FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
September 11, 2012

6:30 p.m. Special Meeting to interview Planning Commission applicants.

7:30 p.m. Call to Order.

Invocation: Pastor Neil Kelly of The Rock

Pledge of Allegiance.

Roll Call.

Proclamation:

A. Approval of the August 28, 2012 Regular Meeting Minutes.

* B. Approval of Consent Agenda Motions.

* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of September 11, 2012, as presented.

D. Public Hearings:

1. Public hearing for Rezoning Application #11-04:
   a. 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.

2. Public Hearing regarding Resolution No. 4-12 on the issuance of the Industrial Facilities Exemption Certificate for FEMA Corporation for real and personal property in the estimated amount of $3.65 million.
   a. Communication from the City Manager recommending that City Council:
      1) adopt Resolution No. 4-12, approving the Industrial Facilities Exemption Certificate for the planned FEMA Corporation's $3.65 million building addition and machinery and equipment purchase at 1716 Vanderbilt Avenue; and
      2) approve the tax abatement agreement and the affidavit between the City of Portage and FEMA Corporation.

E. Petitions and Statements of Citizens:

F. Reports from the Administration:

* 1. Communication from the City Manager recommending that City Council approve the Kalamazoo Metro, Special Weapons and Tactics Team Agreement and authorize the City Manager to execute the agreement on behalf of the city.

* 2. Communication from the City Manager recommending that City Council approve the requested 120-day extension for consideration of conditional approval of the Repertoire Coffee House and Theater, Inc., 2010 Liquor License application.

* 3. Communication from the City Manager recommending that City Council:
   a. accept as presented the activities, events and actions to commemorate the 50th Anniversary of the City of Portage;
   b. appoint a City Council Ad Hoc Committee to consider additional suggested activities and events from Advisory Boards and Commissions and Portage residents; and
   c. request that the Ad Hoc Committee present the additional suggested activities and events to the City Council no later than October 23, 2012.

* 4. Communication from the City Manager recommending that City Council direct the City Administration to include the installation of water main on Metsa Court for consideration in the Fiscal Year 2013-2014 Capital Improvement Budget.

* 5. Communication from the City Clerk recommending that City Council set a Special Meeting on Tuesday, October 9, 2012, beginning at 5:15 p.m. to interview board and commission applicants.

G. Communications:

1. Communication from Mr. Michael Marshburn of PCL Curtis, LLC, regarding Renewing of Previously Approved Conceptual Plan for NW Corner of Centre and Shaver.
   a. Communication from the City Manager recommending that City Council:
      1) grant a waiver from the CPD, Commercial Planned Development, Conceptual Plan resubmission requirement; and
      2) approve a two-year extension of the conceptual plan for the Portage Creek Landings – City Centre development project, 412 West Centre Avenue.

H. Unfinished Business:

1. Communication from Mayor Pro Tem Claudette Reid as Kalamazoo County Council of Governments (COG) Vice President recommending that City Council review, discuss and provide direction to the Portage COG Representatives to approve the revised By-Laws as presented.

* I. Minutes of Boards and Commissions Meetings:

1. Portage Historic District Commission of June 6, 2012.
2. Portage Park Board of August 1, 2012.

J. Ad-Hoc Committee Reports:

1. Presentation from Councilmember Elizabeth Campbell regarding the recent activity of the FOIA/Information Request Committee.

K. New Business:

L. Bid Tabulations:

* 1. Communication from the City Manager recommending that City Council award a three-year contract to Waste Management of Michigan, Incorporated, to provide the annual Spring Cleanup service in the amount of $134,000 for Fiscal Year 2012-2013, $138,000 for Fiscal Year 2013-2014 and $142,000 for Fiscal Year 2014 - 2015 with the option to renew the contract for up to three years and authorize the City Manager to execute all documents related to the contract and subsequent renewals on behalf of the city.

* 2. Communication from the City Manager recommending that City Council authorize the purchase of 70 radios, accessories, tower and repeater service from State Systems Radio at a total cost of $73,975 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.

* 3. Communication from the City Manager recommending that City Council award an engineering services contract for the South 12th Street Lift Station Renovations to Abonmarche, Incorporated, with the low cost proposal in the not to exceed amount of $33,100 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

* 4. Communication from the City Manager recommending that City Council award a contract to A-1 Asphalt of Wayland, Michigan for Central Cemetery asphalt drive resurfacing in the amount of $26,412.21 and authorize the City Manager to execute all documents related to this agreement on behalf of the city.

M. Other City Matters:

1. Statements of Citizens.

2. From City Council and City Manager.

* 3. Reminder of Meetings:

a. Wednesday, September 12, 7:00 p.m., Long Lake Governmental Lake Board Public Hearing, Council Chambers.
b. Wednesday, September 12, 7:00 p.m., Environmental Board, City Hall Room #1.
c. Monday, September 17, 8:00 a.m., Legislative Roll Call, Chamber Building, 346 W. Michigan Ave., Kalamazoo.
d. Wednesday, September 19, 2:30 p.m., Senior Citizen Advisory Board, Portage Senior Center.
e. Thursday, September 20, 7:00 p.m., Portage District Library Board, Portage District Library.
f. Thursday, September 20, 7:00 p.m., Planning Commission, Council Chambers.
g. Monday, September 24, 6:30 p.m., Portage Public Schools Board of Education, Council Chambers.

N. Materials Transmitted of August 24 and 28, 2012.

Adjournment.

CITY COUNCIL MEETING SUMMARY

August 28, 2012

CHECK REGISTER

- Approved the Check Register of August 28, 2012, as presented.

PETITIONS AND STATEMENTS OF CITIZENS

- Referred the Metsa Court Water Main Petition from Portage Road to West End to City Administration for review and report.
- Former Mayor Betty Lee Ongley, 8620 Tozier Lane, thanked Technology Services and Community Marketing Director Devin Mackinder for his work on the "We Get It" Joint Portage Marketing Effort, a collaborative initiative with the Portage Public Library and the Portage Public Schools and commented that it was the 92nd Anniversary for the Right to Vote for Women in the country.

PUBLIC HEARING

- Adopted Resolution No. 2-12 expanding Industrial Development District No. 55 and Resolution No. 3-12 setting a public hearing on the issuance of the Industrial Facilities Exemption Certificate for FEMA Corporation for real and personal property in the estimated amount of $3.65 million on September 11, 2012, at 7:30 p.m. or as soon thereafter as may be heard.

REPORTS FROM THE ADMINISTRATION

- Resolved to submit an application to the Michigan Liquor Control Commission for a Special License for the sale of beer and wine for consumption on the premises at Celery Flats Historical Area – Hayloft Theatre, 7335 Garden Lane, for *Shindig at the Hayloft* on October 13, 2012, and authorized the City Manager to execute all documents on behalf of the city.
- Adopted the resolution of approval for a Microbrew and Small Wine Maker license request from Ruth Stoddard of Portage Brewing Company, planned for 7842 Portage Road.
- Set a Special Meeting on Tuesday, September 11, 2012, beginning at 6:30 p.m. to interview Planning Commission applicants.
- Held a closed session immediately following the regularly scheduled City Council Meeting of August 28, 2012, to discuss a personnel matter.
- Received the communication from the City Manager regarding the July 2012 Summary Environmental Activity Report as information only.
- Received the Department Monthly Reports.

COMMUNICATIONS

- Received the communication from the Michigan Municipal League regarding the Annual Meeting Notice.
- Received the communication from Mayor Pro Tem Claudette Reid as Kalamazoo County Council of Governments (COG) Vice President.

UNFINISHED BUSINESS

- Received the withdrawal communication from The Lockwood Companies Direct Asset Management Representative Robert J. Salomon dated August 27, 2012, to Community Development Director Vicki Georgeau.

AD HOC COMMITTEE REPORT

- Received the report from Mayor Strazdas regarding the "We Get It" Joint Portage Marketing Effort, a collaborative initiative with the Portage Public Library and the Portage Public Schools.

NEW BUSINESS

- Accepted the resignation of Councilmember Campbell and appointed Mayor Strazdas to the City Council Sign Ordinance Committee.
- Directed the Administration and the City Attorney to investigate and report back on the best practice policy for notification of tree removal by utilities.
- Gave an outstanding performance review to City Manager Maurice Evans, a 2.5 per cent raise and a $5,000 bonus.

BID TABULATIONS

- Approved the purchase of ice control salt from Detroit Salt Company in the low bid amount of $45.21 per ton for 1,500 tons at a total cost not to exceed $67,815 for early delivery; Detroit Salt Company in the low bid amount of $54.91 per ton for 1,100 tons at a total cost not to exceed $60,401 for seasonal back up on an as-needed basis; and authorized the City Manager to execute all documents related to these purchases on behalf of the city.
- Awarded a contract for the planting and maintenance of 141 evergreen trees on Michigan Department of Transportation property to Spruce Trees Direct, LLC, of Byron Center, Michigan, in the amount of $65,320 and authorized the City Manager to execute all documents related to this agreement on behalf of the city.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- Councilmember Pearson announced that the West Lake Drive-In was open for business and wished them well.
- Councilmember Urban thanked City Manager Evans for his fine service to the city this past year and the many years before. He recounted that City Council "hit a homerun" by selecting Maurice Evans to lead Portage as the City Manager then expressed his appreciation to Mr. Evans for all he has done for Portage. Mr. Urban reported that the Long Lake Governmental Board approved an Invasive Aquatic Species Management Program with a first year budget of $40,000 and $37,000 for years two through four. He indicated that the assessment will be assessed per parcel among 319 parcels and was championed by the Lake Association, taken to Pavillion Township to be delegated to the Governmental Lake Board as

the appropriate taxing body that can effect these lake improvements, and had near unanimous agreement. He also indicated that at the same meeting, the Board reconfirmed the assessment of $37,000 per year to operate the pump and, in both instances, Pavilion Township and the City of Portage will contribute 8.33 %, and that the Board set a hearing on the Special Assessment Roll, 7:00 p.m., September 12, 2012, in City Council Chambers, City Hall.

- City Manager Evans thanked City Council for their kind comments and for the work of the City Manager Evaluation Committee. He thanked them for the wage adjustment and the bonus, expressed his appreciation for the debate on the funding issue, said he enjoyed working for the city and City Council and vowed to continue to do his best.
- Mayor Pro Tem Reid announced that the Transportation for Michigan Community Forums: Helping Decide How Michigan Rolls will take place Tuesday, September 11, 2012, at the Kalamazoo Regional Chamber of Commerce, 346 West Michigan Ave., Ste. 100, Kalamazoo, from 6:00 p.m. to 8:00 p.m. She made a plea for applicants who wish to serve on the Planning Commission to submit an application to the City Clerk and plan to attend the Special Meeting on Tuesday, September 11, 2012, beginning at 6:30 p.m. Finally, she announced that the 2012 Kalamazoo Area Foot Chase will be held at Celery Flats, Portage, Saturday, September 9, 2011, at approximately 9:00 a.m. with registration from 7:00 a.m. until 8:30 a.m. She indicated that this is a 3.5-mile fun run patterned after a police foot chase in pursuit of a fleeing suspect and proceeds go to assist families of fallen police officers. She also mentioned that there is the option to walk and have the same experience.
- Mayor Strazdas attempted to put the City Manager Review Process in perspective by indicating that there are cities in Michigan trying to figure out how to get rid of the City Manager and/or dealing with a plethora of negative issues. He commented that City Council all agreed to reward Mr. Evans, but could not come to a consensus on how much to award a very good employee of the city.

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COMPLETE MINUTES OF EACH CITY COUNCIL MEETING ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEMI.GOV, IN CITY HALL AND IN THE DISTRICT LIBRARY. MINUTES OF CITY BOARDS AND COMMISSIONS ARE AVAILABLE ON REQUEST FROM VARIOUS DEPARTMENTS.

CITY COUNCIL MEETING MINUTES FROM AUGUST 28, 2012

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

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At the request of Mayor Strazdas, Reverend Patricia Catellier of Chapel Hill United Methodist Church gave an 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 and Patricia M. Randall, Edward J. Sackley and Terry R. Urban, Mayor Pro Tem Claudette S. Reid and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randy Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Sackley, seconded by Reid, to approve the August 14, 2012 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Randall to read the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF AUGUST 28, 2012:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of August 28, 2012. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARING:

FEMA CORPORATION – PA 198 TAX ABATEMENT: Mayor Strazdas introduced Community Development Director Vicki Georgeau, who explained the tax abatement process and provided an explanation and overview of the request for a three-year tax abatement on personal property and a six-year tax abatement on real property. Ms. Georgeau indicated that this was within Industrial Development District No. 55, and reviewed the Preliminary Environmental Analysis, the Project Impact Analysis and the Property Tax Analysis for City Council and the audience. Discussion followed.

Jeff Hoffman, President of FEMA Corporation, provided a history of FEMA since coming from California in 1972, and indicated that 30% of the employees are engineers or have a technical background. He indicated that the 180 employees are owners, expressed his appreciation for City Council granting tax abatements in the past and humbly asked that Portage partner with FEMA as it has in the past 40 years. Discussion followed.

Mayor Strazdas opened the public hearing for public comment. There being no comment, motion by Sackley, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

Motion by Sackley, seconded by Campbell, to adopt Resolution No. 2-12 expanding Industrial Development District No. 55 and Resolution No. 3-12 setting a public hearing on the issuance of the Industrial Facilities Exemption Certificate for FEMA Corporation for real and personal property in the estimated amount of $3.65 million on September 11, 2012, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

* **PETITION - WATER MAIN ON METSA COURT FROM PORTAGE ROAD TO THE WEST END:** Motion by Urban, seconded by Reid, to refer the Water Main Petition for Metsa Court from Portage Road to West End to City Administration for review and report. Upon a roll call vote, motion carried 7 to 0.

FORMER MAYOR BETTY LEE ONGLEY, 8620 TOZIER LANE: Former Mayor Betty Lee Ongley thanked Technology Services and Community Marketing Director Devin Mackinder for his work on the "We Get It" Joint Portage Marketing Effort, a collaborative initiative with the Portage Public Library and the Portage Public Schools and commented that it was the 92nd Anniversary for the Right to Vote for Women in the country.

REPORTS FROM THE ADMINISTRATION:

* **APPLICATION FOR SPECIAL LICENSE FOR SALE OF BEER, WINE AND SPIRITS:** Motion by Urban, seconded by Reid, to resolve to submit an application to the Michigan Liquor Control Commission for a Special License for the sale of beer and wine for consumption on the premises at Celery Flats Historical Area – Hayloft Theatre, 7335 Garden Lane, for *Shindig at the Hayloft* on October 13, 2012, and authorize the City Manager to execute all documents on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **MICROBREW AND SMALL WINE MAKER LICENSE FROM PORTAGE BREWING COMPANY:** Motion by Urban, seconded by Reid, to adopt the resolution of approval for a Microbrew and Small Wine Maker license request from Ruth Stoddard of Portage Brewing Company, planned for 7842 Portage Road. Upon a roll call vote, motion carried 7 to 0.

* **SPECIAL MEETING TO INTERVIEW PLANNING COMMISSION APPLICANTS:** Motion by Urban, seconded by Reid, to set a Special Meeting on Tuesday, September 11, 2012, beginning at 6:30 p.m. to interview Planning Commission applicants. Upon a roll call vote, motion carried 7 to 0.

* **CLOSED SESSION:** Motion by Urban, seconded by Reid, to hold a closed session immediately following the regularly scheduled City Council Meeting of August 28, 2012, to discuss a personnel matter. Upon a roll call vote, motion carried 7 to 0.

* **JULY 2012 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the July 2012 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **DEPARTMENT MONTHLY REPORTS:** Motion by Urban, seconded by Reid, to receive the Department Monthly Reports from the various city departments. Upon a roll call vote, motion carried 7 to 0.

COMMUNICATIONS:

* **MICHIGAN MUNICIPAL LEAGUE ANNUAL MEETING NOTICE:** Motion by Urban, seconded by Reid, to receive the communication from the Michigan Municipal League regarding the Annual Meeting Notice. Upon a roll call vote, motion carried 7 to 0.

KALAMAZOO COUNTY COUNCIL OF GOVERNMENTS (COG) VICE PRESIDENT MAYOR PRO TEM CLAUDETTE REID: Mayor Pro Tem explained the original purpose of COG, how it evolved and the reason for considering new by-laws at this time. Discussion followed. Motion by Strazdas, seconded by Reid, to receive the communication from Mayor Pro Tem Claudette Reid as Kalamazoo County Council of Governments (COG) Vice President. Upon a voice vote, motion carried 7 to 0.

UNFINISHED BUSINESS:

TAX EXEMPTION FOR CENTRE STREET VILLAGE APARTMENTS: After an explanation from Community Development Director Vicki Georgeau, motion by Reid, seconded by Urban, to receive the withdrawal communication from The Lockwood Companies Direct Asset Management Representative Robert J. Salomon dated August 27, 2012, to Community Development Director Vicki Georgeau. Upon a roll call vote, motion carried 7 to 0.

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

Portage Public Schools Board of Education Special and Committee of the Whole Work Session of June 4, Special and Regular of June 11, and regular of July 9, 2012.
Portage Zoning Board of Appeals of July 9, 2012.
Portage Youth Advisory Committee of July 30, 2012.
Portage Planning Commission of August 2, 2012.

AD HOC COMMITTEE REPORT:

"WE GET IT" JOINT PORTAGE MARKETING EFFORT: Mayor Strazdas provided a report regarding the "We Get It" Joint Portage Marketing Effort, a collaborative initiative with the Portage Public Library and the Portage Public Schools. Motion by Urban, seconded by Campbell, to receive the report from Mayor Strazdas regarding the "We Get It" Joint Portage Marketing Effort. Upon a voice vote, motion carried 7 to 0.

NEW BUSINESS:

SIGN ORDINANCE COMMITTEE: At the request of Mayor Strazdas, motion by Reid, seconded by Pearson, to accept the resignation of Councilmember Campbell and appoint Mayor Strazdas to the City Council Sign Ordinance Committee. Upon a voice vote, motion carried 7 to 0.

NOTIFICATION OF TREE REMOVAL BY UTILITIES: After some discussion, motion by Pearson, seconded by Urban, to direct the Administration and the City Attorney to investigate and report back on the best practice policy for notification of tree removal by utilities. Upon a voice vote, motion carried 7 to 0.

RECESS: 8:24 p.m.
RECONVENE: 10:29 p.m.

CITY MANAGER EVALUATION COMMITTEE: Mayor Strazdas reconvened the meeting and deferred to City Manager Evaluation Committee Chair Urban, who read from a performance review report, and listed some of City Manager Evans' activities, attributes and contributions to the community. He cited some of his many accomplishments, his willingness to collaborate, his encouragement and communication with employees and the resultant increase in customer service in the city. He indicated that Mr. Evans has not asked for a salary increase in three years and the Committee recommended a change in his compensation but could not reach a consensus on the amount. Mayor Strazdas asked for comment. There being none, he asked for a motion for the purposes of discussion.

Motion by Pearson, seconded by Reid, to give City Manager Maurice Evans a pay raise of 1.5% effective July 1, 2012, and to give him a one-time bonus of $5,000. The members of the City Manager Evaluation Committee, Councilmembers Urban, Pearson and Sackley agreed Mr. Evans has exceeded expectations and is doing a fine job. The rest of City Council concurred. Mayor Strazdas

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pointed out that the challenge is how much to pay in the slow economy when people in this community are seeing little to no pay increase. However, he felt that an executive falls into a different category and that Mr. Evans is deserving of the increase. Discussion followed. Upon a roll call vote, motion failed 4 to 3. No: Councilmembers Sackley, Urban, Randall and Campbell. Yeas: Mayor Pro Tem Reid, Mayor Strazdas and Councilmember Pearson.

Motion by Urban, seconded by Reid, to give City Manager Maurice Evans a pay raise of 2.5% effective July 1, 2012, and to give him a one-time bonus of $5,000. Discussion followed. Upon a roll call vote vote, motion carried 4 to 3. Yeas: Mayor Pro Tem Reid, Mayor Strazdas and Councilmembers Sackley and Urban. No: Councilmembers Campbell, Pearson and Randall.

BID TABULATIONS:

* **ICE CONTROL SALT PURCHASE:** Motion by Urban, seconded by Reid, to approve the purchase of ice control salt from Detroit Salt Company in the low bid amount of $45.21 per ton for 1,500 tons at a total cost not to exceed $67,815 for early delivery; Detroit Salt Company in the low bid amount of $54.91 per ton for 1,100 tons at a total cost not to exceed $60,401 for seasonal back up on an as-needed basis; and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **ANGLING ROAD BUFFER TREE PLANTING PROJECT:** Motion by Urban, seconded by Reid, to award a contract for the planting and maintenance of 141 evergreen trees on Michigan Department of Transportation property to Spruce Trees Direct, LLC, of Byron Center, Michigan, in the amount of $65,320 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 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL: Councilmember Pearson announced that the West Lake Drive-In was open for business and wished them well.

Councilmember Urban thanked City Manager Evans for his fine service to the city this past year and the many years before. He recounted that City Council "hit a homerun" by selecting Maurice Evans to lead Portage as the City Manager then expressed his appreciation to Mr. Evans for all he has done for Portage. Mr. Urban reported that the Long Lake Governmental Board approved an Invasive Aquatic Species Management Program with a first year budget of $40,000 and $37,000 for years two through four. He indicated that the assessment will be assessed per parcel among 319 parcels and was championed by the Lake Association, taken to Pavillion Township to be delegated to the Governmental Lake Board as the appropriate taxing body that can effect these lake improvements, and had near unanimous agreement. He also indicated that at the same meeting, the Board reconfirmed the assessment of $37,000 per year to operate the pump and, in both instances, Pavilion Township and the City of Portage contribute 8.33 %, and that the Board set a hearing on the Special Assessment Roll, 7:00 p.m., September 12, 2012, in City Council Chambers, City Hall.

City Manager Evans thanked City Council for their kind comments and for the work of the City Manager Evaluation Committee. He thanked them for the wage adjustment and the bonus, expressed his appreciation for the debate on the funding issue, said he enjoyed working for the city and City Council and vowed to continue to do his best.

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in pursuit of a fleeing suspect and proceeds go to assist families of fallen police officers. She also mentioned that there is the option to walk and have the same experience.

Mayor Strazdas attempted to put the City Manager Review Process in perspective by indicating that there are cities in Michigan trying to figure out how to get rid of the City Manager and/or dealing with a plethora of negative issues. He commented that City Council all agreed to reward Mr. Evans, but could not come to a consensus on how much to award a very good employee of the city.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 10:54 p.m.

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James R. Hudson, City Clerk

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

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 4, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Accounts Payable Register

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of September 11, 2012 as presented.

Attached please find the Accounts Payable Register for the period August 19, 2012 through September 2, 2012, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
08/22/2012	282077	BOB PETERSON CODE SERVICES	4819	1,662.00
08/31/2012	282078	AT&T	849	5,516.63
08/31/2012	282079	AT&T	849	49.50
08/31/2012	282080	A T & T LONG DISTANCE	4060	7.99
08/31/2012	282081	ALLEGRA PRINT & IMAGING	533	314.31
08/31/2012	282082	ALLIED MECHANICAL SERVICE	974	693.32
08/31/2012	282083	AMERICAN WATER WORKS ASSOC.	773	545.00
08/31/2012	282084	TODD ARBANAS ENTERPRISES INC.	1704	.00
08/31/2012	282085	ARROWHEAD SCIENTIFIC, INC.	3744	.00
08/31/2012	282086	ARTISTIC MEDIA PARTNERS, INC	999999	.00
08/31/2012	282087	ARTWEAR APPAREL GRAPHICS, INC.	3804	.00
08/31/2012	282088	ADP, INC.	3305	1,580.46
08/31/2012	282089	AXE & ECKLUND, PC	2692	11,423.29
08/31/2012	282090	BALKEMA EXCAVATING, INC.	130	850.50
08/31/2012	282091	BARGA, TIMARY	999999	200.00
08/31/2012	282092	BARRY, DAVID	999999	50.00
08/31/2012	282093	BIDDLE, KRISTINE	532	100.00
08/31/2012	282094	BOEHRER, GREGORY	999999	42.65
08/31/2012	282095	BORGESS HEALTH ALLIANCE	151	90.00
08/31/2012	282096	BREAKAWAY BICYCLES	1356	79.69
08/31/2012	282097	BRONSON HEALTHCARE GROUP	4813	625.00
08/31/2012	282098	BUCHANAN, LISA	999999	92.87
08/31/2012	282099	CANNEY, SCOTT	999999	72.16
08/31/2012	282100	CENTRE REAL ESTATE ASSOC LLC	999999	894.38
08/31/2012	282101	CHAMBERS, LORENA	999999	195.00
08/31/2012	282102	CHARTER COMMUNICATIONS	3080	60.00
08/31/2012	282103	CHICAGO TITLE OF MICHIGAN, INC	999999	60.74
08/31/2012	282104	CHRISTOPHER BARNES	999999	378.00
08/31/2012	282105	CITY OF KALAMAZOO (TRANS MILLA	4649	138,294.59
08/31/2012	282106	CITY OF KALAMAZOO TREASURER	540	193,110.57
08/31/2012	282107	COMSTOCK PUBLIC SCHOOLS	1671	30,192.62
08/31/2012	282108	CONRAD, LANCE	999999	45.00
08/31/2012	282110	CONSUMERS ENERGY-BILL PMT CNT	189	30,417.38
08/31/2012	282111	CORNERSTONE CONSTRUCTION MGMT	999999	17.00
08/31/2012	282112	COUNTERMAN, LAVONNE	999999	55.00
08/31/2012	282113	CROSSROADS CAR WASH	195	46.00
08/31/2012	282114	CTT/MTU	999999	250.00
08/31/2012	282115	DAVIDSON, JUDITH	999999	150.00
08/31/2012	282116	JOHN DEERE LANDSCAPES	4448	156.15
08/31/2012	282117	DENOOYER BROTHERS, INC.	210	300.44
08/31/2012	282118	JACK DOHENY SUPPLIES INC.	69	1,402.40
08/31/2012	282119	EMERGENCY VEHICLE PRODUCTS	2948	100.00
08/31/2012	282120	EMERY, AUDREY	999999	100.00
08/31/2012	282121	EVANS, JESSE	999999	100.00
08/31/2012	282122	FELDER COMMUNICATIONS GROUP, I	3025	4,075.00
08/31/2012	282123	FIRE & EMERGENCY TRAINING NETW	4012	3,576.75
08/31/2012	282124	GORDON WATER SYSTEMS	517	266.00
08/31/2012	282125	GRANITE GALLERY	999999	2,315.00
08/31/2012	282126	GREATER KALAMAZOO FOP LODGE 98	623	2,800.92
08/31/2012	282127	GREATER KALAMAZOO FOP LODGE 98	623	549.20
08/31/2012	282128	GREATER KALAMAZOO UNITED WAY	628	1,034.78

