CITY OF
PORTAGE
A Place for Opportunities to Grow

PLANNING COMMISSION

January 21, 2010

CITY OF PORTAGE PLANNING COMMISSION

A G E N D A

January 21, 2010
(7:00 p.m.)

Portage City Hall Council Chambers

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

* January 7, 2010

SITE/FINAL PLANS:

* 1. Site Plan: Portage Animal Hospital 8037 Portage Road

PUBLIC HEARINGS:

* 1. Special Land Use Permit: Portage Animal Hospital 8037 Portage Road
* 2. Special Land Use Permit: Imagine Motors, 2312 Winters Drive
* 3. Final Report: Ordinance Amendment 09-B, Sign Ordinance Regulations
* 4. Final Report: Ordinance Amendment 09-C, Home Occupation Regulations

PLATS/RESIDENTIAL CONDOS:

OLD BUSINESS:

NEW BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

December 15, 2009 City Council meeting minutes

Star (*) indicates printed material within the agenda packet.

PLANNING COMMISSION

DRAFT

January 7, 2010

The City of Portage Planning Commission meeting of January 7, 2010 was called to order by Chairman Fox at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Two citizens were in attendance.

MEMBERS PRESENT:

Jim Pearson, Rick Bosch, Cory Bailes, James Cheesebro, Miko Dargitz, Bill Patterson, Paul Welch and Chairman Thomas Fox.

MEMBERS ABSENT:

None.

MEMBERS EXCUSED:

Wayne Stoffer.

IN ATTENDANCE:

Christopher Forth, Deputy Director of Planning and Development Services; Michael West, Assistant City Planner and Randall Brown, City Attorney.

PLEDGE OF ALLEGIANCE:

The Planning Commission, staff and audience recited the Pledge of Allegiance.

APPROVAL OF MINUTES:

Chairman Fox referred the Commission to the December 17, 2009 meeting minutes. A motion was made by Commissioner Welch, seconded by Commissioner Cheesebro, to approve the minutes as submitted. Commissioner Dargitz stated that she was not present at the December 17th meeting and, therefore, would be abstaining. The motion was subsequently approved 7-0-1 with Commissioner Dargitz abstaining.

PUBLIC HEARINGS:

1. Special Land Use Permit/Site Plan: Portage Animal Hospital, 8037 Portage Road. Mr. West summarized the staff reports dated December 31, 2009 and January 7, 2010 involving the special land use permit/site plan submitted by Chester, Inc., on behalf of Portage Road Investments LLC, to construct a new approximate 5,700 square foot veterinary hospital building and associated improvements at 8037 Portage Road. Mr. West provided background information regarding discussions of a shared/cross access arrangement between the Portage Animal Hospital site and the adjacent Centreport Commons development which began in 2006. Mr. West also discussed the shared/cross access commitment which was agreed upon by Treystar Holdings and which was included in the form of a notation on the approved site plan for Centreport Commons. On January 4th, Mr. West stated a meeting between representatives of Portage Road Investments and Treystar Holdings was facilitated by the Department of Community Development to discuss previous shared/cross access commitments and discussions, the City of Portage Access Management Ordinance and the proposed access arrangement. Mr. West indicated the meeting was productive and negotiations between the two property owners regarding a shared/cross access arrangement were ongoing. Mr. West referred the Commission to a January 6, 2010 correspondence from the applicant's architect requesting that the special land use permit/site plan be adjourned to the next regularly scheduled meeting.

DRAFT

Dr. Andrew Helmholdt and Dr. Cynthia Lunney of the Portage Animal Hospital were present to support the application. Dr. Helmholdt stated that discussions with Treystar Holdings regarding a shared/cross access arrangement were currently ongoing and engineering changes would likely be needed to the site plan. The public hearing was then opened by Chairman Fox. No citizens were present to speak regarding the development project. A motion was then made by Commissioner Welch, seconded by Commissioner Bosch, to adjourn the Special Land Use Permit/Site Plan for Portage Animal Hospital, 8037 Portage Road, to the January 21, 2010 meeting, at the request of the applicant. The motion was unanimously approved.

2. Preliminary Report: Ordinance Amendment 09-B, Sign Ordinance Regulations. Mr. Forth summarized the preliminary staff report dated December 31, 2009 regarding proposed changes to Sections 42-545(A), 42-550(A) and 42-551(A) of the Zoning Code. Mr. Forth discussed the proposed changes to the sign regulations and the rationale for the changes. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Bailes, seconded by Commissioner Pearson, to adjourn Ordinance Amendment 09-B, Sign Ordinance Regulations, to the January 21, 2010 meeting. The motion was unanimously approved.

3. Preliminary Report: Ordinance Amendment 09-C, Home Occupation Regulations. Mr. Forth summarized the preliminary staff report dated December 31, 2009 regarding proposed changes to the home occupation regulations. Mr. Forth discussed the two types of home occupations proposed (passive and active), the various conditions for approval and the previous Planning Commission discussion and review of the proposed ordinance language. The public hearing was opened by Chairman Fox. No citizens spoke in regards to the proposed ordinance amendment. A motion was then made by Commissioner Cheesebro, seconded by Commissioner Welch, to adjourn Ordinance Amendment 09-C, Home Occupation Regulations, to the January 21, 2010 meeting. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

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

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Department of Community Development

TO: Planning Commission **DATE:** January 15, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Special Land Use Permit/Site Plan: Portage Animal Hospital, 8037 Portage Road

During the January 7, 2010 meeting, the Planning Commission briefly reviewed the special land use permit/site plan submitted by Chester, Inc., architect, on behalf of Portage Road Investments LLC, to construct a new approximate 5,700 square foot veterinary hospital building and associated site improvements at 8037 Portage Road. At the request of the applicant, the Planning Commission adjourned the special land use permit/site plan to the January 21, 2010 meeting to allow additional time for the applicant to continue discussions with Treystar Holdings, LLC (owner of adjacent CentrePort Commons development) regarding a shared/cross access arrangement between the two project and to make necessary revisions to the site plan.

Since the January 7th meeting, the Department of Community Development has initiated contact with representatives from both the Portage Animal Hospital and Treystar Holdings, LLC to obtain a progress update for the Commission and to assist in facilitating the project. According to these representatives, discussions and negotiations regarding a shared/cross access arrangement are progressing, however, specific details have not yet been finalized.

At this time, the Planning Commission is advised to receive public comment during the January 21, 2010 meeting and then adjourn the Special Land Use Permit/Site Plan for Portage Animal Hospital, 8037 Portage Road, to the February 4, 2010 meeting.

S:\Department Files\Board Files\PLANNING COMMISSION\PC Reports\Special Land Use Permits\2010 01 15 Portage Animal Hospital, 8037 Portage Road (adjounr to 2-4-10).doc

CITY OF
PORTAGE
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Department of Community Development

TO: Planning Commission **DATE:** January 15, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Special Land Use Permit: Imagine Motors, 2312 Winters Drive.

I. INTRODUCTION:

A special land use permit application has been submitted by Ms. Bonnie Granado, on behalf of Imagine Motors, to establish a used car sales facility. According to the applicant, the majority of the automobile sales business will be conducted via the internet and through vehicle auctions with no more than five vehicles at any one time being displayed for sale at the site. Any damaged vehicles purchased through the business will be temporarily stored inside the building then transferred off-site for repair. One employee on-site is anticipated. The 0.4 acre parcel and zoning lot is zoned B-3, general business and improved with an approximate 6,600 square foot building and a 12-car parking lot located along the north side of the site. Additional parking and loading/unloading area is also located along the rear/south portion of the site.

II. BACKGROUND INFORMATION:

Existing Land Use/Zoning	• Approximate 6,600 square foot retail/warehouse building and associated parking areas are on the site. Majority of the building (rear/south portion) has been designed for storage and warehousing with overhead sliding door access to the interior, while small office suites occupy the northern portion of the building. The building/site is currently being utilized for storage by the applicant/owner. Additionally, one tenant (City Transfer), a package delivery service, is also leasing a portion of the building. According to the applicant, City Transfer uses a portion of the building for storage with routine deliveries to/from the site, but with no on-site offices or employees. • To the north (across Winters Drive), K & M Distributing (2319 Winters Drive), a vacant lot (2313 Winters Drive) and a nonconforming apartment building (2305 Winters Drive) zoned B-3, general business. • Quality Air (2306 Winters Drive) zoned B-3 borders the site to the west. • A retail/storage building with three tenants (2318 Winters Drive) zoned B-3 borders the site to the east. • To the south, State Farm processing center (5564 Portage Road) zoned B-3.
Comprehensive Plan	• Subject site and surrounding properties are designated on the Future Land Use Map as appropriate for general business land use.
Historic District/ Structure	• The subject site is not located within a historic district and does not contain any historic structures.
Access	• The zoning lot is currently served by a full service driveway which is shared with the adjacent property to the east (2318 Winters Drive).
Environmental Issues	• According to the Sensitive Land Use Inventory Map and National Wetlands Inventory Map, the zoning lot has no designated wetland / floodplain areas.

