

**CITY OF**  
**PORTAGE**  
*A Place for Opportunities to Grow*

# **PLANNING COMMISSION**

**November 18, 2010**

# **CITY OF PORTAGE PLANNING COMMISSION**

## **A G E N D A**

**November 18, 2010**

**(7:00 p.m.)**

**Portage City Hall Council Chambers**

### **PLEDGE OF ALLEGIANCE**

### **APPROVAL OF MINUTES:**

- \* November 4, 2010

### **SITE/FINAL PLANS:**

- \* 1. Site Plan: Air Zoo (expansion), 6151 Portage Road

### **PUBLIC HEARINGS:**

- \* 1. Special Land Use Permit (amendment): Air Zoo (expansion), 6151 Portage Road
- \* 2. Final Report: Valley Family Church-Kalamazoo, 2500 Vincent Avenue – special land use permit review
- \* 3. Preliminary Report: Ordinance Amendment #10-01, Keeping of Hens and Other Animals

### **PLATS/RESIDENTIAL CONDOS:**

### **OLD BUSINESS:**

### **NEW BUSINESS:**

### **STATEMENT OF CITIZENS:**

### **ADJOURNMENT:**

### **MATERIALS TRANSMITTED**

October 11, 2010 Zoning Board of Appeals meeting minutes

October 19, 2010 City Council meeting minutes

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

## PLANNING COMMISSION

November 4, 2010

DRAFT

The City of Portage Planning Commission meeting of November 4, 2010 was called to order by Chairman Cheesebro at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Five citizens were in attendance.

### MEMBERS PRESENT:

Cory Bailes, Rick Bosch, Jim Pearson, Miko Dargitz, Wayne Stoffer, Bill Patterson, and Chairman James Cheesebro.

### MEMBERS ABSENT:

None.

### MEMBERS EXCUSED:

Paul Welch and Mark Siegfried.

### IN ATTENDANCE:

Michael West, Assistant City Planner and Charlie Bear, Assistant City Attorney

### PLEDGE OF ALLEGIANCE:

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

### APPROVAL OF MINUTES:

Chairman Cheesebro referred the Commission to the October 21, 2010 meeting minutes. A motion was made by Commissioner Bailes, seconded by Commissioner Bosch, to approve the minutes as submitted. The minutes were unanimously approved.

### SITE/FINAL PLANS:

1. Site Plan (re-approval): Fifth-Third Bank, 2610 East Milham Avenue. Mr. West summarized the staff report dated October 29, 2010 involving a site plan to construct an approximate 4,300 square foot bank building and associated site improvements. Mr. West indicated the site plan had been previously reviewed and approved by the Planning Commission on May 21, 2009, November 19, 2009 and then again on May 6, 2010, however, construction had not yet commenced and the approval was scheduled to expire on November 6, 2010. Mr. West stated construction of the Fifth-Third Bank project has been delayed due to the construction schedule of the Centreport Commons infrastructure. Since the last re-approval (May 2010), construction of the Centreport Commons infrastructure has been completed and Mr. West indicated that Fifth-Third Bank is now ready to move forward with the project. Mr. West stated the site plan is being resubmitted for approval with no changes from the May 6, 2010 approval.

Mr. Craig Hondorp, Progressive AE, was present to support the plan. Mr. Hondorp stated that Fifth-Third Bank wants to keep the approval active and hopes to begin construction in 2011. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Dargitz, to re-approve the Site Plan for Fifth-Third Bank, 2610 East Centre Avenue. The motion was unanimously approved.

DRAFT

**PUBLIC HEARINGS:**

1. Special Land Use Permit: Sackett's Fireplace, 7696 South Sprinkle Road. Mr. West introduced the item and summarized the staff report dated October 29, 2010 regarding the request by Mr. John Sackett, of Sackett's Fireplace, to establish a wholesale/retail outlet store within the Park Square Commons development located at 7696 South Sprinkle Road. Mr. West stated the applicant was proposing to establish a retail showroom, warehouse and offices in an approximate 3,700 square foot tenant space within the east 20,000 square foot building. Mr. West discussed the ordinance provisions for issuance of a special land use permit and indicated the proposal satisfies the criteria and was recommended for approval.

Mr. John Sackett (applicant, Sackett's Fireplace) was present to support the application. Chairman Cheesebro opened the public hearing. One citizen, Mr. Stanley Sackett (8201 Talaria Terrace, Kalamazoo, MI) spoke in support of the application citing a good synergy of uses between Sackett's Fireplace and the other uses in the Park Square Commons development and surrounding area. No additional citizens spoke during the public hearing. A motion was then made by Commissioner Bosch, seconded by Commissioner Dargitz, to close the public hearing. The motion was unanimously approved. After a brief discussion, a motion was made by Commissioner Patterson, seconded by Commissioner Bailes, to approve the Special Land Use Permit for Sackett's Fireplace, 7696 South Sprinkle Road. The motion was unanimously approved.

**PLATS/RESIDENTIAL CONDOS:**

None.

**OLD BUSINESS:**

Commissioner Dargitz discussed traffic concerns expressed by the City of Kalamazoo during the 2008 review of the Valley Family Church - Kalamazoo (VFC-K) development at 2500 Vincent Avenue and asked whether an updated response has been received from the City of Kalamazoo. Mr. West indicated that the City of Portage has requested comments from the City of Kalamazoo, however, no response has yet been received. The Commission next discussed whether a formal written request from the Planning Commission should be drafted and sent to the City of Kalamazoo. After a brief discussion, Commissioner Dargitz asked that a copy of the staff letter to the City of Kalamazoo requesting comments be included with the final report.

Commissioner Stoffer asked whether additional information and an update on the noise complaints associated with the VFC-K development could be provided to the Commission. Mr. West stated that an update on the noise issue would be included with the final report. Mr. Stoffer also expressed concerns over whether the Commission has received adequate information from the adjacent neighbors regarding the VFC-K development and indicated the neighbors may not be comfortable coming forward with comments. Mr. West indicated the public hearing was noticed consistent with statutory requirements and in the same fashion as the original 2008 review and other special land use permits.

Chairman Cheesebro discussed the "No Right-Turn, Local Traffic Only" sign that was installed with the VFC-K project and a similar sign that was installed with the Walgreens development at the corner of South Westnedge Avenue and East Milham Avenue. Chairman Cheesebro asked if staff could include a discussion in the final report of this similarly installed Walgreens sign and whether or not there have been any issues or confusion with the sign.

Commissioner Stoffer asked if the Planning Commission would have extended the site plan approval for the Fifth-Third Bank project at 2610 East Centre Avenue to one year, instead of six month. Mr. West and Assistant City Attorney Bear discussed the specific ordinance provision and indicated that the Commission would not extend the length of approval beyond what was cited in the ordinance.

**DRAFT**

**NEW BUSINESS:**

None.

**STATEMENT OF CITIZENS:**

None.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 7:35 p.m.

Respectfully submitted,

Michael West, AICP  
Assistant City Planner

**TO:** Planning Commission

**DATE:** November 12, 2010

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Special Land Use Permit (amendment) / Site Plan: Air Zoo (expansion), 6151 Portage Road

**I. INTRODUCTION:**

Air Zoo officials have requested an amendment to the previously approved 2003 special land use permit and approval of a site plan to allow construction of an approximate 46,000 square foot building addition and associated site improvements at the existing Air Zoo facility. The proposed building addition will be located on the east side of the existing building and will be used for additional aircraft display: Exhibits from the original museum located at the east end of East Milham Avenue will be transferred to the new addition.

In March 2003, the Commission approved a Special Land Use Permit and Site Plan that authorized construction of the existing approximate 118,500 square foot Air Zoo facility and related improvements including access drives, parking and storm water drainage system (see attached March 6, 2003 meeting minutes). The original Air Zoo project was approved pursuant to Section 42-281.C.1, Special Land Use in the I-2 zoning district: "Warehouses or wholesale/retail outlets which, because of the nature of their operations, the size of their buildings or some other peculiarity, in the opinion of the planning commission, are equally or better suited for location in the I-2 district."

**II. BACKGROUND:**

The following information is provided for Commission consideration:

Existing Land Use/Zoning	<ul style="list-style-type: none"> <li>Existing Air Zoo facility (approximately 118,500 square feet) and associated site improvements zoned I-2, heavy industry.</li> <li>Vacant land zoned I-2 borders the site to the south and west (across Portage Road).</li> <li>Kalamazoo-Battle Creek International Airport located within the city of Kalamazoo borders the site to the east and north. East Milham Avenue and a combination of commercial (B-3, general business zoning) and industrial (I-1, light industry) zoned property also borders site to the north.</li> </ul>
Comprehensive Plan	<ul style="list-style-type: none"> <li>Future Land Use Map component of the Comprehensive Plan identifies the subject site along with adjacent properties to the south and west (across Portage Road) as appropriate for research, development &amp; technology land use. Adjacent properties located to the north (northeast corner of Portage Road/East Milham Avenue) are designated for general business land use.</li> </ul>
Access	<ul style="list-style-type: none"> <li>Existing full service driveway from Portage Road and existing full service driveway from East Milham Avenue.</li> <li>Portage Road is classified as a major arterial street with an average weekday traffic volume of approximately 22,200 vehicles per day (2004) with a capacity of 32,500 vehicles per day based on a level of service D.</li> </ul>
Environmental Issues	<ul style="list-style-type: none"> <li>A review of the City of Portage Sensitive Land Use Inventory Map does not identify any environmentally sensitive areas (100-year floodplain, wetlands) at the subject site.</li> </ul>
Land Development Regulations	<ul style="list-style-type: none"> <li>The application has been submitted under Section 42-281.C.1, <i>Special Land Use</i> in the I-2 zoning district: "Warehouses or wholesale/retail outlets which, because of the nature of their operations, the size of their buildings or some other peculiarity, in the opinion of the planning commission, are equally or better suited for location in the I-2 district. Such uses shall be located on the periphery of such district, with access to a major thoroughfare, which access shall, in the opinion of the commission, be sufficient for the amount of traffic volume generated by the warehouse or wholesale/retail outlet and shall not disturb other heavy industrial developments in the district."</li> <li>Section 42-462, <i>General Standards for Review of Special Land Uses</i>, sets forth additional criteria for evaluating a special land use and allows conditions to be established.</li> </ul>
Historic District/Structure	<ul style="list-style-type: none"> <li>The subject site is not located within a historic district and does not contain any historic structures.</li> </ul>

### III. ANALYSIS:

Special Land Use Permit (amendment): The proposed expansion of the Air Zoo museum fulfills the requirements for amendment of the previously approved special land use permit. As determined with the 2003 approval, the site is located on the periphery of the I-2 district and access is provided from Portage Road, a major thoroughfare. Traffic generated by the Air Zoo facility can be accommodated. The Air Zoo, including the planned expansion, is better suited at this location due to the nature of the operation and size/type of the building; proximity to the Kalamazoo-Battle Creek International Airport resulting from operational issues and proximity to the I-94/Portage Road interchange since the museum is a tourist destination. The expansion project will not alter the character of the surrounding area nor impact other future heavy industrial developments that may occur. In accordance with ordinance and statutory requirements, residents/property owners within 300 feet of this property have been notified in writing of the application and Planning Commission meeting. A notice was also placed in the local newspaper.

Site Plan: Access to the site will continue through the existing full service driveways from Portage Road and East Milham Avenue (that provides access to the Portage Road signalized intersection). Additional paved areas for loading/unloading activities and emergency vehicle access will be provided and a temporary gravel access road will be constructed between the original facility located on East Milham Avenue and the proposed addition. This temporary road will be used to transfer aircraft exhibits and will be removed upon completion. Storm water from the expansion will be collected and conveyed to an existing storm water treatment cell and infiltration basin located along the eastern portion of the site. A total of 388 vehicle parking spaces and 19 bus spaces currently exist. Based on information provided by the Air Zoo including average monthly attendance records (attached), the existing parking spaces exceed current and anticipated needs including the peak months of July and August. Consistent with Section 42-520.J of the Zoning Code and given the unique nature of the Air Zoo museum, staff concurs with the applicant that adequate parking is available. If additional parking is deemed necessary in the future, several vacant areas across the site can be utilized.

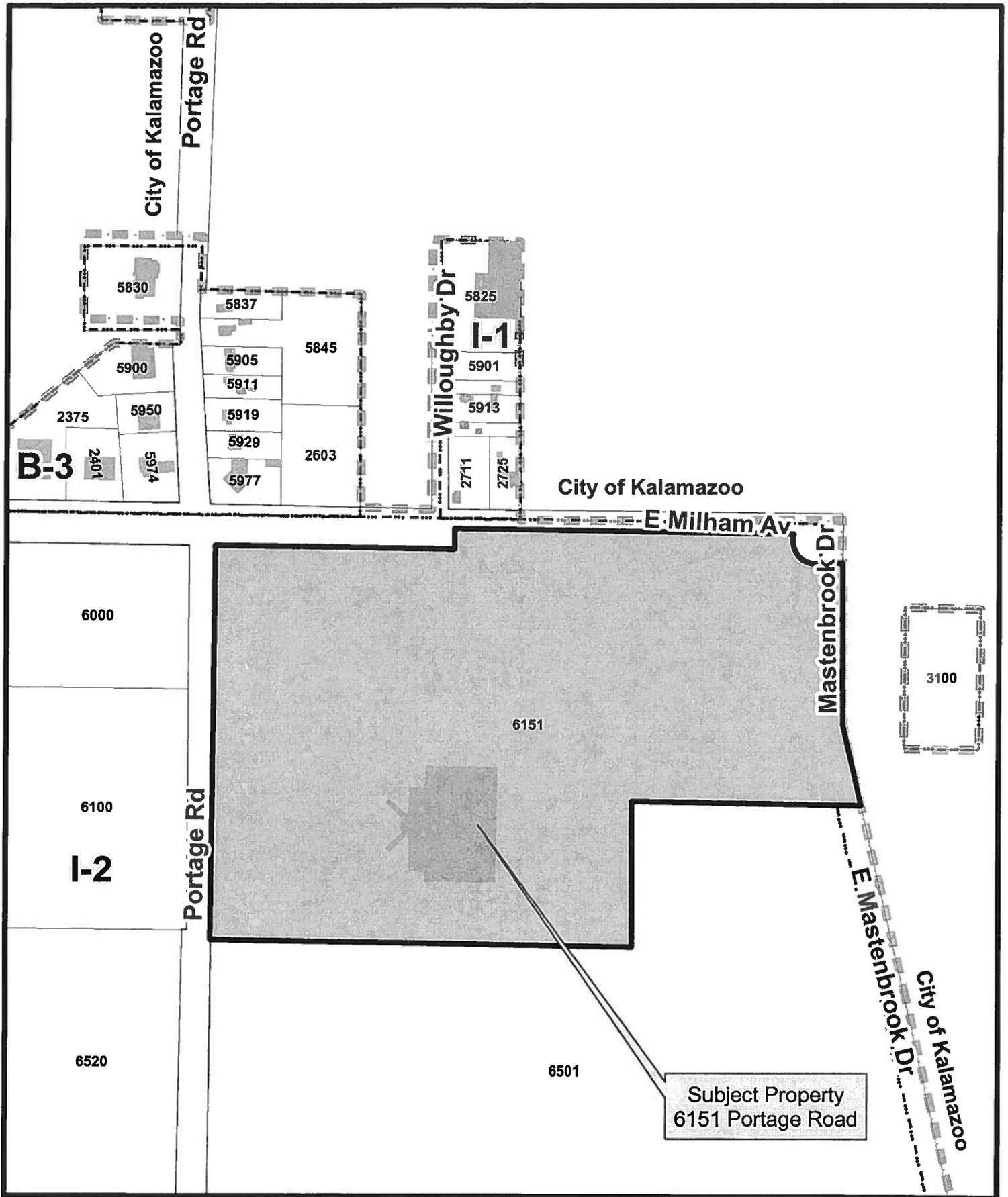
Finally, the applicant has discussed the expansion with representatives from the Kalamazoo-Battle Creek International Airport and has indicated that no additional approvals or permits are necessary from the Federal Aviation Administration (FAA) or other agencies.

