

PLANNING COMMISSION

May 2, 2019

The City of Portage Planning Commission meeting of May 2, 2019 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Six citizens were in attendance.

PLEDGE OF ALLEGIANCE:

Chairman Stoffer led the Commission, staff and citizens in the Pledge of Allegiance.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning, Development & Neighborhood Services; Michael West, Senior City Planner; Randy Brown, City Attorney and Charlie Bear, City Attorney.

ROLL CALL:

Mr. Forth called the role: Fries (yes); Patterson (yes); Stoffer (yes); Schimmel (yes); Joshi (yes) and Baldwin (yes). A motion was then made by Commissioner Patterson, seconded by Commissioner Joshi, to approve the role excusing Commissioners Corradini, Pezzoli and Harrell-Page. The motion was approved 6-0.

APPROVAL OF MINUTES:

Chairman Stoffer referred the Commission to the April 18, 2019 meeting minutes contained in the agenda packet. A motion was made by Commissioner Schimmel, seconded by Commissioner Baldwin, to approve the minutes as submitted. The motion was unanimously approved 6-0.

SITE/FINAL PLANS:

None.

PUBLIC HEARING:

1. Final Report: Ordinance Amendment #18/19-A: Sign Amendments. Mr. Forth referred the Commission to the April 26, 2019 final staff report and summarized the proposed amendments to the sign regulations. Mr. Forth discussed the June 2015 U.S. Supreme Court decision in Reed v Town of Gilbert, Arizona that struck down content-based sign regulations. Mr. Forth indicated the amendments to various section of the sign regulations have been initiated by the Department of Community Development and City Attorney to improve clarity and/or to address content neutrality issues. Mr. Forth discussed the preliminary review of these proposed amendments by the Planning Commission during the March 21, 2019 meeting, and the more substantial review conducted at the April 18, 2018 meeting. Mr. Forth stated both Attorney Brown and Attorney Bear were in attendance at tonight's meeting to answer any questions the Planning Commission may have prior to making a formal recommendation to City Council.

Commissioner Joshi asked about how the proposed amendments would address "cause related" signage for various events such as Child Abuse Prevention Month. Attorney Brown indicated that since the proposed amendments eliminate content-based regulation, the ordinance would not regulate the "cause" or "message" contained on the sign, but would regulate the size and placement. Mr. Forth indicated that these signs cannot be placed within the public street right-of-way, but could be located on private residential property up to six square feet in size and on private nonresidential property up to 40 square feet in size with time limits.

Chairman Stoffer asked whether there was a size limitation on government flags located on private property. Mr. Forth stated there was not a size restriction on government signs such as the American flag or State of Michigan flag. Chairman Stoffer expressed some concern over the unlimited size for government flags, especially within residential neighborhoods, where they could become a nuisance to adjacent neighbors. Mr. Forth stated the current ordinance does not have a size restriction for government flags and, to the knowledge of staff, there has not been a nuisance problem with size and/or number of flags in residential areas. Attorney Bear indicated that limiting the number or size of government flags on private property was viewed as potentially conflicting with freedom of speech/freedom of expression rights. Attorney Brown continued and stated that regulating government and corporate flags separately is a problematic matter since someone needs to look at the “content” on the flag to determine whether it is a government flag or corporate flag. Chairman Stoffer again stated that he was concerned about possible negative impacts on a residence if an adjacent neighbor was to install a very large government flag or multiple large government flags on their property.

The public hearing was then reconvened by Chairman Stoffer. No citizens spoke regarding the proposed sign amendments. A motion was then made by Commissioner Schimmel, seconded Commissioner Patterson, to close the public hearing. The motion was unanimously approved 6-0. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Fries, to recommend to City Council that Ordinance Amendment #18/19-A, Sign Regulations, be approved. The motion was unanimously approved 6-0.

2. Preliminary Report: Rezoning Application #18/19-6, 129 Boston Avenue. Mr. Forth summarized the April 26, 2019 preliminary staff report regarding a request received from Attorney Joey Kejbou, on behalf of the property owner Jayesh and Neha Sharma, to rezone 129 Boston Avenue from R-1A, one family residential to OS-1, office service. Mr. Forth stated the applicant’s intent for the rezoning, as outlined in the application materials, was to establish a small office at 129 Boston Avenue and establish a medical marihuana provisioning center at 5747 South Westnedge Avenue. Mr. Forth indicated that Mr. and Mrs. Sharma also own the two adjacent parcels to the west addressed as 121 Boston Avenue and 5747 South Westnedge Avenue, which currently function as one “zoning lot”. Mr. Forth indicated the medical marihuana provisioning center would not currently be allowed within the southern portion of the existing building at 5747 South Westnedge Avenue since the “zoning lot” currently abuts residential zoning (129 Boston Avenue). Mr. Forth summarized the previous rezoning application (Rezoning Application #18/19-3) involving 129 Boston Avenue that was withdrawn by Mr. Sharma in January 2019 following a negative recommendation by staff and the Planning Commission. Mr. Forth summarized previous rezoning considerations that have occurred along the east side of South Westnedge Avenue, between 2002-2013, and the adjustment that was made to the Future Land Use Map boundary between general business/residential land use with the 2014 Comprehensive Plan Update to achieve consistency and depth of commercial land use along the east side of South Westnedge Avenue. Mr. Forth reviewed the applicant proposal to establish a small office at 129 Boston Avenue and the size/configuration of the property that presents challenges to redevelopment for a nonresidential use. Mr. Forth also discussed the underutilized nature of 121 Boston Avenue that was converted from a residence to an office several years ago.