Land Development Regulations	• Application is submitted pursuant to Section 42-262.C.1, Special Land Uses in the B-3, General Business zoning district. Subject to review and approval by the Planning Commission, this section permits *"Vehicle dealerships, licensed by the state, for the sale and rental of new or used motor vehicles and/or recreational vehicles..."* subject to conditions. • Section 42-462, General Standards for Review of Special Land Uses, also apply.

III. ANALYSIS

The proposal to establish the used car sales facility at the site fulfills the requirements for issuance of a Special Land Use Permit. The facility will be licensed by the State of Michigan and only minor vehicle servicing will be conducted at the site: All major vehicle repair, bodywork or refinishing will occur off premises. Vehicle display and related activities will occur on existing asphalt surfaces and the existing driveway to the site is situated in excess of 60 feet from the intersection of any two streets.

Attached to this report is a correspondence dated January 7, 2010 from Mr. Richard Rashke, owner of the adjacent property to the east (2318 Winters Drive), expressing concern with possible off-street parking concerns should Imagine Motors "spill into" adjacent property.

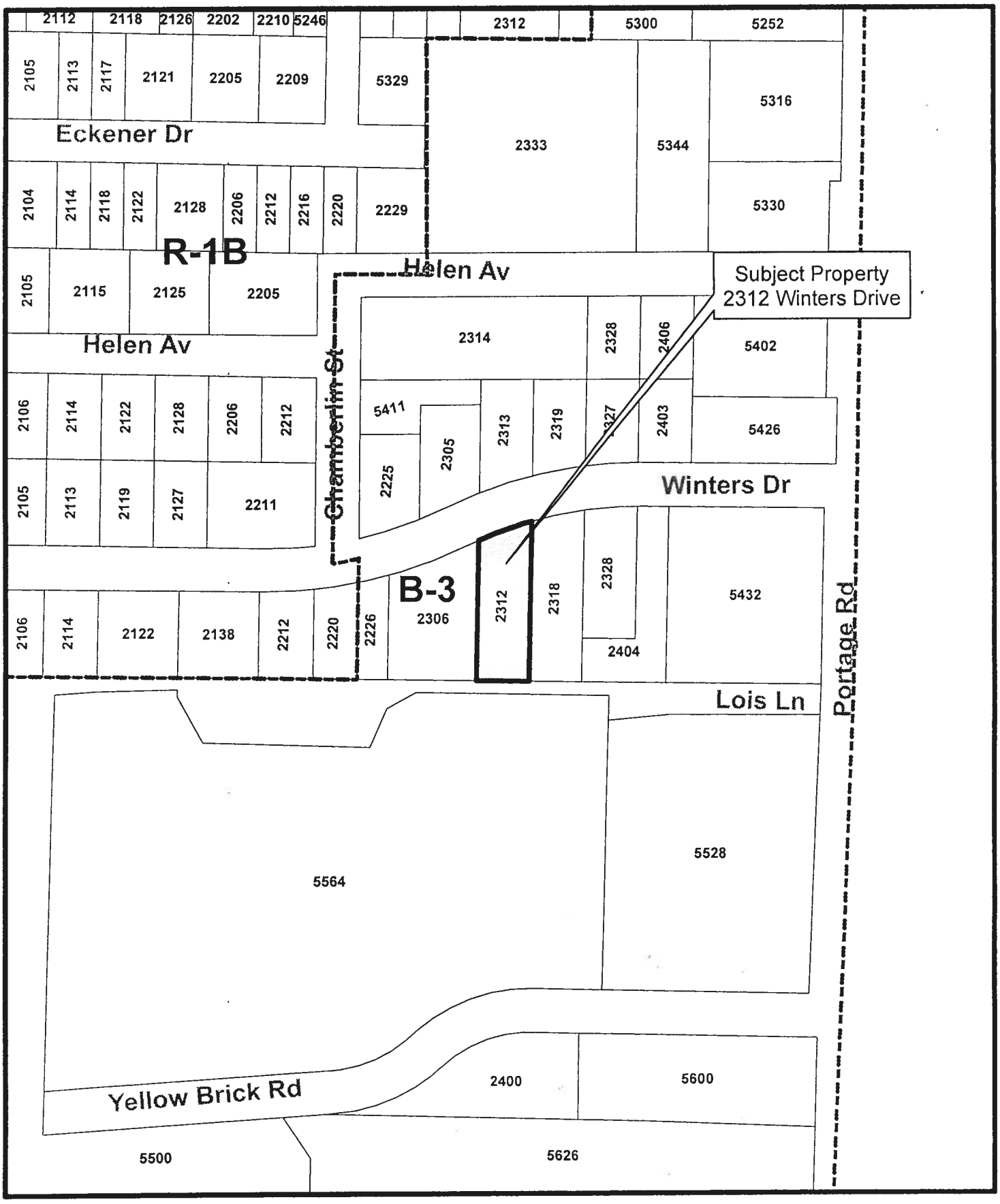
The majority of the Imagine Motors business will be conducted via the internet and vehicle auctions. On-site customer interaction is anticipated to be minimal, with no more than five vehicles for sale, at any one time, displayed at the site. The applicant has indicated that the building will not be leased to any other new tenants during the Imagine Motors tenancy. Based on the above information, adequate on-site parking is available to accommodate the proposed Imagine Motors use.

IV. RECOMMENDATION:

Based upon the above analysis and subject to any additional information brought before the Planning Commission during the public hearing, staff recommends that the Special Land Use Permit for Imagine Motors, 2312 Winters Drive, be approved, with the following conditions:

1. Maximum of five vehicles displayed on-site at one time.
2. Any damaged vehicles that are temporarily stored on site must be within the building.
3. During the Imagine Motor tenancy and City Transfer tenancy, no new tenants can be established on the parcel and zoning lot.

Attachments: Vicinity/Zoning Map
Special Land Use Permit Application and supporting materials
January 7, 2010 letter from Mr. Richard Raschke (owner of adjacent property to east)



SPECIAL LAND USE PERMIT
2312 Winters Drive

Feet
0 75 150 300
Graphic Scale

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DEC 18 2009
COMMUNITY DEVELOPMENT

Department of Community Development

APPLICANT INFORMATION

Name	Telephone Number
Imagine Motors	269-488-1600

Address	City	State	Zip code
2312 Winters Drive	Portage	MI	49024

OWNER INFORMATION (if different)

Name	Telephone Number
Gilberto Gonzales	269-271-8080

Address	City	State	Zip code
80 Hamilton	Galesburg	MI	49053

PROPERTY INFORMATION

Address of property	Zoning District	Land Area (acres)
2312-2314 Winters Drive	B3	

Legal Description (or attach separate page)

C232C-0040 - Ethel Lane Plat Lot 4 & Unplatted Land in Sec 2 desc as foll Beg SW Cor Lot 4 Ethel Lane Plat Th S66 Ft th E 80 Ft Th N 66 FT Th W 80 Ft to POB

PROPOSED USE

Description of proposed Special Land Use (attach additional page(s), if necessary)

Used Car Sales. Wholesale dealer & used cars dealer. Cars Purchased from Auction to Auction. Minimun Sales at Location for buyers. Sales office on site also Internet Sales

OWNER CERTIFICATION

I hereby certify that I am presently the legal owner for the above-described property and all of the above information is true and accurate. I further acknowledge that approval of this Special Land Use Permit constitutes an agreement with the City of Portage and all conditions or limitations imposed shall be fulfilled.

Signature: Bernardo Ramado

Date: 12/18/09

RECEIVED
DEC 18 2009
COMMUNITY DEVELOPMENT

PROPERTY MANAGEMENT SYSTEMS
BONNIE GRANADO, OWNER
1595 WEST CENTRE #206
PORTAGE, MICHIGAN 49024

cell 269-207-2436
269-323-7771

January 12, 2010

Mike West
C/o City of Portage Dept of Community Development
7900 South Westnedge Ave
Portage, Michigan 49002

RE: Special Land use Permit
2312 Winters Drive

Dear Mr. West:

I have submitted an application for a Special Land Use Permit for my Winter's Drive property which would permit the sale of used vehicles.

The number of vehicles for sale at one time on the premises would be limited to five (5) or less. Most of the business will be conducted via the internet and vehicle auctions. In the past, the majority of the vehicles past from the auctions to locations outside the Kalamazoo & Portage areas. Numerous vehicles are transported to Chicago to be shipped overseas. The State of Michigan requires a business address for the Dealers License therefore the Winter's Drive address would need to have the appropriate zoning.

All major engine repairs and major bodywork would be conducted off premises and damaged vehicles will be stored inside the building. If Imagine Motors is permitted the Special Land Use Permit, then all marketing to secure other tenants in the building will cease. The buildings would not be leased to any other new tenants, during Imagine Motor's tenancy.