### IV. RECOMMENDATION:

Based on the above analysis and subject to any additional information brought before the Planning Commission, the following actions are recommended:

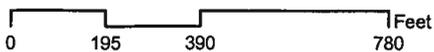
- 1) Approve the Special Land Use Permit (amendment) for Air Zoo (expansion), 6151 Portage Road.
- 2) Approve the Site Plan for Air Zoo (expansion), 6151 Portage Road.

Attachments: Vicinity/Zoning Map  
Aerial Photograph  
Special Land Use Permit Application  
Site Plan Sheets  
Monthly attendance table (2009-2010)  
March 6, 2010 Planning Commission meeting minutes



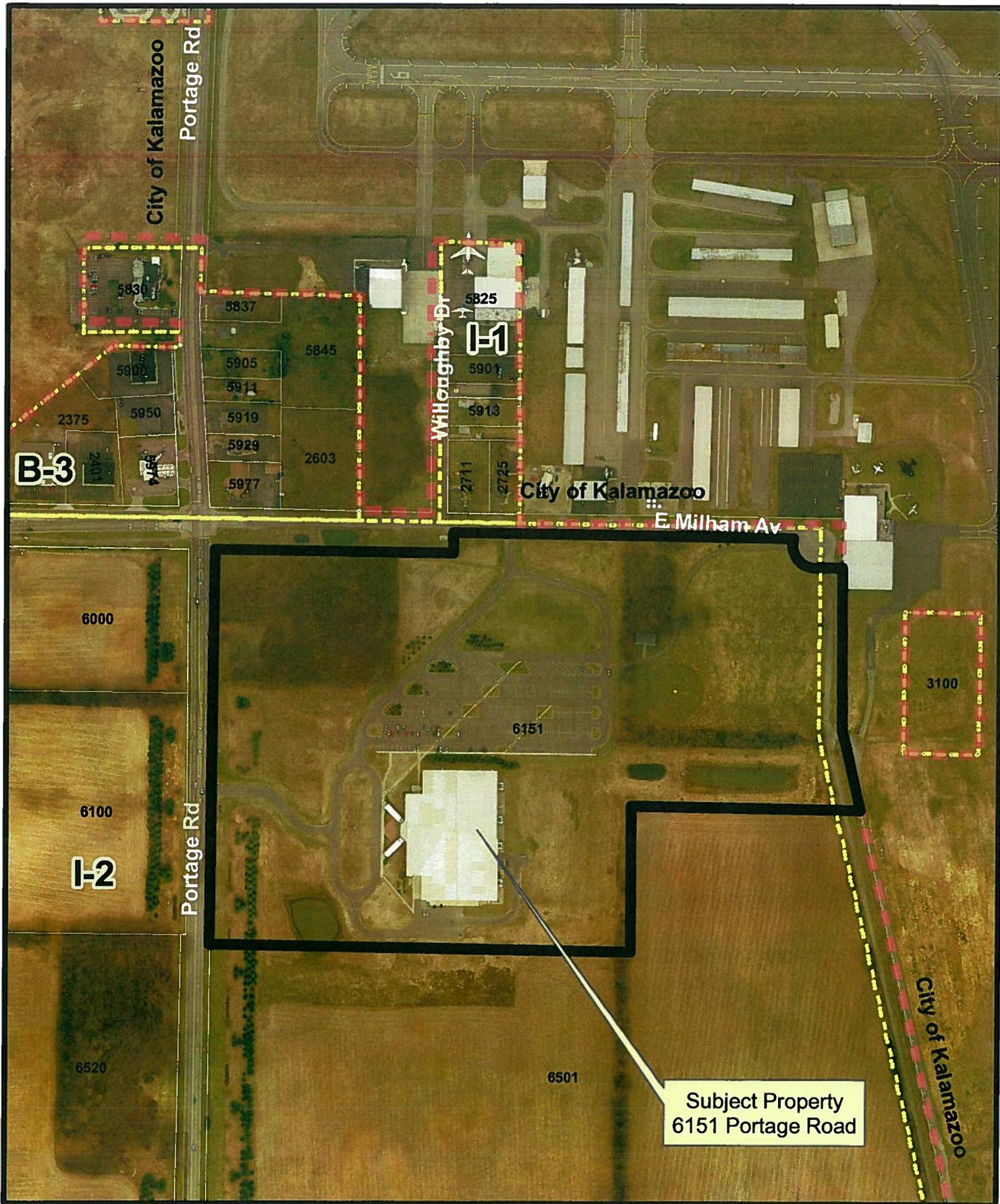
# SPECIAL LAND USE PERMIT

## 6151 Portage Road



### Legend

- Zoning Boundary
- Subject Parcel
- CITY BOUNDARY



Subject Property  
6151 Portage Road

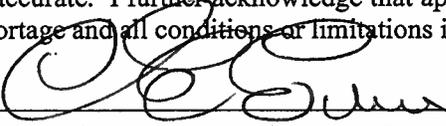


# SPECIAL LAND USE PERMIT 6151 Portage Road



### Legend

-  Subject Parcel
-  Zoning Boundary
-  CITY BOUNDARY

APPLICANT INFORMATION			
Name <b>AIR ZOO</b>		Telephone Number <b>382-0555</b>	
Address <b>6151 PORTAGE</b>	City <b>PORTAGE</b>	State <b>MI</b>	Zip code <b>49002</b>
OWNER INFORMATION (if different)			
Name <b>SAME</b>		Telephone Number	
Address	City	State	Zip code
PROPERTY INFORMATION			
Address of property <b>6151 PORTAGE</b>	Zoning District <b>I-2</b>	Land Area (acres) <b>49.83</b>	
Legal Description (or attach separate page) <b>SEE SITE PLAN</b>			
PROPOSED USE			
Description of proposed Special Land Use (attach additional page(s), if necessary)			
<b>40000 SQ ADDITION TO PREVIOUSLY APPROVED SPECIAL USE FOR PUBLIC ATTRACTION SPACE</b>			
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  <b>BOB ELLIS, EXEC. DIR.</b>		Date <b>OCT 25 2010</b>	





**AVERAGE MONTHLY ATTENDANCE**

	<b>2010</b>			<b>2009</b>		
	<b>Main</b>	<b>East</b>	<b>Total</b>	<b>Main</b>	<b>East</b>	<b>Total</b>
<b>January</b>	248	184	432	119	88	207
<b>February</b>	273	202	475	141	104	245
<b>March</b>	304	225	529	134	99	233
<b>April</b>	496	367	863	275	204	479
<b>May</b>	263	195	458	130	96	226
<b>June</b>	405	300	705	913	676	1589
<b>July</b>	688	509	1197	1327	982	2309
<b>August</b>	582	431	1013	1269	939	2208
<b>September</b>	355	263	618	551	408	959
<b>October</b>	177	131	308	275	204	479
<b>November</b>	0	0	0	315	233	548
<b>December</b>	0	0	0	421	312	733

\* East Campus Average Attendance = 74% of Main

## **PLANNING COMMISSION**

**March 6, 2003**

The City of Portage Planning Commission meeting of March 6, 2003 was called to order by Chairman deWerff at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 15 additional people were in attendance.

### **MEMBERS PRESENT:**

Dick Yonke, Henry Zausner, Phyllis Music, Thomas Fox, Elizabeth Campbell, Jim Hoppe and Chairman Dirk deWerff

### **MEMBERS ABSENT:**

None

### **MEMBERS EXCUSED:**

Vicki Locke

### **IN ATTENDANCE:**

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

### **PLEDGE OF ALLEGIANCE:**

Chairman deWerff led the Commission in the Pledge of Allegiance.

### **APPROVAL OF MINUTES:**

The minutes from the February 27, 2003 meeting were introduced for approval. A motion was then offered by Commissioner Hoppe, seconded by Commissioner Yonke, to approve the minutes as submitted. The motion was unanimously approved.

### **PUBLIC HEARINGS:**

1. Conditional Use Permit: New Air Zoo, 6151 Portage Road. Mr. Forth introduced the item and summarized the staff report dated February 28, 2003 regarding the request by the Kalamazoo Aviation History Museum to construct a 106,214 square foot air museum building and associated site improvements at 6151 Portage Road. Commissioner Yonke asked for more details on the proposed Portage Road improvements. Mr. Forth discussed the roadway improvements which were proposed by the applicant in conjunction with the development project. Commissioner Zausner indicated that he could not find any specific reference to a "museum" in the Zoning Code and asked for clarification on what section of the Zoning Code such a use would be permitted and whether an interpretation by the Zoning Board of Appeals (ZBA) was necessary. Mr. Forth stated that a "museum" was a peculiar use and not specifically referenced in the Zoning Code. Mr. Forth indicated that the proposed New Air Zoo was similar to a warehouse given the storage/display of decommissioned aircraft and that the property was situated on the periphery of the I-2 district adjacent the existing Air Zoo facility. Mr. Forth also stated that the proposed building would be similar in size and mass to an industrial building and readily adaptable to an industrial use, if the museum use was to be discontinued. Therefore, Mr. Forth indicated that staff was of the opinion that the use was appropriate at the location pursuant to Section 42-393(a). Attorney Brown indicated that a ZBA interpretation was not necessary and that the Commission could consider the application pursuant to Section 42-393(a).

The public hearing was opened by Chairman deWerff. Mr. Pat Flanagan of Ingersoll, Watson & McMachen (applicant's engineer) was present to support the application and explain the proposed development. No additional citizens spoke in regards to the proposed conditional use permit. A motion was made by Commissioner Hoppe, seconded by Commissioner Music, to close the public hearing. The motion was unanimously approved. After a brief discussion, a motion was then made by Commissioner Fox, seconded by Commissioner Zausner, to approve the Conditional Use Permit for the New Air Zoo, 6151 Portage Road, subject to FAA approval prior to issuance of building permits. The motion was unanimously approved.

#### **SITE/FINAL PLANS:**

1. New Air Zoo, 6151 Portage Road. Mr. Forth introduced the item and summarized the staff report dated March 6, 2003 regarding the request by the Kalamazoo Aviation History Museum to construct a 106,214 square foot air museum building and associated site improvements at 6151 Portage Road. Mr. Forth briefly discussed access/traffic related issues and planned roadway improvements within Portage Road. Consistent with the Walkway Plan component of the 2002 Comprehensive Plan, Mr. Forth indicated that the developer will provide a 20-foot wide easement along the entire Portage Road frontage to accommodate a future pedestrian pathway planned to connect the existing pathways along East Milham Avenue and Romence Parkway.

Mr. Pat Flanagan of Ingersoll, Watson & McMachen (applicant's engineer), Mr. Michael Flynn of Delta Design Systems (applicant's architect) and Mr. Robert Ellis of the Kalamazoo Aviation History Museum were present to support the application and explain the proposed development. Commissioner Zausner asked if the planned roadway improvements in Portage Road would be funded and completed by the developer. Mr. Flynn stated that the widening of Portage Road would be completed by the applicant in conjunction with the new Air Zoo construction. Attorney Brown suggested that any motion include a statement of the applicant's commitment to complete roadway improvements to Portage Road, as identified on the site plan. In addition, Mr. Flynn noted the Kalamazoo Aviation History Museum would either 1) grant an easement along Portage Road within the existing 70-foot wide easement retained by Pharmacia if Pharmacia agrees or 2) grant an easement adjacent to the existing Pharmacia easement.

After a brief discussion, a motion was made by Commissioner Music, seconded by Commissioner Zausner, to approve the Site Plan for New Air Zoo, 6151 Portage Road, subject to the following conditions: 1) A 20-foot wide pathway easement be provided by the applicant consistent with the communication dated March 5, 2003; 2) Access to any future development involving the Air Zoo be restricted to East Milham Avenue or the proposed Portage Road driveway: Only one Portage Road driveway will be permitted. Relocation of the Portage Road driveway to gain access to any future traffic signal will be the responsibility of the Air Zoo (consistent with the applicant's communication dated March 5, 2003; 3) Submission of the Federal Aviation Administration (FAA) approval prior to issuance of building permits; 4) Submission of final engineering and landscaping plans to be reviewed and approved by staff; and 5) Improvements to Portage Road to be funded and completed by the applicant as identified on the site plan. The motion was unanimously approved.

