMUM LOT SIDE SETBACK: 10 FT.

MINIMUM LOT REAR SETBACK: 10 FT.

MINIMUM LOT FRONT YARD SETBACK: 10 FT.

MINIMUM LOT SIDE YARD SETBACK: 10 FT.

MINIMUM LOT REAR YARD SETBACK: 10 FT.

MINIMUM LOT FRONT SETBACK: 10 FT.

MINIMUM LOT SIDE SETBACK: 10 FT.

MINIMUM LOT REAR SETBACK: 10 FT.

MINIMUM LOT FRONT YARD SETBACK: 10 FT.

MINIMUM LOT SIDE YARD SETBACK: 10 FT.

MINIMUM LOT REAR YARD SETBACK: 10 FT.

HYLAND ASSOCIATES, L.L.C.

7545 S 10<sup>th</sup>. St.  
Kalamazoo, MI. 49009  
(269) 207-2920

RECEIVED

AUG 1 2012

COMMUNITY DEVELOPMENT

July 31, 2012

TO: Portage City Community Development

SUBJECT: Preliminary plat approval of Oakland Farms North

Attention: Chris Forth

Please be advised that the lot line dispute with Becky Powers has been resolved. A property line agreement was signed last Wednesday, the 25<sup>th</sup>. We are requesting that the City Council reinstate our plat of Oakland Farms for preliminary approval.

Respectfully Submitted,

Dan Martz  
Hyland Associates, L.L.C.

# CITY OF PORTAGE

# COMMUNICATION

**TO:** Honorable Mayor and City Council

**DATE:** August 8, 2012

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Tax Exemption for Centre Street Village Apartments

**ACTION RECOMMENDED:**

That City Council:

- a. accept for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant Centre Street Village II Limited Dividend Housing Association Limited Partnership a tax exemption and establish a payment in lieu of taxes for the Centre Street Village Apartments located at 2151 East Centre Avenue; and
- b. take final action on August 28, 2012.

The attached communication from Community Development Director Georgeau explains a request from Centre Street Village II Limited Dividend Housing Association Limited Partnership (Centre Street Village II) for a tax exemption for the acquisition and rehabilitation of Centre Street Village Apartments, a 65-unit multiple-family housing complex located at 2151 East Centre Avenue. When the Centre Street Village Apartments were constructed in 1994, the city adopted an ordinance that provided a tax exemption and established a Payment in Lieu of Taxes (PILOT) that requires payment to the city equal to four percent of the annual shelter rent. At that time, the PILOT ordinance facilitated affordable rental housing (20 of the 65 units were reserved for low and moderate income persons or families). The city has also adopted PILOT ordinances for the Spring Manor Apartments, The Crossings II Apartments, Barrington Woods Apartments, the Hearthside Apartments I & II, and a single-family affordable rental dwelling at 1506 Schuring Road.

The applicant proposes a \$2 million rehabilitation of the Centre Street Village Apartments, financed with a mortgage from the U.S. Department of Housing and Urban Development (HUD) and Low Income Housing Tax Credits (LIHTC) through the Michigan State Housing Development Authority (MSHDA). As part of the proposal, the number of housing units reserved for low and moderate income persons or households will be increased to 64 units, with one unit reserved for an on-site manager. As explained by the applicant, the award of LIHTC from MSHDA is very competitive and the established criteria awards additional points for applications that have a local PILOT ordinance in place for the project.

The request by Centre Street Village II has been carefully reviewed. A tax abatement and PILOT equal to six percent of annual shelter rent for this project is recommended. The proposal is consistent with the City Council quality of life goal to ensure decent and safe housing and improve neighborhood livability. This action is also consistent with the 2011-15 Consolidated Plan, which has been accepted by the City Council and approved by the U.S. Department of Housing and Urban Development as part of the Community Development Block Grant program.

It is recommended that Council accept the application and proposed ordinance for first reading and take final action on the ordinance on August 28, 2012.

Attachment: Department of Community Development Communication

## CITY OF PORTAGE

## COMMUNICATION

---

---

**TO:** Maurice S. Evans, City Manager

**DATE:** August 8, 2012

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

**SUBJECT:** Tax exemption for Centre Street Village Apartments

### **Introduction**

Centre Street Village II Limited Dividend Housing Association Limited Partnership (Centre Street Village II) has requested a property tax exemption for the acquisition and rehabilitation of the Centre Street Village Apartments, a 65-unit multiple-family housing complex located at 2151 East Centre Avenue. When the Centre Street Village Apartments were constructed in 1994, the city adopted an ordinance that provided a tax exemption and established a Payment in Lieu of Taxes (PILOT) that requires payment to the city equal to four percent of the annual shelter rent as permitted by State Housing Development Authority Act (Public Act 346 of 1966, as amended). At that time, the PILOT ordinance facilitated affordable rental housing, with 20 of the 65 units reserved for low and moderate income persons or families. The city has also adopted PILOT ordinances for the Spring Manor Apartments, The Crossings II Apartments, Barrington Woods Apartments, the Hearthsides Apartments I & II, and a single-family affordable rental dwelling at 1506 Schuring Road (owned by the Kalamazoo Family Non-Profit Housing Corporation).

As outlined in the correspondence from Centre Street Village II, the project will involve a rehabilitation of the development estimated at \$2 million, which will be financed with a mortgage from the U.S. Department of Housing and Urban Development (HUD) and Low Income Housing Tax Credits (LIHTC) through the Michigan State Housing Development Authority (MSHDA). As explained by the applicant, the award of LIHTC from MSHDA is very competitive and the established criteria awards additional points for applications that have a local PILOT ordinance in place for the project.

As part of the proposal, the number of housing units reserved for low and moderate income persons or households will be increased to 64 units. In particular, 32 units will be rented at rates affordable for households at or below 40% of the Area Median Income (AMI), and 32 units will be rented to households at or below 60% of AMI, and one unit will be reserved for the on-site manager.

### **Michigan Public Act 346 of 1966**

MSHDA was created and tax exemptions and Payment of Lieu of Taxes were permitted for certain housing developments. Act 346 stipulates: 1) that a tax exemption granted for eligible projects remains in effect for as long as the authority or federally-aided mortgage is outstanding; 2) any payments in lieu of taxes received by the city must be distributed to the affected taxing units in the same proportion as the property tax in the previous calendar year; and 3) the city establish a service charge to be paid in lieu of taxes in order to implement the tax exemption for the eligible housing

project. The service charge is negotiable, but may not exceed the property tax that would be paid without a service charge.

The current four percent PILOT ordinance for Centre Street Village Apartments will remain in effect until 2024 should the proposed acquisition and rehabilitation project not come to fruition. While the applicant initially requested a four percent PILOT, consistent with the Hearthside Apartments I & II PILOT ordinance adopted in 2010, the city requested and the applicant has agreed to an increased PILOT of six percent of annual shelter rents. The proposed PILOT is for 35-years, which coincides with the term of the proposed mortgage and associated “affordability period” for the rental housing units reserved for low and moderate income persons and households.

### **Project Benefits and Costs**

There are a number of community benefits made possible by this project:

- The project fulfills goals of the 2011-2015 Consolidated Plan approved by City Council, as part of the Community Development Block Grant program;
- The project will fulfill the goal to partner with for-profit and non-profit developers by providing a Payment in Lieu of Taxes incentive to help meet financing requirements for affordable housing;
- Approval of the proposed project will demonstrate the continued commitment on the part of the city to enhance the range of housing choice for low income and special needs residents;
- Based on data included in the Consolidated Plan, there are approximately 4,350 low income households in Portage that have a housing cost burden, who are paying over 30% of their income on housing expenses. Among low income renters, 60% of these households have a housing cost burden.
- The project is consistent with the Comprehensive Plan and rehabilitation will result in improvement to the property and will facilitate a \$2 million investment, which will also create and retain jobs.

The current PILOT results in \$3,101 of annual revenue to the city and \$18,537 for all units of governments (based on the most recent five-year average PILOT payments).

As with all developments, there are costs to the City of Portage and other taxing jurisdictions to provide municipal services. In this case, and with similar housing developments, costs also include foregone tax revenues due to the existing and proposed PILOT. The service costs for the development include public safety and general government services, and the cost per dwelling to the city for a multiple-family development has been estimated by the Finance Department as shown in the following table.

<b>General Fund</b>	<b>Estimated Annual Cost Per Unit</b>
Police	\$414
Fire	\$217
Other	\$446
Subtotal	\$1,077
<b>TOTAL COST (65 units)</b>	<b>\$70,005</b>

With regard to foregone tax revenue, the development has been tax exempt since its construction. Based on a recent review by the Office of City Assessor, the property, if not tax exempt, would have an estimated annual Ad-Valorem Tax Liability of \$150,796. The table on the top of page 3 illustrates annual foregone tax revenue for all taxing units, compared to average tax revenue (over 35-years) that would be received from the proposed PILOT.

<b>Taxing Unit</b>	<b>Estimated Annual Tax Revenue Without Tax Exemption/PILOT</b>	<b>Estimated Average Annual Revenue with PILOT</b>
City of Portage	\$28,759	\$5,173
State Education	\$16,010	\$2,880
School Operating	\$48,030	\$8,639
School Building/Debt	\$15,476	\$2,784
Portage District Library	\$4,002	\$720
KVCC	\$7,507	\$1,350
KRESA	\$12,986	\$2,336
Kalamazoo County	\$16,373	\$2,945
County Transport	\$1,067	\$192
County Juvenile	\$585	\$105
	\$150,796	\$27,123

NOTE: The minimum PILOT payment to all taxing units proposed by the ordinance amendment is \$24,318, but the PILOT payment is projected to increase to \$30,005 over the 35-year period of the PILOT.

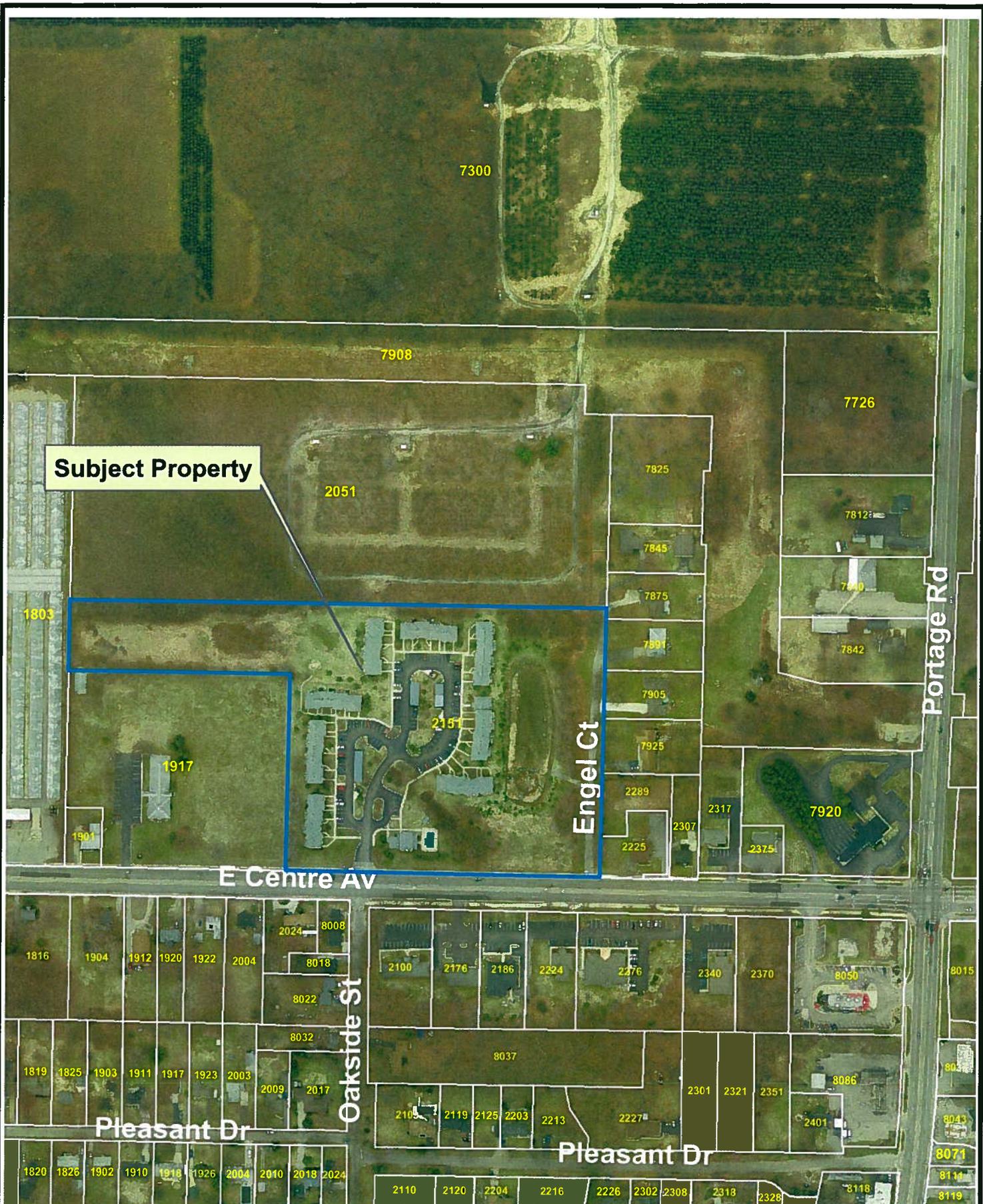
The estimated annual cost of services incurred by the City of Portage is \$70,005 compared to the \$5,173 average annual revenue that would be received by the city with the proposed PILOT. Service costs for the existing development are not anticipated to increase with the proposed acquisition and rehabilitation project.

### **Review/Recommendation**

The Department of Community Development has reviewed the application, and discussed the project with the applicant and the Office of the City Attorney. In addition, the City Attorney has approved the proposed ordinance amendment establishing a tax abatement and PILOT for City Council review and consideration. A tax exemption with a six percent PILOT is recommended as referenced in the attached amendment to Chapter 70, Article 2, Division 10 of the Code of Ordinances. The proposed ordinance, if adopted, would also repeal the PILOT in Division 5, for Centre Street Village Project, effective only after the acquisition of the property by Centre Street Village II Limited Dividend Housing Association Limited Partnership receipt/closure of the federally-aided mortgage.

Attachments: Vicinity Map  
Correspondence from Centre Street Village II LDHA LP dated August 6, 2012  
Proposed PILOT Ordinance

c: Deputy City Manager Brian J. Bowling  
City Attorney Randy Brown



**Vicinity Map**  
**Centre Street Village Apartments**  
**2151 East Centre Avenue**



Imagery: March 2009

1 inch = 300 feet



August 6, 2012 (via e-mail)

Vicki Georgeau, AICP  
Director, Community Development  
City of Portage  
7900 South Westnedge Avenue  
Portage, MI 49002

Re: Centre Street Village Apartments  
East Centre Street, Portage, MI  
"PILOT" Ordinance/City Code Division 5, Sections 70-141 et seq

Dear Ms. Georgeau:

The purpose of this letter is to formally request that the City Council, at its meeting scheduled for August 14, or as soon thereafter as legally permitted, consider and adopt an ordinance amending the PILOT ordinance previously enacted for this project.

We are planning on prepaying the MSHDA loan, replacing it with a HUD Section 223(f) insured loan, and making application to MSHDA for an award of Low Income Housing Tax Credits ("LIHTC"). That application is due on August 15, 2012. It is a very competitive process and points are awarded based on the character of the property, including the enactment of a PILOT for its benefit.

If tax credits are awarded, the property would be sold to a new limited partnership, in which a Lockwood entity would be the general partner. All units would be restricted to households with low and moderate incomes, and monthly rents would be similarly limited consistent with LIHTC provisions. Lockwood Management would continue to operate the day-to-day operations of the development.

The proceeds of the new loan and syndication of the LIHTC will be used for the acquisition and rehabilitation of Centre Street Village. Our estimate of rehabilitation related expenses are approximately \$2,000,000, and it is expected that those repairs and renovations would include, but not be limited to, new roofs, resurfacing of drives and parking areas, siding repairs and/or replacement, interior and exterior painting, apartment unit appliance replacements, updating of kitchen cabinetry and counters, updating bathroom fixtures, replacement of apartment HVAC units with Energy Star rated equipment, entry door repairs or replacement, window repairs or replacements, electrical upgrades, etc.

Vicki Georgeau, AICP  
 Director, Community Development  
 August 6, 2012  
 Page 2

The rate of the service charge we propose is 6% of Annual Shelter Rents, which is in excess of the 4% rate provided in the existing ordinance for Centre Street Village. Annual Shelter Rents is defined as the total rents collected during a Calendar Year from all occupants of the project representing rent or occupancy charge, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants by the Sponsor. The proforma for the anticipated operations of the Project is as follows (\* AMI represents Area Median Income, adjusted for household size):

**Operating Proforma for Centre Street Village Apartments**

	No. of Units	Income/Rent Limit for Households	Bedrooms	Baths	Monthly Rent	Annual Rental Income
	28	60% of AMI*	2	1.5	\$757	\$254,352
	4	60% of AMI	3	2.0	\$860	\$41,280
	1	N/A (This is an Employee Unit)	2	1.5	N/A	N/A
	28	40% of AMI	2	1.5	\$473	\$158,928
	4	40% of AMI	3	2.0	\$531	\$25,488
Totals	65					\$480,048
Estimated Vacancy @ 7%						(\$33,603)
Collected Rents						\$446,445
Estimated Sponsor Paid Utilities						(\$41,168)
Annual Shelter Rents						\$405,277
6% PILOT						\$24,317

Vicki Georgeau, AICP  
Director, Community Development  
August 6, 2012  
Page 3

It is important that the term of the new PILOT be coterminous with the expected HUD-insured loan, to wit: 35 years from the date of the acquisition of the property by Centre Street Village II Limited Dividend Housing Association Limited Partnership. This will accomplish two (2) purposes: (1) it will satisfy the minimum MSHDA requirement, and (2) it will allow the HUD lender to underwrite the amount of the new loan using the PILOT (otherwise the lender would determine the loan size based on what it estimates might be the market rate taxes; the result would be a reduction of the loan amount by approximately \$17.00 for each dollar of increased taxes over and above the PILOT amount shown above). The same would be true in the event the amount of the PILOT payment was increased over what is shown above. As an example, if the amount of the PILOT was increased to \$32,422 per year (a rate of 8% per year), the anticipated mortgage would be reduced by \$136,000, and would have a very negative impact on our ability to consummate the purchase of the property and perform all the contemplated rehabilitation.

We do not seek the repeal of current PILOT. We expect that it will continue in effect until the acquisition of the property by Centre Street Village II LDHA LP, the closing and funding of a federally-aided mortgage (anticipated to be a HUD Section 223(f) insured conventional loan), the allocation of Low Income Housing Tax Credits to the project by MSHDA, and the commencement of rehabilitation of the property by the Sponsor, all on or before December 31, 2013. If all of the foregoing does not occur, the amendment will automatically terminate and be null and void, and the current PILOT ordinance would continue to be in effect.

We appreciate this is very short notice, but is prompted by the fact that MSHDA did not publish its new Qualified Allocation Plan ("QAP"), setting forth its criteria for the award of LIHTC until July 17, 2012. That QAP establishes August 15, 2012, as the deadline for the submission of applications. I have spoken with a MSHDA representative to learn if we could get relief from the PILOT requirement (since one was already in effect) and the "deadline" was so short. My request was denied.

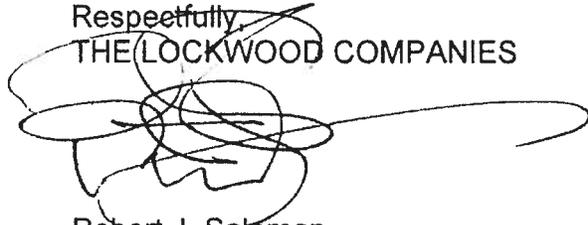
We are proud of our ownership of Centre Street Village, and believe the improvements and enhancements we envision will be an asset to the community, and a benefit to current and future households.

Vicki Georgeau, AICP  
Director, Community Development  
August 6, 2012  
Page 4

If you are in need of any additional information, please let me know and it will be promptly furnished.

We appreciate your courtesies and your very timely responses to my earlier e-mails and phone calls.

Respectfully,  
THE LOCKWOOD COMPANIES

A handwritten signature in black ink, appearing to read "Robert J. Salomon", is written over the printed name and extends to the right with a long horizontal stroke.

Robert J. Salomon  
Director of Asset Management  
DIRECT DIAL: 248-202-3590

**CENTRE STREET VILLAGE APARTMENTS**

**PROJECTED 6% PILOT ANALYSIS**

<u>PILOT %</u>	<u>YEAR</u>	<u>GROSS RENT POTENTIAL</u>	<u>VACANCY LOSS</u>	<u>SITE PAID UTILITIES</u>	<u>NET SHELTER RENTS</u>	<u>ESTIMATED PILOT PAYMENT</u>
6.00%	1	\$480,048	(\$33,603)	(\$41,146)	\$405,299	\$24,318
6.00%	2	\$484,848	(\$33,939)	(\$43,615)	\$407,294	\$24,438
6.00%	3	\$489,697	(\$34,279)	(\$46,232)	\$409,187	\$24,551
6.00%	4	\$494,594	(\$34,622)	(\$49,006)	\$410,967	\$24,658
6.00%	5	\$499,540	(\$34,968)	(\$51,946)	\$412,626	\$24,758
6.00%	6	\$504,535	(\$35,317)	(\$53,504)	\$415,714	\$24,943
6.00%	7	\$509,581	(\$35,671)	(\$55,109)	\$418,801	\$25,128
6.00%	8	\$514,676	(\$36,027)	(\$56,763)	\$421,886	\$25,313
6.00%	9	\$519,823	(\$36,388)	(\$58,466)	\$424,970	\$25,498
6.00%	10	\$525,021	(\$36,751)	(\$60,220)	\$428,050	\$25,683
6.00%	11	\$530,272	(\$37,119)	(\$62,026)	\$431,127	\$25,868
6.00%	12	\$535,574	(\$37,490)	(\$63,887)	\$434,197	\$26,052
6.00%	13	\$540,930	(\$37,865)	(\$65,803)	\$437,262	\$26,236
6.00%	14	\$546,339	(\$38,244)	(\$67,778)	\$440,318	\$26,419
6.00%	15	\$551,803	(\$38,626)	(\$69,811)	\$443,366	\$26,602
6.00%	16	\$557,321	(\$39,012)	(\$71,905)	\$446,403	\$26,784
6.00%	17	\$562,894	(\$39,403)	(\$74,062)	\$449,429	\$26,966
6.00%	18	\$568,523	(\$39,797)	(\$76,284)	\$452,442	\$27,147
6.00%	19	\$574,208	(\$40,195)	(\$78,573)	\$455,441	\$27,326
6.00%	20	\$579,950	(\$40,597)	(\$80,930)	\$458,424	\$27,505
6.00%	21	\$585,750	(\$41,002)	(\$83,358)	\$461,389	\$27,683
6.00%	22	\$591,607	(\$41,413)	(\$85,859)	\$464,336	\$27,860
6.00%	23	\$597,523	(\$41,827)	(\$88,434)	\$467,262	\$28,036
6.00%	24	\$603,499	(\$42,245)	(\$91,087)	\$470,166	\$28,210
6.00%	25	\$609,534	(\$42,667)	(\$93,820)	\$473,046	\$28,383
6.00%	26	\$615,629	(\$43,094)	(\$96,635)	\$475,900	\$28,554
6.00%	27	\$621,785	(\$43,525)	(\$99,534)	\$478,727	\$28,724
6.00%	28	\$628,003	(\$43,960)	(\$102,520)	\$481,523	\$28,891
6.00%	29	\$634,283	(\$44,400)	(\$105,595)	\$484,288	\$29,057
6.00%	30	\$640,626	(\$44,844)	(\$108,763)	\$487,019	\$29,221
6.00%	31	\$647,032	(\$45,292)	(\$112,026)	\$489,714	\$29,383
6.00%	32	\$653,502	(\$45,745)	(\$115,387)	\$492,371	\$29,542
6.00%	33	\$660,038	(\$46,203)	(\$118,848)	\$494,986	\$29,699
6.00%	34	\$666,638	(\$46,665)	(\$122,414)	\$497,559	\$29,854
6.00%	35	\$673,304	(\$47,131)	(\$126,086)	\$500,087	\$30,005
<b><u>TOTAL ESTIMATED PILOT CHARGES PAID DURING THE MORTGAGE TERM</u></b>						<b><u>\$949,295</u></b>

**SCORING CRITERIA**

**B. Municipal Support**

<b>Possible Points</b>	<b>Self Score</b>
------------------------	-------------------

**1. Tax Abatement**

15	15
----	----

A project application that submits evidence of local support in the form of tax abatement or fixing the current tax rate may receive points according to the chart below. These points will also be available to existing projects for which tax abatement has previously been in place and the municipality has extended.

To receive any points for tax abatement, any project-specific tax abatement ordinance or area wide tax abatement ordinance with a qualifying resolution submitted with an application must meet Authority requirements and must state the length of time the PILOT or locking of taxes will be in effect (minimum of 15 years). Projects located in the City of Detroit must submit the project specific tax abatement resolution or a copy of the Detroit tax abatement ordinance, and a letter from the City of Detroit stating that the project is eligible for tax abatement. If location in a Renaissance Zone is presented as evidence of tax abatement, the project must document that tax abatement will be effective for the 15 year compliance period.

**Points will be awarded under the highest applicable category, not under multiple categories.**

Tax Abatement Categories	Elderly Project	Family, PSH
Letter from municipality stating that the PILOT ordinance will be in effect for 15 years or more or that the taxes will be fixed for 15 years or more, it is on the approving board's agenda, and the date that the PILOT or tax rate fix is expected to be approved	3 Points	6 Points
Project-specific ordinance that locks the property taxes at the current level with no increase for a minimum of 15 years	5 Points	10 Points
Project-specific tax abatement ordinance in place for the entire 15 year compliance period	6 Points	12 Points
Project-specific tax abatement ordinance in place for longer than the 15 year compliance period	10 Points	15 Points

www.michigan.gov  
(To Print: use your browser's print function)

Release Date: March 22, 2002  
Last Update: September 09, 2008

---

## Low Income Housing Tax Credit (LIHTC)

---

### A Tax Incentive for Housing Investors

The Low Income Housing Tax Credit Program is an investment vehicle created by the federal Tax Reform Act of 1986, which is intended to increase and preserve affordable rental housing by replacing earlier tax incentives with a credit directly applicable against taxable income. Administered in Michigan by the Michigan State Housing Development Authority (MSHDA), this program permits investors in affordable rental housing who are awarded the credit- corporations, banking institutions, and individuals - to claim a credit against their tax liability annually for a period of 10 years.

### A Community Reinvestment Opportunity

Corporate investors in this program are able to receive the tax credit and may also get additional tax benefits in the form of losses and depreciation. Furthermore, financial institutions may receive credit under the Community Reinvestment Act for their participation in tax credit developments, while corporate entities will be assisting in the creation of affordable housing in Michigan communities.

### How the Tax Credit Program Works

The maximum tax credit a project may receive is based on a percentage of the portion of rental housing (whether the housing is newly constructed or rehabilitated) that the owner agrees to maintain as both rent and income restricted for a period of at least 18 years. At a minimum, either 20 percent of the units must be for residents whose incomes do not exceed 50 percent of area median income or 40 percent of the units must be for residents whose incomes do not exceed 60 percent of the area median income (as determined and adjusted annually by HUD). The rents on the units must also be restricted. An annual credit equal to roughly 9 percent of the qualified basis of construction or rehabilitation costs is available to developments not utilizing federal or tax-exempt financing. An annual credit roughly equal to 4 percent of the qualified basis is applicable where federal or tax-exempt financing is utilized and, in certain cases, for acquisition cost associated with rehabilitation.

### The Tax Credit Allocation Process

Each state has an annual tax credit authority equal to \$2.00 per state resident. Michigan's annual authority is approximately \$20 million. The process used by MSHDA to evaluate applications and allocate credit is described in Michigan's Qualified Allocation Plan. Briefly, an application including detailed financial information and various supporting documentation, must be submitted to MSHDA for review and evaluation. The process involves three stages - reservation, commitment, and allocation of credit. The final determination of how much credit will actually be awarded is made at the allocation stage.

### To Obtain More Information

To obtain more information on Michigan's Low Income Housing Tax Credit Program, or to discuss how the credit can be applied to a specific project, call the Low Income Housing Tax Credit Program at

**(517) 373-6007**

**TTY#: 1-800-382-4568**

**The following example illustrates the value of the tax credit to a developer who constructs a 100-unit building at a total cost of \$60,000 per unit with taxable financing and reserves all of the apartments for low income tenants:**

### Construction Expenses

Development Costs	\$6,000,000
Less Land	-\$200,000

Eligible Basis	\$5,800,000
Percentage of Low Income Units	x 100%
<hr/>	
Qualified Basis	\$5,800,000
Applicable Credit Percentage	x 9%
<hr/>	
Annual Credit	\$522,000
Period of Credit	x 10 Years
<hr/>	
Total Credit over 10 years	\$5,220,000

**The following example illustrates the value of the tax credit to a housing sponsor who, using taxable financing, acquires a 15-unit building for \$120,000, spends \$200,000 on substantial rehabilitation, and subsequently rents six of the units to low income residents:**

**Rehabilitation/Acquisition Expenses  
Acquisition Credit**

Building and Land	\$120,000
Less Land	-\$20,000
<hr/>	
Eligible Basis	\$100,000
Percentage of Low Income Units	x 40%
<hr/>	
Qualified Basis	\$40,000
Applicable Credit Percentage	x4% Annual
Acquisition Credit	\$1,600

**Rehabilitation Credit**

Rehabilitation Costs	\$200,000
Percentage of Low Income Units	x 40%
<hr/>	
Qualified Basis	\$80,000
Applicable Credit Percentage	x 9%

Low Income Housing Tax Credit (LIHTC)

Annual Rehab Credit            \$7,200

Acquisition Credit            \$1,600

---

Total Annual Credit            \$8,800

Period of Credit                x 10 Years

---

Total Credit over 10 years      \$88,000

Copyright © 2012 State of Michigan

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 2 OF CHAPTER 70, TAXATION, TO ADD DIVISION 10, CENTRE STREET VILLAGE APARTMENTS PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES AND TO REPEAL DIVISION 5 OF ARTICLE 2.

