

## PLANNING COMMISSION

August 20, 2020

The City of Portage Planning Commission meeting of August 20, 2020 was called to order by Chairman Corradini at 7:00 p.m. Pursuant to Michigan Governor Whitmer's Executive Order, this meeting was held in-person with a maximum capacity of 10 persons in Council Chambers, along with the continued option for Commissioners, staff and the public to participate remotely via a phone-in option. Three Commissioners, five citizens and two staff members were present in Portage City Hall Council Chambers at the start of the meeting. An additional approximate 18 citizens and staff were present in the City Hall lobby area and within City Hall Conference Room No. 1 watching the meeting through livestream telecast on television monitors.

### IN ATTENDANCE

Joe LaMargo, City Manager; Mike Carroll, Deputy City Manager; Christopher Forth, Interim Director of Community Development; Michael West, Senior City Planner; Kyle Mucha, Zoning & Codes Administrator; Sam Bower, Communications & Research Coordinator; and Randy Brown, City Attorney (phone-in participation).

### ROLL CALL

Mr. Forth called the roll: Joshi (yes, in person); Fries (yes, in person); Corradini (yes, in person); Pezzoli (yes, phone in); Baldwin (yes, phone in); Myer (yes, phone in); Youngs (yes, phone in); and Freiman (yes, phone in) Commissioner Schimmel (yes, phone in).

### APPROVAL OF MINUTES

Chairman Corradini referred the Commission to the July 23, 2020 meeting minutes contained in the agenda. A motion was made by Commissioner Schimmel, seconded by Commissioner Joshi, to approve the minutes as submitted. Upon a roll call vote: Pezzoli (yes); Youngs (yes); Freiman (yes); Myer (yes); Baldwin (yes); Fries (yes); Joshi (yes); Corradini (yes); Schimmel (yes), the motion was approved 9-0.

### PUBLIC HEARING

1. Preliminary Report: Ordinance Amendment #19/20-C. Tree Preservation and Replacement Ordinance. City Manager La Margo addressed the Commission during which he thanked the Commission for their input over the past several months regarding the proposed ordinance. Mr. La Margo indicated that the design of the ordinance is to help protect the natural environment of Portage. Mr. La Margo reiterated that the ordinance is in a draft format and welcomes input from the community regarding the proposed language.

Mr. Forth summarized the staff report dated August 13, 2020 regarding a revised 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 summarized the review of the ordinance by the Planning Commission at the June 4, 2020 and July 23, 2020 meetings. Mr. Forth noted some changes had been made to the ordinance but the most substantive change involved an exception for a permit to remove invasive tree species. Mr. Forth next presented two examples of how the ordinance, as currently written, would apply to different development plans: 1) A new home proposed on a vacant residential lot within a subdivision, and 2) A new commercial development on a vacant parcel. Mr. Forth indicated that additional review and comment from the Commission and public was requested at tonight's meeting. Mr. Forth referred the Commission to the Final Agenda packet that included several citizen communications received regarding the proposed ordinance amendment.

Chairman Corradini next opened the public hearing. The following citizens spoke regarding the proposed tree ordinance, either in person or through the phone in option: Jeffary Hoose (10711 East Shore Drive); Margaret Giem (10234 East Shore Drive); Nicole & Vaughn Gerber (3048 Woodhams Avenue); Ken DeHaan (7024

Angling Road); Peter Cook (1715 Meadowbrook Lane); Dennis Conley (6880 Edgefield Street); Pat Flanagan (1209 East Milham Avenue); Dave Hoeksema (443 West Osterhout Avenue); Jim White (2383 Mandigo Avenue); Bill Abernathy (8485 Valleywood Lane); Bill Patterson (5302 Bala Cynwyd Court); Josh Delisle (10218 Terry Lane); Judy Kangas (9240 Portage Road); and Joe Chamberlin (7631 Curry Lane). Mr. Hoose, Ms. Giem, Mr. and Mrs. Gerber, Mr. DeHann, Mr. Cook, Mr. Conley, Mr. Flanagan, Mr. Hoeksema, Mr. White, Mr. Abernathy, Mr. Patterson, Mr. Delisle and Ms. Kangas all spoke in opposition to the proposed ordinance citing concerns including personal property right infringement, costs associated with the tree permit and removal/replacement process (tree survey, permit, tree replacement and/or contribution to a city tree fund), the burden that would be placed on individual home owners, the need to hold developers accountable for tree removal and to more clearly define what constituted clear cutting. These citizens also expressed concerns regarding the timeline of the ordinance development indicating additional public outreach is needed, and that the draft ordinance appears to target individual home owners within the city as opposed to developers and builders who have larger tracts of land. Mr. Chamberlain spoke in favor of the ordinance, citing the proposed ordinance promotes responsible growth and development and indicated a wish to see an incentive for developers to keep heritage trees on a parcel.

City Manager La Margo, Deputy City Manager Carroll and City Attorney Brown addressed the concerns raised by the residents and indicated further review will take place of these concerns between tonight's meeting and the next public hearing. Mr. La Margo reiterated that the ordinance is still in draft form and subject to change and alterations based on input from the community. To the concerns raised by residents with regard to property rights, Mr. Carroll referenced a Michigan Court of Appeals case that upheld municipalities authority to institute a tree preservation ordinance. Regarding the concerns raised in relation to a city wide tree fund, Mr. La Margo responded that the tree fund is not designed to collect additional revenues from residents. Responding to the concerns raised by residents as it relates to the need to obtain a permit, Mr. Carroll reiterated what tree removal actions would be exempt under the proposed ordinance. In addition, Mr. Carroll indicated that the premise behind the permit requirement is to facilitate a discussion with city staff and a professional tree service (landscape architect, arborist) and the property owner to ensure the intent of the ordinance is being met.