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
08/31/2012	282129	GRIFFIN PEST CONTROL, INC.	598	55.00
08/31/2012	282130	GUARDIAN FINANCE & ADVOCACY	999999	50.00
08/31/2012	282131	HALT FIRE, INC.	4781	322.92
08/31/2012	282132	HARGUS, ELIZABETH	999999	541.00
08/31/2012	282133	HARGUS, ELIZABETH	999999	68.00
08/31/2012	282134	HARGUS, ELIZABETH	999999	101.00
08/31/2012	282135	HARTMAN, CHARLES	913	70.50
08/31/2012	282136	HAUN, KEVIN L	674	235.00
08/31/2012	282137	HINKLEY, STEVE	999999	125.00
08/31/2012	282138	HINKLEY, STEVEN	999999	125.00
08/31/2012	282139	HOADLEY, LEO	4228	44.00
08/31/2012	282140	HOLIDAY INN	4281	1,428.57
08/31/2012	282141	HONOR CREDIT UNION	999999	128.51
08/31/2012	282142	HYDRO-CHEM SYSTEMS, INC.	4039	206.85
08/31/2012	282143	I-DEAL, LLC	2719	1,500.00
08/31/2012	282144	IAFC MEMBERSHIP	868	204.00
08/31/2012	282145	INTERNATIONAL CODE COUNCIL, IN	3244	125.00
08/31/2012	282146	IRWA	999999	175.00
08/31/2012	282147	J J KELLER & ASSOCIATES, INC.	2972	307.99
08/31/2012	282148	JIM BALKEMA	999999	635.00
08/31/2012	282149	JONES & HENRY ENGINEERS, LTD	3488	11,663.99
08/31/2012	282150	KALAMAZOO CIVIC THEATRE	999999	25.00
08/31/2012	282151	KALAMAZOO CO DISTRICT COURT	999999	250.00
08/31/2012	282152	KALAMAZOO COUNTY TREASURER	514	16,218.37
08/31/2012	282153	KALAMAZOO GAZETTE	4756	83.10
08/31/2012	282154	KALAMAZOO OIL COMPANY	4511	157.08
08/31/2012	282155	KELLOGG HOTEL & CONFERENCE CEN	4822	650.00
08/31/2012	282156	KENT COUNTY DPW	2663	67.50
08/31/2012	282157	KLINE, ERIC	532	120.00
08/31/2012	282158	KLOSTERMAN DISTRIBUTING	3805	105.14
08/31/2012	282159	KUIPER BROTHERS MOVING INC.	1066	1,397.50
08/31/2012	282160	KZOO TIRE COMPANY	564	344.00
08/31/2012	282161	LAW ENFORCEMENT TARGETS, INC.	1614	45.88
08/31/2012	282162	LEHMANN, JEFF	532	75.00
08/31/2012	282163	LEMMEN OIL CO.	2595	9,709.23
08/31/2012	282164	LEWIS, JAMES	999999	101.48
08/31/2012	282165	LOCEY SWIM POOL CO.	243	90.70
08/31/2012	282166	LOWE'S HOME CENTER	2630	27.12
08/31/2012	282167	MACNLOW ASSOCIATES	2189	375.00
08/31/2012	282168	MANN+HUMMEL USA, INC	999999	400.00
08/31/2012	282169	MATTSON, NICHOLAS	532	.00
08/31/2012	282171	MAURER'S TEXTILE RENTAL SERVIC	4746	300.64
08/31/2012	282172	MCNALLY ELEVATOR CO.	256	102.84
08/31/2012	282173	MICHIGAN ASSOC. OF SENIOR CENT	3425	75.00
08/31/2012	282174	MICHIGAN ASSESSOR'S ASSOC.	763	75.00
08/31/2012	282175	MICHIGAN ELECTION RESOURCES, L	264	250.00
08/31/2012	282176	MICHIGAN FESTIVALS AND EVENTS	999999	160.00
08/31/2012	282177	MICHIGAN STATE FIREMANS ASSOC.	1292	208.84
08/31/2012	282178	MIDWEST COMMUNICATION SERVICES	1983	1,132.00
08/31/2012	282179	MIDWEST CUSTOM EMBROIDERY COMP	613	154.00
08/31/2012	282180	MIDWEST ENERGY COOPERATIVE	2030	234.20

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
08/31/2012	282181	MLIVE MEDIA GROUP	89	1,274.68
08/31/2012	282182	MURRAY LANDSCAPING	999999	4,400.42
08/31/2012	282183	NATIONAL FIRE PROTECTION ASSOC	4099	130.00
08/31/2012	282184	NATIONAL TACTICAL OFFICERS ASN	2803	99.00
08/31/2012	282185	NATIONS TITLE AGENCY OF MICH	999999	882.55
08/31/2012	282186	NEW FRESH CLEANING SERVICE	4351	158.00
08/31/2012	282187	NEW WORLD SYSTEMS	1154	31,081.00
08/31/2012	282188	NEXTEL	1709	73.73
08/31/2012	282189	NFPA Certification Department	999999	130.00
08/31/2012	282190	NFPA Certification Department	999999	130.00
08/31/2012	282191	NYE UNIFORMS	299	552.89
08/31/2012	282192	OAKLAND POLICE ACADEMY	999999	450.00
08/31/2012	282193	OFFICE DEPOT, INC.	1721	973.95
08/31/2012	282194	OFFICEMAX INCORPORATED	301	13.70
08/31/2012	282195	ONE WAY PRODUCTS	440	1,642.71
08/31/2012	282196	PARIS CLEANERS	1794	1,014.40
08/31/2012	282197	PATESEL, TERRY	4455	188.00
08/31/2012	282198	PETRULIO, MARY LOU	999999	45.00
08/31/2012	282199	PETTY CASH-DPS	538	3.67
08/31/2012	282200	PETTY CASH-PARKS	536	544.71
08/31/2012	282201	PORTAGE DISTRICT LIBRARY	810	13,424.82
08/31/2012	282202	PORTAGE FIREFIGHTERS	625	1,414.60
08/31/2012	282203	PORTAGE ON-CALL FIREFIGHTERS	504	280.00
08/31/2012	282204	PORTAGE POLICE OFFICERS ASSOC	624	1,671.78
08/31/2012	282205	PREMIER MEDICAL CARE	999999	26.00
08/31/2012	282206	PRO SERVICES, INC.	4597	560.00
08/31/2012	282207	PROFESSIONAL LAKE MANAGEMENT	461	734.93
08/31/2012	282208	PROGRESSIVE MEDICAL INTERNAT'L	829	294.74
08/31/2012	282209	PUBLIC MEDIA NETWORK	4582	86,989.95
08/31/2012	282210	RELIABLE MANAGEMENT SYSTEMS, I	4354	662.00
08/31/2012	282211	REMAX ADVANTAGE-WESTNEDGE	999999	56.53
08/31/2012	282212	RENEWED EARTH, INC.	4686	7,916.66
08/31/2012	282213	RENTALEX OF MICHIGAN, INC.	3442	234.75
08/31/2012	282215	RIDGE AUTO NAPA	438	4,343.47
08/31/2012	282216	RIKKERS, KEVIN	999999	92.39
08/31/2012	282217	ROCKFORD ADVERTISING	999999	2,575.00
08/31/2012	282218	ROHALL, HEATHER	999999	5.00
08/31/2012	282219	ROWLEY BROTHERS, INC.	346	439.60
08/31/2012	282220	SEVERANCE ELECTRIC COMPANY,INC	353	38,469.47
08/31/2012	282221	SHERATON - DETROIT	999999	294.00
08/31/2012	282222	SHERWIN WILLIAMS	356	93.42
08/31/2012	282223	SOUTHLAND MALL ANNEX	999999	537.22
08/31/2012	282224	SOUTHWEST MICHIGAN GOV CONSULT	4484	675.00
08/31/2012	282225	SPRINT	3721	1,450.36
08/31/2012	282226	STAP BROS LAWN & LANDSCAPE,INC	366	1,772.33
08/31/2012	282227	STATE OF MICHIGAN (DOT)	368	255,494.70
08/31/2012	282228	STATE OF MICHIGAN (TREASURY)	722	3,902.64
08/31/2012	282229	STATE OF MICHIGAN/MLCC	999999	50.00
08/31/2012	282230	STATE SYSTEMS RADIO, INC	369	1,235.98
08/31/2012	282231	STEENSMA LAWN & POWER EQUIPMEN	3222	1,999.00
08/31/2012	282232	TELVENT DTN, INC.	4667	564.75

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
08/31/2012	282233	THOMPSON PUBLISHING GROUP	385	428.50
08/31/2012	282234	JOHANNA THOMPSON	4682	1,696.75
08/31/2012	282235	TRACTOR SUPPLY CORP.	2817	2.18
08/31/2012	282236	ULINE, INC.	4449	268.54
08/31/2012	282237	UNITED PARCEL SERVICE	545	72.17
08/31/2012	282238	US BANK HOME MORTGAGE	999999	19.67
08/31/2012	282239	VERIZON WIRELESS SERVICES, LLC	4653	515.59
08/31/2012	282240	W W M T	4057	1,030.00
08/31/2012	282241	WEDELS GARDEN CENTER	999999	3,770.00
08/31/2012	282242	WELLS FARGO REAL ESTATE TAX SV	999999	12,447.28
08/31/2012	282243	WEST MICHIGAN GLASS SOCIETY	4518	246.00
08/31/2012	282244	WESTERN MICHIGAN INT'L TRUCKS	4306	234.74
08/31/2012	282245	WINDEMULLER ELECTRIC, INC.	3061	1,456.66
08/31/2012	282246	WINDER POLICE EQUIPMENT, INC.	429	748.99
08/31/2012	282247	WINGFOOT COMMERCIAL TIRE	2613	238.04
08/31/2012	282248	DAN WOOD COMPANY	2019	1,285.15
08/31/2012	282249	XEROX CORPORATION	2684	3,792.85
08/31/2012	282250	XYBIX SYSTEMS, INC.	3436	449.06
08/31/2012	282251	ZANTELLO'S INTERIOR CARE. LLC.	3658	1,116.82
08/31/2012	282252	ZERO WASTE USA, INC.	4435	274.75
08/31/2012	282253	415TH CABN FAMILY READINESS	999999	100.00
08/31/2012	282254	56-B DISTRICT COURT	999999	115.00
08/31/2012	282255	TODD ARBANAS ENTERPRISES INC.	1704	6,060.00
08/31/2012	282256	ARROWHEAD SCIENTIFIC, INC.	3744	425.95
08/31/2012	282257	ARTISTIC MEDIA PARTNERS, INC	999999	600.00
08/31/2012	282258	ARTWEAR APPAREL GRAPHICS, INC.	3804	255.50
08/31/2012	282259	ADP, INC.	3305	.00
08/31/2012	282260	ADP, INC.	3305	1,580.46
08/31/2012	282261	KILBURN, TAMARA	999999	318.88

DATE RANGE TOTAL * 997,584.27 *

PREPARED 09/04/2012, 8:43:41
PROGRAM: GM176L
CITY OF PORTAGE

ELECTRONIC FUNDS TRANSFER REGISTER

FROM: 08/19/2012 TO: 09/02/2012

ACCOUNTING PERIOD 01/2013

PAYMENT NO	VENDOR NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE NUMBER	EFT BATCH	BANK CODE
1367		ABONMARCHE CONSULTANTS, INC	08/31/2012	10,378.85	072000320000001	0000001	00
1368		ANDRUS TRAVEL, GAIL	08/31/2012	577.50	072000320000002	0000001	00
1369		ANIMAL REMOVAL SERVICE, LLC	08/31/2012	760.00	072000320000003	0000001	00
1370		B & B YARDSCAPE	08/31/2012	2,060.00	072000320000004	0000001	00
1371		BATTERIES PLUS	08/31/2012	885.50	072000320000005	0000001	00
1372		BEEBE, RON	08/31/2012	94.00	072000320000006	0000001	00
1373		C D W GOVERNMENT, INC.	08/31/2012	749.00	072000320000007	0000001	00
1374		CAPITAL ADVANTAGE LEASING	08/31/2012	13,880.00	072000320000008	0000001	00
1375		DELTA DENTAL PLAN OF MI	08/31/2012	20,231.19	072000320000009	0000001	00
1376		FERGUSON ENTERPRISES, INC.	08/31/2012	47.58	072000320000010	0000001	00
1377		FORSHEE, MARK	08/31/2012	198.00	072000320000011	0000001	00
1378		GRAINGER INC, W W	08/31/2012	640.25	072000320000012	0000001	00
1379		GREAT LAKES DESIGN BUILD, LLC	08/31/2012	250.00	072000320000013	0000001	00
1380		KEHOE, EDWARD J	08/31/2012	175.00	072000320000014	0000001	00
1381		KNAPP ENERGY, INC.	08/31/2012	19,434.00	072000320000015	0000001	00
1382		KOPEC, CASEY	08/31/2012	135.00	072000320000016	0000001	00
1383		KUSHNER & COMPANY, INC.	08/31/2012	270.70	072000320000017	0000001	00
1384		MALZ, DONALD	08/31/2012	247.50	072000320000018	0000001	00
1385		MEJEUR ELECTRIC LLC	08/31/2012	248.00	072000320000019	0000001	00
1386		PLEUNE SERVICE COMPANY	08/31/2012	300.00	072000320000020	0000001	00
1387		RHINO SEED & LANDSCAPE SUPPLY	08/31/2012	353.00	072000320000021	0000001	00
1388		ROE-COMM, INC.	08/31/2012	19,475.00	072000320000022	0000001	00
1389		SARCOM, INC	08/31/2012	78,689.61	072000320000023	0000001	00
1390		SNELL, DEBRA	08/31/2012	126.00	072000320000024	0000001	00
1391		TECHNOLOGY SOLUTIONS	08/31/2012	388.70	072000320000025	0000001	00
1392		THOMPSON, HELENE	08/31/2012	266.00	072000320000026	0000001	00
1393		U A W, LOCAL 2290	08/31/2012	498.38	072000320000027	0000001	00
1394		VANDERBERG, WARD M	08/31/2012	94.00	072000320000028	0000001	00
1395		WEST, STEVE	08/31/2012	141.00	072000320000029	0000001	00
1396		360 SERVICES, INC.	08/31/2012	4,280.97	072000320000030	0000001	00

GRAND TOTAL: 175,874.73 NO. OF CHECKS: 30

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 10th 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 3rd and May 17, 2012 meetings. During the May 17th 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 5th, May 3rd 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 2nd 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

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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 5th, May 3rd and May 17th, 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 Alterative 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

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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

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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.

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** July 27, 2012

FROM: Vicki Georgeau, 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 5th, May 3rd and May 17th, 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 10th 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).

<u>Alternative 1</u> 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.

<u>Alternative 2</u> 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 17th 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.

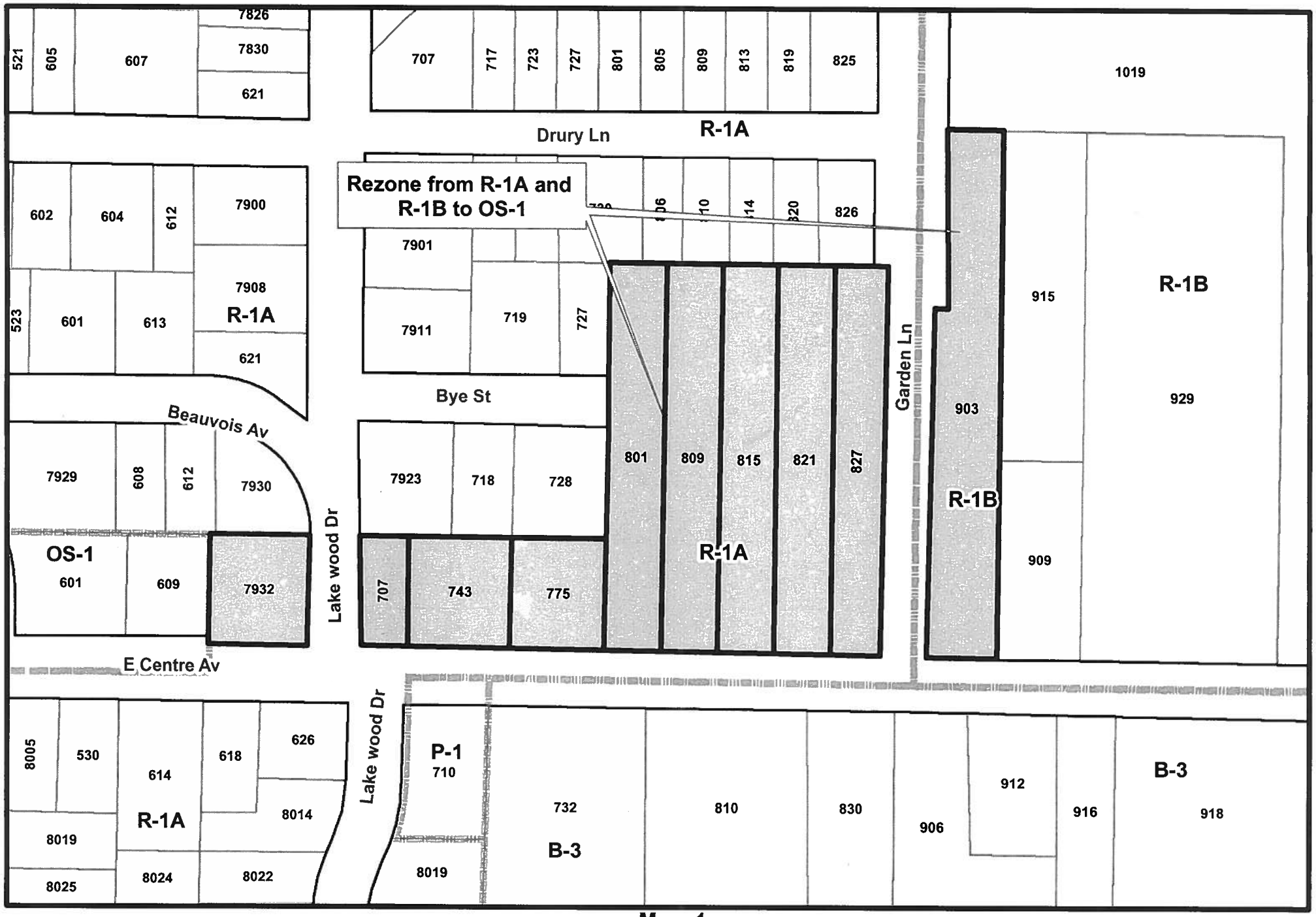
With regard to all of the alternatives presented for consideration, it is noted that office land uses adjacent to residential land uses are common throughout the city, especially along Centre Avenue, which is designated as primary office corridor in the Comprehensive Plan. In addition, potential adverse 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 17th and 23rd, 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 though 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)

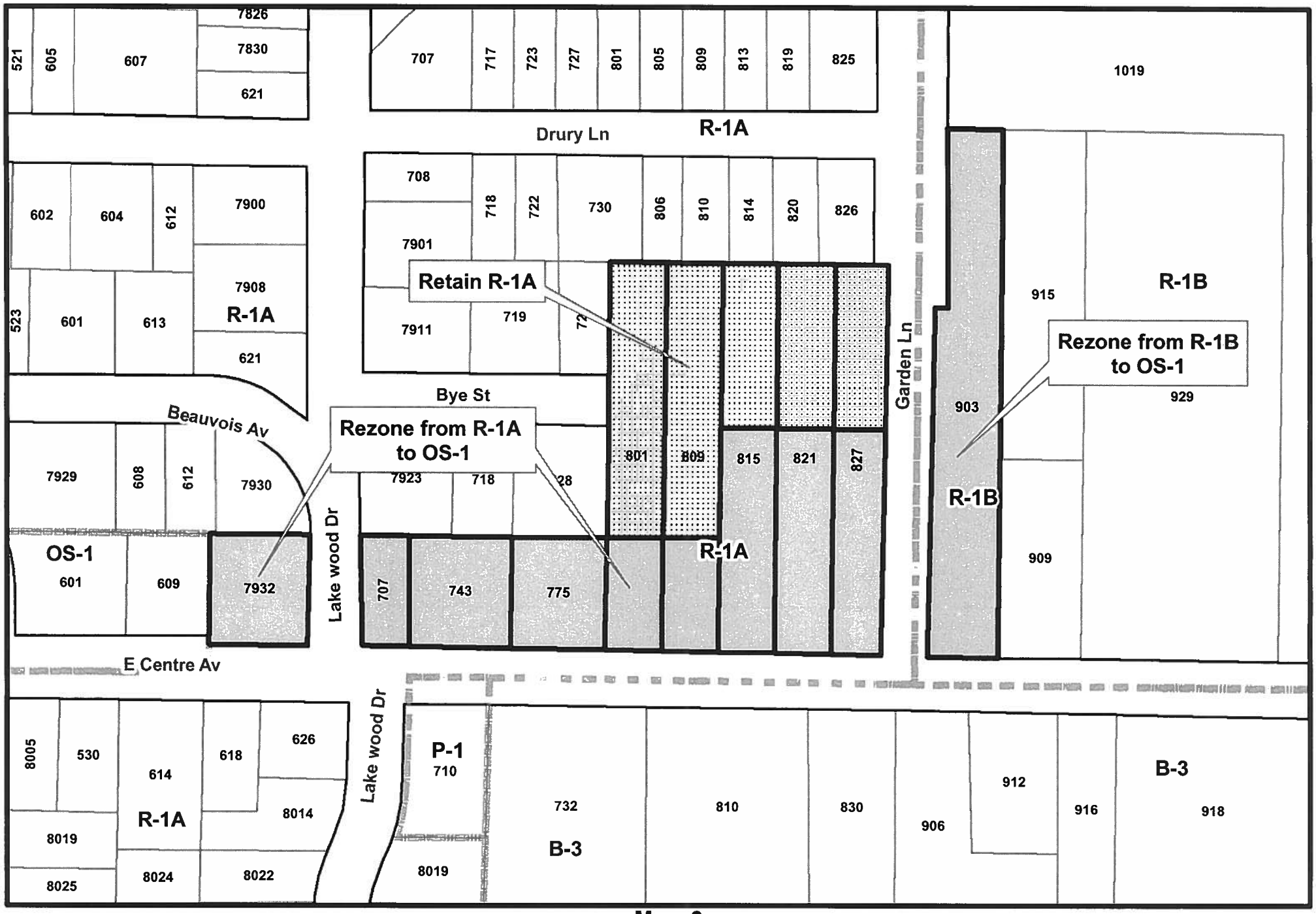


Proposed OS-1

Zoning Boundary

Map 1
Rezoning #11-04 (Alternative #1)
East Centre Avenue
Lakewood Drive to Garden Lane

1 inch = 150 feet



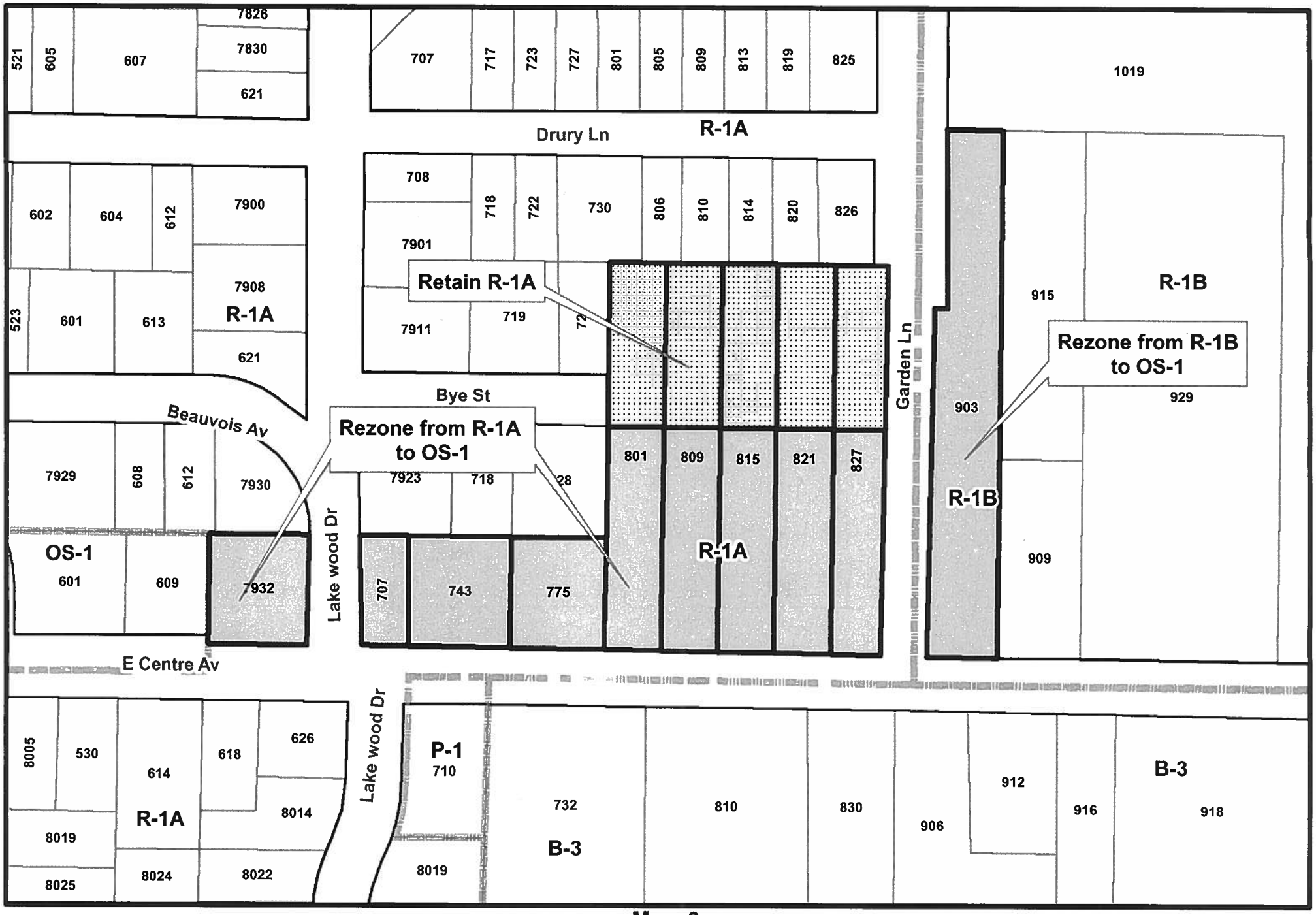
Proposed OS-1

Retained R-1A

Zoning Boundary

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

1 inch = 150 feet



Proposed OS-1
Retained R-1A
Zoning Boundary

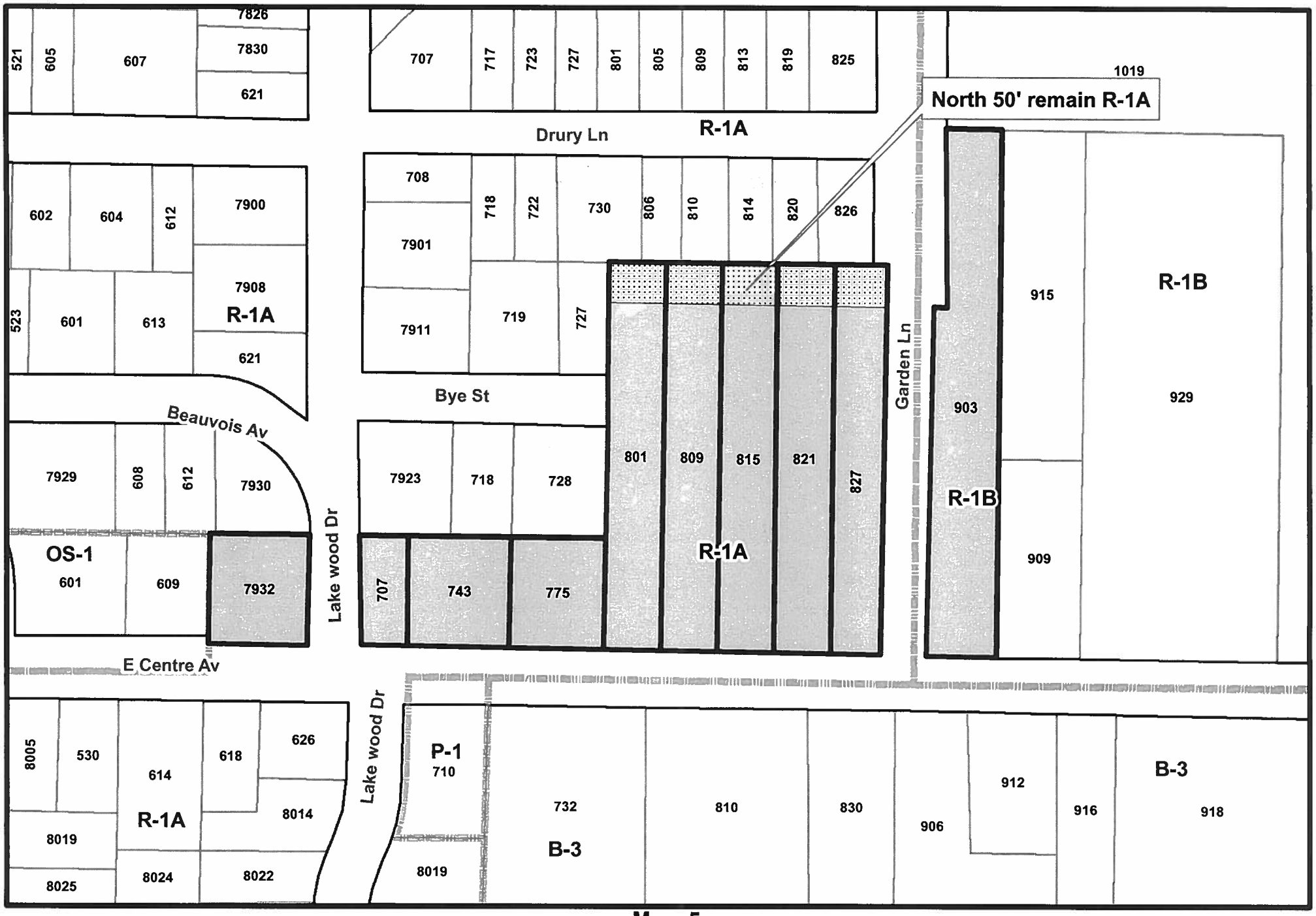
Map 3
Rezoning #11-04 (Alternative #3)
East Centre Avenue
Lakewood Drive to Garden Lane

