



VILLAGE OF SUTTONS BAY
Village Council Regular Meeting
420 N. Front Street, Suttons Bay, MI 49682
Tuesday February 21, 2023 5:30 p.m.
Agenda

For the public wishing to view the meeting using remote attendance, there will also be a Zoom link (which can be found on our website at www.suttonsbayvillage.org). Public participation shall be limited to in-person or via written communication received prior to the meeting.

1. Regular Meeting Called to Order
2. Roll Call
3. Consent Agenda
 - a. Approval of Minutes January 17, 2023
 - b. Payment of Invoices
4. Agenda Approval
5. Public Comment / Communication and Reports (please limit to no more than three (3) minutes)
6. Unfinished Business
 - A. VSB 2023-14 Text Amendment - Accessory Dwelling Unit
7. New Business
 - A. VSB 2023-12 Text Amendment -Peninsula Housing
 - B. VSB 2023-13 Map Amendment-301 S Shore Conditional Rezone Request
 - C. VSB 2023-15 Timeline-Baldwin Project
 - D. Master Plan-63 Day Review
8. Special Committee Reports/Staff Reports
9. Good of the Order (Council Member Comments)
10. Public Comment (please limit to no more than three (3) minutes)
11. Adjournment

If you are planning on attending this meeting and are disabled requiring any special assistance, please notify the Village Clerk by calling 231.271.3051 or by email suttonsbay@suttonsbayvillage.org as soon as possible.



VILLAGE OF SUTTONS BAY
VILLAGE COUNCIL REGULAR MEETING
MINUTES OF JANUARY 17, 2023

The meeting was called to order at 5:32 p.m. by President Lutke.

Present: Karl Bahle, Will Case, Steve Lutke, Debra Smith, Roger Suppes and Pat Yoder
Absent: Colleen Christensen
Staff present: Fay and Miller

Conflict of Interest

Lutke declared a conflict of interest in respect to New Business item A. VSB 2023-06 Text Amendment Article 6-2. Council unanimously concurred that a conflict of interest exists.

Consent Agenda

Bahle moved, Case seconded CARRIED, to approve the Consent agenda as presented. The Village Council meeting minutes of December 6, 2022, are approved. The payment of invoices is approved. The Planning Commission Annual Report has been accepted by Village Council. Ayes: 6, No: 0.

Agenda

Yoder moved, Smith seconded, CARRIED, to approve the agenda as presented.
Ayes: 6, No: 0.

Public Comment

Written public comments regarding ADU's were received from Elmore's and Yoder. Mawby stated Peninsula Housing recently acquired a parcel in Suttons Bay Township, zoned high intensity. He stated they would like to have access to Village sewer and potentially water.

Vanessa Fox Gruenwald read a letter regarding ADU's authored by Judy Yoder. Delores Witkowski stated she lives at the north end of town and deals with short and long-term renters. She stated STR's are not being regulated like a hotel/motel and suggest regulations. She is not in support of STR's.

Fred Elmore believes opposition to ADU's appears to be about maintenance. He stated a long-term renter is a resident. Elmore's are building an ADU for long term renting. He

would like to have the option to have an ADU next door as well. He stated they live their full time and will monitor the ADU. It would give more people a place to live. Mary Kropp stated she believes there is an STR issue, not an ADU issue. Michelle Baldwin stated they are working on a housing development on Herman Road. The project started a while ago when the Township was able to tap into the Village's water and sewer. They would like a Village sewer permit approved. Baldwins are requesting a Special Village Council meeting. Baldwin stated they have concerns now about costs and how it could affect sales and rental prices due to all of the obstacles to move the project forward. Witkowski stated there is no stability for people staying in the area, and that property owners need to be responsible for all of their tenants.

VSb 2023-06 Text Amendment Article 6-2

Lutke left the room due to conflict of interest approved by Council.
Bahle moved, Smith seconded, CARRIED, to approve Amendment No. Z-2023-01 (Amendment 7 of Ordinance 2 of 2018) to amend Article 6-2 Table of Uses to include Small Distilleries, Small Wineries and Microbreweries as a permitted use in the Warehouse District, with an affirmative unanimous roll call vote. Ayes: 5, No: 0.

