

VILLAGE OF PENTWATER

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

Planning Commission Meeting Agenda November 28, 2018 - 7:00 P.M.

I. Opening

A. Call to Order, Pledge of Allegiance, and Roll Call.

II. Approval of Agenda and Minutes

A. Approval of Agenda.

B. Approval of Minutes of the Regular Meeting held October 17, 2018.

III. Public Comments

IV. Public Hearings - None

V. Old Business

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

VI. New Business

A. Site Plan Review for second story addition to the existing commercial building nonconforming building at 59 E. First Street.

B. Discussion and request for a public hearing regarding a proposed Zoning Ordinance Amendment for Conditional Rezoning – as prepared by Attorney Brian Monton.

C. Discussion of Master Planning Process – Prelude to the 2020 Master Plan – a Presentation by Planning Commissioners Mark Benner and Rand Gee.

D. 2019 Meeting Schedule.

VII. Department/Committee Reports

A. Zoning Administrator – See attached report.

B. Zoning Board of Appeals – The ZBA did not meet in October.

VIII. Communications from Planning Commission Members

IX. Public Comments

X. Adjournment

Next Scheduled Planning Commission Meeting – December 19, 2018



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 – October 17, 2018

Chairman Ron Christians called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 7:02 PM, with the Pledge of Allegiance.

ROLL CALL

Present: Ron Christians, Mark Benner, Paul Anderson, Rand Gee, Michelle Angell-Powell and Kirstin McDonough.

Absent: Bruce Koorndyk.

Staff Present: Keith Edwards, Zoning Administrator and Barb Siok, Recording Secretary.

Also present: Village Attorney, Brian Monton.

APPROVAL OF AGENDA

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

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

APPROVAL OF REGULAR MINUTES

Motion by Angell-Powell, second by Anderson to approve the September 19, 2018 regular meeting minutes as presented.

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

PUBLIC COMMENTS – None.

PUBLIC HEARING I – Proposed Rezoning of 10 Channel Lane, the Channel Lane Inn, from R-2, Single Family Residential to C4, Hotel Resort.

Motion to open Public Hearing I by Anderson, support by Angell-Powell. By unanimous consent, Chairman Christians opened the public hearing at 7:04 PM.

Public Comments –

Lisa McKinney, proprietor of 10 Channel Lane, explained purpose of application to secure the hotel and her concerns that if there were to be a fire that she would not be able to rebuild it and because it is non-conforming, would not be able to get financing even for improvements. She said that it is her home and because there is no parking is not considering a restaurant or bar. She said that C4 does allow a hotel to include a restaurant serving food and drink for consumption on the premises in conjunction with the hotel operation and if she wanted to provide breakfast for her guests upstairs or lunch, could provide food for her guests in conjunction with a hotel and the new zoning would allow.

Public Comments – continued

Ted Cuchna, 529 Clymer, said there was no attachment for proposed additions or revisions to the property to indicate a request for zoning. He said that if it were approved as non-conforming that it stays that way. His concerns were if the proposed building project did not meet set back or area requirements, it could cause a problem. He said if somebody wanted a bed and breakfast they would ask for a bed and breakfast zoning. He said this was like the Nickerson Inn new developer not issuing a site plan prior to requesting the zoning for a hotel.

Karen Theibert, 84 Mears Street and 443 S. Morris Street, recalled concerns from when the previous owners, the Schlattmans built additions in the 1990's; law suits were filed and there was a Consent Judgement. She said the same concerns remain today regarding lighting, parking, traffic and food. She said her concern is if this gets rezoned, you can never go back.

Dave from Insignia Homes, asked Mr. Edwards if for commercial zoning, does 50% footprint for impervious surfaces apply. Mr. Edwards replied there was no maximum and would allow the entire property to either be utilized for building or parking or other purposes associated with a hotel C4 district, a single family has a 50% maximum.

Laura Voelker, 51 Bridge Street and 80 Bridge Street, said she is concerned about the possible change from 50% to 100% impervious and setbacks. She said the garage drip line is on her lot line and if there was to be an expansion, there would be a considerable potential run off problem and is opposed to any expansion.

Mr. Christians summarized the correspondence received as follows (letters placed on file):

Phil & Susan Carson, 85 Channel Lane, oppose the Channel Lane Inn zoning application.

Sally Fortner, 41 N. Carroll, against zoning change from residential to hotel.

Edward Tave Reser, (195 Channel Lane) 85 Mears Street, support zoning request.

John & Betsy McIntyre, 195 Channel Lane & 35 Channel Lane, in favor of rezoning.

Maxine Macleod, 15 Channel Lane, oppose and concerned regarding rezoning.

Laura Voelker, 51 Bridge Street, does not support request for rezoning.

Tim Diehl, 173 Green Street, family owned since 1930s, opposed to rezoning.

Alicia Diehl, 173 Green Street, states rezoning request must be denied.

Valerie Church McHugh, 160 Green Street, opposed rezoning and stated concerns.

Karen (DiPangrazio), Ann Hayes & Robert DiPangrazio, 84 Mears, does not support rezoning.

Shane McKinney, 10 Channel Lane, supports the rezoning application stating parking is a problem whether it is on Channel Lane or Main Street. He said they have no desire to obtain a liquor license and would like to be able to utilize their garage due to restrictions.

Motion to close Public Hear I by Paul Anderson, support by Rand Gee. By unanimous consent, Chairman Christians closed the public hearing at 7:37 PM.

PUBLIC HEARING II - Zoning Proposed Zoning Ordinance Amendments for Residential Uses and Marinas in the C3, Central Business District.

Motion to open Public Hearing II by Mark Benner, support by Michelle Angell-Powell. By unanimous consent, Chairman Christians opened the public hearing at 7:38 PM.

Public Comments –

Barry Monroe, 370 E Rutledge, 215 S. Hancock, stated that he is in support of proposed zoning.

Mr. Edwards explained Chapter 17 current zoning ordinance parking requirements for residential uses and marinas. The Planning Commission is proposing that the requirement be changed for residential parking in the downtown district from 2 spaces to 1 space per unit and for the Marina, changing from 1 space per boat slip to 1 space for every 2 boat slips. It also allows the Village Council to designate certain spaces to meet the requirements for Chapter 17.

Dan Nugent, 383 S. Rush street and business owner stated his support for rezoning of parking.

Motion to close Public Hearing II by Paul Anderson, support by Mark Benner. By unanimous consent, Chairman Christians closed Public Hearing II at 7:42 PM.

OLD BUSINESS – None.

NEW BUSINESS –

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

Michelle Angell-Powell stated even though there are concerns, suggests considerations of conditional rezoning with stipulations. Brian Monton, Village Attorney, said that it is possible to create a new zone. Rand Gee asked if C4 incorporates both hotel and motel and if there was a separate zoning ordinance for a motel. Mr. Edwards replied that it is allowed in the C1 district. He suggested the board continue reviewing what was received tonight and looking through the zoning ordinance with the suggestions from Attorney Monton regarding the rezoning criteria and rezoning issues. Mr. Benner agreed in creating a new zone.

Motion by Michelle Angell-Powell, second by Kirstin McDonough to table the proposed rezoning of 10 channel Lane from R-2, Single Family Residential to C4, Hotel Resort until next month's meeting, November 21, 2018.

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

Time now 7:55 PM. Recess to reconvene at 8:00 PM.

Chair Ron Christians reconvened the meeting at 8:00 PM.

B. Request for approval for front porch addition to the nonconforming building at 863 E. Park Street.

Mr. Edwards summarized the request from property owners at 863 E. Park Street. He said the information recently presented confirms the building is nonconforming and the existing porch has a roof which extends 6 feet into the required setback. In summary the conditions have all been met. He said by the evidence received, with no detrimental impact, the Planning Commission has the authority to approve the expansion of the porch additional length towards the east and if chooses, endorse the request for the 8 feet. Michelle Angell-Powell stated that she had taken measurements and comparisons. She said there are no utilities on that side of the road and access to gas and sewer will not be blocked. She said it is consistent with the neighborhood and will be an asset to the house. Park Street has a wide right-of-way.

Motion by Mark Benner to approve the application of expansion to extend the front porch line to the existing plain by the authority allowed by the Planning Commission, support by Paul Anderson.