THE CITY OF PORTAGE ORDAINS:

That Article 2 of Chapter 70, Taxation, is hereby amended to add Division 10, Centre Street Village Apartments:

**Section 70-281. Preamble and intent.**

A. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act (1966 PA 346 as amended). The City of Portage is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for the Act.

B. The City of Portage acknowledges that Centre Street Village II Limited Dividend Housing Corporation Limited Partnership ("Sponsor") has offered, subject to receipt of a federally-aided Mortgage (as defined below) to rehabilitate, own and operate a housing development identified as Centre Street Village Apartments on certain property located in the City of Portage to serve persons of low income and that the Sponsor has offered to pay the City on account of this housing development an annual service charge for public services in lieu of all taxes.

**Section 70-282. Definitions.**

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Act* means the State Housing Development Authority Act (MCL 125.1401 et. seq.).
- B. *Annual Shelter Rent* means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric, heat or other utilities furnished to the occupants.
- C. *Authority* means the Michigan State Housing Development Authority.
- D. *Federally-aided Mortgage* means any of the following:
  - (i) A below market interest rate mortgage insured, purchased, or held by the Secretary of the Department of Housing and Urban Development;
  - (ii) A market interest rate mortgage insured by the Secretary of Housing and Urban Development and augmented by a program of rent subsidies;

- (iii) A mortgage receiving interest reduction payments provided by the Secretary of the Department of Urban Housing and Development;
  - (iv) A mortgage on a housing project to which the Authority allocates low income housing tax credits under Section 22b of the Act; or
  - (v) A mortgage receiving special benefits under other federal law designated specifically to develop low and moderate-income housing, consistent with the Act.
- E. *Housing Development* means a development that contains a significant element of housing for Persons of Low and Moderate income and elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improve the quality of the development as it relates to housing for Persons of Low and Moderate Income.
- F. *Low Income Persons and families* shall have the same meaning as contained in the Section 15(a) of the Act.
- G. *Mortgage Loan* means any loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of a housing development.
- H. *Property* means the real property commonly referred to as 2151 East Centre Avenue, Portage, Michigan, 49002, Parcel #:00014-041-O.
- I. *Sponsor* means Centre Street Village II Limited Dividend Housing Association Limited Partnership, 30100 Telegraph Rd., Birmingham, MI 48025, its transferees, successors and assigns in interest, which has applied (or is about to apply) to the Authority for Federally-aided Mortgage Loan to finance the Housing Development.

**Section 70-283. Exemption of Low Income Housing Developments Only.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this division shall be housing developments which are financed or assisted pursuant to the Act for persons of low income. It is further determined that Centre Street Village Apartments is of this class.

**Section 70-284. Amount of service charge.**

The housing development identified as Centre Street Village Apartments and the property on which it was constructed and located shall be exempt from all property taxes from and after its acquisition by the Sponsor and its receipt of a Federally-aided Mortgage. The city acknowledges that the Sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this Division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this Division. In consideration of the Sponsor's acquisition of the Property and proposed rehabilitation of the housing development, subject to the terms and conditions of the federally-aided mortgage to the Sponsor, the city hereby agrees to accept the payment of an annual service charge for public services in lieu of all property

taxes from the Sponsor. The annual service charge shall be equal to six percent (6%) of the Annual Shelter Rents for 15 years of operation after the acquisition of the Property, its receipt of a Federally-aided Mortgage and its commencement of its proposed rehabilitation but in any event not less \$24,318.00. Thereafter, for the 16<sup>th</sup> through 35<sup>th</sup> year, the annual service charge and minimum payment stated in this section shall be reviewed, and if the federally-aided mortgage is still in effect, the annual service charge and minimum payment stated in this section shall not change.

**Section 70-285. Payment of service charge.**

The service charge in lieu of taxes, as determined according to this division, shall be payable, enforceable and, if not paid timely, collectible in the same manner as general property taxes are payable to the city, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$24,318.00 is due on or before December 31st of each year.
- (2) All additional amounts owing from the December 31st payment of the previous year, as determined to be owing based on an audit, is due on or before by July 1st of each year.

**Section 70-286. Verification of Annual Shelter Rent.**

The Sponsor shall verify annual shelter rent revenues to the city with a statement of profit and loss as reported to the State Housing Development Authority or other form of financial deemed suitable to the city.

**Section 70-287. Effective period of Division.**

This division shall:

- (1) Become effective only after Sponsor acquires the property and receives and closes a federally aided mortgage; and
- (2) Shall remain in effect and shall not terminate so long as a federally aided mortgage remains outstanding and unpaid or the Michigan State Housing Development Authority has any interest in the property, provided that rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this division. Upon satisfaction in full of the federally aided mortgage or termination of any interest of the Authority in the property, this division shall automatically terminate.

**Section 70-288. Contractual effect of Division.**

Notwithstanding the provisions of Section 15(a)(5) of the act (MCL 125.1415a(5), to the contrary, a contract between the city and the State Housing Development Authority with the Sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this division is effectuated by enactment of this division.

**Section 70-289. Severability.**

The various sections and provisions of this division shall be deemed to be severable, and should any section or provision of this division be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the division as a whole or any section or provision of this division other than the section or provision so declared to be unconstitutional or invalid.

**Section 70-290. Repealer of Division 5 of Article 2, Chapter 70.**

Sections 70-141 through 70-170 of Article 2, Chapter 70 (Centre Street Village Project) shall be repealed in their entirety on the effective date (as provided in section 70-287(1)) of this amendment adding this division.

\_\_\_\_\_  
Peter J. Strazdas, Mayor

FIRST READING: \_\_\_\_\_  
SECOND READING: \_\_\_\_\_  
ORDINANCE #: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_

CERTIFICATION:

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
James R. Hudson, City Clerk

Approved as to Form:

Date: 8/9/12  
RS

\_\_\_\_\_  
City Attorney

# CITY OF PORTAGE

# COMMUNICATION

**TO:** Honorable Mayor and City Council

**DATE:** August 6, 2012

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Final/Site Plan for Verizon Wireless (mono-pine), 8080 Oakland Drive

**ACTION RECOMMENDED:** That City Council approve the Final/Site Plan for Verizon Wireless (mono-pine), 8080 Oakland Drive.

Attached is a report from the Department of Community Development concerning the Final/Site Plan for Verizon Wireless (mono-pine) at 8080 Oakland Drive. The property is zoned PD, planned development and is part of the larger Oakland Hills at Centre Planned Development. Consistent with Section 42-375 of the Zoning Code, final/site plans in the PD, planned development zoning district require City Council approval after the review and recommendation of the Planning Commission.

On June 12, 2012, City Council approved a Tentative Plan Amendment for the Oakland Hills at Centre PD that included the addition of a 150-foot tall mono-pine tower at 8080 Oakland Drive. Subsequently, the final/site plan for Verizon Wireless was submitted by Tele-Site, Inc. and involves construction of the 150-foot tall telecommunications tower (mono-pine) and associated improvements along the northern portion of 8080 Oakland Drive. The final/site plan has been designed in substantial conformance with the 2012 approved tentative plan amendment for the Oakland Hills at Centre PD and Section 42-375.H (Standards for final plan) of the Zoning Code. The mono-pine tower has also been designed in accordance with applicable requirements of Section 42-135, Wireless telecommunication facilities and tower ordinance.

The Planning Commission reviewed the project during the August 2, 2012 meeting and recommended that the Final/Site Plan for Verizon Wireless (mono-pine) be approved. At the August 2<sup>nd</sup> meeting, the Planning Commission also approved a Special Land Use Permit for Verizon Wireless (mono-pine) subject to City Council approval of the Final/Site Plan.

It is recommended that City Council approve the Final/Site Plan for Verizon Wireless (mono-pine), 8080 Oakland Drive.

Attachment: Department of Community Development Communication

## CITY OF PORTAGE

## COMMUNICATION

---

**TO:** Maurice S. Evans, City Manager

**DATE:** August 6, 2012

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

**SUBJECT:** Final/Site Plan for Verizon Wireless (mono-pine), 8080 Oakland Drive.

A final/site plan has been submitted by Tele-Site, Inc., on behalf of Verizon Wireless, to construct a 150-foot tall telecommunications tower (mono-pine) and related site improvements at 8080 Oakland Drive. The mono-pine tower represents the second project within the Oakland Hills at Centre Planned Development (PD) which involves a 47.6 acre tract of land currently addressed as 2275, 2301 and 2401 West Centre Avenue and 8080 Oakland Drive.

On June 12, 2012, City Council approved a Tentative Plan Amendment for the Oakland Hills at Centre PD that included the addition of the 150-foot tall mono-pine tower on the 8080 Oakland Drive parcel. Consistent with the 2012 tentative plan amendment, the proposed mono-pine tower will:

- be constructed to accommodate four co-locations and designed to include branches and camouflaging as identified in the Sabre Towers and Poles brochure provided by the applicant. The tower will also be located at least 55-feet from the north property line and a minimum 90-feet from the east property line;
- include a fenced area around the tower, fully enclosed by a 6-foot tall decorative, solid vinyl fence and supplemental evergreen tree plantings (minimum 8-10 foot tall, spaced 10 feet on-center) along the north side of the enclosure.
- preserve the large Oak tree located west of the mono-pine tower and, to the greatest extent possible, the existing mature tree line located along Oakland Drive as shown on the 2012 approved tentative plan amendment.

Access to the mono-pine tower will be provided through a paved drive from Oakland Drive that will be converted to a full-service, boulevard entrance with subsequent phases of the Oakland Hills at Centre PD.

In a report dated July 13, 2012, the Department of Community Development recommended approval of the Final/Site Plan for Verizon Wireless (mono-pine). The final/site plan has been designed in substantial conformance with the 2012 approved tentative plan amendment and Section 42-375.H (Standards for final plan). The mono-pine tower has also been designed in accordance with applicable requirements of Section 42-135, Wireless telecommunications facilities and tower ordinance. At the August 2, 2012 meeting, the Planning Commission voted unanimously to recommend that City Council approve the Final/Site Plan. The Commission also approved a special land use permit subject to City Council approval of the final/site plan. Attached please find the Planning Commission transmittal and meeting minutes, Department of Community Development communication and related materials.

**Attachments:** Planning Commission transmittal dated August 6, 2012  
Planning Commission meeting minutes dated August 2, 2012  
Department of Community Development report dated July 13, 2012  
Final Plan Sheets

**TO:** Honorable Mayor and City Council

**FROM:** Planning Commission

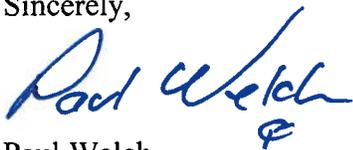
**DATE:** August 6, 2012

**SUBJECT:** Final/Site Plan: Verizon Wireless (mono-pine), 8080 Oakland Drive.

During the August 2, 2012 meeting, the Planning Commission reviewed and discussed the Final/Site Plan for the above captioned development project. Mr. Jonathan Crane (attorney representing Verizon Wireless) and Ms. Claudine Antoun (Tele Site, Inc.) were present to support the proposed project.

After a brief discussion, a motion was offered by Commissioner Bosch, seconded by Commissioner Reiff, to recommend to City Council that the Final/Site Plan for Verizon Wireless, 8080 Oakland Drive, to construct a 150-foot tall telecommunications tower (mono-pine) be approved subject to the same three conditions included with the 2012 Oakland Hills at Centre Planned Development Tentative Plan Amendment. The motion was unanimously approved.

Sincerely,

A handwritten signature in blue ink that reads "Paul Welch" with a stylized flourish at the end.

Paul Welch  
Vice-Chairman

 **DRAFT**

## PLANNING COMMISSION

August 2, 2012

The City of Portage Planning Commission meeting of August 2, 2012 was called to order by Vice-chairman Welch at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Seven citizens were in attendance.

### **MEMBERS PRESENT:**

Miko Dargitz, Rick Bosch, Allan Reiff, Wayne Stoffer, Paul Welch and Bill Patterson.

### **MEMBERS ABSENT:**

None.

### **MEMBERS EXCUSED:**

Dave Felicijan and James Cheesebro.

### **IN ATTENDANCE:**

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

### **PLEDGE OF ALLEGIANCE:**

Vice-chairman Welch led the Commission in the Pledge of Allegiance.

### **APPROVAL OF MINUTES:**

Vice-chairman Welch referred the Commission to the July 5, 2012 meeting minutes contained in the agenda packet. A motion was offered by Commissioner Dargitz, seconded by Commissioner Bosch, to approve the minutes as submitted. The motion was unanimously approved.

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

1. Site Plan for Bowers Manufacturing, 6565 South Sprinkle Road. Mr. Forth summarized the staff report dated July 13, 2012 involving a project submitted by Delta Design Group, on behalf of Bowers Manufacturing, to construct a 37,895 square foot building addition and related site improvements along the east side of the existing building. Mr. Forth noted that planned site improvements will be limited to the east side of the existing facility with no additional changes proposed across the remainder of the site. Mr. Scott Musser, Delta Design Group, was present to support the site plan on behalf of Bowers Manufacturing. Commissioner Reiff inquired about job creation. Mr. Musser indicated it would be in the range of 40 jobs.

There being no further discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Bosch, to approve the site plan for Bowers Manufacturing, 6565 South Sprinkle Road. The motion was unanimously approved.

### **PUBLIC HEARINGS:**

1. Special Land Use Permit: Verizon Wireless (mono-pine), 8080 Oakland Drive. Mr. Forth summarized the staff report dated July 13, 2012 regarding a request received from Tele-Site, Inc., on behalf of Verizon Wireless, for a special land use permit to construct a 150-foot tall telecommunications tower (mono-

pine) and related improvements at 8080 Oakland Drive. Mr. Forth mentioned that the City Council approved the Tentative Plan Amendment for the Oakland Hills at Centre Planned Development (8080 Oakland Drive and 2275, 2301 and 2401 West Centre Avenue) on June 12, 2012, that included the addition of the 150-foot tall mono-pine tower on the 8080 Oakland Drive parcel, among other revisions. Approval of the tentative plan amendment included the following three conditions related to the mono-pine tower:

- The tower be constructed to accommodate four co-locations and designed to include branches and camouflaging as identified in the Sabre Towers and Poles brochure provided by the applicant. The tower be located at least 55-feet from the north property line and a minimum 90-feet from the east property line;
- The fenced area around the tower be enclosed by a 6-foot tall decorative, solid vinyl fence and supplemental evergreen tree plantings (minimum 8-10 foot tall, spaced 10 feet on-center) be installed along the north side of the enclosure; and
- The large Oak tree located west of the mono-pine tower and the existing mature tree line located along Oakland Drive be preserved to the greatest extent possible in order to minimize the visual appearance of the mono-pine tower from adjacent properties and for motorists traveling Oakland Drive.

Mr. Forth indicated the proposal to construct the 150-foot tall telecommunications tower (mono-pine) and associated improvements at 8080 Oakland Drive fulfills the requirements for issuance of a Special Land Use Permit and is consistent with the recently approved Tentative Plan Amendment for Oakland Hills at Centre Planned Development.

Mr. Jonathan Crane (attorney representing Verizon Wireless) and Ms. Claudine Antoun (Tele Site, Inc.) were present to speak in support of the special land use permit. Commissioner Reiff asked Attorney Crane to confirm that the proposed tower will look like the tower pictured in the Sabre Tower brochure. Attorney Crane stated it would look like the one in the brochure. Commissioner Bosch asked Attorney Crane if the location of the tower is the same as the location shown on the tentative plan that was recently approved by City Council. Attorney Crane stated it is in the same location.

Vice-chairman Welch opened the public hearing. There being no citizens wishing to speak on this matter, a motion was made by Commissioner Bosch, seconded by Commissioner Reiff, to close the public hearing. The motion was unanimously approved. Commissioner Dargitz stated she would have preferred an alternate location further to the west but recognizes the site selection criteria. There being no further Planning Commission discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to approve the special land use permit for Verizon Wireless, 8080 Oakland Drive, to allow construction of a 150-foot tall telecommunications tower (mono-pine) subject to City Council approval of the Final/Site Plan. The motion was unanimously approved.

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

1. Verizon Wireless (mono-pine), 8080 Oakland Drive. Mr. Forth summarized the staff report dated July 13, 2012 involving a final plan submitted by Tele-Site, Inc., on behalf of Verizon Wireless, to construct a 150-foot tall telecommunications tower (mono-pine) and related site improvements at 8080 Oakland Drive. Mr. Forth noted the final plan has been designed in substantial conformance with the 2012 approved tentative plan amendment and applicable requirements of the wireless telecommunications facilities and tower ordinance. Consistent with the 2012 tentative plan amendment, the approximate 50-foot by 70-foot fenced area around the tower will be fully enclosed by a 6-foot tall decorative, solid vinyl fence and supplemental evergreen tree plantings (minimum 8-10 foot tall, spaced 10 feet on-center) will be installed along the north side of the enclosure. Additionally, the applicant will preserve the large Oak tree located west of the mono-pine tower

and, to the greatest extent possible, the existing mature tree line located along Oakland Drive as shown on the 2012 approved tentative plan amendment.

Mr. Jonathan Crane (attorney representing Verizon Wireless) and Ms. Claudine Antoun (Tele Site, Inc.) were again present to speak in support of the final plan. There being no further discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Reiff, to recommend to City Council that the final plan for Verizon Wireless, 8080 Oakland Drive, to construct a 150-foot tall telecommunications tower (mono-pine) be approved subject to the same three conditions included with the 2012 Oakland Hills at Centre Planned Development Tentative Plan Amendment. The motion was unanimously approved.

### **PUBLIC HEARINGS:**

1. Rezoning Application #11-04, East Centre Avenue between Lakewood Drive and Garden Lane – Planning Commission reconsideration. Mr. Forth explained that the Planning Commission previously considered this rezoning application during the April 5<sup>th</sup>, May 3<sup>rd</sup> and May 17<sup>th</sup>, 2012 meetings. After considering public comment, information provided by the applicants and the rezoning alternatives presented by staff, the Planning Commission made two separate motions during the May 17, 2012 meeting recommending City Council approve the rezoning application. However, each motion failed to receive the minimum number of votes (five) necessary for approval. The Planning Commission subsequently decided to forward Rezoning Application #11-04 to City Council without a specific recommendation. Following the public hearing held on July 10, 2012, City Council voted to refer Rezoning Application #11-04 and the Petition in Partial Opposition to Rezoning Application #11-04 back to the Planning Commission for discussion and recommendation.

Mr. Forth briefly summarized each of the six alternatives presented in the staff report dated July 27, 2012. Mr. Forth indicated that staff is recommending alternative No. 3. Commissioner Bosch asked if the parcel adjacent to Bye Street has sufficient street frontage. Mr. Forth responded that it did meet the minimum Zoning Code requirement for street frontage. Commissioner Dargitz asked if the Commission would consider an alternative that combines elements shown on Map 2 and Map 3. This subsequent alternative includes retention of the residential zoning on the north 330 feet of 801 East Centre and rezoning 809 East Centre Avenue to office. Mr. Forth stated this is an alternative the Planning Commission can consider. Commissioner Dargitz expressed a desire to retain some of the residential character in this immediate area and limit the potential impacts on adjacent residential uses.

Vice-chairman Welch opened the public hearing. Mr. Thomas Rogers, initial applicant and owner of 775 and 801 East Centre Avenue, was present to support the rezoning application. Mr. Rogers expressed some concern that only six members of the Planning Commission were present at tonight's meeting. Mr. Rogers mentioned that he did speak with a representative from Consumers Energy about utility costs but was told that a cost estimate could not be provided without a development project. The Consumers Energy representative did state a new primary line would have to be extended on Bye Street. Mr. Rogers also briefly discussed other costs associated with residential development on the north portion of the property and the expected value of a future residential lot. Mr. Rogers discussed the Future Land Use Plan map designations, the fact that the boundaries are not intended to be parcel specific and the low impact nature of office uses. Mr. Rogers explained some of the difficulties he experienced with the expanded rezoning including resident opposition and other residents changing their position. Vice-chairman Welch asked Mr. Rogers what alternative he prefers. Mr. Rogers responded that he prefers Alternative No. 1 and as a second preference, Alternative No. 4 (P-1, parking on the north portions of 801 through 827 East Centre Avenue).

Brian Mahoney, 7911 Lakewood Drive, mentioned one of the recommendations of the Comprehensive Plan is to protect residential neighborhoods from intrusive land uses and motor vehicle traffic. Mr. Mahoney believed that rezoning the property as requested is not consistent with the Comprehensive Plan. Mr. Mahoney stated he circulated the petition and the people that signed it were not entirely opposed to the rezoning application but

**TO:** Planning Commission **DATE:** July 13, 2012  
**FROM:** Vicki Georgeau, <sup>VJ</sup> Director of Community Development  
**SUBJECT:** Final/Site Plan for Verizon Wireless (mono-pine), 8080 Oakland Drive.

**I. INTRODUCTION/BACKGROUND:**

A final/site plan has been submitted by Tele-Site, Inc., on behalf of Verizon Wireless, to construct a 150-foot tall telecommunications tower (mono-pine) and related site improvements at 8080 Oakland Drive. The mono-pine tower represents the second project within the Oakland Hills at Centre Planned Development (PD). The approximate 1.75 acre parcel is currently vacant and zoned PD, planned development.

As background for the Commission, the Oakland Hills at Centre PD involves a 47.6 acre tract of land currently addressed as 2275, 2301 and 2401 West Centre Avenue and 8080 Oakland Drive. The original PD rezoning/tentative plan received City Council approval in 2006 and proposed the construction of 116 attached single family residential condominiums within the interior of the property and between 30,000 and 50,000 square feet of offices in a multiple building arrangement along West Centre Avenue and Oakland Drive. In 2009, City Council granted the applicant a two-year extension to the PD rezoning/tentative plan approval and also approved the final plan for the Cole-Gavlas office building at 2301 West Centre Avenue. On June 12, 2012, City Council approved a Tentative Plan Amendment for the Oakland Hills at Centre PD that included the addition of the 150-foot tall mono-pine tower on the 8080 Oakland Drive parcel, revisions to the layout of the attached residential and office portions of the development and an updated project phasing timeline.

**II. FINAL PLAN REVIEW/ANALYSIS:**

The final/site plan for the Verizon Wireless mono-pine tower and related improvements has been designed in substantial conformance with the 2012 approved tentative plan amendment and Section 42-375.H (Standards for final plan). The mono-pine tower has also been designed in accordance with applicable requirements of Section 42-135, Wireless telecommunications facilities and tower ordinance. Consistent with the 2012 tentative plan amendment, the approximate 50-foot by 70-foot fenced area around the tower will be fully enclosed by a 6-foot tall decorative, solid vinyl fence and supplemental evergreen tree plantings (minimum 8-10 foot tall, spaced 10 feet on-center) will be installed along the north side of the enclosure. Additionally, the applicant will preserve the large Oak tree located west of the mono-pine tower and, to the greatest extent possible, the existing mature tree line located along Oakland Drive as shown on the 2012 approved tentative plan amendment (attached). These site development considerations will minimize the visual appearance of the mono-pine tower from adjacent properties and for motorists traveling Oakland Drive. Access to the mono-pine tower will be provided through a paved drive from Oakland Drive. This drive will be situated approximately in the center of the 8080 Oakland Drive parcel and will be converted to a full-service, boulevard entrance with subsequent phases of the Oakland Hills at Centre PD.

**III. RECOMMENDATION:**

The final/site plan has been reviewed by the City Administrative departments. Staff advises that the Planning Commission recommend to City Council that the Final/Site Plan for Verizon Wireless, 8080 Oakland Drive, be approved.

Attachments: Final Plan  
Approved Tentative Plan Amendment (June 12, 2012)  
City Council meeting minutes (June 12, 2012)





## CITY COUNCIL MEETING MINUTES FROM JUNE 12, 2012

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

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

The Deputy City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Jim Pearson, Patricia M. Randall and Edward J. Sackley, Terry R. Urban, Mayor Pro Tem Claudette S. Reid and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and Deputy City Clerk Adam Herringa.

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Campbell, to approve the May 22, 2012 Special Budget Work Session and Regular Meeting Minutes and May 31, 2012 Special Meeting Minutes. Upon a voice vote, motion carried 6 to 0 with Councilmember Urban abstaining.

\* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Reid to read the Consent Agenda. Councilmember Sackley removed Item H.1, Greenspire Retail / Sewer Utility Connection Charges, from the Consent Agenda. Motion by Reid, seconded by Campbell, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JUNE 12, 2012:** Motion by Reid, seconded by Campbell, to approve the Accounts Payable Register of June 12, 2012. Upon a roll call vote, motion carried 7 to 0.

### **PUBLIC HEARING:**

**TENTATIVE PLAN AMENDMENT FOR OAKLAND HILLS AT CENTRE PLANNED DEVELOPMENT:** Mayor Strazdas opened the public hearing and introduced Community Development Director Vicki Georgeau, who provided a detailed overview of the proposed amendment and the overall history of the Oakland Hills at Centre Planned Development. Director Georgeau emphasized the proposed changes to the plan with a particular focus on the construction of a unique cell phone tower on the development property. She discussed the reason for the selected cell phone tower design, known as the "monopine," as well as the reasons for its proposed location.

Mr. Greg Dobson of American Village Builders, AVB, spoke next and recognized representatives of the various parties involved in the Oakland Hills at Centre Planned Development that were present in the audience. Mr. Dobson reviewed the current status of the development and focused specifically on the monopine tower and why AVB is supportive of including it in their development. He also emphasized that AVB had been working with the property owner to the north, William Nuyen, and that the two parties had come to agreement on the issue of the cell phone tower as well as areas of mutual interest.

Terry Sherman, 4540 Wishing Well Court, spoke and thanked the developer and City for working to add and preserve trees in the development.

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

Motion by Sackley, seconded by Campbell, to approve the Tentative Plan Amendment for Oakland Hills at Centre Planned Development at 2275, 2301 and 2401 West Centre Avenue and 8080 Oakland Drive, subject to the conditions outlined in the April 13, 2012 Department of Community Development report.

Mayor Strazdas thanked the development team for their effort to grow the community with quality projects as well as the good communication between stakeholders in the project. He then briefly discussed the necessity, number, guidelines and maintenance necessary for cell phone towers in communities.

Attorney Brown reviewed the next steps prior to final approval of the plan amendment.

Councilmember Sackley discussed the need for communities to have widespread broadband access. He also stated that he appreciates developments that are created and implemented by those that live here and work here and strive to make their developments great assets to the community.

Mayor Pro Tem Reid recognized the overall efforts of the developer and complimented them on reaching out to the neighbor who had expressed concerns with the project.

Upon a roll call vote, motion carried 7 to 0.

**PETITIONS AND STATEMENTS OF CITIZENS:** Dr. Romeo Phillips, 1983 Brighton Lane, thanked Councilmember Sackley for interceding on his behalf to assist with closing the sale of his former home and being able move into his new home in a timely manner. Dr. Phillips also thanked Daniel Foecking, City of Portage Finance Director, for taking his time on a lunch hour to personally visit Dr. Phillips in order to answer questions related to a tax matter.

Mayor Strazdas invited Nancy Vandenberg, 4646 Wishing Well Court, to come forward and address the City Council as the spokesperson for a large group of residents attending the meeting on a matter of mutual concern.

Ms. Vandenberg stated that she had contacted several City officials prior to the meeting including Mayor Strazdas, Mayor Pro Tem Reid and City Manager Evans and wondered if there was a representative of Midwest Energy present in the audience. She stated that the City and Midwest Energy were providing different stories as it relates to the cutting of trees in the Angling Road neighborhood she is representing. Ms. Vandenberg then reviewed the tree trimming practices of Consumers Energy and contrasted them with the practices of Midwest Energy which eliminated the trees in the energy company's right-of-way in her neighborhood. She emphasized that the trees that were cut provided protection from wind, snow, dirt, and especially noise pollution as a natural and beautiful barrier between their homes and U.S. 131. Her neighborhood, she stated, was changed in minutes when 150 trees were cut in a matter of minutes.

Ms. Vandenberg stated that she received a notice from the City last Friday of the impending tree cutting but woke up Monday morning to a knock on her door and the sound of chainsaws. She then reviewed a presentation, photos and brief video of the situation. In the presentation she reviewed the history of the tree plantings, emphasized the devastating effect of the cutting, the removal of a tree on Michigan Department of Transportation (MDOT) property, the removal of trees that were not located near the power lines and the future cutting plans of Midwest Energy. She also reviewed a series of questions the residents of her neighborhood would like answered. In reviewing the questions, she expressed concern about items such as differing information she said she received from Midwest Energy and the City of Portage, the planting of trees under power lines, whether Midwest Energy was following Michigan Public Service Commission (MPSC) guidelines, safety as it relates to stranded motorists seeking assistance and decreased property values. Ms. Vandenberg also expressed concern regarding gravel on the roadway, the width of the bikeway along Angling Road and potholes on the roadway. She then asked the City to protect residents from this devastating situation and continued by stating that she is deeply saddened and upset by the abrupt action taken by Midwest Energy and lack of notice.

Ms. Vandenberg then suggested that the City take steps to work with MDOT to plant new trees on the MDOT property. She requested that the City plant tall trees in this area.

Mayor Strazdas then asked if any other citizen would like to speak. Brett Vandenberg, 4646 Wishing Well Court, stated that the neighborhood has been taken back 20 years and would like an adequate replacement of the trees that were taken down.

**CITY OF PORTAGE**

**COMMUNICATION**

**TO:** Honorable Mayor and City Council

**DATE:** August 2, 2012

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Police Vehicle Equipment Changeover

**ACTION RECOMMENDED:** That City Council approve the expenditure for four police vehicle equipment retrofits by Emergency Vehicle Products, in an amount not to exceed \$39,600.48, and authorize the City Manager to execute all documents related to this matter on behalf of the city.

On October 18, 2011, City Council approved the purchase of five replacement police pursuit vehicles for the Department of Public Safety Police Division as part of the State of Michigan Mi-DEAL purchasing program. After arriving in March 2012, the vehicles require the obligatory retrofitting to accommodate law enforcement use. Standard retrofitting involves the relocation and installation of any reusable equipment/technology from the old police vehicle to the new vehicle, installation of warning sirens, emergency lighting and colored flashers, decals, and electronic wiring, as well as the fabrication and installation of partitions and panels on the new vehicles.

