



PORTLAND CITY COUNCIL

Proposed Special Meeting Agenda

5:30 P.M., Tuesday, June 18, 2019

Executive Conference Room at City Hall

259 Kent St., Portland, Ionia County, Michigan 48875

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Public Comment (3 minute time limit per speaker)**
- IV. Acceptance of Agenda**
- V. Presentation – None**
- VI. Old Business - None**
- VII. New Business**
 - 1. Second Reading and Consideration of Ordinance 17500 to Amend the City Zoning Map
 - 2. Second Reading and Consideration of Ordinance 1B an Ordinance Amending and Adding to Chapter 14, “Fire Prevention and Protection,” of the Code of Ordinances of the City of Portland as it Relates to the Regulation of Fireworks
- VIII. Board Member Comments**
- IX. Adjournment**

**CITY COUNCIL
CITY OF PORTLAND
Ionia County, Michigan**

Council Member _____, supported by Council Member _____, made a motion to adopt the following ordinance:

ORDINANCE NO. 17500

AN ORDINANCE TO AMEND THE CITY ZONING MAP

THE CITY OF PORTLAND ORDAINS:

SECTION 1. AMENDMENT. The Official Zoning Map of the City of Portland is amended as follows:

Parcel 34-300-034-000-005-00, a 10-acre parcel of the Rindlehaven Development (as designated in Exhibit A), is rezoned from the TND PUD to R-3 Multifamily District

SECTION 2. PUBLICATION AND EFFECTIVE DATE. This Ordinance must be published and recorded as provided in the City Charter and takes effect on the date of publication, but not less than ten (10) days after its adoption by the City Council.

Ayes:

Nays:

Absent:

Abstain:

ORDINANCE DECLARED ADOPTED.

Dated:

James E. Barnes, Mayor

Monique I. Miller, City Clerk

Introduced: May 20, 2019

Adopted:

Published:

Effective:

CERTIFICATION

I certify that the foregoing is a true and complete copy of Ordinance No 17500, which was adopted by the Portland City Council at a regular meeting, held on _____ which was conducted in accordance with the Open Meetings Act, Act 267 of the Public Acts of Michigan of 1976, as amended.

Dated:

Monique I. Miller, City Clerk

TO: Portland City Planning Commission
 FROM: Paul LeBlanc, AICP
 DATE: May 1, 2019
 SUBJECT: Proposed Rezoning from TND-PUD to R-3, Multi-Family

Request

This is a request to rezone a site of approximately 10 acres, located north of I-96 and south of Rindle Bluff Road, from its existing TND-PUD classification to R-3, Multi-Family. The intent is to develop an elderly housing project, consisting of 42 residential units. Elderly housing is only allowed in the R-3 District as a special use.



Existing Conditions

The subject site is currently undeveloped and fronts on Rindle Bluff Road, an interior street serving the existing and planned Rindlehaven PUD project. It is bordered on the south by the City’s river trail walk. Surrounding land use and zoning are summarized in the following table:

	Existing Land Use	Existing Zoning
North	Rindle Bluff Rd. & single-family	TND-PUD
South	Trail & commercial	C-3, Highway Commercial
East	Vacant	TND-PUD
West	Trail & commercial	C-3, Highway Commercial

The City’s Master Plan designates this property and the area north and east as Mixed-Use.

Criteria

Section 42-33 (b)(2) specifies the criteria to be followed when considering a rezoning request. These include:

- a. **Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the city master plan; or, if conditions have changed significantly since the master plan was adopted, the consistency with recent development trends in the area;**

The Master Plan recommends mixed-use development for the subject site and surrounding property. The R-3 rezoning would permit residential development consistent with the concept of mixed-use, in particular the intended elderly housing. More specifically, the Plan also notes at p. 66: “The 2014 resident survey showed a desire for more apartments and senior housing.”