2. One-Family Attached Residential Dwelling, 6315 South 12<sup>th</sup> Street. Mr. West introduced the item and summarized the staff report dated March 6, 2003 regarding the request by Mr. Robert Deppe, on behalf of Mr. and Mrs. Melvin Barnes, to construct a one-family attached residential dwelling and associated site improvements at 6315 South 12<sup>th</sup> Street. Mr. West indicated that an existing two-unit building is already situated along the western portion of the property.

Mr. Robert Deppe, representing Mr. and Mrs. Melvin Barnes, was present to explain the development and support the site plan. After a brief discussion, a motion was made by Commissioner Zausner, seconded by Commissioner Hoppe, to approve the Site Plan for the new

**TO:** Planning Commission

**DATE:** November 12, 2010

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Final Report: Valley Family Church - Kalamazoo, 2500 Vincent Avenue, Special Land Use Permit Review

## **I. INTRODUCTION**

On May 1, 2008, the Planning Commission approved a special land use permit and site plan for Valley Family Church – Kalamazoo (VFC-K) to construct an approximate 85,000 square foot church facility, 681 off-street parking lot and related site improvements. Approval of the special land use permit included several conditions requiring a formal review one year after issuance of the certificate of occupancy, but not later than October 2010. Attached to this report is the October 15, 2010 Preliminary Report, which provided detail concerning the May 1, 2008 actions by the Planning Commission approving the VFC-K special land use permit and site plan applications.

This final report summarizes the public comment received during the October 21, 2010 Planning Commission meeting, the established conditions of approval, the additional requests submitted by VFC-K and concludes with a recommendation.

## **II. BACKGROUND INFORMATION**

The following background information has been provided to the Planning Commission, in advance of meeting dates, as indicated below:

- September 16, 2010 – Staff reports, traffic study/review information and various correspondence and meeting minutes related to the VFC-K project approved on May 1, 2008.
- October 7, 2010 – “City/Traffic Documentation” submitted by VFC-K on September 16, and updated on September 30, 2010.
- October 21, 2010 – Traffic Impact Report prepared by the Department of Transportation & Utilities.
- October 21, 2010 – Preliminary Report: Valley Family Church-Kalamazoo, 2500 Vincent Avenue, Special Land Use Permit Review.

## **III. OCTOBER 21, 2010 PUBLIC COMMENT**

During the October 21, 2010 Planning Commission meeting, a public hearing was convened consistent with the May 1, 2008 special land use permit approval. The conditions of special land use permit approval and conditions applicable to site plan approval were reviewed. The October 2010 Traffic Impact Report prepared by the Department of Transportation and Utilities was also reviewed.

Also, Mr. Dan Dalton, VFC-K attorney, was present to discuss the one-year review of the approved special land use permit. Mr. Dalton presented four specific requests for Planning Commission consideration during the special land use permit review:

1. Eliminate the requirement to submit bi-monthly attendance reports;

2. Eliminate the requirement that the center driveway be gated and only utilized during special events at the cathedral;
3. Reduce the setback for outdoor placement of temporary buildings and structures along north and west property lines from 150-feet to not more than 50-feet; and
4. Remove the “No Right-Turn, Local Traffic Only” sign at the western driveway.

Eleven citizens spoke during the public hearing and, in summary, addressed the effectiveness of traffic control services, expressed opinions about the “No Right Turn, Local Traffic Only” sign, noise concerns, parking lot lighting/vehicle headlights concerns, adequacy of the berm and screening and elimination of the restriction on the use of the center driveway. With regard to noise and screening, attached is a letter dated November 11, 2010 from VFC-K that updates the Planning Commission on the efforts of VFC-K to address concerns from adjacent neighbors.

#### IV. CONDITIONS OF APPROVAL

Approval of the special land use permit and site plan included several conditions. To assist the Planning Commission, each condition of approval was identified in the October 15, 2010 report together with detailed information about the condition including whether or not the condition was fulfilled. Following is a brief summary of the conditions and findings:

##### Special Land Use Permit – Conditions of Approval

1. *An executed contract or agreement with an authorized law enforcement agency to provide and pay for traffic enforcement/control services be provided by VFC-Kalamazoo.*  
Comments: The condition has been met. Additionally, as conveyed in the October 2010 Traffic Impact Report, and referenced in the Summary Findings section (see seven findings on pages 9 and 10), it is appropriate that changes or modifications to traffic control operations and street configuration in this area of the community be annually monitored. Ensuring traffic safety objectives in the context of traffic engineering principles is essential. Necessary street improvements to facilitate existing and future traffic can properly be considered as part of the annual budget process including the 10-year CIP.
2. *Bi-monthly reports be provided by VFC-Kalamazoo regarding attendance to continue to October 2010.*  
Comments: The condition has been met.
3. *A formal review of the special land use permit for VFC-Kalamazoo be performed not later than October 2010 (survey attendance reports, conform to permit application, Zoning Code and conditions of approval, and examine traffic report).*  
Comments: The condition has been satisfied.
4. *A traffic report be prepared and provided not later than October 2010.*  
Comments: The condition has been fulfilled. The Department of Transportation & Utilities prepared the report, which has been discussed by the Planning Commission. Also, in specific regard to input from the City of Kalamazoo about the operation of the Oakland Drive/Angling Road intersection, as indicated in the October 2010 Traffic Impact Report (page 5, paragraph 2) city staff requested input from the City of Kalamazoo on two separate occasions in letters dated May 5, and July 27, 2010: The City of Kalamazoo has not provided any information in response to these requests. No further action is necessary.
5. *Portage City Council consider a Vincent Avenue traffic order and construction of a right turn lane at Oakland Drive.*

Comments: The condition has been fulfilled.

6. *Any activities or events outside the existing cathedral/addition within the 30-acre property that involves the erection of temporary buildings or structures be setback 150 feet from north property line and north ½ of west property line and 50 feet from the south ½ of the west property line until residential development occurs on adjacent land, when setbacks would be increased to 150 feet.*

Comments: This condition has been satisfied. Staff is not aware of any outside activities or events conducted where temporary buildings/structures were used by VFC-K since the Special Land Use Permit and Site Plan were approved in May 2008.

#### Approved Site Plan – Conditions of Approval

1. *Two additional full-service Vincent Avenue driveways with the center driveway gated/used during special events at the existing cathedral.*

Comments: The site has been developed consistent with Planning Commission approval.

2. *The alternative method of screening proposed by the applicant.*

Comments: The alternate method of screening proposed by VFC-K has been installed consistent with the approved site plan. For Commission information, the landscaped berm installed by VFC-K is substantial and exceeds specifications identified on the approved site plan (i.e., taller and more continuous). Finally, VFC-K is in process of completing additional evergreen tree plantings adjacent to Greenhill Street.

3. *Installation of a “No Right-Turn, Local Traffic Only” sign on the church property at the western driveway, as offered by the applicant.*

Comments: The condition has been fulfilled.

#### **IV. VFC-K SPECIFIC REQUESTS:**

In addition to the required one-year review, four requests have been submitted by VFC-K. The following information is provided for Planning Commission consideration.

1. Eliminate the requirement to submit bi-monthly attendance reports

It is recommended that since average attendance levels have been established and traffic flow and safety before and after church services is maintained, the condition that bi-monthly attendance reports be submitted be eliminated.

2. Eliminate the requirement that the center driveway be gated and only utilized during special events at the cathedral

It is recommended the condition not be eliminated. During the site plan review process, the request from VFC-K officials to construct two new Vincent Avenue driveways was supported conditioned on gating the center driveway. Importantly, three full-service driveways onto a major thoroughfare is not consistent with accepted access management standards: Additional drives create unnecessary and avoidable points of conflict and have negative impacts on traffic flow. Vehicles exiting at another driveway following church services would likely result in a higher rate of vehicle release from the parking lot creating increased congestion at the Oakland/Vincent Avenue intersection. Increased congestion at the Oakland/Vincent Avenue intersection may result in more vehicles turning right and traveling to the Oakland/Angling intersection. It is appropriate that vehicles exiting the VFC-K site after services queue on-site and be released at two access points to maintain traffic flow represented by VFC-K and its traffic consultant prior to approval of the special land use permit and site plan.

3. Reduce the setback for outdoor placement of temporary buildings and structures along north and west property lines from 150-feet to not more than 50-feet

It is recommended the 150 foot buffer area be maintained in which no temporary buildings or structures can be erected consistent with the May 1, 2008 approval in order to minimize impacts associated with the outside activities or other events on adjacent residents. Although a reduced setback of 50 feet has been requested, the area within approximately 100 feet of the north and west property lines are primarily occupied by earthen berms and landscaping not conducive to the erection of temporary buildings or structures. Furthermore, there is a storm water retention swale along the north property line between the edge of asphalt and berm further limiting this area for temporary buildings. Without encroaching into the 150 foot buffer area, approximately 4 acres of land area is available to accommodate temporary buildings or structures associated with outside activities or other events. This area is located on the west end of the site and does not include existing parking lot areas, "resurrection garden" area or storm basin.

4. Remove the "No Right-Turn, Local Traffic Only" sign at the western driveway.

Removal of this sign is not recommended. Although it is not a civil violation enforceable through issuance of a citation if a motorist turns right from the parking lot and travels west on Vincent Avenue, the sign is a reminder to VFC-K members of the commitment made by VFC-K to encourage motorists to turn left and travel to the Oakland/Vincent intersection prior to approval of the special land use permit and site plan. Furthermore, staff has been advised by the Portage Police Chief that law enforcement officers have not commented that the sign be removed because it is confusing and unenforceable as indicated in the September 16, 2010 correspondence from VFC-K. (As briefly discussed during the November 4, 2010 Planning Commission meeting, installation of a sign to minimize cut-thru traffic impacts on an adjacent residential neighborhood has been accomplished in other situations to help protect neighborhoods.)

## V. CONCLUSION / RECOMMENDATION:

The Planning Commission approved the special land use permit application and the site plan application submitted by VFC-K to construct the VFC-K project at 2500 Vincent Avenue with conditions on May 1, 2008. The conditions of approval have been fulfilled, as indicated in this report. It is recommended that the one-year review be concluded, with additional action that would modify condition #1 and condition #2 approved by the Planning Commission:

1. VFC-K maintain the executed agreement to provide and pay for traffic enforcement/control services consistent with the terms of the Traffic Control Services Agreement through September 2012. After this date, either traffic enforcement/control services, traffic improvements along Oakland Drive and Vincent Avenue or at the Oakland Drive – Vincent Avenue intersection, or other appropriate option, will be determined by the City Council using the existing process to deliberate and consider such actions during the annual City of Portage budget process including the Capital Improvement Program.
2. The submission of bi-monthly attendance reports by VFC-K to the City of Portage be discontinued effective immediately.

Attachments: October 15, 2010 Department of Community Development report without attachments  
November 11, 2010 letter from Mr. Aaron Johnson, VFC-K  
May 5 and July 27, 2010 letters to Mr. Frank Szopo, City Engineer for the City of Kalamazoo  
Additional correspondence received from the public

**TO:** Planning Commission

**DATE:** October 15, 2010

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Preliminary Report: Valley Family Church - Kalamazoo, 2500 Vincent Avenue,  
Special Land Use Permit Review

## **I. INTRODUCTION**

On May 1, 2008, the Planning Commission approved a special land use permit and site plan for Valley Family Church – Kalamazoo (VFC-K) to construct an approximate 85,000 square foot church facility, 681 off-street parking lot and related site improvements. Approval of the special land use permit included several conditions requiring a formal review one year after issuance of the certificate of occupancy, but not later than October 2010. (A copy of the May 1, 2008 approved meeting minutes with the motion of approval was previously provided to the Planning Commission.)

This report is provided to assist the Planning Commission in the review of the approved project and each condition of approval. The report concludes with a recommendation.

## **II. BACKGROUND INFORMATION**

A copy of staff reports, traffic study/review information and various correspondence and meeting minutes related to the VFC-K project approved on May 1, 2008 was provided to Planning Commissioners on September 10, 2010. A copy of materials entitled "City/Traffic Documentation" submitted by VFC-K on September 16<sup>th</sup> and updated on September 30<sup>th</sup>, 2010 was also forwarded to the Planning Commissioners and briefly discussed on October 7, 2010. Accompanying this preliminary report is the Traffic Impact Report prepared by the Department of Transportation & Utilities, dated October 2010.

## **III. CONDITIONS OF APPROVAL**

Approval of the special land use permit and site plan included several conditions. To assist the Planning Commission, each condition of approval is identified and is followed by comments. The information begins with the special land use permit conditions and is followed by the conditions of approval applicable to the approved site plan.

### Special Land Use Permit – Conditions of Approval

- 1. An executed contract or agreement with an authorized law enforcement agency be provided by VFC-Kalamazoo to the City of Portage for review by the City Attorney prior to the issuance of the Certificate of Occupancy, with provisions to provide and pay for traffic enforcement/control services before and after Saturday worship service and Sunday worship service. The contract or agreement must also provide that traffic enforcement/control services be provided for activities conducted at other times during the week, whether sponsored by the church or other organizations, when the capacity of the facility sanctuary exceeds 80% (1,600 people), or 681 vehicles are parked on 2500 Vincent Avenue. The contract or agreement must be in effect from the first weekend service*

*after issuance of the Certificate of Occupancy (projected to be 2009) to October 2010, or as determined by the Planning Commission.*

**Comments:** Following review and approval by the City Attorney, the City of Portage executed an agreement entitled "Traffic Control Service Agreement" with VFC-K on September 16, 2009 in which the Portage Police Department would provide traffic control services before and after Saturday and Sunday worship services and other activities that exceed 1,600 people or 681 vehicles parked at 2500 Vincent Avenue with the cost for the traffic control services to be paid by VFC-K. The City of Portage has been reimbursed for traffic control service consistent with the agreement. The Planning Commission reviewed and accepted the agreement during the September 17, 2009 Planning Commission meeting. The certificate of occupancy was issued on October 23, 2009 and church services began on October 24, 2009. The agreement was amended on April 12, 2010 to provide for traffic control services before and after a 7:00 p.m. Monday worship service, which commenced on May 1, 2010. Finally, the Traffic Control Service Agreement was renewed with expiration on September 30, 2012.