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

Motion to endorse the request for approval of 863 E. Park Street for a variance to the Zoning Board of Appeals by Michelle Angell-Powell, support by Paul Anderson.

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

C. Request for approval for main floor addition to the nonconforming building at 599 E. Sixth Street.

Motion by Michelle Angell-Powell to approve the request for the main floor addition to the nonconforming building at 599 E. Sixth Street, support by Paul Anderson. Architectural drawings were submitted. They start at 100 feet, not zero.

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

D. Discussion regarding Zoning Ordinance Amendment for Residential Users and Marinas in the C3, Central Business District.

Motion supporting the Zoning Ordinance for Residential Users and Marinas in the C3, Central Business District with a recommendation to the Village Council by Michelle Angell-Powell, support by Mark Benner. Mr. Edwards said this would allow the Village Council to have an active management role to meet the requirements.

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

E. Discussion regarding Planning Commissioner responses to the questionnaire provided by Mika Meyers for short-term leasing.

Mr. Edwards provided a questionnaire aimed at regulating short-term rentals as presented by Attorney Mark Van Allsburg. Regulation of short-term renting or leasing is aimed at addressing many issues including off-street and on-street parking, number of persons per building and property, building safety, fire safety and public health. The questionnaire is intended to gather Planning Commissioner viewpoints of these and

other issues for return to the attorney in order to craft a regulatory strategy. Request from Planning Commission board to submit to Mr. Edwards by October 31, 2018.

F. Discussion of Existing and Future Land Use in the Downtown Study Area.

Mr. Edwards compared two maps for the downtown area stating the difference is that one shows future land use map. He said the board will be asked consideration of primarily commercial zoning differing from zoning map which extends the commercial district of Second Street to Carroll down to Fifth which are not on the map. He said the board needs to look at First Street North to Lowell Street and whether it should be zoned C3 or if appropriate for a hotel and future commercial land use for Sixth Street.

COMMITTEE/DEPARTMENT REPORTS

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

B. Zoning Board of Appeals - ZBA Meeting for September 5, 2018 minutes received.

COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS – Mr. Benner stated that he will be speaking at the Women's Club meeting and shared an invitation that was given to the citizens of Mt. Pleasant for their 2050 Master Plan. He asked Chair Christians to put on the agenda for the next meeting, November 21, to officially discuss the Pentwater Master Plan for the future and the community input of the PTW2030 project.

PUBLIC COMMENTS – None.

ADJOURNMENT - The meeting was adjourned by Chairman Ron Christians at 8:55 PM.

Next Scheduled Planning Commission Meeting - November 21, 2018

Respectfully Submitted,

Keith Edwards, Zoning Administrator

October 17, 2018
Date

Minutes prepared by Recording Secretary, Barb Siok

October 17, 2018

Approved by the Village of Pentwater Planning Commission on _____.

MEMORANDUM

To: Planning Commission

From: Keith Edwards, Zoning Administrator

Date: October 10, 2018 – Revised November 20, 2018

Subject: **Proposed Zoning Map Change for 10 Channel Lane
R2, Single Family Residential to C4, Hotel Resort
Property ID 64-044-430-010-00**

Introduction

The current owner of 10 Channel Lane, Lisa McKinney proprietor of the Channel Lane Inn has submitted an application to change the Zoning District of the property from the existing R2, Single Family Residential to C4, Hotel Resort.

The property is located on the northwest corner of Channel Lane and Bridge Street within the Plat of Middlesex, Village of Pentwater, Lots 10, 11 and 12 of Block 30.

The property is currently used as a 7-unit motel, with 6 attached units and one detached unit on the northeast side of the property. There is also the residence of the proprietor/property owner on the second floor, and a detached accessory building (shed) located on the 15,000 sq. ft. property. The existence of the motel is a legal nonconforming use within the R2, Single Family Residential Zoning District, as stated in the attached Consent Judgment dated July 11, 1995.

Background

The Channel Lane Inn has operated as a motel since prior to July 11, 1995 and prior to the existence of the current Zoning Ordinance dated July 29, 1999, as updated through August 14, 2014. According to the definitions within the Zoning Ordinance:

A Hotel is "A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals. A hotel shall include accessory uses, including, but not limited to gift shops, restaurants, and other similar uses primarily oriented to the customers of the hotel."; and,

A Motel is "A series of attached, semi-attached, or detached rental units providing overnight lodging for transients, open to the traveling public for compensation. A motel shall not include accessory use(s) such as gift shops, restaurants and other similar uses."

Thus, the difference between a motel and a hotel is based on the existence of or lack of accessory uses. Neither definition references the use of a single-family residence. The Channel Lane Inn, as noted earlier, contains the residence of the proprietor / property owner and an accessory use building containing property maintenance equipment, no restaurants, gift shops or other accessory uses.

Additionally, the Zoning Ordinance does not contain definitions for other types of transient abiding including Lodges, Resorts, Inns, Hostels and Private Clubs. At best, it is cumbersome to pigeon hole the Channel Lane Inn into a hotel/motel/residence land use category within the R2 Single Family Residential Zoning District.

It is important to note that the only property that bears the C4, Hotel Resort Zoning District designation on the Zoning Map is the location of the former, now vacant property, known as the Nickerson Inn on W. Lowell Street.

Discussion

Unfortunately, the Zoning Ordinance does not contain any criteria or standards that applications must meet in order to consider a proposal for rezoning property. Thus, Staff has provided the following information from our Zoning Ordinance and Master Plan:

Existing - R2, Single Family Residential Zoning District

The following uses are allowed by right within the existing R2, Single Family Residential Zoning District:

- Single-family detached dwellings including home occupations in accordance with the provisions of Section 3.22.
- State-licensed residential facilities and child care centers.
- Parks, community buildings and recreational facilities operated by a public, institutional, or private/nonprofit organization.
- Accessory buildings, structure and uses for Permitted and Special Land Uses as regulated by Section 3.08.

The following uses may be permitted by the Planning Commission as Special Land Uses:

- Two-family dwellings.
- Commercial recreation parks and recreation centers.
- Bed and Breakfast Establishments.
- Hospitals, including associated offices and related uses, such as pharmacies, clinics and other similar uses integral to such use.

- Nursing homes, homes for the aged, state-licensed residential facilities for more than twelve (12) persons and those facilities licensed for the care and treatment of persons released from or assigned to adult correctional facilities.
- Public or private non-profit schools and churches.
- Lodges and private clubs.
- A child care center, group day care home and other care homes licenses for up to six (6) persons.
- Utility and public service buildings.
- Accessory Food Service as part of a Bed and Breakfast establishment.

Proposed - C4, Hotel Resort District

The following uses are allowed by right within the requested C4 Hotel Resort Zoning District:

- Hotels, including restaurants serving food and drink for consumption on the premises in conjunction with the hotel operation.
- Single family dwellings.
- State-licensed residential facilities and child care centers.
- Accessory buildings, structure and uses for Permitted and Special Land Uses as regulated by Section 3.08.

The following uses may be permitted by the Planning Commission as Special Land Uses:

- None

2015 Master Plan and Future Land Use Map

According to the future land use map in the 2015 Master Plan Update, the proposed land use of the subject property is Medium Density Residential (MDR). The Land Use Map appears to bear only one change from the 2009 Future Lane Use Map, and that is the removal of the land use category called Neighborhood Services.

The MDR category is equated to the R2 Single Family Residential Zoning District on Page 44 of the 2015 Master Plan Update, where:

“The (R2) District is intended to provide a low-density, single and two-family residential living environment and to foster stable, high-quality neighborhoods while providing for additional variety of housing opportunities and choices. The regulations for this district also recognize the need to provide existing housing stock and allow the development of older subdivisions.”

Although the subject site is not designated on the Future Land Use Map of the 2015 Master Plan Update as Central Business, there is a description of the C-4, Hotel Resort District on page 46 of the 2015 Master Plan Update, where:

“The purpose of this District is to accommodate existing hotel resort facilities, oriented to the vacationing and traveling public, located in areas of existing residential uses.”

There are no areas shown on the Future Land Use Map for business categories other than the existing Downtown Pentwater area along Hancock Street including the existing marinas and along Carroll Street south of Second Street.

Building Setbacks and Lot Coverage

In both Zoning Districts, R2 and C4, the required front setbacks are the same at 17 feet, the side setbacks are 6 feet, where only the rear setback changes from 30 feet in the R2 District to 20 feet in the C4 District. Corner lots have two fronts and two sides with no rear setback requirement.

