



VILLAGE OF PENTWATER

Planning Commission

ON PENTWATER LAKE AND LAKE MICHIGAN
65 N Hancock Street, P.O. Box 622, Pentwater, Michigan 49449
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Regular Meeting Minutes – January 24, 2023

Chairperson Bruce Koorndyk called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 6:00 pm, in-person at Park Place, 310 N. Rush Street, Pentwater, with the Pledge of Allegiance.

ROLL CALL

Present: Bruce Koorndyk, Chris Conroy, Mary Temple, Amy Roberson, Ron Stoneman and Michelle Angell-Powell.

Absent: Paul Anderson

Staff Present: Katie Anderson, Zoning Administrator, Brian Monton, Village Attorney and Rande Listerman, Village Clerk/Treasurer.

APPROVAL OF AGENDA

Motion by Michelle Angell-Powell, second by Ron Stoneman to approve the agenda presented.
Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

APPROVAL OF REGULAR MEETING MINUTES

Motion by Michelle Angell-Powell, second by Amy Roberson to approve the December 19, 2022, regular meeting minutes as presented.
Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed.

PUBLIC COMMENTS FOR ITEMS ON THE AGENDA

None

PUBLIC HEARING

- A. A text amendment request to amend Section 14.06.B.1 of the Village Zoning Ordinance regarding residential cluster development regulations in a Planning Unit Development (PUD) to provide that “the minimum development size shall be ten (10) acres AND a request for a map amendment to the Village Zoning Ordinance to rezone a portion of the Lites Woods PUD property, Parcel ID Numbers:64-044-620-126-20 and 64-044-620-125-00 from PUD to R-2 Single Family Residential.

Chairperson Koorndyk opened the Public Hearing at 6:03pm.

PUBLIC COMMENTS

Thomas Amon – Attorney for Richard Whitcomb – Thank you accommodating the remote attendance tonight. The last time we met was back in December and since then we have narrowed the request before the Planning Commission. Our first request is a text amendment to the Ordinance, the text amendment is to reduce the minimum size of the PUD from 20 acres to 10 acres. Our reason for requesting that is we would like to take the expansion area out the PUD zoning and restore that to R-2 Zoning. The issue that arises with that is the remaining parcel is just slightly under 20 acres. So, the text amendment is really to address that technicality in the Ordinance. We think that it also makes sense because the Village of Pentwater does not have any large parcels in the Village that meets the 20-acre minimum. The 10 acres seems more reasonable. From the applicant's perspective we are not married to any number as long as it's under 19 or 18, whatever the remaining parcel is. The second portion is the rezoning of the expansion area lots that are to the east of the Lites Woods Development from PUD to R-2. We discussed this at length at the previous meeting and in our August 1, 2022 letter. We went through the factors on pages two through four for a rezoning request. In a nutshell, what we would like to do is restore this and pull it out of the PUD zoning. What we have is a situation where the Cottages at Lites Woods began the development 20 years ago. Since then, the original condo area still has not had all the units built out or sold. We have been through three developers. What we are looking to do is to be able to sell the properties along Victoria Avenue, that are not part of the original condo development but were rather a part of the expansion area of the condo. The expansion area is expired but more importantly, there is just no ability at the present to develop and sell those as condominiums. There is not a market demand for it. We want to put this property to use. We want it to be available, we want it to be buildable, and for that reason we are asking for the rezoning of the parcels in question to R-2.

Ted Cuchna – 529 Clymer St. – Read a letter he submitted to the Planning Commission. As a longtime resident and having four family held properties in close proximity to the Lite Woods Development, I have had interest in following the development and the actions of the three consecutive PUD owners. A review of the original development offerings indicated approximately 40 to 50 homes were planned by the original developer on the two parcels now being requested for rezoning and proposed to be divided into 7 individual lots. I have also attended the three public input meetings this past summer where the Master Plan Committee pressed their case for more affordable housing and single-family housing in the village. The loss of some 40 building sites certainly does not fit the Master Plan's goal. In particular, the current owner claims that parcel Lot #5 is unbuildable and on a dirt road, yet he also indicated he has interested buyers. The original developer and their engineer and architect Nederveld indicated 5 homes and a rain garden planned for the parcel. Does Mr. Barr believe the original design was in error? The original developer installed a 3' and 6' retaining walls to allow development of Phase One. Is it unbuildable because there is no water, sewer and fire protection in the street? The original developer committed to making Victoria a complete street with utilities as other streets in the development. It committed to save the village the \$400,000 estimated street infrastructure costs. Is this owner prepared to meet that commitment? The current developer claims there are sufficient electricity and facilities available along Victoria for the proposed lots. Other than high voltage power lines crossing Victoria, where are the sewer, water, fire