Also, the City of Portage entered into a "Traffic Control Response Agreement" with the City of Kalamazoo on November 30, 2009. The City of Kalamazoo Department of Public Safety (KPS) was requested by VFC-K to provide traffic control services and the City of Portage authorized KPS to provide this service in the event services cannot be provided by the City of Portage Police Department with no costs to the City of Portage. The agreement was renewed for a two year period with expiration on September 30, 2012.

2. *A bi-monthly report be provided by VFC-Kalamazoo to the City of Portage that tabulates attendance in the facility sanctuary at the Saturday worship service and Sunday worship service and at other activities at 2500 Vincent Avenue when 1,000 or more people are in attendance. The bi-monthly reports are to commence when the Certificate of Occupancy is issued (projected to be October 2009) and continue until October 2010, or as determined by the Planning Commission.*

**Comments:** Attached are the bi-monthly reports provided by VFC-Kalamazoo officials. (Refer to No. 3 below.)

3. *A formal review of the special land use permit for VFC-Kalamazoo, 2500 Vincent Avenue, be performed by the Planning Commission one year from the granting of the Certificate of Occupancy, but not later than October 2010. This review will be for the purposes of surveying the bi-monthly attendance reports, ensuring conformance with the special land use permit application, applicable conditions in the Zoning Code (Sections 42-182 and 42-462), the Code of Ordinances (Noise and other applicable ordinances) and the conditions of approval established by the Planning Commission, examining the traffic report as established in No. 4 below and considering other relevant information to determine if any improvements are necessary to ensure traffic safety.*

**Comments:** Following is information regarding each issue referenced in the condition of approval.

**Bi-monthly Attendance Reports.** The bi-monthly reports commenced when services began in October 2009. The VFC Sanctuary Attendance Report, summarizes the attendance figures for the 122 church services conducted in the new 1500 seat sanctuary since October 2009. Of the 122 services, 50 were held on Saturday (one Saturday service was cancelled due to a power outage), 51 on Sunday and 21 on Monday. The highest number of attendees occurred on Saturday, March 13, 2010 with an attendance of 1,263 people. The lowest attendance, 327 people, occurred on Saturday July 3, 2010. The following table shows the number of attendees per church service.

Number of attendees	Greater than 1,000			800-1,000			600-799			Less than 600		
	Sat.	Sun.	Mon.	Sat.	Sun.	Mon.	Sat.	Sun.	Mon.	Sat.	Sun.	Mon.
Day of service												
Number of services	10	26	0	14	18	0	8	5	3	18	2	18
Total number of services	36			32			16			38		

Per the preceding table, the greatest number of people attended Sunday services, when 26 services exceeded 1,000 attendees. The lowest attended services (less than 600) occurred on Saturday and Monday (18).

Also, attendance levels were highest during the fall and winter and, based on the information provided by church officials, with a decline beginning in May 2010. The former cathedral that seats an additional 500 people has not been used in conjunction with Saturday, Sunday or Monday services.

As previously provided to the Planning Commission, VFC-K officials also prepared an Attendance and Vehicle Count and Ratios table, which they began in May 2010. This table shows total attendance (VFC-K staff, VFC-K volunteers and children between birth through 8<sup>th</sup> grade, who participate in other church-related activities while the main sanctuary service is underway), sanctuary attendance and various car counts. The number of vehicles parked in the Vincent Avenue parking lot range from a low of 261 to a high of 644 with an average of 441.82 vehicles in the on-site 681 off-street parking facility. Of interest are the right three columns that show vehicle turn movements. A significant majority of exiting vehicles have turned left and proceeded to the Vincent-Oakland intersection (average of 403.95 vehicles, or 92.89%). Per the table, a high count of 122 vehicles turned right at the May 9, 2010 Sunday service, with a low count of five vehicles that turned right at the July 26, 2010 Monday service. However, on average, 36.42 vehicles (7.22%) turned right onto Vincent Avenue.

The total and sanctuary attendance numbers reported to date are less than estimated by Midwestern Consulting (traffic consultant hired by VFC-K) in the April 21, 2008 Traffic Impact Study. The study and recommendations prepared by Midwestern Consulting was based on 1,600 attendees or 80% of the church capacity, which is 2,000 attendees (1,500 in the new sanctuary and 500 in the former cathedral sanctuary).

Conformance with Section 42-182 of the Zoning Code. This section of the Zoning Code specifies two conditions of approval that must be fulfilled: Building height and setbacks and adjacency and access to a major thoroughfare. The established conditions have been met.

Conformance with Section 42-462 of the Zoning Code. Section 42-462 contains the General Standards of Review that staff and the Planning Commission use to assist in the evaluation of requests for special land use permits. The General Standards of Review include:

- Promote the intent and purpose of this article.
- Be compatible with adjacent uses of land and the natural environment.
- Not unduly affect the capacities of public services or facilities.
- Be consistent with the public health, safety and welfare.
- Be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan.

- Be planned and designed to ensure that the nature and intensity of the principal use and all accessory uses, and the site layout and its relation to the streets giving access to it, shall not be hazardous or otherwise detrimental to the area or unduly conflict with normal traffic to and from the use.

Per the approved special land use permit and site plan, it was determined the VFC-K development proposal fulfilled the General Standards of Review, as referenced in the April 28, 2008 Department of Community Development staff report. After construction, but before the church opened in October 2009, staff reviewed the project in order to ensure compliance with the approved special land use permit and site plan. The project was constructed per Planning Commission approval including the building and accessory facilities, parking lot/building setback distances, site lighting, installation of significant landscaping/screening, and so forth.

Since the church opened, staff has monitored church operations and has concluded the VFC-K facility continues to fulfill the General Standards of Review. Additional comments regarding complaints received concerning vehicular traffic (right-turning vehicles from 2500 Vincent Avenue) and noise is provided in the following sections.

As information, in September 2009, when construction of the church was nearing completion, staff responded to a Greenhill Street resident complaint about site lighting and screening. The outdoor lighting units are shielded fixtures and meet applicable ordinance standards. Although not required, VFC-K installed additional evergreen tree plantings along the northeastern portion of this landscaped berm, adjacent to Greenhill Street.

Code of Ordinances (Noise and other applicable ordinances). The Police Department has responded to approximately nine noise complaints. The complaints involve sound associated with music being played inside the church. VFC-K has been advised by the city of the noise issues. The alleged violations of the Noise Ordinance will be reviewed in a manner consistent with the Noise Ordinance.

4. *A traffic report be prepared and provided by the City of Portage Department of Transportation & Utilities to the Planning Commission that documents traffic volumes and turning movements at the Oakland Drive-Vincent Avenue intersection and, if traffic data is available from the City of Kalamazoo, traffic volumes and turning movements at the Oakland Drive-Angling Road intersection. This traffic report is to also incorporate traffic volume, traffic counts on Vincent Avenue west of the VFC and turning movement information collected by MDOT for the Oakland Drive-I-94 interchange as traffic data is available. Any recommendations from MDOT, the City of Kalamazoo and from the City of Portage are to be included in the traffic report. The traffic report is to be prepared and provided to the Planning Commission not later than October 2010.*

Comments: The Department of Transportation & Utilities has prepared the accompanying report. Following is summary information regarding traffic impacts. (Refer to the October 2010 Traffic Impact Report for detailed analysis.)

- Weekday traffic along Vincent Avenue and Oakland Drive is significantly greater than weekend traffic before and after the opening of the VFC-K facility.
- Traffic counts recorded by MDOT before and after church opening in the vicinity of Vincent Avenue and Oakland Drive are consistent with traffic counts recorded by the Department of Transportation & Utilities.
- Anticipated traffic from the closure of I-94 ramps has not significantly impacted the traffic flows along Oakland Drive during church service periods.
- The significant majority of VFC-K traffic is utilizing the Oakland and Vincent intersection

- Vehicular traffic exiting VFC-K services conducted at 2500 Vincent Avenue and using Angling Road through the neighborhood is minimal.
  - Traffic control services provided by uniformed police officers from the Portage Police Department and Kalamazoo Department of Public Safety have been effective.
  - Signalization changes or street improvements involving the I-94, Oakland Drive and Vincent Avenue intersection area are not warranted at this time.
5. *Portage City Council consider a) enacting a traffic order to prohibit on-street parking along Vincent Avenue to ensure the carrying capacity of this major street; and b) completion of the extension of the Vincent Avenue right turn lane from Oakland Drive to 300 feet west by the City of Portage prior to issuance of the VFC-Kalamazoo Certificate of Occupancy. The motion was unanimously approved.*

Comments: The City Council has enacted a traffic order prohibiting parking along Vincent Avenue and extension of the right turn from Oakland Drive to 300 feet west was completed by the City of Portage in August 2009 prior to VFC-K services beginning in October 2009. Appropriate traffic enforcement actions, which have constituted verbal warnings, have been initiated as necessary to ensure conformance with the order.

6. *Any activities or events conducted on the outside of the existing cathedral or planned addition within the 30-acre property that involves the erection of temporary buildings or structures such as tents, gazebos or other similar facilities be situated not less than 150 feet from the north property line and north ½ of the west property lines to further protect the adjacent residential properties when these activities or events are occurring. A reduced buffer of 50 feet from the south ½ of the west property line is allowed until such time that residential development occurs on 5201 Angling Road or 3130 Vincent Avenue, whereby the setback would be increased to 150 feet.*

Comments: Staff is not aware of any outside activities or events conducted by VFC-K since the Special land Use Permit and site plan were approved in May 2008. (Attached is a letter dated September 16, 2010 in which VFC-K has requested the 150 foot setback from the north and west property lines be reduced to no more than 50 feet. A staff recommendation regarding this setback reduction request will be prepared and included in the final report, which will be provided to the Planning Commission for action on November 4, 2010.

#### Approved Site Plan – Conditions of Approval

1. *Two additional full-service Vincent Avenue driveways (one located at the east end of the property and one at the west end of the property) with the center driveway proposed to be gated and only utilized during special events at the existing cathedral such as weddings and funerals. Given the traffic levels on Vincent Avenue, no development potential along the south side of Vincent Avenue/I-94 and information contained in the traffic impact study, two new full-service driveways are consistent with the Access Management Ordinance.*

Comments: The site has been developed consistent with Planning Commission approval: Two additional full-service driveways have been constructed and the existing center driveway is gated so that use of this access can be properly controlled.

2. *The alternative method of screening as proposed by the applicant and as shown on the site plan consistent with Section 42-573.F that includes increased parking lot setback distances, preservation of existing mature trees and vegetation located within the setback areas and installation of*

*additional screening around the perimeter of the site consisting of earthen berms and planting evergreen and deciduous trees.*

Comments: The alternate method of screening proposed by VFC-K has been installed consistent with the approved site plan. For Commission information, the landscaped berm installed by VFC-K is substantial and exceeds specifications identified on the approved site plan (i.e., taller and more continuous). Although not required, VFC-K installed additional evergreen tree plantings along the northeastern portion of this landscaped berm, adjacent to Greenhill Street.

- 3. Installation of a "No Right-Turn, Local Traffic Only" sign on the church property at the western driveway, as offered by the applicant.*

Comments: The "No Right-Turn, Local Traffic Only" sign was voluntarily installed by VFC-K consistent with the site plan approval. (The attached September 16, 2010 VFC-K letter also requests removal of this sign. A staff recommendation regarding the request to modify this condition of site plan approval in order to remove the sign will be prepared and included in the final report, which will be provided to the Planning Commission for action on November 4, 2010.)

As information for the Planning Commission and consistent with the April 11, 2008 Department of Community Development staff report concerning approval of the Special Land Use Permit and site plan, a parking plan to construct up to the maximum allowed parking, or an addition 53 parking spaces at 2500 Vincent Avenue, was administratively approved on August 3, 2010. Construction of the parking lot has not yet commenced.

#### **IV. RECOMMENDATION:**

It is advised that the Planning Commission accept public comment and adjourn the public hearing to November 4, 2010 at which time the Planning Commission can take final action on the Special Land Use Permit review and the requests received from VFC-K.

Staff will be prepared to further assist the Planning Commission at the upcoming meeting.

Attachment: VFC-K Bi-monthly attendance reports  
September 16, 2010 letter from Aaron Johnson, VFC-K



RECEIVED  
NOV 11 2010  
COMMUNITY DEVELOPMENT

November 11, 2010

Mr. Christopher Forth, Deputy Director of Planning and Development Services  
City of Portage  
7900 South Westnedge Avenue  
Portage, MI 49002

Dear Mr. Forth,

We received your letter of November 9, 2010 requesting updates in regards to efforts that Valley Family Church is making to address potential noise concerns. Here are the updates you have requested regarding acoustical treatment and a drum cage:

1. We have ordered and have installed the base mats underneath the base speakers, as designed, to absorb the low frequency base sounds from the speakers.
2. We are still determining exactly what acoustical treatments to obtain. It takes approximately 4 to 8 weeks to order and receive acoustical panels and treatment and another 2 to 3 weeks to install them. Therefore, we anticipate the additional acoustical treatment to be installed sometime in January 2011.
3. We are currently researching pricing on whether it would be more cost effective to buy a drum cage or for us to construct a drum cage.

In regards to the planting of trees and as indicated in your November 9<sup>th</sup> letter, we did speak with you on November 8<sup>th</sup> in regards to the tentative commitment from MDOT to have trees planted along the north property line. As way of an update since that communication, a total of five trees have now been planted along our north property line: three pine trees and two maple trees. Each tree is approximately ten- to twelve-feet tall, which is much taller than we initially expected. They have been strategically placed to help fill in any potential gaps between Mr. Wollam's house and potential vehicle lights.

We believe this addresses the information you requested, as well as updates you on the items addressed in our October 20<sup>th</sup> letter to City Attorney Brown. Should you have any questions, please contact me at 269-324-5599 x117 or at [ajohnson@valleyfamilychurch.org](mailto:ajohnson@valleyfamilychurch.org).

Sincerely,

A handwritten signature in blue ink that reads 'Aaron Johnson'.