The road frontage would be used for the vehicles listed for sale and only if there are vehicles available. The store front parking would be reserved for customer parking. There is additional parking in the rear of the buildings.

If you have any additional questions, please feel free to contact me.

Bonnie Granado

AR-0032 (8/2006) By Authority of PA 300 of 1949, as amended
Michigan Department of State 1-888-SOS-MICH (1-888-767-6424)

ORIGINAL VEHICLE DEALER LICENSE APPLICATION

DEPARTMENT USE ONLY	
License Number	
Approved by	Date
Regular Plates	THRU
Cycle Plates	THRU

READ THE INSTRUCTION BOOKLET BEFORE COMPLETING THIS FORM

1. **BUSINESS NAME** (Include any assumed names or corporation names)
IMAGINE MOTORS

2. **BUSINESS LOCATION** - NOTE: RR or PO Box numbers alone will not be accepted. The actual location must be identified.
(Street) 2312 Winters Dr. (City) Portage (County) Kalamazoo (Zip) 49053

3. **BUSINESS TELEPHONE**
Telephone (269) 271-8080 Fax ( ) E-Mail Address:

4. **BUSINESS TYPE** (Check only one)
☒ Individual Owner (one person or husband and wife) ☐ Partnership (two or more persons or husband and wife) ☐ Corporation ☒ Limited Liability Company

5. **LICENSE CLASSIFICATIONS** (Check appropriate box or boxes)

☐ CLASS A - New Vehicle Dealer
☒ CLASS B - Used Vehicle Dealer
☐ CLASS C - Used Vehicle Parts Dealer
☐ CLASS D - Broker (Not compatible with Classes A or B)
☐ CLASS E - Distressed Vehicle Transporter
☐ CLASS F - Vehicle Scrap Metal Processor
Type of scrap processing to be used: _____
☐ CLASS G - Vehicle Salvage Pool
☐ CLASS R - Automotive Recycler
☐ CLASS W – Wholesaler

6. **CONTRACT OR FRANCHISE AGREEMENT** (Class A only)
N/A

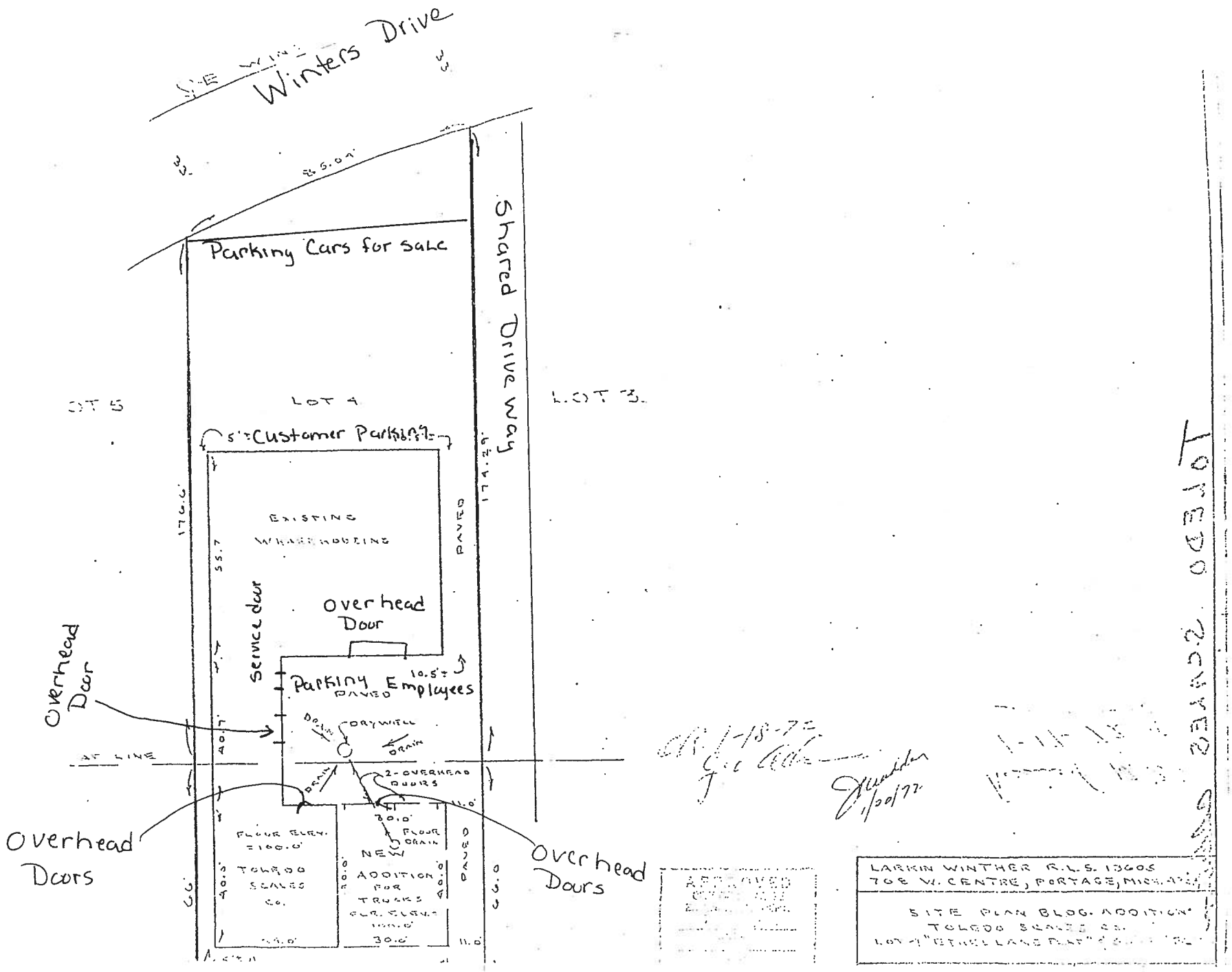
7. **BUSINESS DAYS AND HOURS** (Class A & B dealers require a minimum of 30 hours of operation per week)
Thursday 8A-6P Friday 8A-6P Saturday 8A-6P

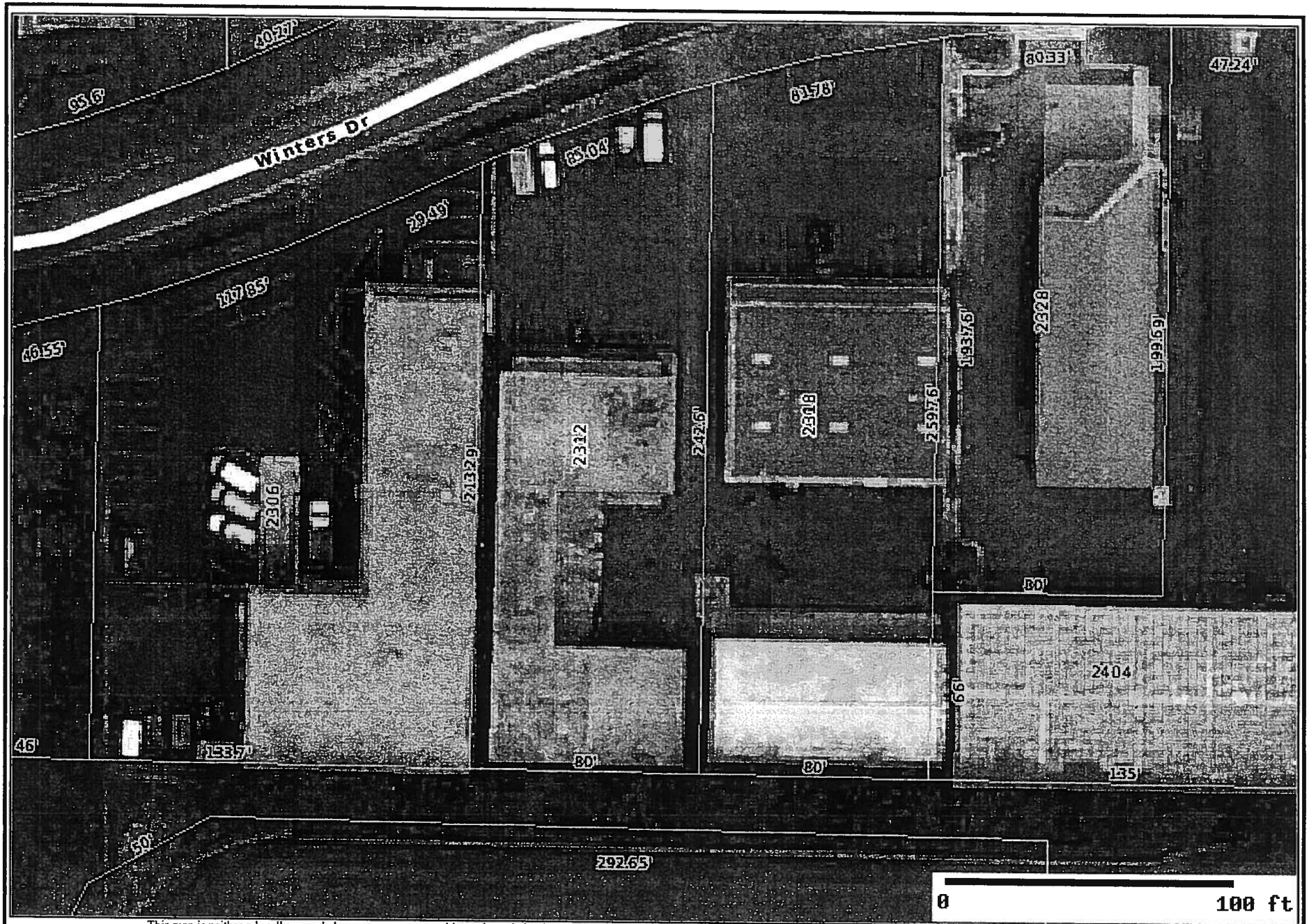
8. **OWNERS, PARTNERS, CORPORATE OFFICERS, AND DIRECTORS**