- b. Whether the proposed district and the uses allowed are compatible with the site’s physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts;**

While the applicant has expressed a desire for one specific use (elderly housing) on the subject property, it must be noted that, if rezoned, any use otherwise allowed in the R-3 District could be placed on the property. As a residential district, the uses allowed in R-3 are the same as those allowed in the R-1, Single-family District with the addition of elderly housing, two-family dwellings, and multiple-family dwellings. These same uses, however, have been proposed and approved as part of the Rindlehaven PUD within which the subject site was included. Therefore, even if the intended use did not materialize, the R-3 District would not permit any use that would be incompatible with the adjacent PUD zoning or commercial to the south.

In terms of other impacts, none of the allowed uses in the R-3 District would have the potential impact on property values, intensity, or traffic that the originally-intended commercial uses, as envisioned in the approved Rindlehaven PUD, would have had.

- c. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting; and**

The site is accessible from an existing street, has access to the abutting river trail, and is served by public utilities. Any potential R-3 use that could be accommodated on a 10 acre site could be served by the existing or planned infrastructure.

- d. Other factors deemed appropriate by the planning commission.**

The rezoning would make it more feasible to develop the subject property than would otherwise be likely under the existing PUD.

Recommendation

I recommend that the Planning Commission recommend to City Council approval of the rezoning to R-3, Multi-family Residential, for the following reasons:

- The rezoning request satisfies the criteria of Section 42-33 (b)(2).
- The R-3 zoning district permits a range of uses that would be compatible with the existing and planned development on the surrounding property.
- As noted in the Master Plan, there is an expressed need for alternate housing choices in the City that would be allowed in the R-3 District.

CITY OF PORTLAND
Ionia County, Michigan

Council Member _____, supported Council Member _____, moved the adoption of the following ordinance:

ORDINANCE NO. 1B

AN ORDINANCE AMENDING AND ADDING TO CHAPTER 14, "FIRE PREVENTION AND PROTECTION," OF THE CODE OF ORDINANCES OF THE CITY OF PORTLAND AS IT RELATES TO THE REGULATION OF FIREWORKS

THE CITY OF PORTLAND ORDAINS:

Section 1. Amendment of Chapter 14 of the Code of Ordinances. Sections 14-10 through 14-15 of Chapter 14, "Fire Prevention and Protection," of the Code of Ordinances are replaced and Sections 14-16 through 14-20 are added thereto to read:

Sec. 14-10. – Fireworks definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

Act 256 means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011 as amended from time to time.

Alcoholic liquor means that term as defined in section 1d of the Michigan Vehicle Code, 1949 PA 300, MCL 257.1d, as amended

Articles pyrotechnic means pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but not intended for consumer use, that meet the weight limits for consumer fireworks but are not labeled as such, and that are classified as provided in Act 256.

Consumer fireworks mean fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition and labeling requirements promulgated by the United States Consumer Product Safety Commission and are identified as such in Act 256. Consumer fireworks do not include low-impact fireworks.

Controlled substance means that term as defined in section 8b of the Michigan Vehicle Code, 1949 PA 300, MCL 257.8b, as amended.

Display fireworks mean large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration or deterioration and are identified as such in Act 256.

Fireworks mean any composition or device, except for a starting pistol, a flare gun or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or

detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.

Low-impact fireworks mean ground and handheld sparkling devices as provided in Act 256.

Minor means any individual who is less than eighteen (18) years of age.

Retailer means a person who sells consumer fireworks or low-impact fireworks for resale to an individual for ultimate use.

Special effects means a combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

Wholesale means any person who sells consumer fireworks or low-impact fireworks to a retailer or any other person for resale. Wholesaler does not include a person who sells only display fireworks or special effects.

Sec. 14-11. – Ignition, discharge and use of consumer fireworks.