1 inch = 150 feet

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



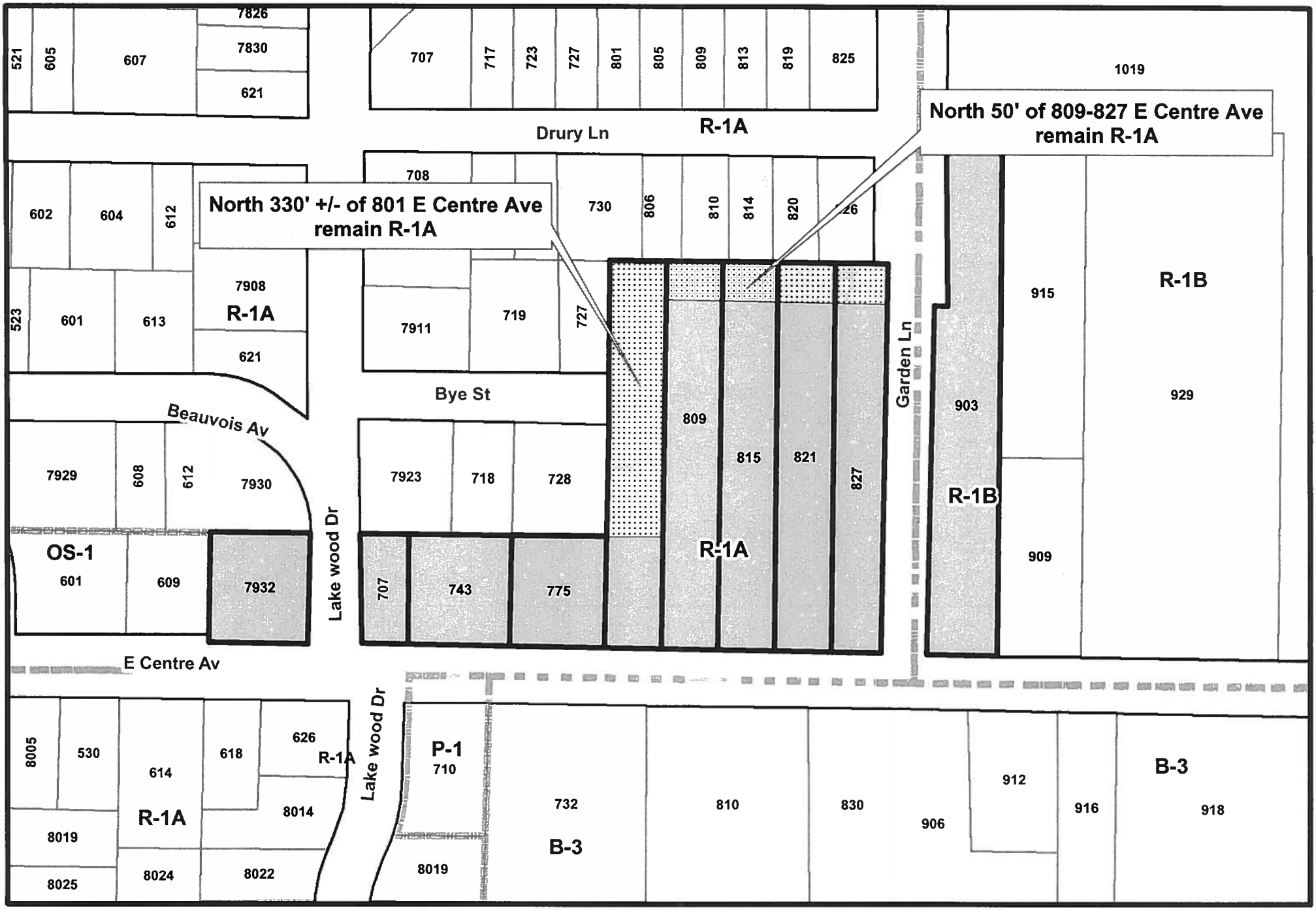
Map 5

Subject Properties

Zoning Boundary

Rezoning #11-04 (Alternative #5 - Applicant compromise alternative)
East Centre Avenue
Lakewood Drive to Garden Lane

1 inch = 150 feet



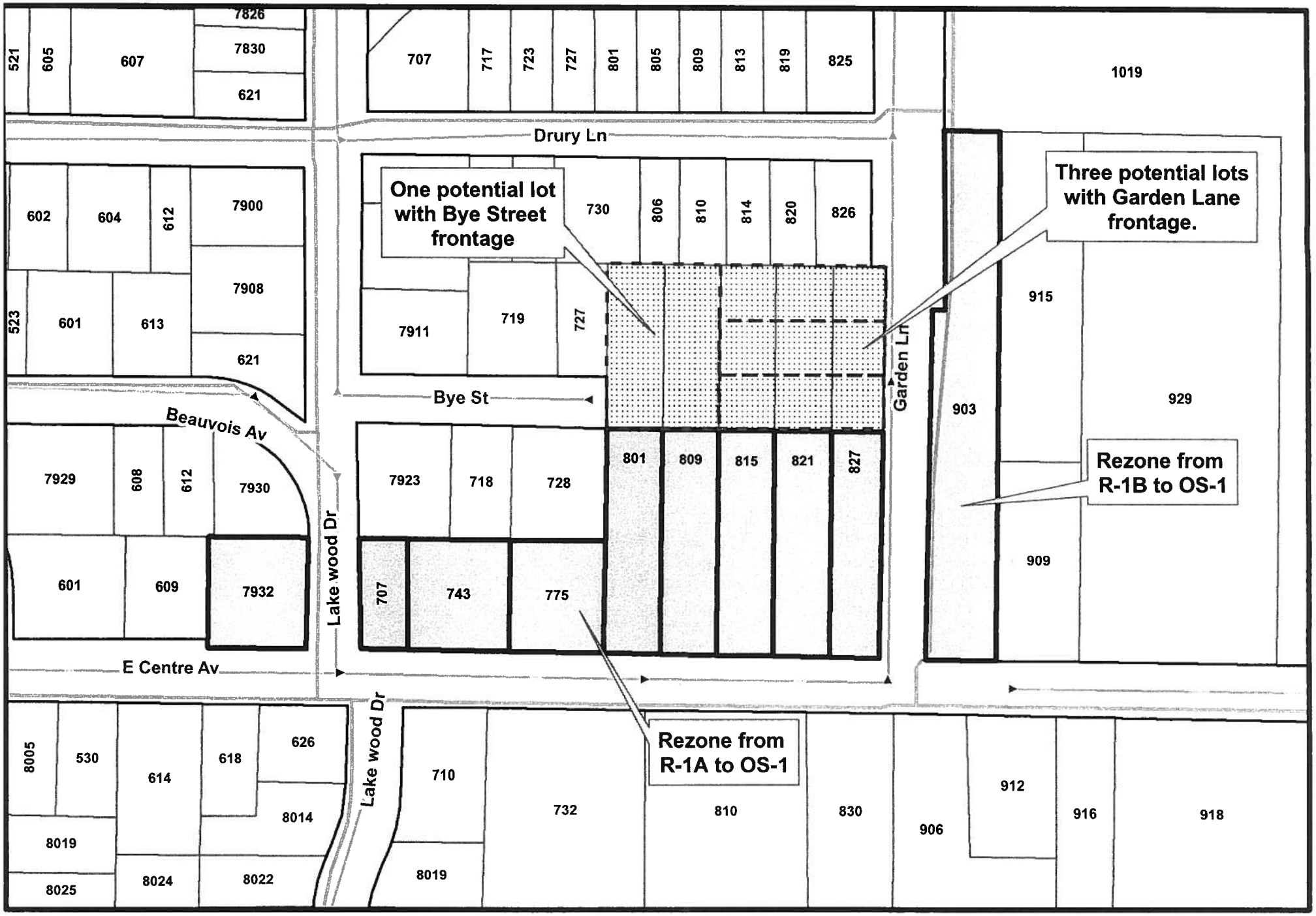
Map 6

Subject Properties

Zoning Boundary

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

1 inch = 150 feet



Recommended OS-1
Recommended R-1A
Potential Residential Development Options
Water Main
Sewer Main

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 Mohney, 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 4th 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 4th Fireworks Display in less than five minutes using his bicycle.

Councilmember Urban admitted that the automobile traffic at the July 4th 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 4th Fireworks Display a success and that the Portage Rotary sponsors the July 4th 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 4th 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

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 10th 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 2nd 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 Mohney 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. Mohney 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 <u>a buffer</u> 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 10th 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

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	DOUGLAS CHAMPAGNE	728 BYE ST	Douglas Champagne	7/7/12
2	Bryan Mohney	7911 Lakewood Dr	[signature]	7/7/12
3	Vickie Kreamelmeyer	707 E. Centre ave	[signature]	7/7/12
* 4	Joanie Patterson	730 Drury	Joanie Patterson	7-7-12
5	Tim VanderBor	718 BYE	[signature]	7-7-12
6	CRAIG BINDER	743 E. CENTRE	Craig Binder	7/8/2012
7				
8				
9				
10				
11				
12				
13				
14				
15				

RECEIVED PORTAGE City Clerk JUL 2012

* 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.

7/9/12

= PROPERTY OWNERS WHO LIVE OUTSIDE 100' RADIUS OF ORIGINAL REZONING [illegible]

THIS DOCUMENT HAS INVISIBLE FLUORESCENT FIBERS - VIEW UNDER BLACKLIGHT

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

87-427/843

TRUST ACCOUNT

55375

DATE 03/09/2012

AMOUNT $825.00

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

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

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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	~~Dan~~ DOUGLAS CHAMPAGNE	728 BYE ST	Douglas Champagne	7/7/12
2	Bryan Mohney	7911 Lakewood Dr.	[illegible]	7/7/12
3	Vickie Kreamelmeyer	707 E. Centre Ave	[illegible]	7/7/12
* 4	Joanie ~~Patterson~~	730 Drury	Joanie Patterson	7-7-12
5	Tim VanderBor	718 BYE	[illegible]	7-7-12
6	CRAIG BINDER	743 E. CENTRE	Craig Binder	7/8/2012
7				
8				
9				
10				
11				
12				
13				
14				
15				

RECEIVED PORTAGE City Clerk JUL 2012

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

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:

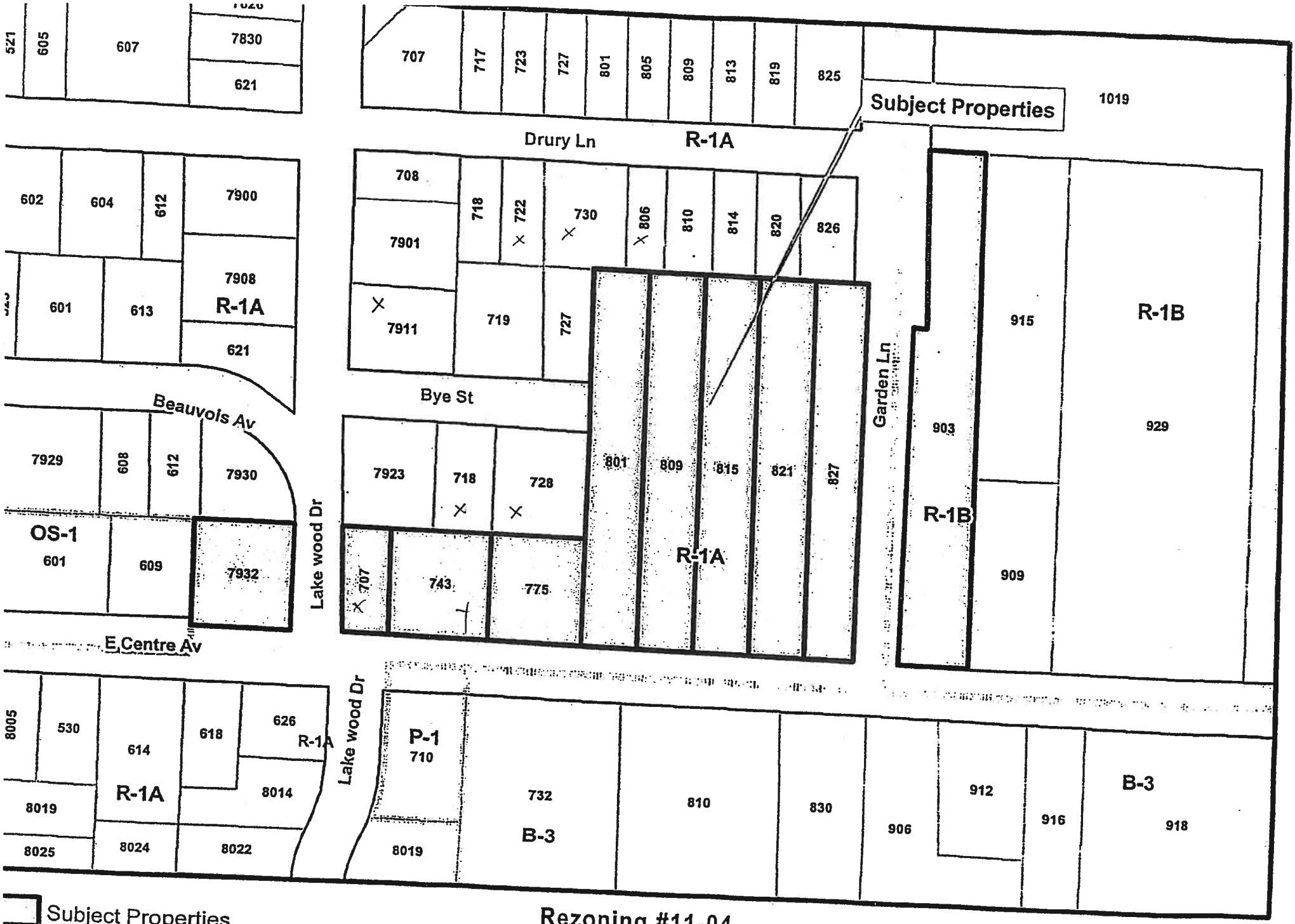
Street Address	Parcel ID Numbers
7932 Lakewood Avenue	04200-179-O
707 East Centre Avenue	04200-181-O
743 East Centre Avenue	04200-182-A
775 East Centre Avenue	04200-184-O
801 East Centre Avenue	00015-365-O
809 East Centre Avenue	00015-370-O
815 East Centre Avenue	00015-375-O
821 East Centre Avenue	00015-380-O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



Subject Properties

Zoning Boundary

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

June 11, 2012

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

Dear City Council Members:

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

The Planning Commissionsers 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 <u>would be the taking of 43% of our land</u> 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 Nuss — 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 long the north property line adjacent to the Drury Lane residential lots.

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

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

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

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

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

Chairman Cheesebro stated he supports Alternative No. 1 with a buffer along the north property line adjacent to the 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:

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

Respectfully submitted,

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

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CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** May 11, 2012

FROM: Vicki Georgeau, 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	Rezoning Site: 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). South: 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. West: Office uses zoned OS-1, office service (west of 7932 Lakewood Drive). North: 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).
Zoning/Development History	No rezoning of properties in the surrounding area since adoption of the 2008 Comprehensive Plan. 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.
Historic District/ Structures	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.
Public Streets	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").
Public Utilities	Municipal water and sewer are available.
Environmental	The City of Portage Sensitive Land Use Inventory Map does not identify any wetlands and/or floodplains near the rezoning site.

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 5th 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.

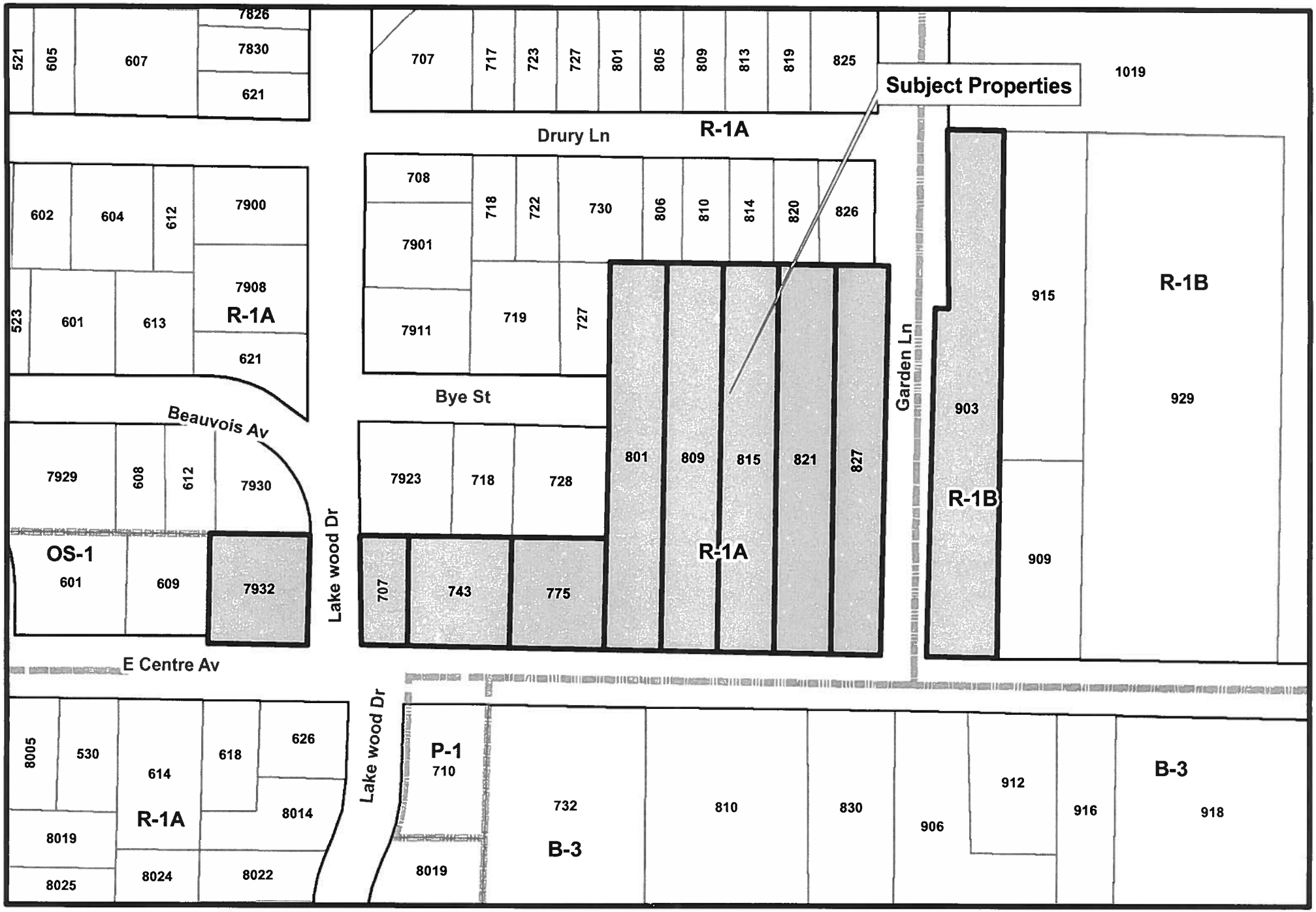
Alternative 2 proposes to follow the boundary of the Future Land Use Map. This alternative does not, however, consider the OS-1 zoning depth (132-feet) that would result for 801 and 809 East Centre Avenue and the potential limitations for office redevelopment of these two parcels.

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

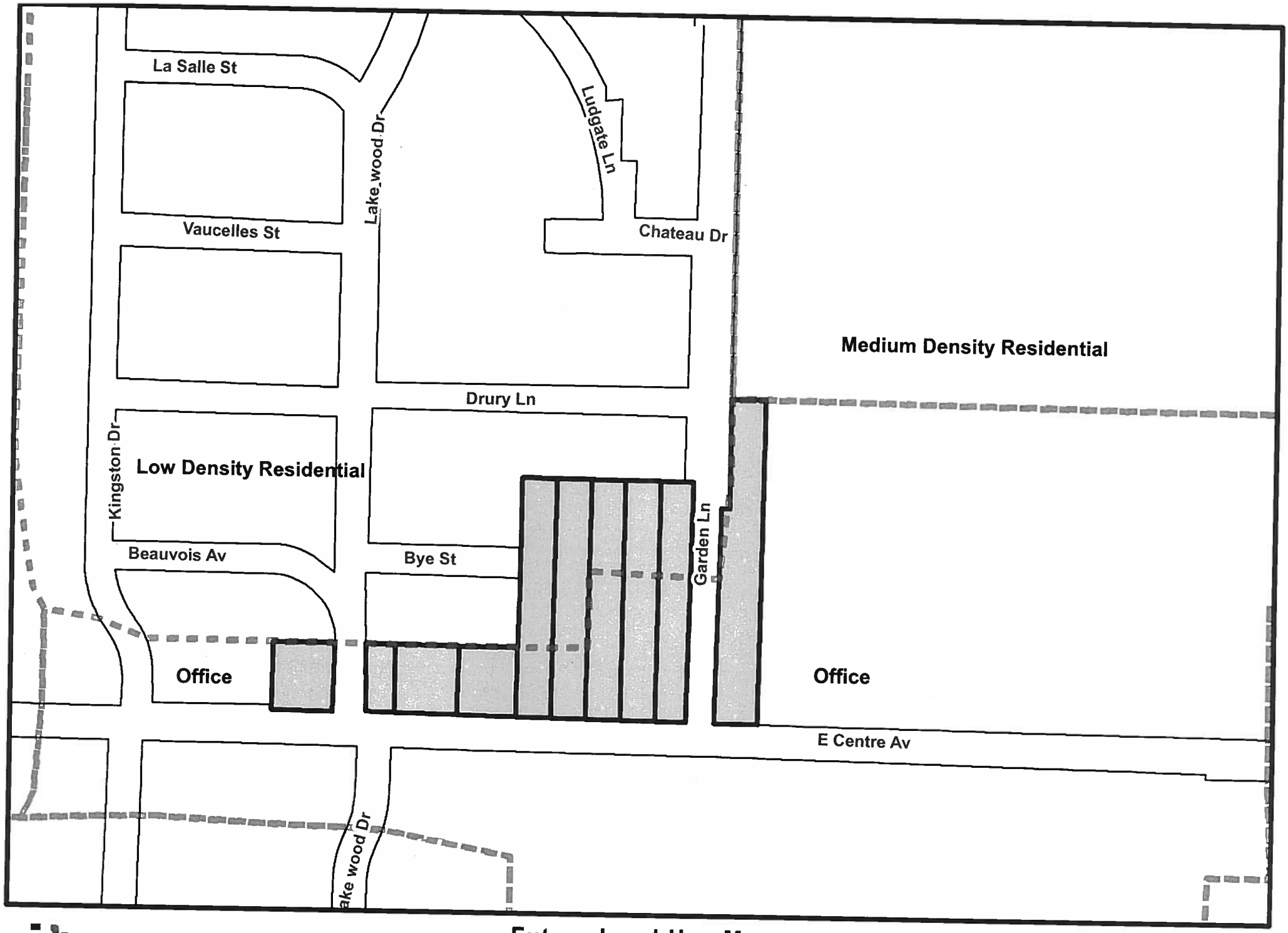


Subject Properties

Zoning Boundary

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

1 inch = 150 feet

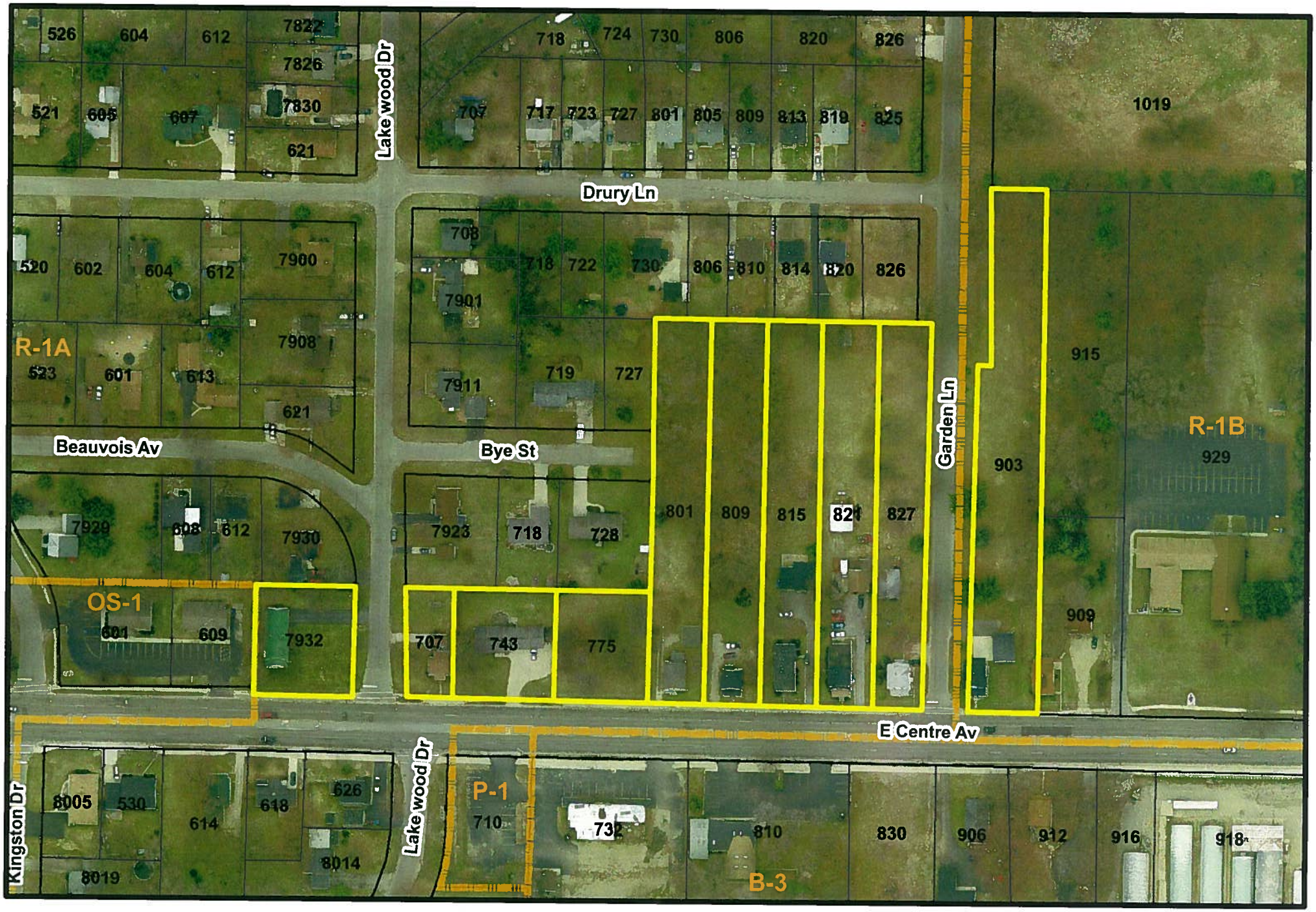


Future Land Use

Parcels considered for Rezoning

Future Land Use Map
East Centre Avenue (Lakewood Drive to Garden Lane)