Hotels, Motels, Inns, Lodges and Resorts

It appears that the provisions of the C4 District may have had the former Nickerson Inn in mind when it was created. Additionally, the definitions of Hotel and Motel may have been written similarly separating the two by the existence or nonexistence of accessory uses such as restaurants, bars, gift shops, etc. These definitions are unusual as typically hotels are defined as having rooms accessed from interior hallways with limited exterior entrances and motels as each unit having its own exterior entrance. Hotels are often associated with more urbanized areas such as Downtown Pentwater and motels are usually associated with suburban areas and highway access.

Additionally, our Zoning Ordinance does not specifically address Bars, Conference Centers, Inns, Lodges, Resorts, or Taverns, all of which may considered for our unique community.

Consent Judgment

On July 11, 1995, property owners neighboring the Channel Lane Inn (the plaintiffs) and the former owner Glenn and Donna Schlattman and Village of Pentwater (the defendants) entered into a Consent Judgment that:

- Limits the use of the second floor to single-family residential uses only;
- Limits the first-floor use to six rental units under the single-family residential use above;
- Put stipulations on the use of the rest of the first floor to office, laundry and one other detached motel rental space on the Bridge Street or northeast side of the property.

- Maintains current parking spaces.
- Made certain stipulations regarding the improvement of, removal and placement of exterior lighting including hours of operation of the lighting.
- The Channel Lane Inn may not be used for any other purposes unless it meets the requirements of the Zoning Ordinance and other applicable laws of the Village of Pentwater.

Lastly, rezoning of the property to C4, Hotel Resort effectively negates the above stipulations of the Consent Judgment and would allow and limit the use of the property by a hotel with one or more restaurants, single family dwellings, State-licensed residential facilities and child-care centers, with allowable accessory buildings. I have invited Village Attorney, Brian Monton to attend the October 17, 2018 meeting of the Planning Commission.

Conditional Rezoning

The current Zoning Ordinance does not provide for Condition Rezoning, which would allow a petitioner seeking to rezone property to offer certain conditions such as those used to mitigate or suppress certain anticipated nuisances such as hours of operation or traffic concerns and/or site improvements such as driveway locations, lighting, etc. Such a provision is allowed by the Michigan Zoning Enabling Act, P.A. 110 of 2006 as outlined in MCL 125.3405 et. seq. The applicant must offer the conditions in writing and a municipality shall not require a land owner to offer any conditions as a requirement for rezoning. Thus, I recommend such as amendment to our Zoning Ordinance, which may be highly useful in situations like 10 Channel Lane, where the existing use is located in a sensitive area such as the existing single-family neighborhood, has an existing consent judgement with certain requirements and/or the potential for adverse impacts can be limited, mitigated or prevented by certain conditions include site improvements.

Recommendation

At this time, I recommend that the Planning Commission consider: the public comment offered at the public hearing (see enclosed minutes from the October 17, 2018 Public Hearing) and the new comment attached to this report; changes to the Zoning Ordinance to better provide for Bars, Conference Centers, Inns, Lodges, Resorts, or Taverns; the sections of my report above outlining the provisions of the respective Zoning Districts including land uses and District regulations; consideration for a Zoning Ordinance Amendment addressing Conditional Rezoning; and, the items addressed in the consent agreement, prior to Planning Commission discussion and/or a recommendation to the Village Council for changing the Zoning District designation of 10 Channel Lane.

Received 11/5/18 H.E.

November 1, 2018

Mr. Keith Edwards
Village Zoning Administrator
Pentwater, MI. 49449

Dear Mr. Edwards,

My name is Newell W. Wright and I am a resident of Pentwater with my address being 176 Green St. Hopefully you are aware that this residence is the oldest residence in Pentwater as recognized by the Historical Society. I am proud of my home and would like to see it remain as a quaint, charming residence unaffected by commercial intrusion.

It has been brought to my attention that there is a request for rezoning by Channel Lane Inn to include food service and bar service for the hotel. Please allow me to voice my strenuous objections to any consideration of this expansion.

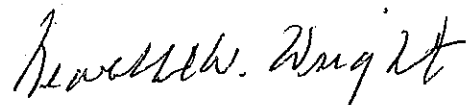
My home is approximately 1 block from the hotel. In the past, parking has been an issue as my home is on a corner lot and due to the number of visitors (particularly during the summer months) cars frequently take up every square inch of the property surrounding my home. I have a driveway, but if I want to have a visitor, it is near impossible for them to find a parking place. I hope you can appreciate the burden that ANY extra traffic added to the current situation is a problem.

In addition, as I said earlier, this is my family home and I would like to see it maintained as a residential property. I have spent a great deal of money, time and effort on maintenance, landscaping, and overall upkeep so that all residents can enjoy my home as I do. Adding commercial traffic to this situation will jeopardize the warmth and charm of my home.

In closing, I respectfully request that you consider my reasons for my objections to the expansion and to restrict the commercial properties to the main part of town where they truly belong.

I may be contacted at the following: Newell Wright 985-630-8526 cell
 reed5110@charter.net e-mail

Thank you for your consideration.



Newell W. Wright

Received 11/17/18 KE.

To The Pentwater Zoning Board:

I am Maxine MacLeod, and I own the home on Channel Lane directly across from the office of the Channel Lane Inn. I oppose the re-zoning of this property to HOTEL 4 zoning for basically two reasons.

REASON 1: There would be a potential for either the current owners or for future purchasers to increase the traffic, noise, and seasonal congestion beyond what it is now here during our "tourist season". One of my delights as I work outside at this location is meeting and getting to know our summer visitors and residents. Their comments about our unique channel entrance for boaters, campers and guests should make us all very proud of our community. The village maintains an excellent access to the State Park through Bridge Street Park and the handicapped-accessible walkway that connects the beach to our village. Changing the Zoning of the Channel Lane Inn to Hotel Zone 4 could potentially overcrowd the area with more need for parking (already stretched to the maximum) and congest a roadway with food and beverage trucks and linen supply deliveries and pickup. PLEASE note this roadway is unlike Lowell Street where the former Nickerson Inn was located (currently the only Hotel 4 zoned area). Lowell Street already had commercial zoning two blocks east of this site and a state park two blocks west. The street is a marked two-laned highway with a paved sidewalk on one side, and bicycle paths on both sides. None of which exists on Channel Lane.

REASON 2: At the last meeting of the zoning board, it was mentioned that Hotel 4 zoning does not have any permeability requirements and so paved areas and roofs can cover the entire zoned property. In this location already, the rain runoff rushes down the roadway into two drains in the Bridge Street Park, owned and maintained by the village. Every year the seating area there floods when there is a heavy rain and has to be unclogged of its debris by park department employees. Also the composition of the soil and rocks along the channel allow holes to form in the garden areas. One spot has sunk 6 inches this year.

Thank you for taking these two concerns into your considerations.

Maxine MacLeod

MEMORANDUM

To: Village of Pentwater Planning Commission
From: Keith Edwards, Zoning Administrator
Date: November 20, 2018
Subject: **59? E. First Street – Site Plan Review for Addition
64-044-683-001-20**

Introduction

The subject site is located on the eastern edge of Downtown Pentwater, just a few doors east of the Art Gallery and across First Street from the Centenary Methodist Church. The property is located within the C3 Central Business Zoning District and is currently occupied by a 1,025 sq. ft. single story building that is vacant. The site is level with no known hurdles to typical construction practices.

At this time, the applicant, Dave Slachter, proposes to construct a 1,025 sq. ft. second-story addition to include office and storage space for the Interior Decorating Business to be located on the main level. The site is adequately served by sewer and water for the retail, office and storage uses.

Currently, the Assessing Records do not contain an address for the subject property. The current building contains the address of 59 E. First Street, but this may be out of sequence. I will review it with Mr. Slachter at a later date.

Site Plan Review

The permitted uses within the C3 Zoning District include indoor retail uses up to 10,000 sq. ft., office and accessory storage uses as requested by the applicant. There are no setback, lot coverage or parking requirements for the proposed uses, and the maximum building height is allowed to be 35 feet where the proposed building will be 30 feet tall from grade to peak.

