CITY OF PORTAGE PLANNING COMMISSION

FINAL AGENDA

April 16, 2020
(7:00 p.m.)

Portage City Hall Council Chambers

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES:

March 19, 2020

SITE/FINAL PLANS:

1. Final Plan for Streamsong Condominiums (Phase 2), 715 West Osterhout Avenue

PUBLIC HEARINGS:

* 1. Special Land Use Permit (Group Child Care Home), 9837 Pine View Drive
   2. Special Land Use Permit (Rustic Axe Throwing Outpost), 618 Romence Road
   * 3. Adult-Use Marihuana Zoning Ordinance

NEW BUSINESS:

OLD BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

Star (*) indicates printed material within the agenda packet.
To the Planning Commission:

In response to your letter about the property at 9837 Pinewoods Drive and as the person living directly behind said property, I am very strongly against the said property becoming a business in stead of a single family dwelling. This area is not a business area. It has also been said years ago that the shed on her property is partly on Sterling Oaks property. I hope the Commission will take all the single property owners view on this matter and keep it as single family only and not a business.

Thank you,

Nanette Corstanpe
9880 Fort Myers PKWY
Fort Myers, FL 33902
Department of Community Development

Please see the attached letter to the commission regarding the change of land use for 9837 Pine View Dr to a day care facility.

Thank you for your time. Please feel free to contact me if you have any questions.

Wallace Corder
9825 Ft. Myers Pky
Portage Mi
wccorder@hotmail.com
Portage Planning Commission
Department of Community Development
7900 South Westnedge Avenue
Portage, Michigan, 49002

April 9, 2020

Good Morning; my name is Wallace Corder and I am a concerned resident and board member of the Sterling Oaks South (SOS) Condominium Association. I am writing the commission regarding the proposed change of the land use permit at 9837 Pine View Dr. Portage, Mi. I have a few questions and concerns regarding this change, as the property backs up to SOS property.

1. Has Ms. Franklin obtained the license for a child care facility? I see she has already begun placing a play area prior to the approval of the change in zoning.
2. Will Ms. Franklin be putting up a privacy fence? As of now there is no fence separating the two properties. Without a fence I’m afraid the children could run and possible be injured by running into the street or falling into egress windows wells around the condos.
3. Regarding the property line, there is a question where the property line is. Several years ago some members of the SOS board discovered the existing shed on Ms. Franklin property was partially of SOS common area. Unfortunately at that time there was no follow up. Now with the possible change in zoning I would thing Ms. Franklin should have a property survey done to know where the boundary is. If she places a fence or play area on SOS common area this is an additional concern.

Thank you for your time.
Wallace Corder
9825 Fort Myers Pky
Portage, Mi. 49002
We reside at 1494 Cape Coral Way and received notification of the special land use request. We are concerned about the impact this will have on neighboring properties, and request that a privacy fence be installed as a condition of approval.

We have also been informed by Sterling Oaks residents that the existing shed on the Pine View property extends beyond the property line onto Sterling Oaks land. We request that the Pine View owner also provide a land survey to ensure that the requested privacy fence is located on her property.

Thank you for your consideration,

James and Diane Rikers
269-599-6328
I do not think this should be approved for a day care facility for 12 children. The amount of traffic would be greatly increased and property values would decrease. The said property does not have a fenced in yard and there would be non stop cars parked on the street. We already get a tremendous amount of traffic from the neighborhood behind us cutting through. The senior condo complex butts up to the said back yard and that alone would be a problem for them. Please vote to deny the request.
My husband, Leo Diewald, and I, Janet Diewald, live behind the proposed area. We are in a 55+ area. While we do have families behind us they consist of two or three children and their parents. Occasionally they are somewhat noisy but as parents ourselves we understand. Also, on occasion we will find a ball or toy in our backyard and return it. We have a good relationship with all our neighbors. However, we feel that a dozen children behind our area would create excessive noise, toys all over our area and many other neighborhood issues. Therefore, we are opposed to this permit. Sincerely, Leo and Janet Diewald

9890 Fort Myers Pkwy.

Portage, MI 49002
CAUTION: THIS EMAIL IS FROM AN EXTERNAL SENDER Do not click on links or open attachments unless this is from a sender you know and trust.