Quotes were secured for retrofitting the replacement vehicles, with one vehicle initially retrofitted to ensure appropriate fabrication and installation of the necessary parts. A successful retrofit was accomplished by the low bidder, Emergency Vehicle Products. The Department of Public Safety is pleased with the capability of Emergency Vehicle Products and recommends the four remaining replacement vehicles be similarly retrofitted by Emergency Vehicle Products. Emergency Vehicle Products is an authorized Panasonic installer, which is required to maintain the Panasonic warranties for the in-car computers and video recording systems. In addition, unlike other vendors reviewed, Emergency Vehicle Products offers to store both the former vehicle and the new vehicle in a covered, secured and vendor-monitored facility until the full project is complete. Lastly, Emergency Vehicle Products' sister company, Police and Fire Repair, LLC has the current police vehicle maintenance contract with the city and will be responsible for any future repairs to the newly installed components. Thus, by choosing Emergency Vehicle Products for this project, the same technicians for both installation and maintenance will be utilized, maintaining continuity of service. Emergency Vehicle Products is the top source to perform the required work considering the vendor's location, capability, safety and price.

Therefore, it is recommended that City Council approve of the expenditure for four police vehicle equipment retrofits by Emergency Vehicle Products, in an amount not to exceed \$39,600.48 and authorize the City Manager to execute all documents related to this matter on behalf of the city.

# CITY OF PORTAGE

# COMMUNICATION

---

---

**TO:** Honorable Mayor and City Council

**DATE:** August 4, 2012

**FROM:** James R. Hudson, City Clerk



**SUBJECT:** Election Polling Places and Rate of Compensation Resolution

**ACTION RECOMMENDED:** That City Council adopt the Resolution Designating Polling Places and Rate of Compensation for the November 6, 2012 General Election.

Attached is a Resolution listing the polling places established for the General Election to be held on November 6, 2012. This Resolution also establishes the rate of pay for precinct chairpersons and other election officials.

The voting precinct currently located at the Waylee Technology Center (Precinct No. 5) is going to be relocated for the November General Election to the Multipurpose Gymnasium, a.k.a. "The Stable," located behind Portage Central High School and Portage Central Middle School. The reason for the relocation is the pending move of Portage Public Schools Administration from the Administration Building to the Waylee location. It is anticipated that this will be a permanent relocation.

In order to inform voters of the move a large sign was posted at the Waylee precinct this past election. In addition, new voter identification cards will be sent and a separate notice will be mailed which includes directions to the new voting location. The Waylee Technology Center will be posted on election day with a notice informing voters of the location change.

It should be noted that the Office of the City Clerk and Portage Public Schools have a long history of working together in support of the electoral process. The relocation of the Waylee precinct to "The Stable" is another example of Portage Public Schools and the City of Portage working together for the benefit of residents of the City of Portage.

Attachment

c Maurice S. Evans, City Manager  
Daniel Foecking, Finance Director

**CITY OF PORTAGE  
RESOLUTION**

Moved by:  
Supported by:

RESOLVED that the following locations be and are hereby designated as polling places for the GENERAL ELECTION to be held on November 6, 2012, and that the polling places are to remain open from 7:00 a.m. until 8:00 p.m. on the day of the election.

1. Community Education Building - 1010 West Milham Road
2. Goldentree Apts. Community Building - 4795 E. Milham Road
3. Portage Senior Center - 320 Library Lane
4. Lake Center Elementary School - 10011 Portage Road
5. Portage Public Schools Multipurpose Gym - 8305 South Westnedge Avenue
6. Lake Center Elementary School - 10011 Portage Road
7. Victory Baptist Church - 308 W. Milham Road
8. Amberly Elementary School - 6637 Amberly Street
9. Haverhill Elementary School - 1710 Haverhill Avenue
10. Central Elementary School - 8422 S. Westnedge Avenue
11. Angling Road Elementary School - 5340 Angling Road
12. Central Middle School - 8305 S. Westnedge Avenue
13. K/RESA - 1819 E. Milham Avenue
14. Woodland Elementary School - 1401 Woodland Drive
15. North Middle School - 5808 Oregon Avenue
16. Portage United Church of Christ - 2731 W. Milham Road
17. Pathfinder Church - 8740 S. Westnedge Avenue
18. Moorsbridge Elementary - 7361 Moorsbridge Road
19. Woodland Elementary School - 1401 Woodland Drive
20. Milham Meadows Community Building - 6103 Mallard Circle
21. St. Catherine's Catholic Church - 1150 West Centre Avenue
22. Absentee Counting Board - Portage City Hall - 7900 S. Westnedge Avenue

BE IT FURTHER RESOLVED that the City of Portage establish an Election Receiving Board for the election to be held on November 6, 2012, to convene from 7:30 p.m. until 10:30 p.m. on the day of each election.

BE IT FURTHER RESOLVED that the rate of pay for the Election Precinct Inspectors be as follows: \$120.00 (plus \$15 for attending each Training Session) for each precinct inspector, \$130.00 (plus \$15 for attending each Training Session) for each assistant precinct chairperson, and \$145.00 (plus \$15 for attending each Training Session) for each precinct chairperson and \$25.00 (plus \$15 for attending each Training Session) for each receiving board member.

YES:  
NO:  
ABSENT:

---

James R. Hudson, City Clerk

## CERTIFICATE

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of the City of Portage, Michigan, Kalamazoo County, held on August 14, 2012, the original of which is in the official proceedings of the City Council.

---

James R. Hudson, City Clerk

**James Hudson - Re: Environmental Resolution**

---

**From:** Theresa Lockhart <ctlockhart@att.net>  
**To:** James Hudson <hudsonj@portagemi.gov>  
**Date:** 7/18/2012 2:49 PM  
**Subject:** Re: Environmental Resolution  
**Attachments:** Fracking Resolution.docx

---

Mr. Hudson,

Please find attached a copy of Food and Water Watch's anti-fracking resolution. I hope that Mayor Strazdas and the City Council will refer this issue to the Environmental Board for further discussion and review.

The wording in this resolution can be altered to better meet the needs of Portage, but I ask to be notified of any changes or omissions. Thank you for your help.

Theresa Lockhart

Spanish Teacher

Battle Creek Central High School

Resolution \_\_\_\_\_

WHEREAS, the hydraulic fracturing (fracking) for natural gas involves the use of chemicals and hazardous materials during construction, drilling, hydraulic fracturing, gas production and delivery, well maintenance, and workover operations; and

WHEREAS, hydraulic fracturing of underground geologic formations is often accomplished by injecting a complex mix of fluids and chemicals, including large volumes of water, on average 4.5 million gallons per well, under very high pressure to create fractures in gas bearing geologic formations; and

WHEREAS, many of the chemical constituents injected during hydraulic fracturing have documented adverse health effects and/or adverse environmental impacts; and

WHEREAS, there have been more than a 1,000 documented cases of water contamination near fracking sites; some people who live near these sites can now light their drinking water on fire; and

WHEREAS, wastewater from fracking can contain radioactive elements and has been discharged into rivers that supply drinking water for millions, according to the *New York Times*.

WHEREAS, use of these hydraulic fracturing mixes exposed adjacent land and surface waters to the risk of contamination through open pit storage, truck transport on roadways, and activities during well development; and

WHEREAS, the pollution of water caused by fracking threatens the long term economic well being of communities, as businesses and consumers depend on clean drinking water; and

WHEREAS, in 2005, as part of the federal Energy Policy Act and over objections of health care, scientific, environmental, and conservation communities, regulation of hydraulic fracturing fluids under the Safe Drinking Water Act by the Environmental Protection Agency was exempted, thereby allowing oil and gas companies to use these substances without federal oversight or standards; and

WHEREAS, the oil and gas industry is not required by federal law to publicly disclose chemical formulas of hydraulic fracturing fluids so that this information is publicly available for health and safety purposes; and

WHEREAS, Former President George W. Bush's EPA point person on water now admits fracking should never have been exempted from regulation, and

WHEREAS, the Fracturing Responsibility and Awareness of Chemicals Act ("FRAC Act"), which is currently pending in Congress, would repeal the fracking exemption to the Safe Drinking Water Act and require disclosure of chemicals used in fracking; and

WHEREAS, the Bringing Reductions to Energy's Airborne Toxic Health Effects Act ("BREATHE Act"), which is currently pending in Congress would repeal the exception to the Clean Air Act for aggregation of emissions from oil and gas development sources;

WHEREAS, the wise stewardship of our natural resources involves protection of (name of town [or our])'s water supplies and water resources for generations to come; and

WHEREAS, protection of (name of town [or our])'s water supplies and resources is better accomplished by prevention of contamination and environmental degradation, rather than attempting to cleaning up contamination and restoring degraded environments after the fact;

NOW, THEREFORE, BE IT RESOLVED, that on the \_\_\_\_ day of \_\_\_\_ 2012, Portage supports a statewide and national ban on hydraulic fracturing for natural gas; and

BE IT FURTHER RESOLVED, that Portage supports the FRAC Act and BREATHE Act, and

AND BE IT FURTHER RESOLVED that Portage will send a letter to our State Representatives, Congressional Representative and U.S. Senators calling for a ban on fracking and for them to co-sponsor the FRAC Act, H.R. 1084/ S. 587, and BREATHE Act, H.R. 1204,

NOW, THEREFORE, BE IT ORDAINED, that hydraulic fracturing for natural gas is prohibited within Portage.

PASSED, APPROVED, AND EFFECTIVE on this \_\_\_\_ day of \_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_

\_\_\_\_\_  
Council President

\_\_\_\_\_

**PLEASE SEND A COPY OF THIS SIGNED RESOLUTION TO:**

1. [town's state representatives]
2. [town's congressional representative]
3. [US Senators]
4. [Food & Water Watch]

**CITY OF PORTAGE**

**COMMUNICATION**

---

---

**TO:** Honorable Mayor and City Council

**DATE:** August 6, 2012

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Resolution Against Fracking

**ACTION RECOMMENDED:** That City Council refer the request for a Resolution Against Fracking to the Environmental Board for review and report.

The attached request for a Resolution Against Fracking was submitted by Theresa Lockhart, Spanish Teacher, Battle Creek High School. It is recommended that the City Council refer the request for a Resolution Against Fracking to the Environmental Board for review and report.

Attachments

c James R. Hudson, City Clerk

# CITY OF PORTAGE

# COMMUNICATION

**TO:** Honorable Mayor and City Council

**DATE:** August 6, 2012

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Rezoning Application #11-04, East Centre Avenue between Lakewood Drive and Garden Lane – City Council reconsideration

**ACTION RECOMMENDED:** That City Council:

- a. accept reconsideration of Rezoning Application #11-04 for first reading and set a public hearing for September 11, 2012; and
- b. subsequent to the public hearing, consider approving Rezoning Application #11-04 and rezone 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.

On July 10, 2012, City Council conducted a public hearing to consider Rezoning Application #11-04. As the Council will recall, this rezoning was forwarded to the City Council without a specific recommendation from the Planning Commission following the May 17, 2012 Commission meeting. After a public hearing on the rezoning application during the July 10<sup>th</sup> Council meeting and consideration of additional information submitted by the applicants and neighborhood residents, City Council voted 4-2 to refer Rezoning Application #11-04 back to the Planning Commission for additional review and recommendation.

Pursuant to the request of Council, the Planning Commission convened a public hearing on August 2, 2012. After consideration of the alternatives presented in the supplemental Department of Community Development report dated July 27, 2012, additional information provided by the applicants and neighborhood residents and public comment, the Planning Commission voted 5-1 to recommend to City Council that Rezoning Application #11-04 be approved consistent with staff recommended Alternative 3 as outlined in the May 11, 2012 and July 27, 2012 reports from the Director of Community Development. The recommended alternative proposes that 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.

Attached is the Department of Community Development report, Planning Commission transmittal and related materials.

Attachment: Communication from the Department of Community Development

## CITY OF PORTAGE

## COMMUNICATION

---

**TO:** Maurice S. Evans, City Manager

**DATE:** August 6, 2012

**FROM:** Vicki Georgeau,  Director of Community Development

**SUBJECT:** Reconsideration of Rezoning Application #11-04, East Centre Avenue between Lakewood Drive and Garden Lane

In March 2012, an application to rezone 775, 801, 809, 821, 827 and 903 East Centre Avenue was submitted by five property owners. The applicants requested the property be rezoned from R-1A, one family residential and R-1B, one family residential to OS-1, office service. After reviewing the current zoning, Future Land Use Plan Map designations and surrounding land use characteristics, the Commission expanded the application during the April 5, 2012 meeting to also include 7932 Lakewood Drive and 707, 743 and 815 East Centre Avenue. Consistent with community planning principles, the purpose of this expanded rezoning consideration was to comprehensively consider a zoning change for all the properties located along East Centre Avenue between Lakewood Drive and Garden Lane, as opposed to only a few scattered parcels located within this block. This type of expanded rezoning consideration has been accomplished with other rezoning applications and is intended to facilitate more viable and coordinated development or redevelopment options. In addition, an expanded application allows staff, the Planning Commission and City Council an opportunity to complete a comprehensive rezoning review of this portion of East Centre Avenue, as opposed to a more fragmented, piecemeal consideration.

The Planning Commission convened a public hearing regarding the expanded rezoning application during the May 3<sup>rd</sup> and May 17, 2012 meetings. During the May 17<sup>th</sup> meeting, two separate motions were made, but each failed to receive the minimum number of votes (five) for approval. The first motion involved a recommendation consistent with staff recommended Alternative 3. The second motion involved a recommendation to rezone the properties to OS-1, except for the north 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue, which would have remained zoned R-1A as a buffer. After further discussion, it was the consensus of the Planning Commission to forward Rezoning Application #11-04 to City Council without a specific recommendation.

On July 10, 2012, the City Council conducted a public hearing to consider Rezoning Application #11-04. After a discussion of the rezoning application and consideration of public input and additional information submitted by the applicants and neighborhood residents, City Council voted 4-2 to refer Rezoning Application #11-04 back to the Planning Commission for additional discussion and recommendation.

The Planning Commission convened a public hearing on August 2, 2012 to reconsider the rezoning application. After consideration of the alternatives presented in the supplemental Department of Community Development report dated July 27, 2012, additional information provided by the applicants and neighborhood residents and public comment, the Planning Commission voted 5-1 to

recommend to City Council that Rezoning Application #11-04 be approved consistent with Alternative 3 and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.

With regard to all of the alternatives presented for consideration, it is noted that office land uses adjacent to residential land uses are common throughout the city, especially along Centre Avenue, which is designated as primary office corridor in the Comprehensive Plan. However, the intent of the Plan is to limit the depth of office uses between Lakewood Drive and Garden Lane on the north side of East Centre Avenue. Considering the site specific characteristics of this rezoning application, the Department of Community Development also again recommends Alternative 3. This option provides the property owners involved in the rezoning reasonable office and residential redevelopment options consistent with the Plan designations. Although the Plan recommends the north 330 feet of 801 and 809 East Centre Avenue as appropriate for low density residential, rezoning the south 264 feet of these parcels to OS-1 would address the site redevelopment limitations/challenges that may result from a parcel depth of only 132 feet. Appropriate setbacks, screening and buffering techniques would be required with any office redevelopment proposal and would be considered and implemented during the site plan review process to minimize potential adverse impacts. Additionally, rezoning the south 264 feet (compared to the entire parcel depth of 462 feet) would likely result in the construction of smaller office buildings, which would be more in character with the surrounding residential neighborhood and existing office buildings. Finally and consistent with the Comprehensive Plan, retaining the north 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue with the existing R-1A zoning also provides sufficient depth and area for future single family residential development sites.

Attached find the Planning Commission transmittal, Department of Community Development supplemental report and related materials for review.

Attachments: Planning Commission transmittal dated August 6, 2012  
Planning Commission Minutes dated August 2, 2012  
Department of Community Development report dated July 27, 2012  
Letter from Mr. Douglas Champagne dated August 1, 2012  
Ordinance Amendments

**TO:** Honorable Mayor and City Council

**FROM:** Planning Commission

**DATE:** August 6, 2012

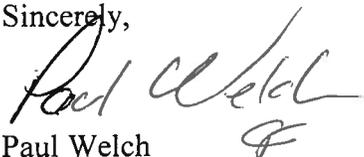
**SUBJECT:** Reconsideration of Rezoning Application #11-04, East Centre Avenue between Lakewood Drive and Garden Lane

At the request of City Council, the Planning Commission convened a public hearing on August 2, 2012 to reconsider Rezoning Application #11-04. Several property owners have requested the zoning be changed from R-1A, one family residential and R-1B, one family residential to OS-1, office service. The area under consideration involves a 5.8 acre tract of land and 10 properties located along the north side of East Centre Avenue, between Lakewood Drive and Garden Lane. The Planning Commission previously considered this rezoning application at the April 5<sup>th</sup>, May 3<sup>rd</sup> and May 17, 2012 meetings. Following consideration during the May 17, 2012 meeting, two separate motions recommending to City Council that the rezoning application be approved failed to receive the minimum number of votes (five) for approval.

Mr. Thomas Rogers, applicant and owner of 775 and 801 East Centre Avenue, was present at the August 2, 2012 meeting and again spoke in support of rezoning the entire area to OS-1, office service. Mr. Rogers expressed several redevelopment concerns regarding the staff recommended Alternative No. 3. Mr. Brian Mahoney, 7911 Lakewood Drive, also spoke during the August 2<sup>nd</sup> meeting and stated the zoning change, as requested, is not consistent with the Comprehensive Plan. Mr. Mahoney stated he supports the staff recommended Alternative No. 3 but also asked the Commission to consider retaining the single-family residential zoning of 801 East Centre Avenue located immediately east of 728 Bye Street. No additional citizens spoke during the August 2, 2012 meeting.

After further discussion and careful consideration, a motion was made by Commissioner Bosch, seconded by Commissioner Reiff, to recommend to City Council that Rezoning Application #11-04 be approved consistent with Alternative 3 and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential. The motion was approved 5-1.

Sincerely,



Paul Welch  
Vice-Chairman

and, to the greatest extent possible, the existing mature tree line located along Oakland Drive as shown on the 2012 approved tentative plan amendment.

Mr. Jonathan Crane (attorney representing Verizon Wireless) and Ms. Claudine Antoun (Tele Site, Inc.) were again present to speak in support of the final plan. There being no further discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Reiff, to recommend to City Council that the final plan for Verizon Wireless, 8080 Oakland Drive, to construct a 150-foot tall telecommunications tower (mono-pine) be approved subject to the same three conditions included with the 2012 Oakland Hills at Centre Planned Development Tentative Plan Amendment. The motion was unanimously approved.

### **PUBLIC HEARINGS:**

1. Rezoning Application #11-04, East Centre Avenue between Lakewood Drive and Garden Lane – Planning Commission reconsideration. Mr. Forth explained that the Planning Commission previously considered this rezoning application during the April 5<sup>th</sup>, May 3<sup>rd</sup> and May 17<sup>th</sup>, 2012 meetings. After considering public comment, information provided by the applicants and the rezoning alternatives presented by staff, the Planning Commission made two separate motions during the May 17, 2012 meeting recommending City Council approve the rezoning application. However, each motion failed to receive the minimum number of votes (five) necessary for approval. The Planning Commission subsequently decided to forward Rezoning Application #11-04 to City Council without a specific recommendation. Following the public hearing held on July 10, 2012, City Council voted to refer Rezoning Application #11-04 and the Petition in Partial Opposition to Rezoning Application #11-04 back to the Planning Commission for discussion and recommendation.

Mr. Forth briefly summarized each of the six alternatives presented in the staff report dated July 27, 2012. Mr. Forth indicated that staff is recommending alternative No. 3. Commissioner Bosch asked if the parcel adjacent to Bye Street has sufficient street frontage. Mr. Forth responded that it did meet the minimum Zoning Code requirement for street frontage. Commissioner Dargitz asked if the Commission would consider an alternative that combines elements shown on Map 2 and Map 3. This subsequent alternative includes retention of the residential zoning on the north 330 feet of 801 East Centre and rezoning 809 East Centre Avenue to office. Mr. Forth stated this is an alternative the Planning Commission can consider. Commissioner Dargitz expressed a desire to retain some of the residential character in this immediate area and limit the potential impacts on adjacent residential uses.

Vice-chairman Welch opened the public hearing. Mr. Thomas Rogers, initial applicant and owner of 775 and 801 East Centre Avenue, was present to support the rezoning application. Mr. Rogers expressed some concern that only six members of the Planning Commission were present at tonight's meeting. Mr. Rogers mentioned that he did speak with a representative from Consumers Energy about utility costs but was told that a cost estimate could not be provided without a development project. The Consumers Energy representative did state a new primary line would have to be extended on Bye Street. Mr. Rogers also briefly discussed other costs associated with residential development on the north portion of the property and the expected value of a future residential lot. Mr. Rogers discussed the Future Land Use Plan map designations, the fact that the boundaries are not intended to be parcel specific and the low impact nature of office uses. Mr. Rogers explained some of the difficulties he experienced with the expanded rezoning including resident opposition and other residents changing their position. Vice-chairman Welch asked Mr. Rogers what alternative he prefers. Mr. Rogers responded that he prefers Alternative No. 1 and as a second preference, Alternative No. 4 (P-1, parking on the north portions of 801 through 827 East Centre Avenue).

Brian Mahoney, 7911 Lakewood Drive, mentioned one of the recommendations of the Comprehensive Plan is to protect residential neighborhoods from intrusive land uses and motor vehicle traffic. Mr. Mahoney believed that rezoning the property as requested is not consistent with the Comprehensive Plan. Mr. Mahoney stated he circulated the petition and the people that signed it were not entirely opposed to the rezoning application but

were opposed to a change in zoning that included property adjacent to the existing residential homes. Mr. Mahoney noted that while many of the applicants want to sell their property and move away, he and his neighbors are here to stay. Mr. Mahoney prefers Alternative No. 3 as recommended by staff since it is generally consistent with the Future Land Use Plan map and will protect the residents to the north and west. Although Alternative No. 3 proposes to rezone the property next to 728 Bye Street, Mr. Mahoney suggested this area also remain zoned residential. The property owner at 728 Bye purchased the property 14 years ago and the adjacent property (801 East Centre) and the Future Land Use Map does not have it shown for commercial use.

There being no further citizens wishing to speak on this matter, a motion was made by Commissioner Bosch, seconded by Commissioner Reiff, to close the public hearing. The motion was unanimously approved.

In response to comments made by Mr. Rogers about involving other applicants (property owners) in the rezoning process, Commissioner Dargitz asked staff to explain why the rezoning application was expanded to include additional properties. Mr. Forth explained the rationale as indicated in the staff report. Commissioner Dargitz also asked about an East Centre resident being able to conduct a home occupation business. Mr. Forth stated that a resident can conduct a home based business if it meets certain criteria. Mr. Forth also mentioned that if the property were rezoned to office, a business owner or an employee could live on site pursuant to the recently adopted Work/Live Ordinance. Finally, Mr. Forth stated he also spoke with the Consumers Energy representative about utility service. According to the Consumers Energy representative, there would be no charge to a property owner/developer for the first 600 feet of primary line installation.

Commissioner Reiff stated that based on the information he has seen to date, he still supports Alternative No. 3. Commissioner Patterson stated he reviewed the Future Land Use plan map again and reiterated that the boundaries are not parcel specific. Commissioner Patterson questioned whether or not residential development is a viable option on the north portion and, as a result, supports Alternative No. 5. Commissioner Patterson stated there are Zoning Code provisions that require screening and buffering when adjacent to residential uses. Commissioner Bosch agreed with Commissioner Patterson. Additionally, Commissioner Bosch does not believe buffering the east side of 728 Bye Street is as important as buffering the south side of the property from the East Centre Avenue traffic. Commissioner Bosch stated there has been no discussion about not rezoning 775 East Centre Avenue. Protection of the east side of 728 Bye Street can be adequately addressed with screening/buffering techniques upon submittal of a site plan. Commissioner Bosch believes that a 50 foot buffer along the north portion of 801 through 827 East Centre consistent with Alternative No. 5 along is adequate. However, as a compromise to move the application forward, Commissioner Bosch could support Alternative No. 3 since residential development within the 198 foot area is still possible. Commissioner Stoffer asked if the property were rezoned consistent with Alternative No. 3, could a property owner return at a later date and request the north portion be rezoned. Mr. Forth stated yes. Commissioner Stoffer mentioned the Comprehensive Plan is a public document and some people may have relied on it when considering a property purchase. Commissioner Stoffer agreed with Commissioner Bosch's statements about the necessity to provide a buffer along the east property line of 728 Bye Street. Commissioner Patterson mentioned the Commission should consider the letter from Mr. Nuss, 809 East Centre Avenue, and his desire to be excluded from the rezoning if the property were rezoned consistent with Alternative No. 3. Vice-chairman Welch indicated he generally concurs with Commissioners Bosch and Patterson and did not believe there is a significant difference between allowing OS-1 zoning adjacent to a 50 foot buffer residential buffer or residential zoning as proposed in Alternative No. 3. Vice-chairman Welch reiterated screening and buffering provisions in the Zoning Code intended to minimize potential negative impacts. However, Vice-chairman Welch also stated he could support Alternative No. 3.

Commissioner Dargitz mentioned there are other available properties located along East Centre Avenue zoned for office use and perhaps the timing is not right to rezone the subject properties. Commissioner Stoffer noted that East Centre Avenue has drastically changed over the years making residential use much less desirable. The Comprehensive Plan designates this area appropriate for office use and Commissioner Stoffer believes the zoning should be changed. Commissioner Bosch asked Attorney Brown about moving forward

with Alternative No. 3 in light of Mr. Nuss's letter. Attorney Brown stated that the expanded rezoning application was noticed and the notice indicates that the Commission and Council can consider any zoning classification allowed by law. Even though the Council may have removed a property from zoning consideration in the past, Attorney Brown stated there is no legal requirement.

There being no further discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Reiff, that the Planning Commission to recommend to City Council that Rezoning Application #11-04 be approved consistent with Alternative 3 and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential. Commissioner Dargitz asked about a condition for screening adjacent to 728 Bye Street. Attorney Brown stated screening is addressed during the site plan review process and the rezoning cannot include that type of condition. Commissioner Stoffer asked about the restrictions placed on 809 East Centre if the zoning was changed to office. Mr. Forth stated the residential use would become nonconforming but the use could continue and ownership can change. However, the residential use cannot be expanded without Zoning Board of Appeals review/approval. The Commission, staff and City Attorney discussed that the properties involved in the rezoning can be developed either singularly or as a whole. Commissioner Dargitz stated she will support Alternative No. 3 but is still concerned about the future nonresidential impacts on 728 Bye Street and reminded Mr. Rogers about his earlier commitment to minimize those potential impacts. Commissioner Stoffer asked that the letter from Mr. Doug Champagne, 728 Bye Street, regarding his concerns about screening/buffering be made part of the record. Upon voice vote, the motion was approved 5-1 with Commission Patterson voting no.

### **NEW BUSINESS:**

1. Oshtemo Township Master Plan Amendment 2012-1. Mr. Forth summarized the staff report dated July 27, 2012 regarding several proposed amendments to the Oshtemo Township Master Plan. Pursuant to the Michigan Planning Act, all contiguous communities and other required agencies are being invited to review and comment on the Plan amendments. Mr. Forth indicated that the Plan amendments had recently been received and suggested that the Commission preliminarily discuss this item at tonight's meeting and adjourn the discussion until the August 16, 2012 meeting where any comments can then be formulated and conveyed to Oshtemo Township.

There being no further discussion, a motion was made by Commissioner Bosch, seconded by Commissioner Dargitz, to adjourn the discussion involving the Oshtemo Township Master Plan amendments until the August 16, 2012 meeting. The motion was unanimously approved.

### **OLD BUSINESS:**

1. Election of Officers. Vice-chairman Welch stated that although Chairman Cheesebro is not present at tonight's meeting, he has indicated a desire to continue to serve as the chairman of the Portage Planning Commission. Vice-chairman Welch asked if another member of the Commission was interested in serving as the chairman. There being no interest from another Commission member, a motion was made by Commissioner Stoffer, seconded by Commissioner Bosch, to re-elect Jim Cheesebro as the Planning Commission chairman for FY2012-13. The motion was unanimously approved. Vice-chairman Welch stated he was interested in continuing to serve as the vice-chairman and asked if another member of the Commission was also interested in serving as the vice-chairman. There being no interest from another Commission member, a motion was made by Commissioner Reiff, seconded by Commissioner Bosch, to re-elect Paul Welch as the Planning Commission vice-chairman for FY2012-13. The motion was unanimously approved. Vice-chairman Welch indicated the final Planning Commission officer position is the secretary.

**TO:** Planning Commission **DATE:** July 27, 2012  
**FROM:** Vicki Georgeau, <sup>VG</sup> Director of Community Development  
**SUBJECT:** Supplemental Report: Rezoning Application #11-04 (expanded), East Centre Avenue between Lakewood Drive and Garden Lane – Planning Commission reconsideration

**I. PREVIOUS PLANNING COMMISSION/CITY COUNCIL REVIEW:**

Review of the above captioned rezoning application by the Planning Commission occurred at the April 5<sup>th</sup>, May 3<sup>rd</sup> and May 17<sup>th</sup>, 2012 meetings (refer to the attached May 11, 2012 Final Report for detailed information and analysis regarding rezoning application #11-04. After considering public comment, information provided by the applicants and the rezoning alternatives presented by staff, the Planning Commission made two separate motions during the May 17, 2012 meeting recommending City Council approve the rezoning application. However, each motion failed to receive the minimum number of votes (five) necessary for approval. The first motion involved a recommendation to rezone the properties to OS-1, except for the north 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue, which would have remained zoned R-1A (staff recommended Alternative 3). Upon a roll call vote, this motion failed 3-4. The second motion involved a recommendation to rezone the properties to OS-1, except for the north 50 feet of 801, 809, 815, 821 and 827 East Centre Avenue, which would have remained zoned R-1A as a buffer. Upon a roll call vote, this motion failed 4-3. After additional discussion, it was the consensus of the Planning Commission to forward Rezoning Application #11-04 to City Council without a specific recommendation. A copy of the May 17, 2012 Planning Commission meeting minutes is attached for Commission review.