1 inch = 233 feet

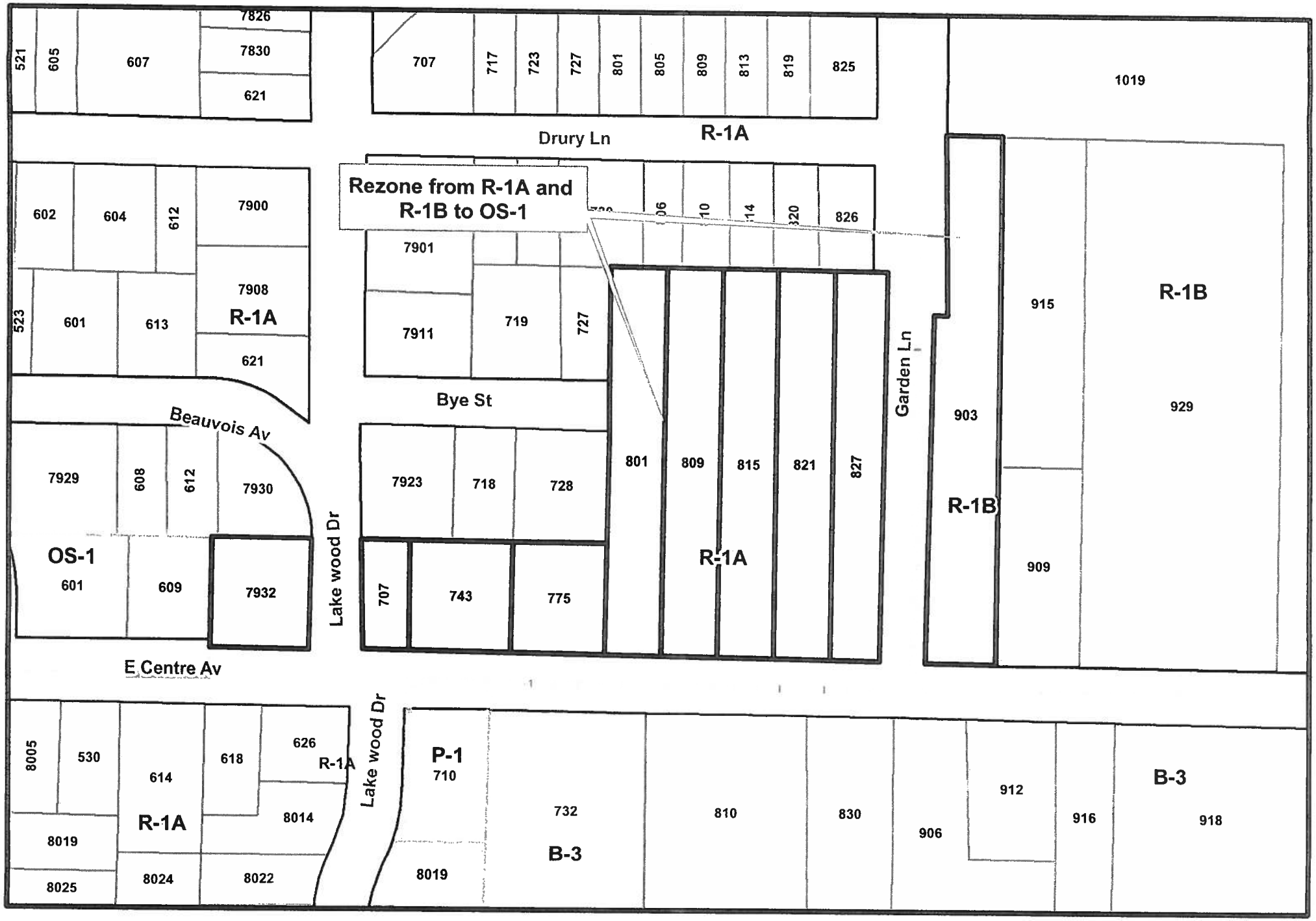


Parcels considered for Rezoning

Zoning Boundary

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

1 inch = 150 feet

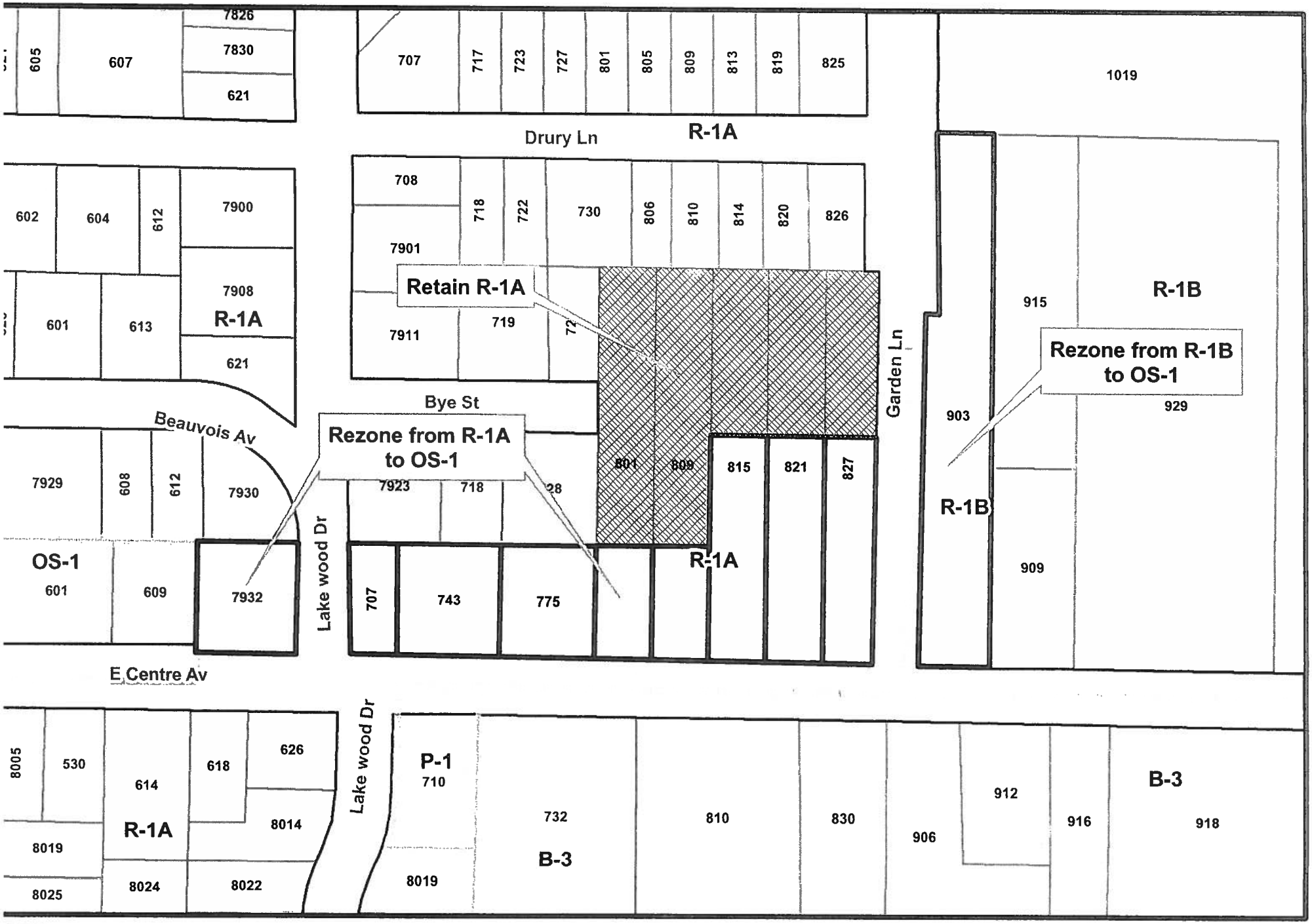


Proposed OS-1

Zoning Boundary

Rezoning #11-04 (Alternative #1)
East Centre Avenue
Lakewood Drive to Garden Lane

1 inch = 150 feet



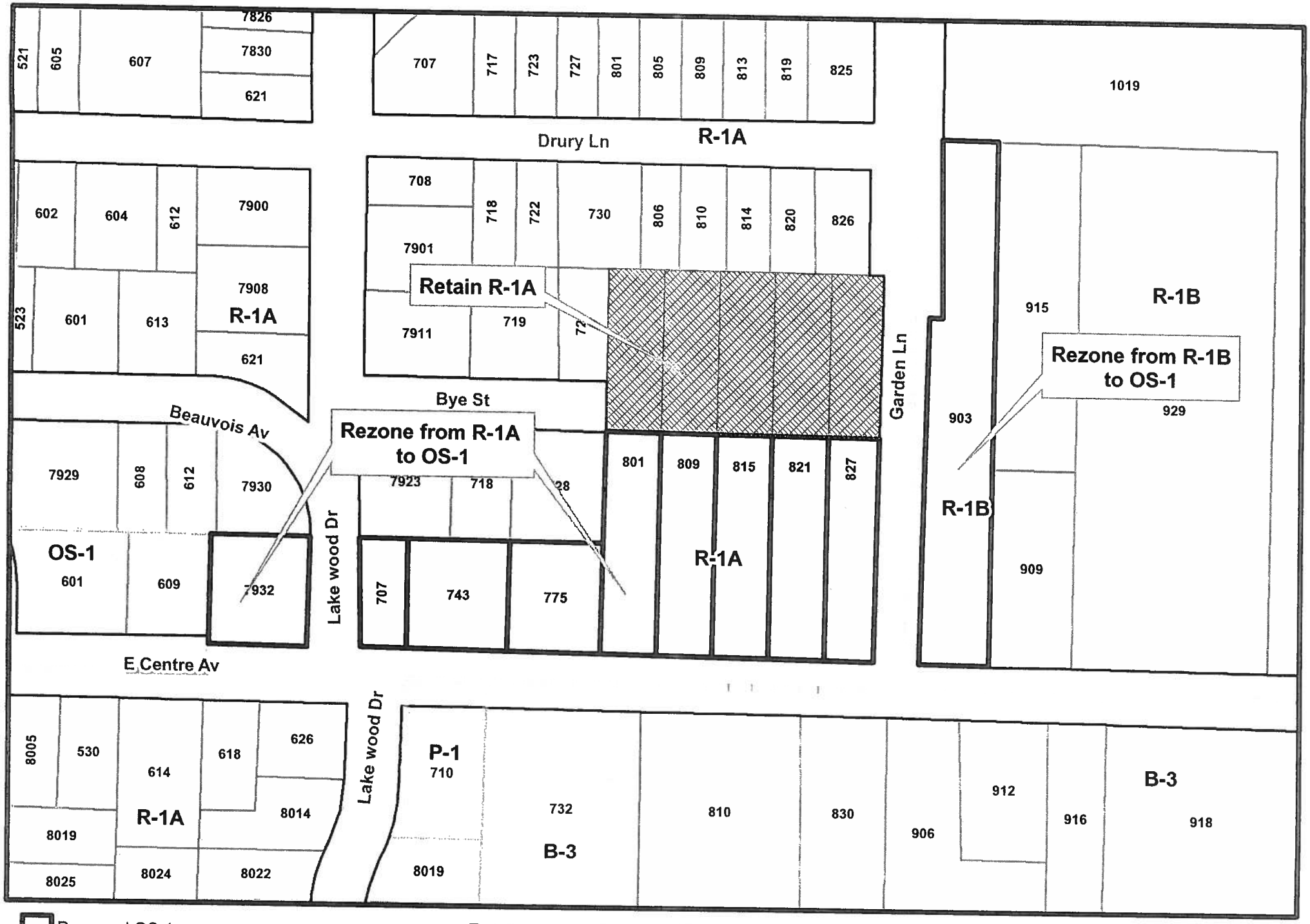
Proposed OS-1

Retained R-1A

Zoning Boundary

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

1 inch = 150 feet



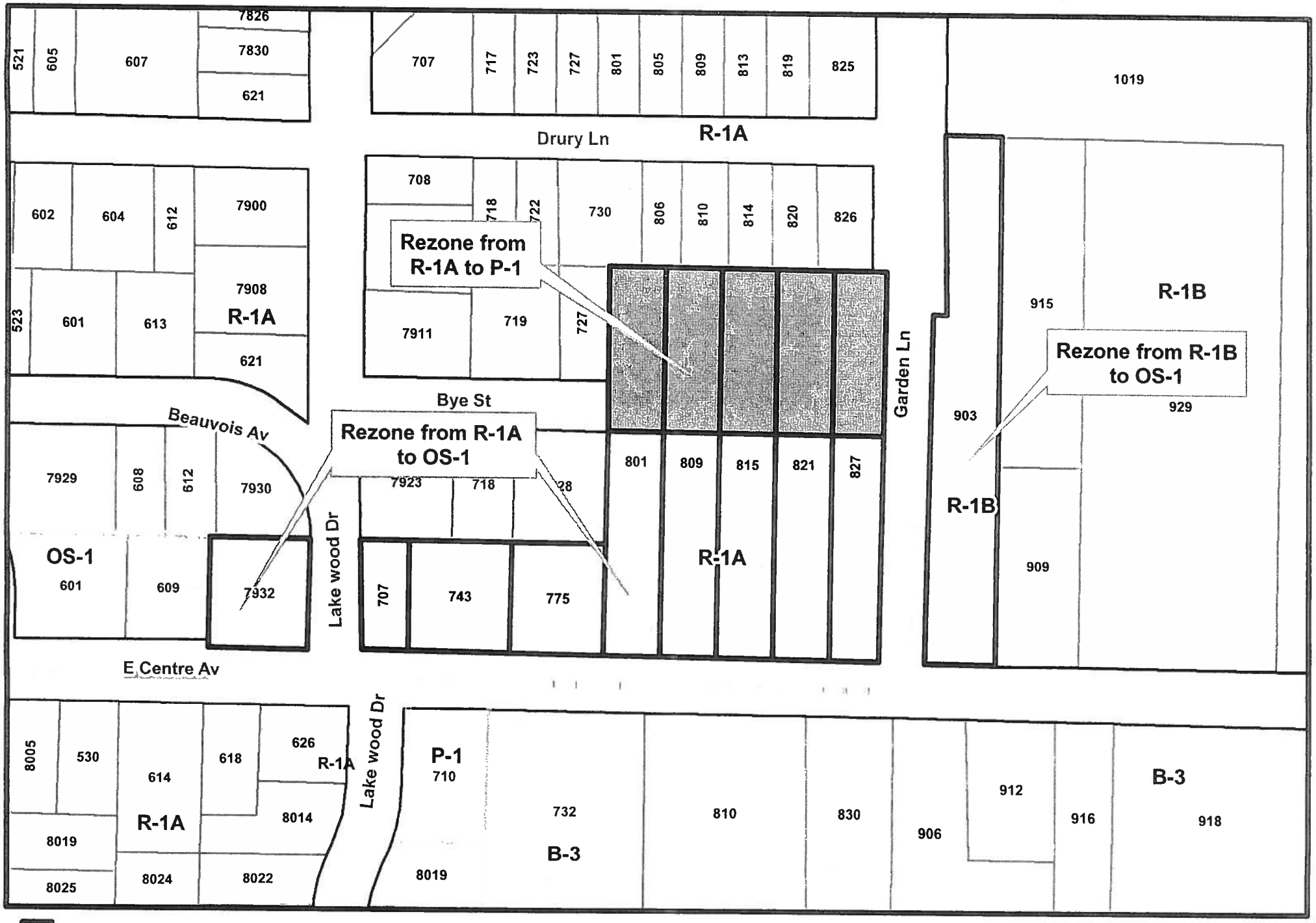
Proposed OS-1

Retained R-1A

Zoning Boundary

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

1 inch = 150 feet



Proposed OS-1

Proposed P-1

Zoning Boundary

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

1 inch = 150 feet

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

Guideline	Description	Consistent	Comments
Rezoning Request – Z-1	Consistency with Future Land Use Plan	**Comment**	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	**Comment**	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	**Yes**	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	**Yes**	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	**Yes**	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	**Yes**	Rezoning site is not characterized by environmentally sensitive areas (wetlands, floodplain, etc).
Natural & Historic Resources - 2	Floodplain	**Yes**	Rezoning site is not situated within the 100-year floodplain.
Natural & Historic Resources - 3	Water Quality	**Yes**	Reviewed at the site plan stage of development.
Natural & Historic Resources – 4	Noise	**Yes**	Reviewed at the site plan stage of development.
Natural & Historic Resources – 5	Historic Resource Preservation	**N/A**	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	**Yes**	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	**Yes**	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.

Guideline	Description	Consistent	Comments
Transportation – 3	Access Management	**Yes**	See Transportation – 1 and Transportation – 2 above.
Transportation – 4	Non Motorized Travel	**Yes**	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	**Yes**	Reviewed at the site plan stage of development.
Transportation – 6	Parking	**Yes**	Reviewed at the site plan stage of development.
Municipal Facilities & Services – 2	Sanitary Service	**Yes**	Sanitary sewer is available.
Municipal Facilities & Services –3	Underground Utilities	**Yes**	Reviewed at the site plan stage of development.

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CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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 LANE 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 MAX AND THE CITY FUTURE ZONING PLAN SAYS THIS SHOULD BE OS-1 FOR HIGHEST AND BEST USE. I AGRE

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 Rogers
(Signature of Applicant) (Signature of Applicant)

845 TRANSUAL ISLAND DR. MATTAWAN, MI 49071
(Address) (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.

7900 South Westnedge Avenue • Portage, Michigan 49002 • (269) 329-4477
www.portagemi.gov

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

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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.

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.

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 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).

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:

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.

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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: Joyce Anderson

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 Rogers, possible future office redevelopment

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.

(Signature of Applicant)	(Signature of Applicant)
827 E Centre	Portage MI 49002
(Address)	(Address)
269 324-6849	
(Phone)	(Phone)

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

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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 Rodgers possible frontier Office Delopment

4. CURRENT ZONING: R-1B 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.

Shirley Klousterman
(Signature of Applicant) (Signature of Applicant)

903 East Centre Ave Portage, Mi 49002
(Address) (Address)

1-269-327-9264
(Phone) (Phone)

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

S:\Department Files\Forms\2008 Forms\2008 Application for Zoning Amendment.doc

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

APPLICATION FOR ZONING AMENDMENT

Application number #11-04

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 Developement

4. CURRENT ZONING: R-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 of Applicant)	(Signature of Applicant)
821 E. Centre	821 E. Centre
(Address)	(Address)
269-207-3065	269 217-5039
(Phone)	(Phone)

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

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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 ✓ No _____

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

Address 1249 Panama St., 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: 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)
1249 Pavana St., Portage MI 49002	
(Address)	(Address)
269-341-0756	269-488-6505
(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 3rd 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.

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, ζ 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

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

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

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

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July 30, 2012

RECEIVED
AUG 01 2012
COMMUNITY DEVELOPMENT

To: Department of Community Development

From: Douglas F. Champagne

728 Bye Street, Portage

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 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
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:

Street Address	Parcel ID Numbers
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)
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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:

Street Address	Parcel ID Numbers
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:

Street Address	Parcel ID Numbers
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: _____
City Attorney

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 5, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: FEMA Corporation, 1716 Vanderbilt Avenue – PA 198 Abatement

ACTION RECOMMENDED: That City Council:

a. adopt Resolution No. 4-12, approving the Industrial Facilities Exemption Certificate for the planned FEMA Corporation $3.65 million building addition and machinery and equipment purchase at 1716 Vanderbilt Avenue; and
b. approve the tax abatement agreement and the affidavit between the City of Portage and FEMA Corporation.

At the City Council meeting on August 14, 2012, a PA 198 Tax Abatement application submitted by FEMA Corporation was provided to Council. At the August 28, 2012 public hearing, the tax abatement analysis was provided and subsequent to the hearing, Industrial Development District No. 55 was expanded to facilitate a planned 39,000 square foot building addition and the purchase of machinery and equipment for the manufacturing facility. The project involves a total investment of $3.65 million and eight new jobs will be created and 40 jobs will be retained as a result of the project.

Consistent with City Council policy and to facilitate the completion of this project within the community, the City Administration advises that the resolution be adopted authorizing an industrial facilities exemption certificate for this project. It is also advised that the required Tax Abatement Agreement and the Affidavit With Regard to Fees be approved.

Attachments: Resolution 4-012
Tax Abatement Agreement
Affidavit with Regard to Fees

c: Vicki Georgeau, Director of Community Development
Daniel Foecking, Director of Finance
James Bush, City Assessor

CITY OF PORTAGE, MICHIGAN
RESOLUTION NO. 4-12

APPROVING THE APPLICATION OF
FEMA CORPORATION
INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
FOR EXPANDED PORTAGE INDUSTRIAL DEVELOPMENT
DISTRICT NO. 55

Minutes of a regular meeting of the City Council of the City of Portage, Michigan held on the day of _____, 2012 at 7:30 p.m., local time at the City Hall in the City of Portage.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember _____, and supported by

Councilmember _____.

WHEREAS, pursuant to 1974 PA 198, MCLA Sec. 207.551 et seq., after a duly noticed public hearing held on the _____ day of _____, 2012, this Council by resolution, established expanded Portage Industrial Development District No. 55 (hereinafter "District") as requested by sole owner of the property therein described; and;

WHEREAS, by resolution adopted _____, 2012, the City Council accepted the application of FEMA CORPORATION for an Industrial Facilities Exemption Certificate for a new facility and equipment to be installed in the District, and directed the City Clerk to notify the City Assessor and the legislative body of each taxing unit which levies ad valorem taxes on the property located within said District, that the application for the Facilities Exemption Certificate would be considered at a meeting of the City Council on _____, 2012, and that an opportunity to be heard would be provided to the Assessor and to a representative of each of the bodies so notified; and

WHEREAS, during a regular meeting of the City Council held _____, 2012, the applicant, the Assessor and representative of the affected taxing units were afforded an opportunity to be heard:

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That this City Council finds:

   (a) That the construction of the facility had not begun earlier than six (6) months before _____, the date of acceptance of the application for the Industrial Facilities Exemption Certificate;

   (b) That the application relates to a program which when completed will constitute a new facility within the meaning of 1974 PA 198 and will be situated in the District established in Portage on _____, by resolution of the City Council;

   (c) That completion of facility is calculated to, and will at the time of issuance of the certificate, have the reasonable likelihood to create employment, retain employment, or prevent a loss of employment in the City of Portage.

   (d) That the application applies to a new facility and equipment;

   (e) That the aggregate SEV of real and personal property exempt from ad valorem taxes within the City of Portage, after granting this certificate, will be _____ percent of an amount equal to the sum of SEV of the City plus the SEV of personal and real property thus exempted; however, the City Council specifically finds that the granting of the exemption applied for will not substantially impede the operation of, or impair the financial soundness of, any unit of local government.

That the application of FEMA CORPORATION for an Industrial Facilities Exemption Certificate with regard to the construction of a new facility and equipment located in the District be and is hereby approved for a period of ___ years for the machinery and equipment (personal property) with an ending date of _____, and ___ years for the building (real property) with an ending date of _____, and is conditioned upon execution of an agreement between FEMA CORPORATION and the City. FEMA CORPORATION may, within the final year in which the certificate is effective, apply for another certificate. If the City disapproves of said application, there is no right of appeal of that decision.

2. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

ADOPTED: AYES: COUNCILMEMBER _____

NAYS: COUNCILMEMBER _____

ABSENT: COUNCILMEMBER _____

_____
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 the _____ day of _____, 2012, the original of which is in the official proceedings of the City Council.

_____
James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown
Portage City Attorney
1662 East Centre Avenue
Portage, Michigan 49002

Approved as to Form:
Date: 8/30/12
By: _____
City Attorney

Z:\JODY\PORTAGE\INDUSTRIAL\FEMA\DISTRICT NO 55\RESOLUTION #4.083012.DOCX

TAX ABATEMENT AGREEMENT

This Agreement is made between THE CITY OF PORTAGE, a Michigan Municipal Corporation, of 7900 South Westnedge Avenue, Portage, Michigan 49002, hereinafter referred to as "CITY", and FEMA CORPORATION, a Michigan Corporation, of 1716 Vanderbilt Avenue, Portage, Michigan 49002, hereinafter referred to as "APPLICANT."

