

# VILLAGE OF PENTWATER

65 South Hancock Street, P.O. Box 622, Pentwater, Michigan 49449  
(231) 869-8301 - FAX (231) 869-5120  
[www.pentwatervillage.org](http://www.pentwatervillage.org)

**Planning Commission Regular Meeting  
February 28, 2023 - 6:00 P.M. – In Person & Zoom  
Park Place Event Center – 310 N. Rush Street, Pentwater, MI**

Join Zoom Meeting

<https://us02web.zoom.us/j/85202433766?pwd=SGpBZTNQa2RNWmRjVDRjRXdDVVFRUT09>

**Meeting ID: 852 0243 3766**

**Passcode: 215586**

## **Agenda**

1. **Opening** – Welcome, Call to Order, and Pledge of Allegiance
2. **Roll Call**
3. **Approval of Agenda and Minutes.**
  - A. Approval of Agenda.
  - B. Approval of Minutes of January 24, 2023.
4. **Public Comments - For items on the agenda.**
5. **Public Hearing: Holding a Public Hearing to take public comments on a request for a map amendment to the Village Zoning Ordinance to rezone property situated along Hancock Street between Third and Fourth Street and described as Parcel Nos. 64-044-676-001-00, 64-044-676-001-50, 64-044-681-001-60, 64-044-681-002-00 and 64-044-681-004-00 from C-3 Central Business District to C-4 Hotel Resort District.**
6. **Old Business:**
  - A. 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.
7. **New Business:**
  - A. Recommendation from the Village Council to 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, 64-044-681-001-60, 64-044-681-002-00, and 64-044-681-004-00.

**Next Scheduled Planning Commission Meeting – February 28, 2023 at Park Place.**

B. Rescheduling of March's Planning Commission Meeting

**8. Department/Committee Reports**

A. Zoning Administrator – See Attached Report.

B. Zoning Board of Appeals – No Meeting, No Report.

C. Master Plan Update –

**9. Public Comments**

**10. Communications from Planning Commission Members**

**11. Adjournment**

**Next Scheduled Planning Commission Meeting – February 28, 2023 at Park Place.**



# VILLAGE OF PENTWATER

## Planning Commission

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

### 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 proximation 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 planning 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 2<sup>nd</sup> 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 2<sup>nd</sup> 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 Kassinis** – 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 \_\_\_\_\_.



## **MEMORANDUM**

To: Village of Pentwater Planning Commission

From: Katie Anderson, Zoning Administrator

Date: February 1, 2023

**Subject: Lites Woods – Request for Map Amendment Rezoning  
Parcel ID Numbers: 64-044-620-126-20 and 64-044-620-125-00**

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### **Introduction**

At the December Planning Commission Meeting, Mr. Amon, Attorney for the Richard A. Whitcomb Revocable Trust, made a request for a Public Hearing on behalf of his client.

There were two requests made, a zoning ordinance text amendment change and a map amendment to the Village Zoning Ordinance for rezoning for Parcel ID Numbers 64-044-620-126-20 and 64-044-620-125-00.

At the January Planning Commission meeting, the Planning Commission made a motion on the request for a zoning ordinance text amendment change and adjourned the request for a map amendment to the Village Zoning Ordinance until the February Planning Commission Meeting.

### **Background**

The Richard A. Whitcomb Revocable Trust petitioned for a map amendment to the Village Zoning Ordinance to rezone the petitioner's property situated along Victoria Avenue, Parcel ID Numbers, 64-044-620-120-20 and 64-044-620-125-00 from Planned Unit Development (PUD) to R-2 Single Family Residential.

### **Process**

The Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the Village Council. In the case of a proposed amendment to the official Zoning Map (rezoning), the Planning Commission shall consider the criteria contained in Section 20.04 Criteria for Amendment of the Official Zoning Map (Rezoning) as follows:

#### **Section 20.04 Criteria for Amendment of the Zoning Map (Rezoning)**

- A. Consistency with the goals, policies, and future land use guidelines of the Village of Pentwater Master Plan, including all applicable subarea and corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area;

- A. Compatibility of the site's physical, geological, hydrological, and other environmental features with the potential uses allowed in the proposed zoning district;
- B. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) or more of the uses permitted under the current zoning;
- C. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values;
- D. The capacity of Village infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety, and welfare" of the Village residents;
- E. The apparent demand for the types of uses permitted in the requested zoning district in the Village in relation to the amount of land in the Village currently zoned to accommodate the demand; and
- F. Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

**Discussion**

The Planning Commission shall discuss each of the listed criteria to determine whether or not each of the criteria have been met, or specifically state why one or more have not been met.