- (a) A person shall not ignite, discharge or use consumer fireworks except on the following days after 11 a.m.:
 - (1) December 31 until 1 a.m. on January 1.
 - (2) The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - (3) June 29 to July 4 until 11:45 p.m. on each of those days.
 - (4) July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - (5) The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (b) A person shall not ignite, discharge, or use consumer fireworks if the environmental concerns based on the department of natural resources fire division criteria are elevated to extreme fire conditions or if the environment concerns based on the department of natural resources fire division criteria are elevated to very high for seventy-two (72) consecutive hours and the commanding officer of the fire department, in consultation with the department of natural resources enforces a no burning restriction that includes a ban on the ignition, discharge, and use of consumer fireworks. If a no burning restriction is instituted under this Section, the commanding officer of the fire department enforcing the restriction shall ensure that adequate notice of the restriction is provided to the public.

Sec. 14-12. - Fireworks safety prohibited conduct.

No person shall endanger the life, health or safety of any other person by the sale, use, possession, transport, display or discharge of any consumer fireworks. No person shall use consumer fireworks or low-impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination thereof.

Sec. 14-13. – Possession of consumer fireworks by minor.

No minor shall possess, ignite, discharge or use consumer fireworks.

Sec. 14-14. - Prohibition on certain property.

No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks, upon another person's property without such property owner's permission. No person shall, at any time, ignite, discharge, use or display, except under the terms and conditions of a permit issued pursuant to this section, any fireworks in a public street or right-of-way, a public park, school property, public property, or any other place of public assembly without the approval of the owner of such property or, in the case of a public park, street or right-of-way, the approval of the city. Notwithstanding the above, pursuant to state law, it shall not be a violation of this section relative to consumer fireworks on the dates and times consumer fireworks are allowed as set forth in section 14-11(a). However, this exception does not affect the ability of a person to restrict the use of fireworks on property owned or controlled by them by any other lawful means.

Sec. 14-15. – Determination of violation; seizure.

If a city police officer determines that a violation of this article has occurred, the officer may seize the consumer fireworks as evidence of the violation.

Sec. 14-16. - Permits.

Provided that the applicable provisions of Act 256 are complied with, upon application in accordance with this section, the city may issue a non-transferrable permit for the use of agricultural or wildlife fireworks, articles pyrotechnic, display fireworks or special effects manufactured for outdoor pest control or agricultural purposes or for public or private display. After a permit has been issued, the sale, possession or transportation of fireworks for the purposes described in the permit only may be made. A permit may not be issued to a person under eighteen (18) years of age. The issuance of a permit shall be approved by the city council and shall be based on the competency and qualifications of the operator of such fireworks as required by Act 256 and the time, place and safety aspects of the proposed use.

Sec. 14-17. - Permit fee.

A fee for a fireworks permit may be established from time to time by the city council which shall accompany the application for a permit.

Sec. 14-18. - Proof of financial responsibility.

In order to receive a permit for articles pyrotechnic or a display fireworks use, the applicant shall furnish proof of financial responsibility by a bond or insurance in an amount, character, and form deemed necessary by the city manager or his/her designee to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant or an agent or employee of the applicant, and to protect the public.

Sec. 14-19. - Storage of fireworks.

The storage of fireworks by retailers and wholesalers shall at all times be in compliance with the requirements of Act 256.

Sec. 14-20. – Penalty.

Violations of Sections 14-11 through 14-14 and any other violation relating to regulation of the ignition, discharge, and use of consumer fireworks in this chapter shall be responsible for a civil fine in the amount of \$1,000.00 for each violation and no other fine or sanction. \$500.00 of the fine collected shall be remitted to the local law enforcement agency responsible for enforcing this ordinance.

Section 2. Publication and Effective Date. The City Clerk shall cause this Ordinance to be published and recorded as provided in the City Charter and it shall take effect on the date of publication, but not less than ten (10) days after its adoption by the City Council.

Yeas:

Nays:

Abstain:

Absent:

ORDINANCE DECLARED ADOPTED.

James E. Barnes, Mayor

Monique I. Miller, City Clerk

Introduced:

Adopted:

Published:

Effective:

CERTIFICATION

I certify that this is a true and complete copy of the ordinance adopted at a regular meeting of the City Council of the City of Portland on _____, 2019.

Dated: _____, 2019

Monique I. Miller, Clerk