THE PARTIES AGREE AS FOLLOWS:

1. The CITY has established an industrial development district #55 in which the APPLICANT proposes to locate a facility in the City of Portage, County of Kalamazoo, State of Michigan and which is described as follows:

City of Portage, County of Kalamazoo, State of Michigan is fully described as follows:

Part of the Northeast 1/4 of Section 29, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan described as: Commencing at the northeast corner of said section 29; thence S 00°00'08" E along the east line of said section a distance of 632.42 feet thence N 89°59'16" W a distance of 348.83 feet to the Point of Beginning: thence S 00°00'44" W a distance of 120.00 feet; thence S 89°59'16" W a distance of 100.00 feet; thence S 0°00'44" W a distance of 150.00 feet; thence S 89°59'16" W a distance of 100.00 feet; thence N 00°00'44" E a distance of 270.00 feet, thence S 89°59'16" E a distance of 200.00 feet to the Point of Beginning.

2. The APPLICANT has filed an application (which is incorporated herein by reference) with the CITY requesting an industrial facilities exemption certificate ("certificate") for personal property and the building improvements located at 1716 Vanderbilt Avenue, Portage, Michigan, within Industrial Development District #55.

3. The APPLICANT has represented that the application relates to a new or replacement facility within the meaning of Public Act 198 of 1974, MCLA 207.551, et seq.

4. The term of the certificate granted by the CITY shall be three (3) years for personal property (machinery and equipment) and six (6) years for real property (building). This agreement shall remain in force as to each certificate granted for the term of said certificate.

5. The APPLICANT has represented to the CITY that granting of the certificate will enable the facility to be completed, which will have the reasonable likelihood to create employment, retain employment, and prevent a loss of employment within the CITY.

6. The APPLICANT agrees to maintain at least 40 existing employees and hire at least 8 new employees during the term of the certificate. Failure to hire and maintain these positions shall be considered a material breach of this Agreement unless APPLICANT can show by clear and convincing evidence that the breach was caused by unfavorable economic business conditions, loss of business, or some other reason beyond the control of APPLICANT.

7. The APPLICANT agrees to maintain the facility for the entire period of the Certificate within the CITY and not to move or relocate the facility, business, or any portion of either outside the industrial development district without first obtaining the permission of the CITY. If APPLICANT relocates the facility, business, or any portion of either outside of the industrial development district during the period in which the industrial facilities exemption certificate is in effect, the APPLICANT is liable to the CITY for an amount equal to the difference between the industrial facilities tax to be paid by the owner or lessee of that facility for that facility for the tax years remaining under the industrial facilities exemption certificate that is in effect and the general ad valorem property tax that the Applicant would have paid if the Applicant did not have an industrial facilities exemption certificate in effect for those years. The payment provided in this section shall be distributed in the same manner as the industrial facilities tax is distributed.

8. The APPLICANT agrees that during the term of the certificate, all CITY taxes shall be timely paid. Further, APPLICANT agrees that by accepting the benefits of the tax abatement, it waives appeal of personal and/or real property tax assessments concerning property which is the subject of the certificate. Appeal of the personal and/or real property taxes which is the subject of the certificate during the term of the certificate shall result in revocation of the certificate and/or termination of the district and APPLICANT shall repay to the CITY and all taxing authorities the amount of taxes that were abated by reason of the certificate.

9. The APPLICANT further agrees that during the term of the certificate, the APPLICANT shall be in full compliance with all applicable CITY codes.

10. The APPLICANT further agrees that during the term of the certificate, the APPLICANT shall not discriminate against any person on the basis of race, creed, color, sex, religious orientation, or other criteria not reasonably related to the job.

11. The APPLICANT further agrees to submit an annual project performance report to the CITY, addressed to City Council, provided under oath, setting forth the progress in attaining and maintaining the requirements of this Agreement and the provisions of the certificate application. Such reports shall be furnished in duplicate on or before July 1 of each year and shall contain, at minimum, the following:

(a) The number of new jobs promised in the certificate and the actual number of new jobs created.

(b) The number of employees at the time of the application and the current number of employees.

(c) If projection for creation or retention of jobs was not reached, give explanation.

(d) The estimated project cost given in the application and the actual project cost.

(e) If actual project costs differ substantially from projected cost, give explanation.

12. The APPLICANT agrees that if employment has not been retained or reached as represented, the construction and/or expansion project has not been completed or expenditures made as described in the Application, or if APPLICANT fails to fulfill any other provision of this Agreement as well as the provisions of Act 198 of 1974, the CITY shall have the right to reduce the term or revoke the certificate and APPLICANT shall repay to the CITY and all taxing authorities the amount of taxes that were abated by reason of the certificate plus all accrued interest, penalties and administrative fees applicable to said tax exemptions in the amount as would be collected if the same were considered delinquent. Any payments due under this paragraph may be collected by either court proceedings or by adding to the next taxes due against the APPLICANT'S property on the next tax roll of the CITY.

13. After the certificate is issued, the CITY agrees to maintain the same in full force and effect during the term of the certificate, subject to any regulations and requirements of state law, and subject to any breach of the provisions of this agreement by APPLICANT.

14. The parties agree that the CITY, in approving the tax abatement, has relied on the actions, representations and promises (including the Application) of the APPLICANT. Default of any of the provisions of this Agreement may be enforced in law or equity. The parties agree that exclusive jurisdiction to resolve any disputes on this contract shall be Kalamazoo County, Michigan.

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

16. The benefits herein shall accrue to and the obligations hereof shall bind the successors, assignees, and transferees of the APPLICANT.

17. The APPLICANT further agrees that should ownership of the business and/or facility for which the Public Act 198 exemption certificate is issued be changed in the future, thereby requiring a hearing in front of the City of Portage Council under state law, that the transferee or new owner shall abide by all the terms and conditions of this Agreement, and that APPLICANT will communicate all terms and conditions of this Agreement to the transferee or new owner and assist the City in obtaining the signature of the authorized agent of the transferee or new owner on this Agreement or an identically worded Agreement.

By signatures of representatives of both the APPLICANT and the CITY below, it is understood that both the APPLICANT's investment in the project and the CITY's investment through the granting of a certificate is to encourage economic growth. It is also acknowledged that certain economic conditions can, at times, prohibit the maintenance of the APPLICANT's targeted status. It is understood that if such conditions exist at the time of the designated APPLICANT reports, the governing body of the CITY will carefully evaluate the APPLICANT's situation, and will inform the APPLICANT if any action is considered in order to give the APPLICANT an opportunity for correction.

Dated: August 15, 2012

WITNESSED:

Kelly M. Durham

Nate Pursley

By: Jeffrey L. Huffman

Its: President

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

On this 15th day of August, 2012 before me personally came the above named Jeffrey L. Huffman as President, and on behalf of FEMA Corporation, who acknowledges that he has read the foregoing Tax Abatement Agreement by him subscribed and knows the contents thereof, and that he has the authority of said corporation to execute this Agreement, and acknowledges that he executed the same as his free act and deed.

_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires: 3/16/2014
Acting in Kalamazoo County, Michigan

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

CITY OF PORTAGE, a Michigan Municipal Corporation

_____

By:_____
PETER J. STRAZDAS
Its: Mayor

_____

By:_____
JAMES R. HUDSON
Its: Clerk

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

On this _____ day of _____, 2004 before me personally came the above named Peter J. Strazdas and James R. Hudson, to me personally known, who being duly sworn, did and each for himself say that they are respectively the Mayor and Clerk of the municipal corporation named in and who executed the within instrument and that said instrument was signed on behalf of said corporation by authority of its City Council; and said James Graham and James R. Hudson acknowledge said instrument to be the free act and deed of said municipal corporation.

_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires:_____
Acting in Kalamazoo County, Michigan

Prepared by:
Randall L. Brown
Portage City Attorney
1662 East Centre Avenue
Portage, Michigan 49002

Approved as to Form:
Date: 7/25/12
By:_____
City Attorney

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AFFIDAVIT WITH REGARD TO FEES
OF 198 APPLICATION FOR
FEMA CORPORATION

STATE OF MICHIGAN)
)ss.
COUNTY OF KALAMAZOO)

NOW COME Affiants, James R. Hudson and John Pula, and state as follows:

1. James R. Hudson is the City Clerk and an official for the City of Portage.

2. Jeffrey L. Huffman is the President of the applicant, FEMA CORPORATION, who is an applicant for an industrial facilities exemption certificate.

3. Affiants are aware of the following provision, being Section 5(3) of Act No. 198 of the Public Acts of 1974:

> *The local government unit may charge the applicant an application fee to process an application for an industrial facilities exemption certificate. The application fee shall not exceed the actual cost incurred by the local government or unit in processing the application or 2% of the total property taxes stated under this Act for the term that the industrial facilities exemption certificate is in effect, whichever is less. A local government unit shall not charge an applicant any other fee under this Act.*

4. Affiants state that no payment of any kind in excess of the fee allowed by the above provision of Act 198 as amended has been made or promised in exchange for favorable consideration of an exemption certificate application.

5. Affiants realize that any fee, payment in lieu of taxes, donations, or any other such payments as a condition precedent to approving industrial facilities exemption certificates would be contrary to the legislative intent of Act 198.

6. Each affiant has the authority to make this affidavit on behalf of the entity he or she represents.

CITY OF PORTAGE, a Michigan Municipal Corporation

Date: _____, 2012

By:_____
JAMES R. HUDSON
Its: City Clerk

Subscribed and sworn to before me this _____ day of _____, 2012.

_____

Notary Public
Kalamazoo County, Michigan
My commission expires: _____
Acting in Kalamazoo County, Michigan

FEMA CORPORATION, a Michigan Corporation

Date: 8/15, 2012

By:_____
Jeffrey L. Huffman
Its: President

Subscribed and sworn to before me this 15th day of August, 2012.

_____

Notary Public
Kalamazoo County, Michigan
My commission expires: 3/16/2014
Acting in Kalamazoo County, Michigan

Prepared by:
Randall L. Brown
City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Z:\JODY\PORTAGE\INDUSTRIAL\FEMA\DISTRICT NO 55\AFFIDAVIT FOR AGREEMENT.072512.DOCX

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 5, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Regional Special Weapons and Tactics Team Agreement

ACTION RECOMMENDED: That City Council approve the Kalamazoo Metro, Special Weapons and Tactics Team Agreement and authorize the City Manager to execute the agreement on behalf of the city.

The Portage Department of Public Safety Police Division, together with several other law enforcement agencies in Kalamazoo County, for the past several months has been exploring the feasibility of forming a Regional Special Weapons and Tactics Team. The attached agreement has been developed in this regard.

At the present time, the Kalamazoo Department of Public Safety and the Portage Department of Public Safety operate independent special weapons and tactical units. Although for the City of Portage, minimal savings related to training and equipment are anticipated through participation in the regional team, an area-wide special weapons and tactics team with additional participating jurisdictions may prove beneficial in facilitating a more coordinated response to highly dangerous/high risk police incidents. With establishment of the combined team, the current City of Portage special weapons and tactics team of six (6) officers (formerly ten (10) officers) will be replaced upon execution of the agreement with a commitment of up to five (5) Portage officers to the regional team.

The governmental units that are outlined as participants in the proposed "Kalamazoo Metro, Special Weapons and Tactics Team" (KM-SWAT) agreement include Kalamazoo County, Kalamazoo City, Kalamazoo Township and the City of Portage. As outlined in the agreement, police professionals from participating jurisdictions will be represented on an Executive Committee. The Executive Committee will be charged with administering the KM-SWAT Team through the adoption of policies and operating procedures and ensuring compliance with the KM-SWAT agreement. The Executive Committee will appoint and Executive Commander, who will serve as the overall command officer/supervisor of the KM-SWAT Team.

Governmental units party to the agreement are committing to the assignment of at least one officer from the local jurisdiction to serve on the KM-SWAT Team. In addition to the commitment of up to five (5) Portage officers, the Kalamazoo County (Sheriff) is anticipated to commit up to three (3) officers, Kalamazoo City up to fifteen (15) officers and Kalamazoo Township one (1) officer. In accordance with the terms of the agreement, services of the

KM-SWAT Team are to be restricted to the four municipalities that are party to the agreement. The participating jurisdictions are encouraged, but under no obligation to utilize the KM-SWAT Team. Resources of the KM-SWAT Team may only be deployed upon the request to the Chief of Police/Sheriff (or designee) having jurisdiction over the high risk or highly dangerous incident.

City of Portage participation in KM-SWAT will be evaluated subsequent to receipt of the first full year operational report from the Executive Commander of KM-SWAT (March 2014) to determine cost efficiency and effectiveness. A determination regarding continued City of Portage participation in the unit will be made at that time. It is recommended that City Council approve the Kalamazoo Metro, Special Weapons and Tactics Team Agreement and that the City Manager be authorized to execute the agreement on behalf of the city.

KALAMAZOO METRO, SPECIAL WEAPONS AND TACTICS TEAM AGREEMENT

This Agreement is made this 8th day of August, 2012, by and between the County of Kalamazoo; the City of Kalamazoo; the Charter Township of Kalamazoo; and the City of Portage (collectively, the "Governmental Units").

WITNESSETH:

A. The Governmental Units all possess the constitutional and/or statutory authority to establish, maintain, and operate, law enforcement agencies or public safety agencies; and

B. The Governmental Units all possess the authority to create specialized weapons and tactics teams within their individual law enforcement and public safety agencies to provide specialized responses to highly dangerous incidents and operations; and,

C. The Governmental Units desire to coordinate their efforts and resources to create a single multi-jurisdictional Specialized Weapons and Tactics Team that can serve all of their residents.

NOW, THEREFORE, in consideration of the promises, covenants and conditions hereinafter contained:

SECTION 1: Authority

This Agreement is made pursuant to the provisions of Section 2 of the "Intergovernmental Contracts Between Municipal Corporations Act," Act No. 35 of the Public Acts of 1951, as amended, being MCL 124.2.

SECTION 2: Purpose

The Governmental Units shall jointly provide specialized trained law enforcement response to highly dangerous incidents and high-risk operations that may occur within the Governmental Units through a group to be known as the Kalamazoo Metro Special Weapons and Tactics Team (KM-SWAT Team). Highly dangerous incidents and high risk operations include, but are not limited to, hostage situations, barricaded gunmen, snipers, apprehensions of persons who may be likely to resort to violence, serving search warrants in situations that may be likely to become violent, large-scale civil disturbances, and acts of terrorism. The Governmental Units recognize that by combining their efforts in responding to highly dangerous incidents and high risk operations they will enhance the quality and effectiveness of the response, provide greater protection to the public and provide greater protection to law enforcement personnel involved in the highly dangerous incidents and high risk operations.

SECTION 3: Definitions

As used in this Agreement:

a. "Chief of Police/Sheriff" means the highest ranking executive officer of each Governmental Unit's law enforcement agency or department of public safety. Whenever any of these titles appear in the Agreement, the reference to the title will also include that person's "designee" regardless of whether the text of the Agreement specifically includes the word "designee."

b. "Incident Commander" means the highest ranking, on-duty, on-site officer of the law enforcement agency that has jurisdiction over an incident that requires the deployment of the KM-SWAT Team.

c. "Tactical Commander" means the highest ranking, on-site, on-duty member of the KM-SWAT Team.

SECTION 4: Organization, Supervision and Command, Executive Committee

4.1 KM-SWAT Team shall be administered by an Executive Committee consisting of the Chief of Police/Sheriff (or designee) from each of the Governmental Units. The Executive Committee's responsibilities shall include, but not be limited to, the adoption of policies and operating procedures, ensuring compliance with the provisions of this Agreement, and appropriate fiscal management.

4.2 The Executive Committee shall meet no less than twice per year.

4.3 The Executive Committee shall adopt its own rules of procedure and shall keep a record of its proceedings. A majority of the members serving on the Executive Committee shall constitute a quorum for the transaction of business. Each member of the Executive Committee shall have one vote.

4.4 The Executive Committee shall elect one of its members as its Chair who shall serve a one year term corresponding to the calendar year and may serve consecutive terms. The Chair or two or more members of the Executive Committee may call for special meetings as necessary.

4.5 A writing prepared, used, in the possession of, or retained by the Executive Committee in the performance of an official function shall be subject to public disclosure in compliance with the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

4.6 The Executive Committee shall select and supervise an Executive Commander, who, subject to the provisions of Sections 5 and 6, is the overall command officer for KM-SWAT Team.

4.7 The Executive Committee shall ensure that continuing education and training be conducted to maintain and update the operational skills of KM-SWAT members.

4.8 The Chair of the Executive Committee shall maintain an Operations Manual and a list of equipment under the control of the KM-SWAT Team. An updated copy of each, along with an annual report of KM-SWAT activity, shall be provided to each member of the Executive Committee and to the Governmental Units.

4.9 The Executive Committee shall establish the minimum number of officers that must be assigned to the KM-SWAT Team in order for it to operate safely and efficiently, and establish the minimum qualifications an officer must meet in order to be assigned to the KM-SWAT Team.

SECTION 5: Personnel

5.1 Each Governmental Unit shall assign one or more officers from the Governmental Unit's police department or public safety department who qualify for such duty to serve on the KM-SWAT team. Each Governmental Unit, however, reserves the right to reassign its officers for any reason. All personnel assigned to the KM-SWAT Team must possess a current Michigan Commission on Law Enforcement Standards Certification (MCOLES Certification) whenever they are serving on the KM-SWAT Team.

5.2 All officers assigned to KM-SWAT Team shall meet the minimum physical fitness and training qualifications established by the Executive Committee.

5.3 All officers deployed as part of the KM-SWAT Team shall be subject to the command authority of the Tactical Commander when operating as members of the KM-SWAT Team.

5.4 If disciplinary action needs to be taken against a KM-SWAT Team member, the law enforcement agency or public safety agency that employs the Team member shall be responsible for administering the necessary and proper disciplinary procedures, not the KM-SWAT Team.

SECTION 6: Tactical Commander

6.1 Whenever the KM-SWAT Team is deployed, the Tactical Commander shall report to the Incident Commander in charge of the scene of the deployment. The Tactical Commander shall be responsible for implementing the Incident Commander's directives.

6.2 Whenever the KM-SWAT Team is deployed, the Tactical Commander shall manage the tactical portion of the incident and shall make tactical decisions regarding the deployment of KM-SWAT Team personnel.

6.3 All members of the KM-SWAT Team assigned to an incident or training exercise shall be subject to the KM-SWAT Team chain-of-command.

6.4 The Executive Commander shall present an annual KM-SWAT activity report to the Executive Committee no later than March 15th of each year.

SECTION 7: KM-SWAT Team Deployment Procedures

7.1 Each Governmental Unit is encouraged, but is under no obligation to use the KM-SWAT Team at any time. A Governmental Unit may, in the exercise of its discretion, elect to address a law enforcement incident using its own personnel.

7.2 Use of specifically selected KM-SWAT team members for a high risk or highly dangerous incident is considered an operational call up of KM-SWAT resources and the following protocol must be followed:

a. The KM-SWAT Team shall be deployed only upon the request of the Chief of Police/Sheriff, or designee from the law enforcement or public safety agency having jurisdiction over a high risk or highly dangerous incident. Further, the Chief of Police/Sheriff, or designee may, at any time during such an incident, direct the KM-SWAT Team to withdraw or terminate its involvement.

b. A Chief of Police/Sheriff, or designee from the law enforcement or public safety agency requesting the deployment of the KM-SWAT Team, shall make the request by following dispatch and response procedures outlined in the KM-SWAT Operations Manual.

c. The KM-SWAT Team, when responding to an incident, shall operate within the Incident Management System put in place by the requesting department.

d. The requesting department will have command of the incident unless command is assumed by another department at the request of the requesting department.

e. If KM-SWAT Team personnel arrive prior to the requesting department's personnel, the KM-SWAT Team personnel will temporarily establish "Incident Command" as prescribed in National Incident Management System (NIMS), and proceed with emergency operations. Upon arrival of a command officer from the requesting department, "Incident Command" will be passed to the requesting department.

f. The Incident Commander shall be responsible for the overall command of the incident, will oversee all of the officers present, including the Tactical Commander, and shall be responsible for the overall operation.

7.3 If there is a call-out, member agencies should make every effort to respond. If response is not possible due to unavailability of KM-SWAT members, their absence is excused.

SECTION 8: Conflicts

This Agreement is not intended to replace a Governmental Unit's personnel rules, regulations or collective bargaining agreements. In case of a conflict between KM-SWAT policies and procedures and those of a Governmental Unit, the latter shall prevail.

SECTION 9: General Terms and Conditions Applicable to All Parties

The following duties and responsibilities apply equally to all of the Governmental Units to this Agreement unless the language of the provision clearly indicates that it applies only to a specific Governmental Unit or Units.

9.1 Indemnity. Each Governmental Unit agrees to indemnify and hold harmless all of the other Governmental Units, their agents, employees, officers and representatives from all fines, costs, lawsuits, claims, demands and actions of any kind or nature, including reasonable attorney fees, which occur directly from any wrongful act, negligence or wrongful omission of the Governmental Unit and its agents, employees, officers, or representatives, in performing this Agreement. If, however, such fines, costs, lawsuits, claims, demands, and actions of any kind or nature, including reasonable attorney fees, occur directly from any wrongful act, negligence or wrongful omission of more than one Governmental Unit and its agents, employees, officers, or representatives in performing this Agreement, then each Governmental Unit shall be responsible to its percentage of responsibility and shall indemnify the other Governmental Units so that each pays in proportion to its responsibility. Each Governmental Unit understands and agrees that no provision in this Agreement constitutes, nor shall be construed as, a waiver of any governmental immunity that has been afforded to any of the

Governmental Units of this Agreement and their agents, employees, officers or representatives by common law, statute or court decision. Further, each Governmental Unit understands and agrees that in providing the indemnification set forth above, the Indemnitor is not waiving any defense as is otherwise available to it by law, provided such defenses are also available and asserted by the Indemnitor for the benefit of the Indemnitee. The Indemnitor shall not be responsible for the indemnification obligations set forth above with respect to the Indemnitee to the extent that the Indemnitee has waived a defense that was otherwise available to it by law. The Indemnitor shall have the option to settle any claim, demand or liability on such terms as it shall determine.

9.2 Assurances Against Discrimination. All Governmental Units shall comply with all applicable state and federal non-discrimination laws during the term of this Agreement.

9.3 Assignment. This is an Agreement for Professional Services and no Governmental Unit may assign its interest in this Agreement without the express written consent of the other Governmental Units.

9.4 Relationship Between the Governmental Units. This Agreement shall not be construed to establish any employer/employee, master/servant, or principal/agent relationship between the Governmental Units.

9.5 Amendments. Changes to this Agreement will only be valid if they are in writing and signed by all Governmental Units.

9.6 Notices. Any Notice/Communication required, or permitted, under this Agreement from one Governmental Unit to another shall be deemed effective if the Governmental Unit sending the Notice/Communication hand delivers the Notice or Communication to the other Governmental Units, or sends the Notice/Communication through first class mail to the other Governmental Units.

9.7 Severability. If a court of competent jurisdiction declares any part, portion or provision of this Agreement invalid, unconstitutional or unenforceable, the remaining parts, portions and provisions of this Agreement shall remain in full force and effect.

9.8 Entire Agreement. This Agreement constitutes the entire understanding between the Governmental Units with respect to the subject matter identified in the Agreement, and no modification or revision to the Agreement shall have any force and effect unless it complies with the provisions of Section 9.5 of this Agreement. The failure of any Governmental Unit to insist on the strict performance of any condition, promise, agreement, or undertaking set forth herein shall not be construed as a waiver or relinquishment of the right to insist upon strict performance of the same condition, promise, agreement or undertaking at a future time.

9.9 Term. This Agreement shall commence upon execution, be retroactive to the date of _____, 2012 and shall continue in existence for as long as two or more Governmental Units continue to participate in the Agreement. Any Governmental Unit may terminate its participation in this Agreement by delivering a written notice of Termination to all of the other Governmental Units then participating in the Agreement, at least thirty days prior to the date of termination.

9.10 Headings. The Titles of the Sections and Paragraphs of this Agreement are provided for reference purposes only. If any discrepancy or disagreement exists between a Title and the text of the section or paragraph, the text shall control.

9.11 Signatures. The individual or officer who signs this Agreement certifies through his/her signature that he/she is authorized to sign this Agreement on behalf of the entity that he/she represents.

9.12 Governing Law. This Agreement shall be governed, and interpreted in accordance with, the laws of the State of Michigan. The Governmental Units agree that any action to enforce this Agreement may be brought in any state or

federal court that possesses subject matter jurisdiction and is located in, or whose district includes Kalamazoo County, Michigan.

SECTION 10: Signature Section

COUNTY OF KALAMAZOO

David Maturen, Chairperson
Kalamazoo County Board of
Commissioners 8/8/12

Timothy A. Snow
County Clerk/Register 8/8/12

KALAMZOO COUNTY SHERIFF'S DEPARTMENT

8/10/12
Richard Fuller, Sheriff

CITY OF KALAMAZOO

Kenneth P. Collard
City Manager

CHARTER TOWNSHIP OF KALAMAZOO

Supervisor

APPROVED AS TO FORM
DATE 8-29-12
CR13
CITY ATTORNEY

CITY OF PORTAGE

Maurice Evans
City Manager

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 5, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: 2010 Census Liquor License – Consideration of Conditional Approval for The Repertoire Coffee House and Theater, Inc.

ACTION RECOMMENDED: That City Council approve the requested 120-day extension for consideration of conditional approval of The Repertoire Coffee House and Theater, Inc. 2010 Census Liquor License application

Attached is a communication from Theophlis Duckett, President of the Repertoire Coffee House and Theater, Inc. (Repertoire) regarding their application for the 2010 Census Liquor License. On June 26, 2012, Repertoire was selected for consideration of conditional approval for a proposed 5,800 square foot Cajun/Creole food restaurant that will host live Blues and Jazz music located at 129 West Centre Avenue. On September 25th, Repertoire was scheduled to submit more detailed plans and information (as specified in Sections 6-35(b) and 6-35(e) of the Code of Ordinances) regarding the proposed restaurant.

However, as explained in the attached August 28, 2012 letter from Mr. Duckett, due to leasing issues an alternative location for the proposed restaurant has been selected. As a result, additional time is needed to prepare and submit a site plan and building plans for review and approval, prior to additional consideration of the Liquor License application by City Council.

Department of Community Development staff met with Repertoire representatives on August 24th to review a proposal involving the construction of a 6,400 square foot restaurant at 412 West Centre Avenue, which is located within the Portage Creek Landings Commercial Planned Development (CPD) District. Attached as additional information is a vicinity map, the City Council approved Concept Plan for Portage Creek Landings and a conceptual site plan for the proposed Repertoire restaurant. The alternate site location and conceptual site plan for the proposed restaurant are consistent with the criteria provided in Chapter 6, Alcoholic Liquor, of the Codified Ordinances.

It is recommended that City Council approve the requested 120-day extension for consideration of conditional approval of The Repertoire Coffee House and Theater, Inc. 2010 Census Liquor License application. The recommended action will provide the applicant additional time to supply Council with important project information and to formally request conditional approval.