There are no architectural or site design standards required to be observed within the C3 Zoning District. No exterior lighting or landscaping is required. Enclosed, please find Mr. Slachter's application for site plan review including a survey and elevations of the proposed building with the two-story addition.

Recommendation

At this time, I recommend the Planning Commission consider approval of the proposed second-story addition to the building with the condition that the applicant work with me for the address of the building and apply to the Village for the sewer and water connection for the second-story addition.

10/22/15

VILLAGE OF PENTWATER
PLANNING COMMISSION SITE PLAN REVIEW APPLICATION
(Pentwater Community Zoning Ordinance - Chapter 16)

David Slachter
(Applicant)

80 S. Rutledge St.
(Address)

Pentwater, MI 49449
(City, State, Zip Code)

231-425-6764
(Telephone)

dslachter@cheater.net
(E-mail)

| OFFICE USE ONLY | |
|--------------------|-----------------|
| Application number | _____ |
| Date Rec'd | <u>11/16/17</u> |
| Fee Rec'd | _____ |
| PC Action: | _____ |
| Date: | _____ |
| Expiration Date: | _____ |

Parcel Number
Name
Date:

APPLICANT'S CAPACITY IF NOT PROPERTY OWNER (circle one):
Builder / Have Option to purchase / Agent / other _____

| | | | |
|------------------------------------|--|--|----------------------|
| PROPERTY OWNER: | | <u>David Slachter</u> | |
| PROPERTY ADDRESS: | | <u>59 E. First St.</u> | |
| PARCEL NUMBER: | | <u>64-044-683-001-20</u> | |
| RECORDED PLAT OR SUBDIVISION NAME: | | <u>Legal Attached</u> | |
| BLOCK: <u>13</u> | LOT(S): <u>1</u> | *OR ATTACH LEGAL DESCRIPTION <u>Legal Attached</u> | |
| ZONING DISTRICT: | <u>Village of PT</u> | PRESENT USE: | <u>C-23</u> |
| CORNER LOT: | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | ROADS: | <u>1st + Hancock</u> |
| NEW BUILD: <u>No</u> | WATER: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | SEWER: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | |

ACTION REQUESTED:

Add Second Story, New Windows, Electrical, Plumbing, Heating & Cooling, New Siding, Retail Store on Lower level + Store office + Storage Above.

(Attach sheets if necessary)

attached

TYPE OF REVIEW:

| | |
|-------------|---|
| PRELIMINARY | * 10 copies of Site Plan required (See Section 16.03 A) |
| FINAL | * 15 copies of Site Plan required (See Section 16.03 B) |

ATTACH A SITE PLAN FOR REQUEST, (drawn to a scale of not less than: property under 3 acres, 1 in = 10 ft.) Depicting property, including all proposed and existing structures and other above ground streets/alleys/easements and fences/walks/landscaping/greenbelts proposed and existing.

ATTACH A CERTIFIED SURVEY (IF REQUESTED BY THE ZONING ADMINISTRATOR OR PLANNING COMMISSION), (completed by a professional surveyor or engineer for the property at issue [including a written drawing showing structures and stakes set on the property boundaries or corners] in order to insure that all requirements of the Zoning Ordinance will be met.) See Pentwater Community Zoning Ordinance Section 19.15.

attached

ATTACH COPIES OF PERMITS FROM OTHER AGENCIES IF REQUIRED FOR CRITICAL DUNES OR WETLANDS.

attached

NUMBER OF ATTACHED SHEETS: _____

| | |
|---|--------------------|
| 1. <input checked="" type="checkbox"/> Legal Description | Number of Pages: 1 |
| 2. <input checked="" type="checkbox"/> Action Requested | Number of Pages: 3 |
| 3. <input checked="" type="checkbox"/> Site Plan / Sketch | Number of Pages: 1 |
| 4. <input checked="" type="checkbox"/> Survey | Number of Pages: 1 |
| 5. Letters or Permits | Number of Pages: |
| 6. <input type="checkbox"/> Other: | Number of Pages: |

AFFIDAVIT: I agree the statements made above are true, and if found not to be true, any Planning Commission ruling that may be issued may be void. Further, I agree, any Planning Commission ruling and subsequent permit that may be issued is with the understanding that all applicable sections of the Pentwater Community Zoning Ordinance will be complied with. Also, I agree to notify the Zoning Administrator for the Village of

10/22/15

Pentwater for inspection before the start of construction and when locations of proposed uses are marked on the ground. Further, I agree to give permission for officials of Village of Pentwater to enter the property subject to this permit application for purposes of inspection. Also, I understand any zoning action by the Planning Commission conveys only land use rights, and does not include any representation or conveyance of rights in any other statute, building code, deed restriction or other property rights.

Signed: David Smith
Date: 11/14/18

**When completed send to:
Village of Pentwater Zoning Administrator
327 S. Hancock Street – P.O Box 622
Pentwater, Michigan 49449
Phone: (231) 869-8301
Fax: (231) 869-5120**

Notice of Meeting

A public meeting of the Village of Planning Commission will be held on _____ day of _____ 20__ at 7:00 p.m. in the Pentwater Community Hall to consider your request. You may appear in person, or by agent, or attorney. If you do not appear personally, your representative must have a letter of authorization to act on your behalf.

Zoning Administrator

Date

OFFICE USE ONLY

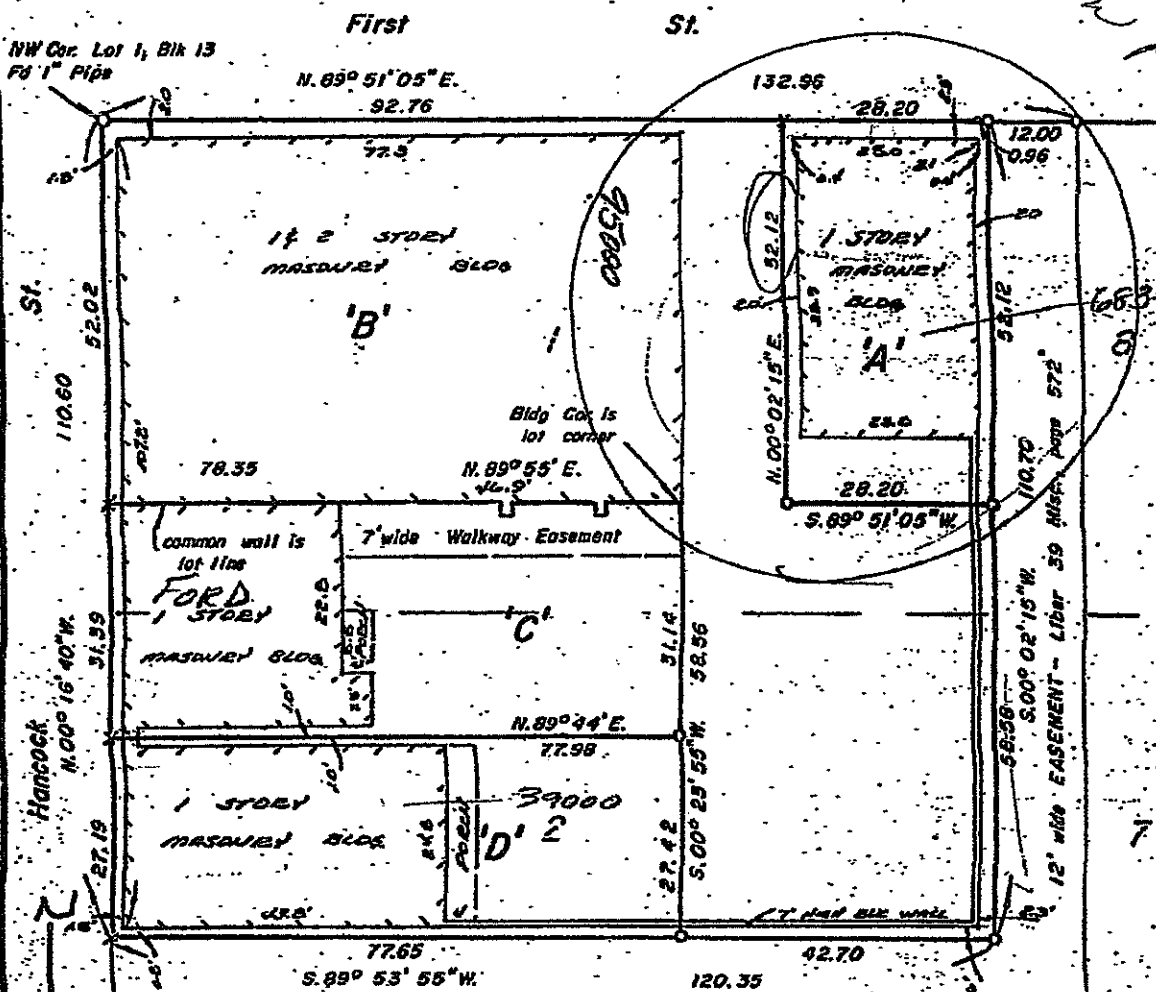
Response requested from:
DPW _____
Police _____
Fire _____
Other _____