Aaron Johnson  
Executive Director

c: Jeffrey Erickson, Director of Community Development  
Randall Brown, City Attorney  
Michael West, Assistant City Planner  
Jeff and Beth Jones, Senior Pastors  
Dan Dalton, VFC Attorney

## Transportation & Utilities Department

May 5, 2010

Mr. Frank Szopo, City Engineer  
City of Kalamazoo  
415 Stockbridge Avenue  
Kalamazoo, MI 49001

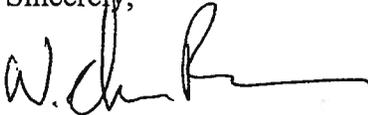
Subject: Valley Family Church – Kalamazoo

Dear Mr. Szopo:

As you are aware, the above subject church opened in October 2009. As part of the site approval process a traffic impact study was prepared for the church by Midwestern Consulting Engineers. City of Kalamazoo staff reviewed the report and commented on the study. As a condition of the site plan approval, the City Planning Commission tasked the City of Portage staff with preparing a follow-up traffic report to evaluate the traffic impact of the church operation on the surrounding street network. The traffic report is due to the Planning Commission in October 2010 and we intend to have a draft report completed in August 2010. Please review the operation of the Oakland Drive/Angling Road traffic signal with respect to the church operations and let us know about your traffic observations. Your response by July 16, 2010 would be appreciated so we could incorporate your observation into the final report.

If you should have any questions, please contact me at 324-9256.

Sincerely,



W. Christopher Barnes, P.E.  
City Engineer

c: Dallas Williams, Director of Transportation & Utilities  
Jeffrey Erickson, Director of Community Development  
Muhammad Arif, Traffic Engineer

# Transportation & Utilities Department

July 27, 2010

Mr. Frank Szopo, City Engineer  
City of Kalamazoo  
415 Stockbridge Avenue  
Kalamazoo, MI 49001

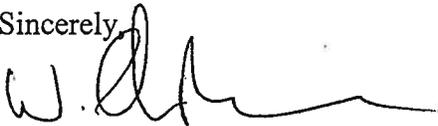
Subject: Valley Family Church – Kalamazoo

Dear Mr. Szopo:

On May 5, 2010, correspondence was sent to you (copy attached) requesting any traffic observations or concerns regarding the above subject church. Comments were requested by July 16, 2010. Since no comments were forthcoming, it is assumed that you have no concerns with the current church traffic operation.

If you should have any questions, please contact me at 324-9256.

Sincerely,



W. Christopher Barnes, P.E.  
City Engineer

Attachment

c: Dallas Williams, Director of Transportation & Utilities  
Jeffrey Erickson, Director of Community Development  
Muhammad Arif, Traffic Engineer

**Jeffrey Erickson - Thoughts on upcoming meeting VFC**

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**From:** jeannette greselin <jlgdbs@hotmail.com>  
**To:** <jeffrey.erickson@portagemi.gov>  
**Date:** 10/20/2010 7:53 PM  
**Subject:** Thoughts on upcoming meeting VFC

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Hi Jeff, please forward as necessary.

There is nothing much to say that has not been said already. VFC has resided in two different neighborhoods. The concerns of the neighborhoods have been relatively the same, traffic and noise. Yet VFC always blame "the neighbors". There seems to be a pattern here. Maybe the Valley Family Church should rethink their own agenda and goals. Do their size and priorities fit into a neighborhood setting?

The two items which the city must not budge on are the following:

1. Don't let them get away with "unvolunteering" to have a "no right turn, except for local traffic" sign removed. The Planning Commission was going to have this specified as part of the agreement, but they said, no, don't worry we will do it on our own. Now it seems they snookered the Planning Commission. This sign keeps traffic down on Angling Road and needs to stay.
2. Don't let them decrease the buffer size around the property. This is the only thing protecting the adjoining houses from undue nuisance.

The church said don't worry, we are only Saturday night and Sunday morning. Well, now they have already expanded to Monday night services. I would be curious if the city has gotten any complaints about traffic hold-ups on Oakland Drive when they are starting and stopping events. We believe the City opened up a can of worms by approving the Site Permit. Now at least you can limit the damage by not giving in on the two important items above.

Sincerely,  
Jeannette Greselin  
Daniel Smith  
3022 Fleetwood Drive  
Portage, MI 49024

**Jeffrey Erickson - Fwd: Planning Commission**

---

**From:** Maurice Evans  
**To:** Erickson, Jeffrey  
**Date:** 11/12/2010 7:33 AM  
**Subject:** Fwd: Planning Commission

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Jeff,

Please make sure this is passed on to the Commission as requested by Ms. Nedrud.  
Thanks.

Maurice

>>> Melody Nedrud <jimel08@att.net> 11/11/2010 8:37 PM >>>

Dear Mr. Evans, Planning Commission and Portage Community Development Office: (Please forward this to the planning commission)

At the recent Planning Commission Meeting discussing the Valley Family Church site plan their attorney made a request to have the condition regarding their center entrance/exit be removed. This as I understand it would allow them to use this entrance/exit at all times not just for special events in the old Cathedral building. The reason for this I believe was stated to improve traffic flow. Traffic continues to be a concern of mine. If this would indeed improve traffic that would be good. I would appreciate it however if you would evaluate this request carefully. I have two concerns with this request to open up this entrance/exit. First I have a concern that the traffic flowing on to Vincent from an added exit would cause traffic to stack up on Vincent and hinder through traffic from Angling down Vincent to Oakland when traffic is exiting the church after services. My second concern is that this would open another exit to turn right out of the Church towards Angling and into the neighborhood. If this is the case I would not be in favor of removing the restriction. I appreciate greatly the Church's willingness to post a sign on their west exit "No Right-Turn, Local Traffic Only" and the fact that they have encouraged their congregation to abide by it. If you do decide to allow them to use the center exit then I would like that the Church would agree to a "No Right-Turn, Local Traffic Only" sign at this exit also. Thank you, Melody Nedrud

**TO:** Planning Commission

**DATE:** November 12, 2010

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Preliminary Report: Ordinance Amendment #10-A, Keeping of Hens and Other Animals

## **I. INTRODUCTION**

At the October 7, 2010 meeting, the Planning Commission initiated the process to amend the Zoning Code in response to a request from a Portage resident. The action approved by the Planning Commission was to "...initiate an ordinance amendment to consider the keeping/raising of chickens, and other possible poultry/animals, and schedule a public hearing for the November 18, 2010 meeting." A public hearing on the proposed ordinance amendment is scheduled for November 18<sup>th</sup>. Following is a preliminary report that addresses the issue. Proposed ordinance language is attached.

## **II. BACKGROUND**

Mr. Fernando Costas provided information supporting an amendment to the Zoning Code that would allow the keeping/raising of chicken hens on all single family residential properties, with conditions. Ordinance language samples used by other communities, suggested language and a May 2008 study entitled "Residential Urban Chicken Keeping: An Examination of 25 Cities" was submitted to the Planning Commission. The ordinance language drafted by Mr. Fernando Costas would allow the keeping/raising of up to four chicken hens on all single family residential properties, platted or unplatted, subject to several conditions involving fenced enclosures/coops, location on property (rear or side yard), setbacks from property lines (10-feet) and adjacent residences (20-feet), no outdoor slaughtering and proper maintenance to control noise, odors, rodents and predators. At the October 7, 2010 Planning Commission meeting, Mr. Costas and seven additional citizens spoke in support of a proposed ordinance amendment. As the Planning Commission is aware, there are single family residential properties in Portage where chickens and ducks are kept, and other animals are raised.

The Department of Community Development provided preliminary fact-finding information to the Planning Commission in a report dated October 1, 2010. Various communities have enacted local zoning regulations to permit the keeping of hens and other animals, while other communities have not allowed the keeping of hens and other animals. The general pros and cons to these approaches were also summarized for Planning Commission information.

## **III. CITY OF PORTAGE ORDINANCES/REGULATIONS**

With regard to the existing City of Portage ordinances and regulations regarding keeping/raising of chickens, other poultry/animals and related issues, the Code of Ordinances establishes general requirements within several chapters.

Chapter 10, Animals, contains general police power regulations regarding owner responsibilities for the keeping of cats, dogs and dangerous animals. These regulations apply to issues such as noise associated with a barking dog, control of animals to ensure that animals do not run-at-large in the community, the confinement of biting dogs (and dogs that may be afflicted with rabies), establish that the Chief of Police has authority to review and issue permits for dangerous animals including "animal ferae naturae," or wild animals, and impoundment authority to ensure the public peace and safety. Dog licensing as specified by state statute through Kalamazoo County is required to own a dog in the city upon the dog reaching four months old or older (see section 10-1 to 10-37). As information for the Planning Commission, the Portage

Police Department is the primary department that investigates and enforces the provisions of Chapter 10, particularly enforcement actions regarding barking dogs and dogs running at large and vicious dogs. With regard to more "exotic" animals, or potentially "dangerous" animals, over the past five fiscal years, no permits for such animals have been issued in the community.

Chapter 24, Community Quality, contains various regulations to ensure the livability and general enjoyment of persons residing in the community. With specific regard to "animals or birds," this chapter specifies that a noisy animal or bird that "...frequently or for continued duration howls, barks, meows, squawks or makes other sounds or continuous noise which creates a noise disturbance in a residential area." are prohibited (see section 24-93(b)(3). Additionally, this chapter also references that unsanitary or unclean conditions on the exterior area of private property that is under the control of the owner or occupant are prohibited (see section 24-113(a)(4).

Chapter 42, Land Development Regulations, also contain regulations in Article 14, Housing/Property Maintenance Code, that pertain to exterior property areas and interior areas of structures. Property owners and occupants must maintain these exterior areas in safe and sanitary conditions. This section also references the previously mentioned Chapter 24, Community Quality regulations in the context of maintenance of exterior areas. Interior portions of buildings that an owner or occupant "...occupies, controls or uses...(must be) in a clean and sanitary condition..." is clearly specified and has been used when necessary regarding the keeping of animals (see section 42-1429).

Also of importance are the regulations contained in Chapter 42 in Article 4, Zoning as regards animals. The regulation of land use activities is accomplished through the Zoning Code and requirements pertaining to residential uses and the keeping of animals are referenced. First, the regulations address accessory activities and specifically identify horse stables. Second, agricultural uses are permitted in residential zones that involve animals, birds and insects and include definitions of "general agriculture" (growing/production of crops, livestock and livestock products for income) and "specialized agriculture" (orchard, fruit production, greenhouses, vineyards, and, also, cricket and worm production activities). The term "farm" is also defined. These regulations specify that general agriculture and farms are permitted in unplatted properties with a minimum of 10 acres in single family zones and in unplatted properties with a minimum of five acres in attached and multiple family zones. Also, while not specifically relevant to the proposed ordinance amendment, business uses and the keeping of animals is also referenced in the Zoning Code. Perhaps the most important business use involves "kennel, commercial," as defined, and the "veterinary hospitals or clinics" as uses permitted in certain business districts. As information for the Planning Commission, the Department of Community Development is the primary department that investigates and enforces the provisions of Chapter 24 and Chapter 42, particularly enforcement actions for various community quality and "blight" ordinance issues that involve property maintenance, health/sanitation of property and noise violations, and land development ordinance enforcement that involves various zoning violations.

As final comments on Zoning Code issues, as discussed in the October 1, 2010 report from the Department of Community Development, there have been decisions by the Zoning Board of Appeals (ZBA) and legal opinions from the Office of the City Attorney pertaining to the keeping of animals and birds in the context of "accessory use and accessory" as defined in the Zoning Code. The ZBA has acted on several variance requests regarding the keeping/raising of livestock on unplatted properties where acreage requirements have not been met. The keeping/raising of chickens, and other types of livestock animals, has been determined to not be an accessory use to a principal single family residence and not allowed on smaller, unplatted properties (less than five/ten acres), or on platted properties. Also, the City Attorney concluded in a 1987 opinion that the raising of chickens and ducks "...is not incidental to and customarily found in connection with the principal use to which it is related...(and)...is not at all common in today's day and

age.” In a later, related opinion, there was a discussion of the keeping/raising of livestock animals for a person's consumption and whether the activity could be consider an accessory use to the principal single family residential use. In this 1992 opinion it was concluded that “...it depends on the facts and circumstances and also the changing times and attitudes of the population ...(and)...the keeping of livestock for one’s own consumption would not be customarily found in connection with most residential uses within the city of Portage, e.g., subdivisions, apartments, etc. There may be, however, certain areas where this type of activity, depending on its intensity, may be permissible given the characteristics of the surrounding area.”

#### **IV. PRELIMINARY REVIEW/PROPOSED ORDINANCE LANGUAGE**

The growing trend toward sustainability and increasing pressure from advocacy groups has resulted in a number of communities across the country adopting new regulations to specifically address the keeping/raising of chickens on small, residential properties in urban and suburban settings. While some municipalities have decided to not permit the keeping of chickens, many other communities have adopted ordinances specifically directed at this activity. Common regulatory themes are evident including the number of birds permitted, regulation/restriction of roosters, chicken enclosure/containment provisions and setbacks, nuisance clauses related to noise, odors and sanitation and slaughtering regulations. Other advocates also support allowing other animals and poultry such as ducks, geese and turkeys, rabbits and other types of farm-oriented animals (goats, sheep, pigs, etc.). Attached is a table that shows various community ordinances involving the regulation of animals and fowl for information.

Additionally, a 2004 Planning Advisory Service (PAS) report prepared by the American Planning Association (APA) contains a glossary of terms and definitions that are commonly utilized in community ordinance across the country. The PAS report provides examples of general definitions for “animal”, along with more specific definitions for various animal categories such as “animal, domestic” that includes common household pets, “animal, farm” that includes livestock and “animal, exotic” that includes more unusual animals that are not otherwise defined. Many of the Michigan communities surveyed including the cities of Kalamazoo, Grand Rapids, Midland, Madison Heights and Pavilion Township, have adapted these definitions for ordinance purposes.

