

## **PLANNING COMMISSION**

**June 4, 2020**

The City of Portage Planning Commission meeting of June 4, 2020 was called to order by Chairman Corradini at 7:00 p.m. Pursuant to the "Remote Attendance Rules for Meetings" and Michigan Governor Whitmer's Executive Order 2020-21, this meeting was held remotely with Commissioners, staff, applicants and the general public participating via telephone call-in.

### **IN ATTENDANCE**

Christopher Forth, Interim Director; Michael West, Senior City Planner and Randy Brown, City Attorney.

### **ROLL CALL**

Mr. West called the roll: Meyer (yes); Pezzoli (yes); Baldwin (yes); Harrell-Page (yes); Schimmel (yes); Corradini (yes); Joshi (yes); Fries (yes); and Patterson (yes). All Commissioners present.

### **APPROVAL OF MINUTES**

Chairman Corradini referred the Commission to the May 7, 2020 meeting minutes contained in the agenda. A motion was made by Commissioner Baldwin, seconded by Commissioner Schimmel, to approve the minutes as submitted. Upon a roll call vote: Patterson (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes); Harrell-Page (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

### **PUBLIC HEARING**

1. Preliminary Condominium Subdivision: Pennridge Trail (Phase 2), 1800 West Osterhout Avenue. Mr. West summarized the staff report dated May 28, 2020 regarding a request by Westview Capital, LLC to construct Phase 2 of the Pennridge Trail Subdivision. Mr. West provided a brief history of the 2018 PD rezoning and tentative plan/narrative approval for the overall 46.54 acre property, along with the previous approval and acceptance of Phase 1 of the Pennridge Trail Subdivision. Mr. West indicated that Phase 2 of the Pennridge Trail Subdivision proposes 23 single family residential lots/units and construction of two new public streets (Schrier Lane and Alder Avenue). Mr. West discussed various aspects of the development including a previous modification approved by City Council regarding vehicular access and the number of lots on public cul-de-sac street, sidewalk installation and screening/buffering along West Osterhout Avenue and the Penn-Central Railroad tracks. Mr. West stated the preliminary condominium subdivision for Pennridge Trail (Phase 2) has been designed in substantial compliance with the approved tentative plan/narrative and was recommended for approval subject to the three conditions outlined in the May 28, 2020 Department of Community Development report.

Brian Wood of Westview Capital, LLC called-in to support the application. The public hearing was then convened by Chairman Corradini. No citizens called-in to speak regarding the preliminary condominium subdivision. A motion was then made by Commissioner Baldwin, seconded by Commissioner Fries, to close the public hearing. Upon a roll call vote: Myer (yes); Pezzoli (yes); Baldwin (yes); Harrell-Page (yes); Schimmel (yes); Corradini (yes); Joshi (yes); Fries (yes); and Patterson (yes), the motion was unanimously approved 9-0.

After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Harrell-Page, to recommend to City Council that the Preliminary Condominium Subdivision for Pennridge Trail (Phase 2), 1800 West Osterhout Avenue, be approved subject to the three conditions outlined in the May 28, 2020 Department of Community Development report. Upon a roll call vote: Schimmel (yes); Corradini (yes); Joshi (yes); Fries (yes); Patterson (yes); Harrell-Page (yes); Baldwin (yes); Pezzoli (yes); and Myer (yes), the motion was unanimously approved 9-0.

## **SITE/FINAL PLANS**

None.

## **NEW BUSINESS:**

1. Ordinance Amendment #19/20-C, Tree Preservation and Replacement Ordinance – Introduction. Mr. Forth summarized the staff report dated May 28, 2020 regarding a draft ordinance prepared by city staff and the Office of the City Attorney that would establish standards for the protection, preservation and conservation of existing natural wooded areas. Mr. Forth stated the goal of tonight’s meeting was to introduce the item and review the draft ordinance section-by-section to obtain Planning Commission preliminary comments prior to a more formal review during the public hearing. Mr. Forth discussed the flexibility contained within the draft ordinance to develop a reasonable approach and balance between reviewing/approving development projects and preserving “protected trees” throughout the city.