Following completion of the Planning Commission's discussion of the amendment criteria, the Planning Commission should provide a recommendation to the Village Council.

## MEMORANDUM

To: Village of Pentwater Planning Commission

From: Katie Anderson, Zoning Administrator

Date: February 1, 2023

**Subject: Recommendation from Village Council to Rezone the Sections of Hancock Street between Third and Fourth Street from C-3 to C-4.  
Parcel ID Numbers: 64-044-676-001-00, 64-044-676-001-50,  
64-044-681-001-30, 64-044-681-001-60, 64-044-681-002-00, 64-044-681-004-00**

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### Introduction

The Pentwater Village Council at their December 12, 2022 Meeting made a recommendation to the Planning Commission to consider rezoning the section of 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, 64-044-681-001-60, 64-044-681-002-00 and 64-044-681-004-00 from C-3 Central Business District to C-4 Hotel Resort District. Discussion was held amongst the Council, Council Minutes don't reflect any specific reasons, it was stated that the best option would be to rezone the section of Hancock Street, between Third and Fourth Street, from C-3 Central Business District to C-4 Hotel Resort District.

At the January Planning Commission meeting, the Planning Commission acknowledged the Village Council's request for a rezoning consideration on Hancock Street and set the Public Hearing date for February 28, 2023.

The section of Hancock Street, between Third and Fourth Street, being considered for rezoning consists of both private and public properties.

### **Public Properties**

044-676-001-00 – Village of Pentwater and Pentwater Township (Former Village/Township Hall)

044-681-002-00 – Village of Pentwater (Pentwater Chamber and former Police Department)

### **Private Properties and Owners**

044-676-001-50 – The Village Center (Provisions, Village Café, Village Pub and Offices)

044-681-001-30 – Five Waters Properties, LLC (Vacant Lot)

044-681-001-60 – Five Waters Properties, LLC (Painted Frog Studio)

044-681-004-00 – Shelby State Bank

## **Process**

The process of rezoning the section of Hancock Street between Third and Fourth Street, begins with Section 20.03 Rezoning and Zoning Ordinance Amendment Process of the Village Zoning Ordinance. The breakdown of Section 20.03 is as follows:

- A. **Public Hearing**: Upon initiation of a rezoning, zoning ordinance text amendment, or master plan amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given in accordance with the provisions of the Michigan Zoning Enable Act, Act 110 of the Public Acts of 2006, MCL 125.3102 *et seq.*
- B. **Planning Commission Review and Recommendation**: Following the Public Hearing, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings and recommendation to the Village Council. In the case of a proposed amendment to the official Zoning Map (rezoning), the Planning Commission shall consider the criteria contained in Section 20.04 Criteria for Amendment of the official Zoning Map (Rezoning), in making its findings and recommendation to the Village Council.
- C. **Village Council Review and Action**: Following receipt of the findings and recommendation of the Planning Commission, the Village Council shall consider the proposed Zoning Map. In the case of an amendment to the official Zoning Map (rezoning), the Village Council shall approve or deny the amendment.

## **Existing Land Uses**

The Existing Land Uses on Hancock Street, between Third and Fourth Street and the adjacent properties include retail shops, bars, restaurants, a bank, other offices and the Spinnaker Condominiums.

The Existing Land Uses on Hancock Street, between Third and Fourth Street are currently conforming and comply with the C-3 District Zoning.

Village Zoning Map (See Attached)

## **Background**

The section of Hancock Street between Third and Fourth Street is currently zoned as C-3 Central Business District.

Chapter 12 of the Village Zoning Ordinance is the C-3 Central Business District. The intent of the C-3 District is to provide a wide range of goods and services to the residents of Pentwater as well as surrounding areas in a downtown setting. This District is characterized by a compact shopping area with on-street, municipal, and private parking areas.

Section 12.02 Permitted Uses in the C-3 District does not allow for Hotels and Motels by right but rather under Section 12.03 Special Land Uses. Section 12.03.A “Hotels and Motels, including accessory uses, such as restaurants, gift shops, meeting rooms, and banquet facilities” when approved by the Planning Commission in accordance with the requirements of Chapter 15.