The following paragraphs present information about proposed ordinance language to more comprehensively address issues associated with the request submitted to the Planning Commission for the keeping/raising of chicken hens, and the general issues pertaining to definitions and regulations applicable to domestic, farm and exotic animals and fowl for consideration. Right to farm issues are also relevant in the State of Michigan and have been reviewed. Options are available for consideration and can be very limited or more generally address the keeping/raising of chickens and other poultry/animals. In most cases, a Zoning Code text amendment will necessitate new or additional definitions and, also, language to incorporate regulations that permit/limit/prohibit the keeping/raising of chickens and other poultry/animals in the community. Various regulatory approaches can be considered as follows:

**Do Nothing Alternative:** This option would not involve an ordinance amendment and would continue current regulatory practices. Essentially, keeping/raising chickens and other poultry/animals in residential zoning districts would be considered an agricultural use and permitted in one family zoning districts on 10 acres outside the boundaries of platted property and in attached and multiple family zoning districts on five acres outside the boundaries of platted property. This general approach is common and is utilized, for example, within adjacent Comstock Township, Pavilion Township and Schoolcraft Township.

**General/Flexible Alternative:** This option would provide a great deal of flexibility to keep/raise chickens and other poultry/animals. The following language is used in the City of Kalamazoo –

“It shall be unlawful for any person to keep any rabbits, chickens, ducks, geese or other poultry within the limits of the city unless the same are kept in a sanitary condition, free of offensive odors, and in an enclosed yard or coop which shall be located not less than 30 feet from the street line or any adjacent property line.”

Anecdotally, it has been indicated by City of Kalamazoo staff that this ordinance language has been in place for decades and there have been no problems with this land use activity in residential areas.

**Hen Chicken Only Alternatives:**

**Submitted Hen Chicken Option:** This option and the language to implement this approach has been presented by Mr. Costas and was included in the October 7, Planning Commission meeting agenda materials and discussed at the meeting. Essentially, four hen chickens could be raised on a residential property with a coop/enclosure allowed, nuisances controlled and no “outside” hen slaughter activities. This proposal is attached to this report.

**Additional Hen Chicken Option:** In the context of the proposal that has been submitted, the Planning Commission discussion and additional research conducted by staff, a refined option to permit the keeping/raising of hen chickens only has been studied. Basically, this alternative would incorporate new definitions in Section 42-112. Definitions, or in Section 42-121. Accessory building and uses, and a new section added to Section 42-121. A new paragraph would be added to C. Accessory uses that would provide for hen chickens. Essentially, four hens could be raised on a residential property with a rear yard coop/enclosure with conditions and outdoor slaughter not permitted. To control nuisances, existing ordinance provisions would continue to be utilized. New definitions involving farm, domestic and exotic animals would be needed.

**Limited Poultry/Animal Alternative:** As discussed by the Planning Commission, this alternative provides a more comprehensive approach in that this option would address the keeping/raising of chickens as well as other poultry/animals. The components of this alternative include new definitions in Section 42-112. Definitions, or in Section 42-121. Accessory building or uses, and a new section added to Section 42-121. New paragraphs would be added to C. Accessory uses that would provide for additional birds and animals to be kept/raised principally as a source of food. Ordinance language can intentionally limit the keeping of poultry/animals to four types of poultry/fowl (chickens, turkeys, ducks and guinea hens), for example. Additionally, one animal (rabbits) could also be allowed. Importantly, if a property owner or occupant desires to keep/raise animals as a food source for locally-grown eggs or meat, as opposed to the keeping/raising of a domesticated pet, this type of activity would be permitted as an accessory use to a one and two family residential principal use subject to conditions concerning rear yard location of an accessory structure and enclosure with conditions and outdoor slaughter not permitted. Nuisance control would be ensured through using existing ordinance provisions. Various definitions of animal categories would be needed.

Attached to this report is “working draft” ordinance language that has been prepared after consideration of the above information and research by staff, with assistance from the City Attorney. It is likely that with the growing trend toward sustainability and pressure from advocacy groups, the keeping/raising of chickens will not be the only request. There are other poultry/animals that can be kept/raised principally as a food source for locally-grown eggs or meat consumption. As a final comment on the alternatives, and subsequent to discussion by the Planning Commission, ordinance language will be placed into final form.

**V. RECOMMENDATION**

These ordinance alternatives are presented to assist the Planning Commission as this subject is discussed. In accordance with the Planning Commission policy of accepting public comment at the initial meeting and concluding the discussion regarding the ordinance amendment at a subsequent meeting, it is recommended that public comment be received during the November 18, 2010 meeting and the public hearing be adjourned to the December 16, 2010 meeting.

Attachments: Community Ordinances Involving Regulation of Chickens and Other Animals (Table)  
Proposed ordinance submitted by Mr. Costas  
Proposed “working draft” ordinance language

## Community Ordinances Involving Regulation of Chickens and Other Animals

Community	Summary of Ordinance Regulations
City of Bloomington, IN (adopted 2007)	<p><u>Municipal Code, Section 7.21 Maintaining Chicken Flocks</u></p> <ol style="list-style-type: none"> <li>1) Annual permit required (\$25 fee), administrative review.</li> <li>2) Written waivers required from owners of all adjacent properties (valid for period of five years).</li> <li>3) Maximum five chickens (hens only, no roosters).</li> <li>4) Chicken coop/attached run required (12 square feet per chicken required).</li> <li>5) Chicken coop/attached run must be setback 12-feet from all property lines and 20-feet from adjacent residential structures.</li> <li>6) A sight fence or shrub screening at least 4-feet in height is required around chicken coop/attached run if visible to occupants of neighboring lots.</li> <li>7) Chicken coop/attached run constructed to provide adequate ventilation, sun, shade and prevent rodents and predators.</li> <li>8) Public nuisance and public health provisions.</li> </ol>
City of South Portland, ME (adopted 2007)	<p><u>Article II, Section 3-51 through 3-65 Domesticated Chickens</u></p> <ol style="list-style-type: none"> <li>1) Annual permit required (\$25 fee), administrative review. Code Enforcement Officer must submit annual report to City Council stating number of permits issued, number of complaints received and nature of enforcement action.</li> <li>2) Maximum six chickens (hens only, no roosters) per lot.</li> <li>3) Chickens shall be kept as pets for personal use only: No selling of eggs, breeding or fertilizer production allowed.</li> <li>4) No slaughtering of chickens allowed.</li> <li>5) Hen house/fenced enclosure required (specific construction standards). During daytime hours, chickens are allowed to roam outside within a securely fenced yard, if supervised. During non-daylight hours, chickens shall be secured within the hen house.</li> <li>6) Hen house/fenced enclosure must be located in rear yard, 20-foot setback required from property lines.</li> <li>7) Hen house/fenced enclosure constructed to provide adequate ventilation, sun, shade and prevent rodents and predators.</li> <li>8) Public nuisance and public health provisions.</li> </ol>
City of Ann Arbor, MI (adopted 2008)	<p><u>Chapter 107 (Animals), Section 9-42 Keeping of Chickens</u></p> <ol style="list-style-type: none"> <li>1) Permit required (\$20 fee), administrative review, expires in 5 years.</li> <li>2) Adjacent Neighbor Consent Form required from owners of all adjacent residentially zoned properties.</li> <li>3) Private restrictions on use of property (deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant deeds) take precedence over permit.</li> <li>4) Maximum four chickens (hens only, no roosters).</li> <li>5) No slaughter of chickens.</li> <li>6) Must be kept in backyard.</li> <li>7) Covered/fenced enclosure required, 10-foot setback from all property lines and 40-foot setback from adjacent residential structures.</li> <li>8) Enclosure must be constructed/maintained to prevent rodent harboring beneath or within structure.</li> <li>9) Proper containers and storage of feed.</li> <li>10) Revocation of permit by City for noncompliance.</li> </ol>
City of East Lansing, MI (adopted 2009)	<p><u>Chapter 4 (Animals), Section 4.4 Keeping of Animals and Fowl</u></p> <ol style="list-style-type: none"> <li>1) Permit required (\$20 fee), administrative review, expires in 5 years.</li> <li>2) Private restrictions on use of property (deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant deeds) take precedence over permit.</li> </ol>

	<p>3) Maximum four chickens (hens only, no roosters).                  4) No slaughter of chickens.                  5) Must be kept in backyard.                  6) Covered/fenced enclosure required, 10-foot setback from all property lines and 40-foot setback from adjacent residential structures.                  7) Enclosure must be constructed and maintained to prevent rodent harboring beneath or within structure.                  8) Proper containers and storage of feed.                  9) Revocation of permit by City for noncompliance.</p>
<p>City of Ypsilanti, MI                  (adopted 2009)</p>	<p><u>Chapter 14 (Animals), Section 14-13 Keeping of Female Chickens (Hens)</u>                  1) Permit required (\$25 fee), non-transferable (does not run with land), administrative review.                  2) Private restrictions on use of property (deed restrictions, condominium master deed restrictions, neighborhood association by-laws, covenant deeds) take precedence over permit.                  3) Maximum four chickens (hens only, no roosters).                  4) No slaughter of chickens.                  5) Must be kept in backyard.                  6) Covered/fenced enclosure required, 20-foot setback from adjacent residential structures.                  7) Enclosure must be constructed and maintained to prevent rodent harboring beneath or within structure.                  8) Compliance with public nuisance provisions (odors, noise, etc).                  9) Proper containers and storage of feed.                  10) Revocation of permit by City for noncompliance.</p>
<p>City of Traverse City, MI                  (adopted 2009)</p>	<p><u>Section 610.01 Prohibited Animals, Exception (Keeping of Chickens)</u>                  1) Maximum four chickens per parcel (hens only, no roosters).                  2) Slaughtering chickens outdoors is prohibited.                  3) Chickens shall be provided and remain within a fully enclosed shelter with an optional covered fenced enclosure.                  4) Enclosure must be in rear yard 25-feet from adjacent residential structures.                  5) No chickens shall be kept on parcels with more than one dwelling.</p>
<p>City of Kalamazoo</p>	<p><u>Chapter 7 (Animals and Fowl), Section 7-5 Keeping of Rabbits and Poultry</u>                  • It shall be unlawful for any person to keep any rabbits, chickens, ducks, geese or other poultry within the limits of the City, unless the same are kept in a sanitary condition, free of offensive odors, and in an enclosed yard or coop which shall be located not less than 30 feet from the street line or any adjacent property line.</p>
<p>Oshtemo Township</p>	<p><u>Section 78.400 – Keeping of poultry, swine, horses or livestock</u>                  • The keeping of poultry, swine, livestock or horses and other similar animals as pets or for educational purposes is permitted under the following conditions:                  a) Activities shall be conducted on less than a commercial score for private enjoyment of the property owner.                  b) Minimum one acre for each large animal, including horses, cattle and swine or other similar animal, or, ¼ acre for each small animal (under 200 pounds).                  c) Building/structure used to shelter animal must be minim 50-feet from any property line and 150-feet from adjacent residential dwellings.                  d) Animals must be controlled to prevent approaching closer than 100 feet to any adjacent residential dwelling.                  e) Nuisance provisions regarding odors, noise, sanitary conditions, rodent and pest infestation.</p>

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Cornstock Township	<p><u>Section 300.411.1 – Animals</u></p> <ul style="list-style-type: none"> <li>• The keeping of pigs, hogs, poultry, wild fowl, rabbits, livestock, or the maintaining of More than three cats is prohibited within or upon any platted properties within the Township.</li> <li>• The keeping of poultry, wild fowl, or rabbits is prohibited on that portion of unplatted land located within 100 feet of a recorded plat or within 100-feet of any unplatted area zoned AGR, R1-A, R1-B, R1-C, RM, RMH or OW, and developed for residential purposes.</li> </ul>
Kalamazoo Township	<p><u>Section 21.012 – Keeping of Animals</u></p> <ul style="list-style-type: none"> <li>• The keeping of poultry, pigs, hogs, horses or livestock is prohibited within or upon any platted properties used primarily for residential purposes or within or upon any area located within 132 feet of such aforesaid platted properties, unless such latter area is located in a C-1, Local Business District classification or lower.</li> <li>• The minimum setback line for poultry or animal shelters, coops, barns or sheds shall be 75 feet from any street right-of-way line.</li> <li>• All such poultry, pigs, hogs, horses, livestock or more than 3 dogs and/or cats shall also be prohibited in any area of the Township if the same become obnoxious by reason of odors or noise.</li> </ul>
Pavilion Township	<p><u>Section 200.611 - Animal regulations</u></p> <ul style="list-style-type: none"> <li>• Within residential districts (R-1 through R-6): No livestock (pigs, hogs, poultry, cattle, horses, rabbits or non-domestic pets) shall be allowed to be kept within recorded plats, or similar residential development areas, at any time.</li> <li>• Within agricultural districts (A-1 and A-2): The keeping of livestock is not permitted on lots of less than one acre. On lots between 1-10 acres, the keeping of livestock at a rate exceeding ½ animal unit per acre is not permitted. On lots less than 10 acres, the keeping of poultry, wild fowl, rabbits is prohibited within 50 feet of any recorded plat or similar residential development area.</li> </ul>
Texas Township	<p><u>Section 10-62 – Antinoise Regulation</u></p> <ul style="list-style-type: none"> <li>• The keeping of any animal, bird or fowl except on lands utilized for legitimate agricultural purposes which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort, or repose of any person in the vicinity; such as allowing or permitting any dog to bark repeatedly in an area where such barking can be clearly heard from a nearby residence, is prohibited.</li> </ul>
Village of Schoolcraft	<p><u>Section 14-1 – Keeping of certain animals on residential property prohibited</u></p> <ul style="list-style-type: none"> <li>• No person shall keep on property zoned for or being used as a residence any horse, cow, calf, swine, sheep, goat, chickens, geese, ducks, donkeys, pigeons, pigs (including pot-bellied pigs), reptiles, wild or hybrid (part domesticated and part wild) exotic animal, except domesticated dogs and cats, caged reptiles or insects commonly kept as pets, fish, caged rodents normally kept as pets, caged rabbits normally kept as pets and caged birds normally kept as pets.</li> </ul>
City of Muskegon	<ul style="list-style-type: none"> <li>• No live poultry shall be kept in the city except in commercial establishments legally licensed and zoned thereof, except that one pet may be kept in a pen of confinement which is at least 25 feet from any dwelling.</li> </ul>
City of Zeeland	<p><u>Sec. 4-1. Keeping of animals.</u></p> <p>(a) The keeping of household pets, including dogs, cats, fish, birds, hamsters, and other animals generally regarded as household pets is permitted as an accessory use in any residential district. However, no more than three (3) dogs or cats, six (6) months of age or older, in any combination thereof, shall be kept or housed in or at one (1) dwelling unit.</p> <p>(b) The keeping of animals not normally considered to be household pets, including, but not limited to, horses, pigs, sheep, cattle, and poultry is prohibited in all zoning districts, with the exception of the A-1 Agricultural District, in conjunction with permitted agricultural operations. The zoning administrator shall have the power to determine animals which are not normally considered to be household pets.</p>
City of Wyoming	<p><u>Sec. 301.4 Animals and Bees.</u></p> <p>No horse, cow, calf, swine, sheep, goat, chickens, bees, pigeons, geese, ducks, rabbits, or any protected wild animal shall be kept in any dwelling, nor shall any such animals or bees be kept on the same lot or premises with a dwelling, except under conditions prescribed by the code official so as not to constitute a nuisance to any neighbors or property and so as not to constitute any health or safety hazard."</p>