Mr. Forth next reviewed the various sections of the draft ordinance beginning with the *Purpose & Intent* and *Definitions* sections. Mr. Forth focused on a few of the specific definitions including “protected tree”, “Heritage Tree”, “building envelope” and “public infrastructure envelope”. Commissioner Patterson discussed the definition of “building envelope” and the allowance for trees to be removed within 15-feet from the building foundation without a permit. Commissioner Patterson indicated that 15-feet around the building does not provide sufficient room in order for contractors to maneuver large equipment and construction materials such as roof trusses. Commissioner Patterson also stated that a 15-foot clearance around the building also doesn’t provide any room to establish a yard, conduct site grading or to open up the tree canopy above the house to prevent mildew and mold formation on the roof and siding of the house. Mr. Forth indicated that 15-feet around the building could be modified up to 30-feet total (20-feet on one side/10-feet on the other side). Commissioner Fries asked what other cities were researched for development of the ordinance, how a 6-inch diameter tree was determined for protection, whether a driveway to a house will be subject to the ordinance provisions and whether an existing house where a tear-down and re-build was proposed would be subject to the ordinance requirements. Mr. Forth responded stating that several other community ordinances were reviewed and two ordinances in particular faced legal challenges and court decisions involving those ordinances were incorporated into proposed ordinance language. Mr. Forth stated a protected tree with a 6-inch diameter was a standard used in the majority of the other community ordinances, a few used a 4-inch diameter standard. Mr. Forth stated the draft ordinance allows for consideration of driveway and private utility locations that would allow for removal of protected trees, without a permit, where other practical alternatives were not available. Mr. Forth indicated that an existing parcel that was 2 acres or less with a building could remove trees without a permit. Commissioner Joshi asked what constituted a “Heritage Tree”? Mr. Forth responded and referred the Commission to the listing of trees and sizes in the later section of the draft ordinance.

Mr. Forth continued reviewing the draft ordinance discussing the *Jurisdiction, Fees, Tree Removal Permit & Standards of Review* sections with emphasis on the provisions that discuss when a tree removal permit is required, activities within and outside of a “building envelope” and “public infrastructure envelope”, and exceptions when a tree removal permit is not required. Commissioner Patterson asked what the fee would be for a tree removal permit? Mr. Forth indicated that was not specifically known at this time until a final ordinance was adopted and staff had a better understanding of the amount of time involved with the reviews. Commissioner Patterson asked about different development scenarios and what type of “tree survey” would be required. Mr. Forth indicated that nonresidential projects involving a site plan and a plat/site condominium project would require a tree survey prepared by a State of Michigan registered forester, arborist or landscape architect, while a single family home project would only be required to submit a scaled drawing with protected trees identified. Commissioner Patterson stated the draft ordinance would add a substantial cost to development projects, as well as time delays to go through the review process. Commissioner Patterson believes that additional input from the development community is needed before considering adoption of any ordinance. Commissioner Fries stated that he agrees with Commissioner Patterson’s comments and has had conversations with other builders who have

expressed concerns with the draft ordinance. Commissioner Fries also stated some of the listed Heritage Trees are not quality trees. Attorney Brown stated that although the ordinance was modeled after other Michigan ordinances, many modifications were made to the proposed ordinance to provide flexibility and reasonableness in its application.

Commissioner Fries discussed the *Exceptions* section of the draft ordinance asked why the parcels with two acre exemption only applied to those that contained a building? Commissioner Fries stated he did not believe there was a problem with excessive tree removal across the city and asked why the ordinance couldn't be limited to larger development where the perceived problem is occurring? Mr. Forth stated that trees add value to development projects and the overall community and the intent of the ordinance was to prevent unnecessary removal of protected trees through pre-planning and discussion between the developer/builder and the city. Commissioner Fries stated that he believes the ordinance should be focused on larger development projects and not smaller residential property owners. Commissioner Fries also stated that he was concerned about the added cost and time associated with the ordinance and that a public input forum was needed with local builders and developers before any recommendation should be provided by the Planning Commission. Mr. Forth stated the initial draft ordinance attempts to strike a balance with the needs and desires of the overall community.

Commissioner Patterson stated that every development site is unique and it's difficult to develop an ordinance that can address all the various development scenarios. Commissioner Patterson indicated that developers and builders usually need to cut trees outside of "envelopes" in order to address grade issues, storm water, balancing of site for utilities and to establish desired yard areas. Commissioner Patterson also expressed concerns about the cost of replacement trees or contributions to a Tree Fund. Attorney Brown stated the draft ordinance contains a lot of flexibility and consideration of specific site conditions to address various development scenarios. Commissioner Patterson agreed with Commissioner Fries regarding the need to obtain input from area builders and developers before moving forward. Commissioner Fries asked if city staff was open to delaying further discussion of the draft ordinance until an in-person forum (not virtual meeting) could be held at City Hall with the various stakeholders that would be impacted by the ordinance. Mr. Forth stated that the Commission needs to collectively discuss and agree upon a desired course of action for the draft ordinance.