Chairman Stoffer asked about the recent use of 121 Boston Avenue for a residence. Mr. West stated there was someone illegally living at 121 Boston Avenue, however, that person moved out in January/February. Mr. West indicated that 121 Boston Avenue is zoned B-3, general business and residential occupancy is not permitted. Commissioner Schimmel asked what impact rezoning 129 Boston Avenue would have on allowing a medical marihuana provisioning center within 5747 South Westnedge Avenue. Mr. Forth stated a rezoning of 129 Boston Avenue to OS-1, office service would allow a medical marihuana provisioning center to be located within 5747 South Westnedge Avenue since the “zoning lot” consisting of 5747 South Westnedge Avenue and 121 Boston Avenue would no longer be located adjacent to residential zoning. Commissioner Patterson asked whether the 129 Boston Avenue parcel could be rezoned to OS-1 with and R-1A residential “buffer” strip provided along the east side. Mr. Forth indicated the 129 Boston Avenue parcel was only 66-feet wide and a rezoning with an R-1A buffer strip would only further complicate reuse for an office. Commissioner Fries asked whether the 129 Boston parcel could be rezoned as identified on the Future Land Use Map with the west approximate 2/3 changed to B-3 or OS-1 and the east approximate 1/3 retained as R-1A, or whether a P-1 zone could be used similar to the properties to the south. Mr. West stated the properties to the south where P-1 zoning

was previously approved were part of multi-parcel zoning lots where the commercial development was located along the South Westnedge Avenue parcels and the P-1 zoning was located behind the buildings to provide additional parking. Mr. West indicated that this arrangement would not accomplish the applicant stated plans to establish 129 Boston Avenue as a stand-alone, separate zoning lot for the proposed office use, and retain the existing commercial zoning lot to the west involving 121 Boston Avenue and 5747 South Westnedge Avenue.

Joey Kejbou (attorney representing Mr. and Mrs. Sharma) was present to support the rezoning application. Attorney Kejbou discussed the plans to convert the 129 Boston Avenue residence/parcel to a low intensity satellite office for his law practice that would only be utilized 1-3 days a week. Attorney Kejbou stated his primary office is in Rochester Hills, however, he has several clients on the west side of the state and he would be the only person using this proposed satellite office. Attorney Kejbou stated his intentions were to purchase all three parcels (129 Boston Avenue, 121 Boston Avenue and 5747 South Westnedge Avenue) and utilize 129 Boston Avenue as a separate office zoning lot, and utilize the 121 Boston Avenue/5747 South Westnedge Avenue as a separate commercial zoning lot and establish a medical marihuana provisioning center within the southern portion of the large commercial building. Attorney Kejbou indicated the 129 Boston Avenue parcel is a transitional property and his proposed use would have no adverse impacts on the interior residential neighborhood. Attorney Kejbou stated that he believes the requested OS-1 zoning for 129 Boston Avenue is consistent with the Comprehensive Plan, Future Land Use Map and surrounding land use pattern.

The public hearing was opened by Chairman Stoffer. One citizen (Tyson Lamoreaux, 205 Boston Avenue) spoke regarding the proposed rezoning. Mr. Lamoreaux stated he had no objection to the OS-1 rezoning and proposed attorney office at 129 Boston Avenue. Mr. Lamoreaux also expressed no objection to the plan to establish a medical marihuana provisioning center with the existing commercial building at 5747 South Westnedge Avenue. Mr. Lamoreaux asked where parking would be provided for the proposed office use and whether an evergreen screen or barrier would be required next to his property with a zoning change to OS-1. Mr. Forth indicated a site plan has not been provided yet, but parking for a proposed office use in 129 Boston Avenue would likely need to occur behind/north of the existing residence given the limited size of the parcel and existing location of the residential structure. Mr. Forth also discussed conflicting land use screening that would be required along the shared property line with a change in use from residential to office. No additional citizens spoke regarding the proposed rezoning.

After a brief conversation, a motion was made by Commissioner Patterson, seconded by Commissioner Fries, to adjourn the public hearing for Rezoning Application #18/19-6, 129 Boston Avenue, to the May 16, 2019 meeting. The motion was unanimously approved 6-0.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS/COMMISSIONERS:

Commissioner Baldwin stated she may not be present at the May 16, 2019 meeting and would not be present at the June 6, 2019 meeting.

Commissioner Joshi encouraged people to get out and vote on May 7th.

ADJOURNMENT:

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 8:30 p.m.

Respectfully submitted,

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