Attachments: August 28, 2012 communication from Theophlis Duckett, Repertoire Coffee House and Theater, Inc.
Vicinity Map of 412 West Centre Avenue
Approved Concept Plan for Portage Creek Landings
Conceptual Site Plan for the Repertoire Lounge

RECEIVED
AUG 29 2012
COMMUNITY DEVELOPMENT

August 28,2012

Mr. Jim Hudson-City Clerk
City of Portage
7900 S. Westnedge Avenue
Portage, Michigan 49002

RE: Liquor License Information as set forth in Section 6-35b and 35e of the City of Portage Ordinances.

Dear Clerk Hudson:

Please find the attached request to the City Council of Portage. This request is for an extension on the approval of the Conditional Approval for the 2010 Census Liquor License, for The Repertoire Coffee House and Theater, Inc. Scheduled for September 25th 2012.

It is our hope that this process of approval will proceed expeditiously, for we are anxious to move forward as planned.

Your consideration for an extension on the submission of the required additional information would be greatly appreciated.

Sincerely and Respectfully,
Theophlis Duckett
Theophlis Duckett-President
The Repertoire Coffee House and Theater, Inc.

August 28, 2012

RECEIVED
AUG 29 2012
COMMUNITY DEVELOPMENT

City Council Members
City of Portage
7900 S. Westnedge Avenue
Portage, Michigan 49002

RE: 2010 Census Liquor License

Dear Council Members:
On behalf of the Repertoire Coffee House and Theater, Inc. we submit the enclosed request for an extension to meet the conditions required for the conditional approval of the 2010 Census Liquor License.

On June 26th 2012 the Portage City Council selected The Repertoire Coffee House and Theater for the license. In selecting The Repertoire Coffee House and Theater you requested additional information for the conditional approval at the September 25th 2012 meeting.

This approval was based on the proposed restaurant location at 129 West Centre Avenue. Unfortunately for us, things changed due to leasing issues. We immediately sought an alternate location which was earlier mentioned to you, The Centre Port Commons. Although, after analyzing the lot with our architect, the matter of parking being suited and compliant for the number of patrons we plan to serve was not sufficient. It was determined that it would be much more costly than anticipated having to purchase an additional lot.

Since that time, a location that involves construction of an approximate 6,400 square foot restaurant at 412 West Centre Avenue was offered at a much more reasonable price. This particular property is located within the Portage Creek Landings Commercial Planned Development CPD district.

It is our understanding that while the proposed restaurant is consistent with the approved concept plan, the current approved Concept Plan for the Portage Creek Landing CPD, has expired since there has not been any construction activity in that location within the past two (2) years, which apparently is a requirement.

We also understand that a CPD concept plan amendment will be necessary prior to site plan and building plan approval for our proposed restaurant. Which is why we are requesting an extension on the councils request for additional information. Affording time for the unexpected processing of the Concept Plan amendment review and approval.

Please note, that we are quite anxious to move forward with this project. We have been made aware of the time-line involved from the city's stand point. We are hopeful that the City Council will be satisfied with the submissions of our site plan and building plans as they are reviewed for approval, within the estimated 90-120 days.

We do sincerely hope that you will take into consideration the request for an extension on the conditional approval of the 2010 Census Liquor License for The Repertoire Coffee House and Theater.
We thank you in advance, as we look forward to receiving a final approval of the 2010 Census License.

Sincerely and Respectfully,

Theophlis Duckett, President
The Repertoire Coffee House and Theater, Inc.

CITY OF PORTAGE
A Place for Opportunities to Grow

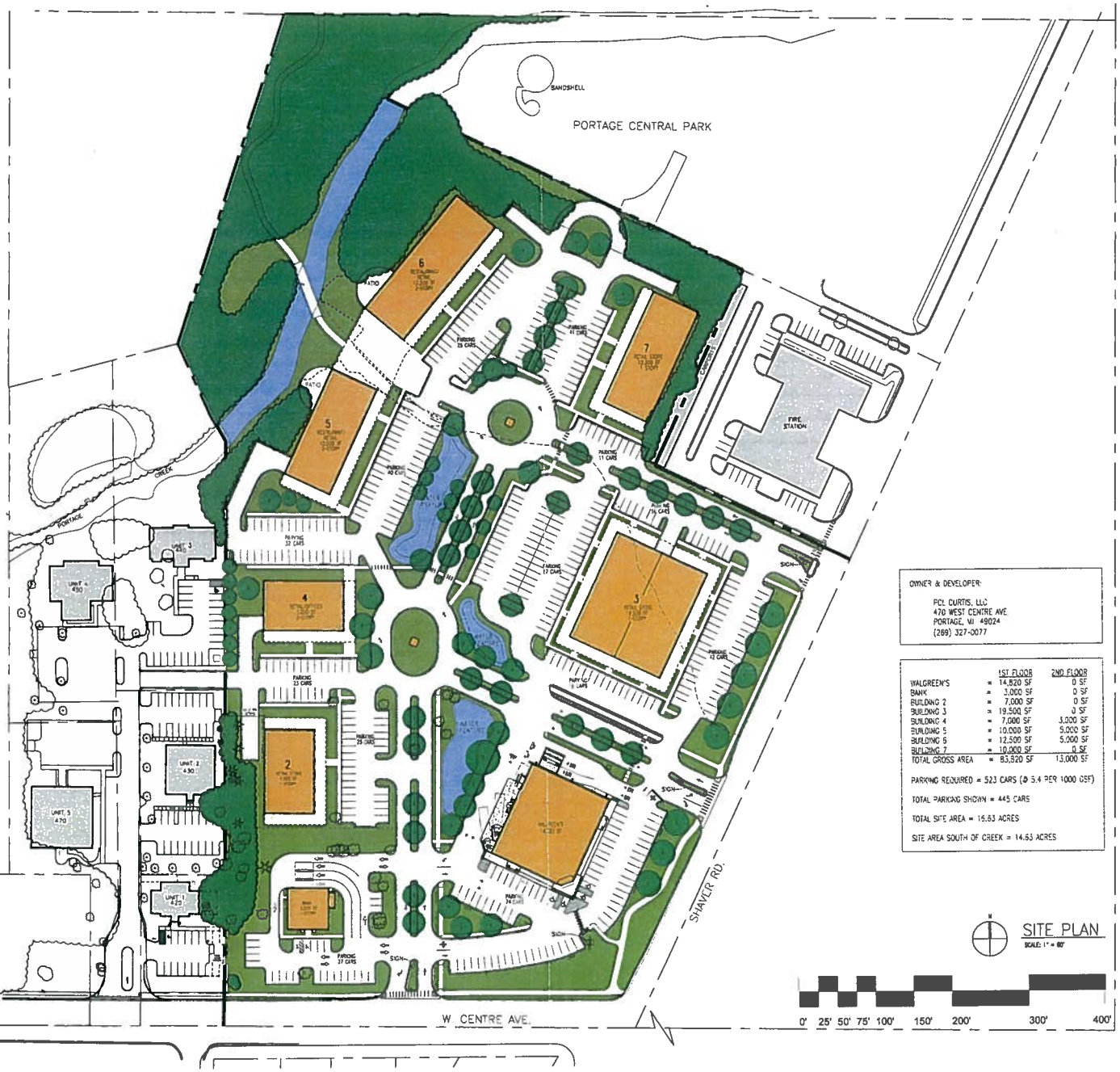
Vicinity Map
412 West Centre Avenue

Date: 8/30/2012

Date of Imagery: March, 2009

1 inch = 230 feet

Path: R:\GISADMIN\arcprojects\DEPTS\COM DEV\vicinity\412 west centre.mxd



OWNER & DEVELOPER:

PCL CURTIS, LLC
470 WEST CENTRE AVE.
PORTAGE, MI 49024
(269) 327-0077

		1ST FLOOR	2ND FLOOR
WALGREEN'S	=	14,820 SF	0 SF
BANK	=	3,000 SF	0 SF
BUILDING 2	=	7,000 SF	0 SF
BUILDING 3	=	19,500 SF	0 SF
BUILDING 4	=	7,000 SF	3,000 SF
BUILDING 5	=	10,000 SF	5,000 SF
BUILDING 6	=	12,500 SF	5,000 SF
BUILDING 7	=	10,000 SF	0 SF
TOTAL GROSS AREA	=	83,820 SF	13,000 SF

PARKING REQUIRED = 523 CARS (@ 5.4 PER 1000 GSF)

TOTAL PARKING SHOWN = 445 CARS

TOTAL SITE AREA = 15.63 ACRES

SITE AREA SOUTH OF CREEK = 14.63 ACRES

SITE PLAN
SCALE: 1" = 60'

TMP ARCHITECTURE

TMP ASSOCIATES INC
470 WEST CENTRE AVENUE
PORTAGE · MICHIGAN · 49024
PH · 269.327.0077 FX · 269.327.3090
E-M · INFO@TMP-ARCHITECTURE.COM

PROJECT TITLE
PORTAGE CREEK LANDINGS CITY CENTRE

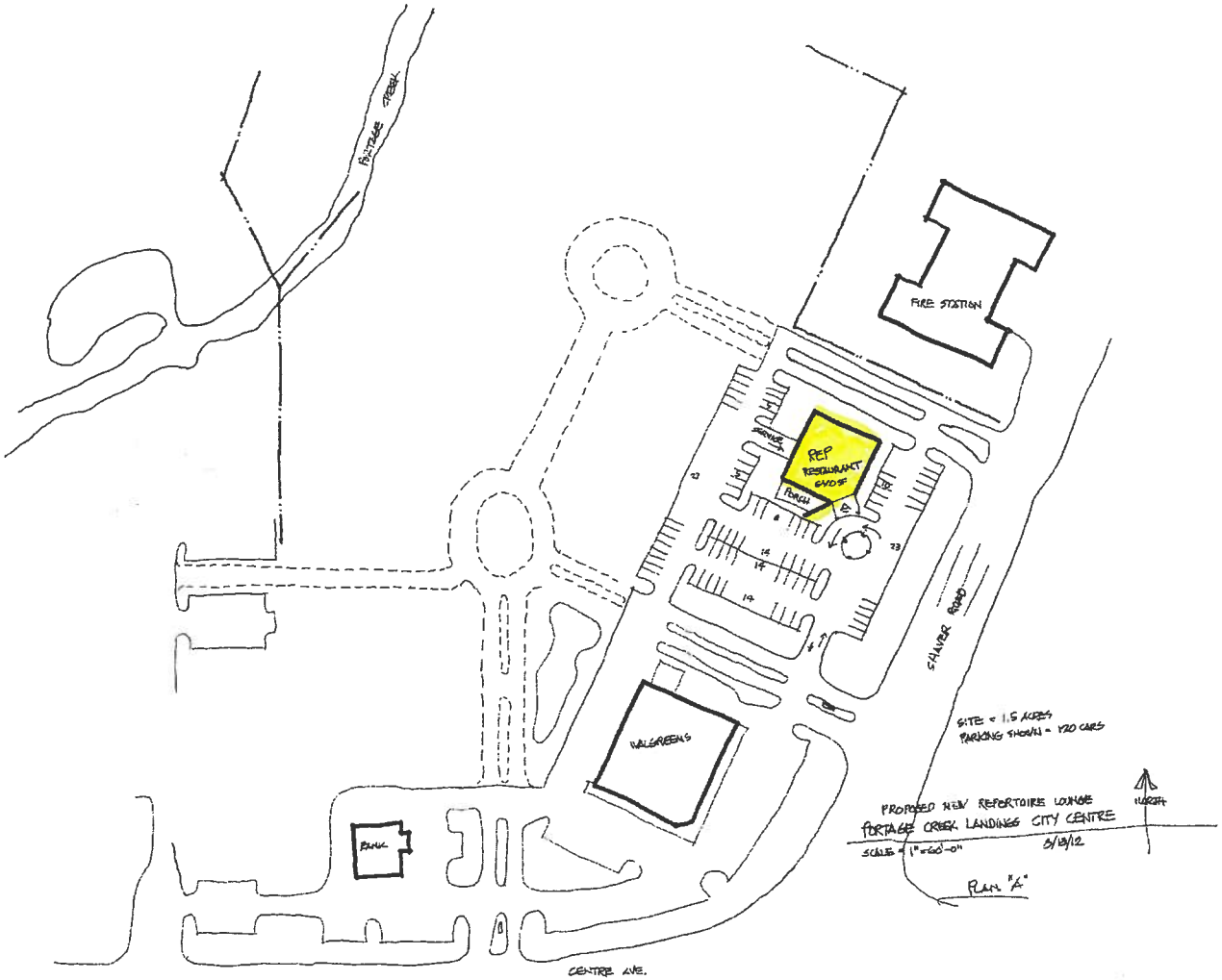
SHEET TITLE
Conceptual Site Plan

DATE:	ISSUED FOR:
08-1-07	

DRAWN YCT
CHECKED
APPROVED

PROJECT NO.
05159

SHEET NO.
AS.1


PORTAGE CREEK
FIRE STATION
REP
RESTAURANT
6400 SF
SERVICE
PORCH
SHAVER ROAD
WALGREENS
BANK
CENTRE AVE.
SITE = 1.5 ACRES
PARKING SHOWN = 120 CARS
PROPOSED NEW REPERTOIRE LOUNGE
PORTAGE CREEK LANDINGS CITY CENTRE
SCALE = 1"=60'-0"
3/13/12
NORTH
PLAN "A"

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 4, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: City of Portage 50th Anniversary Events

ACTION RECOMMENDED: That City Council:

a. accept as presented the activities, events and actions to commemorate the 50th Anniversary of the City of Portage;
b. appoint a City Council Ad Hoc Committee to consider additional suggested activities and events from Advisory Boards and Commissions and Portage residents; and
c. request that the Ad Hoc Committee present the additional suggested activities and events to the City Council no later than October 23, 2012.

With 2013 marking the 50th Anniversary of Portage incorporating as a city, it is appropriate that the time period be commemorated by activities and events to reflect upon the history of the city. Equally important, the 50th Anniversary presents an opportune time to consider the future of the community in light of the work of past community leaders to forge the character of the city. Two distinct but linked actions are presented in this regard:

1. To celebrate Portage history, the following series of activities and events are presented in recognition of the golden anniversary of the city:

- A commemorative edition of the *Portager* will be developed and distributed in February 2013 highlighting major community milestones over the past 50 years. *Portager* editions throughout 2013 will be utilized to publicize 50th Anniversary activities and events.
- Proclamations will be requested from state representatives and the Governor to recognize City of Portage incorporation during a February 2013 City Council meeting.
- A display of historical photographs, documents and memorabilia will be established within City Hall and maintained for the duration of the 2013 calendar year.
- An historical video "collage" will be developed and aired as the City Council meeting introduction for the 2013 calendar year and at other times on cable access channels.
- Major community events being planned to celebrate the 50th anniversary during 2013 include:
  - In cooperation with the Kalamazoo Area Runners Club, a winter half marathon will be held in February 2013.
  - A fundraising effort will be launched to support an expanded 2013 Summer Entertainment Series, including a "50th Anniversary Concert."
  - Plans for development of the Eliason Nature Reserve are underway, with a "50th Anniversary Groundbreaking" event planned for Phase I for July 2013.

2. It is equally important at the mid-century mark of the city's incorporation to initiate actions to refresh the commitment of Portage city government to, and connection with the community. Visioning exercises undertaken by residents with *Portage 2025* reflect the desire of residents to promote a healthy, active lifestyle through use of city natural resources and development of sustainable, well-maintained recreational amenities. In concert with these desires, a series of actions are appropriate to establish the framework for ensuring a quality community environment in the years ahead.

   To capitalize on the numerous attributes that have formed the community as *A Place for Opportunities to Grow* over the past 50 years, attention will be redirected to focus on Portage as a community supportive of active lifestyles and strong neighborhoods. Reflective of this focus, the community logo will be recast as *A Natural Place to Move* (see attached). Supplemental actions are also planned to renew the commitment of the city to supporting an activity-based infrastructure and quality neighborhoods including:

   - Utilizing unbudgeted revenue encumbered from the fiscal year 2011-12 budget to support additional street, bikeway and trailway reconstruction during 2012 and 2013 (additional local street reconstruction for 2012 was approved by City Council on July 10, 2012).
   - Evaluating the need for future phases of the South Westnedge Enhancement Program projects (SWEPs) and, if found appropriate, recommending the reprogramming of funding committed to SWEPs through a fiscal year 2013-14 Capital Improvement Program initiative to support "complete streets," additional local and major street improvements and bikeway and trailway maintenance and expansion.
   - A commitment of funding to maintain paved trailways during winter months, allowing for year-round use.
   - A commitment of funding for development of additional marketing materials designed to feature and enhance the use of the city's natural resources and recreational amenities.
   - Addition of the Eliason Nature Reserve to the city park infrastructure through Phase I development completion in 2013.

Recommitting to the appropriate maintenance and improvement of past city investments in open space preservation, park and trailway development and street infrastructure will position the city for continued growth. As a community rich with natural resources and a well developed infrastructure to support active lifestyles, the City of Portage is *A Natural Place to Move.*

It is recommended that City Council accept these activities, events and actions to commemorate the 50th Anniversary of the City of Portage. It is further recommended that City Council appoint an Ad Hoc Committee to consider additional suggested activities and events from Advisory Boards and Commissions and Portage residents, which have been requested and are to be submitted to the City Administration by September 28, 2012. Subsequently, the Ad Hoc Committee can present the additional suggested activities and events to the City Council no later than October 23, 2012.

Attachment

PORTAGE

A Natural Place to Move

PORTAGE

A Natural Place to Move

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 6, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Special Assessment Petition – Metsa Court Water

ACTION RECOMMENDED: That City Council direct the City Administration to include the installation of water main on Metsa Court for consideration in the Fiscal Year 2013-2014 Capital Improvement Budget.

On August 28, 2012, City Council received a petition from three property owners requesting that water main be installed on Metsa Court. The petition was referred to the City Administration for review and report.

Currently, a public water main exists on Portage Road bordering Metsa Court. Thus, properties facing Portage Road are currently served by public water. However, interior lots on Metsa Court do not have water service.

The petition for water received by City Council on August 28, 2012 was signed by 75% of the property owners who would receive benefit by the installation of the petitioned utilities (3 of 4 benefiting properties). The City Council goal of ultimately providing public water and sanitary sewer service to all properties in the city clearly indicates city support of property owner petitions for new water main.

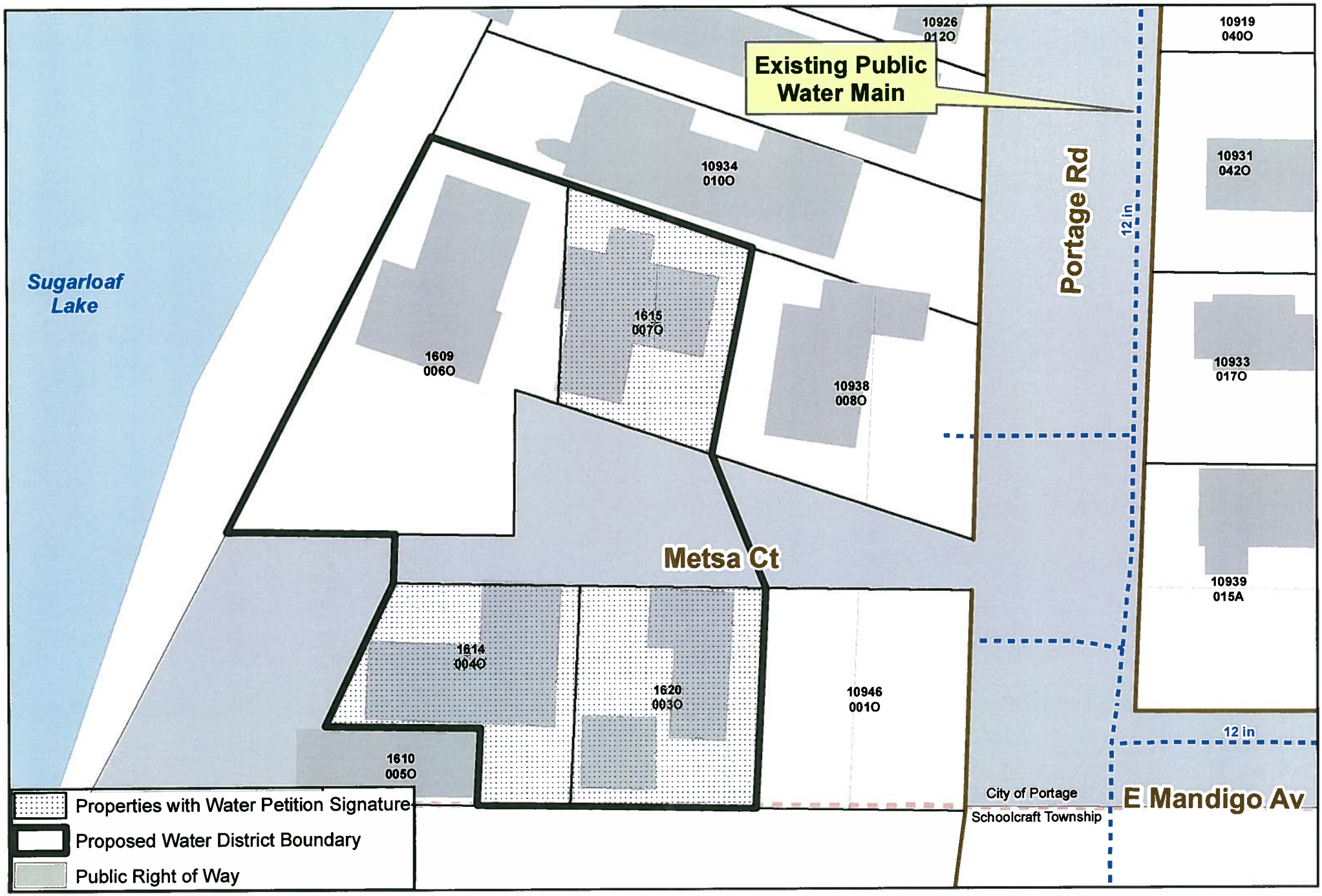
The installation of new water main on Metsa Court is not currently scheduled in the 2012-2022 Capital Improvement Program. Based on the level of support among property owners on Metsa Court, it is recommended that the petitioned project be given high priority and included for consideration in the Fiscal Year 2013-2014 Capital Improvement Budget.

Attachments

CITY OF PORTAGE
A Place for Opportunities to Grow

Metsa Court Water Petition

1 inch = 40 feet



CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** August 30, 2012

FROM: James R. Hudson, City Clerk

SUBJECT: Special Meeting with Board and Commission Applicants

ACTION RECOMMENDED: That City Council set a Special Meeting on Tuesday, October 9, 2012, beginning at 5:15 p.m. to interview board and commission applicants.

As reflected on the attached Board and Commission Vacancy Summary, applicants are needed at this time to fill vacancies on the Economic Development Corporation/Tax Increment Finance Authority and Brownfield Redevelopment Authority, Environmental Board, Historic District Commission, Human Services Board, Park Board and Senior Citizens Advisory Board. It is recommended that City Council set a Special Meeting on Tuesday, October 9, 2012, beginning at 5:15 p.m. to interview board and commission applicants.

Per the *Policy for Appointments to Citizen Advisory Boards,* applicants for the following boards and commissions and any other boards or commissions vacancies that arise will be interviewed:

EDC/TIFA and BRA	2 expiring terms, 2 vacancies
Environmental Board	3 expiring terms
Historic District Commission	2 expiring terms, 2 vacancies
Human Services Board	3 expiring terms
Park Board	2 expiring terms, 1 vacancy
Senior Citizens Advisory Board	4 expiring terms, 1 vacancy

Attachment: Vacancy Summary

c Boards/Commissions Chairs
Boards/Commissions Ex Officios

BOARD/COMMISSION VACANCY SUMMARY FOR OCTOBER 9, 2012 SPECIAL MEETING

INTERVIEWS	*5:15 pm*							
APPLICANTS	**EDC/TIFA and BRA** 2 exp terms 2 vacancies 12/31/12	**ENV BD** 3 exp terms 10/01/12	**HDC** 2 exp terms 2 vacancies 12/31/12	**HSB** 3 exp terms 10/01/12	**PK BD** 2 exp terms 1 vacancy 10/01/12	**SR CITZ** 4 exp terms 1 vacancy 10/01/12		**STATUS**
David P. Artley				**Applicant**				
William Beck		**Member**						
Patricia Berninger						**Member**		
Martha Dahlinger		**Member**						
Diane Durian				**Member**				
E. James Ebert		**Applicant**						
Raymond LaPoint				**Member**				
Vicki Locke					**Member**			
Mary Maisto						**Alternate**		
William Parse	**Member**							
Ann Perkins						**Member**		
Richard Perry (PPS)	**Member**							
Mark Reile			**Member**					
Gertrude "Trudy" Riker						**Member**		
Sandra Sheppard				**Member**				
Matthew A. Tanis					**Member**			
Patricio Trevino				**Applicant**				
Katie vanLonkhuyzen			**Member**					
Arnett Williamson		**Member**						

NOTE: Alternate - currently serving as an Alternate Member of a Board or Commission and is seeking appointment or reappointment.
Member - currently serving as a Member of a Board or Commission and is seeking reappointment.
Applicant - new applicant seeking appointment to a Board or Commission.

08/30/12

PCL Curtis, LLC, Developer
903 Lakeview Drive, Portage, Michigan 49002

September 7, 2012

Mayor Peter J. Strazdas and Portage City Council
City of Portage
2900 S. Westnedge Ave.
Portage, MI 49002

Re: Renewing of Previously Approved Conceptual Plan for NW Corner of Centre and Shaver

Dear Mayor Strazdas and City Councilpersons:

As the owners and developers of the vacant land at the northwest corner of Centre Ave and Shaver Road, we are appealing to the Council for a favorable interpretation that our CPD conceptual plan remains valid and current. We were recently made aware that our conceptual plan may have expired due to a perceived inactivity for the past several years per the provisions of Code of Ordinances, Section 42-414-F. We respectfully ask that Council grant a waiver from the F.4. Resubmission requirement and grant us a two-year extension of our conceptual plan. An opportunity to continue that development, with a project that will be a credit to the City Center, will be expedited by your favorable actions. A strict interpretation would entail additional meetings and a requisite 90-120 days of delays and public hearings.

We have resubmitted an updated Conceptual Plan for the remaining 13.78 acres of vacant land we have designated as the Portage Creek Landings City Centre development. That land was rezoned and our conceptual plan approved as a commercial planned development (CPD) by our mutual actions in 2006. Since that approval, both the Walgreen's and Huntington Bank sites have been developed within that CPD area. Despite our continued efforts to market and develop additional sites, the poor economy has forced us to take an unwanted hiatus. During that lull, we have continued to market and promote our concept while holding our standards high. Our conceptual plan remains basically intact with a couple of minor amendments. The purpose of this letter is to refresh the City's memory of where we are presently, inform you of those minor amendments and ask for a continuance of the conceptual plan.

Our desire remains, as shown on the attached, updated conceptual plan is to create a new lifestyle center featuring retail, office and dining properties. Depending on future market conditions, it is our intent to also consider rental residential apartments above some of the future phase retail buildings. The property is anchored at the corner by a Walgreen's drugstore and an adjacent Huntington Bank branch. We currently have a signed sales agreement for a restaurant that would be located on the parcel that fronts on Shaver Road, south of Walgreens and just north of the fire station. A variety of complementary uses are planned for the remaining six potential lots.