- Special Land Use Specifications for Hotels and Motels, Section 15.04.G.,
  - Minimum lot area shall be two (2) acres and minimum lot width shall be two hundred (200) feet.
  - Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet, except that such uses located on waterfront lots shall maintain a rear yard setback of at least twenty (20) feet.
  - Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

Chapter 12A of the Village Zoning Ordinance is the C-4 Hotel Resort District. The purpose of the C-4 District is to “accommodate existing hotel resort facilities, oriented to the vacationing and traveling public, located in areas of existing residential uses”. “Section 12A.02.B permits Hotels, including restaurants serving food and drink for consumption on the premises in conjunction with the hotel operation”. The only permitted uses in the C-4 District include Single-family dwellings, State-licensed residential facilities and child care facilities, accessory buildings and structures and reservation of future use. There are not any Special Land Uses permitted in the C-4 District.

Chapter 2 of the Village Zoning Ordinance is the Definitions. Hotels, Motels and Resorts are defined below according to the Village Zoning Ordinance.

- Hotels: 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 primary oriented to the customers of the hotel.
- Motels: 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, such as gift shops, restaurants and other similar uses.
- Resorts: Not defined by the Village Zoning Ordinance.

In review of the Village Master Plan 2015, there is no discussion of Hotels or Motels in the Commercial District under Future Land Use. The Village Master Plan 2015, pages 36-38, alludes to maintaining the viability of Pentwater’s downtown, stating “The Plan recognizes that residential development is necessary and accessory to the commercial nature of the district and any residential development should be limited to the second and third floors of the building and appropriate for the square footage of the commercial space.”

## **Discussion**

If permitting a hotel in the commercial district is the desire of the Village Council, there are several avenues to explore that could accommodate the Village Council's request.

### **C-3 Central Business District**

**Intent:** To provide a wide range of goods and services to residents of Pentwater as well as surrounding areas in a downtown setting.

**Permitted Uses:** Land and/or buildings permitted by right:

- Office buildings for the following: Executive, governmental, administrative, professional, designers, accounting, drafting, and other similar professional and service activities. Medical, optical, dental, and veterinary services.
- Banks, credit unions, savings and loan associations, and other similar uses, excluding those with drive-through facilities.
- Personal service establishments such as barber, beauty shops, massage establishments with a certified therapist, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.
- Reserved for future use.
- Restaurants, excluding those with drive-through facilities.
- Coin operated laundries.
- Commercial day care.
- Parks, community buildings, and recreational facilities operated by a public, institutional, or private/non-profit organization.
- Retail businesses of less than 10,000 square feet gross floor area conducting business entirely within an enclosed building.
- Accessory buildings, structures, and uses for Permitted and Special Land Uses.

**Special Land Uses:** Land and/or buildings permitted when approved by the Planning Commission in accordance with the requirements of Chapter 15 of the Village Zoning Ordinance.

- Hotels and Motels, including accessory uses, such as restaurants, gift shops, meeting rooms, and banquet facilities.
- Banks, credit unions, savings and loan associations, and other similar uses with drive-through facilities.
- Retail businesses of 10,000 square feet gross floor area or greater conducting business entirely within an enclosed building.
- Automobile service and repair facilities.
- Parking lots, public and private.
- Residential dwellings accessory to commercial or office uses.

- Churches and schools.
- Lodges and private clubs.
- Indoor theaters and commercial recreation centers, such as bowling alleys, skating rinks, and other similar uses.
- Marinas.
- Boat launches.

**Development Regulations:** All Permitted Uses and Special Land Uses are subject to Site Development Requirements set forth in the Village Zoning Ordinance.

- Site Plan Review is required in accordance with Chapter 16.
- Parking is required in accordance with Chapter 17.
- Signs are permitted in accordance with the requirements of Chapter 21.
- C-3 District Regulations for setbacks, height, area and lot dimensions are noted below.

<b>C-3 DISTRICT REGULATIONS</b>	
Minimum lot area	None required
Minimum lot width	
Maximum height	35 feet (See Section 2.03, Building Height)
Front yard setback	None required
Side yard setback	Against Residential District shall be 5 feet
Rear yard setback	Against Residential District shall be 15 feet
Maximum lot coverage	None required

**Parking:** Parking requirements for the C-3 District.

- Off-Street Parking Requirements
  - C-3 Parking: With the exception of residential uses, the off-street parking requirements of Section 17.06 do not apply in the C-3 District. Any parking areas provided, however, shall meet the other applicable requirements of this Chapter. Residential uses within the C-3 District shall meet the requirements of this Section and Section 17.06 for determining the location of parking areas and the required number of spaces.
    - Section 17.06 was Amended 11-21-2018, the change was relative to Residential Buildings and Marinas. Hotels and Motels were not considered in the change. This created an unintended consequence as now Hotels are being considered in the downtown area. The Planning Commission should discuss if off-street parking should be required in the downtown.
  - Off-street Parking Requirements for Commercial Use according to Section 17.06 of the Village Zoning Ordinance.