On July 10, 2012, the City Council conducted a public hearing to consider Rezoning Application #11-04. In addition to public comment received during this meeting, City Council also considered additional information provided by the applicants and area residents. This additional information included the following documents that are also attached to this report:

- A June 11, 2012 letter from four of the applicants (Thomas Rogers, Steve Nuss, Leroy Butler, Joyce Anderson) that proposes an alternative/compromise rezoning request that would rezone the properties to OS-1, with the exception of the north 50-feet of 801, 809, 815, 821 and 827 East Centre Avenue, that would be retained as an R-1A zoned buffer;
- A July 9, 2012 Petition in Partial Opposition to Rezoning Application #11-04 signed by several area residents that proposes the properties be rezoned to OS-1 with the exception of the north 330-feet of 801 East Centre Avenue that would remain zoned R-1A and the north 50-feet of 809, 815, 821 and 827 East Centre Avenue that would be retained as an R-1A zoned buffer;
- A July 10, 2012 letter from Mr. Nuss, owner of 809 East Centre Avenue, restating his support for an alternative/compromise rezoning that would rezone his property to OS-1, with the exception of the north 50-feet that would be retained as an R-1A zoned buffer.

After further discussion during the July 10<sup>th</sup> meeting, City Council voted 4-2 to refer Rezoning Application #11-04 and the Petition in Partial Opposition to Rezoning Application #11-04 back to the Planning Commission for discussion and recommendation. A copy of the July 10, 2012 City Council meeting minutes is attached for Commission review. Following the City Council action, Mr. Thomas Rogers submitted two additional communications dated July 23, 2012 and July 17, 2012 (attached).

The required public notice (newspaper publication and resident mailing) for Planning Commission reconsideration of Rezoning Application #11-04 has been provided in accordance with State statute and a public hearing is scheduled for the August 2, 2012 Planning Commission meeting.

## II. BACKGROUND:

In March 2012, Mr. Rogers approached the Department of Community Development to inquire about initiating a zoning change from R-1A, one family residential to OS-1, office service for 775 and 801 East Centre Avenue. Mr. Rogers, who is not a developer, indicated the rezoning proposal was speculative as no specific development or redevelopment project was pending. Since these two parcels are situated in the middle of the block between Lakewood Drive to Garden Lane, and similar residential parcel configurations exist in the vicinity that are also planned for future office land use, staff recommended that Mr. Rogers approach other property owners within the block to see if they were interested in joining the rezoning application. Consistent with community planning principles, the purpose of this expanded rezoning consideration was to comprehensively consider a zoning change for all the properties located along East Centre Avenue between Lakewood Drive and Garden Lane, as opposed to only a few scattered parcels located within this block. This type of expanded rezoning consideration has been accomplished with other rezoning applications and is intended to facilitate more viable and coordinated development or redevelopment options. In addition, an expanded application allows staff, the Planning Commission and City Council an opportunity to complete a comprehensive rezoning review of this portion of East Centre Avenue, as opposed to a more fragmented, piecemeal consideration. In response to this suggestion, Mr. Rogers contacted adjacent property owners and a joint rezoning application was subsequently submitted. The property owners involved in this original/joint rezoning application include: Thomas Rogers, 775 and 801 East Centre Avenue; Stephen Nuss, 809 East Centre Avenue; Leroy and Diana Butler, 821 East Centre Avenue; Joyce Anderson, 827 East Centre Avenue; and Shirley Kloosterman, 903 East Centre Avenue.

At the April 5, 2012 meeting, the Planning Commission reviewed the rezoning application, surrounding land use/zoning pattern and the Comprehensive Plan. After this review, and as recommended by staff, the Planning Commission voted unanimously to expand the rezoning area to include four additional properties also located along this section for East Centre Avenue between Lakewood Drive and Garden Lane and set a public hearing for May 3, 2012. These four additional properties include 7932 Lakewood Drive, 707 East Centre Avenue, 743 East Centre Avenue and 815 East Centre Avenue. A listing of all the properties involved in this expanded rezoning consideration, including ownership and acreage, is provided below.

Address	Parcel I.D. Number	Property Owner	Acres	Existing Land Use	Current Zoning	Proposed Zoning
7932 Lakewood Drive	04200-179-O	Hobson	0.35	Residential	R-1A	OS-1
707 East Centre Avenue	04200-181-O	Kreamalmeyer	0.18	Residential	R-1A	OS-1
743 East Centre Avenue	04200-182-A	Binder	0.35	Residential	R-1A	OS-1
775 East Centre Avenue **	04200-184-O	Rogers	0.35	Vacant	R-1A	OS-1
801 East Centre Avenue **	00015-365-O	Rogers	0.70	Residential	R-1A	OS-1
809 East Centre Avenue **	00015-370-O	Nuss	0.70	Residential	R-1A	OS-1
815 East Centre Avenue	00015-375-O	HUD	0.70	Residential	R-1A	OS-1
821 East Centre Avenue **	00015-380-O	Butler	0.70	Residential	R-1A	OS-1
827 East Centre Avenue **	00015-385-O	Anderson	0.70	Residential	R-1A	OS-1
903 East Centre Avenue **	00015-465-O	Kloosterman	1.07	Residential	R-1B	OS-1

**Ten Properties: 5.8 acres**

\*\* Property owners part of original Rezoning Application #11-04

### III. RECOMMENDATION:

Several alternatives are available for Planning Commission consideration. Alternatives 1-4 below were presented to the Planning Commission and City Council in the May 11, 2012 staff report; Alternative 5 is a compromise proposal presented to City Council by four of the applicants, and Alternative 6 is a Petitioned in Partial Opposition alternative presented to City Council by several area residents. A description and discussion of these various alternatives is provided below, while maps that illustrate each alternative are also attached.

- 1) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775, 801, 809, 815, 821, 827 and 903 East Centre Avenue be rezoned to OS-1, office service.
- 2) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, the southern 132-feet of 801 and 809 East Centre Avenue, and the southern 264-feet of 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office Service with the northern 330-feet of 801 and 809 East Centre Avenue and the northern 198-feet of 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.
- 3) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.
- 4) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service and the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to P-1, vehicular parking.
- 5) Recommend to City Council that Rezoning Application #11-04 be approved and all the properties be rezoned to OS-1, office service with the exception of the north 50-feet of 801, 809, 815, 821 and 827 East Centre Avenue that is to remain zoned R-1A, one family residential (Applicant compromise alternative – four applicants).
- 6) Recommend to City Council that Rezoning Application #11-04 be approved and all the properties be rezoned to OS-1, office service with the exception of the north 330-feet of 801 East Centre Avenue and the north 50-feet of 809, 815, 821 and 827 East Centre Avenue that is to remain zoned R-1A, one family residential (Petitioned in Partial Opposition Alternative - area residents).

Alternative 1 proposes to rezone the entire area to OS-1 as requested by the applicants. This alternative is not entirely consistent with the Comprehensive Plan designations since the north portions of 801, 809, 815, 821 and 827 East Centre Avenue are designated for low density residential. The Future Land Use Map boundary recommends a lesser depth of office land uses within the block between Lakewood Drive and Garden Lane.

Alternative 2 proposes to follow the precise boundary of the Future Land Use Map with a combination of OS-1/R-1A zoning for 801, 809, 815, 821 and 827 East Centre Avenue. This alternative does not, however, consider the OS-1 zoning depth (132-feet) that would result for 801 and 809 East Centre Avenue and the potential limitations/challenges for office redevelopment. In addition to the shallow OS-1 zoning depth (132-feet) that would result under this alternative, these parcels are also only 66-feet in width.

Alternative 3 proposes to rezone the properties to OS-1 with the exception of the north 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue that would remain zoned R-1A. This alternative would limit the encroachment of nonresidential development into the adjacent residential neighborhood while allowing for viable office redevelopment options along East Centre Avenue. Although the Plan recommends the north 330 feet of 801 and 809 East Centre Avenue as appropriate for low density residential, rezoning the south 264 feet of these parcels to OS-1 would address the site redevelopment limitations/challenges that may result from a parcel depth of only 132 feet. Appropriate setbacks, screening and buffering techniques would be required with any office redevelopment proposal and would be considered and implemented during the site plan review process to minimize potential adverse impacts. Additionally, rezoning the south 264 feet (compared to the entire parcel depth of 462 feet) would likely result in the construction of smaller office buildings, which would be more in character with the surrounding residential neighborhood and existing office buildings. Finally and consistent with the Comprehensive Plan, retaining the north 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue with the existing R-1A zoning also provides sufficient depth and area for future single family residential development sites.

Alternative 4 proposes a combination of OS-1/P-1 zoning for 801, 809, 815, 821 and 827 East Centre Avenue. While the P-1 district would prohibit the construction of an office building in this area, off-street parking lots associated with nonresidential uses may also have an impact on adjacent residential uses through an increase in noise, traffic, lights, etc. Under this alternative, appropriate setbacks and conflicting land use screening would also be required between the nonresidential and residential use to mitigate potential adverse impacts.

Alternative 5 has been presented by four of the original applicants and proposes to rezone the entire area to OS-1 with the exception of the north 50-feet of 801, 809, 815, 821 and 827 East Centre Avenue that would remain zoned R-1A. As with the applicants original request (Alternative 1), this alternative is also not entirely consistent with the Comprehensive Plan designations since the north portions of 801, 809, 815, 821 and 827 East Centre are designated for low density residential. The Future Land Use Map boundary recommends a lesser depth of office land uses within the block between Lakewood Drive and Garden Lane. While this option was considered by staff during the initial rezoning consideration, it was not included in the May 11, 2012 staff report for the reasons stated above. In addition, there have been cases where unbuildable “buffer” areas of residential zoning have raised concerns that such areas may be deemed a “taking” of property. In this case, however, subsequent to the May 17<sup>th</sup> Planning Commission meeting, four of the five property owners has requested this “buffer” as an acceptable compromise to the staff recommended Alternative 3.

Alternative 6, which represents a Petition in Partial Opposition presented by several area residents, proposes to rezone the entire area to OS-1 with the exception of the north 330-feet of 801 East Centre Avenue and the north 50-feet of 809, 815, 821 and 827 East Centre Avenue that is to remain zoned R-1A. This alternative is also not entirely consistent with the Comprehensive Plan designations since the north portions of 809, 815, 821 and 827 East Centre are designated for low density residential. The Future Land Use Map boundary recommends a lesser depth of office land uses within the block between Lakewood Drive and Garden Lane. While the depth of the OS-1 zoning for the 801 East Centre Avenue parcel in this alternative is consistent with the Future Land Use Map, office redevelopment challenges may be encountered if developed separately given the limited parcel width (66-feet) and depth (132-feet). However, Mr. Rogers also owns 775 East Centre Avenue, which is contiguous to 801 East Centre Avenue, and these two parcels could be developed jointly for OS-1 uses. As additional information, while a single-family home may be constructed on the northern 330-feet of 801 East Centre Avenue, if the northern R-1A zoned portion were divided from the south OS-1 zoned portion of the parcel, development challenges with regard to minimum building setbacks may be encountered.

With regard to all of the alternatives presented for consideration, it is noted that office land uses adjacent to residential land uses are common throughout the city, especially along Centre Avenue, which is designated as primary office corridor in the Comprehensive Plan. In addition, potential adverse impacts from nonresidential developments are addressed through appropriate building/parking setbacks, building height limitations, screening/buffering techniques, outdoor lighting restrictions and other Zoning Code related requirements. Office land uses also typically have less impact on adjacent residential uses due to their limited hours of operation, less traffic volumes and a building style and mass similar to residential structures. As such, the Comprehensive Plan identifies offices uses as appropriate within the vicinity. However, the intent of the Plan is to limit the depth of office uses between Lakewood Drive and Garden Lane on the north side of East Centre Avenue.

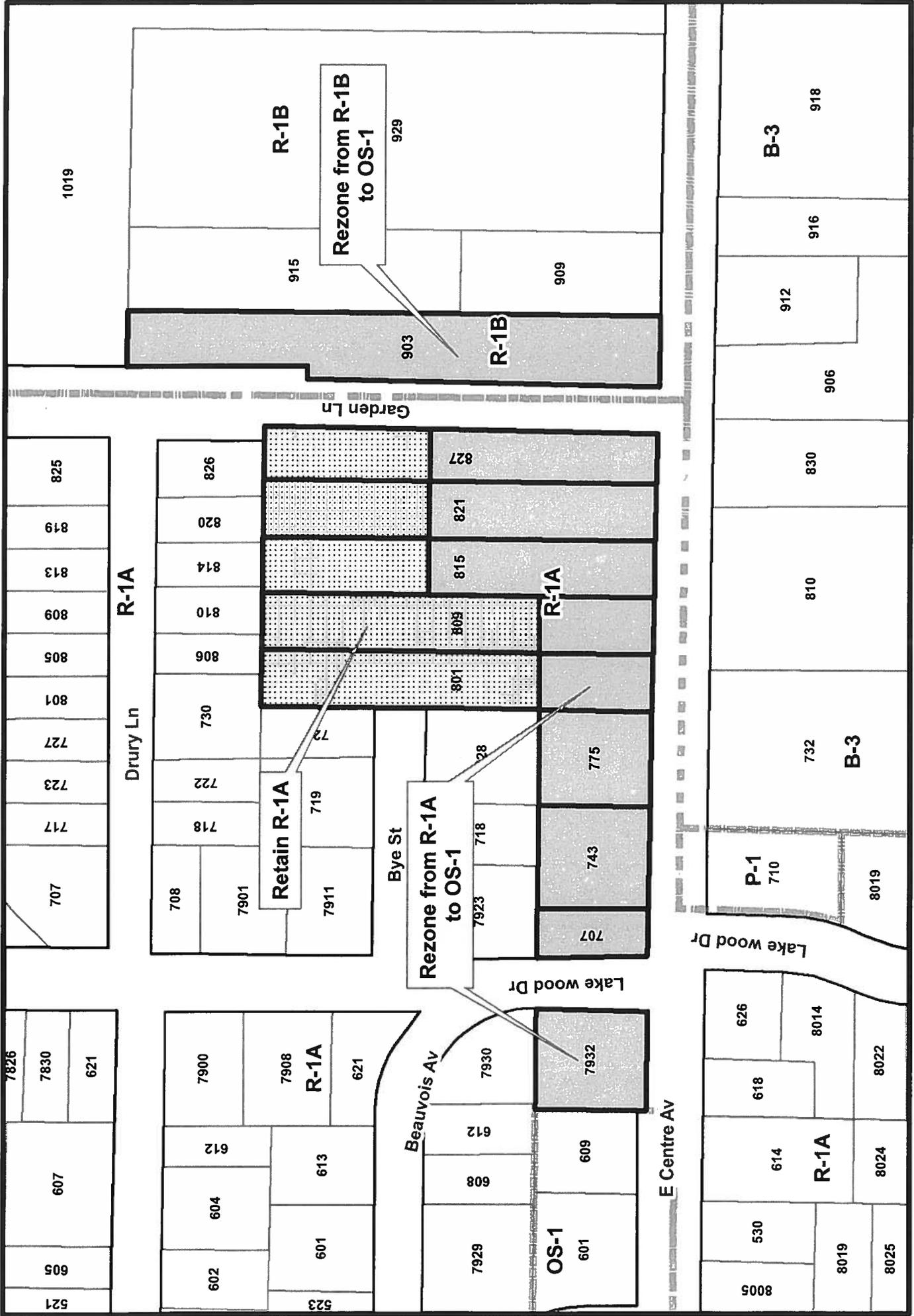
Considering the site specific characteristics of this rezoning application, staff again recommends Alternative 3. This option provides the property owners involved in the rezoning reasonable office and residential redevelopment options consistent with the Plan designations. While the owners of 801, 809, 821 and 827 East Centre Avenue have questioned the viability of future residential development along the northern 198-feet of these parcels, individual single family residential homes can be constructed on the northern portion of each parcel with access from Bye Street for 801 East Centre Avenue, from Garden Lane for 827 East Centre Avenue and from East Centre Avenue (through the office zoned portion of the parcels) for 809, 815 and 821 East Centre Avenue. While individual home construction could occur under this scenario, it is recognized that residential development of this northern 198-feet would more likely occur through land assembly/division, as will likely be necessary for the proposed OS-1 zoned portion of these parcels. One example of how this land assembly/division could occur on the subject parcels is illustrated in Map 7 (attached). Such land assembly/division has been accomplished for various residential and nonresidential developments/redevelopments throughout the city.

In his July 17<sup>th</sup> and 23<sup>rd</sup>, 2012 communications, Mr. Rogers notes concerns regarding costs associated with utility extensions to serve future residential development along the northern portion of these parcels. Staff did complete research regarding both public and private utilities and previously consulted with Mr. Burns of Consumers Energy regarding both electric and gas service for these properties. As with any new construction project (residential and/or nonresidential), in addition to the cost of the land, utility extension costs including public sewer, water, electric and natural gas are typical development costs. Utility extensions are often accomplished after the land sale, and in conjunction with a specific development project, as opposed to more speculative real estate transactions.

Based on the above analysis, staff advises the Planning Commission to recommend to City Council that Rezoning Application #11-04 be approved consistent with Alternative 3 and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.

Attachments: Maps 1 through 7 (Alternatives 1-6, and Potential Residential Development Option under Alternative #3)  
July 10, 2012 City Council meeting minutes  
July 23rd and July 17, 2012 Communications from Thomas Rogers, owner 775 and 801 East Centre Avenue  
July 10, 2012 Communication from Steve Nuss, owner of 809 East Centre Avenue  
July 9, 2012 Petition in Partial Opposition to Rezoning Application #11-04  
June 11, 2012 Communication from Thomas Rogers, Steve Nuss, Leroy Butler, Joyce Anderson  
May 17, 2012 Planning Commission meeting minutes  
May 11, 2012 Department of Community Development Final Report (with attachments)



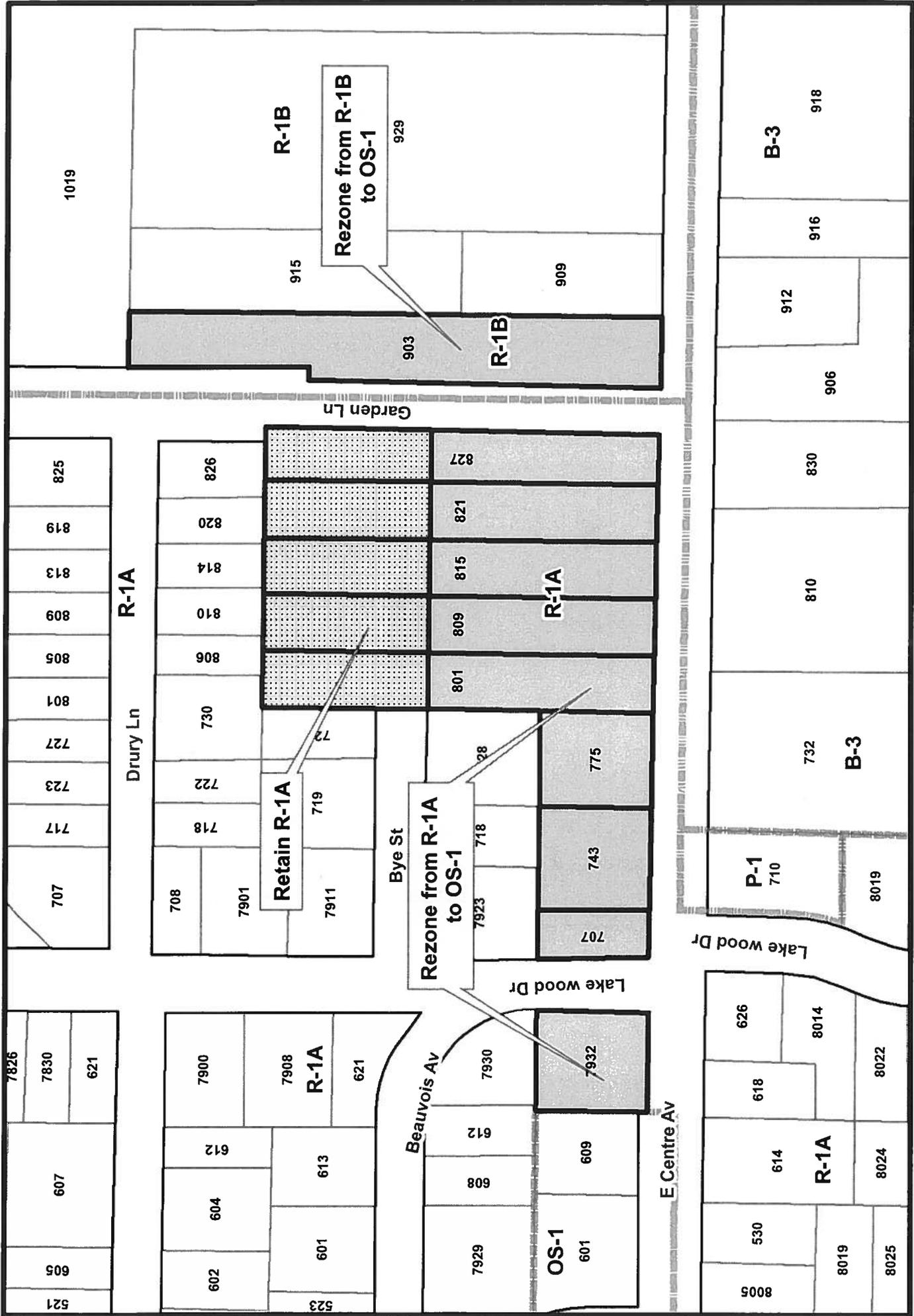


Proposed OS-1  
 Retained R-1A  
 Zoning Boundary

**Map 2**  
**Rezoning #11-04 (Alternative #2)**  
**East Centre Avenue**  
**Lakewood Drive to Garden Lane**



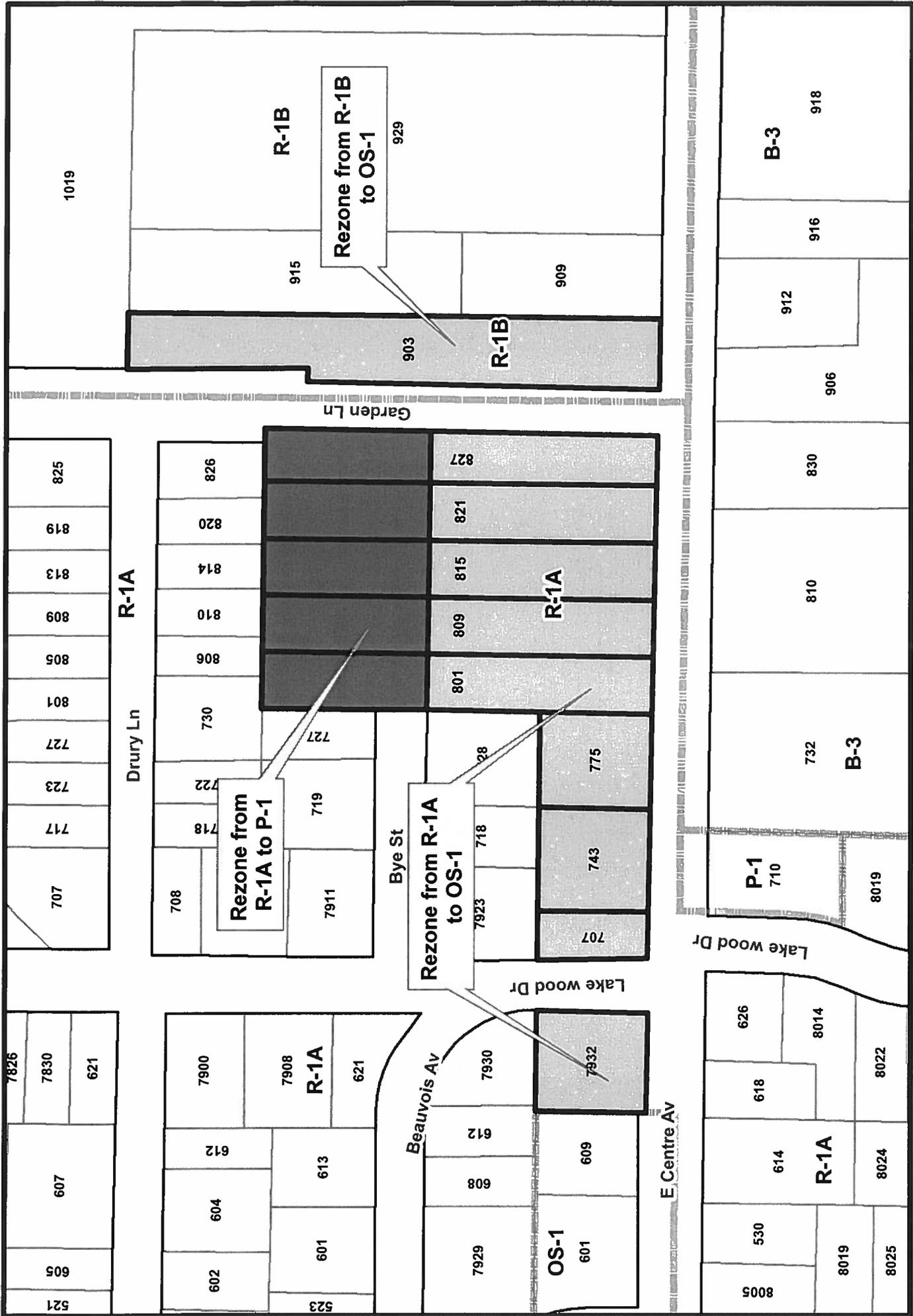
1 inch = 150 feet



1 inch = 150 feet

**Map 3**  
**Rezoning #11-04 (Alternative #3)**  
**East Centre Avenue**  
**Lakewood Drive to Garden Lane**

**Legend:**  
 Proposed OS-1 (Solid grey)  
 Retained R-1A (Dotted pattern)  
 Zoning Boundary (Dashed line)

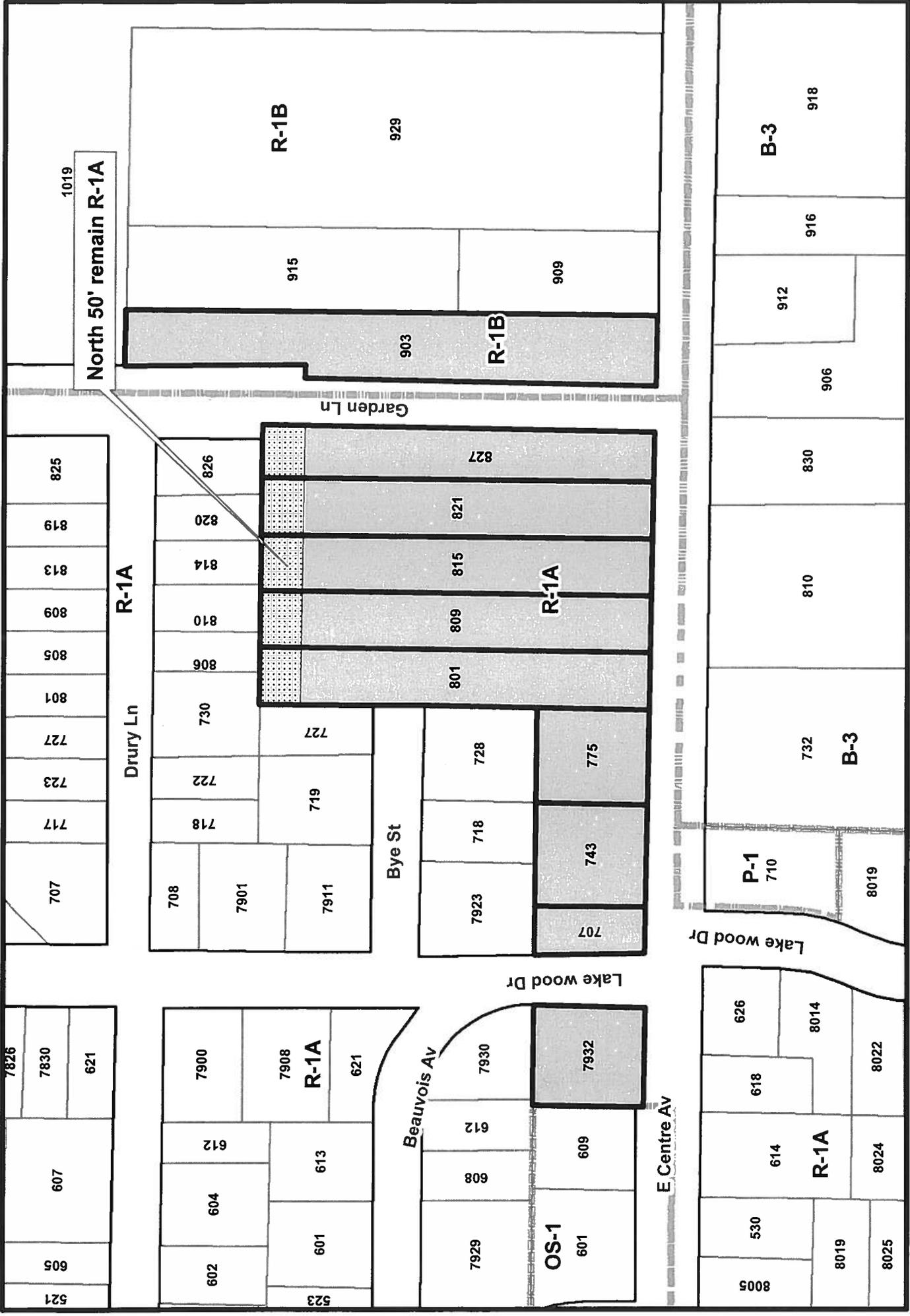


-  Proposed OS-1
-  Proposed P-1
-  Zoning Boundary

**Map 4**  
**Rezoning #11-04 (Alternative #4)**  
**East Centre Avenue**  
**Lakewood Drive to Garden Lane**



1 inch = 150 feet



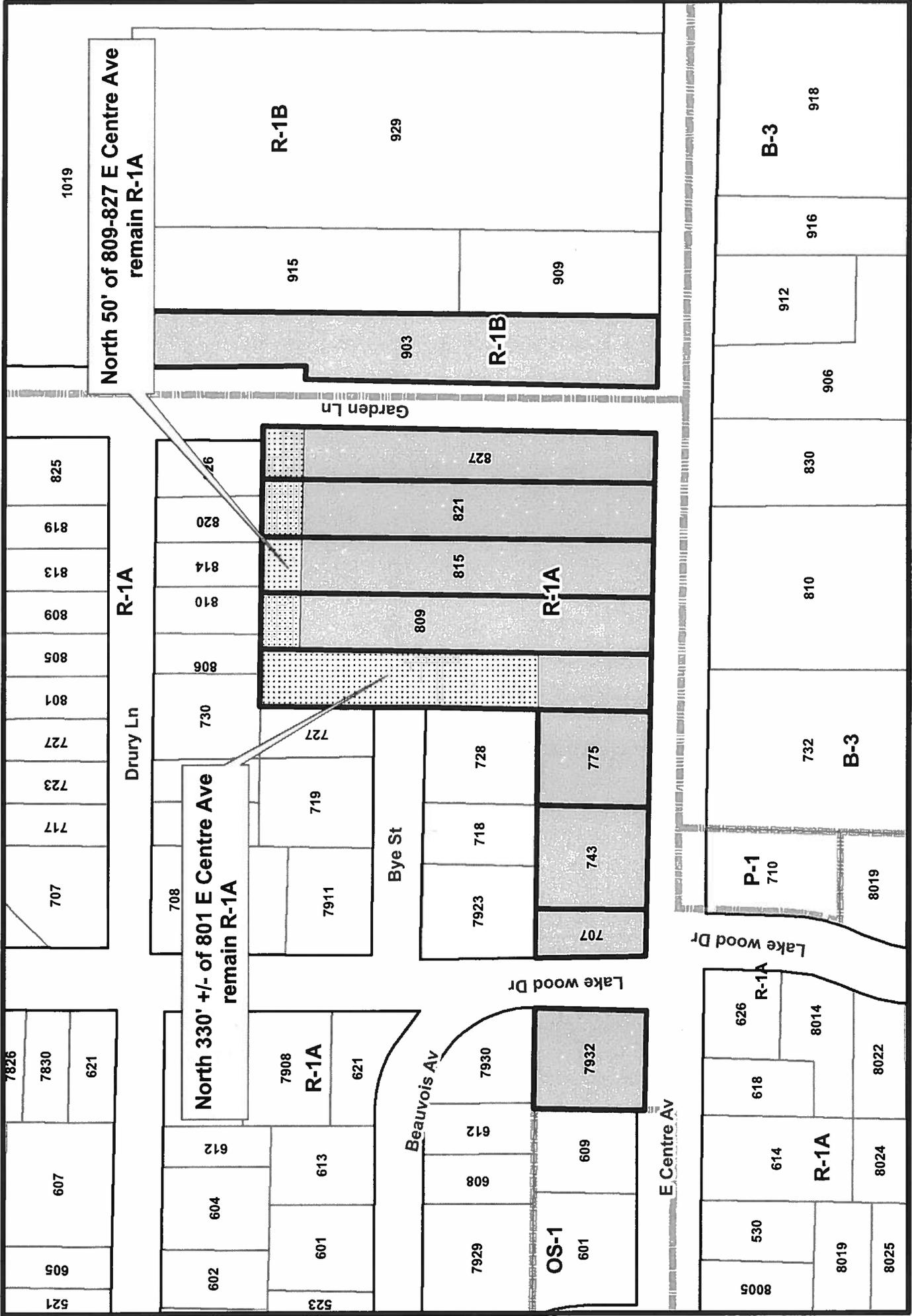
**Map 5**  
**Subject Properties Rezoning #11-04 (Alternative #5 - Applicant compromise alternative)**