FULL NAME	HOME ADDRESS (Street)	(City/State/Zip)	Social Security Number	BIRTHDATE
Gilberto Andres Gonzales	80 Hamilton St.	Galesburg/MI/49053	368-98-2550	10-10-1971

DEPARTMENT USE ONLY

2312-2314 Winters Drive





This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. Please contact the City/County for current property assessment information. The user of this map acknowledges that the City/County shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City/County from any and all claims brought by the User, its employees or agents, or third parties which arise out of the Users access or use of data provided. IN OTHER WORDS, USE AT YOUR OWN RISK !!!

SEER PROPERTIES

City of Portage
Department of Community Development
7900 S. Westnedge Ave.
Portage, MI 49002

January 7, 2010

RECEIVED
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COMMUNITY DEVELOPMENT

Dear Zoning Board of Appeals;

Thank you for giving me the opportunity to respond to Imagine Motors, 2312 Winters Dr. request for a Special Land Use Permit establish a used car dealership / sales facility.

I have a concern as the neighbor that shares the driveway into both their facility and ours. Their parking lot was designed for customer parking only and allows for perhaps 12 cars total. My concern is that if there are 10 cars for sale, their customers will unknowingly spill into our parking lot which would inconvenience our customers if not drive them away. Our building houses three tenants and all of them depend on retail traffic.

How many cars will this Special Land Permit allow? If Imagine Motors sells only 1 or 2 cars at a time, then this should not be a problem for us.

Enclosed, is an overhead view of our properties illustrating the common driveway and the current parking capabilities.

Please give careful consideration to this request.

Thank you,
SEER Properties, LLC

Richard Raschke
Managing Partner

COMMON DRIVEWAY

2312 WINTERS DR.

2318 WINTERS DR.

CITY OF
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Department of Community Development

TO: Planning Commission **DATE:** January 15, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Final Report: Ordinance Amendment #09-B, Sign Ordinance Regulations

I. INTRODUCTION

Ordinance language has been prepared to amend the following sections of sign regulations contained in the Zoning Code:

- 42-545(A), R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts;
- 42-550(A), OS-1, office services and OTR, office, technology and research districts; and
- 42-551(A), B-1 local business districts.

Attached is a copy of the above Zoning Code sections. This amendment was initiated to 1) address an inconsistency that occurred during the 2003 Zoning Code update, 2) standardize the sign regulations for non-residential uses allowed in the residential zoning districts with uses permitted in other non-residential zoning district and 3) clarify sign area in the office and business districts. A detailed discussion of proposed changes to these sections is provided below.

II. ZONING CODE PROVISIONS/ANALYSIS

Section 42-545(A). The proposed amendment to Section 42-545(A) of the Zoning Code would modify regulations pertaining to freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T zoning districts. The following table summarizes the existing and proposed changes:

Proposed Changes to Section 42-545(A)			
Type of Sign	Current Sign Requirements[1]	Proposed Sign Requirements	Change
Freestanding	One sign up to 32 sq. ft.	One sign up to 50 sq. ft.	+18 square feet
Wall	One sign up to 32 sq. ft.	15% of the total wall area up to 100 sq. ft.[2]	+68 sq. ft. depending on wall area

[1] If a wall and freestanding sign are erected, the combined total cannot exceed 32 sq. ft.
[2] More than one wall sign may be erected. Combined area cannot exceed 15% or 100 sq. ft., whichever is less

As the table above indicates, the combined total square footage of the freestanding sign and wall sign cannot exceed 32 square feet. Several churches including Valley Family Church – Kalamazoo, 2500 Vincent Avenue, Kalamazoo First Assembly of God, 5550 Oakland Drive and The Bridge, 7198 Angling Road have requested variances to increase the size of the sign(s). After comparing the language of this section before and after the 2003 Zoning Code update, it was discovered, the consultant inserted the word "together" in Section 42-545(A), which clearly limits the total square feet of all signs to no more than 32. The word "together" is proposed to be removed.

In addition to removing the word "together" from the ordinance, staff is also recommending the size of freestanding and wall signs for non-residential uses permitted in the R-1A through R-1T zoning districts be standardized with the freestanding and wall signs allowed in other non-residential zoning districts. In other non-residential zoning districts, the standard freestanding sign size is 48-50 square feet and, depending on the zoning district and amount of street frontage, may be increased. The standard wall sign size is 15% of the wall area with a maximum of 100 square feet. As shown in the table above, the proposed amendment

would permit an additional 18 square feet of freestanding sign and up to 68 square feet of wall sign depending on the size of the wall. Although the other non-residential zoning districts can increase the size of a freestanding size based on street frontage, the maximum size in the residential zones is proposed at 50 square feet regardless of the street frontage. Negative impacts associated with these increases are not anticipated: An additional 18 square feet freestanding sign is considered minor and the size of the wall sign is proportionate to the size of the wall.

Sections 42-550(A) and 42-551(A). Modifications to these two Zoning Code sections involve clarification of the statement "...with a minimum sign size of 32 square feet..." The meaning of this statement appears to be two-fold. First, this statement indicates the sign cannot be less than 32 square feet in area. If a business owner were to request a sign less than 32 square feet in area, a variance from the Zoning Board of Appeals (ZBA) would be necessary. Second, this statement indicates a lot with less than 80 feet in width is permitted to have a freestanding sign up to 32 square feet in area.

From a practical standpoint, business owners generally request the largest sign allowed under the Zoning Code so ZBA requests to approve a sign smaller than 32 square feet have not been received within the recent past. However, there are several existing lots in the city zoned OS-1, office service and B-1, local business that are less than 80 feet in width. Since the intent of the original language was to permit these smaller lots to have a maximum sign size of 32 square feet, the existing statement "...with a minimum sign size of 32 square feet..." is proposed to be replaced with the statement "For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted." Attached is a copy of the proposed ordinance language.

The proposed changes to Sections 42-550(A) and 42-551(A) will clarify that 1) a variance from the ZBA is not required if a smaller sign size is desired by a business owner and 2) the maximum sign size for a lot less than 80 feet in width.

Finally, following the January 7, 2010 Planning Commission meeting, clarification of the maximum sign area per side was discussed. References to permitted sign area are contained in several sections. For Commission information, the square footage of a sign is determined based on the "sign face" as defined in the Zoning Code. While wall signs and freestanding signs are typically one-sided or two-sided, the maximum sign area that is permitted applies to the "sign face": The number of sign faces (sides) is not regulated. To clarify this long-standing application of the Zoning Code and to ensure consistency, the phrase "...of one side of the sign face..." was added to Section 42-542(B), Sign measurements. This minor additional recommended change clarifies sign area, and is consistent with the proposed amendments.

III. PUBLIC REVIEW/COMMENT

The Planning Commission began preliminary review and discussion of the proposed sign ordinance amendment at the December 17, 2009 meeting. During the January 7, 2010 meeting, the Planning Commission convened a public hearing regarding Ordinance Amendment #09-B. No citizens were present to speak in regard to the proposed sign regulation modifications.

IV. RECOMMENDATION

Based on the above analysis and subject to any additional comments received during the public hearing, the Planning Commission is advised to recommend to City Council that Ordinance Amendment 09-B, Sign Ordinance Regulations, be approved.

Attachments: Current Zoning Code sections; Proposed Ordinance Amendment

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www.portagemi.gov

of not being legible and the subsequent message gradually increases intensity to the point of legibility.

c. Frame. A complete, static display screen on an electronic message display.

d. Frame effect. A visual effect on an electronic message display applied to a single frame to attract the attention of viewers.

e. Transition. A visual effect used on an electronic message display to change from one message to another.

(Ord. No. 03-01 (Exh. A, § 42-621), 2-18-2003; Amend. of 10-2-2007)

Sec. 42-542. General requirements.

A. Unless not required by this article, all signs shall be required to obtain a permit from the director of community development.