### C-4 Hotel Resort District

**Intent:** To accommodate existing hotel resort facilities, oriented to the vacationing and traveling public, located in areas of existing residential uses.

**Permitted Uses:** Land and/or buildings permitted by right:

- Hotels, including restaurants serving food and drink for consumption on the premises in conjunction with the hotel operation.
- Single-family dwellings.
- Reserved for future use.
- State-licensed residential facilities and child care centers provided in a structure constructed for a residential purpose, providing care or supervision to six or less persons; but not including foster care facilities.
- Accessory buildings, structures, and uses for Permitted and Special Land Uses.

**Special Land Uses:**

- None – there are no Special Land Uses in the C-4.

**Development Regulations:** All Permitted Uses and Special Land Uses are subject to Site Development Requirements set forth in the Village Zoning Ordinance.

- Site Plan Review is required in accordance with Chapter 16.
- Parking is required in accordance with Chapter 17.
- Signs are permitted in accordance with the requirements of Chapter 21.
- A solid fence or deciduous planting of not less than 6 feet in height or more than 8 feet in height is required on all property lines adjoining any residential use.
- C-4 District Regulations for setbacks, height, area and lot dimensions are noted below.

C-4 District Regulations	All Uses
Minimum lot area	8,000 square feet
Minimum lot width	66 feet
Maximum height	35 feet (See Section 2.03, Building Height)
Front yard setback	17 feet
Side yard setback	6 feet
Rear yard setback	20 feet
Minimum floor area (Single-family dwelling units only)	750 square feet UFA on the first floor
Maximum lot coverage	No maximum

**Parking:** Parking requirements for the C-4 District.

- Off-street Parking Requirements for Commercial Use according to Section 17.06 of the Village Zoning Ordinance.

**Issue: Allowing for a Hotel in the Downtown Area under the C-3 or C-4 Districts.**

**Key Differences Between the C-3 and C-4 Districts**

**Where are Hotels and Motels permitted and under what circumstances?**

**C-3 District:** Under Special Land Use and the requirements of Chapter 15.

- Hotels and Motels, including accessory uses, such as restaurants, gift shops, meeting rooms, and banquet facilities.

**C-4 District:** Under Permitted Uses.

- Hotels, including restaurants serving food and drinks for consumption on the premises in conjunction with the hotel operations.

**What are the Site Development Regulation Requirements for the C-3 and C-4 and their differences?**

<b>District Regulations</b>	<b>C-3 All Uses</b>	<b>C-4 All Uses</b>
Minimum Lot Area	None Required	8,000 Square Feet
Minimum Lot Width	None Required	66 Feet
Maximum Height	35 Feet (See Section 2.03, Building Height)	35 Feet (See Section 2.03, Building Height)
Front Yard Setback	None Required	17 Feet
Side Yard Setback	Against Residential District Shall Be 5 Feet	6 Feet
Rear Yard Setback	Against Residential District Shall Be 15 Feet	20 Feet
Minimum Floor Area (Single-Family Dwelling Units Only)	N/A	750 Square Feet UFA on the First Floor
Maximum Lot Coverage	None Required	No Maximum

**Conforming vs. Non-Conforming Uses on Hancock Street, between Third and Fourth Street.**

**C-3 District:** The Existing Land Uses on Hancock Street, between Third and Fourth Street are all Conforming to the Permitted Uses and/or Special Land Uses of the C-3 District.

**C-4 District:** The Existing Land Uses on Hancock Street, between Third and Fourth Street would become Non-Conforming as they are not Permitted Uses under C-4 Zoning.

**Conforming vs. Non-Conforming Buildings on Hancock Street, between Third and Fourth Street.**

**C-3 District:** The Existing Buildings on Hancock Street, between Third and Fourth Street are Conforming to the C-3 District Regulations.

**C-4 District:** The Existing Buildings on Hancock Street, between Third and Fourth Street would become Non-Conforming under the C-4 District Regulations.