**East Centre Avenue**  
**Lakewood Drive to Garden Lane**



1 inch = 150 feet

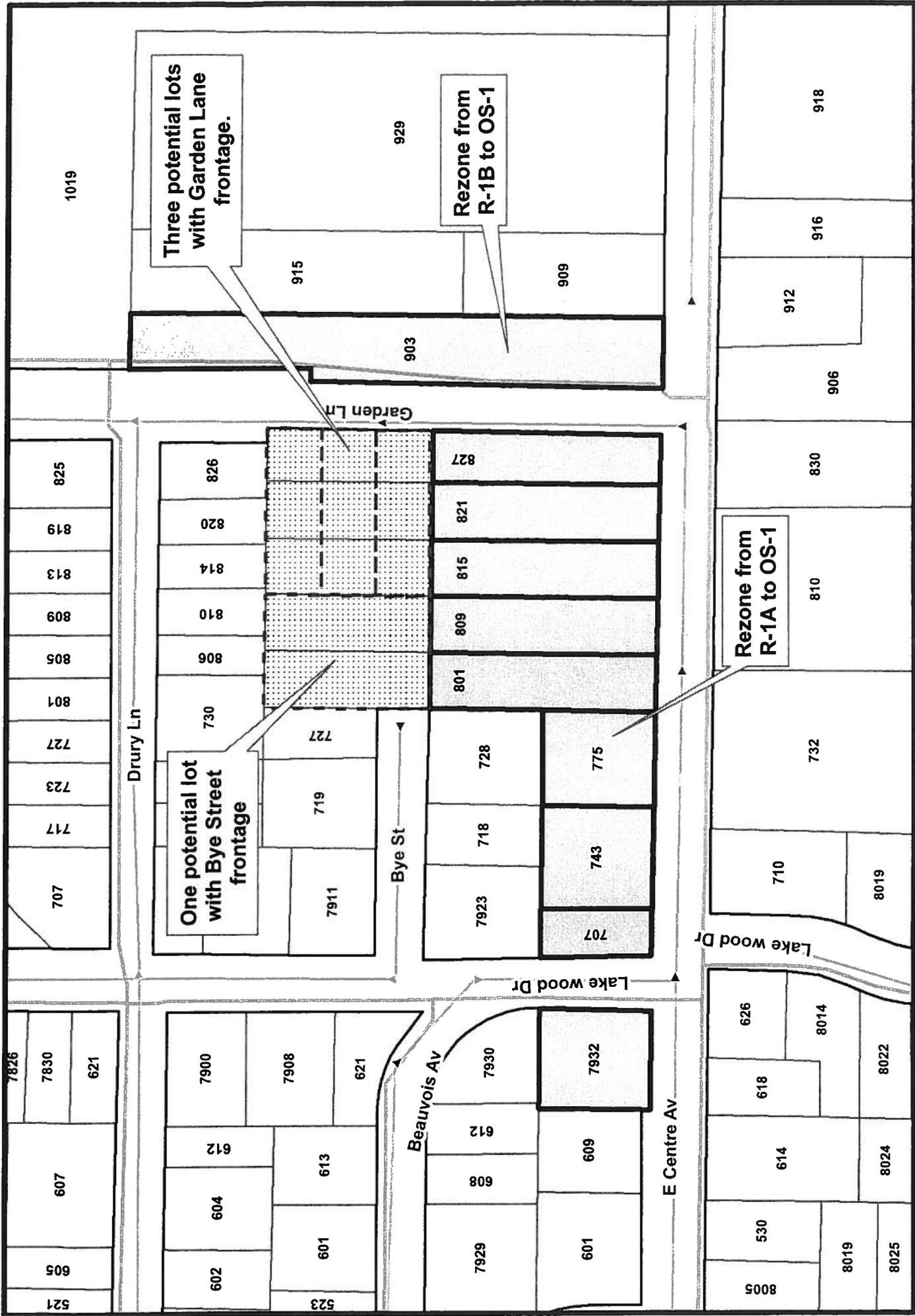




**Map 6**  
**Rezoning #11-04 (Alternative #6 - Petition in partial opposition)**  
**East Centre Avenue**  
**Lakewood Drive to Garden Lane**



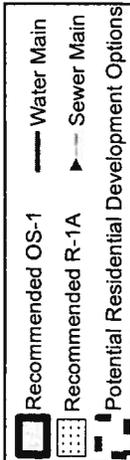
1 inch = 150 feet



Map 7

Potential Residential Development Option  
 Rezoning #11-04 (Alternative #3)

East Centre Avenue - Lakewood Drive to Garden Lane



1 inch = 150 feet

## CITY COUNCIL MEETING MINUTES FROM JULY 10, 2012

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

At the request of Mayor Pro Tem Reid, Pastor Paul Nuechterlein of the Prince of Peace Lutheran Church of Portage 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 Elizabeth A. Campbell, Jim Pearson, Patricia M. Randall, Edward J. Sackley and Terry R. Urban and Mayor Pro Tem Claudette S. Reid. Mayor Peter J. Strazdas was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

**APPROVAL OF MINUTES:** Motion by Sackley, seconded by Urban, to approve the June 26, 2012 Regular Meeting and June 27, 2012 Special Meeting Minutes. Upon a voice vote, motion carried 5 to 0 with Councilmember Campbell abstaining.

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

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF JULY 10, 2012:** Motion by Urban, seconded by Campbell, to approve the Accounts Payable Register of July 10, 2012. Upon a roll call vote, motion carried 6 to 0.

### **PUBLIC HEARINGS:**

**PUBLIC HEARING FOR REZONING APPLICATION #11-05, 7812, 7840 AND 7842 PORTAGE ROAD:** Mayor Pro Tem Reid opened the public hearing and introduced Community Development Director Vicki Georgeau, who noted that Rezoning Application #11-05 is a request to rezone 7812, 7840 and 7842 Portage Road to B-3, general business, and the portion of 7908 Portage Road (approximately 351 feet by 178-feet) located immediately south of 7842 Portage Road, to P-1, vehicular parking. She outlined the location of the request, provided some history of the process and indicated that the application was originally initiated by Mike Stoddard, who plans to construct a micro-brewery/restaurant with the requisite parking as part of his plan. Discussion followed. Mayor Pro Tem Reid opened the public hearing for comment from the interested parties and citizens. There being no discussion, motion by Sackley, seconded by Urban, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

Motion by Sackley, seconded by Urban, to approve Rezoning Application #11-05 and rezone 7812, 7840 and 7842 Portage Road to B-3, general business, and the portion of 7908 Portage Road (approximately 351 feet by 178-feet) located immediately south of 7842 Portage Road, to P-1, vehicular parking. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 231 of City of Portage Ordinance Book No. 12.

**PUBLIC HEARING FOR REZONING APPLICATION #11-04, EAST CENTRE AVENUE BETWEEN LAKE WOOD DRIVE AND GARDEN LANE:** Mayor Pro Tem Reid opened the public hearing and Ms. Georgeau reviewed the history of the Rezoning Application #11-04 request to rezone various properties on East Centre Avenue between Lake Wood Drive and Garden Lane. She indicated that the Rezoning Application #11-04 is a request to rezone 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and

827 East Centre Avenue to OS-1, office service, with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential. She outlined the history of the process, the Planning Commission discussion of the options and the zoning uses of the surrounding properties and the properties assembled as a result of the request. She explained the reasoning behind each of the alternatives discussed in her communication to the Planning Commission dated May 11, 2012, and disclosed that another alternative has since been offered by the applicant, Thomas Rogers, 895 Treasure Island Drive, Mattawan, and an alternative by local residential property owners. She indicated that the staff recommendation is still Alternative 3 as stated above. Discussion followed regarding access to utilities with the use of Alternative 3, the extension of Bye Street, the proposed 50' buffer, possible compromises, the idea of having a full Planning Commission deliberation on the matter for recommendation and residential buffers as being developable.

In response to Mayor Pro Tem Reid, City Attorney Randy Brown indicated that it is his understanding that all of the properties can be developed by having access off of Centre Avenue or the other two side streets, but he hypothesized that if they could not be accessed, then he agreed that the assembly of the properties in order to make them developable is not appropriate, and he said he did not recall a time in the city's history when that was a reason to assemble properties and cause certain properties to not be developed because sometime in the future, property owners could assemble properties in order to make them developable. Councilmember Urban asked for a clarification from City Attorney Brown and Ms. Georgeau explained that residential property could access their property from the commercial property as there is no prohibition to do this even though there is a prohibition to access commercial property from a residential property, so the northern portion of the five deep lots of 801, 809, 815, 821 and 827 East Centre Avenue would not be land-locked. Discussion followed.

Councilmember Sackley pointed out that there is new information that should be placed before a full Planning Commission for discussion; that buffers on top of set backs required for a zoning district can be considered a "taking;" and, City Attorney Brown agreed that City Council could return this matter to the Planning Commission. Councilmember Pearson concurred with Councilmember Sackley to return the matter to the full Planning Commission and indicated that it is awkward to take the staff recommendation when the Planning Commission had some other ideas.

Mayor Pro Tem Reid opened the public hearing to comment from the audience and the applicant, Thomas Rogers, 895 Treasure Island Drive, Mattawan, who explained that at the behest of Mike West, he sent letters to the property owners on East Centre Avenue between Lake Wood Drive and Garden Lane asking them if they wished to join in the rezoning application. He also indicated that the owner of 903 East Center Avenue across Garden Lane found out by word of mouth and asked to join in and the Community Development Department joined four other properties in the rezoning application. Discussion followed. He spoke in favor of the request as he reviewed his progress with the process since he first placed application in February 2012 and argued for consistency in zoning. Discussion followed regarding the options available to City Council when considering rezoning one, some or all of these properties to be rezoned. City Attorney Brown answered some of the concerns by indicating that the Planning Commission can add a rezoning to an application; an applicant can request to be separated from the assembly, but it is not a right; withdrawal is an option; and sending the matter back to the Planning Commission could solve some of these issues as it will be back to City Council in a different form. Discussion followed. City Attorney Brown said that the City Council could rezone the parcels owned by Mr. Rogers, but he expressed his concern that if City Council denies the other requests, there should be a real clear basis why one applicant is being granted and the others are being denied. Discussion followed.

Bryan Mohny, 7911 Lake Wood Drive, filed a Petition in Partial Opposition to Rezoning Application #11-04, asked for protection of the neighborhood, spoke in favor of the 50' buffer and Alternative 3.

Leroy Butler, 821 East Centre Avenue, spoke in opposition to splitting the properties and spoke in favor of the application as presented.

Craig Binder, 743 East Centre Avenue, is neutral with respect to the application and expressed an interest in keeping residential access on Bye Street and a concern for any increase in traffic that would follow a rezoning.

Lucinda Owen, 826 East Centre Avenue, asked whether a fence could be placed to separate the property zoned office from the property zoned residential and, in answer to Councilmember Urban, she indicated that she is still interested in her property being rezoned, but only if her property value would increase.

There being no more discussion, motion by Sackley, seconded by Campbell, to close the public hearing. Upon a voice vote, motion carried 6 to 0.

In response to Mayor Pro Tem Reid, Ms. Georgeau indicated that a 10 foot buffer is required to separate residential property from commercial uses with 6 feet of opaque screening that can be a fence, a wall or landscaping or a combination and is addressed during site plan review. In answer to her question regarding whether rezoning from residential to office increases or decreases the value of property, Ms. Georgeau deferred to the City Assessor for the best answer, but did indicate that generally, depending upon the facts and circumstances, rezoning from residential to office probably increases the value of property. Finally, Ms. Georgeau responded that there is nothing to preclude some type of assembly of properties as it may be necessary to develop a site, but each of the properties could still nevertheless be developed as individual entities and stand alone. She also indicated that the largest building on these 5.8 acres is 63,000 square feet, but the probability is that several smaller buildings of 2,000 to 5000 square feet would be built. In answer to Mayor Pro Tem Reid's question of whether the Planning Commission was considering these properties for the development of a large office complex or for individual offices, Ms. Georgeau answered they appeared to be considering both of these options. Discussion followed regarding the depth of the properties on East Centre Avenue.

Councilmember Sackley asked Ms. Georgeau whether she had a sense of whether the Planning Commission might be in a better position to re-engage in this discussion with all of the additional information and whether it would be a good use of Planning Commission time and staff time. Ms. Georgeau answered that it is hard to determine what they might do with the additional information. Discussion followed regarding the 50 foot buffer.

Councilmember Urban indicated that he is not supportive and is prepared to have the discussion now and Councilmember Randall concurred. Discussion followed regarding the amount of extra time it would take and Ms. Georgeau indicated that it could be handled in one meeting instead of two meetings, so it would take 30 to 45 days or less.

At the request of Mayor Pro Tem Reid, City Clerk James Hudson referred to the Petition in Partial Opposition to Rezoning Application #11-04, and indicated that the six property owners of the neighborhood affected by the rezoning request in opposition to the rezoning of 801, 809, 815, 821 and 827 East Centre Avenue constituted nine percent (9%) of the owners of the area of land included in the proposed zoning change and seventeen percent (17%) of land included within an area extending outward one hundred feet (100') from any point on the boundary of land included in the proposed change, excluding right-of-way or other publicly owned land. He concluded that a two-thirds vote of City Council is not required to pass the amendment. Discussion followed.

Motion by Sackley, seconded by Campbell, to refer Rezoning Application #11-04 and the Petition in Partial Opposition to Rezoning Application #11-04 received by the City Clerk on July 9, 2012, back to the Planning Commission for discussion and recommendation. Discussion followed. Upon a roll call vote, motion carried 4 to 2. Yeas: Councilmembers Sackley, Campbell and Pearson and mayor Pro Tem Reid. No: Councilmembers Urban and Randall.

**REPORTS FROM THE ADMINISTRATION:**

\* **2012 LOCAL STREET PAVING RECONSTRUCTION – ADDITIONAL STREET RECOMMENDATIONS:** Motion by Urban, seconded by Campbell, to approve a change order in the not to exceed amount of \$431,600 for additional street reconstruction at extended unit pricing with Michigan Paving & Materials Company for the 2012 Local Street Reconstruction Program; a contract amendment with Jones & Henry Engineer, Ltd, for construction administration and material testing for the streets added to the 2012 Local Street Reconstruction Program in the not to exceed amount of \$16,000; and authorize the City Manager to execute all documents related to this contract on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **UPGRADE OF EMERGENCY WARNING SIREN SYSTEM:** Motion by Urban, seconded by Campbell, to approve the acquisition and installation of equipment necessary to upgrade the emergency warning siren system through West Shore Services in the amount of \$30,483 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

\* **VERIZON WIRELESS MOBILE PHONE/DATA SERVICE AGREEMENT:** Motion by Urban, seconded by Campbell, to approve the cancellation of the current Sprint Solutions contract for mobile phone/data service; approve the Verizon Wireless mobile phone/data service agreement; and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**UNFINISHED BUSINESS:**

\* **AMENDMENT TO CODE OF ORDINANCES - PURCHASING:** Motion by Urban, seconded by Campbell, to adopt the amendment to Article 5, Finance, Division 2, Purchases and Sales, Section 2-171, Purchasing procedures; bids generally; 2-173, Change orders to construction contracts; and 2-175, Sale of personal property in the City of Portage Code of Ordinances. Upon a roll call vote, motion carried 6 to 0. Ordinance recorded on page 231 of City of Portage Ordinance Book No. 12.

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

Portage Youth Advisory Committee of May 21, 2012.  
Portage Planning Commission of June 21, 2012.

**BID TABULATIONS:**

\* **CURBSIDE RECYCLING CONTRACT - RECOMMENDATION:** Motion by Urban, seconded by Campbell, to award a three-year contract for the provision of weekly curbside recycling services to the low bidder, City Star Services, LLC, dba Republic Services of West Michigan, in the not to exceed amount of \$1,563,413.88 and authorize the City Manager to execute all documents related to this agreement on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**\* POLICE FACILITY CONCRETE SIDEWALK AND STAIR REPLACEMENT:**

Motion by Urban, seconded by Campbell, to approve the expenditure for repairs to a portion of the concrete sidewalk and stairs along the northwest corner of the police facility to Schoolcraft Concrete Construction, LLC, of Schoolcraft, Michigan, in the amount of \$18,000 and authorize the City Manager to execute all documents related to this matter on behalf of the city. Upon a roll call vote, motion carried 6 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Campbell thanked those who attended and worked the July 4<sup>th</sup> Fireworks Display, especially Councilmember Pearson, Mayor Pro Tem Reid, Dick Wilson and John Beebe for their hard work.

Councilmember Sackley touted the Portage Walking, Running Bike Trail System since he was home from the July 4<sup>th</sup> Fireworks Display in less than five minutes using his bicycle.

Councilmember Urban admitted that the automobile traffic at the July 4<sup>th</sup> Fireworks Display was tough, but biking was not an option for him and his two young daughters. He expressed pride in representing Mayor Strazdas at the Boy Scout Court of Honor for five Eagle Scouts from Troop 244.

Councilmember Sackley warned of a planned solicitation disclosed in a letter from the Vice President and General Manager of American Water Resources of Michigan for water and sewer line protection coverage and his e-mail discussing protection coverage for water lines only and implored Tom Haroldson from mLIVE and John McNeal from WKZO to provide information to the public on this and asked the City Administration to look into this matter on behalf of Portage citizens as to whether a third party is legally able to notify our residents of their legal responsibilities with respect to utilities that pass across their property and are connected to the city system.

Councilmember Pearson indicated that Councilmember Campbell understated what she did to make the July 4<sup>th</sup> Fireworks Display a success and that the Portage Rotary sponsors the July 4<sup>th</sup> Fireworks Display and the City of Portage does not pay for the fireworks and expressed his appreciation to the Portage businesses who contributed to the effort.

City Manager Evans asked that Portage citizens be cautious if being solicited by the American Water Resources of Michigan Company, announced the Open House on the Angling Road tree plan, Wednesday, July 25, 2012, from 6:30 to 8:30 p.m. in City Council Chambers and announced that Devin Mackinder, Director of Technology Services and Community Marketing, be recognized for receiving the International Academy of Communication Arts Award for the City of Portage website.

Mayor Pro Tem Reid stated that she realized how very good the website of the City of Portage is when looking at another city for a house in Northern Michigan where her daughter's husband recently accepted employment and expressed her appreciation for the July 4<sup>th</sup> Fireworks Display.

**ADJOURNMENT:** Mayor Pro Tem Reid adjourned the meeting at 9:31 p.m.

---

James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.

James Cheesebro  
Chairman Portage Planning Commission  
7900 S. Westnedge Ave.  
Portage, Mich. 49002

July 23, 2012

RECEIVED

JUL 24 2012

COMMUNITY DEVELOPMENT

Dear Planning Commissioners:

I was able to call Consumers Energy to get the name & telephone # of the engineer I spoke with regarding the lack of electrical service currently available to my 801 E. Centre Lot from Bye St.

Mr. Jessie Burns, whose direct line is (269) 337-2311.

Hopefully someone from the city will call him to confirm this.

Regards,



Thomas C. Rogers

OS-1 Zoning Applicant

cc: Vicki Georgeau, Director of Community Development  
James Hudson, Portage City Clerk

July 17, 2012

RECEIVED

JUL 18 2012

COMMUNITY DEVELOPMENT

James Cheesbro  
Chairman Portage Planning Commission  
7900 S. Westnedge Ave.  
Portage, MI 49002

Dear Planning Commissioners:

I started my quest to rezone my property back in February 2012 by visiting with Michael West, Assistant City Planner. He suggested things would move faster if we checked with the neighbors to see if they wanted to join my application. Things are not proceeding as planned on my application dated 3-12-2012 to rezone my parcels at 775 and 801 E. Centre Avenue from R-1A Residential to OS-1 Commercial. I feel that several more points or questions were raised at the Public Hearing with City Council July 10, 2012.

1. Near the end of July 10<sup>th</sup> Hearing, Vicki Georgeau, Director of Community Development, stated that she believed that the Planning Commission could have one Public Hearing for the review of the issues before sending it back to council. Last week Assistant City Planner, Michael West, told me that a new Planning Commission Public Hearing would be August 2, 2012, but it was his understanding that we would have to “start from scratch all over again”, meaning more than one hearing. I am also concerned about getting all 8 active Planning Commissioners to this August 2<sup>nd</sup> hearing so that we may have the 5 votes needed to send your recommendation back to City Council who voted not to take action until you make a recommendation.

2. I am also concerned about the personal questions that I received from City Council, referring to me as “the developer”. Asking if I owned or have any interest in any of the other properties in the rezoning application to OS-1, and was I prepared to have council take action on my property by itself that night.

I am not a developer and do not own or have any interest in the other applicant’s properties. I had never had any real interaction with any of my co-applicants until my March 2012 letter was sent. I have only been through the rezoning process once in my life for the property located at 1316 E. Centre, which happened last year with you. I can only think of two possible reasons why this came up:

- A. The Planning Commissions minutes from April 5, 2012 do not make mention of Michael West stating why he asked me to contact my neighbors along Centre Avenue between Garden Lane and Lakewood Street to see if they wanted to join my application for rezoning to OS-1 (the DVD does capture Mr. West’s statements). Apparently someone told the Council that I was placing options on a city block! (See Mr. West’s letter dated 3-1-12 and my letter dated 3-8-12).
- B. Or they may have looked at the abbreviated City Tax Title of Record which should say “Michigan Commerce Bank FBO (For the Benefit Of) Thomas C.

Rogers – Roth IRA”. Someone may have thought that there were some big bank dollars behind a large development.

Michigan Commerce Bank in Holland, Michigan is the custodian for a special form of self-directed Roth IRA that for a monthly fee allows me to purchase real estate I choose to invest in, instead of stocks or bonds. I cannot write checks from this account, so that is why the check for \$825.00 with my rezoning application comes from a bank check from Michigan Commerce Bank (see attached copy of check).

I purchased the home at 801 E. Centre Avenue as a stand alone property that could be converted to OS-1 per the City’s Comprehensive Plan. Since purchasing this home built in 1917, on June 30, 2011, I have invested over \$50,000 in renovations (new vinyl windows, foamed insulation overhead and blown insulation in the walls, all new flooring on two levels, new appliances plus kitchen cabinets, re-plastered first level and re-drywalled upper story, hooked up to City Water and added a new wheel chair ramp, etc.).

Commissioner Dargit says she wants to preserve the old neighborhood flavor and suggested “the work/live” or “mixed use overlay” could be extended to cover this area. I completely agree and have talked with at least 3 (home based) potential businesses looking to relocate to OS-1 so that they can have outside signage on a major thoroughfare. They currently own a photo studio, interior design studio and a beauty salon, which they wish to grow.

3. I am concerned with the addition of four properties that were added to our rezone application who have not stated that they wanted to be rezoned to OS-1, nor have they paid a fee to join into this process. Two of these property owners at 707 and 743 E. Centre have signed a protest petition dated July 9, 2012 that could require a 2/3 vote of City Council to pass any rezoning measure. Bryan Mohny at 7911 Lakewood and Vickie Kreamalmeyer at 707 E. Centre, who signed this protest petition would not be eligible to sign this petition because they are not within 100 feet of our original applicants properties. Mr. Mohny is the only one to speak out against rezoning at all three public hearings to date (see attached petition).

By including these four extra parcels, we have heard wild claims that “a developer” could place a structure from 250,000 SF to 66,000 SF which is not helping the paying applicants at all. I am asking the city staff and Planning Commission to recommend limiting of the OS-1 rezoning to those who applied, paid the required fees, and made their wishes to have their property rezoned known.

4. As the primary applicant, paying the \$825 fee, I am opposed to the Alternative #2 and #3, which established a new R-1A residential lot taking 43% of 801 E. Centre as a buffer between OS-1 and the existing R-1A neighbors.

A. The well established reality that Centre Avenue is a commercial thoroughfare and your Planning Commission has approved many zoning applications of property owners with greater depth than 132 feet or 264 feet and more intensified zoning than OS-1 abutting R-1A residential property, up and down Centre Avenue. Case

in point is the rezoning of my property at 1316 E. Centre from R-1A to B-1, which was 290 feet deep abutting a residential property with no added buffer.

B. The rear R-1A lot created by a split zoning of my 801 E. Centre currently has no electrical power available to it according to the engineer from Consumers Energy. According to Vicki Georgeau's statements at the July 10<sup>th</sup> Public Hearing, it would cost approximately \$7,500 to provide a sewer tap to access City Sewers with no City Water available to me. The total cost to bring the utilities to service a home on my lot would exceed \$15,000. In discussing the possibility and "market value" of this lot with two Realtors, they both said that they would list it for no more than \$15,000 but, sewer and electric service would have to be in place before they would take a listing. I feel that this Commission would be recommending creating a lot with no actual value as a buffer for adjacent residential lots, taking away value I might have received for my property under Alternative #1.

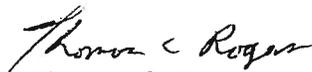
C. SEC.42-240 Intent Of City Ordinance.

"The OS-1 Office Service District is designed to accommodate office and institutional land use activities and planned to serve as a transitional area between residential districts and commercial districts and between major thoroughfares and residential districts." Ms. Georgeau's April 27, 2012 letter to you stated, "Portage's Comprehensive Plan/Future Land Use Plan identifies Centre Avenue as one of two primary office corridors and states that offices are an important 'transitional' use between higher intensity uses and major streets and interior residential neighborhoods."

She and Christopher Forth have stated that future zoning overlay is not "parcel specific", meaning you have some discretion to allow zoning boundaries to conform to existing lot lines and not have to do split zoning of my 801 E. Centre parcel. I believe that Chairman Cheesebro stated "there is a 2% chance of development of these back R-1A lots you would potentially create.

In summary, as was stated in the June 11, 2012 letter to City Council, I am asking that Alternative #1 with a 50 foot Buffer Zoned R-1A along the north end of 801 E. Centre be your recommendation to City Council.

Highest Regards,



Thomas C. Rogers  
OS-1 Zoning Applicant

cc: Vicki Georgeau, Director of Community Development  
James Hudson, Portage City Clerk

\* MARKED UP BY TOM ROGERS

With 801, due to the large Western frontage into the neighborhood, we would ask that only the southern portion, equal to the depth of parcel 775, be allowed to rezone to OS-1. This is consistent with the city's future land use plan. In fact, from the future land use map, it appears that the zoning of parcel 809 is split across the same line. Since 801 and 755 are owned by the same owner and the back portion of 801 would have access to Bye Street, we feel that the owner could sufficiently use the Centre Street portion for office while leaving the northern portion zoned as R1-A.

We the undersigned, petition the Portage City Council to consider these recommendations, and refrain from passing this rezoning as it stands. We realize that the 801, 809, 815, 821, and 827 parcels are only 66 feet wide, and there is a high chance down the road that a larger development combining these deep parcels will occur. Please help the residents protect its neighborhood.

	Name (Please Print)	Address	Signature	Date
1	<del>BOB</del> DOUGLAS CHAMPAGNE	728 BYE ST	Douglas Champagne	7/7/12
2	Bryan Mahney	7911 Lakewood Dr	B. Mahney	7/7/12
3	Nicole Bremer Meyer	707 E. Centre	NM	7/7/12
4	Joanie Patterson <del>Joanie Patterson</del>	730 Drury	Joanie Patterson	7-7-12
5	Tim Vander Bor	718 BYE	Tim Vander Bor	7-7-12
6	CRAIG BINDER	743 E. CENTRE	Craig Binder	7/8/2012
7				
8				
9				
10				
11				
12				
13				
14				
15				



\* NOTE: Joanie Patterson also owns 722 Drury Lane and 806 Drury Lane in addition to 730 Drury Lane.

✓ = PROPERTY OWNERS ADD TO REZONING REQUEST BY STAFF, BUT SIGNED PROTEST PETITION.