The Commission, Attorney Brown and staff discussed various aspects of the proposed ordinance and comments received during the public hearing. After additional discussion, a motion was made by Commissioner Joshi, seconded by Commissioner Fries, to adjourn the public hearing for Ordinance Amendment #19/20-C, Tree Preservation and Replacement Ordinance, to the September 17, 2020 meeting. Upon a roll call vote: Baldwin (yes); Youngs (yes); Pezzoli (yes); Myer (yes); Freiman (yes); Joshi (yes); Fries (yes); Schimmel (yes); and Corradini (yes), the motion was unanimously approved 9-0.

Commissioner Baldwin inquired about changing the proposed size of residential lots that would be impacted by the ordinance. Commissioner Baldwin inquired about establishing a flat fee as it pertains to the tree fund and whether the ordinance should be more tailored to builders and developers and not residents.

Commissioner Pezzoli commended city staff for all the work done to research and prepare the proposed ordinance amendment, however, stated the proposed ordinance seems to be a solution to a problem that does not exist in Portage.

Commissioner Freiman requested that staff review the citizen comments and modify the ordinance to reflect the concerns heard in the public comment period.

Commissioner Fries inquired about a flat fee contribution to the tree fund regarding heritage trees that would not be so burdensome. Commissioner Fries also read several concerns he has personally received from residents including what is the definition of a heritage tree; residents view the ordinance as an over-reach; residents are against the residential portion of the proposed ordinance; creation of a tree committee to manage the tree fund. Commissioner Fries also requested an overlay map that would show parcels that are five acres, ten acres and twenty acres in size.

Attorney Brown discussed the possibility of exploring a definition of "clear cutting" and prohibiting this activity in relationship to a percentage of the overall property.

Commissioner Joshi commented that the ordinance should look to preserve the natural look and feel of Portage and asked if the ordinance could include incentives to preserve trees, as opposed to penalties to remove trees. Commissioner Joshi appreciated the public comment and echoed that there should not be a penalty to

remove a tree from a residential property. Commissioner Joshi also requested clarity on “clear cutting” as indicated by Attorney Brown.

Chairman Corradini thanked all those who were able to make the public comment period, either in person or through the phone-in option and encouraged a continuation of open dialogue between city staff and the public. Chairman Corradini thanked city staff, Director Forth for his work on the ordinance, Senior City Planner Mike West and Zoning & Codes Administrator Kyle Mucha for their assistance during the public comment and GIS Specialist Karl Klemm for the quality of maps that have been produced as it relates to the ordinance amendment.

### **SITE/FINAL PLANS**

None.

### **OLD BUSINESS:**

None.

### **NEW BUSINESS:**

FY2019-20 Planning Commission Work Program Final Update and Proposed FY2020-21 Work Program. Mr. Forth provided a brief overview of the completed FY2019-20 work program and the proposed FY2020-21 work program. With regard to the proposed FY2020-21 work program, Mr. Forth noted new activities include update of the 2014 Comprehensive Plan and continued assistance with Redevelopment Ready Communities certification. Commissioner Fries inquired if the Planning Commission would be able to participate in the selection process of hiring a consultant for the upcoming Comprehensive Plan Update. Mr. Forth indicated the Commission could request to be part of that process. A motion was made by Commissioner Joshi, seconded by Commissioner Fries, to accept the FY2019-20 Planning Commission Work Program Final Update as submitted. Upon roll call vote, motion passed 9-0. A motion was then made by Commissioner Joshi, seconded by Commissioner Fries, to approve the FY2020-21 Work Program as submitted. Upon roll call vote, the motion was approved 9-0.

2. Election of Officers. Commissioner Schimmel expressed her desire to continue as Secretary. Commissioner Baldwin also expressed her desire to serve as Secretary. Upon roll call vote: Youngs (Schimmel), Joshi (Schimmel), Schimmel (Schimmel), Fries (Baldwin), Corradini (Baldwin), Pezzoli (Baldwin), Freiman (Abstained), Baldwin (Baldwin) and Myers (Baldwin), Commissioner Baldwin was elected as Secretary 5-3-1

A motion was then made by Commissioner Fries, seconded by Commissioner Joshi, to re-elect the current Chairman Corradini and Vice Chairwoman Joshi for another year in those positions. Upon roll call vote, the motion was approved 9-0.

### **STATEMENT OF CITIZENS/COMMISSIONERS**

Commissioner Schimmel congratulated Commissioner Joshi on her recent election campaign regarding the Kalamazoo County Clerk position.

Commissioner Joshi thanked all whom were able to vote in the recent primary election and looks forward to the November Election.

Commissioner Fries stated that the Commission is moving in the proper direction by listening to public input regarding the proposed tree ordinance and welcomes continued discussion between city staff and the public at large.

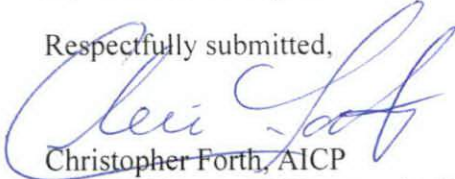
Chairman Corradini thanked fellow Commissioners for their continued patience and participation serving the residents of Portage. Chairman Corradini thanked Portage Public Safety for the recent “Pig Out With Public Safety” event and also thanked Communications & Research Coordinator, Sam Bower for the handling of the call-in line during the public hearing. Finally, Chairman Corradini thanked Senior City Planner, Mike West for

his 22 years of service and dedication to the residents and business owners of Portage and wished him well on his next career adventure.

**ADJOURNMENT:**

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 10:50p.m.

Respectfully submitted,



Christopher Forth, AICP  
Interim Director of Community Development