**C-3 Parking vs. C-4 Parking – Under Current Village Zoning Ordinance**

**C-3 District:** Off-Street Parking Requirements

- C-3 Parking: With the exception of residential uses, the off-street parking requirements of Section 17.06 do not apply in the C-3 District. Any parking areas provided, however, shall meet the other applicable requirements of this Chapter. Residential uses within the C-3 District shall meet the requirements of this Section and Section 17.06 for determining the location of parking areas and the required number of spaces.
  - Section 17.06 was Amended 11-21-2018, the change was relative to Residential Buildings and Marinas. Hotels and Motels were not considered in the change. This created an unintended consequence as now Hotels are being considered in the downtown area. The Planning Commission should discuss if off-street parking should be required in the downtown.
- Off-street Parking Requirements for Commercial Use according to Section 17.06 of the Village Zoning Ordinance.

**C-3 District:** Special Land Use Requirements

- Special Land Use Specifications for Hotels and Motels, Section 15.04.G.,
  - Minimum lot area shall be two (2) acres and minimum lot width shall be two hundred (200) feet.
  - Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet, except that such uses located on waterfront lots shall maintain a rear yard setback of at least twenty (20) feet.

- Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

**C-4 District: Parking:** Parking requirements for the C-4 District.

- Off-street Parking Requirements for Commercial Use according to Section 17.06 of the Village Zoning Ordinance.

**Remedies**

One possible remedy is to remove Section 12.03A “Hotels and motels, including accessory uses, such as restaurants, gift shops, meeting rooms and banquet facilities” from the Special Land Uses section of Chapter 12: C-3 Central Business District and adding it to Section 12.02 Permitted Uses as Section 12.02.K. By removing Section 12.03A from Special Land Uses it will eliminate the requirements of Chapter 15, specifically Sections 15.04.G.1 through 15.04.G.3.

Another possible remedy could be, if hotels and motels were to remain under the Special Land Uses in the C-3 District, to make changes/adjustments to Sections 15.04.G.1 through 15.04.G.3.

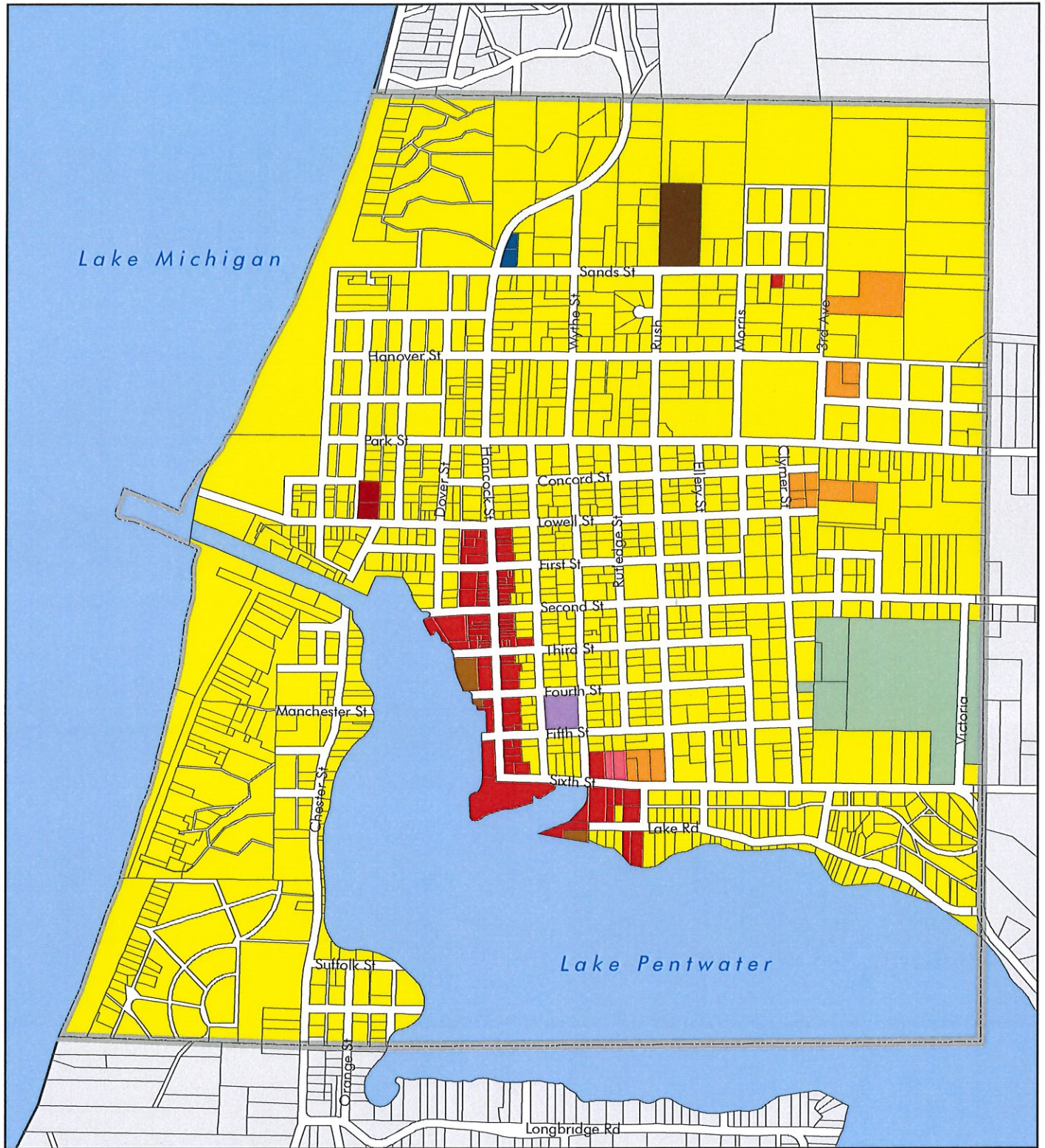
- Section 15.04.G.1 requires a “minimum lot area of two (2) acres and a minimum lot width of two hundred (200) feet”.
  - There is not 2-acres available in the C-3 District to accommodate this requirement.
- Section 15.04.G.2 states “parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet...”.
  -
- Section 15.04.G.3 requires “access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway”.
  - Access driveways are not required for any other uses in C-3.