*[Signature]*  
7/9/12

○ = PROPERTY OWNERS WHO LIVE OUTSIDE 100' RADIUS OF ORIGINAL REZONING APPLICATION TO

THIS DOCUMENT HAS INVISIBLE FLUORESCENT FIBERS - VIEW UNDER BLACKLIGHT

 MICHIGAN  
COMMERCE BANK  
240 E 8th ST.  
HOLLAND, MI 49423

87-427/843

55375

TRUST ACCOUNT

DATE 03/09/2012 AMOUNT

PAY \*\*\*\*Eight Hundred Twenty Five dollars and 00/100\*\*\*\*

\$825.00

TO THE ORDER OF CITY OF PORTAGE

  
AUTHORIZED SIGNATURE

DOCUMENT CONTAINS A COLORED BACKGROUND AND MICRO-PRINT SIGNATURE LINE (MAGNIFY TO VIEW)

⑈055375⑈ ⑆072413599⑆ 150⑈002⑈4⑈

TRUST DEPARTMENT • MICHIGAN COMMERCE BANK • 240 E. 8th ST. • HOLLAND, MI 49423

55375

ROGERS, THOMAS

138800

03/09/2012

\$825.00

CITY OF PORTAGE

55375

REAL ESTATE EXPENSE

801 & 775 E CENTRE, PORTAGE, MI

**Subject:** Fw: 801 East Centre Avenue, Portage, Michigan

**From:** tom rogers (rogerstom2000@yahoo.com)

**To:** rogerstom2000@yahoo.com;

**Date:** Thursday, March 8, 2012 12:02 PM

Hi Neighbor,

I own the home at 801 E. Centre and adjacent lot at 775 E. Centre. The City Of Portage Master Plan shows the future zoning of our properties to be designated as OS-1 (Commercial Office/Service). I am preparing to rezone the property I own next door to you from R-1A (Residential) to OS-1 (Commercial Office/Service). This will cost me a fee of \$825.00 for the first acre; then \$75.00 for each additional acre or fraction there of.

This means that for \$75.00, any of my neighbors could jointly be included with my "Application For Zoning Amendment".

I know that you have some of the same questions and concerns that I have as to how rezoning would affect your single family residential home that would become "Legally Nonconforming". Attached are the answers provided to me by Michael West -Assistant City Planner for City of Portage in his letter dated March 1, 2012 and Attachment: Section 42-133, Nonconforming lots, buildings, structures and uses.

The City of Portage has encourage me to contact my adjacent neighbors to see if they also might want to change their lots zoning to OS-1 now. So that this rather drawn out, time consuming & costly public hearing process does not have to be repeated unnecessarily in the near future, please call me at 760-6448 to discuss your level of interest A.S.A.P. .

Regards,

*Tom Rogers*

Tom Rogers

March 1, 2012

Mr. Thomas Rogers  
895 Treasure Island Drive  
Mattawan, Michigan 49071

Dear Tom:

RE: Non-Conforming Use Regulations, 801 East Centre Avenue, Portage, Michigan.

The following is intended as a follow-up to our telephone conversation regarding possible rezoning of the property located at 801 East Centre Avenue, from R-1A, one family residential to OS-1, office service, and potential impacts on the existing single family residence.

The subject property located at 801 East Centre Avenue is approximately 0.70 acre, zoned R-1A, one family residential and occupied by a 1,252 square foot single-family residential dwelling and 440 square foot detached garage. If the subject site was rezoned to OS-1, office service, the single-family residence would become legally nonconforming and governed by Section 42-133, Nonconforming lots, buildings, structures and uses, of the Zoning Code (attached). As such, the nonconforming residence may continue as long as it is not abandoned (refer to Section 42-133(C)(5) for the criteria used to evaluate this issue). The residence can be sold to a new owner and/or rented with no change to this nonconforming status. Additionally and in the event the residence is destroyed by fire or other "act of God", the structure could be reconstructed to its original location within 18 months of the date destroyed.

I hope the above information is helpful to you. If you have any further questions or require additional assistance, please contact me in the Department of Community Development at 329-4475.

Sincerely,



Michael K. West, AICP  
Assistant City Planner

Attachment: Section 42-133, Nonconforming lots, buildings, structures and uses

s:\commdev\2011-2012 department files\planning files\miscellaneous\2012 03 01 mkw non-conforming use regulations, 801 east centre.doc

RECEIVED

JUL 11 2012

COMMUNITY DEVELOPMENT

July 10, 2012

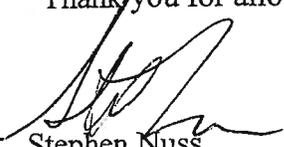
Portage City Council

I Stephen Nuss owner of the property at 809 E. Centre would like to express my concerns about the rezoning of my property and the adjacent properties. As a Realtor for 39 years and owner of investment properties, it is my opinion that dividing the zoning with the front being zoned for office use and the back as residential does not seem like a good option for the owners. I think that to develop three or four residential sites behind the office zoned properties would be very costly. I also feel that the location would not be very desirable, which would make these less saleable than competing homes in the Portage area, especially with the development costs adding to this.

I understand that there may be some of the people in the neighborhood that have concerns also. This is why I would be in favor of a 50 foot buffer zone at the north end of the properties. This seems like a very good compromise, considering that office zoning should not create noise or pollutant issues for the people in the residential area.

If the Council should decide to split the zoning, I would like to have my property withdrawn and leave it as R1. I think my property is very vulnerable to be land locked in the future if the zoning is split.

Thank you for allowing me to express my views.



Stephen Nuss

To: Portage City Clerk

Subject: Proposed Ordinance to amend Article 4 of Chapter 42 of the Codified Ordinances of Portage, Michigan

Tract of land located in Section 15, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

Street Address	Parcel ID Numbers
7932 Lakewood Dr	04200-179-O
707 East Centre Ave	04200-181-O
743 East Centre Ave	04200-182-A
775 East Centre Ave	04200-184-O
801 East Centre Ave	00015-365-O
809 East Centre Ave	00015-370-O
815 East Centre Ave	00015-375-O
821 East Centre Ave	00015-380-O
827 East Centre Ave	00015-385-O
903 East Centre Ave	00015-465-O

Are proposed to change from R-1A, one family residential and R-1B, one family residential to OS-1, office service, or any other classification allowed by law.

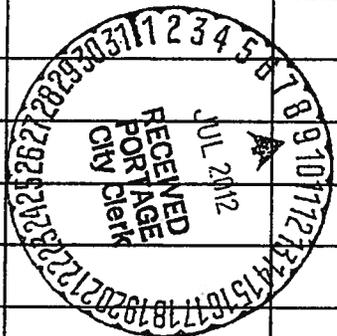
As members of the neighborhood affected, we are concerned about this proposal, and the impact it will have on the quality of life in our neighborhood. Although the changes proposed for 7932, 707, 743, 775, and 903 are consistent with the City's future land use map, we do not feel 801, 809, 815, 821, and 827 are. Pursuing the key recommendation from the City's Comprehensive Plan to "Protect stable neighborhoods from intrusive land uses and motor vehicle traffic", we would ask the Council to adjust the size of OS-1 rezoning of these parcels to protect against commercial land use penetrating too deeply into our neighborhood. We would ask as a compromise to allow 801, 809, 815, 821, and 827 to have OS-1 rezoning, with the following restrictions:

809, 815, 821, and 827 would have a minimum of 50 feet of R1-A buffer to the North to protect neighbors on Drury Lane as they did not expect to have commercial neighbors when originally purchasing their properties.

With 801, due to the large Western frontage into the neighborhood, we would ask that only the southern portion, equal to the depth of parcel 775, be allowed to rezone to OS-1. This is consistent with the city's future land use plan. In fact, from the future land use map, it appears that the zoning of parcel 809 is split across the same line. Since 801 and 755 are owned by the same owner and the back portion of 801 would have access to Bye Street, we feel that the owner could sufficiently use the Centre Street portion for office while leaving the northern portion zoned as R1-A.

We the undersigned, petition the Portage City Council to consider these recommendations, and refrain from passing this rezoning as it stands. We realize that the 801, 809, 815, 821, and 827 parcels are only 66 feet wide, and there is a high chance down the road that a larger development combining these deep parcels will occur. Please help the residents protect its neighborhood.

	Name (Please Print)	Address	Signature	Date
1	<del>Stan</del> DOUGLAS CHAMPAGNE	725 BYE ST	Douglas Champagne	7/7/12
2	Bryan Mohney	7911 Lakewood Dr	B. Mohney	7/7/12
3	Nikki Kneppelmeier	707 E. Centre	Nikki	7/7/12
* 4	Joanie Patterson <del>Joanie Patterson</del>	730 Drury	Joanie Patterson	7-7-12
5	Tim Vander Bor	718 BYE	Tim	7-7-12
6	CRAIG BINDER	743 E. CENTRE	Craig Binder	7/8/2012
7				
8				
9				
10				
11				
12				
13				
14				
15				



\* Note: Joanie Patterson also owns 722 Drury Lane and 806 Drury Lane in addition to 730 Drury Lane.

*[Signature]*  
7/9/12

**FIRST READING  
CITY OF PORTAGE, MICHIGAN  
NOTICE**

**TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND  
ALL OTHER INTERESTED PERSONS.**

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 4 (Zoning) of Chapter 42 of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on June 12, 2012, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on July 10, 2012, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Section 15, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

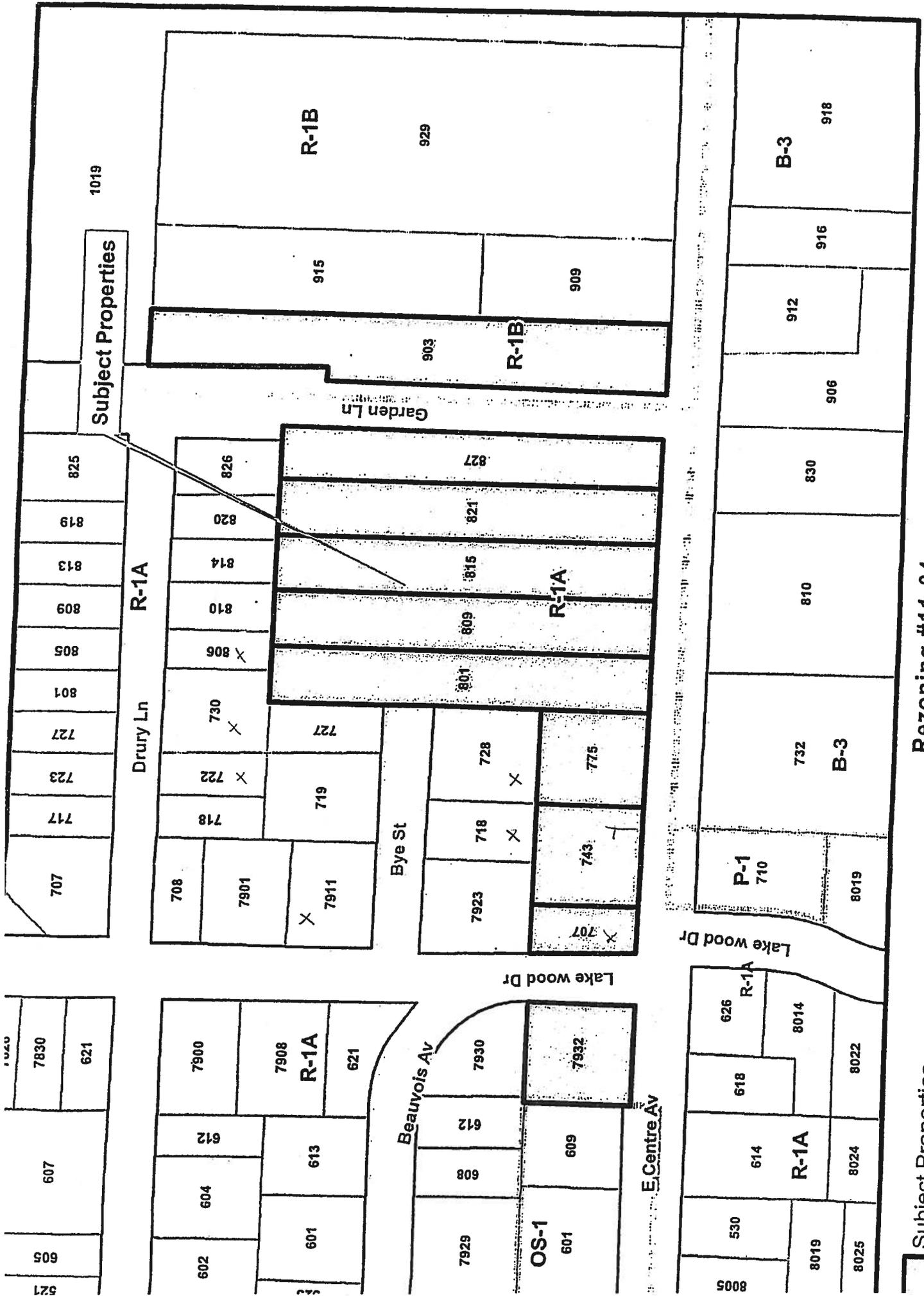
<u>Street Address</u>	<u>Parcel ID Numbers</u>
7932 Lakewood Avenue	04200-179-O
707 East Centre Avenue	04200-181-O
743 East Centre Avenue	04200-182-A
775 East Centre Avenue	04200-184-O
801 East Centre Avenue	00015-365-O
809 East Centre Avenue	00015-370-O
815 East Centre Avenue	00015-375-O
821 East Centre Avenue	00015-380-O
827 East Centre Avenue	00015-385-O
903 East Centre Avenue	00015-465-O

From R-1A, one family residential and R-1B, one family residential to OS-1, office service, or any other classification allowed by law.

PLEASE TAKE FURTHER NOTICE that if the owners of at least twenty percent (20%) of the area of land included in the proposed zoning change, or if the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred feet (100') from any point on the boundary of the land included in the proposed change, excluding public right-of-way or other publicly owned land, file a written protest petition against the proposed amendment presented to the City Council before final legislative action on the amendment, a two-thirds vote of the City Council will be required to pass the amendment.

Dated: June 20, 2012

  
Adam Herringa, Deputy City Clerk



Rezoning #11-04  
 East Centre Avenue  
 Lakewood Drive to Garden Lane

Subject Properties  
 Zoning Boundary

June 11, 2012

City Council, City of Portage  
7900 S. Westnedge Ave.  
Portage, MI 49002

Dear City Council Members:

At the May 17<sup>th</sup> Public Hearing, the Portage Planning Commission debated the merits of the 4 alternative recommendations of the Department of Community Development.

The Planning Commissioners focused on Alternative #1 and #3. They voted 3 to 4 against Alternative #3 which called for the northern 198 feet of 801, 809, 815, 821 and 827 E. Centre Ave. to remain zoned R-1A, One Family Residential.

We, the original applicants request the re-zoning of 801, 809, 821 and 827 E. Centre Ave. and are opposed to leaving 5 lots each 198 feet x 66 feet R-1A which are mostly land locked and do not have easy access to water or sewer. Consumers Energy says there is no secondary power available from Bye St. or Garden Lane so a new source of primary electric service would have to be brought to this area "at considerable cost".

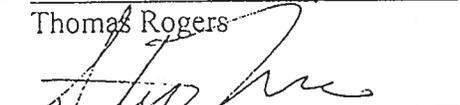
The burden of coordinating 5 separate owners to pay for infrastructure/utilities to create residential lots adjacent to OS-1 is of little to no value and would be the taking of 43% of our land to serve as a buffer to the adjacent neighborhood.

As Planning Commissioner Rick Bosch stated "I see a 2% chance of these lots ever being developed" and Chairman James Cheesebro concurred with Commissioner Bosch.

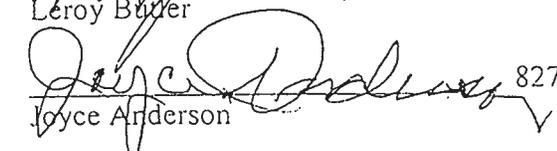
Although we would prefer Alternative #1 calling for our total parcel to be re-zoned OS-1, we believe the Modified Version of Alternative #1, adding a 50 foot R-1A Zone Buffer on the north end of our lots, (which received a 4 to 3 vote in support from the planning commission) is a fair and reasonable compromise which we support. We ask the City Council to support this option.

Highest Regards,

  
\_\_\_\_\_  
Thomas Rogers 801 E. Centre

  
\_\_\_\_\_  
Steve Muss 809 E. Centre

  
\_\_\_\_\_  
Leroy Butler 821 E. Centre

  
\_\_\_\_\_  
Joyce Anderson 827 E. Centre

## PLANNING COMMISSION

May 17, 2012

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

### **MEMBERS PRESENT:**

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

### **MEMBERS ABSENT:**

None.

### **MEMBERS EXCUSED:**

Mark Siegfried and Paul Welch

### **IN ATTENDANCE:**

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

### **PLEDGE OF ALLEGIANCE:**

Chairman Cheesebro led the Commission in the Pledge of Allegiance.

### **APPROVAL OF MINUTES:**

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

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

None

### **PUBLIC HEARINGS:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Final Report: Rezoning Application #11-05, 7812, 7840, 7842 and 7908 (portion thereof) Portage Road.

Chairman Cheesebro stated he would be abstaining from discussion and voting on this rezoning request since his employer was one of the applicants. Commissioner Stoffer also indicated he would be abstaining from discussion and voting on this rezoning request due to a personal relationship with one of the neighboring property owners to the west. Since there was no other officer present, Chairman Cheesebro nominated Commissioner Reiff as the Chair Pro Tem. There being no discussion, Commissioner Reiff assumed the role of Chair Pro Tem. Both Chairman Cheesebro and Commissioner Stoffer left Council Chambers for the duration of the discussion.

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

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

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

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

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

None.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

Planning Commission Minutes  
May 17, 2012  
Page 7

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

Respectfully submitted,

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

S:\Commdev\2011-2012 Department Files\Board Files\PLANNING COMMISSION\PC Minutes\PCMin050312.doc

**TO:** Planning Commission **DATE:** May 11, 2012  
**FROM:** Vicki Georgeau, <sup>119</sup> Director of Community Development  
**SUBJECT:** Final Report: Rezoning Application #11-04 (expanded), East Centre Avenue between Lakewood Drive and Garden Lane

**I. INTRODUCTION/BACKGROUND:**

A joint rezoning application has been received from several property owners located along the north side of East Centre Avenue, between Lakewood Drive and Garden Lane, requesting a zoning change from R-1A, one family residential and R-1B, one family residential to OS-1, office service. The property owners involved in the original application include: Thomas Rogers, 775 and 801 East Centre Avenue; Stephen Nuss, 809 East Centre Avenue; Leroy and Diana Butler, 821 East Centre Avenue; Joyce Anderson, 827 East Centre Avenue; and Shirley Kloosterman, 903 East Centre Avenue.

At the April 5, 2012 meeting, the Planning Commission reviewed the rezoning application, surrounding land use/zoning pattern and the Comprehensive Plan. After this review, the Planning Commission then voted unanimously to expand the rezoning area to include four additional properties also located along this section for East Centre Avenue between Lakewood Drive and Garden Lane and set a public hearing for May 3, 2012. These four additional properties include 7932 Lakewood Drive, 707 East Centre Avenue, 743 East Centre Avenue and 815 East Centre Avenue. A listing of all the properties involved in this expanded rezoning consideration, including ownership, acreage and other site related information, is provided below.

Address	Parcel I.D. Number	Property Owner	Acres	Existing Land Use	Current Zoning	Proposed Zoning
7932 Lakewood Drive	04200-179-O	Hobson	0.35	Residential	R-1A	OS-1
707 East Centre Avenue	04200-181-O	Kreamalmeyer	0.18	Residential	R-1A	OS-1
743 East Centre Avenue	04200-182-A	Binder	0.35	Residential	R-1A	OS-1
775 East Centre Avenue **	04200-184-O	Rogers	0.35	Vacant	R-1A	OS-1
801 East Centre Avenue **	00015-365-O	Rogers	0.70	Residential	R-1A	OS-1
809 East Centre Avenue **	00015-370-O	Nuss	0.70	Residential	R-1A	OS-1
815 East Centre Avenue	00015-375-O	HUD	0.70	Residential	R-1A	OS-1
821 East Centre Avenue **	00015-380-O	Butler	0.70	Residential	R-1A	OS-1
827 East Centre Avenue **	00015-385-O	Anderson	0.70	Residential	R-1A	OS-1
903 East Centre Avenue **	00015-465-O	Kloosterman	1.07	Residential	R-1B	OS-1

**Ten Properties: 5.8 acres**

\*\* Property owners part of original Rezoning Application #11-04

In conjunction with the required public notice, staff personally contacted the four additional properties owners and/or their representatives included in the expanded rezoning consideration to explain the proposal and answer any questions. Staff did speak with Ms. Marilyn Hobson (owner of 7932 Lakewood Drive), Ms. Vickie Kreamalmeyer (owner of 707 East Centre Avenue), Mr. Craig Binder (owner of 743 East Centre Avenue) and local real estate agents representing both the owner of 815 East Centre Avenue and a prospective buyer. At the time of report preparation, none of the individuals contacted have expressed either support or opposition to the proposed zoning change of their respective properties.

**II. EXISTING CONDITIONS:**

Land Use/Zoning	<p><u>Rezoning Site:</u> With the exception of 775 East Centre Avenue, which is vacant land, the other nine parcels are occupied by single family residences and either attached or detached garages that are zoned R-1A, one family residential and R-1B, one family residential (903 East Centre Avenue is zoned R-1B).</p> <p><u>South:</u> Across East Centre Avenue, there are single family residences zoned R-1A, one family residential (west of Lakewood Avenue), Centre Street Market, Otis Montessori School, vacant land and nonconforming single family residences zoned B-3, general business and P-1, vehicular parking.</p> <p><u>West:</u> Office uses zoned OS-1, office service (west of 7932 Lakewood Drive).</p> <p><u>North:</u> Various single family residences located within the Lakewood Homesites subdivision zoned R-1A, one family residential and a vacant parcel zoned R-1B, one family residential (north of 903 East Centre Avenue).</p>
Zoning/Development History	<p>No rezoning of properties in the surrounding area since adoption of the 2008 Comprehensive Plan.</p> <p>In 1993 (Rezoning Application #93-2), 505 and 515 East Centre Avenue were rezoned from R-1A, one family residential to OS-1, office service. In 1990 (Rezoning Application #89-4), 325, 411 and 425 East Centre Avenue were rezoned from B-3, general business to OS-1, office service. In 1967 (Rezoning Application #67-3), 601 and 609 East Centre Avenue were rezoned from R-1A, one family residential to OS-1, office service.</p>
Historic District/ Structures	<p>The parcel and residence located at 903 East Centre Avenue is located within a City of Portage Historic District and any proposed change to the building and/or modification to the boundaries of the land would be subject to review/recommendation by the Historic District Commission and review/approval by City Council.</p>
Public Streets	<p>East Centre Avenue is designated as a five-lane major arterial with 20,233 vehicles per day (2011); capacity of 34,200 vehicles per day (level of service "D").</p>
Public Utilities	<p>Municipal water and sewer are available.</p>
Environmental	<p>The City of Portage Sensitive Land Use Inventory Map does not identify any wetlands and/or floodplains near the rezoning site.</p>

**III. PUBLIC REVIEW/COMMENT:**

The Planning Commission convened a public hearing on May 3, 2012. Mr. Thomas Rogers (applicant, owner of 775 and 801 East Centre Avenue) spoke in support of the rezoning and stated that he and the other applicants were requesting the entire depth of the parcels be rezoned to OS-1. Mr. Rogers discussed the long narrow nature of many of the parcels and the need to likely combine one or more properties for office redevelopment. Mr. Rogers expressed concerns about a split zoning arrangement and whether the rear portions of these parcels would be useable if left zoned R-1A. Shortly after the meeting, Mr. Rogers submitted a correspondence dated May 8, 2012 (see attached) that reiterates his desire to have the full depth of the properties rezoned to OS-1. Mr. Craig Binder (owner of 743 East Centre Avenue) also spoke during the public hearing and stated he had no opinion regarding rezoning of his parcel, however, stated the Commission should consider the depth of OS-1 zoning for the parcels to the east. Mr. Brian Mahoney (7911 Lakewood Drive) also expressed concerns about the depth of any OS-1 rezoning for the long narrow parcels and suggested the northern portions were retained in the R-1A zone to preserve trees and limit the intrusion into the neighborhood. No additional citizens spoke regarding the proposed rezoning.

#### IV. FINAL 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 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 Comprehensive Plan identifies 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue as appropriate for office land use. Parcels addressed as 801, 809, 815, 821 and 827 East Centre Avenue are also designated for office land use, with a depth extending between 132 and 285 feet north of East Centre Avenue. The remaining northern portion of these properties is designated for low density residential land use. Adjacent properties to the east and west are also designated for office land use, while properties located to the north are identified for low density residential land use. Properties located along the south side of East Centre Avenue are identified as appropriate for office land use.

The Comprehensive Plan also identifies Centre Avenue as one of two primary office corridors, with Milham Avenue designated as the other office corridor. The Comprehensive Plan also indicates that offices are often considered a “transitional” use between higher intensity uses and major streets and interior residential neighborhoods. These zones of transition between nonresidential and residential land use designations along major thoroughfares and interior residential neighborhoods are common on the Future Land Use Map and, unlike zoning district boundaries, are not intended to be property line specific.

Four of the 10 properties included in the rezoning application (7932 Lakewood, 707, 743 and 775 East Centre) are located within the larger “Study Area” of the 2008 City Centre Area Plan, and the Future Land Use component of the City Centre Area Plan also designates the frontage of East Centre Avenue as appropriate for office development, with the surrounding residential neighborhood recommended for low density residential land uses, consistent with the existing development pattern. The City Centre Area Plan recommends that higher intensity mixed use developments be encouraged and accommodated within the Detailed Plan Area which presents a more urban character, and is two blocks or approximately 960 feet to the west of the rezoning site. It is noted that if the properties are rezoned, a work/live arrangement is available pursuant to the Work/Live Accommodations ordinance adopted in August 2011.

Notwithstanding the above, each proposed zoning change and the appropriate depth of the nonresidential zoning along these major thoroughfares needs to be evaluated on a case-by-case basis, considering the surrounding land use/zoning pattern and other important site/area characteristics.

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), may suggest incentives to influence community development and preservation and may suggest adjustments to other policies which influence the use of land for consistency with community development objectives. Attached is a copy of the Development Guidelines table. The request to rezone the entire area to OS-1 is not entirely consistent with Guideline Z-1 (consistency with the Comprehensive Plan) since the northern portions of 801, 809, 815, 821 and 827 East Centre Avenue are designated for low density residential use. With regard to Guideline R-1 (Protection of Residential

Neighborhoods), the proposed OS-1 zoning would encroach into the adjacent Lakewood Homesites neighborhood.

Suitability of Existing R-1A and R-1B Zones/Impacts of Proposed OS-1 Zone. The suitability of the existing residentially zoned and developed properties should be carefully considered in relation to traffic volumes along East Centre Avenue and the existing/planned office zoning and land use pattern along this major street corridor. Consideration should also be given to the interior residential neighborhood and potential impacts associated with a change in zoning. The proposed OS-1 zone is generally consistent with the land use/zoning pattern along the East Centre Avenue frontage and the Comprehensive Plan designations. As information for the Commission, uses that are allowed in the OS-1 district include executive, administrative and professional offices, medical offices and clinics, banks and credit unions, art and photographic studios, personal service establishments, along with institutional uses, trade and business schools, and funeral homes. Since the rezoning site abuts single family residential land use/zoning, any future office building construction would be limited to one-story and 25-feet in height. Additional Zoning Code requirements for screening, buffering, lighting and noise designed to mitigate adverse impacts on adjacent residential properties would also be applicable with any office redevelopment project.

A change in zoning to OS-1 would cause the existing single-family residential uses to become legally nonconforming. Section 42-133 of the Zoning Code provides regulations for nonconforming lots, buildings, structures and uses. Under these regulations, a nonconforming use may continue until it is removed, changed to a conforming use or intentionally abandoned. In particular, a property and/or building with a nonconforming use can have a change of tenancy, ownership or management without losing its nonconforming status. General maintenance and repair of the property and/or building in which the nonconforming use is located is also permitted by the Zoning Code. Additionally, if a nonconforming use is abandoned for any reason described in Section 42-133.C.5, any subsequent use of the land must be conforming to the underlying zoning district. Finally, if the building in which a nonconforming use is located were destroyed by fire, tornado or other act of God, the building could be reconstructed to its original location within 18 months.

The regulations for nonconforming uses also specify that a nonconforming use can not be enlarged to occupy a greater area of land, and cannot be moved in whole or part to another area of the property. For example, an expansion to a single-family dwelling would not be permitted, unless a variance from the Zoning Board of Appeals was obtained. However, since accessory buildings are permitted in all zoning districts (with the exception of the P-1, vehicular parking zone), construction of accessory buildings may be permitted provided the use of the accessory building is for storage, and does not otherwise constitute an expansion of a nonconforming use.

During the April 5<sup>th</sup> meeting, the Commission also discussed whether rezoning the single family residences to a nonresidential zoning district would affect the ability of the property owner to refinance or obtain a conventional mortgage. In an attempt to answer this question, staff contacted area lending institutions. Based on these discussions, it is understood that some lending institutions will typically offer conventional mortgages for nonconforming residential uses and/or buildings where the local zoning jurisdiction has nonconforming regulations that allow for rebuilding of the residence in the event of a fire, tornado or other act of God. In cases where a lending institution will not offer a conventional mortgage to a nonconforming residential use and/or building, other commercial financing options are available.

Traffic Considerations. If rezoned and all ten of the properties were redeveloped, the 5.8-acre rezoning site could accommodate a total of approximately 63,000 square foot (based on 25% lot coverage) of office buildings. Given the varying size, depth and configuration of the ten properties, different ownerships and the separation of parcels by Lakewood Drive and Garden Lane, redevelopment to office uses may not occur as one collective project, but in stages with smaller-size office buildings. As an example, the ITE Trip Generation Manual, Sixth Edition indicates that a 2,500 square foot medical office building would generate approximately 90 vehicle trips (45 vehicles) on an average weekday, while a 2,500 square foot administrative office building would generate approximately 78 vehicle trips (39 vehicles) on an average weekday. Comparatively, a 5,000 square foot medical office building would generate approximately 180 vehicle trips (90 vehicles) on an average weekday, while a 5,000 square foot administrative office building would generate approximately 133 vehicle trips (67 vehicles) on an average weekday. Anticipated traffic generation by office redevelopment projects can be accommodated by the adjacent roadway network. Specific access management related issues including proposed access location, shared and/or cross access will be reviewed during the site plan stage of redevelopment.