protection and storm drains located? The nearest tie into Village services is along 2nd Street or connections to the previously installed Phase 2 services on Kenneth and Wheeler Streets. Other than storm drain, Sixth Street has no water or sewer readily available. What precedent will the Village set if it allows in fill lots to be established without requiring connection to Village sewer and water systems? The original developer claimed some of the property east of Victoria would be used for a private treatment system if the Village could not accommodate the expected 130 homes on its sewer system. Will sales of the proposed lots be serviced by new connections to 2nd Street or existing planning connections already in the PUD? The current owner claims the present zoning “renders the property vacant, unbuildable and unsellable and of no economic value or practical use whatsoever.” A suggestion made to Mr. Vanputten, the second owner of the development was to consider reasonably sized, aging in place, quality senior housing designs for the very parcels Mr. Whitcomb is now claiming are unbuildable. It is not the responsibility of the Village to guarantee the success of investors, real estate developers or real estate agents projects. In the long term it would appear to be in the Village’s best interests to retain the original site development zoning. More lots and senior housing would satisfy two aims of the Master Plan to say nothing of eventual tax revenue. As noted in letters to the Village Council in 2004, the Lites Woods development will have lasting effects on the Village far into the future. Well, part of the future is now here. How will this decision affect the future? Thank you, a Concerned Citizen.

Ted Spalding – 1065 E. Second St. – We have lived on the corner of Second and Victoria for 20 years. I agreed with what Ted (Cuchna) said, in the original plan when they finished the PUD Development, they were supposed to pave the road and put the gutter and sewer and all that stuff in. I have some concerns about the survey of the road. The road is not in the right place. The road needs to be moved. Roughly two years ago Hepworth Surveying came out and moved two stakes on both side of Victoria, ten feet to the west. The old stakes and the steel rods are still there. I am wondering what that presents, are they going to fix the road, are they going to straighten the road, put it where it originally belonged. I don’t know the cost. I have talked to the Village President, and they were going to think about putting some gravel on it, that road is not maintained very well. This is the first meeting I have been here. I live down state and have a place up here for a lot of years. So that’s my question, what are they going to do with the road? Construction is going to tear that road all apart, and if they are going to put sewer and water. I don’t know what they are going to do. Are they going to surface that road, is it going to be a hard surface or just stone? The other concern I have is I can’t visualize 5 units per acre. That seems like an awful lot to me. That is all, I just have some questions that I wanted to bring up.

Nick Kassanos – 50 S. Wheeler St. – I do live in the Lites Condos. I just want to voice my support to the property being changed back to the original zoning; it was originally residential I understand before it was requested to be a PUD back in 2007. I want to support the application that wants to convert it back to residential. I know that there are a lot of questions tonight, I haven’t heard answers. We are connected to the sewer system and we do pay our fees to the Village of Pentwater for our trash and sewer. We do plow our own roads, there is some revenue that the Village does get from us. I guess I am reverting these questions about the road of Victoria, if it goes to residential or if it stays PUD, I am not sure what the difference is, whatever has to be done to that road. I just want to voice my support of it going to residential.

Public Hearing was closed at 6:19pm.

OLD BUSINESS - None

NEW BUSINESS

- A. Consideration for Zoning Ordinance Text Amendment to Section 14.06.B.1 of the Village Zoning Ordinance – PUD – the minimum development size shall be ten (10) acres.

Motion by Michelle Angell-Powell, second by Amy Roberson to make the minimum development size shall be 5 acres for the Village Zoning Ordinance.

Discussion held.

Motion rescinded.

Motion by Ron Stoneman, second by Michelle Angell-Powell to deny the 10-acre request.

Discussion held.

Motion rescinded.