VSb-2023-05 Text Amendment-Daycare Language

Yoder moved, Case seconded, CARRIED, to approve Amendment No. Z-2023-02 of (Amendment 8 of Ordinance 2 of 2018) to amend the definition(s) relating to Day Care (Children) in the Zoning Ordinance be amended as presented, with an affirmative unanimous roll call vote: Ayes: 6, No: 0.

VSb 2023-02 Water Wheel Proposal

Yoder moved, Case seconded, CARRIED, to approve Plan B - Creek Restoration, with a cost of approximately \$169,684.00 as found in the report. Ayes: 6, No: 0.

VSb 2023-07 Elm Street Study

Council accepted the recommendations of the Elm Street Traffic Operations Analysis Report submitted by Fleis & Vandenbrink. Smith believes we need cross walk signs in that area, and would like to revisit this in the future. Case believes we need to elevate the visibility there. Suppes supports a hawk light in the area.

Good of the Order

Yoder suggests that we do what we can to work with the Baldwin project. Smith emphasized the need for crosswalk signs at the Elm and 4th Street intersection. Smith asked how the Village could utilize the new tools for housing as a result of a bill signed by the Governor. Smith would like the STR meetings to begin soon.

Bahle would like us to do what we can do to assist with the Baldwin project. Lutke said the intergovernmental agreement with the Township may be reviewed by Council this year. Suppes stated we should do what we can to facilitate the Baldwin project. Case agrees as well that we should work with the Baldwins on their project. Case stated the small Park by the preexisting waterwheel is a gem, and that we should landscape the beautiful park and the tumbling water attraction.

Public Comment

Lois Bahle agrees with Waterwheel Park and stream restoration. She voiced concerns with the bulk head and culvert in that area and asked that attention to it be included in the project.

Delores Witkowski stated the Waterwheel was a safety hazard. She believes the lack of local jobs is more of a concern than STR's.

Vanessa Fox Gruenwald stated she and her husband are in favor of the Baldwin project. A resident stated that Baldwins have a good project. It would help with a better tax base and would contribute to the welfare of the community.

The meeting adjourned at 6:24 p.m.

Meeting minutes submitted by Shar Fay, Clerk.