*Please attach your response and
RETURN WITHIN 10 DAYS OF
THIS REQUEST
to the Zoning Administrator*

CERTIFICATE OF SURVEY

671

SURVEY To Divide: Lot 1 and the North 2/3 of Lot 2 of Block 13 of the Original Plat of the VILLAGE OF PENTWATER, Oceana County, Michigan, Except the East 12 feet thereof for purposes described in Liber 39 of Miscellaneous Records, page 572.



in permit file



I hereby certify that I have surveyed and mapped the land herein platted and described on October 11, 1985, and that the ratio of closure of such survey was less than one part in 5000, or a positional tolerance of + 0.15 feet, whichever is less.

J. Randolph Hepworth

J. Randolph Hepworth Land Surveyor 26457

O = Set 1/2" x 2" I.R.
X = chiseled x in conc.



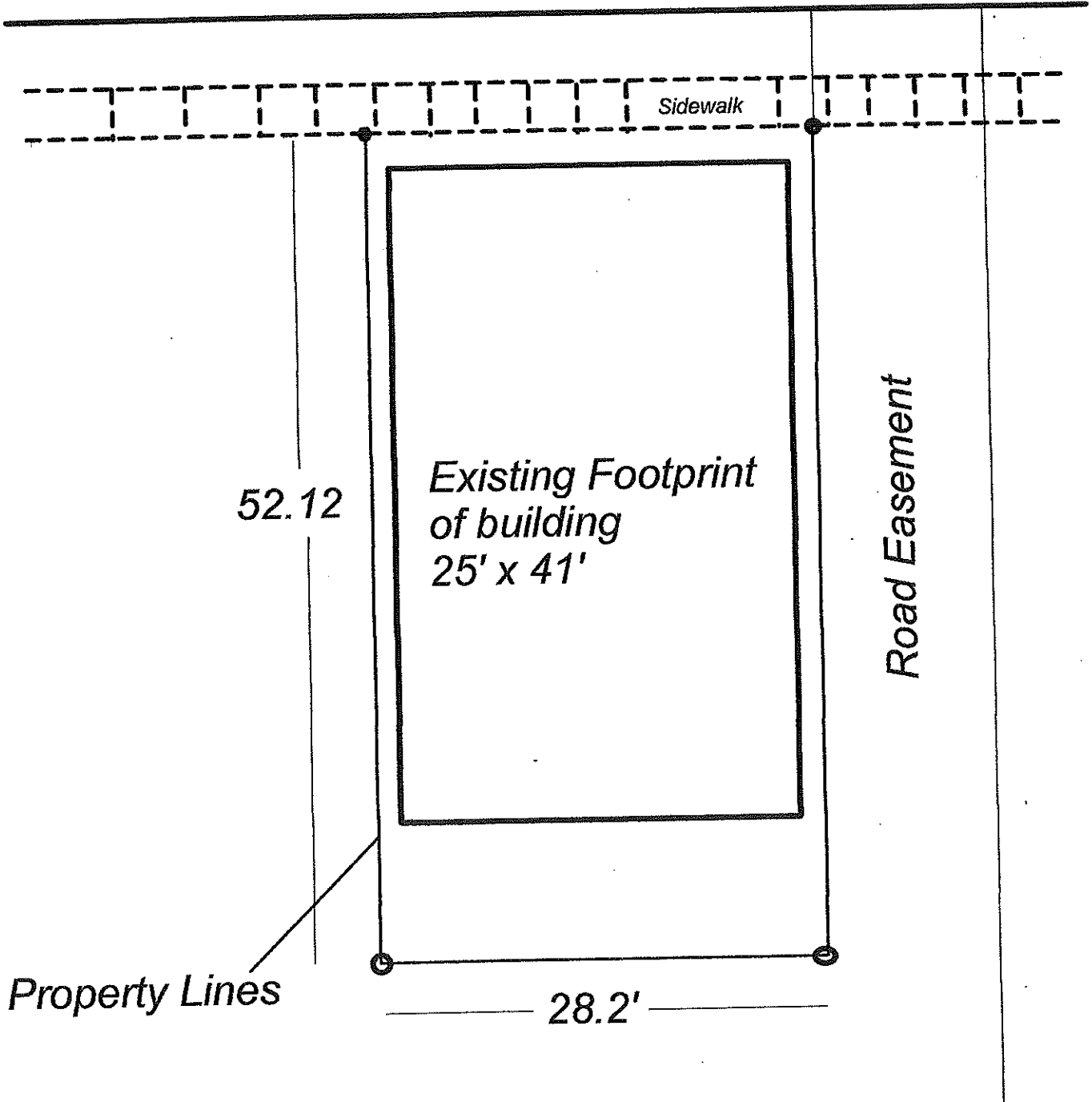
SCALE: 1" = 20 ft.

| | | |
|-----------------------------|--|-----------------------------|
| FOR: Harry L. Parker | J. RANDOLPH HEPWORTH, RLS R. R. 2 WAYNE AVE PENTWATER, MI 49449 616 - 869 - 2391 | COMPLETED: Oct. 11, 1985 |
| | | JOB NO. 857178 |
| | | SHEET 1 OF 2 |

9'-6"