Motion by Michelle Angell-Powell, second by Chris Conroy for recommendation for consideration for Zoning Ordinance text amendment to Section 14.06.B.1 of the Village Zoning Ordinance PUD the minimum development size shall be 10 acres.

Discussion held.

Motion rescinded.

Motion by Ron Stoneman, second by Michelle Angell-Powell for recommendation for the text amendment request to Section 14.06.B.1 of the Residential Cluster Development Regulations in the PUD to provide that the minimum development size of 10 acres is denied.

Roll Call Vote: Yes: Koorndyk, Angell-Powell, Conroy, Roberson, Stoneman, and Temple.

No: 0

Absent: P. Anderson

Motion passed 6-0.

Motion by Michelle Angell-Powell second by Ron Stoneman for recommendation for consideration for Zoning Ordinance text amendment to Section 14.06.B.1 of the Village Zoning Ordinance PUD the minimum development size shall be 5 acres.

Roll Call Vote: Yes: Koorndyk, Angell-Powell, Conroy, Roberson, Stoneman, and Temple.

No: 0

Absent: P. Anderson

Motion passed 6-0.

Section 20.05 Criteria for Amendment of the Official Zoning Ordinance Text

- A. Compatibility with the basic intent and purpose of the Ordinance;

Comment: All agree, it's compatible with the basic intent and purpose of the Ordinance.

- B. Consistency with the goals, objectives, and future land uses of the Village of Pentwater Master Plan, including a sub-area or corridor studies;

Comment: All agree, it's consistent with the goals, objectives, and future land uses of the Village of Pentwater Master Plan.

- C. The requested amendment will correct an error and/or clarify an ambiguity in the Ordinance;

Comment: All agree, it's applicable to the extent that the 20-acre requirement is excessively large

- D. The requested amendment will resolve an inequitable situation created by the Ordinance and does not grant special privileges;

Comment: All agree, it does not grant special privileges.

- E. The requested amendment will not result in unlawful exclusionary zoning;

Comment: All agree, this will not result in unlawful exclusionary zoning.

- F. There is documentation from Village staff or the Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of the Ordinance;

Comment: All agree, that the inherent problem of the 20-acre requirement is that it basically nullifies the entire PUD provision because no other parcel in the Village can meet the 20-acre provision. It would satisfy this factor to that extent.

- G. The requested amendment will address changes in state or federal legislation or regulations or other Village ordinances; and

Comment: Does not exist in this circumstance.

- H. The requested amendment will resolve potential legal issues or administrative problems with the Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.

Comment: All agree, the proposed amendment resolves any issue that makes the PUD provision a nullity.

- B. Consideration for Map Amendment to the Zoning Ordinance to rezone a portion of Lites Woods PUD Property, Parcel ID Numbers 64-044-620-126-20 and 64-044-620-125-00 from PUD to R-2.

Motion by Michelle Angell-Powell, second by Ron Stoneman to adjourn making a recommendation for a Map Amendment to the Zoning Ordinance until the February Planning Commission Meeting.

Roll Call Vote: Yes: Koorndyk, Angell-Powell, Conroy, Roberson, and Stoneman
No: Temple Absent: P. Anderson Motion passed 6-0.

- C. Recommendation from the Village Council consider a zoning change from C-3 to C-4 on Hancock Street between Third and Fourth Street.
Parcel ID Numbers: 64-044-676-001-00, 64-044-676-001-50, 64-044-681-001-30, 64-044-681-011-60, 64-044-681-002-00, and 64-044-681-044-00.

Motion by Michelle Angell-Powell, second by Mary Temple to set the Public Hearing to consider a zoning change from C-3 to C-4 on Hancock Street between Third and Fourth Street.

Roll Call Vote: Yes: Koorndyk, Angell-Powell, Conroy, Roberson, Stoneman, and Temple.

No: 0

Absent: P. Anderson

Motion passed.

COMMITTEE/DEPARTMENT REPORTS

- A. **Zoning Administrator** - Ms. K. Anderson’s written report was accepted by the Planning Commission.
- B. **Zoning Board of Appeals** – Met December 20, 2022 regarding a variance request for 294 E. Lake Street.
- C. **Master Plan Update** – Version 8 of the Master Plan was distributed to the Planning Commission Members for their feedback.

PUBLIC COMMENTS

Nick Kassanos – 50 S. Wheeler St. – Just a couple of things. I am a bit disappointed that the because of the changed of the 10 to 5 acres for the PUD that we tabled that we had a Public Hearing called for. I guess you are able to do that, I just want to tell you that I am disappointed that it was so important that we had to table it. You would think that a public hearing was of greatest importance to hear the rezoning to go through or not go through. There were comments made earlier about whether the original developer of Lites Woods, as far as I know the first two went bankrupt so in my mind if anyone was going to take care of Victoria Road, I think that went out with the bath water. I guess we don’t have an answer to that but it was a question that came up. I just want to make it known that the original two developers did go bankrupt. Thanks to Mr. Dick Whitcomb who partially finished it, we are grateful to him. A lot of reference to the PUD Master Plan, and I know that this Planned Urban Development is a big deal, there was a comment that was made, when this thing was tabled, there was a comment that said this is the only PUD we can do anything with, referencing this whole area that we want to change from PUD to Residential. There is a lot of PUD in my mind around Pentwater. You have apartments behind the school, behind the Artisan Center, you’ve got apartments by the end of Clymer Road and Park Street. I mean if you want PUD, why don’t you make the old Village Hall, Planned Urban Development. Go ahead and put the Planned Urban Development right downtown on Hancock Street. Quite frankly, I don’t want it in my back yard. And for those comments about people not being able to live in Pentwater, this isn’t Manhattan, New York City where you have to go 35 miles or 50 miles over the George Washington Bridge to live somewhere you can afford. You can go to Weare, you can go to New Era, you can go to Shelby, you can go up the road to Pere Marquette and live in Mason County. I mean if I really want to

live somewhere and I can afford it, do you know where I would want to live? Not in Pentwater, I would want to live in Nantucket. And the reason I can't live in Nantucket is I can't afford it. If I got a better job or a better retirement from General Motors or if my wife had a great job then maybe we would do it. But until that, we have to live here. And until somebody can afford to come to Pentwater, then they might have to get a second job or live somewhere close by. I know the Superintendent of the school made a comment about the teachers aren't paid enough and can't live here. Well personally I have a high regard for educators, pay them more. The taxes here are phenomenal, but we love our community and I don't want to see a change. I know the Master Plan is a blend and all that but this PUD thing and driving Mr. Dick Whitcomb that is the developer of Lites is 86 years old and I really think you need to approve it. I don't know what he is going to do next, I think he is up waiting for us. I know I have said a lot of things, I really think that Planned Urban Development we've got places here but think about where you want to put it. I am being facetious when I say put it on main street and in an empty Village building but I don't see anyone bringing that up and I don't want it in my backyard.

COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS

Michelle Angell-Powell – Nick with all due respect, you bought in a PUD. I understand not in my backyard, we get a lot of that at this board, but you did buy in a PUD, just FYI and so did Dick Whitcomb. Not that I don't like him but he did buy a PUD property, it's called due diligence. I am not saying I am in or out of it, I am stating the facts. As far as a PUD on main street, I think you better be careful what you wish for, we don't want that.

Nick Kassanos – Well I don't want it either or in my backyard. So don't get smart with me about you might get what you wish for.

Michelle Angell-Powell – You bought in the PUD, correct? Just making sure. Second thing is, I don't have any properties that I am going to be developing. I thought I would mention that.

Mary Temple – I have a comment. I want to make sure that I have this right. The owner of Lites Woods is asking not for the whole development to not be a PUD anymore, they are just wanting to separate the back parcels and remove them from the PUD. The rest of the development remains a PUD and I want to make sure that is clear to everyone that the zoning request change is for the those parcels behind the PUD.

Bruce Koorndyk – It involves two parcels. From the maps that I've referenced here that have been given to us in the past, basically what they are trying to do is build R-2 on both sides of Victoria.

ADJOURNMENT

Motion by Mary Temple, second by Ron Stoneman to adjourn the meeting at 7:40pm.

Voice Vote: Aye: 6 Nay: 0 Absent: 1 Motion passed 6-0.

Respectfully Submitted,

Katie Anderson

Katie Anderson, Zoning Administrator

January 26, 2023

Approved by the Village of Pentwater Planning Commission on _____.