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City of Kentwood	<p><u>Section 3.12 – Animal Keeping</u></p> <ul style="list-style-type: none"> <li>The keeping of all domestic, fowl or insects including but not limited to ducks, chickens, goats and bees in residential districts is allowed only with the approval of the zoning administrator. The request may be denied by the zoning administrator finds that the keeping of these animals would create a nuisance related to odors, noise, or any other nuisance.</li> </ul>
City of Grand Rapids	<p><u>Domestic Animal</u></p> <p>A small animal of the type generally accepted as pets including, but not limited to, dogs, cats, and fish, but not including roosters, ducks, geese, pea fowl, goats, sheep, hogs or similar animals.</p>
City of Auburn Hills	<p><u>Section 14-2, Keeping Animals</u></p> <ul style="list-style-type: none"> <li>A person shall not keep or allow to be kept within the city any cow, horse, pig, goat, pigeon, chicken, goose, duck, or any other animal, fowl or insect, except birds, dogs, cats, or other harmless and domesticated household pets, unless in a properly zoned area according to Section 400.2 (Farms, when on parcels totaling five acres or more) of the city zoning ordinance.</li> </ul>
City of Northville	<p><u>Section 10.10 – Rabbits and Poultry</u></p> <ul style="list-style-type: none"> <li>It shall be unlawful for any person to own, possess, or harbor any rabbits, chickens, ducks, geese or other poultry, unless the same are kept in a sanitary condition, free of offensive odors, and in an enclosed yard or coop which shall be located not less than 30 feet from the street line or any adjacent property line.</li> </ul>
City of Royal Oak	<p><u>Article I – Chickens and Fowl at Large, Section 484-13 (Keeping of Pets), Section 484-14 (Keeping of Livestock)</u></p> <ul style="list-style-type: none"> <li>No limits on number of hens or roosters.</li> <li>Must not be allowed to roam unconfined.</li> <li>Pens/coops must be kept clean.</li> <li>Nuisance provisions regarding odors, noise, sanitary conditions, rodent and pest infestation.</li> </ul>
City of Madison Heights	<p><u>Sec. 5-4. Restrictions on keeping certain animals.</u></p> <p>(1) No person, shall keep or house any animals or fowl within the city except dogs, domestic cats, house birds, tank fish, domestic rodents, domestic rabbits, ferrets, small tank reptiles or other animals commonly classified as domestic and/or pets. It shall be unlawful for a person to possess, breed, exchange, buy or sell, or harbor the following exotic or wild animals:</p> <p><b>** currently considering ordinance amendment that would allow the keeping/raising of chickens**</b></p>
City of Redford	<p><u>Section 18.12 – Rabbits and Poultry</u></p> <ul style="list-style-type: none"> <li>It shall be unlawful for any person to own, possess, or harbor any rabbits, chickens, ducks, geese or other poultry, unless the same are kept in a sanitary condition, free of offensive odors, and in an enclosed yard or coop which shall be located not less than 30 feet from the street line or any adjacent property line.</li> </ul>
City of Farmington Hills	<p><u>Section 6-4 Keeping of Animals Other than Pets</u></p> <ul style="list-style-type: none"> <li>No limits on number of hens or roosters.</li> <li>It shall be unlawful for any person to keep any animal or fowl within 175-feet of any dwelling other than the dwelling of the owner.</li> <li>Must not be allowed to roam unconfined.</li> <li>Noise and odor provisions.</li> </ul>

## Initial Hen Chicken Option – Fernando Costas (draft ordinance language)

**Statement of purpose.** The keeping of hens supports a local, sustainable food system by providing an affordable, nutritious food source of fresh eggs. The keeping of hens also provides free nitrogen-rich fertilizer; chemical-free pest control; animal companionship and pleasure; weed control; and less noise, mess and expense than dogs and cats.

This regulation is intended to make provision for the limited keeping of female chickens (*Gallus domesticus*), referred to as hens, for the health, convenience and personal enjoyment benefits afforded by such use, in a manner which preserves the quality of life of the surrounding neighborhood.

- a. No more than four (4) hens shall be allowed for each single-family dwelling on platted areas with .25 acres or less.
- b. Hens shall be confined to a fenced enclosure located in a rear or side yard only.
- c. They shall not be allowed to roam free in any part of the city.
- d. The enclosure shall be at least ten feet from any property lines or 20 feet from residential structures on adjacent properties.
- e. A well maintained structure (henceforth referred to as a coop) shall be required for the hens. The coop must be less than 15 feet in height and provide substantial protections against rodents, wild birds, and predators, including dogs and cats.
- f. The coop and enclosure must be clean and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.
- g. Odors from hens, hen waste, or other hen-related substances shall not be perceptible at the property boundaries.
- h. Provision must be made for the storage and removal of hen droppings. All stored droppings shall be covered by a fully enclosed structure with a roof or lid over the entire structure. All other droppings not used for composting or fertilizing shall be removed. In addition, the coop, enclosure and surrounding area must be kept free from trash and accumulated droppings.
- i. No rooster shall be kept on any property.
- j. There shall be no outside slaughter of birds.

# **[WORKING DRAFT]**

## **ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING SECTION 42-121 OF CHAPTER 42, LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Section 42-121 of Chapter 42, Land Development Regulations, are hereby amended as follows:

### **Section 42-121. Accessory buildings and uses.**

- A. General Requirements. No change.**
- B. Accessory Buildings – Residential Zoning Districts. No change.**
- C. Accessory uses.**
  - 1. Accessory uses may include, but are not necessarily limited to, the following:
    - a. Residential accommodations for servants and caretakers within the principal dwelling and not as a separate household.
    - b. A swimming pool for the use of the occupants of a residence or their guests.
    - c. Storage of merchandise normally carried in stock or goods used in or produced by industrial uses in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
    - d. Off-street parking, open or enclosed, and loading subject to the provisions of division 6, subdivision 1, Off-street parking and loading of this chapter.
    - e. Signs, subject to the provisions of division 6, subdivision 2, Signs, of this chapter.
    - f. Home occupations, subject to the provisions of section 42-129, Home occupations.
    - g. Accessory antennas, subject to the provisions of section 42-131, Accessory antennas.
    - h. Private stables, if all of the following are satisfied:
      - (1) The private stable is being used for the enjoyment of the persons occupying the premises.
      - (2) The private stable is outside of the boundaries of platted land.
      - (3) Two acres of land are provided for the first horse and one additional acre of land is provided for each additional horse. The zoning board of appeals may reduce the area requirements when it is affirmatively shown that the

reduction will not interfere with the rights of neighboring landowners to the enjoyment of their premises.

- (4) Stables, feeding areas and other confinement areas are located at least 125 feet from neighboring residences.
- (5) Manure from stables is located at least 125 feet from any property boundary line.
- (6) No electrical fencing exceeding 12 volts is used on the premises.
- (7) The stables, feeding areas and other confinement and/or manure storage areas do not produce noise, odor, dust, fumes or comparable nuisances.

**D. Keeping of animals as an accessory use.**

**1. Definitions.**

**All definitions, unless otherwise specifically stated shall, for the purposes of this Section, have the meaning as follows:**

**a. Animal, Domestic.**

**Any animal normally and customarily kept for pleasure and companionship, that has adapted to human interaction, typically resides within a dwelling unit and is commonly considered to be domesticated. This category includes those animals typically kept as household pets exclusively by the person(s) occupying the premises. Examples include a dog, cat, rabbit, small domesticated rodent such as hamster, gerbil, ferret and chinchilla, guinea pig, caged bird, non-venomous reptile, amphibian and common aquarium fish, excluding however, exotic animals, farm animals and animal ferae naturae.**

**b. Animal, Farm or Livestock. Any animal that is commonly raised or kept in an agricultural setting, for commercial profit and primarily utilized for the production of food or fiber products. This category includes those animals typically referred to as livestock but not including a domestic animal. Examples include cattle, sheep, goats, pigs, donkeys, mules, poultry and other fowl.**

**c. Animal, Exotic. Any animal that may be dangerous or vicious that is not customarily kept, confined or cultivated by humans as a domestic animal, or farm animal, but may be used for display with appropriate permits. Examples include marsupials such as kangaroos and opossums, non-human primates such as a monkeys and gorillas, canines and felines (not including domestic dogs and cats), poisonous reptiles and amphibians, and the like.**

- 2. Household Pets. Domestic animals that are normally and customarily kept for pleasure and companionship as household pets as defined in Section 42-121(D)(1) and do not conflict with or violate any other law or regulation of the state, county or city applicable to the keeping of such animal is permitted as accessory to a residential use.**
  
- 3. Specified Fowl and Rabbits. The keeping of female chickens (hens), turkeys, ducks and guinea hens or the keeping of rabbits (collectively referred to herein as "specified animals") that are utilized exclusively by the person(s) occupying a one-family dwelling unit or two-family dwelling unit as a locally grown food source for the consumption of eggs or meat, is permitted as accessory to a residential use if all of the following are satisfied:**
  - a. Specified animals shall be kept in the rear yard within a fenced in enclosure which shall be setback a minimum of 10 feet from all property lines of adjacent property and a minimum of 30 feet from the nearest wall of any adjacent dwelling unit. Public streets and public easements shall not be considered adjacent property lines for purposes of this section.**
  - b. Accessory structures used to house and/or contain specified animals shall be located within the fenced enclosure required above.**
  - c. The accessory use and accessory structure used to house and/or contain specified animals shall fulfill the requirements specified in Section 42-121 for accessory buildings and uses.**
  - d. The accessory use shall comply with all provisions of the City of Portage Code of Ordinances pertaining to noise, odors, dust, fumes, sanitation and health or other comparable nuisances to ensure the public health, safety and welfare.**
  - e. Accessory structures shall be constructed and maintained to prevent rodents from harboring beneath or within the accessory structure.**
  - f. All specified animals, except rabbits, shall be female.**
  - g. The outdoor slaughter of specified animals is prohibited.**
  - h. All licensing required by the State of Michigan and Kalamazoo County, shall be satisfied.**
  - i. The keeping of more than a total of 4 specified animals as an accessory use or other types of animals that are utilized exclusively by the persons occupying a one family dwelling unit or two family dwelling unit as a locally grown food source for the consumption of eggs or meat not specified herein shall require Planning Commission approval. The applicant shall submit written proof to the Planning**

Commission signed by an owner (or occupant, if different than the owner), of adjacent properties stating that the owner and/or occupant is aware of the applicant's request and the date, time and place of the hearing. If the applicant is unable to obtain necessary signatures after diligent effort is made, applicant may submit written proof that the request and the date, time and place of the hearing has been mailed by first class mail to the owner and/or occupant's last known address from the City of Portage tax records. In its determination, the Planning Commission shall consider the size of the lot or parcel, proximity of surrounding uses, topography, nature of the animal being requested and any other factor relevant to assure public health, safety and welfare. The Planning Commission may attach conditions to the accessory use and/or accessory building deemed necessary for the general welfare, for the protection of individual property rights, to mitigate any negative impact on the surrounding uses of land and any other condition reasonably related to, and consistent with, public health, safety and welfare.

- j. Establishment of an accessory use and/or accessory building under this section shall not confer a vested right in the provisions contained herein or a right to continue such use.
- k. All feed and other items associated with the keeping of specified animals that are likely to attract or to become infested with or infected by rats, mice or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access or coming into contact with them.
- l. Storage and removal of specified animals droppings shall be required. All stored droppings shall be covered by a fully enclosed structure with a roof or lid over the entire structure. All other droppings not used for composting or fertilizing shall be removed. The fenced area, as well as any accessory structure, must be kept free from trash and accumulated droppings.
- m. This section shall not regulate the keeping of specified animals in those areas where a form of agriculture is a permitted principal use or special land use under other sections of this zoning code or when conducted in compliance with the Michigan Right to Farm Act and the generally accepted agricultural and management practice as promulgated there under.

FIRST READING:  
SECOND READING:  
EFFECTIVE DATE:

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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.

\_\_\_\_\_

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

Approved as to form  
Date: \_\_\_\_\_

\_\_\_\_\_  
City Attorney

# **MATERIALS TRANSMITTED**

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – October 11, 2010

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Henry Kerr at 7:00 p.m. in the Council Chambers. Four people were in the audience.

**MEMBERS PRESENT:** Timothy Bunch, Rob Linenger, Betty Schimmel, Lowell Seyburn, Marianne Singer Donald Mordas, Henry Kerr, Daniel Rhodus

**MEMBERS ABSENT:** David Felicijan

**IN ATTENDANCE:** Vicki Georgeau, Deputy Director of Neighborhood Services, Charles Bear, Assistant City Attorney

**APPROVAL OF THE MINUTES:** Linenger moved and Seyburn seconded a motion to approve the September 20, 2010 minutes as submitted. Upon voice vote, motion was approved 7-0.