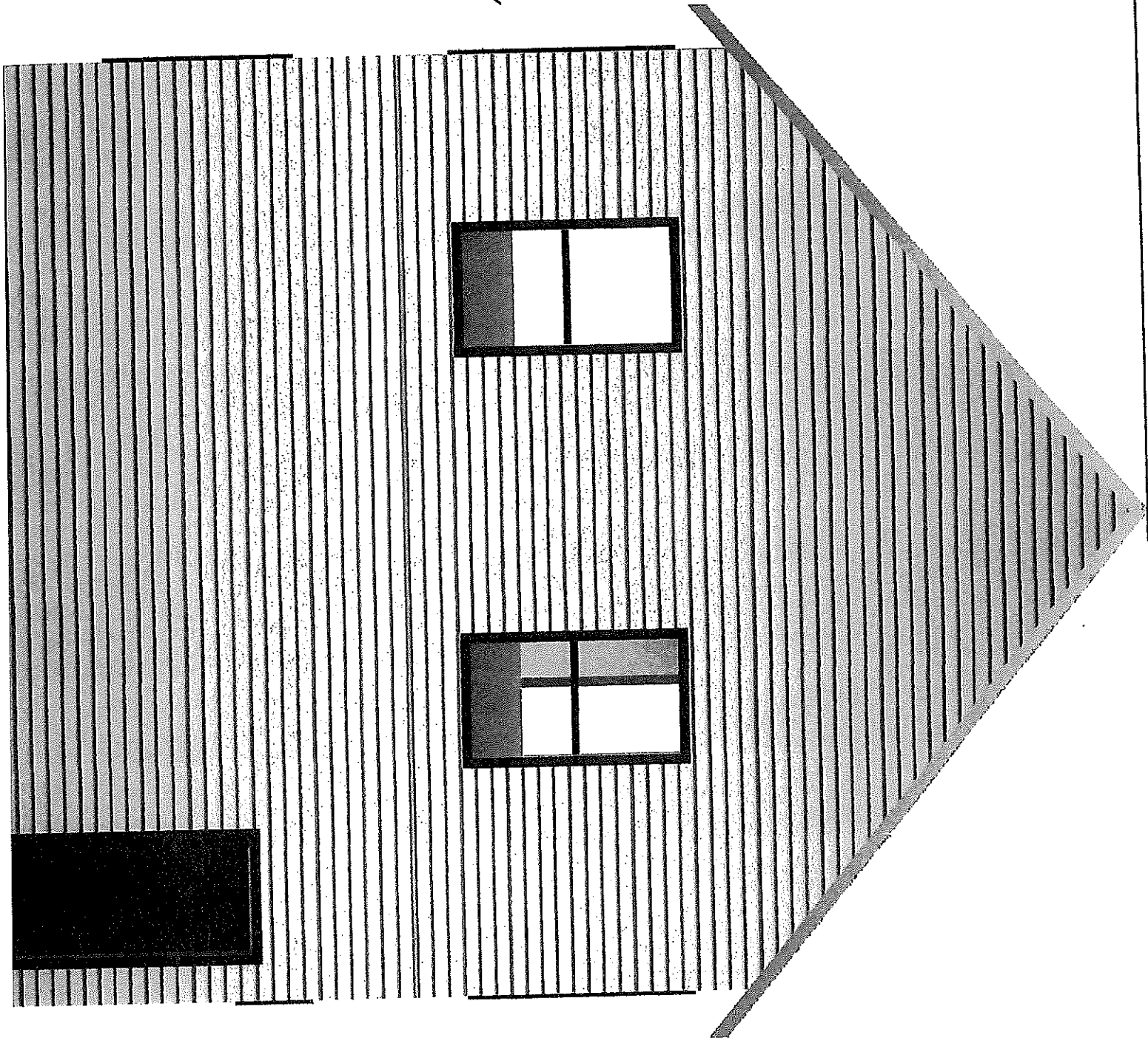


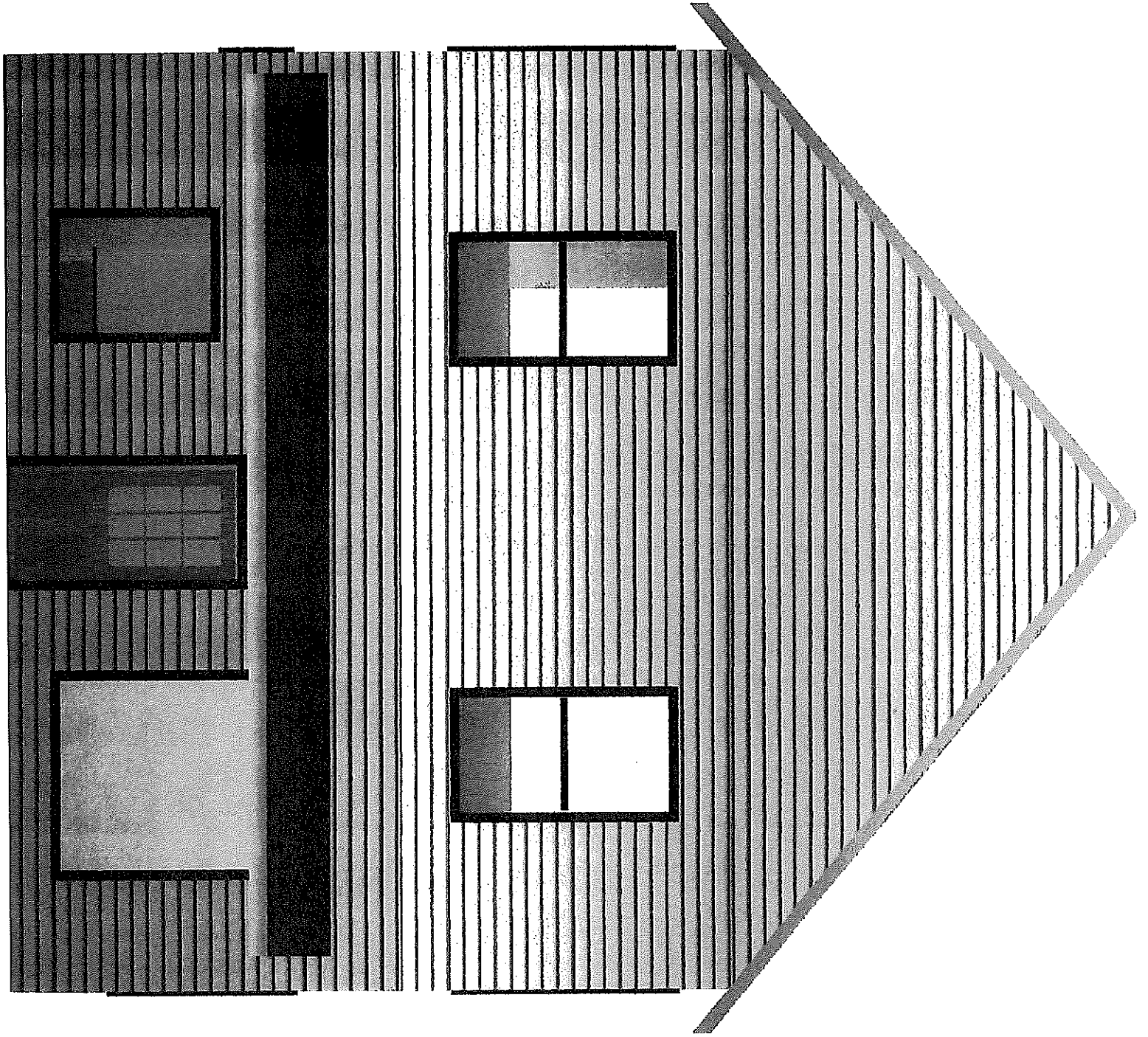
FIRST ST.