## V. RECOMMENDATION:

Several alternatives are available for Planning Commission consideration including the following (maps that illustrate each alternative are attached):

- 1) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775, 801, 809, 815, 821, 827 and 903 East Centre Avenue be rezoned to OS-1, office service.
- 2) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, the southern 132-feet of 801 and 809 East Centre Avenue, and the southern 264-feet of 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office Service with the northern 330-feet of 801 and 809 East Centre Avenue and the northern 198-feet of 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.
- 3) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue, and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service with the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue to remain zoned R-1A, one family residential.
- 4) Recommend to City Council that Rezoning Application #11-04 be approved and 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue and the southern 264-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to OS-1, office service and the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue be rezoned to P-1, vehicular parking.

Alternative 1 proposes to rezone the entire area to OS-1 as requested by the applicants. This alternative is not entirely consistent with the Comprehensive Plan designations since the north portions of 801, 809, 815, 821 and 827 East Centre are designated for low density residential. The Future Land Use Map boundary recommends a lesser depth of office land uses within the block between Lakewood Drive and Garden Lane.

Alternative 2 proposes to follow the boundary of the Future Land Use Map. This alternative does not, however, consider the OS-1 zoning depth (132-feet) that would result for 801 and 809 East Centre Avenue and the potential limitations for office redevelopment of these two parcels.

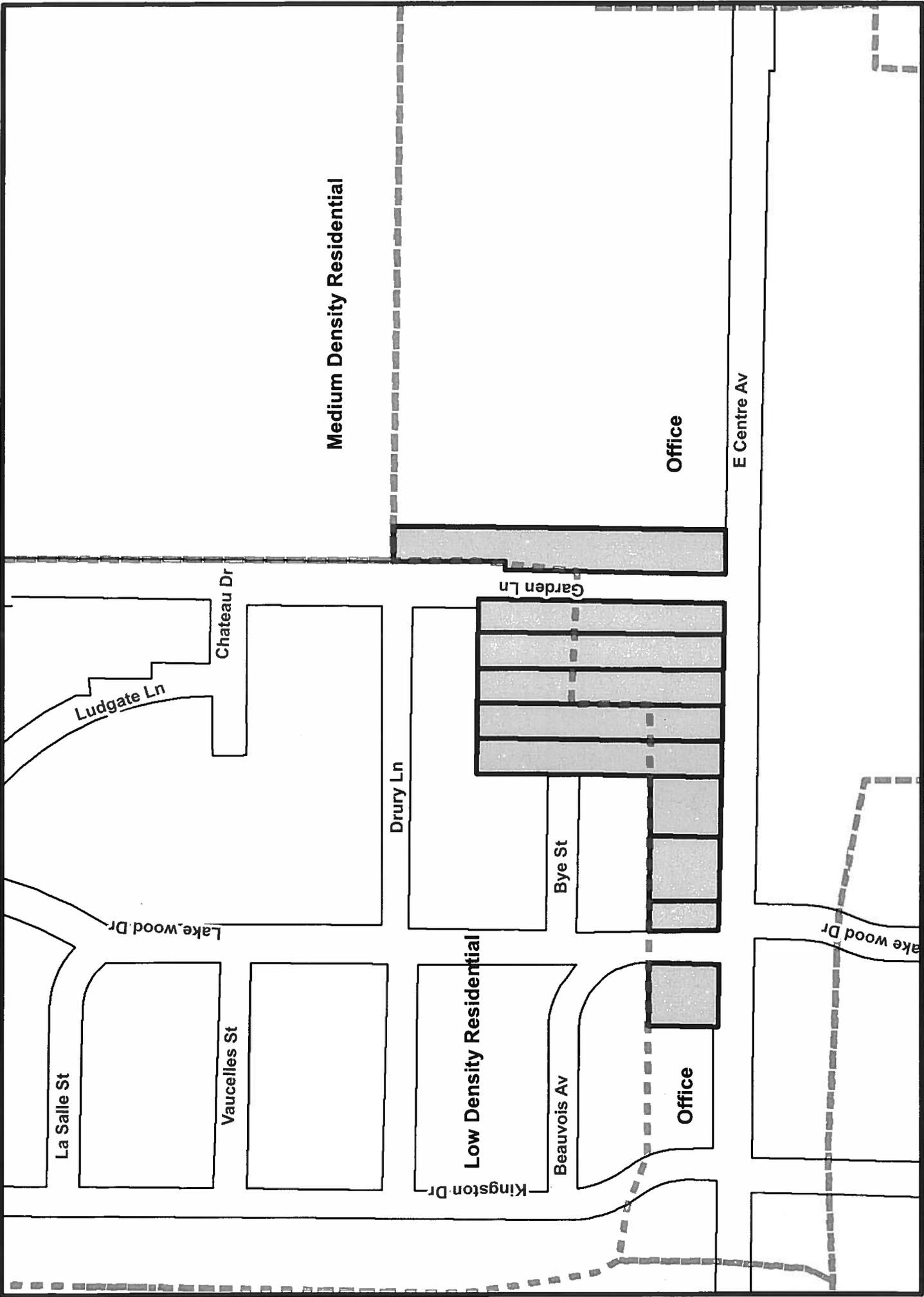
Alternative 3 would limit the encroachment of nonresidential development into the adjacent existing residential neighborhood. Although the Plan recommends the north 330 feet of 801 and 809 East Centre Avenue as appropriate for low density residential, rezoning the south 264 feet of these parcels to OS-1 would address the site redevelopment limitations that result from a parcel depth of only 132 feet. Appropriate setbacks, screening and buffering techniques will be considered and implemented during the site plan review process to minimize impacts on 728 Bye Street. Additionally, rezoning the south 264 feet (compared to the entire parcel depth of 462 feet) would likely result in the construction of smaller office buildings, which would be more in character with the surrounding residential and office buildings. Finally, and under this alternative, retaining the northern 198-feet of 801, 809, 815, 821 and 827 East Centre Avenue with the existing R-1A zoning also provides sufficient depth and area for future single family residential development sites, with frontage and access available from Bye Street and/or Garden Lane.

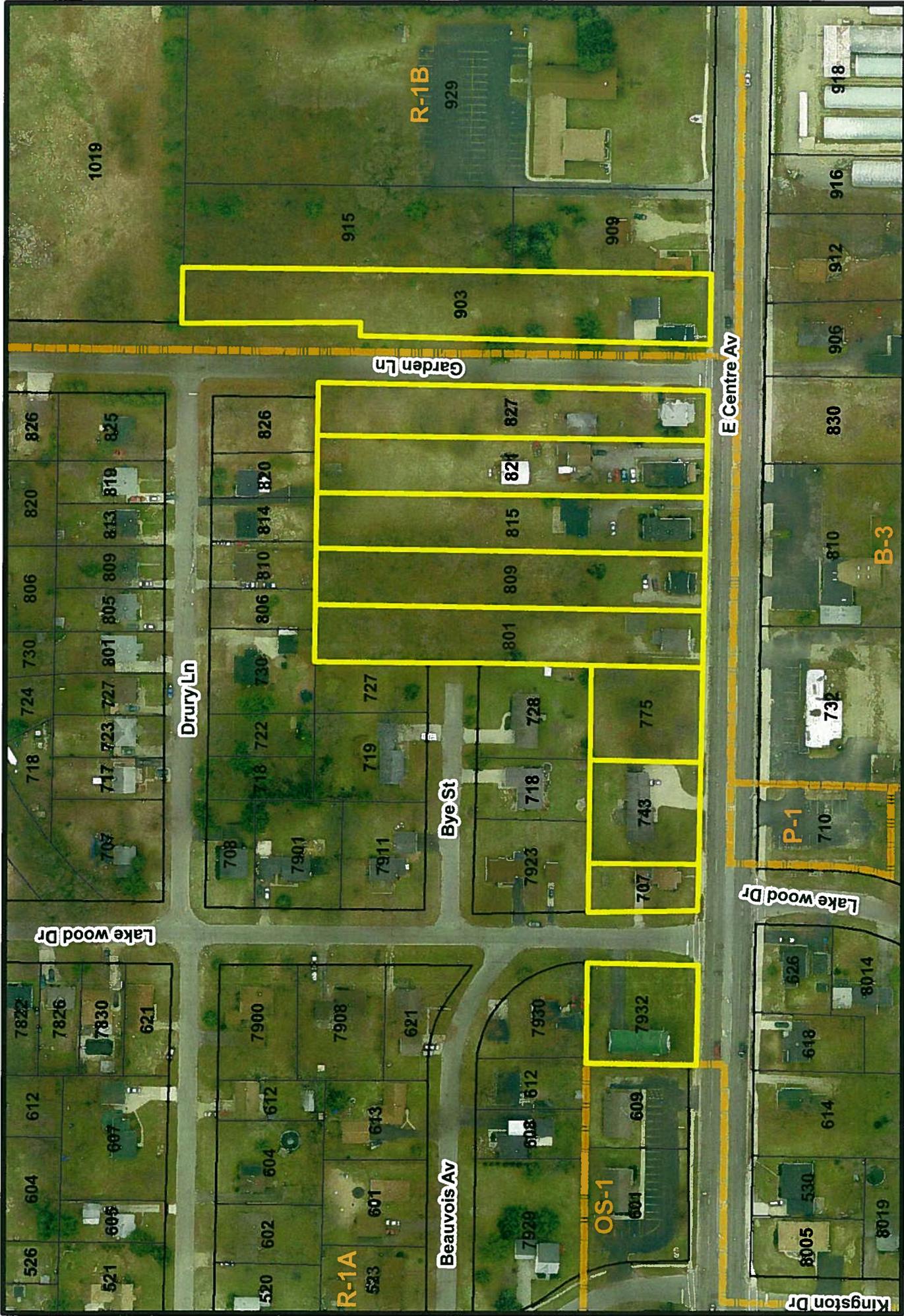
Alternative 4 proposes a combination of OS-1/P-1 zoning for 801, 809, 815, 821 and 827 East Centre Avenue. While the P-1 district would prohibit the construction of an office building in this area, off-street parking lots associated with nonresidential uses may also have an impact on adjacent residential uses through an increase in noise, traffic, lights, etc.

Considering the site specific characteristics of this rezoning application, staff recommends Alternative 3. This option provides the property owners reasonable redevelopment options consistent with the Plan designations and surrounding development pattern and protects the adjacent residential neighborhood from further nonresidential encroachment.

Attachments: Zoning/Vicinity Map  
Future Land Use Map  
Aerial Photograph  
Alternative Rezoning Maps (Alternatives 1 through 4)  
Development Guidelines Table (OS-1)  
Rezoning Application  
May 8, 2012 Communication from Thomas Rogers





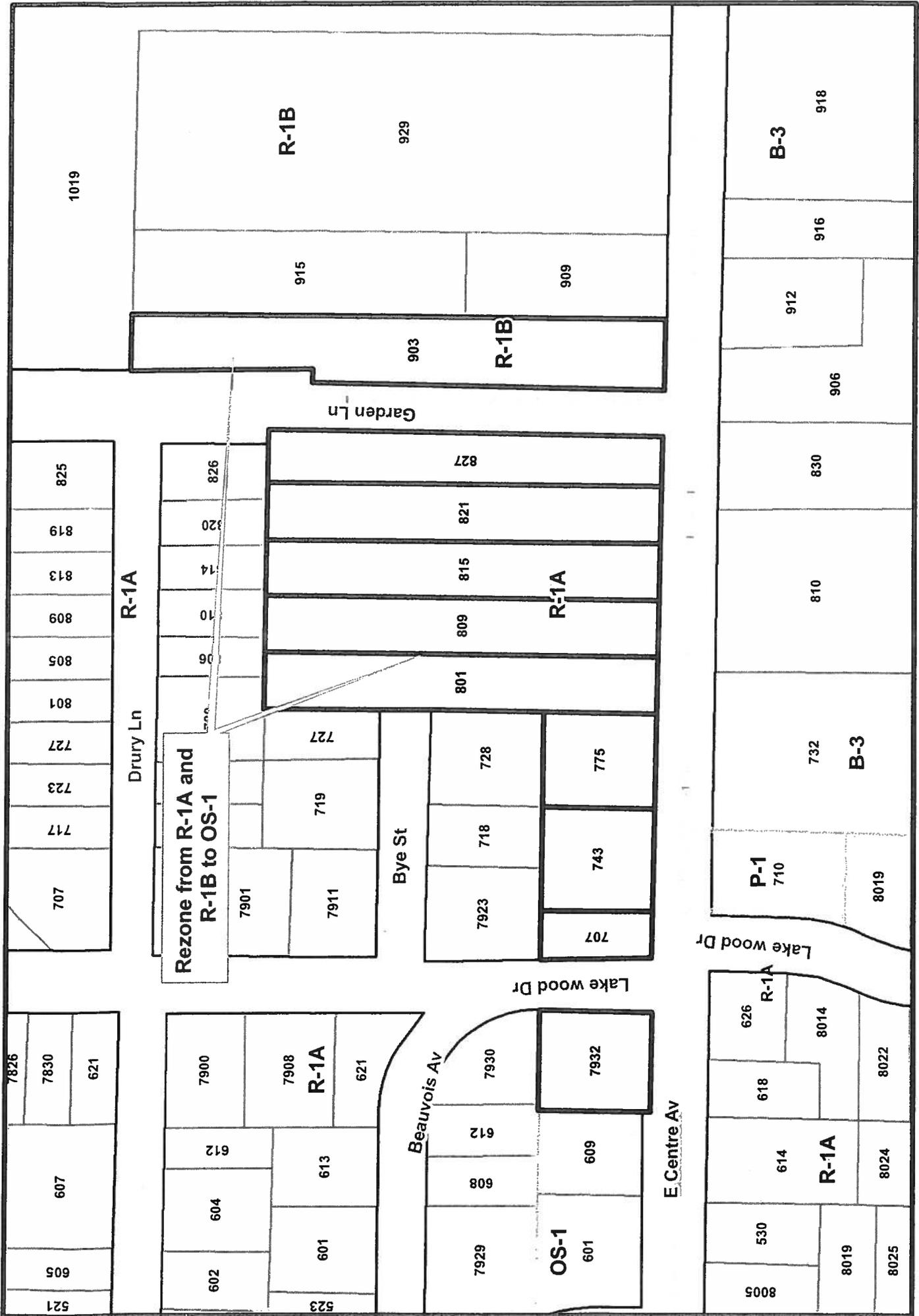


**Rezoning #11-04  
 East Centre Avenue  
 Lakewood Drive to Garden Lane**

Parcels considered for Rezoning  
 Zoning Boundary



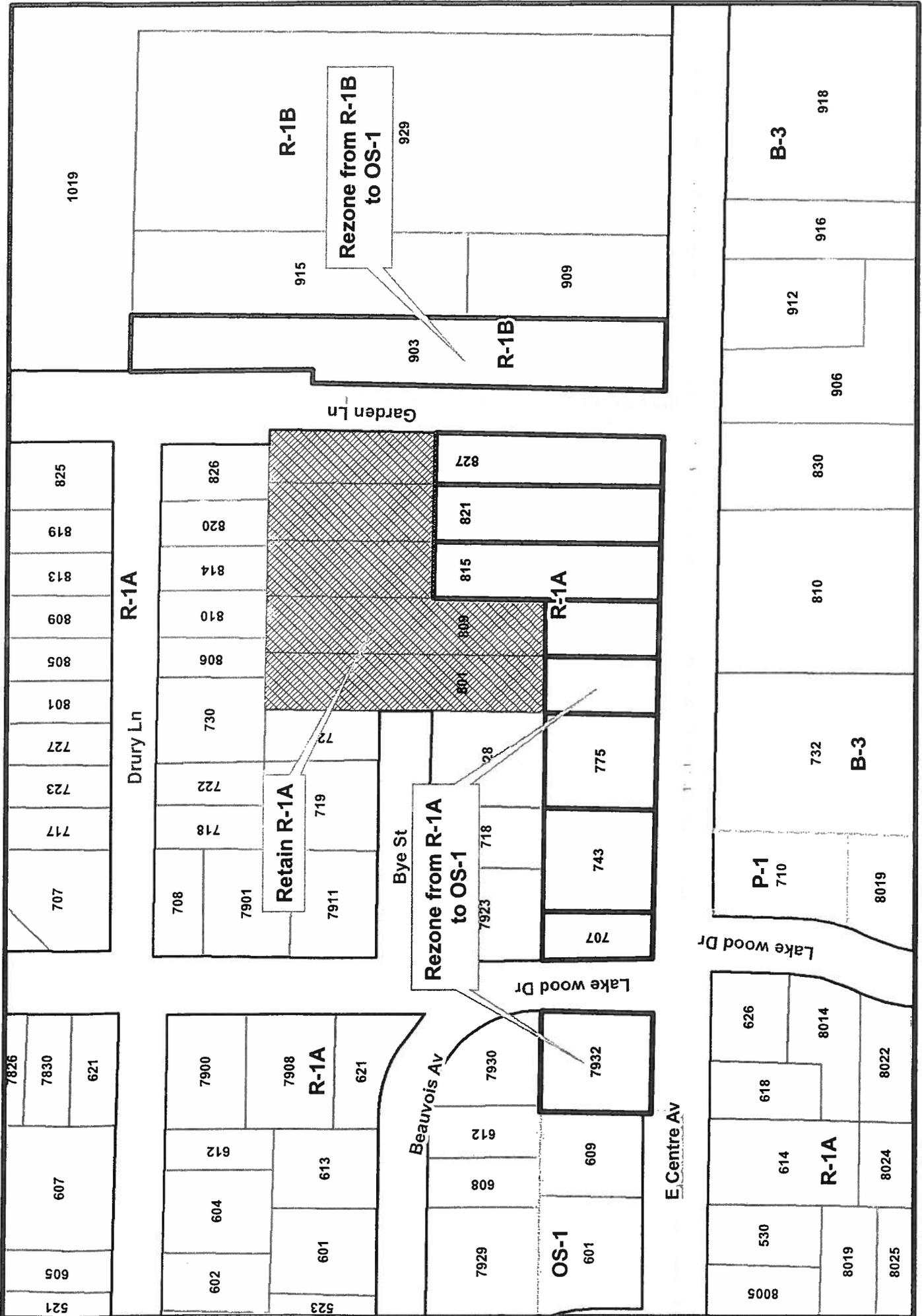
1 inch = 150 feet



Rezone from R-1A and R-1B to OS-1



1 inch = 150 feet

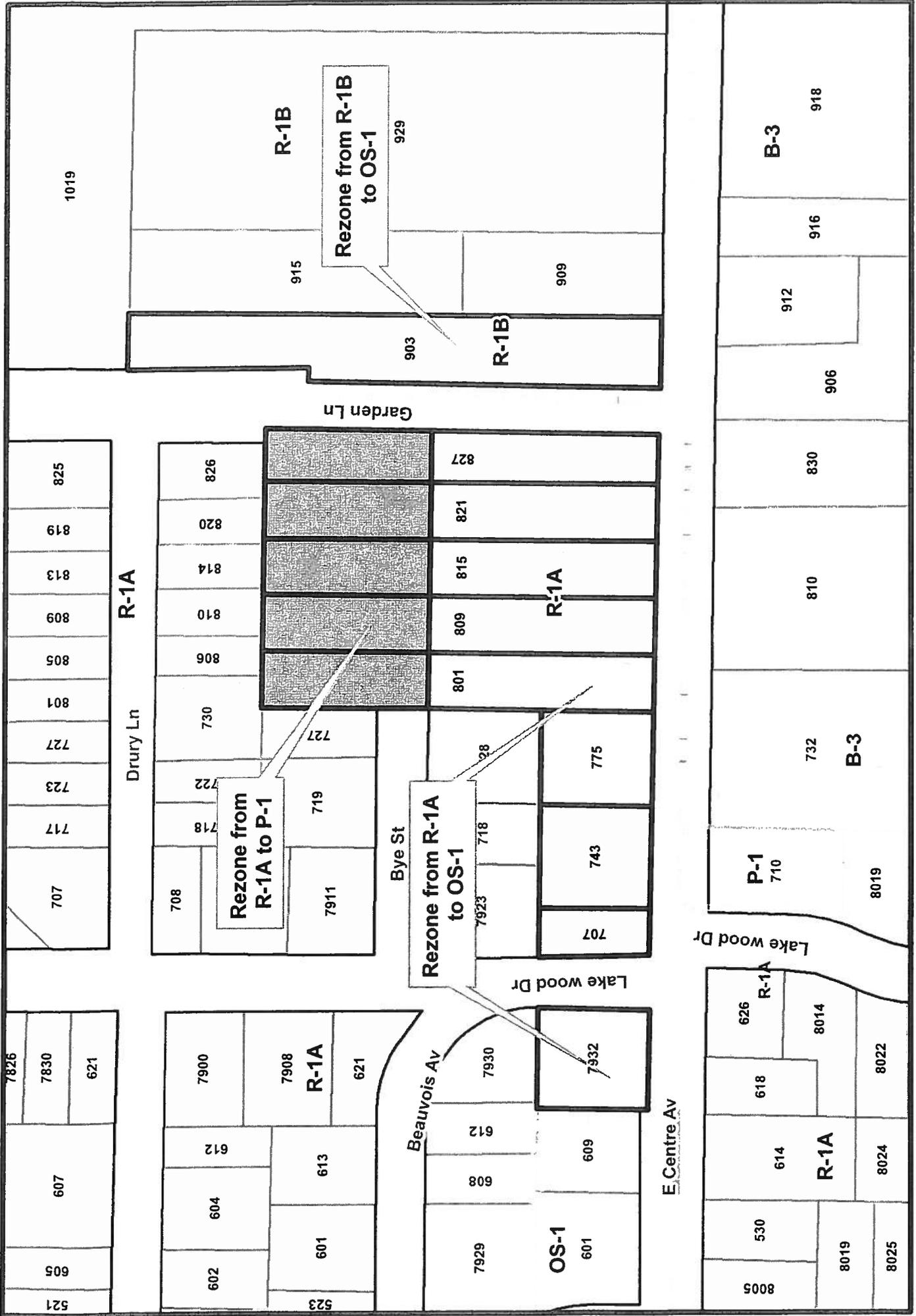


**Rezoning #11-04 (Alternative #2)**  
**East Centre Avenue**  
**Lakewood Drive to Garden Lane**



1 inch = 150 feet





**Rezoning #11-04 (Alternative #4)**  
**East Centre Avenue**  
**Lakewood Drive to Garden Lane**

Proposed OS-1  
 Proposed P-1  
 Zoning Boundary



1 inch = 150 feet

**DEVELOPMENT GUIDELINES**  
**Rezoning Application #11-04 (OS-1, Office Service)**

<b>Guideline</b>	<b>Description</b>	<b>Consistent</b>	<b>Comments</b>
Rezoning Request – Z-1	Consistency with Future Land Use Plan	<b>Comment</b>	Future Land Use Map designates 7932 Lakewood Drive, 707, 743, 775 and 903 East Centre Avenue as appropriate for office land use. Parcels addressed as 801, 809, 815, 821 and 827 East Centre Avenue are also designated for office land use with a depth extending between 132 and 285 feet north of East Centre Avenue. The remaining northern portions of these parcels are designated for low density residential land use. The applicants request to rezone the entire area to office service is not entirely consistent with the Comprehensive Plan designations.
Protection of Residential Neighborhoods – R-1	Protect peoples living environment	<b>Comment</b>	Although the Comprehensive Plan identifies Centre Avenue as one of two primary office corridors and indicates that office uses are an effective “transitional” use between higher intensity uses and major streets and interior residential neighborhoods, the request by the applicants to rezone the entire area would encroach into the adjacent residential neighborhood.
Commercial – 1	Coordinated Development	<b>Yes</b>	No specific redevelopment plans are pending or proposed. Specifics of any redevelopment proposal will be reviewed at the site plan stage of development.
Commercial – 2	Commercial/Office Uses in General	<b>Yes</b>	Rezoning site is located along East Centre Avenue, a major arterial street, and adjacent to an established single family residential neighborhood.
Commercial – 6	Office/Commercial Site Design	<b>Yes</b>	Since properties involved in the rezoning consideration are located adjacent to single family residential zoning/land use, office buildings would be limited to one-story and 25-feet in height. Conflicting land use screening would also be required where adjacent to residential zoning and/or land use. Issues associated with screening, buffering, landscaping, access, sidewalks, etc. would be reviewed when a site plan is submitted.
Natural & Historic Resources - 1	Environmental Protection	<b>Yes</b>	Rezoning site is not characterized by environmentally sensitive areas (wetlands, floodplain, etc).
Natural & Historic Resources - 2	Floodplain	<b>Yes</b>	Rezoning site is not situated within the 100-year floodplain.
Natural & Historic Resources - 3	Water Quality	<b>Yes</b>	Reviewed at the site plan stage of development.
Natural & Historic Resources – 4	Noise	<b>Yes</b>	Reviewed at the site plan stage of development.
Natural & Historic Resources – 5	Historic Resource Preservation	<b>N/A</b>	The residence located at 903 East Centre Avenue is located within a City of Portage Historic District. Any proposed change to the building and/or modification to the boundaries of the land would require review/recommendation by the Historic District Commission and review/approval by City Council.
Transportation – 1	Transportation Systems	<b>Yes</b>	East Centre Avenue is a five-lane major arterial street with 20,233 vehicles per day (2011); and a capacity of 34,200 vehicles per day (level of service “D”). Anticipated traffic can be accommodated.
Transportation – 2	Street Design	<b>Yes</b>	Rezoning site has frontage along East Centre Avenue (major arterial), as well as Lakewood Drive and Garden Lane (local streets). Access related issues including the number and location of driveways, shared and cross access will be reviewed at the site plan stage of development.

<b>Guideline</b>	<b>Description</b>	<b>Consistent</b>	<b>Comments</b>
Transportation – 3	Access Management	<b>Yes</b>	See Transportation – 1 and Transportation – 2 above.
Transportation – 4	Non Motorized Travel	<b>Yes</b>	Specifics associated with the inclusion of walkways and pathways will be reviewed at the site plan stage of development.
Transportation – 5	Right-of-Way Preservation	<b>Yes</b>	Reviewed at the site plan stage of development.
Transportation – 6	Parking	<b>Yes</b>	Reviewed at the site plan stage of development.
Municipal Facilities & Services – 2	Sanitary Service	<b>Yes</b>	Sanitary sewer is available.
Municipal Facilities & Services – 3	Underground Utilities	<b>Yes</b>	Reviewed at the site plan stage of development.

s:\commdev\2011-2012 department files\board files\planning commission\pc reports\development guideline tables\guideline table 11-04 (os-1).doc

**APPLICATION FOR ZONING AMENDMENT**

Application number #11-04

Date MARCH 12 2012

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 801 & 775 E. CENTRE AVE between LAKEWOOD Street and GARDEN LAKE Street on the NORTH side of the street, and is known as Lot Number(s) 184+185 of LAKEWOOD HOMESITES Plat (Subdivision). It has a frontage of 116 feet and a depth of 132 feet. AND 66' X 462' (SEE ATTACHMENT)

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).

\_\_\_\_\_

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

b. Name of the owner of the property to be rezoned: THOMAS C. ROGERS - ROTH IRA

Address 895 TREASURE ISLAND DR. MATTAWAN, MICH 49071

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: THIS LOT IS ON BUSY CENTRE AVE. ACROSS THE STREET FROM CENTRE ST PARK AND THE CITY FUTURE ZONING PLAN SAYS THIS SHOULD BE OS-1 FOR HIGHEST AND BEST USE, I AGREE

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.

Thomas C. Rogan  
(Signature of Applicant)

(Signature of Applicant)

895 TRANTSUAH ISLAND DR. MATTHEWAN, MI  
(Address)

49071 (Address)

(269) 760-6448  
(Phone)

(Phone)

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

**Subject:** Fw: 801 East Centre Avenue, Portage, Michigan

**From:** tom rogers (rogerstom2000@yahoo.com)

**To:** rogerstom2000@yahoo.com;

**Date:** Thursday, March 8, 2012 12:02 PM

Hi Neighbor,

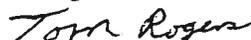
I own the home at 801 E. Centre and adjacent lot at 775 E. Centre. The City Of Portage Master Plan shows the future zoning of our properties to be designated as OS-1 (Commercial Office/Service). I am preparing to rezone the property I own next door to you from R-1A (Residential) to OS-1 (Commercial Office/Service). This will cost me a fee of \$825.00 for the first acre; then \$75.00 for each additional acre or fraction there of.

This means that for \$75.00, any of my neighbors could jointly be included with my "Application For Zoning Amendment".

I know that you have some of the same questions and concerns that I have as to how rezoning would affect your single family residential home that would become "Legally Nonconforming". Attached are the answers provided to me by Michael West -Assistant City Planner for City of Portage in his letter dated March 1, 2012 and Attachment: Section 42-133, Nonconforming lots, buildings, structures and uses.

The City of Portage has encourage me to contact my adjacent neighbors to see if they also might want to change their lots zoning to OS-1 now. So that this rather drawn out, time consuming & costly public hearing process does not have to be repeated unnecessarily in the near future, please call me at 760-6448 to discuss your level of interest A.S.A.P. .

Regards,

  
.. Tom Rogers

March 1, 2012

Mr. Thomas Rogers  
895 Treasure Island Drive  
Mattawan, Michigan 49071

Dear Tom:

RE: Non-Conforming Use Regulations, 801 East Centre Avenue, Portage, Michigan.

The following is intended as a follow-up to our telephone conversation regarding possible rezoning of the property located at 801 East Centre Avenue, from R-1A, one family residential to OS-1, office service, and potential impacts on the existing single family residence.

The subject property located at 801 East Centre Avenue is approximately 0.70 acre, zoned R-1A, one family residential and occupied by a 1,252 square foot single-family residential dwelling and 440 square foot detached garage. If the subject site was rezoned to OS-1, office service, the single-family residence would become legally nonconforming and governed by Section 42-133, Nonconforming lots, buildings, structures and uses, of the Zoning Code (attached). As such, the nonconforming residence may continue as long as it is not abandoned (refer to Section 42-133(C)(5) for the criteria used to evaluate this issue). The residence can be sold to a new owner and/or rented with no change to this nonconforming status. Additionally and in the event the residence is destroyed by fire or other "act of God", the structure could be reconstructed to its original location within 18 months of the date destroyed.