We have found that the negative economy has caused potential investors to be more interested in single-occupancy, owner-occupied structures on smaller lots, rather than the multi-tenant buildings originally conceptualized. No one wants to speculate on rental real estate and financing is not available for speculative ventures. This has caused us to increase the number of building sites while shrinking the size of both the lots and the buildings. The Huntington Bank was the first example of that happening and now the current restaurant project is following suit. This results in a reduction of building area within the development, fewer parking spaces and more green area.

Phone: (269)327-8510 Cell: 269-377-7871 marshburn@charter.net

We have paid particular attention in our conceptual site plans and standards to create a lifestyle center that feels good, is respectful of the environment, is pedestrian and City Center in nature and has excellent linkages to existing and proposed City of Portage parks and recreation areas. One of the key features in a new national trend towards lifestyle centers is using the very best models for pedestrian site planning with a focus towards excellent architecture.

As the economy rebounds, we are anxious to resume this development. We know we can create an upscale environment for working, dining, shopping and recreation that is unique to the lifestyles now seen in Portage. Your support in this request is very much appreciated. We look forward to the opportunity to continue to work on this plan to create a showpiece for us and the City of Portage.

To take advantage of the new restaurant opportunity, we respectfully request that City Council take what ever means are available to them to expedite this review and re-endorsement of our conceptual plan.

Thank you for the chance to be heard.

Sincerely,
PCL Curtis, LLC

Michael A. Marshburn
Managing Member

OWNER & DEVELOPER:

PCL CURTIS, LLC
903 LAKEVIEW DRIVE
PORTAGE, MI 49002
(269) 327-8510

TABULATION OF BUILDING DATA

BUILDING	LOT #	FIRST FLOOR AREA (sf)	SECOND FLOOR AREA (sf)	PARKING SPACES ON LOT	CONDO LOT SIZE (acres)
Walgreens	1	14,820	0	74	1.8
Huntington Bank	2	3,000	0	27	1.04
REP Lounge	3	6,400	0	108	1.5
Building #2	4	7,000	0	28	0.85
Building #4	5	7,000	0	23	0.75
Building #5	6	10,000	0	72	1.8
Building #6	7	12,500	6500	28	1.9
Building #7	8	10,000	0	52	1.0
Building #8	9	5,000	0	34	0.75
		75,720	6500	446	11.39

Parking required (@ 5.4 spaces per 1000 GSF) = 444 spaces
Total area of Portage Creek Landings City Centre = 16.63 acres
Total area of all condominium lots = 11.39 acres
Common Areas = 5.24 acres

SITE PLAN
SCALE: 1" = 60'

0' 25' 50' 75' 100' 150' 200' 300' 400'

TMP ARCHITECTURE

TMP ASSOCIATES INC
499 WEST CENTRE AVENUE
PORTAGE, MICHIGAN 49024
PH 269.327.8899 FX 269.327.8898
SM INFO@TMP-ARCHITECTURE.COM

PROJECT TITLE
PORTAGE CREEK LANDINGS CITY CENTRE

SHEET TITLE
Conceptual Site Plan

03-07-12

DATE: ISSUED FOR:
DRAWN JFS
CHECKED
APPROVED

PROJECT NO.
05159

SHEET NO.
AS.1

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 7, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Portage Creek Landings – City Centre, Conceptual Plan

ACTION RECOMMENDED: That City Council:

a. grant a waiver from the CPD, Commercial Planned Development, Conceptual Plan resubmission requirement; and
b. approve a two-year extension of the conceptual plan for the Portage Creek Landings – City Centre development project, 412 West Centre Avenue.

Attached is a communication from Community Development Director Georgeau pertaining to a request submitted by Mr. Michael Marshburn on behalf of PCL Curtis, LLC in regards to the Portage Creek Landings – City Centre conceptual plan.

The Portage Creek Landings – City Centre development project, including rezoning of the property to CPD, Commercial Planned Development, was approved by City Council in March 2006. The project involved construction of seven buildings ranging in size from 7,000 square feet to 20,000 square feet on 14.6 acres of land. Since approval of the concept plan in 2006, two development projects have been constructed: Walgreens in 2006 and Huntington Bank in 2008. No additional construction activity has occurred since the Huntington Bank was completed and the conceptual plan approval has since expired.

The developer is currently working with The Repertoire Coffee House and Theater, Inc. to locate a restaurant and blues/jazz club within the Portage Creek Landings – City Centre project area. The 2012 conceptual plan submitted by PCL Curtis, LLC is consistent with the 2006 City Council approved concept plan. The developer is, therefore, requesting that City Council grant a waiver from the CPD, Commercial Planned Development, Conceptual Plan resubmission requirement and approve a two-year extension of the conceptual plan for the Portage Creek Landings – City Centre development project located at 412 West Centre Avenue.

In order to facilitate the proposed restaurant project and because the 2012 conceptual plan is consistent with the 2006 City Council approved concept plan, approval of the waiver from the resubmission requirement, and granting the requested two-year extension for the conceptual plan for the Portage Creek Landings - City Centre development is recommended. The City Attorney has reviewed the CPD District regulations and has determined that Council has the authority to waive the resubmission requirements specified in the ordinance.

Attachment: September 7, 2012 communication from Community Development Director Georgeau

CITY OF PORTAGE **COMMUNICATION**

TO: Maurice S. Evans, City Manager **DATE:** September 7, 2012

FROM: Vicki Georgeau, Director of Community Development

SUBJECT: Portage Creek Landings – City Centre, Conceptual Plan

Attached is a communication and Portage Creek Landings – City Centre conceptual plan submitted by developer, Mr. Michael Marshburn on behalf of PCL Curtis, LLC. PCL Curtis, LLC is requesting that City Council grant a waiver from the CPD, Commercial Planned Development, Conceptual Plan resubmission requirement and approve a two year extension of the conceptual plan for the Portage Creek Landings – City Centre development project located at 412 West Centre Avenue. PCL Curtis, LLC is working with Theophlis Duckett, President of the Repertoire Coffee House and Theater, Inc. to locate the restaurant and jazz club within the Portage Creek Landings – City Centre project area. As the Council is aware, the Repertoire Coffee House and Theater was selected to be considered for conditional approval of the 2010 Census Liquor License.

As background information, the Portage Creek Landings – City Centre development project, including rezoning of the property to CPD, Commercial Planned Development, was approved by City Council in March 2006. Attached is the approved 2006 conceptual plan, written narrative and related materials. The project involved construction of seven buildings ranging in size from 7,000 to 20,000 on 14.6 acres of land. In conjunction with the proposed conceptual plan, City Council also granted a 25 foot setback modification for buildings 2 and 4 to allow the buildings to be placed within 50 feet of the west property line and 45 foot setback modification for building 7 to allow the building to be located 30 feet from the west property line. A 75 foot setback is required.

Since approval of the concept plan in 2006, two development projects have been constructed: Walgreens in 2006 and Huntington Bank in 2008. No additional construction activity has occurred since the Huntington Bank facility was constructed in 2008. Consequently, conceptual plan approval has expired since construction has not occurred in accordance with an approved program of development and construction pursuant to an approved specific (site) plan has not commenced within two years from the previous specific plan approval. As a result, PCL Curtis, LLC is requesting City Council to grant a waiver from Section 42-414(F)(4), Expiration of conceptual plan, that requires an expired conceptual plan be resubmitted for review and approval in the same manner as the original conceptual plan. The approval process for the original conceptual plan involves a public hearing before the Planning Commission and City Council. This process takes approximately 90-120 days and according to PCL Curtis, LLC, planning and development of the Repertoire Coffee House and Theater needs to be expedited. Subject to City Council approving the waiver, PCL Curtis, LLC is requesting a two year conceptual plan approval extension. The City Attorney has reviewed the CPD district regulations and has determined Council has the authority to waive the resubmission requirements as specified in 42-414(G).

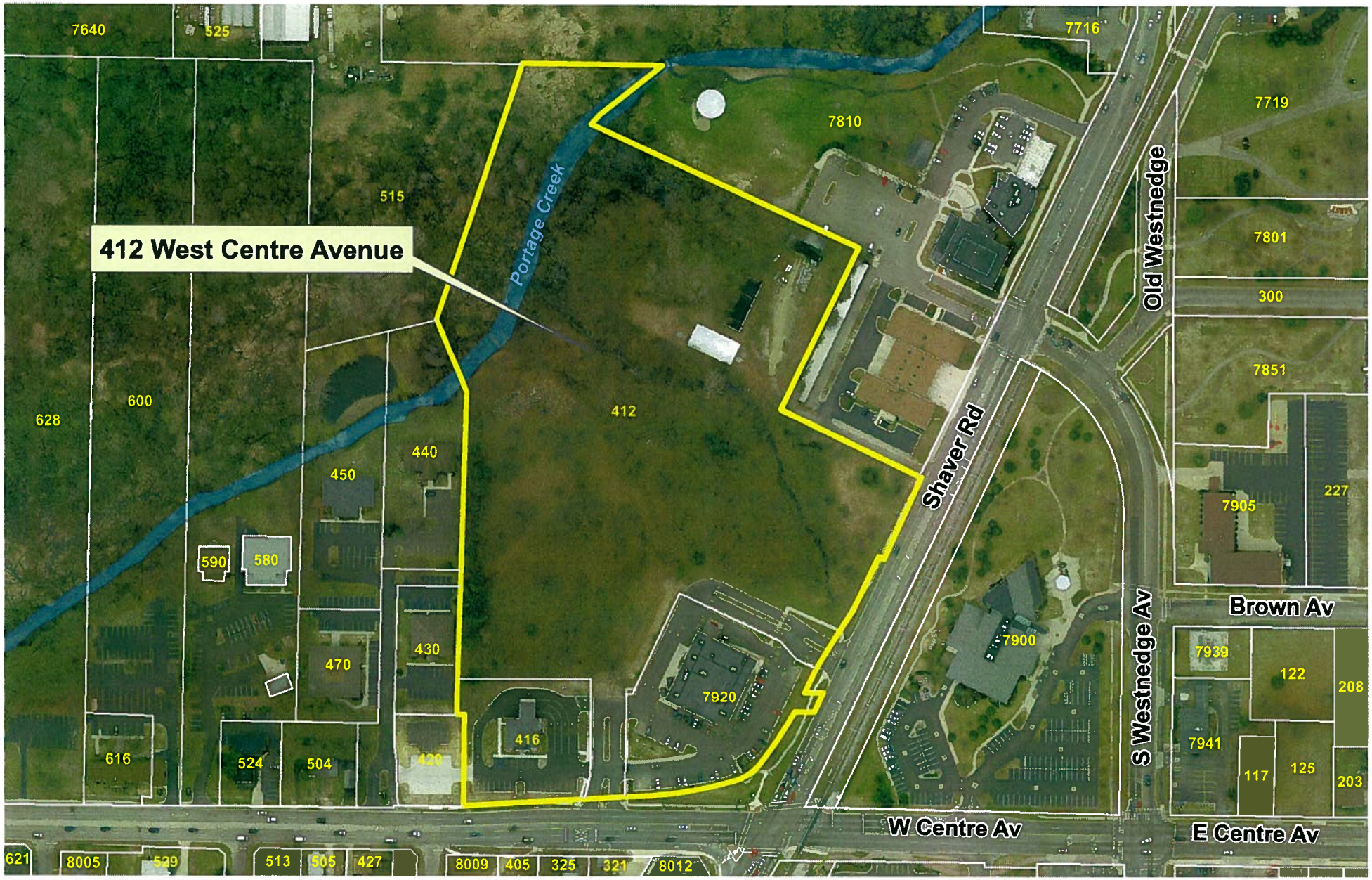
The 2012 conceptual plan submitted by PCL Curtis, LLC is consistent with the 2006 City Council approved concept plan. However, PCL Curtis, LLC is proposing to replace Building 3, a 19,500 square foot retail building (as shown on the approved March 2006 conceptual plan) with a proposed 6,400 square foot Repertoire Coffee House and Theater and a future approximate 5,000 square foot retail building. This arrangement is similar to the approval of the specific plan for Huntington Bank, which replaced Building 2, a 13,500 square foot retail building identified on the March 2006 conceptual plan, with the 3,000 square foot bank and future 7,000 square foot retail building. In addition, PCL Curtis is proposing to eliminate the second floor on Buildings 4 and 5. These minor changes have resulted in a decrease in building footprint area from 87,320 (12% land coverage) to 75,720 (10.5% land coverage) and an increase in open/greenspace. No other conceptual plan modifications are proposed.

Since the 2012 conceptual plan submitted by PCL Curtis, LLC is consistent with the 2006 City Council approved concept plan and no other changes have occurred in the vicinity of the Portage Creek Landings – City Centre development area that would necessitate the project be resubmitted for review and approval in the same manner as the original conceptual plan, it is recommended that the waiver from Section 42-414(F)(4) be approved, and the Portage Creek Landings – City Centre conceptual plan be granted a two year extension.

Attachments: Vicinity map
2006 approved Portage Creek Landings – City Centre Conceptual Plan and narrative

CITY OF PORTAGE
A Place for Opportunities to Grow

Vicinity Map
Portage Creek Landings - City Centre



Date of Imagery: March, 2009

1 inch = 230 feet

Path: R:\GISADMIN\krif\projects\DEPTS\COM DEV\vicinity\412 west centre.mxd

PCL Curtis, LLC

470 West Centre Avenue Portage, Michigan 49024

RECEIVED

JAN 13 2006

COMMUNITY DEVELOPMENT

January 13, 2006

Mr. Christopher Forth
Deputy Director of Planning and Community Development
City of Portage
2900 S. Westnedge Ave.
Portage, MI 49002

Re: Rezoning and Conceptual Plan for NW Corner of Centre and Shaver

Dear Christopher:

We are pleased and excited to submit for the rezoning of approximately 16 acres at the NW Corner of Centre and Shaver for the proposed Portage Creek Landings City Centre commercial development. As you know, we have been acquiring property in this area since 1981. The final acquisition will be the two parcels that contain additional street frontage on Centre and Shaver that we are purchasing from the City of Portage. The approval of that purchase was received at the December 19, 2005 City Council meeting.

We are requesting that the property, in its entirety, be rezoned to Community Planned Development (CPD) from its current, mixed zoning classifications. Our desire, as shown on our attached conceptual plan and detailed below, is to create a new lifestyle center featuring retail, office and dining properties. Depending on future market conditions, it is our intent to also consider rental residential apartments above some of the future phase retail buildings. The property will be anchored at the corner by a Walgreen's drugstore and a variety of complementary uses are planned should our rezoning request be granted.

We have paid particular attention in our conceptual site plans and elevations to create a lifestyle center that feels good, is respectful of the environment, is pedestrian and City Center in nature and has excellent linkages to existing and proposed City of Portage parks and recreation areas. One of the key features in a new national trend towards lifestyle centers is using the very best models for pedestrian site planning with a focus towards excellent architecture.

Our members of PCL Curtis, LLC have professional backgrounds in both construction and architecture. In addition, we have requested and received the assistance of Joe Gesmundo and Greg Dobson of American Village Development Company "AVD". AVD has helped us with this site plan and has also been instrumental in securing our anchor tenant for the corner property.

Suffice it to say we are anxious to begin this development. We know we can create an upscale environment for working, dining, shopping and recreation that is unique to the lifestyles now seen in Portage. Your support in this rezoning request is very much appreciated. We look forward to the opportunity to continue to work on this plan to create a showpiece for us and the City of Portage.

Phone: (269)327-0077 Fax: (269)327-8090 marshburn@charter.net

Per your request we are answering each of the required questions that are provided in Section 42-414 of the City of Portage Land Development Regulations.

A. *STANDARDS & OBJECTIVES*

1. *The site is divided into seven (7) buildings that range in size from 9000 to 20,000 square feet and totaling approximately 100,000 square feet of building area. The entire development is designed to create a pleasant pedestrian scale while being compatible with the adjacent office park and municipal buildings. The moderate building sizes and number of buildings, rather than a "strip" center, allows the development to better fit the land and preserve native vegetation. Providing public utilities to each building will be more manageable and serviceable with individual buildings. All utilities will be underground.*
2. *All buildings will be designed with a unifying theme and compatible signage. It is the intent to create a cohesive development that will promote way-finding and compatible appearances. Public art or unique structures are planned at the center of each roundabout to create landmark status within the development. The density of the development will be controlled to create an appropriate balance of open area, required parking and buildings. Respect is given to the Central Park and sensitive wetlands to the north.*
3. *It is the intent, starting with the Walgreen's, that all buildings have a harmonious and compatible appearance and scale. Restrictive covenants and design standards will be utilized to control the appearance of not only buildings but also all site features and service functions.*
4. *We have specifically designed our plan to allow for a variety of differently sized buildings. The changing sizes as well as architecture that changes but stays true to common elements will provide for an innovative land use plan. All buildings will be constructed with all four faces of combinations of brick veneer and glass with stone or other masonry accents. Covered walkways front every building. The two buildings (#5 & 6) will have windows, decks and patios toward the Creek to take advantage of the beautiful views. Our plans call for more green space than is required and anticipates pedestrian linkages to both existing and proposed/future City of Portage linear trail and public parks. A water feature is planned that serves both as a visual element as well as a functional storm water component.*
5. *The landscaping, while not detailed on this plan, will be first class in nature and will provide a common unifying theme throughout the development. Native mature trees will be saved and protected through-out the site. New plantings will utilize native plantings such as Oak trees and flowering shrubs. The wetland areas will be enhanced by acceptable native plantings.*
6. *Note that the entire 16-acre development shares just three curb cuts. The southern curb cut on Shaver Road and the curb cut on Centre will be designed as full-service drives; the other curb cut will be restricted to prevent left turns exiting the development. The parking has been designed to provide adequate parking within the development for all the anticipated future uses. The parking space count is slightly short of Ordinance requirements but we are reserving additional green space should the needs exceed the spaces shown. Storefront parking is provided in all cases however, if storefront parking is not available, additional parking will be available throughout the remainder of the development. And, as is common in lifestyle centers, the site plan is designed so that all the common elements and storefront are easily accessible by foot. In addition, the development will be attractive and at a scale that is very people friendly.*
7. *Although this development does not neighbor any residential neighborhoods it is certainly designed so that it would be very compatible if there were an adjacent residential neighborhood. We do feel that this development type is very consistent with the existing office park and City neighbors. The character of the development will blend with the office and municipal structures that surround the site.*

8. *The main transitions occur between parking areas within this development. We have used a boulevard entry road and roundabouts to slow traffic, provide for a better feel when entering the development and also to separate the roadway system from the parking lots. This allows for a safe pedestrian and vehicular movement as the number of locations where pedestrians and vehicles are meant to cross is kept to a minimum. In addition, having the roadway system outside of the parking lots (which is unusual in normal commercial development) is a real plus to the overall feel of this development.*
9. *We are confident that the redesigned intersection of Centre and Shaver that will be forthcoming this spring will adequately be able to handle the traffic from this development. Lifestyle centers are known for generating fairly low traffic levels with very high sales levels. This is because a greater portion of the people who come to the typical lifestyle center are buyers as opposed to shoppers. Public utilities of sufficient size to service this development are available at both Shaver Road and Centre Street. Public easements will be granted to distribute these utilities through the development.*
10. *This plan is very cognizant of the surrounding natural features. Specifically note that larger percentage of this development which is dedicated to green space. A particularly nice feature is the Portage Creek and the surrounding green area that has been left undeveloped. We expect that these natural areas will be enjoyed by the customers of this lifestyle center as well as the residents of the City of Portage. Only 14% of the site area is covered by buildings while approximately 35% is dedicated to green space, water features and landscaping.*

Per your request we are also answering each of the required questions that are provided in Section 42-414 B of the City of Portage Land Development Regulations.

B. PROCEDURE FOR PLAN REVIEW

1. *A conceptual plan accompanies this narrative. That plan shows the proposed development, existing topography of the site and existing mature trees, preliminary phasing plans, present zoning and proposed utilities locations.*
2. *An earlier version of the conceptual plan was submitted to the Department of Development in December of 2005 and was reviewed. A letter of December 22, 2005 was received and contained their preliminary comments on that version of the conceptual plan. This narrative is intended to address those comments.*
3. *An informal meeting between the developer and the Department of Development was held on December 22, 2005 for the purposes of discussing their comments and procedures for future reviews by the Planning Commission.*
4. *The revised conceptual plan that accompanies this narrative contains graphic representation of the following information:*
    a. *Purpose & Objectives – To create a new City Centre identity for the City by developing the largest available vacant piece of land in the vicinity of all the major municipal buildings into a cohesive and planned commercial development.*
    b. *The plan shows proposed uses for all buildings. Actual market conditions will determine the final mix of tenants between shops, restaurants, offices and possibly loft apartments.*
    c. *The plan is at a scale of on inch equals 60 feet and the north arrow is shown.*
    d. *The name of the development will be Portage Creek Landings City Centre to continue with the identity already started for that corner. The conceptual site plan includes the legal description for the property to be rezoned. The owner and developer of the parcel is PCL Curtis, LLC of 470 West Centre, Portage, Michigan, 49024.*
    e. *The contiguous land holdings of PCL Curtis, LLC are shown on the attached conceptual plan and survey. Please see the attached affidavit of land ownership.*
    f. *The conceptual plan includes a supplementary drawing which shows the other, non-owned surrounding parcels of land and present zoning boundaries.*

g. *The conceptual plan indicates the intersection of Shaver Road and Centre Street which define the east and south boundaries of the site. No other public roads are affected by this development. The subject land is encumbered to a small degree by historic utility and cross-access easements. The developer intends to work with the beneficiary of those easements to have them rescinded since most are not used and will not be required for the new development. One cross-access easement with the Portage Fire Department to the north has been discussed and the Fire Department has indicated a preference to develop a private drive to replace that common drive. The conceptual plan indicates that solution. That will be resolved in phase III of the development.*

h. *The conceptual plan indicates existing and planned utilities to serve the development. It is planned to serve the new development with City water and sewer. Storm drainage will be accomplished by a combination of underground structures and retention basins. An existing open storm drain that serves other developments in the area, including Centre Street and City Hall, is being investigated as to the possibilities of burying and/or rerouting. A local engineering firm has been retained to research and advise the developer of alternative solutions to this drain. The open drain will not be affected until Phase IV of the development.*

i. *The conceptual site plan is overlaid on existing topography but no final grading plans have yet been attempted. The individual buildings and separate parking lots will make topographical transitions within the site easier. The land is generally flat with a gentle slope toward the Creek.*

j. *The use, height and locations of the proposed buildings are shown on the conceptual plan. All buildings will be less than the 35 feet height dictated by the Ordinance. Accompanying the conceptual plan are some actual elevations, in color, of the planned Walgreen's drugstore and some preliminary elevation studies of the other typical buildings. Setbacks are in compliance with the Ordinance with the exception that modification is requested from the 75 foot setback requirement along the west property line for buildings #2 & 4 where they abut the OS-1 zone and for building #7 where it backs-up to the City's carport structures. In both these locations, existing screening is dense. Exact dimensions of the requested modifications will be undetermined until such time as a tenant for those building is known. The criteria for granting such modifications, as spelled out in the Ordinance (42-414G), will be easily satisfied when taken in the context of the overall development. Additionally, the future land use suggestions within the City Centre area of the City's Comprehensive Plan encourages some leniency to "reduce building setbacks" to create better pedestrian linkages within the site (page 10-14).*

k. *The development is planned to be phased as follows. The exact phasing will depend on actual market conditions. Please refer to the phasing plan on the drawings submitted with this letter.*

Phase I	*Corner Walgreens*	*July 1, 2006 to June 30, 2007*
Phase II	*Out-Parcel on Centre*	*Sept. 1, 2006 to Sept. 1, 2007*
Phase III	*Out-Parcels on Shaver*	*Sept. 1, 2007 to Sept. 1, 2008*
Phase IV	*Core Buildings #4-7*	*Sept. 1 2007 to Sept. 1, 2010*

l. *Each of these phases could easily be developed without the other. The utilities that are available at the site allow for easy extension should phase IV, for example, be developed before phase II. Additionally, the roadway lengths are not so long as they would be financially prohibitive, even if phase IV were to go before phase I. Additionally, we have shown on the attached conceptual plan how this development ties in well to the existing adjacent developments both at the City of Portage Fire Station and to Portage Creek Landings office park.*

m. *The common open spaces, driveways, landscape and parking lots will be maintained owned and operated by PCL Curtis, LLC the developer.*

n. City water and sanitary sewer will be brought into the site from Shaver and/or Centre streets. Storm water will be contained on site using a combination of underground leaching structures and open retention/recharge basins. An existing open ditch drain that crosses the site and flows untreated to the Portage Creek is being investigated for responsibility, rerouting and burying.

o. Both Shaver Road and Centre Street are designated as a five-lane, major arterial (level of service "D") roadways with capacities of 37,100 vehicles per day. 2004 traffic counts on Centre recorded 24,329 vehicles per day and Shaver at 24,518 vehicles per day. Based on the ITE Trip Generation Manual, Sixth Edition, it is estimated that the new development, when fully occupied, will generate an additional 2400 vehicle trip ends (1150 vehicles) on a average workday – well within the capacities of the adjacent roads.

p. We plan to record a set of restrictive covenants on the property should this rezoning be approved. These covenants would govern the maintenance and operation of the common areas and cross-access easements as well as set up an architectural control committee that would approve all site plans and architectural plans to ensure they are consistent with the overall development plan as submitted herein.