Mr. Forth continued reviewing the remaining portions of the draft ordinance including the *Application for Tree Removal Permit, Application Review Procedure, Application Review Standards, Tree Relocation or Replacement, Prohibited Acts, Appeals and Violation* sections. Commissioners Fries and Patterson again expressed concerns about the ratio of tree replacement and the associated cost of replacement trees that could be extremely expensive or even cost prohibited for some development scenarios. Commissioner Joshi stated that this is a great initial conversation and thanked staff for all the hard work that went into researching and drafting the ordinance. Commissioner Joshi discussed the value that trees have on the overall environment and understands the need to balance the interest of all parties. Chairman Corradini also thanked staff for all the hard work that went into the draft ordinance, and also thanked Commissioners Fries and Patterson for their comments and perspective.

Chairman Corradini asked if there were any citizens that called-in and were holding to speak regarding the draft ordinance. Three citizens called-in to comments on the draft ordinance: 1) Pat Flanagan (Ingersoll, Watson & McMachen, 1209 East Centre Avenue, Portage, MI); 2) Shannon Orr (Meyer C. Weiner Company, 700 Mall Drive, Portage, MI) and 3) Jeff Tafel (7469 Jamaica Lane, Portage, MI). Mr. Flanagan stated the draft ordinance has many unreasonable requirements that will be very costly and time consuming for developers and builders, and he was opposed to such an ordinance. Ms. Orr also stated that she was opposed to the ordinance and agrees with the comments made by Commissioners Patterson and Fries, and Mr. Flanagan. Ms. Orr also recommended that the ordinance consideration be tabled to a future date to allow more input from the development community. Mr. Tafel stated that he was the CEO of the Home Builders Association and would appreciate the opportunity to further engage staff and the Planning Commission in discussions regarding the proposed ordinance.

After additional discussion, a motion was made by Commissioner Fries, seconded by Commissioner Patterson, to cancel the June 11, 2020 public hearing regarding Ordinance Amendment #19/20-C, Tree Preservation and Replacement Ordinance, and set a future public hearing to a date to be determined by the Planning Commission after a public input forum. Upon a roll call vote: Myer (yes); Pezzoli (yes); Baldwin (yes);

Joshi (yes); Corradini (yes); Patterson (yes); Fries (yes); Harrell-Page (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

2. Planning Commission – July Meeting Dates. Mr. West and the Commission discussed the July Planning Commission meeting schedule with meetings currently scheduled for July 2<sup>nd</sup> and July 16<sup>th</sup>. Given the 4<sup>th</sup> of July holiday, the Commission concurred the meetings should be changed to the second and fourth Thursdays of the month. A motion was then made by Commissioner Joshi, seconded by Commissioner Baldwin, to change the July Planning Commission meetings from July 2<sup>nd</sup> and July 16<sup>th</sup>, to July 9<sup>th</sup> and July 23<sup>rd</sup>. Upon a roll call vote: Myer (yes); Pezzoli (yes); Baldwin (yes); Joshi (yes); Corradini (yes); Patterson (yes); Fries (yes); Harrell-Page (yes); and Schimmel (yes), the motion was unanimously approved 9-0.

**OLD BUSINESS:**

None.

**STATEMENT OF CITIZENS/COMMISSIONERS**

Commissioner Fries thanked Chairman Corradini for his leadership with the Planning Commission and also thanked the other Commissioners for allowing him and Commissioner Patterson the time to speak and expressed their opinions regarding the proposed Tree Preservation and Replacement Ordinance.

Chairman Corradini thanked everyone for their participation and comments during the meeting. Chairman Corradini stated that he wasn't a fan of virtual meetings and was looking forward to getting back to more traditional face-to-face Planning Commission meetings.

Commissioner Joshi regretted the comments voiced during the meeting regarding the city attempting to rush the Tree Preservation and Mitigation Ordinance through the process. Commissioner Joshi stated that the Planning Commission will not rush the ordinance through the process and that public input is needed.

**ADJOURNMENT:**

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 9:30 p.m.

Respectfully submitted,



Michael West, AICP  
Senior City Planner