B. Sign measurements:

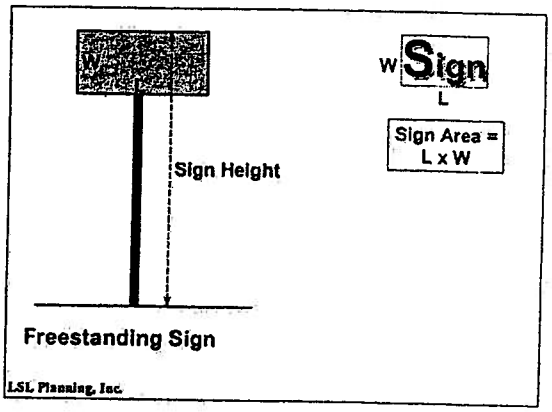
1. The entire area within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.

2. Separated sign elements, not part of any frame, or separated by other material or color forming an integral part of the display that may be used to differentiate such sign from the background against which it is placed, shall have each element of the sign calculated separately for the purposes of determining the total area. The signs elements shall not exceed the total sign display permitted by the district in which it is located.

3. The height of a sign is measured from the adjacent street grade or upper surface of the nearest street curb other than an elevated roadway that permits the greatest height to the highest point of such sign.

4. For the purpose of property line setbacks, the setback distance for a freestanding sign shall be measured from that portion of the sign closest to the property line.

5. The sign areas for wall signs shall be determined by taking that portion of the front wall of the building applicable to each tenant space, and computing sign requirements for that portion of the total wall.



Sign Measurements Fig. 7

C. All references to the term "lot width," "lot frontage" or "frontage" for the purposes of calculating allowable freestanding sign area shall require that width or frontage be on a public dedicated right-of-way and be measured at the front lot line, notwithstanding the definition and use of these terms in division 2 and division 3 of this article.

D. Signs not permitted.

1. A sign not expressly permitted by this article is prohibited.

2. No person shall erect or maintain a sign which moves or which has moving or animated parts or images, whether the movement is caused by machinery, electronics, wind or otherwise, including swaying signs, except for an EMD as defined in

3. The granting of a variance will result in the removal of a nonconforming sign and replacement by a sign that, while not meeting the requirements of this article, are, nonetheless, in keeping with the spirit and purpose of this article.

D. Variances. A sign erected as a result of a lawful grant of a variance by the zoning board of appeals shall be subject to the same restrictions and requirements which apply to nonconforming signs in subsection B above and other provisions of this Code.

E. Not withstanding the provisions of subsection B, above, the face of a nonconforming sign may be changed provided that the owner of the sign and owner of the zoning lot upon which the sign is located (if different from the owner of the sign) shall enter into a written agreement with the city which shall be recorded with the county register of deeds by the owner of the sign and the owner of the zoning lot, and which shall state all of the following:

1. In exchange for the opportunity to change the face of the sign as often as desired, the entire nonconforming sign, which includes the entire face and structure, shall be removed within five years of entering into the agreement.
2. At the conclusion of the five years, the owner of the sign and the owner of the zoning lot shall be responsible for the entire removal of the sign.
3. The owner of the sign and the owner of the zoning lot (including subsequent owners) waive their rights to request variances from the zoning board of appeals a variance from the agreement or any other ordinance provision governing the sign.
4. The agreement shall run with the land and become binding upon any subsequent owners of the sign and zoning lot.
5. The replacement sign, itself nonconforming in any way, may not be erected at the conclusion of the five years.
6. A lien against the zoning lot and any structure on the zoning lot, in the amount of 1½ times the estimated cost of removing the nonconforming sign at the time the agreement is entered into (as established by the director on the date of the agreement) shall come into existence five years after entering into the agreement and remain in effect until the sign is removed.

(Ord. No. 03-01 (Exh. A, § 42-624), 2-18-2003)

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-1T districts.

A. In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

1. For each dwelling unit, there is permitted one sign, not exceeding one square foot in area, indicating the name of the occupant.
2. For a permitted use other than a dwelling unit, there is permitted one freestanding sign and one wall identification sign together not exceeding a total of 32 square feet in area per side, provided that such a sign:
   a. Is at least ten feet from any property line; and
   b. Does not exceed ten feet in height.

B. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in this section. The city council may approve an agreement between the city and a proprietor desiring a sign identifying a single-family residential development city owned property or right-of-way. The agreement shall specify requirements and conditions regarding the sign, including not limited to the following:

1. Size and height of the sign, construction standards to be followed, appearance, specific location and illumination.
2. The person responsible for maintaining and repairing the sign.
3. Compensation to the city for continued use of the property.

4. A provision which indemnifies the city from liability as a result of any personal damage or personal injury resulting from the sign.

(Ord. No. 03-01 (Exh. A, § 42-625), 2-18-2003; Ord. No. 09-03, 4-14-2009)

Sec. 42-546. RM-1 and RM-2 districts.

In RM-1 and RM-2 multifamily residential districts:

A. For each dwelling unit, there is permitted one wall sign, not exceeding one square foot in area, indicating the name of the occupant.

B. For a rental or management office, there is permitted one wall sign, not exceeding two square feet in area.

C. For identifying a multifamily housing project, there is permitted one freestanding or wall sign, not exceeding 32 square feet in area per vehicular entrance, provided that such sign:

1. Is at least ten feet from any property line; and

2. Does not exceed ten feet in height.

D. For a permitted use other than a dwelling unit, there is permitted one freestanding and one wall identification sign, together not exceeding a total of 32 square feet in area per side, provided that such signs:

1. Are at least ten feet from any property line; and

2. Do not exceed ten feet in height.

(Ord. No. 03-01 (Exh. A, § 42-626), 2-18-2003)

Sec. 42-547. MHC district.

In an MHC manufactured home community district:

A. For each dwelling unit, there is permitted one wall sign, not exceeding one square foot in area, indicating the name of the occupant.

B. For each manufactured home park vehicular entrance, there is permitted one freestanding identification sign, not exceeding 32 square feet in area per side, provided that such sign:

1. Is at least ten feet from any property line; and

2. Does not exceed ten feet in height.

(Ord. No. 03-01 (Exh. A, § 42-627), 2-18-2003)

Sec. 42-548. PD, planned development district.

In the PD planned development district:

A. For a permitted use other than a dwelling unit, there is permitted one freestanding accessory sign per zoning lot, not exceeding one square foot for each 2½ feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot with less than 300 feet of frontage. A zoning lot with more than 300 feet of frontage may have an additional sign based upon the ratio of one square foot of sign per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size of any one sign is 50 square feet.

B. Where multiple use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot.

C. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential district is provided for each square foot of sign permitted on the lot, provided that all such signs:

1. Are at least ten feet from any property line; and

2. Do not exceed 15 feet in height.

D. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The

combined total of all wall signs shall not exceed 100 square feet per street frontage.

E. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

F. For each dwelling unit there is permitted one sign not exceeding one square foot in area indicating the name of the occupant.

G. Except for the signs permitted in section 42-543, a permanent sign identifying a single-family residential development is not permitted except as provided in section 42-545.B.

(Ord. No. 03-01 (Exh. A, § 42-628), 2-18-2003; Amend. of 10-2-2007; Ord. No. 09-03, 4-14-2009)

Sec. 42-549. P-1, parking district.

In a P-1 vehicular parking district:

A. One freestanding or wall sign is permitted, not to exceed six square feet in area per side, designating conditions of use, provided that a freestanding sign:

1. Is ten feet from any property line; and

2. Does not exceed ten feet in height.

B. Entrance and exit signs are permitted as provided in section 42-433.E.

(Ord. No. 03-01 (Exh. A, § 42-629), 2-18-2003)

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2½ feet of lot frontage, with a minimum sign size of 32 square feet, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size for any sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

1. Are at least ten feet from any property line; and

2. Do not exceed 15 feet in height.

B. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of wall signs shall not exceed 100 square feet per street frontage. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

C. In addition to the sign area allowed in this subsection, one additional freestanding sign may be erected at each vehicular entrance to identify the development and facilities located in an OTR zone therein, provided that such sign:

1. Does not exceed 50 square feet in area per side;

2. Is ten feet from any property line; and

3. Does not exceed 15 feet in height.

(Ord. No. 03-01 (Exh. A, § 42-629.1), 2-18-2003)

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2½ feet of lot frontage, with a minimum sign size of 32 square feet, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2½ feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

1. Are at least ten feet from any property line; and

2. Do not exceed 15 feet in height.

B. For each use on a zoning lot, there is permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of wall signs shall not exceed 100 square feet per street frontage. If no freestanding sign is used, the percentage of total wall area for wall signs may be increased by 33 percent per street frontage. Lots with dual frontage may not combine permissible signs for one frontage with another frontage for the purpose of placing the combined area of signs on one frontage.