### **NEW BUSINESS:**

**ZBA# 10-06, Scott Sampson, 4726 Deep Point Drive:** Staff summarized the request for a variance to enlarge or alter a nonconforming dwelling within the front yard setback where 27 feet is required to retain an addition on the northwest corner of the dwelling. Mr. Sampson explained that since he came to the Zoning Board in 2009, he has removed the east side of the dwelling and made repairs to the northwest side of the dwelling, a small portion of which extends into the required front setback and he wishes to retain due to the floor plan. The applicant notes a prior variance was granted for the attached garage, other houses in the area do not meet the current setback requirements, that the shape of the lot is unique and that a portion of the road pavement actually encroaches onto his property. Kerr stated he does not find a practical difficulty and that the request is essentially the same as submitted one year ago. Sampson indicated the two lots of his property come together a unique shape and the city has paved part of the road onto his property. In response to Rhodus, staff clarified that the setback is measured from the right-of-way line, not the road pavement edge. Rhodus also inquired as to why the lot boundaries shown on the survey extend past the platted lot dimensions, as the plat does not indicate the lot extends to the shoreline. Staff indicated the issue of lake front property lines has arisen many times and that the City Attorney has provided several opinions in regard to the issue. If the plat does not have a public beach, walkway or promenade shown running along the shore, it has been presumed that lake front property extends to the legal lake level/established high water mark. The City Attorney indicated that statute and case law is consistent with this position. Rhodus expressed a concern regarding this matter, and requested additional information regarding case law on this matter. In response to Seyburn and Singer, the applicant indicated that while there is a closet at the corner of the house that encroaches into the setback, more than just the closet would have to be removed to comply with the setback, which would adversely impact the floor plan. Seyburn indicated if the entire northwest addition to the house were shifted to the south to comply with the setback, about 10 feet of wall area would connect to the older area of the dwelling, which does not seem desirable. Kerr noted that the addition was built without prior permit approval, and several conforming alternatives are available to the applicant. Linenger expressed concern that the process to comply with the decision of the Board has taken so long and that legal enforcement action by the city was necessary. In response to Seyburn and Bunch, staff indicated that Building Code violations do remain, but the applicant has been working to rehabilitate the dwelling. The applicant added that an interior inspection of the east side of the dwelling remains, and only two footings on the west side of the house have yet to be replaced. Linenger asked if action is needed on the attached garage built in 1988. Staff indicated no as a front setback variance was granted. Seyburn indicated it would be helpful to have information regarding the variance decision in 1988.

A public hearing was opened. No one was present to speak for or against the request. Mr. Sampson presented a letter of support from Daniel and Joyce Jackson, 4802 Deep Point and Mark Nakayama, 4708 Deep Point Drive, which was read into the record. There being no further comments the public hearing was closed.

A motion was made by Seyburn, supported by Rhodus, to postpone action on the request to the November 8<sup>th</sup> meeting to allow the Board an opportunity to review information relevant to the 1988 variance for the attached garage, and to receive an update regarding the conformity of the dwelling with the Building Code. After further

discussion and upon roll call vote, the motion failed 3-4 (Kerr-No, Linenger-No, Mordas-Yes, Schimmel-No, Seyburn-Yes, Singer-No, Rhodus-Yes).

A motion was made by Singer, supported by Linenger, to deny a variance to enlarge or alter a nonconforming dwelling within the front yard setback where 27 feet is required to retain an addition on the northwest corner of the dwelling. The immediate practical difficulty causing the need for the variance request was created by the applicant, and while the applicant did not construct the illegal addition, he knew about it when he purchased the property, and the variance would materially impair the intent and purpose of the zoning ordinance. Upon roll call vote, the motion failed 3-4 (Kerr-No, Linenger-Yes, Mordas-No, Schimmel-Yes, Seyburn-No, Singer-Yes, Rhodus-No).

A motion was made by Seyburn to reconsider the first motion, which was supported by Rhodus, to postpone action on the request until the November 8, 2010 meeting to allow an opportunity to review information relevant to the 1988 variance for the attached garage, and to receive an update regarding the conformity of the dwelling with the Building Code. Upon roll call vote, the motion passed 5-2 (Kerr-No, Linenger-Yes, Mordas-Yes, Schimmel-Yes, Seyburn-Yes, Singer-No, Rhodus-Yes).

ZBA #10-07, William Kilkelly, 2404 Fairfield Road: Staff summarized the request for a) a 60 square foot variance to retain a 256 square-foot shed and 528 square foot garage with a combined area that exceeds the ground floor living area of the dwelling; and b) a four-foot variance from the required 10-foot building separation between the accessory buildings as specified in the Zoning Code. Mr. Kilkelly was present to explain his request, and that he hired a licensed contractor that told him he did not need a permit for a shed. The roof lines of the two buildings and service door for the garage present a problem with regard to attaching the buildings, and that the shed was built over 15 years ago, with no complaints. The applicant does not want to combine his adjacent lot due to tax ramifications. Bunch asked if the complaints about debris in the neighborhood involved this property. Staff responded yes and that the violations were addressed in a short period of time. Singer asked if the shed could be moved east without a setback problem. The applicant noted there is plenty of room, but that the shed could not be easily moved and would require a new slab. In response to Seyburn, staff indicated that if the Board granted a variance from the separation requirement, a fire wall in both the shed and adjacent garage wall are recommended. Linenger indicates it is unfortunate that a building permit was not obtained. Bunch indicated that a fire rated wall between the buildings would be an acceptable condition to address the building separation variance. In response to Schimmel, staff verified that if a 60 square foot addition was added to the dwelling, one of the two variances would not be needed.

A public hearing was opened. William Inkster, 2320 Fairfield Road, spoke in favor of the request, noting there is commercial property to the south and east with a six-foot solid wood fence, that the shed has been up for 15 years with no impact on the neighborhood. Seyburn asked if the house has a basement, and Mr. Inkster indicated yes. There being no further comments the public hearing was closed.

A motion was made by Linenger, supported by Singer, to deny a) a 60 square foot variance to retain a 256 square-foot shed and 528 square foot garage with a combined area that exceeds the ground floor living area of the dwelling; and b) a four-foot variance from the required 10-foot building separation between the accessory buildings as specified in the Zoning Code due to a lack of practical difficulty, and because the variance will materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. After further discussion and upon roll call vote: Linenger-Yes, Schimmel-Yes, Rhodus-No, Seyburn-No, Kerr-Yes, Singer-Yes, Mordas-Yes) motion carried 5-2.

**STATEMENT OF CITIZENS:** None

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 8:10 p.m.

Respectfully submitted,

Vicki Georgeau, AICP  
Deputy Director of Neighborhood Services

# CITY COUNCIL MEETING MINUTES FROM OCTOBER 19, 2010

435

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

At the request of Mayor Strazdas, Pastor David Barringer of the Kalamazoo First Assembly of God Church gave the invocation and the City Council and the audience recited 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.

**PROCLAMATIONS:** Mayor Strazdas issued a Resolution of Respect Honoring Robert B. Jones, called for a moment of silence and issued a National Red Ribbon Proclamation.

**APPROVAL OF MINUTES:** Motion by Urban, seconded by Reid, to approve the October 5, 2010 Special and Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0 with Councilmember O'Brien and Strazdas abstaining.

\* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. Mayor Pro Tem Sackley asked that item F.4, Tobacco Ban In Portage Parks, and Item L.1, Council Chambers Video Upgrade, be removed from the Consent Agenda. Motion by Sackley, seconded by Reid, to approve the Consent Agenda motions as amended. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF OCTOBER 19, 2010:** Motion by Sackley, seconded by Reid, to approve the Accounts Payable Register of October 19, 2010. Upon a roll call vote, motion carried 7 to 0.

**PETITIONS AND STATEMENTS OF CITIZENS:** Dave Morris, 53225 Day Road, Marcellus, and owner of the Daily Grind Friendly Café, 8712 Portage Road, issued a complaint because he was required to remove a painted sign on his commercial property on the outside of the front window or face a \$100 fine, so he painted it on the inside of the window. Discussion followed. He also issued a complaint about a \$413.10 water bill owed by the former lessee of the building that he did not know about when he purchased the property on land contract for which he was billed, but refused to pay. Discussion followed. As a result, Mayor Strazdas indicated that he recognized his dissatisfaction with the sequence of events, so he would have the Administration review the sequence of events and report back. Mayor Strazdas also indicated that he would have the Administration investigate his accusation that the city "goes for" an ordinance when it is good for the city, but does not "go for" an ordinance when it goes against the city. Finally, Mayor Strazdas acknowledged that he, Mr. Morris, wanted the water bill waived immediately. Discussion followed.

## REPORTS FROM THE ADMINISTRATION:

\* **BARRINGTON WOODS APARTMENTS – EASEMENT AND LICENSE AGREEMENTS:** Motion by Sackley, seconded by Reid, to adopt the Resolution granting the Easement and Right-of-Way Agreement for Ingress and Egress and License Agreement To Locate Personal Property in City Right-of-Way to Duke Barrington Limited Dividend Housing Association Limited Partnership, place the Resolution on file with the City Clerk for 28 days and take final action on November 16, 2010, at 7:30 p.m. or as soon thereafter as may be heard. Upon a roll call vote, motion carried 7 to 0.

\* **PA 451 FARMLAND/OPEN SPACE APPLICATION: 7943 SOUTH 25<sup>TH</sup> STREET, PAVILION TOWNSHIP:** Motion by Sackley, seconded by Reid, to accept the PA 451 Farmland/Open Space application from Behavior Development Corporation (DBA) Lake Village Homestead, 7943 South 25<sup>th</sup> Street, Pavilion Township. Upon a roll call vote, motion carried 7 to 0.

\* **RESIDENTIAL PLAT SIDEWALK EXTENSION REQUESTS:** Motion by Sackley, seconded by Reid, to grant an extension to November 1, 2012, for the completion of sidewalk and street tree installation within the following residential plats subject to submittal of a revised irrevocable bank letter of credit or other surety acceptable to the City Attorney: Avalon Forest/Avalon Woods No. 1 and 2, T. A. Scott Construction; Austin Shores Condominium Subdivision, Irwin Union Bank; Holiday Village East No. 3 and South No. 3, WTM, Incorporated; and Stateland Park Subdivision, Broekema/Scott, LLC. Upon a roll call vote, motion carried 7 to 0.

**TOBACCO BAN IN PORTAGE PARKS:** Mayor Pro Tem Sackley expressed his appreciation for the work performed by the Park Board and their recommendation for updating the ordinance and/or rules for the Portage Parks. He expressed a desire to check best practices and have a discussion of this matter at the City Council Retreat sometime on Friday, November 12, 2010, from 12 p.m. until 9 p.m. and/or on Saturday, November 13, 2010, at the Gilmore House on the campus of Western Michigan University, Kalamazoo. In answer to Councilmember Reid, City Attorney Randy Brown indicated that the ordinance allows for Park rules that are to be treated as a municipal civil infraction which means imposing a fine, but no jail time. Discussion followed. Motion by Sackley, seconded by O'Brien, to accept the communication from the City Manager recommending that City Council enact a ban of all tobacco products in and up to a distance of 25 feet from the following Portage Park locations: Ramona Park Beach, Playgrounds, Picnic Shelters, Fishing Piers, Restrooms, Bleachers, Softball Dugouts, Courts (basketball, tennis and volleyball), South Westnedge Skate Park and In-line Hockey Rink, Concessions (permanent or temporary), Millennium Park Ice Rink, Celery Flats Amphitheatre, Hayloft Theatre and Overlander Bandshell, but defer action and schedule discussion by City Council at the November 12-13 City Council Retreat. Upon a roll call vote, motion carried 7 to 0.

\* **WEBSITE UPGRADE PRESENTATION:** Motion by Sackley, seconded by Reid, to Establish a Special Meeting on Tuesday, November 16, 2010, at 6:30 p.m. in City Hall Conference Room #2 for the purpose of receiving a presentation concerning an upgrade to the city website. Upon a roll call vote, motion carried 7 to 0.

\* **SEPTEMBER 2010 SUMMARY ENVIRONMENTAL ACTIVITY REPORT – INFORMATION ONLY:** Motion by Sackley, seconded by Reid, to receive the communication from the City Manager regarding the September 2010 Summary Environmental Activity Report as information only. Upon a roll call vote, motion carried 7 to 0.

\* **DEPARTMENT MONTHLY REPORTS:** Motion by Sackley, seconded by Reid, to receive the Department Monthly Reports from the various city departments. Upon a roll call vote, motion carried 7 to 0.

\* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Park Board of September 1, 2010.  
 Portage Human Services Board of September 2, 2010.  
 Portage Planning Commission of September 16, 2010.  
 Portage Zoning Board of Appeals of September 20, 2010.

Kalamazoo County Board of Commissioners Committee of the Whole and Regular of  
September 21, 2010.

**BID TABULATIONS:**

**COUNCIL CHAMBERS VIDEO UPGRADE:** Mayor Pro Tem Sackley highlighted some of the benefits of the upgrade and pointed out that this upgrade is funded by subscriptions to Charter and AT&T U-verse and franchise fees. Motion by Urban, seconded by Reid, to accept the low bid submitted by Central Interconnect, Incorporated, at a total cost of \$40,108.87 for the upgrade of the Council Chambers video system and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 7 to 0.

\* **SUPERDECK BOARDWALK – BID RECOMMENDATION:** Motion by Sackley, seconded by Reid, to approve a sole-source provider bid from Aggressive Industries in the amount of \$16,600 for supply and delivery of SuperDeck for improvements to the Bishop’s Bog Preserve trail and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

\* **BID RECOMMENDATION - 2011 PORTAGE SENIOR CENTER MOTOR COACH SERVICES:** Motion by Sackley, seconded by Reid, to approve the low bid from Gail Andrus Travel, LLC, for motor coach services for the 2011 Portage Senior Center travel program in the amount of \$15,657.75 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** City Council and Mayor Strazdas expressed their condolences to the family of Robert Jones and their sorrow for his passing.

Councilmember Randall reminded voters of the City of Portage Charter issue appearing on the November 2 Election Ballot that would permit City Council to change the number of members of the Board of Review from three members to three, six or nine members, depending upon the anticipated volume of property assessment appeals, and would allow for training of the Board of Review Members to ensure they are better able to perform their respective duties.

Mayor Strazdas expressed his support for the Charter Amendment and asked that the reporter from the *Kalamazoo Gazette* assist in the explanation of the ballot issue.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 8:38 p.m.



James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.