In response to the letter received I (as the property owner directly behind said address). I would like to say that I am very much opposed to such a change. This is a single family area and I would hate to see it change. We all moved here to this community knowing that. It is what we wanted. I do not feel it is fair to the rest of us. Thank you for your time and attention. My name is Nanette Corstange and I live at 9880 Fort Myers pky.

directly behind 9837 Pine View Drive
CAUTION: THIS EMAIL IS FROM AN EXTERNAL SENDER Do not click on links or open attachments unless this is from a sender you know and trust.

In response I forgot to mention that we all feel it would decrease our property value as well. Thank you. Nanette Corstange. 9880 Fort Myers Pkwy, Portage Mi
AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 4, ZONING, DIVISION 4,
ZONING DISTRICTS AND REGULATIONS, SUBDIVISION 6, BUSINESS DISTRICTS,
SUBDIVISION 7, INDUSTRIAL DISTRICTS OF CHAPTER 42, LAND DEVELOPMENT
REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Land Development Regulations, Article 4, Zoning, shall be
amended as follows:

ARTICLE 4. Zoning, Subdivision 6, Business Districts shall be amended to add
Section 16 as follows:

Sec. 42-262. - B-3 general business district.

B. Principal permitted uses: In a B-3 general business district, no building or land shall be used,
and no building shall be erected, except for one or more of the following specified uses,
unless otherwise provided in this article:

16. The following marihuana businesses: Medical marihuana provisioning center as
defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.
(Medical Facilities Act) and marihuana retailer as defined by the Michigan Regulation
and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. A medical marihuana provisioning center or marihuana retailer shall not be
located:

i. Adjacent to or abutting a residential zoning district; and
ii. Within 1,000 feet from the real property, located either in the City of Portage or
an adjacent municipality, comprising a public or private elementary, charter
vocational or secondary school or a public or private college, junior college or
university, a public library, child day care center, a substance abuse treatment
facility, a park or a playground, public or private youth center, public swimming
pool, video arcade facility, recreational facility, religious institution or housing
facility owned by a public housing authority; and
iii. Within 1,000 feet of any other medical marihuana provisioning center or
marihuana retailer located within the city.

b. Determination of whether a proposed medical marihuana provisioning center or
marihuana retailer will be located consistent with the provisions of subsection a.
above will be made as follows:

i. Whether a proposed medical marihuana provisioning center or marihuana
retailer will be adjacent to or abutting a residential district will be determined by
the location of the boundary lines for the zoning lot to be occupied by the
medical marihuana provisioning center or marihuana retailer as those lines
existed on December 31, 2017 as shown on the assessment rolls for records of
the City of Portage in existence on that date.

ii. Measurements for purposes of subsections 42-262 (B)-16(a)(ii) and (iii).
above shall be made from the boundary of the zoning lot to be occupied by the
medical marijuana provisioning center or marijuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262 B.-(16)-(a) ii, or to the nearest point of the zoning lot occupied by another medical marijuana provisioning center or marijuana retailer using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

**c.** Buildings or structures for the distribution, and sale of medical marijuana and medical marijuana infused products by a medical marijuana provisioning center or marijuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marijuana facilities provisioning centers and marijuana retailers shall not be located within greenhouses and similar buildings.

**d.** No drive-through facilities are permitted for provisioning center facilities. All medical marijuana provisioning centers and marijuana retailers must be at a fixed location. Mobile medical marijuana provisioning centers and marijuana retailers, and drive through operations for medical marijuana provisioning centers and marijuana retailers are prohibited. Sale or transfer of marijuana products by internet or mail order, consignment, or at wholesale by a medical marijuana provisioning center or marijuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marijuana products as may be permitted by law.

**e.** No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana provisioning center or marijuana retailer.

**f.** The activities and operations of the a medical marihuana provisioning center or marijuana retailer shall be indoors within a building and out of public view.

**g.** No more than one medical marihuana facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility shall be allowed in a multi-tenant building. A medical marihuana provisioning center and a marihuana retailer may be located in a B-3 zone at the same location consistent with the Adult-use Act and rules. The medical marihuana provisioning center or marihuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each marihuana business. If a medical marihuana facility provisioning center or marihuana retailer is located in a multi-tenant building with any other activity or business, the medical marihuana provisioning center or marihuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility provisioning center or marihuana retailer.