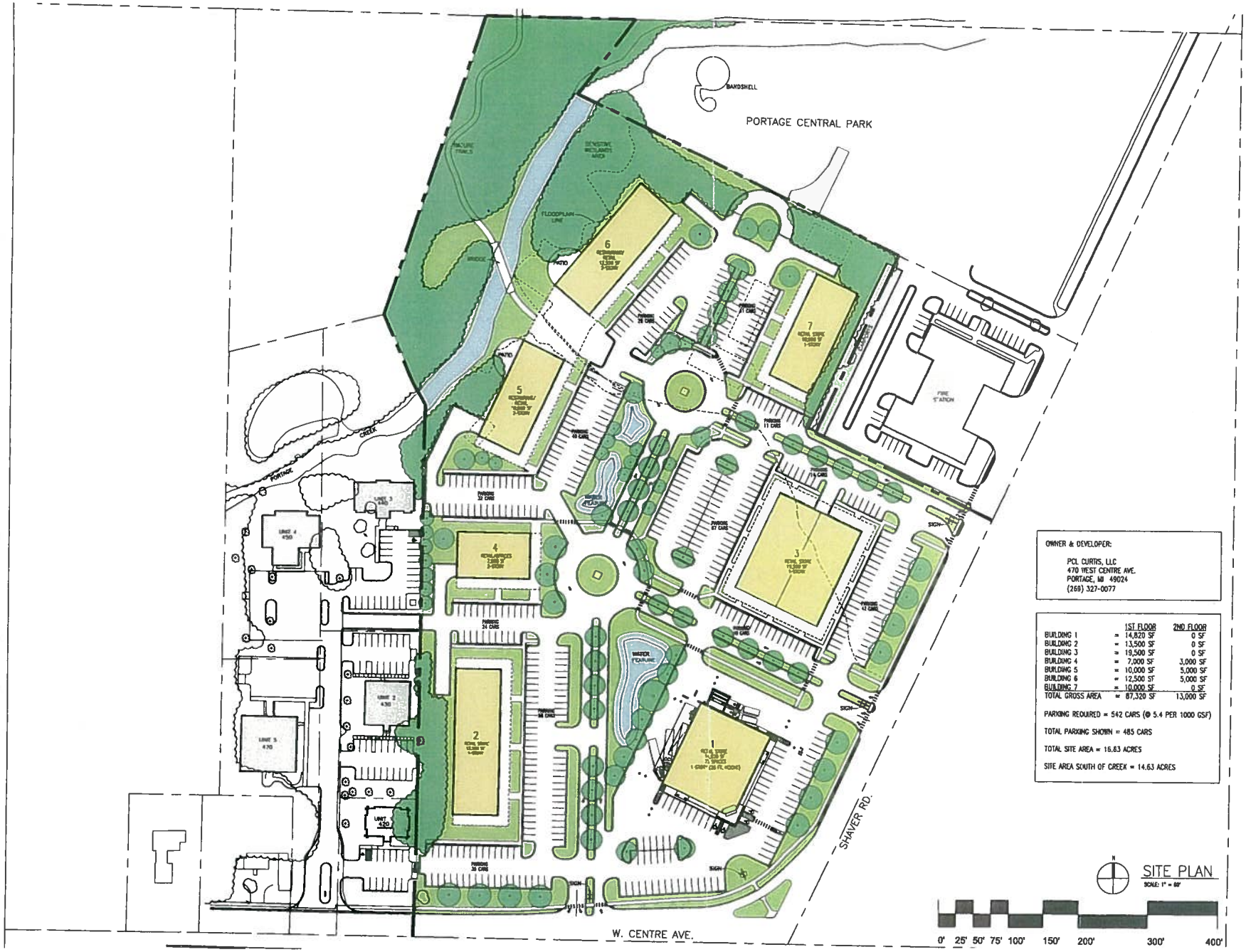
q. The natural features are noted on the attached survey and conceptual plan. It is our intent to incorporate as many existing desirable trees into the final landscape as is feasible. Screening between this development and the office park to the West and City property to the North will be by the retention of groves of existing trees; those natural barriers will be supplemented by additional plantings to create a harmonious transition while respecting the needs of the neighbors. The 100 year floodplain of Portage Creek is acknowledged and no buildings are planned to be placed in that area of the site. However, the existing open drainage ditch is intended to be changed to an underground conduit system and the floodplain immediately along the Creek in this area may be filled as/if acceptable to the Department of Environmental Quality. Current floodplain maps used by the city are over 10 years old and do not take into account recent improvements made by the City to the conduits immediately downstream and behind the Bandshell. Those improvements to the flow of the Creek relieve the back-up of high waters into this site considerably. An area identified as "highly sensitive wetland" has been identified at the northwest corner of the site. Since this area is also included in the floodplain, and it is a desirable natural area, there will be no development in this area. Both the floodplain and the sensitive wetland area are in the future phase IV of the development. A local civil engineering firm has been retained to research and advise the developer in these matters.

Please note that the City of Portage Future Land Use Plan indicates this property should be City Center. We feel that this development is exactly that. It embodies the current-day trends of a new, upscale, pedestrian city center. We look forward to the opportunity to discuss this plan with City Staff, Planning Commission and City Council. We feel this can be another first-class development for the City of Portage, PCL Curtis, LLC and AVD.

Sincerely,
PCL Curtis, LLC

Michael A. Marshburn, AIA
Managing Member

cc: Joe Gesmundo, American Village Development
Greg Dobson, American Village Development



OWNER & DEVELOPER:

PCL CURTIS, LLC
470 WEST CENTRE AVE.
PORTAGE, MI 49024
(269) 327-0077

		1ST FLOOR	2ND FLOOR
BUILDING 1	=	14,820 SF	0 SF
BUILDING 2	=	13,500 SF	0 SF
BUILDING 3	=	19,500 SF	0 SF
BUILDING 4	=	7,000 SF	3,000 SF
BUILDING 5	=	10,000 SF	5,000 SF
BUILDING 6	=	12,500 SF	5,000 SF
BUILDING 7	=	10,000 SF	0 SF
TOTAL GROSS AREA	=	87,320 SF	13,000 SF

PARKING REQUIRED = 542 CARS (@ 5.4 PER 1000 GSF)

TOTAL PARKING SHOWN = 485 CARS

TOTAL SITE AREA = 16.83 ACRES

SITE AREA SOUTH OF CREEK = 14.63 ACRES

SITE PLAN
SCALE: 1" = 60'

TMP ARCHITECTURE

TMP ASSOCIATES INC
470 WEST CENTRE AVENUE
PORTAGE - MICHIGAN - 49024
PH - 269.327.0077 FX - 269.327.9090
EM - INFO@TMP-ARCHITECTURE.COM

PROJECT TITLE
PORTAGE CREEK LANDINGS CITY CENTRE

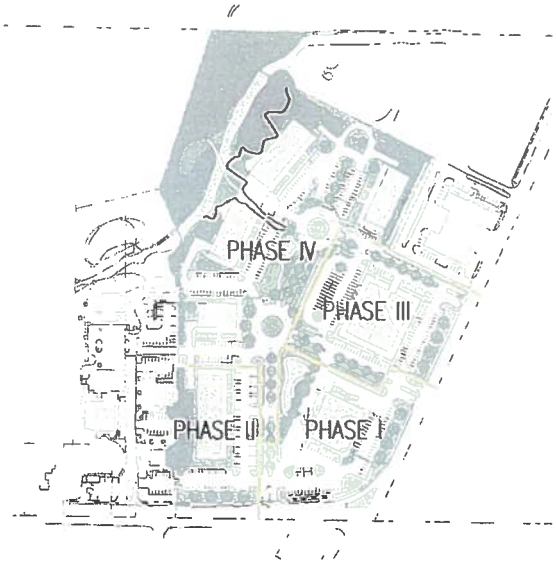
SHEET TITLE
Conceptual Site Plan

01-13-05
DATE: ISSUED FOR:

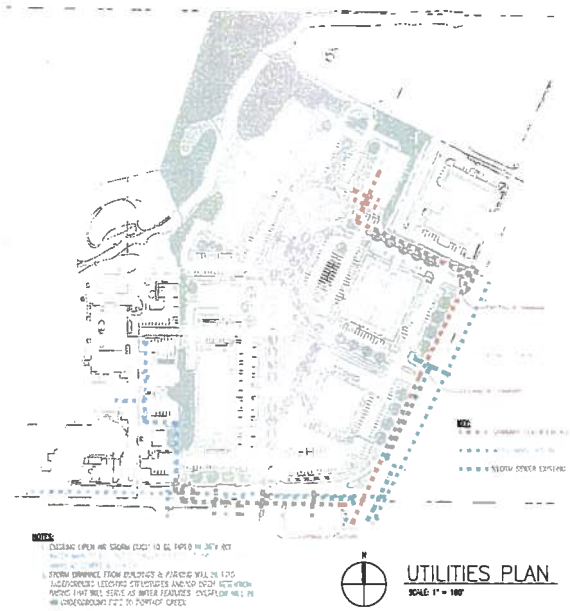
DRAWN HCR
CHECKED
APPROVED

PROJECT NO.
05159

SHEET NO.
AS.1

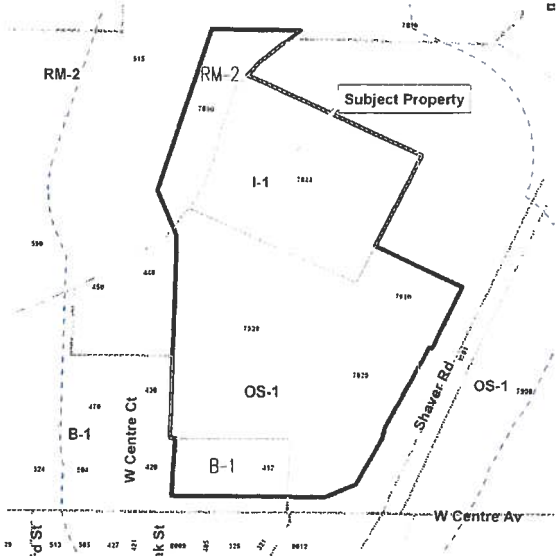


PHASING PLAN
SCALE: 1" = 100'



UTILITIES PLAN
SCALE: 1" = 100'

AERIAL VIEW
NO SCALE



EXISTING ZONING PLAN
NO SCALE

TMP ARCHITECTURE

TMP ASSOCIATES INC
470 WEST CENTRE AVENUE
PORTAGE - MICHIGAN - 49004
PH - 269.337.8097 FX - 269.337.8090
EM - INFO@TMP-ARCHITECTURE.COM

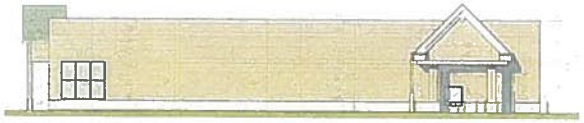
PROJECT TITLE
PORTAGE CREEK LANDINGS CITY CENTRE

SHEET TITLE
Site Plans
- Phasing
- Utilities
- Zoning
- Aerial Photo

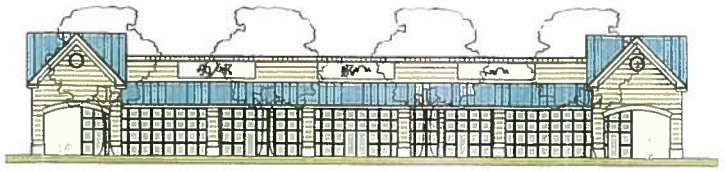
01-13-'08
DATE: ISSUED FOR:
DRAWN NCR
CHECKED
APPROVED

PROJECT NO.
05159

SHEET NO.
AS.3

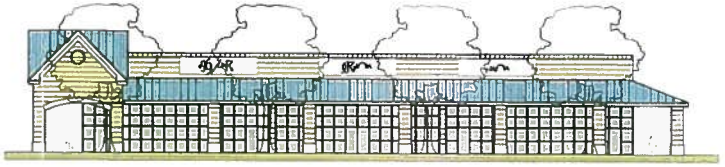


NORTH ELEVATION
SCALE: 1/16" = 1'-0"



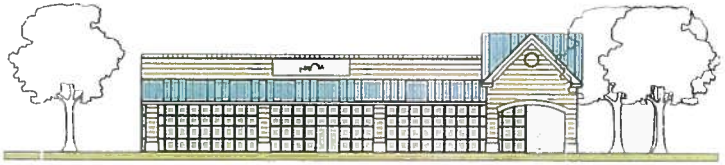
BUILDING #3 ELEVATION (TYP.)
SCALE: 1/16" = 1'-0"

EAST ELEVATION
SCALE: 1/16" = 1'-0"

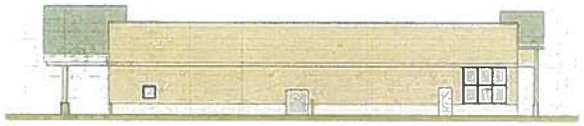


BUILDING #3 ELEVATION (ALT.)
SCALE: 1/16" = 1'-0"

SOUTH ELEVATION
SCALE: 1/16" = 1'-0"



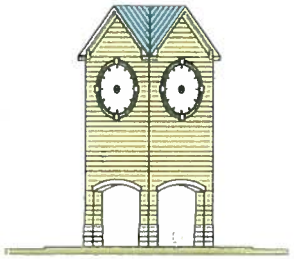
BUILDING #4 SOUTH ELEVATION
SCALE: 1/16" = 1'-0"



WEST ELEVATION
SCALE: 1/16" = 1'-0"

ENTRANCE ELEVATION
SCALE: 1/16" = 1'-0"

SIGN ELEVATIONS
SCALE: 1/16" = 1'-0"



CLOCK TOWER ELEVATION (TYP).
SCALE: 1/16" = 1'-0"

TMP ARCHITECTURE

TMP ASSOCIATES INC
470 WEST CENTRE AVENUE
PORTAGE · MICHIGAN · 49024
PH · 269.327.0817 FX · 269.327.3098
EM · INFO@TMP-ARCHITECTURE.COM

PROJECT TITLE
PORTAGE CREEK LANDINGS CITY CENTRE

SHEET TITLE
Exterior Elevations

DATE	ISSUED FOR:
01-13-06	

DRAWN MCR
CHECKED
APPROVED

PROJECT NO.
05159

SHEET NO.
AS.4

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 11, 2012

FROM: James R. Hudson, City Clerk

SUBJECT: Council of Governments By-laws Approval

ACTION RECOMMENDED: That City Council direct the Portage Council of Governments Representatives to approve the revised By-Laws to COG as presented/amended.

City Council received the communication from Mayor Pro Tem Reid at the August 28, 2012 Regular City Council Meeting regarding the new By-laws proposed by the Council of Governments (COG), a Draft revision of the By-laws of COG and a summary of the changes. As COG has evolved into an organization for sharing information across the greater community in order to respond to the increased emphasis on open dialogue and the study of issues related to intergovernmental cooperation and the sharing of best practices across Kalamazoo County, COG finds itself out of alignment with the original By-laws. Mayor Pro Tem Reid also disclosed that the anticipated dues will be in the range of $50.00.

Since Portage is one of ten municipalities on record as a signatory to the current By-laws of COG and only members can approve the revision of the By-laws, direction to the Portage Council of Governments Representatives is needed at this time. Mayor Pro Tem Reid recommended that City Council provide direction to her as the Portage Representative and Mayor Strazdas as the Alternate Representative to approve the By-laws as presented at the August 28, 2012 Regular City Council Meeting for consideration at the COG Meeting, Wednesday, September 12, 2012.

c Maurice S. Evans, City Manager

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 5, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Spring Cleanup Vendor – Recommendation

ACTION RECOMMENDED: That City Council award a three-year contract to Waste Management of Michigan, Incorporated, to provide the annual Spring Cleanup service in the amount of $134,000 for Fiscal Year 2012-2013, $138,000 for Fiscal Year 2013-2014 and $142,000 for Fiscal Year 2014-2015 with the option to renew the contract for up to three years and authorize the City Manager to execute all documents related to the contract and subsequent renewals on behalf of the city.

The Spring Cleanup service is funded by the Leaf Pickup/Spring Cleanup millage approved by Portage voters in 1997. The current Spring Cleanup contract with Waste Management of Michigan, Incorporated expired at the conclusion of Fiscal Year 2011-2012. As a result, bids were received on August 23, 2012 for conduct of the annual Spring Cleanup program. Although there may be several companies in the area capable to provide this service, only Waste Management of Michigan, Incorporated provided a bid proposal. Waste Management has performed the Portage Spring Cleanup program over the past 12 years, providing excellent service for the community. Waste Management has the equipment and personnel for timely completion of the project zones and is alert to potential issues that may be associated with conduct of the program.

It is recommended that City Council award a three-year contract to Waste Management of Michigan, Incorporated for Spring Cleanup services in the amount of $134,000 for Fiscal Year 2012-13, $138,000 for Fiscal Year 2013-2014 and $142,000 for Fiscal Year 2014-2015 with the option to renew the contract for up to three years and authorize the City Manager to execute all documents related to the contract and subsequent renewals. Funds are budgeted and available for the first year of this three-year contract and will be budgeted for each subsequent year.

TABULATION OF PROPOSALS
SPRING CLEANUP PROGRAM

Season	Waste Management of Michigan, Inc. 48797 Alpha Drive, Ste. 100 Wixom, MI 48393
Spring 2013	$134,000.00
Spring 2014	$138,000.00
Spring 2015	$142,000.00
Three-Year Total	$414,000.00

Proposals Opened 8/23/2012

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 5, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Two-Way Radio Communication Upgrade Recommendation

ACTION RECOMMENDED: That City Council authorize the purchase of 70 radios, accessories, tower and repeater service from State Systems Radio at a total cost of $73,975 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.

The fiscal year 2012-2013 Capital Improvement Program (CIP) identifies the need to upgrade the current Department of Parks, Recreation and Public Services mobile and base radio station system due to a new Federal Communications Commission (FCC) mandate.

The current two-way radio communication system is an analog, broad band system which is over thirty years old. The upgrade to a new system will provide a digital, narrow band system offering the latest technology to meet the FCC mandate that states "on or before January 1, 2013, all existing licensees will need to have equipment designed to operate on channel bandwidths of 12.5kHz or less or that meets a specific efficiency standard." The new system proposed for the city would support such vital features as radio push-to-talk identification, emergency signaling, data transmission and remote radio monitoring. The new system will also support such enhancements as digital technology, global positioning (GPS), Automatic Vehicle Location (AVL), multi-channel operation and messaging services.

State Systems Radio of Portage, Michigan is an authorized vendor through the Michigan Delivering Extended Agreements Locally (MiDEAL) purchasing program. State Systems Radio has provided a plan that includes the purchase and installation of 70 radios and accessories, a three-year tower and repeater service and a three-year no charge warranty and repair service at a total cost of $73,975. As State Systems Radio also provides service to the Public Safety Department, the proposed system for the Parks, Recreation and Public Services Department will interface with Public Safety.

It is recommended that City Council approve the two-way radio communications system upgrade from State Systems Radio in the amount of $73,975 and authorize the City Manager to execute all documents related to this purchase on behalf of the city. Funds for this upgrade are available in the CIP budget.

CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 6, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: South 12th Street Lift Station Renovations

ACTION RECOMMENDED: That City Council award an engineering services contract for the South 12th Street Lift Station Renovations to Abonmarche, Incorporated, with the low cost proposal in the not to exceed amount of $33,100 and authorize the City Manager to execute all documents related to the contract on behalf of the city.

The 2012-2013 Capital Improvement Program includes funds for the renovation and upgrading of the South 12th Street Lift Station. The project includes replacement of control panels, pumps, wet wells, additional site landscaping and a preemptive investigation of deficiencies that may exist in other sanitary sewer lift stations.

Consultant proposals for engineering design and inspection services needed to implement the project were received from nine private consultants. After carefully reviewing the proposals submitted, it was determined that the low cost proposal from Abonmarche best met project requirements. Abonmarche and their staff have completed several similar projects and lift station designs for the city and have performed very successfully. If awarded, design will be completed in order to begin construction in the spring of 2013.

Sufficient funds are available to cover the cost of the engineering services contract. It is recommended that City Council accept the proposal submitted by Abonmarche to provide complete engineering services for the South 12th Street Lift Station Renovations at a total cost not to exceed $33,100 and authorize the City Manager to execute all documents related to the contract. A complete tabulation of proposals is attached for the information of City Council.

Attachment

TABULATION OF PROPOSALS
SOUTH 12TH STREET LIFT STATION RENOVATIONS

BIDDER	ESTIMATED HOURS	BID	PRORATED HOURLY COST
Abonmarche Consultants, Inc. 95 West Main Street Benton Harbor, MI 49022	622	$33,100.00	$53.22
Kingscott Associates, Inc. 229 East Michigan Ave., Suite 335 Kalamazoo, MI 49007	767	$33,680.00	$43.91
Prein & Newhof 3355 Evergreen Dr. NE Grand Rapids, MI 49525	384	$34,000.00	$88.54
Jones & Henry Engineers, LTD. 4791 Campus Drive Kalamazoo, MI 49008	528	$35,085.00	$66.45
Wightman & Associates, Inc. 9835 Portage Road Portage, MI 49002	570	$36,500.00	$64.04
Williams & Works, Inc. 549 Ottawa Ave. NW Grand Rapids, MI 49503	669	$49,885.00	$74.57
AECOM 5555 Glenwood Hills Pkwy SE, #300 Grand Rapids, MI 49512	593	$67,900.00	$114.50
DLZ Michigan, Inc 535 S. Burdick St Ste. #160 Kalamazoo, MI 49007	910	$77,938.69	$85.65
Hubbell, Roth & Clark, INC 801 Broadway Ave. NW Grand Rapids, MI 49504	1097	$113,900.00	$103.83

CITY OF PORTAGE
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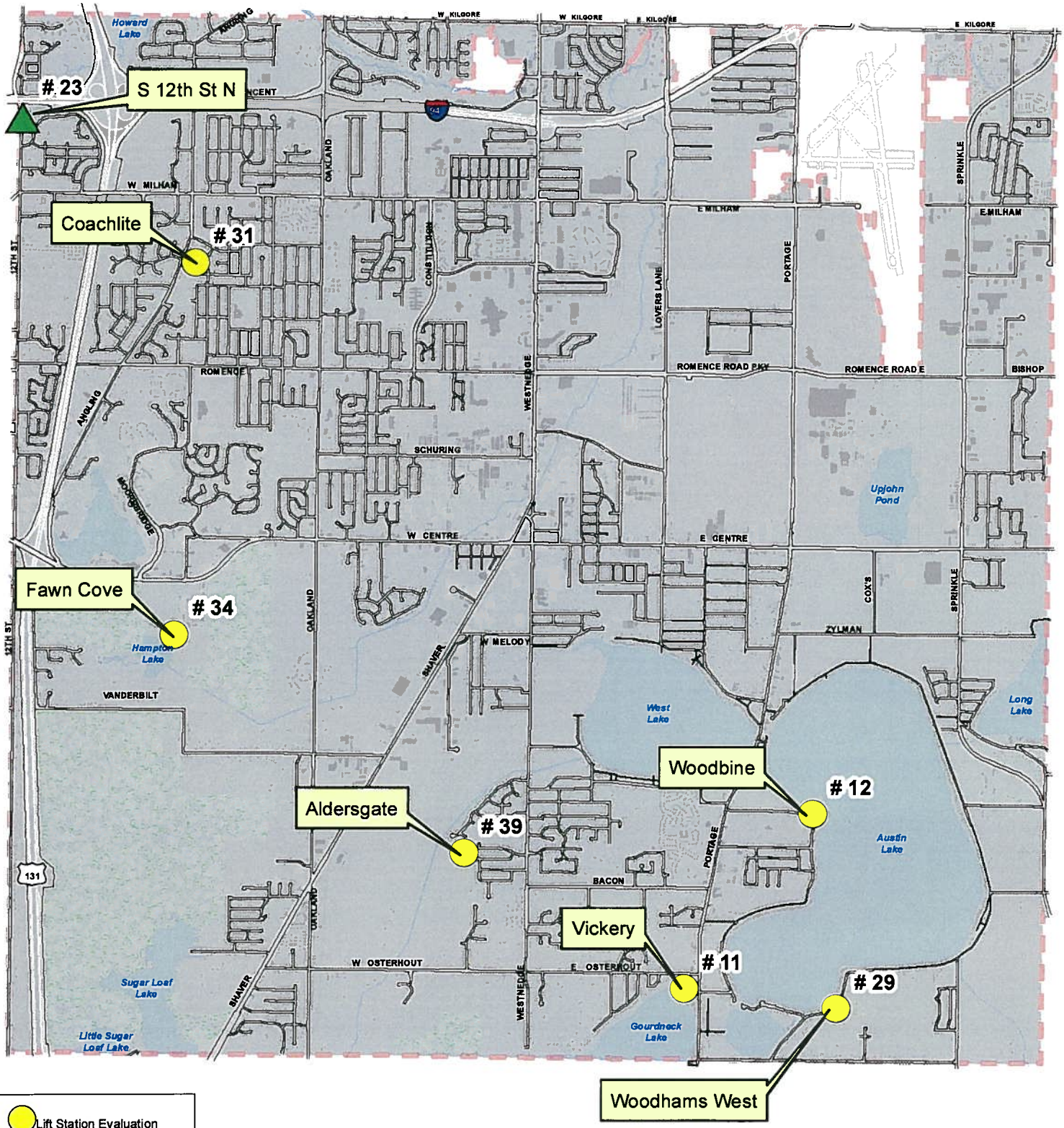
Lift Station Rehabilitation & Evaluation
Project Location Map

Date: 9/4/2012



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CITY OF PORTAGE **COMMUNICATION**

TO: Honorable Mayor and City Council **DATE:** September 5, 2012

FROM: Maurice S. Evans, City Manager

SUBJECT: Central Cemetery Asphalt Drive Resurfacing – Recommendation

ACTION RECOMMENDED: That City Council award a contract to A-1 Asphalt of Wayland, Michigan for Central Cemetery asphalt drive resurfacing in the amount of $26,412.21 and authorize the City Manager to execute all documents related to this agreement on behalf of the city.

The 2012-2013 Capital Improvement Program includes funding to resurface the asphalt drives in Central Cemetery. The cemetery drives are severely cracked with potholes developing in many areas. Resurfacing these drives is necessary to ensure safe access for families and visitors, as well as to maintain the quality appearance desired for city cemeteries. The total length of drive scheduled for resurfacing is approximately 2,000 feet.

Sealed bids were requested for this drive resurfacing project with five vendors responding. The low bid in the amount of $26,412.21 was submitted by A-1 Asphalt of Wayland, Michigan.

It is recommended that City Council award a contract to A-1 Asphalt for Central Cemetery asphalt drive resurfacing in the amount of $26,412.21 and authorize the City Manager to execute all documents related to this agreement on behalf of the city. Funds are budgeted and available for this project in the Fiscal Year 2012-2013 Capital Improvement Program budget. A bid tabulation is attached for City Council information.

Attachment

BID TABULATION
CENTRAL CEMETERY ASPHALT OVERLAY

BIDDER	BID
A-1 Asphalt 4634 Division Wayland, MI 48348	$26,412.21
Wyoming Asphalt 470 N. 12th St. Plainwell, MI 49080	$27,403.71
J. Allen & Company, Inc. 8288 E. Michigan Ave. Galesburg, MI 49053	$28,825.00
Rieth Riley Construction Co. 911 Hatfield Ave. Kalamazoo, MI 49001	$28,990.00
Asphalt Solutions Plus PO Box 151 Marshall, MI 49068	$29,932.50

Bids Opened 8/30/2013

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MATERIALS TRANSMITTED

Friday, August 24, 2012

1. Communication from the City Manager regarding the Angling Road Tree Replacement - Agenda Item L. 2.

2. Communication from the City Manager regarding the revised and final version of the *City Council Best Practices on Formation of City Council Committees and Responsibilities* – Information Only.

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

7900 South Westnedge Avenue ▪ Portage, Michigan 49002 ▪ (269) 329-4400
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MATERIALS TRANSMITTED

Tuesday, August 28, 2012

1. **To Be Added to the August 28, 2012 City Council Agenda as Item G.2:** Communication from Mayor Pro Tem Claudette Reid regarding revisions to the Council of Government Bylaws.

2. **To Be Added to the August 28, 2012 City Council Agenda as Item H.1(a):** Withdrawal communication from The Lockwood Companies Direct Asset Management Representative Robert J. Salomon dated August 27, 2012, to Community Development Director Vicki Georgeau.

3. Communication from the City Council City-School Committee regarding the Joint Portage Marketing Efforts Update "We Get It!" – Information Only.

Maurice S. Evans

Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager

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