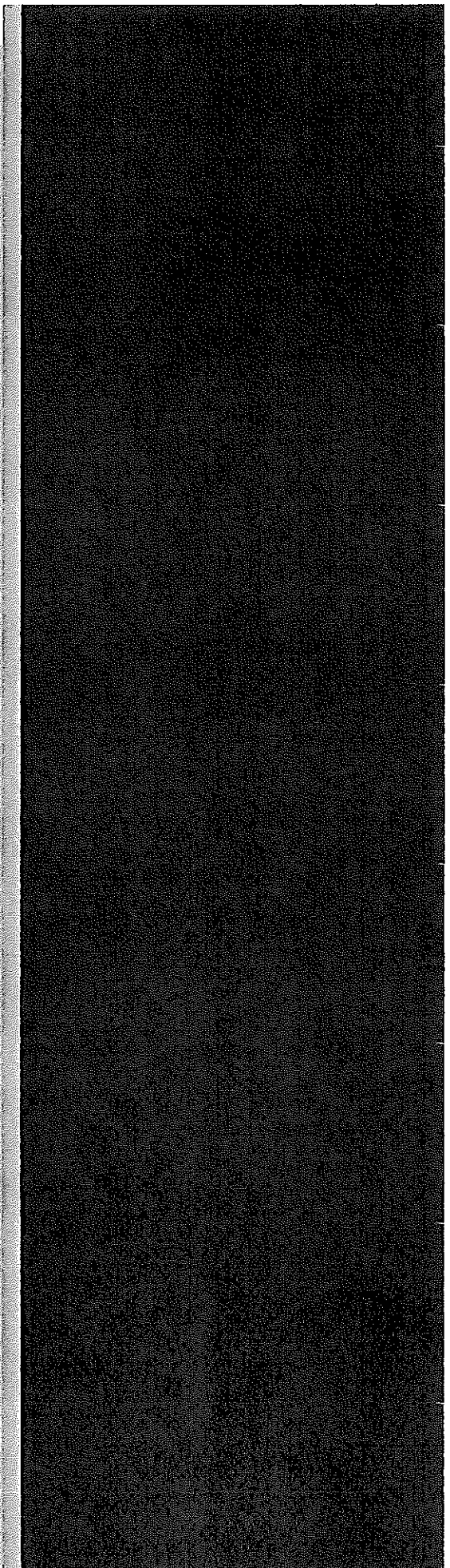
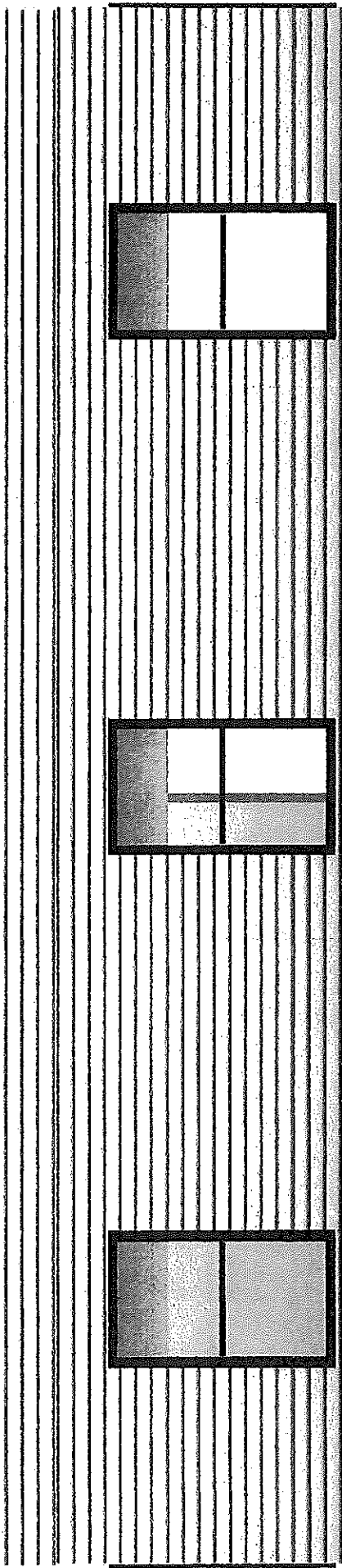
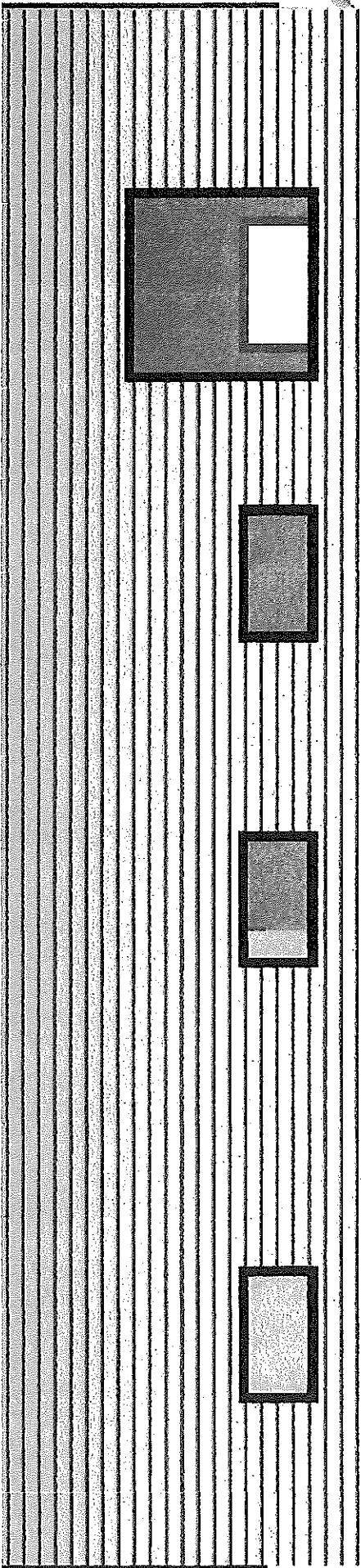


Site Plan
59 E. First St.
Slachter Custom Homes

30'-0"







MEMORANDUM

To: Village of Pentwater Planning Commission

From: Keith Edwards, Zoning Administrator

Date: November 20, 2018

Subject: Proposed Zoning Ordinance Amendment for Conditional Rezoning

In an effort on continue bringing our Zoning Ordinance up to date along with the Michigan Zoning Enabling Act, P.A. 110 of 2006, the Village Attorney, Brian Monton has prepared the attached Zoning Ordinance Amendment for your consideration.

In summary, the proposed Zoning Ordinance Amendment for Condition Rezoning would allow a petitioner seeking to rezone property to offer certain conditions such as those used to mitigate or suppress certain anticipated nuisances such as hours of operation or traffic concerns and/or site improvements such as driveway locations, lighting, etc.

The process contained within the proposed amendment is outlined in MCL 125.3405 et. seq. (see attachment). The applicant must offer the conditions in writing and a municipality shall not require a land owner to offer any conditions as a requirement for rezoning.

At this time, I suggest that the Planning Commission should consider scheduling a public hearing for the December 19, 2018 regular Planning Commission meeting.

125.3405 Use and development of land as condition to rezoning.

Sec. 405. (1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

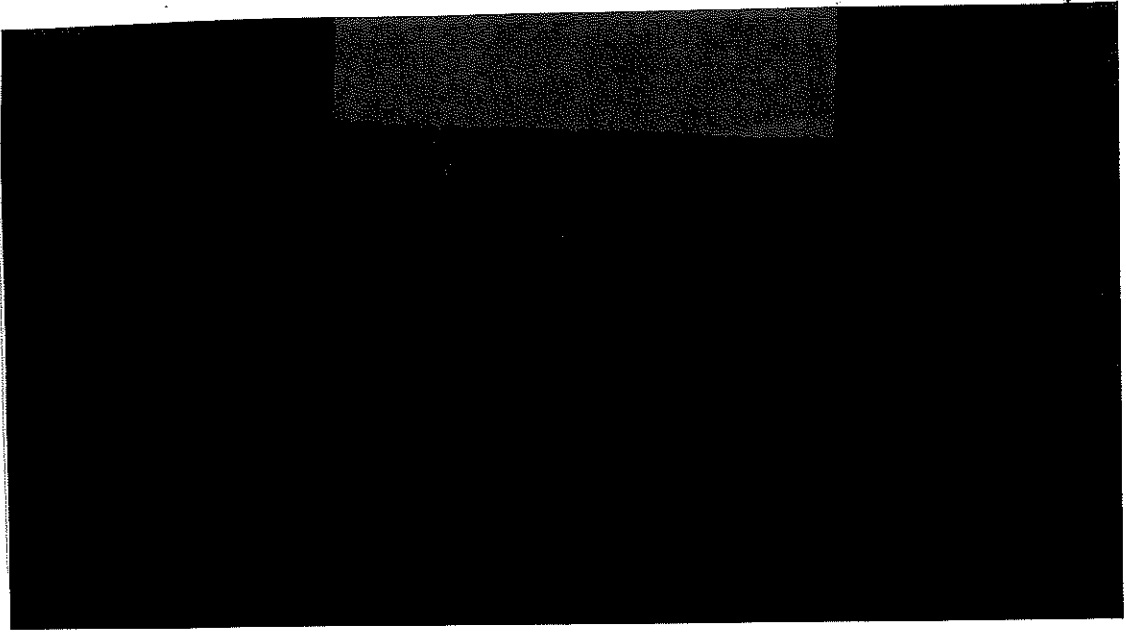
(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

Michigan Laws Relating to Planning

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

History: 2006, Act 110, Eff. July 1, 2006



VILLAGE OF PENTWATER
COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Village Council of the Village of Pentwater, held at the Village Hall, 327 South Hancock Street, Pentwater, Michigan, on the ____ day of _____, 2018, at 6:00 p.m.

Members Present: _____.

Members Absent: _____.

The following ordinance and preamble were offered by Member _____ and supported by Member _____:

ORDINANCE NO. 19.20

AN ORDINANCE TO AMEND THE VILLAGE OF PENTWATER'S ZONING ORDINANCE

WHEREAS, the Village Council of the Village of Pentwater has determined that it would be in the best interest of the Village to adopt a zoning ordinance governing the conditional rezoning of land as authorized by MCL 125.3405.

THE VILLAGE OF PENTWATER ORDAINS:

Section 1. Conditional Rezoning.

A. Intent, application for and processing of conditional rezoning.

1. This section is intended to implement section 405 of the Zoning Enabling Act, MCL 125.3405, authorizing conditional rezonings.
2. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. The offer will be in a proposed conditional rezoning agreement, as described in this section, below. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process; however, the offer must in all events be considered by the Planning Commission before being acted on by the Village Council.

3. The required application and process for considering a rezoning request with conditions will be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
4. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
5. Approval under this section must not obviate the requirement for special land use approval, variance relief, or site plan approval.
6. If the Village is in the process of proceeding with a conditional rezoning under this section and the applicant has not voluntarily offered the condition (or conditions) being considered, the applicant must inform the Village Clerk in writing of such fact before the final action of the Village Council granting the conditional rezoning.