**h.** The business and operations of all marihuana facilities, medical marihuana provisioning centers and marihuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
i. This amendment to chapter 42 to add section 42-262.[B][16] to-off article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to is amended to allow marihuana establishments in the city pursuant to the Adult-use Act, add article 12, "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 21 and 22 to Section 42-280, I-1 Light Industrial District, as follows:

Sec. 42-280. - I-1 Light Industrial District.

B. Principal permitted uses: In an I-1 light industrial district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

21. The following marihuana businesses: Medical marihuana class A, B, and C grower facilities, stacked class C grow facilities, and medical marihuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A, B, and C grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).

a. All marihuana businesses permitted by this section. The grower or processing facility shall not be located:

i. Adjacent to or abutting a residential zoning district; and

ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and

iii. Within 1,000 feet of any other medical marihuana grower or processor facility business permitted by this section located within the city or section 42-281(7).

b. Determination of whether a proposed grower or processor facility marihuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

i. Whether a proposed grower or processor facility marihuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical-marihuana-grower-or-processor-facility-marihuana-business as those lines existed on December 31, 2017 as shown on the assessment rolls records for the the city in existence on that date.

ii. Measurements for purposes of subsections 42-280 (B)(21)(a)(ii) and (iii). above shall be made from the boundary of the zoning lot to be occupied by the
a medical-marijuana grower or processor facility, marihuana business permitted by this section, to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)-(21)-(a)(ii), or to the nearest point of the zoning lot occupied by another grower or processor-marihuana business permitted by this section or section 42-281(7) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures for the growing, production, processing, distribution, or sale of medical-marijuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical-marijuana facilities shall not be located within greenhouses and similar buildings.

d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive-through facilities are permitted for medical-marijuana facilities.

e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical-marijuana facility/business permitted by this section.

f. Medical-marijuana grow and processor facilities. Marihuana businesses permitted by this section shall conduct the activities of the marihuana facility/business, including, without limitation, the cultivating, growing, processing, manufacturing, storage or sale and distribution of marihuana and marihuana-infused products, and all materials used in connection with the cultivating, growing, and processing and distribution of marihuana and marihuana-infused products, indoors and out of public view, except medical-marijuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.

g. Medical-marijuana grow facilities, marihuana grow establishments, medical-marijuana processor facilities, marihuana processor establishments, medical provisioning centers, and marihuana retailers may be located as separate businesses at the same location in any combination, except that a medical-marijuana provisioning center and marihuana retailer are only allowed in this district if combined with a medical-marijuana grow facility, marihuana grow establishment, medical-marijuana processor facility, marihuana processor establishment, or a combination thereof. Each marihuana business that is located in the same location shall be partitioned from any other marihuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marihuana business. No more than one marihuana microbusiness medical-marijuana facility shall be allowed on a single zoning lot or at the same location as another marihuana business permitted by this section, (a stacked license as defined in section 14-246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical-marijuana facility
business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical marihuana facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marihuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana business facility.

h. The business and operations of all marihuana facilities businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

i. This amendment to add section 42-280.B.(21) to of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act. “Medical-Marihuana Facilities.”

22. The following marihuana businesses: Medical marihuana secure transporter and medical marihuana safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. The facility site A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:

i. Adjacent to or abutting a residential zoning district; and

ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and

b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:

i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

ii. Measurements for purposes of subsections 42-280.B.(22).a.(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-280.B.(22).a.(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the City of Portage in existence on that date.
iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

d. All medical marihuana and marihuana secure transporters and safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marihuana products as may be permitted by law. No drive through facilities are permitted for medical-marihuana facilities.

e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana or marihuana secure transporter or safety compliance facility.

f. No more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana facility or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility or marihuana secure transporter or safety compliance facility.

g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

h. This amendment to add section 42-280 (B)(22) to of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act, "Medical Marihuana Facilities."

ARTICLE 4. Zoning, Subdivision 7, Industrial Districts, shall be amended to add subsections 7 and 8 to Section 42-281, I-2 Heavy Industrial District, as follows:

Sec. 42-281. - I-2 Heavy Industrial District.