(Ord. No. 03-01 (Exh. A, § 42-629.2), 2-18-2003)

Sec. 42-552. B-2, community business; B-3, general business; and CPD, commercial planned development districts.

In a B-2, community business district, B-3, general business district, or a CPD, commercial planned development district:

A. For each zoning lot, there is permitted one freestanding accessory sign, up to 50 square feet in area per side, for lots 125 feet or less in width, to be increased at a ratio of one square foot per each 2½ feet of lot frontage in excess of the initial 125 feet, up to a lot 300 feet wide. A zoning lot having in excess of 320 feet of frontage may have one additional sign based upon the same ratio of one square foot of sign area for each 2½ feet of lot frontage over the initial 320 feet of frontage. The maximum size for any one sign is 120 square feet.

B. When multiple-use zoning lots are involved, for each additional use on the zoning lot beyond the initial use, 15 square feet of sign area is permitted, the total area of freestanding signs not to exceed 50 percent over the sign size originally permitted for the lot.

C. For a lot with frontages on more than one street, each frontage may be treated as a separate frontage for the purpose of establishing permitted freestanding sign area and number.

D. For a corner lot, the distance between permitted freestanding signs shall be not less than 100 feet, as measured along the property lines, but in no case shall there be a distance of less than 70 feet between such signs. Each such sign shall be oriented to the street frontage it serves. If one freestanding sign is used, then the percentage of freestanding sign area permitted on one street frontage may be

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-542(B); 42-545(B); SECTION 42-550(A) AND SECTION 42-551(A), ARTICLE 4 OF CHAPTER 42 ZONING

THE CITY OF PORTAGE ORDAINS:

That Chapter 42, Article 4, shall be amended as follows:

Sec. 42-542. General requirements.

A. *Unchanged*

B. Sign measurements:

1. The entire area of one side of the sign face within a circle or four-sided polygon enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area shall also include any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.

2. *Unchanged.*

3. *Unchanged.*

4. *Unchanged.*

5. *Unchanged.*

C. through I. Unchanged.

Sec. 42-545. R-1A, R-1B, R-1C, R-1D, R-1E and R-IT districts.

A. In any R-1A, R-1B, R-1C, R-1D, R-1E and R-1T residential district:

1. *No change.*

2. For a permitted use other than a dwelling unit, there is permitted:

One (1) freestanding accessory sign, not exceeding one square foot for each 2-1/2 feet of lot frontage. The maximum size of the sign may not exceed 50 square feet in area, provided that such freestanding sign:

a. Is at least ten (10) feet from any property line; and
b. Does not exceed ten (10) feet in height.

3. For each use, there is also permitted a wall sign or signs, the combined area of which does not exceed 15 percent of the total area of the wall to which the sign or signs are attached. The combined total of all wall signs shall not exceed 100 square feet frontage.

Sec. 42-550. OS-1, office service and OTR, office, technology and research districts.

In an OS-1 office service or OTR, office, technology or research district:

A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 feet percent over the sign size originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

1. Are at least ten (10) feet from any property line; and
2. Do not exceed fifteen (15) feet in height.

B. *No change.*

C. *No change.*

Sec. 42-551. B-1, local business district.

In a B-1 local business district:

A. One freestanding accessory sign per zoning lot is permitted, not exceeding one square foot for each 2-1/2 feet of lot frontage, provided that the sign may not exceed 50 square feet in area for a lot less than 300 feet wide. For lots less than 80 feet in width, one freestanding sign not to exceed 32 square feet is permitted. A zoning lot in excess of 300 feet wide may have one additional sign based upon the ratio of one square foot of sign area per each 2-1/2 feet of lot frontage over the initial 300 feet of frontage. The maximum size for any one sign is 50 square feet. Where multiple-use zoning lots are involved, for each additional use on a zoning lot beyond the initial use, eight additional square feet of sign area is permitted, the total area of all signs not to exceed 50 percent over the sign size

originally permitted for the lot. Where the zoning lot abuts a one-family residential district, the setback distance shall be increased such that one foot of horizontal distance from the residential area is provided for each square foot of sign permitted on the lot, provided that all such signs:

1. Are at least ten (10) feet from any property line; and
2. Do not exceed fifteen (15) feet in height.

B. *No change.*

Dated: _____

_____
Peter J. Strazdas, Mayor

FIRST READING:
SECOND READING:
ORDINANCE #:
EFFECTIVE DATE:

CERTIFICATION

I, James R. Hudson, 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 _____, 20___.

_____
James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

APPROVED AS TO FORM
DATE 1/05/10
CITY ATTORNEY

Z:\Jody\PORTAGE\ORD\NONZONE\Amendment to Chap 43 Amend 42-545(B); 550(A) and 551(A).011510.wpd

CITY OF
PORTAGE
A Place for Opportunities to Grow

Department of Community Development

TO: Planning Commission **DATE:** January 15, 2010

FROM: Jeffrey M. Erickson, Director of Community Development

SUBJECT: Final Report: Ordinance Amendment #09-C, Home Occupation Regulations

I. INTRODUCTION

Consistent with the Planning Commission Goals and Objectives assigned by City Council, an ordinance amendment has been prepared that would modify home occupation regulations. Facilitating home occupations was previously discussed as part of the Portage 2025 Visioning Project.

Background research to identify appropriate and potentially adaptable regulations included review of approximately 20 different community ordinances including the City of New Baltimore, Ada Township, City of Holland, City of Port Huron, Oshtemo Township, City of Kalamazoo, Ypsilanti Township, Meridian Township, among others.

The ordinance amendment involves modifications to Section 42-112 (Definitions) and Section 42-129 (Home occupations) of the Zoning Code and was developed to accomplish the following: 1) allow more intensive types of home-based businesses as subordinate uses, and 2) continue to protect adjacent and nearby residential uses from potential negative impacts. A detailed discussion of proposed ordinance changes involving home occupations is provided below.

II. ZONING CODE PROVISIONS/ANALYSIS

The proposed ordinance amendment establishes two categories of home occupations: passive home occupation and active home occupation. A passive home occupation would continue the current ordinance provisions allowing low intensity occupations as a subordinate use to the principal residential use of the property. Passive home occupations would continue to be administratively reviewed, and approved if in conformance with ordinance requirements. An active home occupation is a new category, which is also subordinate to the residential use of the property, but is a more intensive home-based activity or service that does not meet the requirements for a passive home occupation. An active home occupation could be allowed after a public hearing, with approval by the Planning Commission and compliance with the established conditions as summarized below:

- Can only be conducted from a zoning lot with a one-family residential dwelling unit.
- No more than one person other than the full-time occupant(s) can be engaged in the active home occupation.
- The zoning lot must have at least one property line abutting a major thoroughfare.
- Total floor area occupied by the home occupation is limited to 25 percent of the total floor area of any one floor with a maximum of 400 square feet allowed.
- No inventory or materials used with the home occupation can be displayed in a manner that is visible from adjacent properties.
- Only one vehicle and/or trailer used with the home occupation can be stored on the zoning lot, unless otherwise approved by the Planning Commission.

- No undue noise, odor, dust, fumes, smoke, glare or comparable nuisances can be generated.
- Off-street parking must be located on an improved driveway and meet the requirements specified in Article 5, Section 24-111, Definitions.
- Hours of operation for the home occupation are established as 7:00 a.m. to 9:00 p.m.
- No freestanding signage is permitted and one non-illuminated wall sign (maximum of six square feet) may be affixed to the one-family dwelling unit.

Attached for Commission review is a copy of the home occupation ordinance amendment.

III. PUBLIC REVIEW/COMMENT

The Planning Commission began preliminary review and discussion of the proposed home occupation ordinance amendment at the November 5, 2009 and December 17, 2009 meetings. During the January 7, 2010 meeting, the Planning Commission convened a public hearing regarding Ordinance Amendment #09-C. No citizens were present to speak in regard to the proposed home occupation ordinance amendment.

IV. RECOMMENDATION

Based on the above analysis and subject to any additional comments received during the public hearing, the Planning Commission is advised to recommend to City Council that Ordinance Amendment 09-C, Home Occupation Regulations, be approved.

Attachments: Proposed Ordinance Amendment

s:\department files\2008_09 files and previous\board files\planning commission\pc reports\ordinance amendments\home occupation amendment\2010 01 15 final report ord 09-c. home occupation regulations.doc

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-112 and 42-129 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS

THE CITY OF PORTAGE ORDAINS:

That Section 42-112 and 42-129 of Chapter 42, Land Development Regulations, are hereby amended as follows:

Section 42-112. Definitions.

Home occupation: A home based activity or service conducted on a zoning lot used for residential purposes by an occupant(s) as a subordinate and/or accessory use involving the sale or exchange of goods, materials or services. Home occupations may include, but are not limited to, administrative offices, instruction and crafts or fine arts, art, photographic studios, sale of fruits, vegetables or flowers grown on site, personal service establishments, sale of goods. For purposes of this section, family day care home shall not be considered a home occupation. Two types of home occupations are hereby established and permitted pursuant to the terms of this section as follows:

(1) Passive home occupations: Home occupations of low intensity which satisfy the specific conditions and requirements for passive home occupations provided in Section 42-129.A.