B. Standards for approval. The following standards, among other factors deemed relevant by the Planning Commission and Village Council shall be considered in determining whether to approve a rezoning with conditional rezoning agreement, provided, the determination on whether the underlying rezoning itself should be granted will be deemed to be a legislative decision of the Village Council equivalent to Village Council action on other amendments to the zoning ordinance:

1. Compatibility with the policies and uses designated for the land and area in the approved master plan;
2. Compatibility of the uses and improvements allowed under the proposed rezoning with conditional rezoning agreement with other zones and uses in the surrounding area;
3. Availability and adequacy of public services and facilities and whether there is likely to be any adverse impact from a development or use allowed under the rezoning with conditional rezoning agreement; and
4. Whether the development that would be approved will advance the public interest, weighing the reasonably expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.

C. Approval and effect.

1. If the Village Council, after recommendation from the Planning Commission, determines in its discretion that the proposed rezoning with conditional rezoning agreement should be approved, the conditional rezoning agreement will be incorporated by attachment or otherwise as an

inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning with conditional rezoning agreement.

2. The conditional rezoning agreement, as initially submitted, or as may be modified during the course of the rezoning process, will:
 - a. Be in a form recordable with the Register of Deeds for Oceana County or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the conditional rezoning agreement in a manner acceptable to the Village Attorney.
 - b. Contain a legal description and survey of the land to which it pertains.
 - c. Contain a statement and acknowledgment that the terms and conditions of the conditional rezoning agreement will run with the land be binding on and inure to the benefit of the property owner and the Village and their respective heirs, successors, assigns, and transferees.
 - d. A specification of all conditions proposed by the land owner to be applicable to the use and development of the land, including the following to the extent relevant:
 - (1) The location, size, height, or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features.
 - (2) Permissible uses of the property and a specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and in no respect by way of limitation, units per acre, maximum usable floor area, hours of operation, and the like.
 - (3) Preservation of natural resources and/or features.
 - (4) Facilities to address any relevant traffic, storm water, and water quality issues.
 - (5) Provisions for maintenance of areas on the land, as relevant.
 - e. Contain a statement acknowledging that the conditional rezoning agreement or an affidavit or memorandum giving notice of it may

be recorded by the Village with the Register of Deeds for Oceana County.

- f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that the conditional rezoning agreement, as the same may have been modified during the rezoning process (if applicable), has been freely, voluntarily, and knowledgeably offered by such owners and agreed on in its entirety.
3. On the rezoning taking effect, the zoning map will be amended to reflect the new zoning classification along with a designation that the land was rezoned with a conditional rezoning agreement. The Village Clerk will maintain a listing of all lands rezoned with a conditional rezoning agreement.
 4. The approved conditional rezoning agreement or an affidavit or memorandum giving notice of it will be filed by the Village with the Register of Deeds for Oceana County.
- D. Compliance with agreement. Any failure to comply with a condition within the conditional zoning agreement will constitute a violation of this zoning ordinance and be punishable accordingly. In addition, any such violation will be deemed a nuisance per se and subject to judicial abatement as provided by law.
- E. Time period for establishing development or use. Unless a longer or shorter time period is specified in the ordinance rezoning the subject land, the approved development or use of the land authorized in the conditional rezoning agreement must be commenced within 12 months from the effective date of the rezoning and afterwards proceed diligently to completion. This time limitation may on written request of the land owner be extended by the Village Council if (a) it is demonstrated by the land owner and determined by the Village Council in its discretion that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently afterwards to completion and (b) the Village Council determines in its discretion that there has not been a change in circumstances that would render the current zoning with conditional rezoning agreement incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
- F. Termination of conditional rezoning agreement. If the approved development or use of the rezoned land does not occur within the time frame specified under the preceding subsection E, above or if the property owner makes a request in writing for termination of the conditional rezoning agreement before making any improvements under the conditional rezoning agreement, the rezoning and conditional zoning agreement will be deemed to be immediately terminated except in the Village's discretion as to that part of the land, if any, that has been developed. In the event of such termination, no new development or use of the land will be

permitted until a new zoning classification is approved by a rezoning of the land. On such termination, the Planning Commission must immediately initiate the process to rezone the land in whole or in part to its prior or other appropriate zoning classification. The procedure for considering and adopting this rezoning will be the same as applied to all other zoning requests. Once the rezoning has occurred, the Village will, on request of the land owner, record with the Register of Deeds for Oceana County a notice that the conditional rezoning agreement, except in the Village's discretion as to that part of the land, if any, that has been developed, is no longer in effect.

Section 2. Should any section, clause, or paragraph of this ordinance be declared by a court of competent jurisdiction to be invalid, the same will not affect the validity of the ordinance as a whole or part of it other than the part declared to be invalid.

Section 3. All ordinances or part of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 4. This ordinance will become effective seven (7) days after its publication or seven (7) days after the publication of a summary of its provisions in a local newspaper of general circulation in the Village.

AYES: Members: _____.

NAYS: Members: _____.

ABSENT: Members: _____.

ORDINANCE DECLARED ADOPTED.

Rande S. Listerman, Village Clerk
Village of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Village Council of the Village of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

Rande S. Listerman, Village Clerk
Village of Pentwater

MEMORANDUM

To: Village of Pentwater Planning Commission

From: Keith Edwards, Zoning Administrator

Date: November 20, 2018

Subject: Proposed 2019 Planning Commission Meeting Schedule

In accordance with Article 6 of the Planning Commission Bylaws, section 6.1 the Planning Commission meetings shall be held monthly on a date at a time and location established by the Commission. The Planning Commission shall set a schedule established by resolution at the last meeting of the year. On a personal note, I am requesting that the Planning Commission consider either the second or fourth Tuesday of each month or the second or third Thursday of the month to accommodate my Wednesday day off. The Planning Commission may also want to consider an earlier meeting time, i.e. 6 pm instead of 7 pm. Thus, I am offering the following proposed 2019 meeting schedule options below for your consideration:

| Month | Second Tuesday | Fourth Tuesday | Second Thursday | Third Thursday |
|-----------|----------------|----------------|-----------------|----------------|
| January | 8 | 22 | 10 | 17 |
| February | 12 | 26 | 14 | 21 |
| March | 12 | 26 | 14 | 21 |
| April* | 9 | 23 | 11 | 18** |
| May | 14 | 28*** | 9 | 16 |
| June | 11 | 25 | 13 | 20 |
| July | 9 | 23 | 11 | 18 |
| August | 13 | 27 | 8 | 15 |
| September | 10 | 24 | 12 | 19 |
| October | 8 | 22 | 10 | 17 |
| November | 12 | 26 | 14 | 21 |
| December | 9 | 23**** | 12 | 19 |

*Election of Officers

**Adjacent to Good Friday

***Adjacent to Memorial Day

****Adjacent to Christmas Eve

It appears from the calendar above that the second Tuesday or the second Thursday of each month would have the least conflict with adjacency to holidays. The Planning Commission must decide on the schedule by next month's regular meeting date of December 19, 2018.



VILLAGE OF PENTWATER

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

ZONING ADMINISTRATOR'S REPORT

November 2, 2018

The following is a summary of activity conducted by the Zoning Administrator in October, 2018.

Code Enforcement - Nothing outstanding at this time.

Planning Commission

The Planning Commission on October 17 to conduct a public hearing for the proposed rezoning of 10 Channel Lane (the Channel Lane Inn) from R2-Single Family Residential to C4-Hotel Resort, and on the proposed changes to the requirements for residential parking and marina parking requirements in the C3-Central Business Zoning District. The Planning Commission postponed a decision on the rezoning of the Channel Lane Inn but recommended approval of the parking space requirements in the C3 Zoning District. The Planning Commission also approved improvements to the existing legal nonconforming structure at 863 Park Street, 599 E. Sixth Street; reviewed a questionnaire prepared by our zoning attorney on short-term leasing; discussed nonconforming uses and future land uses in Downtown Pentwater.

Zoning Board of Appeals

The Zoning Board of Appeals did not meet in October.

Zoning Permits

The following Zoning Permits were issued in October, 2018:

1. 51 Bridge Street for a boat in the front yard.
2. 38 Rutledge for a 10' x 12' shed.
3. 634 Chester for the reinforcing and remodeling of the existing structures.

Sincerely,

Keith J. Edwards

Keith Edwards
Zoning Administrator