B. Principal permitted uses: In an I-2 heavy industrial district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

7. The following marihuana businesses: Medical marihuana class A, B, and C growers facilities, medical marihuana stacked class C grow facilities, and medical marihuana processors facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana class A.
B. and C. grow establishments, marihuana processor establishments, and marihuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act). A medical marihuana provisioning center and marihuana retailer may also be permitted in this district if combined with a medical marihuana grow facility, marihuana grow establishment, medical marihuana processor facility, marihuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).

a. The facility All marihuana businesses permitted by this section shall not be located:
   i. Adjacent to or abutting a residential zoning district; and
   ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
   iii. Within 1,000 feet of any other medical marihuana or marihuana grower—or processor—facility—business permitted by this section or section 42-281(21) located within the city.

b. Determination of whether a proposed medical marihuana or marihuana grower—or processor—facility—business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
   i. Whether a proposed medical marihuana or marihuana grower—or processor—facility—business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana grower—or processor—facility—business as those lines existed on December 31, 2017 or shown on the assessment rolls for records of the city in existence on that date.
   ii. Measurements for purposes of subsections 42-281 (B)(7)(a)(ii) and (iii)—above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana grower—or processor—facility—business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another medical marihuana or marihuana grower—or processor—business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.
   iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures for the growing, production, or processing, distribution or sale of medical marihuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

d. All marihuana businesses permitted by this section must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of
marijuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of marijuana products as may be permitted by law. No drive-through facilities are permitted for medical marijuana facilities.

e. No marijuana or marijuana-infused products may be used or consumed on the premises of a medical marijuana facility permitted by this section.

f. Medical marijuana grow and processing facilities permitted by this section shall conduct the activities of the facility, including, without limitation, the cultivating, growing, processing, manufacturing, or storage, sale or distribution of marijuana and marijuana-infused products, and all materials used in connection with the cultivating, growing, and processing and sale or distribution of marijuana and marijuana-infused products, indoors and out of public view, except medical marijuana grow facilities and marijuana grow establishments may grow or cultivate marijuana outdoors consistent with the Medical Facilities Act and rules or the Adult-use Act and rules.

g. Medical marijuana grow facilities, marijuana grow establishments, medical marijuana processor facilities, marijuana processor establishments, medical provisioning centers, and marijuana retailers may be located as separate businesses at the same location in any combination, except that a medical marijuana provisioning center and marijuana retailer are only permitted in this district if combined with a medical marijuana grow facility, marijuana grow establishment, medical marijuana processor facility, marijuana processor establishment, or a combination thereof. Each marijuana business that is located in the same location shall be partitioned from any other marijuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the marijuana business. No more than one medical marijuana microbusiness facility shall be allowed on a single zoning lot or at the same location as another marijuana business allowed by this section, (a stacked license as defined in section 14.246 of this Code shall not be considered a separate facility for the purposes of this section), and no more than one medical marijuana facility business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a medical marijuana facility business permitted by this section is located in a multi-tenant building with any other activity or business, the medical marijuana facility business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marijuana facility business.

h. The business and operations of all medical marijuana facilities—businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

i. This amendment to add section 42-281.4(B)(7) to of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 is amended to add article 12, is amended to allow marijuana establishments under the Adult-use Act. "Medical Marijuana Facilities."
8. **The following marihuana businesses:** Medical marihuana secure transporter and safety compliance facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and marihuana secure transporter and marihuana safety compliance establishments as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-use Act).

a. A medical marihuana or marihuana secure transporter or safety compliance facility shall not be located:
   
   i. Adjacent to or abutting a residential zoning district; and
   
   ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority;

b. Determination of whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be located consistent with the provisions of subsection a. above will be made as follows:

   i. Whether a proposed medical marihuana or marihuana secure transporter or safety compliance facility will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility as those lines existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

   ii. Measurements for purposes of subsections 42-281 (B)(4)(a)(ii) above shall be made from the boundary of the zoning lot to be occupied by the medical marihuana or marihuana secure transporter or safety compliance facility to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(4)(a)(ii) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines for those zoning lots as they existed on December 31, 2017 as shown on the assessment rolls for records of the city in existence on that date.

   iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures in connection with the transport and storage of medical marihuana and medical marihuana—infused products or for safety compliance facilities shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical marihuana facilities shall not be located within greenhouses and similar buildings.

d. **All medical marihuana or marihuana secured transporters or safety compliance facilities must be at a fixed location. Mobile facilities and drive through operations are prohibited. Sale or transfer of marihuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of marihuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-use Act, nor to prohibit home delivery of**
marihuana products as may be permitted by law. No drive-through facilities are permitted for medical marihuana facilities.

e. No marihuana or marihuana-infused products may be used or consumed on the premises of a medical marihuana secure transporter or safety compliance facility.

f. No more than one medical marihuana facility or marihuana secure transporter or safety compliance facility shall be allowed on a single zoning lot or at the same location, and no more than one medical marihuana facility or marihuana secure transporter or safety compliance facility shall be allowed in a multi-tenant building. If a medical marihuana facility or marihuana secure transporter or safety compliance facility is located in a multi-tenant building with any other activity or business, the medical marihuana facility or marihuana secure transporter or safety compliance facility shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical marihuana facility or marihuana secure transporter or safety compliance facility.

g. The business and operations of all medical marihuana and marihuana secure transporter and safety compliance facilities shall comply at all times with applicable state law and regulations, and this Code of Ordinances.

h. This amendment to add section 42-281.1(B)(8) to-of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 is amended to add article 12, is amended to allow marihuana establishments under the Adult-use Act, "Medical-Marihuana-Facilities."

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

Patricia M. Randall

CERTIFICATION

STATE OF MICHIGAN )
COUNTY OF KALAMAZOO )SS

I, Erica Eklov, 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 _____________________, 2020.

Erica Eklov, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 E. Centre Ave.
Portage, MI 49002

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April 13, 2020

Dear Members of City of Portage Planning Commission:

This letter is in response to the April 2, 2020 notification of proposed changes to the 2004 conceptual plan approved for 1150, 950 and 850 Trade Centre Way, specifically an amendment to allow for the development of a hotel building at 850 Trade Centre Way.

Nine years ago, prior to purchasing our home at 5265 Bronson Blvd., we performed our due diligence by visiting City Hall to review the conceptual plan for the Trade Centre Development, to determine where future development would take place because our property backs up to Portage Creek directly behind the existing Trade Center offices. We noted that the location for future office buildings, hotels, and restaurants on the property were all to the east of 950 & 750 Trade Centre Way.

We were surprised to receive this notice of a proposed amendment to the conceptual plan, as this hotel will be directly in our sight line from all windows at the back of our home, which look out onto Portage Creek. Although our lot extends straight toward 950 Trade Centre, our home, which is on a cul-de-sac at the end of Bronson Blvd., is directly oriented toward the proposed 850 Trade Centre property. Our view to 850 is obscured when there are leaves on the trees five months of the year, however the remainder of the year we will look directly at a high-density-use 4-story building rather than the long view toward I-94 and Portage Northern High School. From our perch on the hill overlooking the Trade Centre buildings, that is quite a profound change.

Greg Dobson of AVB reached out to us last week to answer the questions we had, as well as to listen to any of our concerns. Those concerns included the fragile nature of the wetlands at this specific location and Portage Creek, which runs through it. It was important for us to confirm to what extent this creek-side development will impact the habitat. Additionally, in our experience, hotel properties tend to degrade over time and more attention is given to the side that the general public views rather than what neighbors see from the back.

After meeting with Greg, we are satisfied that attention has been paid to the environmental impact this proposed building will have on the wetlands and Portage Creek. While we are cognizant that we do not ‘own’ the view that we have enjoyed over the years, Greg has assured us that the structure’s façade has been designed to be as unobtrusive as possible from the rear. Going forward, Greg confirmed that AVB is willing to consider reasonable remedies with regard to screening if necessary.

We appreciate that Greg was willing to facilitate a dialogue to address our concerns. From our vantage point across the creek, 750 & 950 Trade Centre have always been well maintained, and we have enjoyed observing the activities associated with those offices.

Sincerely,

Molly & Tony Ettwein
5265 Bronson Blvd
Portage, MI 49024
Ettwein@charter.net