(2) Active home occupations: Active home occupations are more intensive than passive home occupations and do not meet one or more of the requirements in Section 42-129.A. Specific conditions and requirements for active home occupations are provided in Section 42-129.B.

Section 42-129. Home occupations.

A. Passive home occupations: The director shall approve a passive home occupation after a finding that the following requirements are satisfied:

1. The occupation is conducted as a subordinate use by a member of the family occupying the dwelling unit.

2. The occupation is conducted wholly within the dwelling unit.

3. No person outside the family is employed in the home occupation.

4. Not more than 25 percent of the total floor area of any one floor of the dwelling unit, or 25 percent of the basement, is used for the home occupation.

5. The home occupation does not require interior or exterior alterations or the use of mechanical or electronic equipment not customarily used in a dwelling unit.

6. No sign identifying the home occupation is permitted.

7. The home occupation does not produce or generate, in any way, noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No passive home occupation shall be permitted to produce or store any hazardous materials.

8. The home occupation does not generate pedestrian or vehicular traffic beyond that normally generated by a dwelling unit.

9. No other vehicular parking other than the off-street parking facilities normally required for the residential use is permitted.

B. Active home occupations: The Planning Commission may approve an active home occupation after a public hearing and finding that the application meets the standards set forth in this section. Active home occupations shall comply with the following requirements:

1. An active home occupation shall only be conducted on a zoning lot where there is a one-family residential dwelling unit.

2. No more than one person other than the full-time occupant(s) of the one-family dwelling unit shall be engaged in the conduct of the active home occupation.

3. The zoning lot shall have at least one property line abutting a major or collector thoroughfare as defined in the City of Portage Major Thoroughfare Plan.

4. Not more than 25 percent of the total floor area of any one floor of the one-family dwelling unit, or 25 percent of any basement, and provided that no more than 400 square feet of the dwelling unit is occupied by the active home occupation.

5. Storage of goods, materials, equipment or products associated with the active home occupation shall be permitted only within the enclosed sections of the one-family dwelling unit or within not more than 50 percent of the total floor area of a completely enclosed accessory building.

6. The active home occupation, or any part thereof, shall not be conducted in any attached, detached or accessory building or structure nor on any patio, deck or lawn area. This section shall not prohibit the growing of fruits, vegetables or flowers nor any other farm product protected by the Michigan Right to Farm Act, Act 93 of 1981, as amended, in any outside area, provided that the farm product is grown, raised or produced on the zoning lot occupied by the active home occupation.

7. No inventory or materials shall be displayed, directly sold or delivered to customers on the premises of the one family dwelling in a manner which is visible from adjacent properties except for the sale of fruits, vegetables and flowers as permitted in Section 42-129(B)(6).

8. There shall be no alterations or exterior treatments to the zoning lot or structures on the zoning lot which would, in any way, change its residential character or appearance.

9. Not more than one vehicle and/or trailer used in conjunction with the active home occupation shall be used or stored on the zoning lot unless otherwise approved by the Planning Commission. In its consideration of a vehicle and/or trailer, the Planning Commission may consider factors including, but not limited to, the following:

    a. The size and weight of vehicles to be used in the active home occupation;

    b. The number of trips the vehicle to be used in the home occupation is expected to make to and from the property.

10. The Planning Commission shall consider whether the use and the expected conduct of the use associated with the active home occupation is within an acceptable range of compatibility appropriate for the surrounding area and does not present undue safety hazards. In its determination, the Planning Commission shall consider whether the application:

    a. Promotes the intent and purpose of this section;

    b. Sufficiently mitigates adverse impacts on the surrounding residential uses of land. The Planning Commission may consider factors including, but not limited to, the following:

        i. The proximity of the surrounding uses to the active home occupation;

        ii. The size of the zoning lot, location of driveways, topography, vegetation, location of structures and other features of the zoning lot.

        iii. The seasonal nature of the active home occupation.

    c. Does not unduly affect the capacities of public services or facilities;

    d. Is consistent with the public health, safety and welfare;

    e. Is harmonious with and in accordance with the general objectives or with any specific objective of the comprehensive plan; and

    f. Is planned and designed to ensure that the nature and intensity of the use and the site layout and its relation to the streets giving access to it, is not hazardous to the area and does not unduly conflict with normal traffic.

11. The Planning Commission may attach conditions deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impacts on the surrounding residential uses of land, and any condition allowed by MCLA 125.3504(4) of the Michigan Zoning Enabling Act. The Planning Commission may, after public hearing, eliminate, clarify and/or modify any condition attached to the active home occupation approval as deemed necessary if facts and circumstances have changed.

12. The active home occupation shall not produce or generate excessive or undue noise, odor, dust, fumes, smoke, glare or comparable nuisances which would cause negative effects on surrounding property. No active home occupation shall be permitted to produce or store any hazardous materials.

13. Off-street parking provided for the active home occupation shall be provided on an improved driveway surface. Improved driveway shall meet the requirements of Article 5, Section 24-111, Definitions.

14. An active home occupation shall have a right to operate from the hours of 7:00 a.m. to 9:00 p.m. All activities conducted at other times shall be consistent with the character of the residential area and shall not disturb the peace and quiet of the surrounding residential neighborhood.

15. No freestanding signage is permitted. Non-illuminated wall signage (maximum of six square feet) identifying the name of the active home occupation may be affixed to the one-family dwelling unit.

FIRST READING:
SECOND READING:
EFFECTIVE DATE:

_____
Peter J. Strazdas, Mayor

CERTIFICATION

STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, James R. Hudson, 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 _____, 2010.

_____
James R. Hudson, City Clerk

PREPARED BY:
Randall L. Brown (P34116)
Portage City Attorney
1662 East Centre Avenue
Portage, MI 49002
(269) 323-8812

Approved as to form
Date: 1/12/10
_____
City Attorney

MATERIALS TRANSMITTED

CITY COUNCIL MEETING MINUTES FROM DECEMBER 15, 2009

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

Mayor Strazdas introduced Associate Pastor John Moore of the Portage First United Methodist Church, who gave the invocation and Cub Scout Troop 235 led City Council and the audience in the recitation of the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Margaret E. O'Brien, Patricia M. Randall, Claudette S. Reid and Terry R. Urban, Mayor Pro Tem Edward J. Sackley and Mayor Peter J. Strazdas. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Sackley, seconded by O'Brien, to approve the December 1, 2009 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 O'Brien, seconded by Reid, to approve the Consent Agenda Motions as presented. Upon a roll call vote, motion carried 7 to 0.

* **APPROVAL OF CHECK REGISTER OF DECEMBER 15, 2009:** Motion by O'Brien, seconded by Reid, to approve the Check Register of December 15, 2009. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARING:

CITY OF PORTAGE BROWNFIELD REDEVELOPMENT PLAN AND PLAN AMENDMENT NO. 6: Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson, who reviewed the process and explained the request. Also, he disclosed that the applicant is requesting local support for a Michigan Business Tax credit of $803,000 and the use of tax increments from the captured value of the Treystar development in the maximum amount of $297,000 over a four-year period to cover the cost of eligible activities and administrative costs associated with the redevelopment of the property. He emphasized that the redevelopment of the approximate eight acre site is consistent with City of Portage land use, commercial revitalization and environmental objectives and will provide additional tax base growth, new jobs and related economic benefits to the community. He pointed out that this project is considered to be a catalyst to promote other private development and redevelopment activities along the Portage Road corridor. He then deferred to Fritz Brown, who was present and representing Treystar, for any questions regarding the project.

At the request of Mayor Strazdas, Mr. Erickson explained that this is Amendment No. 6 to the Brownfield Redevelopment Plan and is consistent with the policy adopted by City Council in 2008. Discussion followed.

Fritz Brown, 3505 Sandhill Lane, thanked Mr. Erickson and Deputy Director of Planning and Development Services Chris Forth for their help with the project, expressed appreciation to City Council for their interest and explained that here is an incentive to get the property developed as quickly as possible in order to capture the taxes in a timely manner. Discussion followed.

Shashin Kothawala, 6914 Northstar Avenue, Kalamazoo, asked whether the Michigan Business Tax would apply to the entire eight acres and Mr. Erickson explained that it would and that the Tax Increment Financing applies to the eight acres also. Discussion followed.

Mr. Erickson explained that Treystar had preliminary findings regarding soil contamination from Atwell-Hicks and that the remediation costs and the capture of the taxes applies to the entire eight acres because the other parcels in the project are contiguous to the gas station parcel. He explained the approval process, the soil monitoring process, that Treystar will be submitting all funded activities to the

city and that the onus is on Treystar to develop the property as they stand to benefit, the sooner the better. Discussion followed.