I hope the above information is helpful to you. If you have any further questions or require additional assistance, please contact me in the Department of Community Development at 329-4475.

Sincerely,



Michael K. West, AICP  
Assistant City Planner

Attachment: Section 42-133, Nonconforming lots, buildings, structures and uses

s:\commdev\2011-2012 department files\planning files\miscellaneous\2012 03 01 mkw non-conforming use regulations, 801 east centre.doc

D. Any temporary structure utilized in conjunction with the special event must meet the setback requirements of the zoning district.

E. Adequate measures must be indicated to delineate/separate pedestrian and/or vehicle traffic in relation to the special event.

F. No temporary signs are permitted; however, any existing changeable copyboard sign on the site of the special event may be utilized.

G. No more than four special events annually shall be held on any zoning lot. The special events may not total more than 28 days annually. (For example, a business may have one 28-day event, two 14-day events, or four seven-day events, but may not have ten two-day events.)  
(Ord. No. 03-01 (Exh. A, § 42-312), 2-18-2003)

**Sec. 42-133. Nonconforming lots, buildings, structures, and uses.**

**A. General requirements.**

1. It is the intent of this article to permit nonconforming lots, buildings, structures or uses to continue until they are removed, but not to encourage their survival.
2. It is recognized that there exist, within the districts established by this article, lots, buildings, structures and uses of land and structures which were lawful before this article was adopted or amended, which would be prohibited, regulated or restricted under this article or future amendments thereto. Nonconformities are declared by this article to be incompatible with permitted uses in the districts involved.
3. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded or extended or used as grounds for adding other structures or uses prohibited elsewhere in the same district.
4. The following are declared to be an extension or enlargement of a nonconformity and are hereby prohibited:
  - a. Attachment on a nonconforming structure, building, or use of additional signs intended to be seen from off the premises.

b. The addition of other uses to an existing nonconforming use of a nature that would be prohibited generally in the district involved.

5. To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction or designated use of a building on which actual construction was lawfully begun prior to December 14, 1965, or prior to the effective date of amendment of this article, and upon which actual building construction has been diligently carried on. As used in this section, the term "actual construction" includes the placing of construction materials in a permanent position and fastening them in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall also be deemed to be actual construction, provided that work is diligently carried on until completion of the building involved.

**B. Nonconforming lots.**

1. Any nonconforming lot existing and of record on December 14, 1965, may be used for any principal permitted use or special land use, (after approval in accordance with division 5, subdivision 1) in the district in which it is located, provided that any specific lot area requirements for a special land use are satisfied.
2. Except as noted in division 4, subdivision 10, Schedule of Regulations, any use established on a nonconforming lot shall meet all other requirements of division 4, subdivision 10, Schedule of Regulations, other than lot area and width, of the district in which it is located. Yard requirement variances may be applied for through the zoning board of appeals.
3. If there exists two or more nonconforming lots or combinations of nonconforming lots and portions of lots with continuous frontage and in single ownership, the lands

involved shall be considered to be an undivided parcel for the purposes of this article.

4. No division of a nonconforming parcel shall be made which leaves remaining any lot with a width or area below the requirements stated in this article.
- C. Nonconforming uses.
1. No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the time it became nonconforming.
  2. No nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by the use.
  3. A nonconforming use may be extended throughout any part of a building manifestly arranged or designed for the use, but no nonconforming use shall be extended to occupy any land outside the building.
  4. Changes to a nonconforming use in business or industrial districts.
    - a. If no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or a more conforming nature; To determine that the use is the same or more conforming the zoning board of appeals shall find that:
      - (1) The proposed use is equally appropriate or more appropriate to the district in terms of intensity of use, operational characteristics, parking requirements, or other similar factors, than the existing nonconforming use;
      - (2) The request will not unreasonably extend the duration of the nonconforming use, and
      - (3) The proposed use will not adversely affect neighboring properties.
    - b. In permitting the change, the board may require appropriate conditions and safeguards in accordance with the purpose and intent of this article.
- c. In any district where a nonconforming use is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
5. Except for seasonal uses, if a nonconforming use is abandoned for any reason for a period of not less than 90 days, any subsequent use shall conform to the requirements of this article. A nonconforming use shall be considered abandoned if a combination of the following conditions exists that is deemed by the director to constitute an intent on the part of the property owner to abandon the nonconforming use:
    - a. Utilities and other public services, such as water, gas and electricity to the property, have been discontinued;
    - b. The property, buildings, and grounds, have fallen into disrepair;
    - c. Sign structures or other indications of the existence of the nonconforming use have been removed;
    - d. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use; or
    - e. Other actions, which constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
    - f. Failure to institute procedures to rebuild facilities and buildings necessary to conduct the nonconforming use, such as submission of building plans for a building permit, within 90 days from the time the use is discontinued shall also be considered as an intent to abandon the nonconforming use.
  6. There may be a change of tenancy, ownership or management of any existing

nonconforming use, provided that there is no change in the nature or character of the nonconforming use.

December 14, 1965, or at the time of amendment of this article is not increased.

(Ord. No. 03-01 (Exh. A, § 42-313), 2-18-2003)

State law reference—Nonconforming uses and structures, MCL 125.583a, MSA 5.2933(1).

7. Any time a nonconforming use is superseded by a use permitted in the district in which it is located, the use shall thereafter conform to the regulations of the district in which it is located, and a nonconforming use may not thereafter be resumed.
8. Any use for which a special land use or use variance is granted shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in the district.

#### Sec. 42-134. Helistops.

A. Intent: Because helistops service an area larger than the city, require sizable land areas, have the potential to create problems with uses established on abutting lots, and possess unique operational characteristics, it is impractical to include them in a specific use district classification.

B. Helistops may be reviewed by the planning commission as a special land use after application and under the requirements and conditions specified in this section, and the requirements of division 5, subdivision 1 of this article, including the required public hearing.

C. In addition to the procedures and requirements of division 5, subdivision 1, the planning commission may impose those conditions deemed necessary for the protection of adjacent residential neighborhoods and property owners, the city's interest in safety, and protection of property values.

#### D. Helistops:

- D. Nonconforming buildings and structures.
1. No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity.
  2. Should a nonconforming building or structure be destroyed by an act of God or the public enemy to an extent of more than 60 percent of its replacement cost, exclusive of the foundation, it shall be reconstructed in conformity with the provisions of this article unless it is reconstructed to its original location within 18 months of the date destroyed.
  3. Should a nonconforming building or structure be moved any distance for any reason, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
  4. The intentional removal or destruction of the nonconforming portion of a building or structure by the property owner or his/her agent shall eliminate the nonconforming status of the building or structure.
  5. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official, provided that the area of the building as it existed on

1. It shall be unlawful to take off and land helicopters anywhere within the city except at an approved helistop for which a special land use permit has been issued as provided in this section, unless such landing or takeoff is done:
  - a. In conjunction with a one-time special event, such as an athletic contest, holiday celebration, parade or similar activity, after reasonable advance notice has been given to the city police department.
  - b. When necessary for on-site emergencies.
2. Helistops are not permitted on property used for residential purposes, or in any residential zoning district.

**APPLICATION FOR ZONING AMENDMENT**

Application number #11-04

Date 3-12-12

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 \_\_\_\_\_ between \_\_\_\_\_ Street and \_\_\_\_\_ Street on the \_\_\_\_\_ side of the street, and is known as Lot Number(s) \_\_\_\_\_ of \_\_\_\_\_ Plat (Subdivision). It has a frontage of \_\_\_\_\_ feet and a depth of \_\_\_\_\_ 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).

827 East Centre (10-00015-385-0)

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

b. Name of the owner of the property to be rezoned: Jaya Andressa

Address 827 East Centre, Portage, MI 49002

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: Joint application with Thomas Regan,  
possible future office redevelopment

4. CURRENT ZONING: R-1A PROPOSED ZONING: OS1

**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.

Jay B. Ruderman (Signature of Applicant) Jay B. Ruderman (Signature of Applicant)  
827 E Center (Address) Portage MI 49802 (Address)  
269-324-6049 (Phone) \_\_\_\_\_ (Phone)

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

**APPLICATION FOR ZONING AMENDMENT**

Application number #11-04

Date 3-13-12

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 \_\_\_\_\_ between \_\_\_\_\_ Street and \_\_\_\_\_ Street on the \_\_\_\_\_ side of the street, and is known as Lot Number(s) \_\_\_\_\_ of \_\_\_\_\_ Plat (Subdivision). It has a frontage of \_\_\_\_\_ feet and a depth of \_\_\_\_\_ 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).

903 EAST CENTRE AVE

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

b. Name of the owner of the property to be rezoned: \_\_\_\_\_

Address 903 E. CENTRE AVE

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: Joint Application with THOMAS RUGERS  
possible further OFFICE Development
4. CURRENT ZONING: R-1B PROPOSED ZONING: OS-1

**ZONING TEXT AMENDMENT**

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


---

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


---
- 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><i>Shirley Klosterman</i></u>	<u></u>
(Signature of Applicant)	(Signature of Applicant)
<u>903 EAST CENTRE AVE</u>	<u>Portage, MI 49002</u>
(Address)	(Address)
<u>1-269-327-9264</u>	<u></u>
(Phone)	(Phone)

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

**APPLICATION FOR ZONING AMENDMENT**

Application number #11-09

Date 3-14-12

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 821 E. Centre Ave. between Westnedge Street and Lovers Lane Street on the North side of the street, and is known as Lot Number(s) \_\_\_\_\_ of \_\_\_\_\_ Plat (Subdivision). It has a frontage of 66' feet and a depth of 460 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).

\_\_\_\_\_  
\_\_\_\_\_

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

b. Name of the owner of the property to be rezoned: Leroy & Diana Butler

Address 821 E. Centre, Portage, MI 49002

3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: Joint Application with Tom Rogers  
Possible Office Development

4. CURRENT ZONING: R<sub>1</sub>-1H 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.

[Signature]  
(Signature of Applicant)

[Signature]  
(Signature of Applicant)

821 E. Centre  
(Address)

821 E. Centre  
(Address)

269-207-3065  
(Phone)

269 217-5039  
(Phone)

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

**APPLICATION FOR ZONING AMENDMENT**

Application number 11-04

Date 3-15-12

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 809 E. Centre between Lakewood Street and Garden Ln Street on the North side of the street, and is known as Lot Number(s) \_\_\_\_\_ of \_\_\_\_\_ Plat (Subdivision). It has a frontage of 66' feet and a depth of 462 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).

\_\_\_\_\_  
\_\_\_\_\_

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

b. Name of the owner of the property to be rezoned: Stephen & Joan Nuss

Address 1249 PARKING ST., PORTAGE MI 49002

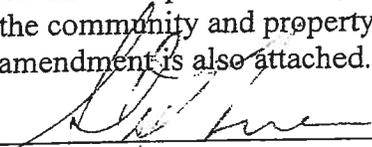
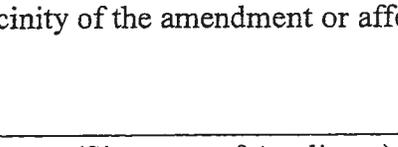
3. My (our) interest in the property and purpose for submitting the proposed Zoning Amendment: Joint Application with Tom Roberts  
Possible Office Development

4. CURRENT ZONING: RIA 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.

	
(Signature of Applicant)	(Signature of Applicant)
<u>1249 PAULINE ST., PORTAGE MI 49002</u>	<u>1249 PAULINE ST., PORTAGE MI 49002</u>
(Address)	(Address)
<u>269-341-0756</u>	<u>269-488-6505</u>
(Phone)	(Phone)

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

THOMAS ROGERS  
895 TREASURE ISLAND DRIVE  
MATTAWAN, MI 49071  
(269) 760-6448

RECEIVED  
MAY 08 2012  
COMMUNITY DEVELOPMENT

May 8, 2012

Department of Community Development  
City of Portage Planning Commission  
c/o Michael West, Assistant City Planner  
7900 South Westnedge Ave.  
Portage, MI 49002

Dear Planning Commission:

Approximately 3 months ago I began discussing rezoning my 2 parcels at 775 & 801 East Centre Avenue, which are now R-1A to OS-1. Michael West and I had gone through rezoning of my property at 1316 East Centre with your Planning Commission last fall. As you may recall at that time your Commission asked why the adjacent properties at the corner of Centre and Lovers Lane not being rezoned also? Short story, we delayed my rezoning request so to include the whole corner consisting of 4 total parcels. So as not to run into the same delays "with late joiners" to rezoning now before the Planning Commission, Mr. West asked that I approach my adjacent neighbors on Centre Avenue. to see if they would want their properties rezoned OS-1 now.

I wrote them a letter on March 8, 2012 and attached Mr. West's letter to me dated March 1, 2012 re: Non-conforming Use Regulations (see attached). I received positive feedback from 815 E. Centre – Mr. Steve Nuss, 821 E. Centre – Mr. Leroy Butler, 827 E. Centre – Ms. Joyce Anderson, with the understanding that their properties, as well as my 801 E. Centre could be withdrawn if their 66'x 462' parcel was not completely rezoned OS-1.

All of us want to have the highest value and best use for our properties along this major business thoroughfare, Centre Avenue. None of us wishes to be a developer and put up new commercial buildings. We have not discussed selling our properties to one another, but we all understand that it will require a combination of at least 2 of our parcels to be able to construct a new building under OS-1 building requirements for various set backs and restrictions.

None of the rezoning applicants believe our lots have bright prospects as desirable as R-1A lots (let alone a part of our lot, as was the subject of the May 3<sup>rd</sup> Planning Meeting), along this major commercial thoroughfare. We do not see the viability of the newly created R-1A lots that would be (land locked), no street access, nor do we hear any mention of the City paying for extension of Bye Street or sewer and water service across the rear of our properties.

Page 2  
Department of Community Development  
City of Portage Planning Commission  
c/o Michael West, Assistant City Planner

We knew that the near by residents will generally prefer that things remain the same, but what is the intent of OS-1 zoning along one of the main thoroughfares in the center of the City of Portage which was in acted February 18, 2003?

Subdivision 5. OS-1 Office Service District

Sec. 42-240. Intent.

The OS-1 office service district is designed to accommodate office and institutional land use activities and planned to serve as transitional areas between residential districts and commercial districts and between main thoroughfares and residential districts.

(Ord. No. 03-01 (Exh. A, § 42-450), 2-18-2003)

The City of Portage has rezoned to OS-1 many lots along this thoroughfare over the years (some with more depth than ours) and most are adjacent to residential properties. We ask that you please grant our properties similar status change to OS-1.

Highest regards,



Thomas C. Rogers

Enclosure

**Subject:** Fw: 801 East Centre Avenue, Portage, Michigan  
**From:** tom rogers (rogerstom2000@yahoo.com)  
**To:** rogerstom2000@yahoo.com;  
**Date:** Thursday, March 8, 2012 12:02 PM

Hi Neighbor,

I own the home at 801 E. Centre and adjacent lot at 775 E. Centre. The City Of Portage Master Plan shows the future zoning of our properties to be designated as OS-1 (Commercial Office/Service). I am preparing to rezone the property I own next door to you from R-1A (Residential) to OS-1 (Commercial Office/Service). This will cost me a fee of \$825.00 for the first acre; then \$75.00 for each additional acre or fraction there of.

This means that for \$75.00, any of my neighbors could jointly be included with my "Application For Zoning Amendment".

I know that you have some of the same questions and concerns that I have as to how rezoning would affect your single family residential home that would become "Legally Nonconforming". Attached are the answers provided to me by Michael West -Assistant City Planner for City of Portage in his letter dated March 1, 2012 and Attachment: Section 42-133, Nonconforming lots, buildings, structures and uses.

The City of Portage has encourage me to contact my adjacent neighbors to see if they also might want to change their lots zoning to OS-1 now. So that this rather drawn out, time consuming & costly public hearing process does not have to be repeated unnecessarily in the near future, please call me at 760-6448 to discuss your level of interest A.S.A.P. .

Regards,

*Tom Rogers*  
Tom Rogers

March 1, 2012

Mr. Thomas Rogers  
895 Treasure Island Drive  
Mattawan, Michigan 49071

Dear Tom:

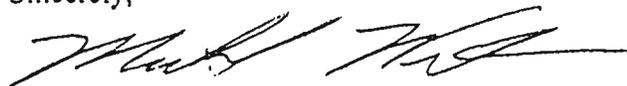
RE: Non-Conforming Use Regulations, 801 East Centre Avenue, Portage, Michigan.

The following is intended as a follow-up to our telephone conversation regarding possible rezoning of the property located at 801 East Centre Avenue, from R-1A, one family residential to OS-1, office service, and potential impacts on the existing single family residence.

The subject property located at 801 East Centre Avenue is approximately 0.70 acre, zoned R-1A, one family residential and occupied by a 1,252 square foot single-family residential dwelling and 440 square foot detached garage. If the subject site was rezoned to OS-1, office service, the single-family residence would become legally nonconforming and governed by Section 42-133, Nonconforming lots, buildings, structures and uses, of the Zoning Code (attached). As such, the nonconforming residence may continue as long as it is not abandoned (refer to Section 42-133(C)(5) for the criteria used to evaluate this issue). The residence can be sold to a new owner and/or rented with no change to this nonconforming status. Additionally and in the event the residence is destroyed by fire or other "act of God", the structure could be reconstructed to its original location within 18 months of the date destroyed.

I hope the above information is helpful to you. If you have any further questions or require additional assistance, please contact me in the Department of Community Development at 329-4475.

Sincerely,



Michael K. West, AICP  
Assistant City Planner

Attachment: Section 42-133, Nonconforming lots, buildings, structures and uses

July 30, 2012

To: Department of Community Development

From: Douglas F. Champagne

728 Bye Street, Portage

RECEIVED

AUG 01 2012

COMMUNITY DEVELOPMENT

This petition is in regard to the proposed zoning change #11-4. I originally expressed my opposition to that proposal at the Planning Commission meeting on May 17, 2012. My reasoning at that time, was that my property was flanked on two sides, to the East and to the South, a unique situation not affecting any of the other properties! The solutions discussed at that time, one of which was setbacks, were inadequate in addressing the privacy lost at the time of the sale of parcels 775 and 801. I would like to suggest an optional solution that could eliminate some of the noise pollution that was introduced by the clearing of trees and bushes. This opened up the entire area from Center Street to my back yard. If the property lines between 801 and 775, and my property, were required to be fenced to have the zoning change be approved, it would accomplish two things. First It would alleviate my objection to the change and secondly, save the requirement for setbacks to be imposed on 801 and 775, leaving the owner full use of his property!

I would like to add some comments to show some of the problems I have encountered since this situation arose. These are things that have not occurred in the first 13 years I have lived in this house! Children of all ages riding bicycles thru my yard, adults using my yard as a shortcut, cars with doors wide open, blaring loud, and unfamiliar, music for my unwanted entertainment. I could never have imagined what an OS-1 zoning change could provide me with!! I did think that there would be a slight increase in pedestrian and auto traffic near my home, not what preliminary examples have produced.

Thank you for your consideration!

Sincerely,

  
Douglas Champagne

**FIRST READING  
CITY OF PORTAGE, MICHIGAN  
NOTICE**

**TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND  
ALL OTHER INTERESTED PERSONS.**

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 4 (Zoning) of Chapter 42 of the Codified Ordinances of Portage, Michigan, was introduced for first reading at a regular meeting of the City Council held on \_\_\_\_\_, 2012, and that the Council will hold a public hearing on the proposed amendment at the Portage City Hall in said City on \_\_\_\_\_, 2012, at 7:30 p.m. or as soon thereafter as may be heard.

NOTICE IS FURTHER GIVEN that the proposed amendment to Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan reads as follows:

THE CITY OF PORTAGE ORDAINS:

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Section 15, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
7932 Lakewood Avenue	04200-179-O
707 East Centre Avenue	04200-181-O
743 East Centre Avenue	04200-182-A
775 East Centre Avenue	04200-184-O
801 East Centre Avenue	00015-365-O
809 East Centre Avenue	00015-370-O
815 East Centre Avenue	00015-375-O
821 East Centre Avenue	00015-380-O
827 East Centre Avenue	00015-385-O
903 East Centre Avenue	00015-465-O

From R-1A, one family residential and R-1B, one family residential to OS-1, office service, or any other classification allowed by law.

PLEASE TAKE FURTHER NOTICE that if the owners of at least twenty percent (20%) of the area of land included in the proposed zoning change, or if the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred feet (100') from any point on the boundary of the land included in the proposed change, excluding public right-of-way or other publicly owned land, file a written protest petition against the proposed amendment presented to the City Council before final legislative action on the amendment, a two-thirds vote of the City Council will be required to pass the amendment.

Dated: \_\_\_\_\_

\_\_\_\_\_  
James R. Hudson, City Clerk

(App #11-04)

Z:\Jody\PORTAGE\ORD\REZONE\11-04.docx

**ADOPTION OF ZONING ORDINANCE  
CITY OF PORTAGE, MICHIGAN  
NOTICE**

**TO THE RESIDENTS AND PROPERTY OWNERS OF THE CITY OF PORTAGE AND  
ALL OTHER INTERESTED PERSONS.**

NOTICE IS HEREBY GIVEN, that an Ordinance to amend Article 4 ( Zoning) of Chapter 42 of the Codified Ordinances of Portage, Michigan, was adopted by the City Council at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, and will become effective \_\_\_\_\_, 2012.

NOTICE IS FURTHER GIVEN that Article 4 (Zoning) of Chapter 42, Land Development Regulations, of the Codified Ordinance of Portage, Michigan, has been amended as follows:

THE CITY OF PORTAGE ORDAINS:

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Section 15, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
7932 Lakewood Avenue	04200-179-O
707 East Centre Avenue	04200-181-O
743 East Centre Avenue	04200-182-A
775 East Centre Avenue	04200-184-O
801 East Centre Avenue	00015-365-O
809 East Centre Avenue	00015-370-O
815 East Centre Avenue	00015-375-O
821 East Centre Avenue	00015-380-O
827 East Centre Avenue	00015-385-O
903 East Centre Avenue	00015-465-O

From R-1A, one family residential and R-1B, one family residential to OS-1, office service.

PLEASE TAKE NOTICE that a copy of the Ordinance as amended may be purchased or inspected at City Hall on any business day except public and legal holidays from and after publication of this Notice from 8:00 a.m. to 5:00 p.m. local time. Further, a copy of a map showing the property rezoned is also available at the time and days noted above.

Dated: \_\_\_\_\_

\_\_\_\_\_  
James R. Hudson, City Clerk

(App #11-04)

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF  
PORTAGE, MICHIGAN BY AMENDING ARTICLE 4 OF CHAPTER 42,  
LAND DEVELOPMENT REGULATIONS OF THE CODIFIED ORDINANCES  
OF PORTAGE, MICHIGAN**

**THE CITY OF PORTAGE ORDAINS:**

That Article 4 (Zoning) of Chapter 42, of the Codified Ordinances of Portage, Michigan, Official Zoning Map, be amended as follows:

Parcel of land described as follows:

Tract of land located in Section 15, Township 3 South, Range 11 West, City of Portage, County of Kalamazoo, State of Michigan, and further described as follows:

<u>Street Address</u>	<u>Parcel ID Numbers</u>
7932 Lakewood Avenue	04200-179-O
707 East Centre Avenue	04200-181-O
743 East Centre Avenue	04200-182-A
775 East Centre Avenue	04200-184-O
801 East Centre Avenue	00015-365-O
809 East Centre Avenue	00015-370-O
815 East Centre Avenue	00015-375-O
821 East Centre Avenue	00015-380-O
827 East Centre Avenue	00015-385-O
903 East Centre Avenue	00015-465-O

From R-1A, one family residential and R-1B, one family residential to OS-1, office service.

FIRST READING:  
SECOND READING:  
EFFECTIVE DATE:

\_\_\_\_\_  
Peter J. Strazdas, Mayor

STATE OF MICHIGAN     )  
  ) SS  
COUNTY OF KALAMAZOO )

I do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing Ordinance was adopted by the City of Portage on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
James R. Hudson, City Clerk

(App #11-04)

Approved as to Form:  
Date: 5/8/12  
By: [Signature]  
City Attorney

**CITY OF PORTAGE**

**COMMUNICATION**

---

---

**TO:** Honorable Mayor and City Council

**DATE:** August 7, 2012

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** City Council Best Practices on Formation of City Council Committees and Responsibilities

As discussed by City Council at the special meeting of Council on May 31, 2012, the regular meetings of April 10, 2012 and June 12, 2012, the attached document is the final version of the *City Council Best Practices on Formation of City Council Committees and Responsibilities*. This policy was adopted by Council at the June 26, 2012 regular meeting and was slated for confirmation by Mayor Strazdas at the regular Council meeting of August 24, 2012.

Attachment

## **CITY COUNCIL BEST PRACTICES ON FORMATION OF CITY COUNCIL COMMITTEES AND RESPONSIBILITIES**

Each year, as part of the City Council Goal Setting Session, the City Council identifies several issues to address in the coming year. The issues are then assigned to Advisory Committees (Committees) of the City Council, along with specific charges and areas of study, and indicated on the Council Report Card. Following the formation of the Committees, Councilmembers are asked to provide the Mayor with their preferences concerning Committee(s) on which they would like to serve. Appointments and Chairperson assignments to the Committees, based on Councilmember preferences, are then confirmed by the City Council. Subsequently, the City Manager will appoint a city staff liaison to each Committee, who must attend all meetings of the assigned Committee(s).

Section 4.6(n) of the City Charter states, "*There shall be no standing committees of the Council.*" The above noted Committees are formed and approved each year by the City Council as a whole and therefore are not *standing* committees.

The Committee Chairperson must notify the Office of the City Clerk a minimum of one business day in advance of the date of all Committee meetings to ensure the posting of the appropriate public meeting notice. Committee meetings must take place in Portage City Hall. Notes from each meeting must be taken and submitted to the Office of the City Clerk for inclusion in the agenda packet of the next City Council meeting.

The following apply to all Committees of the City Council:

- Committees must consist of three members or less so as not to comprise a quorum of the City Council.
- Committees are advisory components of the City Council. Committees will not be empowered to make final decisions on any governmental policy, nor any matter involving the expenditure of city funds, resources and/or the use of city staff. City Council retains the ultimate authority to make all decisions regarding action / activities recommended to the City Council by a Committee.
- The formation of a Committee and the specific charges and areas of study given to the Committee for its work must be precisely stated by the City Council.
- No more than one Committee may be created to make a recommendation concerning a particular topic.
- If a Committee desires to alter its assigned charges and areas of study, a written request must be submitted to the City Council as a whole for review and consideration.
- Committee reports must be received by City Council by motion.
- All final recommendations provided by a City Council Committee must be formally acted upon by City Council by motion to accept, reject or modify.

# CITY OF PORTAGE

# COMMUNICATION

---

---

**TO:** Honorable Mayor and City Council

**DATE:** August 8, 2012

**FROM:** Maurice S. Evans, City Manager

*MSE (for M. Evans)*

**SUBJECT:** Major Street Crack Sealing Repair – Bid Recommendation

**ACTION RECOMMENDED:** That City Council accept the low bid submitted by Interstate Sealant & Concrete of Waukesha, Wisconsin in the amount of \$27,720 for select major street asphalt crack sealing repairs and authorize the City Manager to execute all documents related to this action on behalf of the city.

The Fiscal Year 2012-13 budget includes funds for asphalt preventative maintenance in the form of crack sealing to several major streets. The crack sealing process cleans and fills longitudinal and transverse cracks that occur in major streets as the asphalt ages. This preventative maintenance operation is necessary to ensure long lasting asphalt driving surfaces. Crack sealing maintenance is planned for the following major streets – Schuring Road, West Romence Road, Moorsbridge Road, Bacon Avenue, Vanderbilt Avenue, Cox’s Drive, Idaho Avenue, Portage Road, Mandigo Avenue and Zylman Avenue.

Sealed bids for this project were opened on July 26, 2012 and four viable bids were received. The low bid of \$27,720 was submitted by Interstate Sealant & Concrete of Waukesha, Wisconsin. Interstate Sealant & Concrete is pre-approved by the Michigan Department of Transportation (MDOT) to perform this type of work.

It is recommended that City Council accept the low bid of \$27,720 submitted by Interstate Sealant & Concrete for select major street crack sealing and authorize the City Manager to execute all documents related to this action on behalf of the city. Funds are available in the major streets budget for this project. The bid tabulation is attached for the information of City Council.

Attachment

BID TABULATION  
OVERBAND CRACK SEALING

<u>BIDDER</u>	<u>ESTIMATED QUANTITY</u>	<u>BID PRICE</u>	
		<u>UNIT</u>	<u>TOTAL</u>
Interstate Sealant & Concrete 540 W24211 Rockwood Way Waukesha, WI 53189	21,000 lbs.	\$1.32	\$27,720.00
Schodeller Construction 51722 Grand River Wixom, MI 48393	21,000 lbs.	\$1.54	\$32,340.00
Highway Maintenance & Construction PO Box 74411 Romulus, MI 48174-0411	21,000 lbs.	\$1.70	\$35,700.00
A-1 Asphalt 4634 Division Wayland, MI 49348	21,000 lbs.	\$1.72	\$36,120.00

**MATERIALS TRANSMITTED**

Friday, July 20, 2012

1. Communication from the City Manager regarding Consolidated Dispatch Business Plan Development Draft Agreement – Information Only.



---

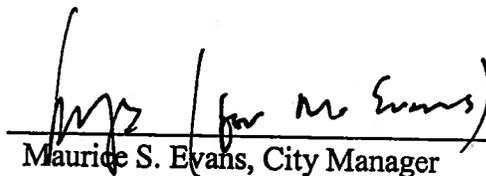
Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

**MATERIALS TRANSMITTED**

Tuesday, July 24, 2012

1. **To be added to the City Council Agenda for July 24, 2012 as Item F.6:** Communication from the City Manager recommending that City Council approve the intergovernmental agreement for the development of a comprehensive business plan for the Consolidation of 9-1-1 Emergency Dispatch Centers and authorize the City Manager to execute all documents related to this agreement on behalf of the city.
2. **AGENDA ITEM F.2** – Communication from the City Manager recommending that City Council adopt the Resolution awarding the bid for City of Portage Capital Improvement Bonds, Series 2012, in the amount of \$2,135,000 to Stifel, Nicolaus & Co., at 2.541330%.
3. Communication from the City Manager regarding July 24, 2012 Agenda Questions – Information Only.

  
Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager