



# VILLAGE OF PENTWATER

## Planning Commission

ON PENTWATER LAKE AND LAKE MICHIGAN  
327 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449  
(231) 869-8301 – FAX (231) 869-5120

### Regular Meeting Minutes – February 26, 2019

Vice Chairperson Michelle Angell-Powell called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 6:01 pm, with the Pledge of Allegiance.

#### ROLL CALL

**Present:** Paul Anderson, Michelle Angell-Powell, Bruce Koorndyk, Rand Gee, and Kirstin McDonough.

**Absent:** Ron Christians and Mark Benner.

**Staff Present:** Keith Edwards, Zoning Administrator, and Chris Brown, Village Manager.

**Also present:** Village Council person Claudia Ressel-Hodan and Jeff Hodges and Rande Listerman Clerk/Treasurer.

#### APPROVAL OF AGENDA

**Motion** by Anderson, second by McDonough to approve the Agenda as presented.

Voice Vote: Aye: 5    Nay: 0    Absent: 2    Motion passed.

#### APPROVAL OF REGULAR MINUTES

**Motion** by McDonough, second by Koorndyk to approve the January 22, 2019 regular meeting minutes as presented.

Voice Vote: Aye: 5    Nay: 0    Absent: 2    Motion passed.

#### PUBLIC COMMENTS - None

#### PUBLIC HEARING – Open at 6:05 pm

Ted Cuchna, 529 Clymer - read a letter and submitted it for the record regarding his concerns about rezoning 10 Channel Lane from R2 Single Family Residential to C4 Hotel Resorts.

Keith Edwards, Zoning Administrator – Since the last public hearing the applicant has offered a letter with 3 conditions on the property. The planning commission decision is a recommendation to the Village Council. The Village Council has the final decision. The (3) conditions offered by the applicant are no restaurant or bar, 75% lot coverage, no retail sales. A change in zoning designation for the property may nullify the existing consent agreement.

Claudia Ressel-Hodan, 490 Sands – Would like to see the Planning Commission recommend the re-zoning. Channel Lane Inn is a vibrant, important housing for our guests in the community. She would like to see it succeed best it and some kind of compromise be reached, in her opinion.

Laura Voelker, 51 & 80 Bridge Street - The concern with the agreement was not only with the former owners but with the Village because they are a party to the consent agreement. Channel Lane has been my next-door neighbor my entire life. I am concerned I am not sure we need to change the zoning to do that. I don't want to see the business' hands tied. I would like them to maintain what they've got.

Lisa McKinney, 10 Channel Lane – All this happened because I wanted a garage. I was going through the proper channels with the zoning. I love the business. The consent judgement is super restrictive. I feel zoning can take care of the consent agreement. The consent agreement is very restrictive it goes into how many people I can have in my rooms. I don't tell my neighbors how many they can have in their rooms. It even goes into the time I can have lights on outside. Even if I have a late guest I can't leave the light on for them after 11pm for their arrival. No additional porches or decks. I should be bound to our zoning laws like everybody else. I think this agreement should go away. I hope you will consider the report that the Zoning Administrator submitted and send this on to the council for their consideration.

Ted Cuchna, 529 Clymer – I want to make it clear. I have no particular objection to the current owner, or to staying with the conditions as they are close to an R2. If there is a modification of the consent judgement. My main concern is the next person that buys the property as a pure investment and maximizes what could happen there. I could have underground parking and stack that lot 35 feet high and under the zoning a 100% lot line to lot line. While all the neighbors on that street that were a part of the consent agreement were facing a unique neighbor at that time. And I think everybody is aware of what happens there. So, if a modification can be done to the consent judgement to allow them to do what they want to do with the zoning requirements I don't have an argument and I don't think the neighbors have an argument with that. But opening up, to a C4 Hotel takes everything off the table and anything can be done there.

Michelle Angell-Powell, Planning Commission - I believe that is what we have been looking at for the last few months. The setbacks are the same as R2 and C4 they are not asking for 100% coverage correct. That will be part of the conditions that run with the land. That's why you are seeing the second application. I don't know if you were at the previous meetings/hearings?

Ted Cuchna, 529 Clymer – This request will violate the zoning requirements with the 17 foot set-back their decks are fourteen feet from the lot line.

Keith Edwards, Zoning Administrator – The site plan submitted is for illustration purposes only.

Ted Cuchna, 529 Clymer – It is not a survey

Keith Edwards, Zoning Administrator – Correct

Ted Cuchna, 529 Clymer – So if they can fit within the 17 feet set back and they can modify the consent agreement without restaurant and food service it's up to the rest of the neighbors.

Keith Edwards, Zoning Administrator – I think we need to narrow what the Planning Commission scope is going to be. The planning commission is not party to the consent agreement. That is for the Village Council per view as representatives of the Village. So, Mr. Monton will guide them in that discussion. Correct me if I am wrong but I believe if there is a change to the zoning that will negate the Consent Agreement?

Brian Monton, Village Attorney – That is correct. Paragraph 6 of the Consent Judgement indicates the judgement or relevant portions thereof shall be deemed automatically amended. So, the Conditional Zoning Agreement and the proposed map change would automatically amend the Consent Judgement and in sense make in null and void. Back when this was filed it was brought forth as a nuisance action against the former owners of the Channel Lane Inn and a mandamus action against the Village forcing the Village to enforce its Ordinance. It does not appear to me in that lawsuit the original plaintiffs had standing to bring that lawsuit was ever raised or decided. It would seem to me, unless the plaintiffs could show special and unique damages and it caused them immeasurable economic harm, they did not have standing to bring the lawsuit. The person to enforce our Zoning Ordinances is the Zoning Administrator, that is his job. It does not appear to me modifying the Consent Judgement is an unlikely scenario with the time frame of this agreement being over 20 years old. To get everyone that owned the properties or new owners to agree to the changes Lisa is proposing is unlikely scenario.

Keith Edwards, Zoning Administrator – The Planning Commission job is not relative to the Consent Judgement. The reason I brought it forth was because it does deal with somethings that are relative to the allowable uses within the two districts C4 & R2 and because the Village itself was party to that Consent Judgement that is why I asked for Mr. Monton's help. The way I would like to frame this for you is a would like you to consider the R2 Zoning today what it allows and what exist there as existing non-conforming and then the provisions of the C4 which the applicant has offered to modify by asking for certain conditions which mitigates some of those perceived problems that would be within the C4 district such as the 100% lot coverage, retail sales and the bar restaurant which I think seem to be the greatest amount of sticking point relative to the two different districts.

Brian Monton, Village Attorney – As you consider this the issue of the judgement is a decision for the Village Council. Your decision today should be does this make sense from a zoning perspective? Does it conform to our new Conditional Zoning Ordinance that was recently passed by the village council? I would encourage you to go through the guideline sheet and make specific findings with each of those as you do that you make sure it's consistent with the number one the Master Plan. On page 46 which describes the intent of the C4 District. Page 48 has other criteria in the Master Plan. If you go through the rezoning criteria you will hit the conditions that are required by the new owner regarding the new Ordinance that was passed regarding Conditional Re-Zoning and the criteria set forth in the Master Plan.

Claudia Ressel-Hodan, 490 Sands, if it went to C4 with the proposed modifications would that stay with the property?

Brian Monton, Village Attorney – Yes, so conditional re-zoning is an agreement between the Village and the property owner. If they violate the conditions that voids the agreement and it reverts to its original rezoning.

Claudia Ressel-Hodan, 490 Sands – And a new owner would have to follow those conditions.

Brian Monton, Village Attorney – Yes, it gets recorded at the Register of Deeds so a successive owner constructive knowledge of the agreement and its existence at closing it would come up in a title search.

Jeff Hodges, Village President – I am just wondering if you know, because things have changed and obviously Lisa has been a great owner and asset to the community and hopefully there is a compromise, but things have changed a lot since the Consent Judgement. Originally those were all single-family homes and cottages just for those families. Do we know how many of those cottages today are weekly rentals? That does change things. Those are now a business, but they are treated as a single-family residence.

Laura Voelker, 5180 Bridge Street – In the proposed conditional agreement although Lisa basically excluded bar/restaurant, in the proposed agreement it does not address food service or alcohol.

Brian Monton, Village Attorney – The definition of hotel is included in the Zoning Ordinance.

Chris Brown, Village Manager – Liquor Commission answers those questions.

Brian Monton, Village Attorney – Hotel definition is in the zoning ordinance.

Keith Edwards, Zoning Administrator – We have to deal with the conditions that are offered by the applicant. We can-not add to the conditions. We have to use the definitions that are in the zoning ordinance and if that is not defined there I have to go to the dictionary.

Brian Monton, Village Attorney – A bar is not a permitted use in a C4 District as a stand-alone operation. I don't think it's allowable from either a Zoning or a Liquor Control perspective.

Sean McKinney, 10 Channel Lane – I wanted to say since I have lived here Lisa does a great job running the Inn. She does not desire to run a bar or have a liquor license. She has done everything you guys have asked.

Closed Public Hearing at 6:39pm

## **OLD BUSINESS**

### **A. Discussion regarding the Conditional Rezoning of 10 Channel Lane from R-2, Single Family Residential to C4, Hotel Resort.**

**Motion** by Gee, second by Anderson to agree that the Planning Commission reviewed and the (4) requirements in the Conditional Re-zoning Ordinance were met regarding the request for conditional Rezoning 10 Channel Lane from R-2, Single Family residential to C4, Hotel Resort. The proposed conditions are: Section 1B: 1. Yes, the policies and conditions were met for the land use in the area. Yes, the proposed fits with the work currently being done but not yet complete on the Master Plan. 2. Yes, is it compatible with the uses in the surrounding area. 3. Yes, the Village does have sufficient utilities to support this facility. 4. Yes, the development is within the public interest.

**Motion** by Gee, second by Anderson to recommend to the Village council to approve the Conditional Rezoning of 10 Channel Lane from R-2, Single Family Residential to conditional C4, Hotel Resort.

Roll Call Vote: Aye: 5    Nay: 0    Absent: 2    Motion passed.

### **B. Review of Final Design for Hancock Street Improvements – Recommendation to the Village Council.**

**Motion** by McDonough, second by Gee to approve sending the Hancock Street Improvement Project on to the Village Council.

Roll Call Vote: Aye: 5    Nay: 0    Absent: 2    Motion passed.

### **C. Report from the Pentwater Visioning Team – Township Appointment and School Board Presentation.**

Rand Gee submitted the report in writing and stated the committee is making progress.

## **NEW BUSINESS**

### **A. Request for approval for a main floor addition to the nonconforming building at 166 Carroll Street.**

**Motion** by Anderson, second by Gee to recommend approval to the Village Council for a main floor addition to the nonconforming building at 166 Carroll Street.

Roll Call Vote: Aye: 5    Nay: 0    Absent: 2    Motion passed.

### **B. Request for support of grant application to the Community Foundation for a Community Assessment – data to be used as part of the 2020 Master Plan process.**

**Motion** by Anderson, second by Gee to support the grant application to the Community Foundation for a Community Assessment with the data to be used as part of the 2020 Master Plan process.

Roll Call Vote: Aye: 5    Nay: 0    Absent: 2    Motion passed.

**COMMITTEE/DEPARTMENT REPORTS**

**A. Zoning Administrator** – Mr. Edwards’ written report was received by the Planning Commission.

**B. Zoning Board of Appeals** – No meeting in January of 2019.

**COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS** – None.

**PUBLIC COMMENTS** – None.

**ADJOURNMENT** - The meeting was adjourned by Michelle Angell-Powell at 7:46pm.

Respectfully Submitted,  
Rande Listerman, Clerk/Treasurer

February 26, 2019

Approved by the Village of Pentwater Planning Commission on March 26, 2019.