Motion by O'Brien, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Motion by Sackley, seconded by O'Brien, to adopt the Resolution approving an amended Brownfield Redevelopment Plan by adding Brownfield Redevelopment Plan Amendment No. 6 involving 8019 Portage Road. Discussion followed. City Attorney Brown indicated that the requests for reimbursements go to the Brownfield Authority, not the City of Portage. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 421 of City of Portage Resolution Book No. 43.

PETITIONS AND STATEMENTS OF CITIZENS: Alison Lincoln, indicated that Michigan Blood, a nonprofit organization based in Grand Rapids, will soon have a new location at 524 East Milham Avenue, Portage, by January 2010, and will begin supplying blood donated by the public to Borgess Medical Center and to Bronson Methodist Hospital.

In response to Councilmember Reid, Ms. Lincoln indicated that the only function of Michigan Blood is to obtain blood with the top priority being community hospitals, and is not affiliated with the Red Cross.

In response to Councilmember Randall, Ms. Lincoln said a person can only tag blood for oneself in the hospital, and blood can not be specifically tagged for a specific person through Michigan Blood.

REPORTS FROM THE ADMINISTRATION:

* **ADOPTION OF REFUNDING BOND RESOLUTIONS:** Motion by O'Brien, seconded by Reid, to adopt the Refunding Bond Resolution authorizing the sale of Michigan Transportation Fund Refunding Bonds, Series 2010, in an amount not-to-exceed $7,500,000 and to adopt the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Michigan Transportation Fund Refunding Bonds, Series 2010. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on pages 425 and 435 of City of Portage Resolution Book No. 43.

* **HOUSEHOLD HAZARDOUS WASTE PROGRAM – INTERGOVERNMENTAL COOPERATION:** Motion by O'Brien, seconded by Reid, to approve the contract with Kalamazoo County for Household Hazardous Waste collection during the 2010 calendar year in the not-to-exceed amount of $32,000 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **MICHIGAN MUNICIPAL LEAGUE DUES:** Motion by O'Brien, seconded by Reid, to authorize payment to the Michigan Municipal League in the amount of $9,238 for year 2010 membership dues. Upon a roll call vote, motion carried 7 to 0.

* **OFFICE PRODUCTS CONTRACTS:** Motion by O'Brien, seconded by Reid, to approve a contract with Office Max Contract, Inc., through MiDEAL for the purchase of office supplies and products through January 1, 2011, and any MiDEAL contract extensions offered to Office Max Contract, Inc., thereafter; Office Depot Business Solutions Division through U.S. Communities Government Purchasing Alliance for the purchase of office supplies and products through January 1, 2011, and any U.S. Communities contract extensions offered to Office Depot Business Solutions thereafter; and authorize the City Manager to execute all documents related to the contracts on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

* **2010 BOARD OF REVIEW RESOLUTION:** Motion by O'Brien, seconded by Reid, to adopt the Resolution setting the dates and times for the March 2010 Board of Review sessions. Upon a roll call vote, motion carried 7 to 0. Resolution recorded on page 437 of City of Portage Resolution Book No. 43.

* **2009 PORTAGE COMMUNITY SURVEY:** Motion by O'Brien, seconded by Reid, to accept the results of the 2009 Portage Community Survey conducted annually by the Kercher Center for Social Research at Western Michigan University. Upon a roll call vote, motion carried 7 to 0.

* **2009 TAX RATE SURVEY – INFORMATION ONLY:** Motion by O'Brien, seconded by Reid, to receive the communication from the City Manager regarding the 2009 Tax Rate Survey as information only. Upon a roll call vote, motion carried 7 to 0.

* **NOVEMBER 2009 SUMMARY ENVIRONMENTAL ACTIVITY REPORT:** Motion by O'Brien, seconded by Reid, to receive the communication from the City Manager regarding the November 2009 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

* **DEPARTMENT MONTHLY REPORTS – INFORMATION ONLY:** Motion by O'Brien, seconded by Reid, to receive the Department Monthly Reports from the various city departments as information only. Upon a roll call vote, motion carried 7 to 0.

* **FISCAL YEAR 2010-2011 HUMAN SERVICES:** Motion by O'Brien, seconded by Reid, to allocate up to 0.55 percent of the General Fund for support of human service agencies for Fiscal Year 2010-2011. Upon a roll call vote, motion carried 7 to 0.

* **FISCAL YEAR 2010-2011 COUNCIL MISSION STATEMENT AND GOALS AND OBJECTIVES:** Motion by O'Brien, seconded by Reid, to adopt the Resolution adopting the 2010-2011 Council Mission Statement and Goals and Objectives for the City of Portage as established at the City Council Goal Setting Session on December 11 and 12, 2009. Upon a roll call vote, motion carried 7 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes of the:

Portage Park Board of November 4, 2009.
Portage Human Services Board of November 5, 2009.
Portage Planning Commission of November 19, 2009.

AD HOC COMMITTEE REPORT:

INTENT TO JOIN PUBLIC MEDIA NETWORK (PMN): Councilmember Reid recused herself from discussion or voting on the item as she has a conflict of interest as her daughter works for Public media Network. Mayor Strazdas introduced the item and deferred to Mayor Pro Tem Sackley, who provided a history and some of the background of cable access in the City of Portage for the last twenty-five years. He explained that City Council had become interested in changing cable access since their Mayors Exchange visit to the City of Novi where three communities were pooling their resources for this effort. He pointed out that in Kalamazoo County, the City of Portage has a similar opportunity by joining the City of Parchment, Texas Township, Oshtemo Township, Kalamazoo Township and the City of Kalamazoo in the Public Media Network for the provision of Cable Access Public, Education and Government programming services.

Councilmember O'Brien expressed her appreciation to Portage Public Schools and the Public Media Network for working together to make this happen by June 2010. Discussion followed.

Public Media Network Executive Director Harry Haasch, Public Media Network Board Chairman Jerry Brown and Portage Public Schools Community Relations Director Tom Vance spoke in favor of the proposed Resolution of Intent. Discussion followed.

Mayor Strazdas thanked all of the participants, especially Chief Information Officer Devin Mackinder, for their support in what he termed a "watershed moment for regional cooperation."

Mayor Pro Tem Sackley thanked Portage Public Schools Superintendent Marsha Wells for getting personally involved and for her support.

Motion by O'Brien, seconded by Sackley, to adopt the Resolution of Intent for the City of Portage to join the Public Media Network for the provision of Cable Access Public, Education and Government programming services within the community. Discussion followed. Upon a roll call vote, motion carried 6 to 0 with Councilmember Reid abstaining. Resolution recorded on page 439 of City of Portage Resolution Book No. 43.

NEW BUSINESS:

2009 COUNCIL GOAL SETTING SESSION RESULTS: Mayor Strazdas introduced the item, including the 2010 City Council Standing Committee and Ad Hoc Committee Appointments, City Council Priorities 2010and asked for comment. Councilmember Engaging Youth Committee will no longer be in place as it has been folded into another committee. Mayor Strazdas listed the fourteen City Council 2010 Priorities: CABLE Access, Customer Service, Portage Government Contraction, Traffic Monitoring/Electronic Speed Signs, Cell Phone Texting/Texting Ban/Ordinance, Continued Cost Savings, Disposition of Legal Matters, Portage Police Department K-9 Officer, Regional Cooperative Initiatives, City Centre – Uptown Regional Concept, Gallup Training (Innovative Leadership), Fair and Accurate Property Tax assessment, 2025 Renewal, and Neighborhood Revitalization Engagement. Mayor Strazdas indicated that the various City Council Committees would be addressing these topics throughout the next calendar year and asked for a motion of approval. Motion by O'Brien, seconded by Reid, to approve the 2010 City Council Standing Committee and Ad Hoc Committee Appointments and City Council Priorities 2010. Upon a voice vote, motion carried 7 to 0.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL: City Council wished all a Merry Christmas and/or a safe and happy holiday.

Councilmember Randall enjoyed the Stuart Mannor Tea and the singing of the Portage Northern High School Quartet.

Councilmember Reid emphasized the importance of recognizing the warnings of a stroke: sudden numbness or weakness of the face, arm or leg, especially on one side of the body; sudden confusion, trouble speaking or understanding; sudden trouble seeing in one or both eyes; sudden trouble walking, dizziness, loss of balance or coordination; or sudden, severe headache with no known cause, and advised getting the patient to the hospital fast.

Councilmembers O'Brien, Campbell and Urban expressed their delight and satisfaction as volunteers serving lunch to seniors at the Senior Center.

Mayor Pro Tem Sackley complimented the Administration for the newly installed Portage City Seal in City Council Chambers and thanked everyone who recently supported Portage Public Schools and their families.

Mayor Strazdas disclosed a common theme of respect and teamwork among City Council during the recent retreat and commended City Council for their work on the unprecedented number of ad hoc committee meetings in 2009.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:17 p.m.

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James R. Hudson, City Clerk

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