By granting a different minimum lot area, adjusting the setback requirements for parking areas and determining the regulations around access driveways, Hotels could more effectively be granted in the C-3 District under its current zoning as a Special Land Use.

**Recommendation**

At this time, Staff recommends to the Planning Commission to discuss the possible rezoning of Hancock Street, between Third and Fourth Street. The Planning Commission should take into consideration making the C-3 District more accommodating in allowing Hotels in the downtown area rather than rezoning to the C-4 District. It is at the Planning Commission’s discretion to make a recommendation to the Village Council of their findings.





# Zoning Map

Village of Pentwater

- |  |  |
|--|--|
|  R2 - Single Family Residential             |  C1 - General Commercial        |
|  R3 - Multiple Family Residential           |  C3 - Central Business          |
|  R4 - Lakeshore Multiple Family Residential |  C4 - Hotel Resort              |
|  MHP - Manufactured Home District           |  LI - Light Industrial          |
|  RO - Residential-Office                    |  PUD - Planned Unit Development |



8-31-12

Sources: Village of Pentwater, MCGI





# ***VILLAGE OF PENTWATER***

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

## **ZONING ADMINISTRATOR'S REPORT January 26, 2023**

The following is a summary of activity conducted by the Zoning Administrator in January 2023:

**Code Enforcement** – None.

**Planning Commission** - The Planning Commission met on January 24th to:

1. Hold a Public Hearing for a Text Amendment Request and a request for a Map Amendment (Rezoning).
2. 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.
3. 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.
4. Consider recommendation from the Village Council for a zoning change from C-3 to C-4 on Hancock Street between Third and Fourth Street.

**Zoning Board of Appeals** – No January Meeting.

**Zoning Permits** – The following Zoning Permits were issued in January of 2023:

1. ZP 23-01 was issued to James and Julie Blough: 114 E. Hanover St. to construct a new 1,350 sq. ft. home with a 12 ft. x 30 ft. porch addition.
2. ZP 23-02 was issued to Great Lakes Pet Fencing: 419 E. Lowell St. to remove and install a 3.5 ft. x 89 ft. fence with a 3.5 ft. x 19.5 ft. matching custom railing.

### **Other**

None.

Sincerely,

***Katie Anderson***

Katie Anderson  
Zoning Administrator



**Public Notice on the C-3 to C-4 rezoning request.**

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Statement of Concern regarding this rezoning request.

My reading of both the C-3 and C-4 definitions begs the question of what the change would achieve.

The C-3 district already provides for hotels and associated uses, while the C-4 district definition contains a limiting constraint.

Copied from the Zoning Ordinance: SECTION 12A.01 INTENT 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.

C-4 would have to be rewritten, while C-3 already provides for hotels/resorts.

Therefore, I question whether the Village should spend any time or money on a rezoning.

I also question why this issue, along with the Cottages rezoning issue, is being considered when so many of the voting citizens are not available for direct participation.

Sincerely,

Norm Shotwell  
474 1<sup>st</sup> St  
Pentwater, MI 49449  
7 February 2023