02/16/2023 03:07 PM
User: DOROTHY
DB: Suttons Bay

CHECK REGISTER FOR VILLAGE OF SUTTONS BAY
CHECK DATE FROM 01/13/2023 - 02/16/2023

Page: 1/2

| Check Date | Check | Vendor Name | Description | Amount |
|-------------------------------|----------|--------------------------------|--|-----------|
| Bank GEN FIFTH THIRD CHECKING | | | | |
| 01/20/2023 | 18777(E) | AMAZON | WOOD BLINDS PLANT | 101.80 |
| 01/20/2023 | 18778(E) | AMAZON | 40W AMBER GREEN STROBE | 129.99 |
| 01/20/2023 | 18779(E) | AMAZON | CHEVY PICKUP MIRROR | 126.93 |
| 01/20/2023 | 18780(E) | MICHIGAN RETAILERS SERVICES | ID# 46597-001 JANUARY PREMIUM 2023 | 108.55 |
| 01/20/2023 | 18781(E) | COMFORT INN & SUITES HOTEL | CLERKS CONFERENCE ACCOMODATIONS | 532.80 |
| 01/20/2023 | 18782(E) | VISION SERVICE PLAN | ACCT#30017164 001 JANUARY 2023 PREMIUM | 205.06 |
| 01/20/2023 | 18783(E) | AMAZON | OFFICE SUPPLIES-BANKERS BOXES | 67.07 |
| 01/20/2023 | 18784(E) | OFFICE DEPOT | OFFICE SUPPLIES-PAPER | 57.99 |
| 01/20/2023 | 18785(E) | OFFICE DEPOT | 10-CARTONS PAPER | 480.00 |
| 01/20/2023 | 46330 | ART'S AUTO AND TRUCK PARTS INC | MILWAUKEE 2 SPEED GREASE GUN | 299.00 |
| 01/20/2023 | 46331 | AIRGAS USA, LLC | CYLINDER RENTAL DECEMBER | 32.81 |
| 01/20/2023 | 46332 | MICHIGAN PIPE & VALVE | CUST # 0001410 RHOMBUS SENSOR ALARM SWIT | 144.00 |
| 01/20/2023 | 46333 | MR CLEAN | NOV DEC 2022 CLEANING SERVICES | 750.00 |
| 01/20/2023 | 46334 | INTEGRITY BUSINESS SOLUTIONS | OFFICE SUPPLIES-FILES/RUBBERBANDS | 44.74 |
| 01/20/2023 | 46335 | SECURITY SANITATION, INC | PORTA JOHN RENTAL JAN BAHLIE PARK | 110.00 |
| 01/20/2023 | 46336 | SOS ANALYTICAL | DECEMBER 2022 ROUTINE BACTI TESTING | 225.00 |
| 01/20/2023 | 46337 | SONDER, RACINE & DOREN | GENERAL LEGAL SERVICES | 1,080.00 |
| 01/20/2023 | 46338 | USABUEBOOK | CUST# 820127 SEWER SUPPLIES | 610.51 |
| 01/31/2023 | 18791(E) | POSTMASTER | CERTIFIED RETURN RECEIPT IRS | 18.24 |
| 01/31/2023 | 18792(E) | CHARTER COMMUNICATIONS | 8245121220017471 326 FRONT FEB 2022 | 127.98 |
| 01/31/2023 | 18793(E) | CHARTER COMMUNICATIONS | ACCT#8245121220023735 665 N FRONT STREET | 109.98 |
| 01/31/2023 | 18794(E) | CHARTER COMMUNICATIONS | ACCT# 8245121220022588 146 S SHORE | 182.96 |
| 01/31/2023 | 18795(E) | FIFTH THIRD BANK | BANK FEES JANUARY 2023 | 101.73 |
| 02/01/2023 | 18786(E) | POSTMASTER | CERTIFIED RETURN RECEIPT IRS | 0.00 |
| 02/01/2023 | 18787(E) | CHARTER COMMUNICATIONS | 8245121220017471 326 FRONT FEB 2022 | 0.00 |
| 02/01/2023 | 18788(E) | CHARTER COMMUNICATIONS | ACCT#8245121220023735 665 N FRONT STREET | 0.00 |
| 02/01/2023 | 18789(E) | CHARTER COMMUNICATIONS | ACCT# 8245121220022588 146 S SHORE | 0.00 |
| 02/01/2023 | 18790(E) | FIFTH THIRD BANK | BANK FEES JANUARY 2023 | 0.00 |
| 02/01/2023 | 46339 | ART'S AUTO AND TRUCK PARTS INC | CUST # 20090 VACTOR ONE TON OIL | 405.76 |
| 02/01/2023 | 46340 | DTE ENERGY | MULTIPLE ACCOUNTS JAN 2023 | 1,411.78 |
| 02/01/2023 | 46341 | LEELANAU ENTERPRISE | ORDINANCE AMENDMENT ADOPTION | 163.20 |
| 02/01/2023 | 46342 | AT&T MOBILITY | CELL PHONE-MULTIPLE ACCTS JAN 2023 | 505.99 |
| 02/01/2023 | 46343 | BRIGHTSPEED | TELEPHONE SERVICE-WWTP FEBRUARY 2023 | 224.91 |
| 02/01/2023 | 46344 | BRIGHTSPEED | TELEPHONE SERVICE-MULTIPLE FEB 2023 | 654.71 |
| 02/01/2023 | 46345 | BUNERS HARDWARE | CUST# 2536 PLUMBING SUPPLIES | 31.73 |
| 02/01/2023 | 46346 | CUMMINS BRIDGEWAY, LLC | CUST# 219913 REGULAR MAINTENANCE | 152.42 |
| 02/01/2023 | 46347 | KDP RETIREMENT PLAN SVCS, INC | 3RD QTR 2022 ADMIN-RETIREMENT PLAN | 270.00 |
| 02/01/2023 | 46348 | JACOBS ENGINEERING GROUP, INC | CUST#120525 PROJ # 404723.14 | 18,060.17 |
| 02/01/2023 | 46349 | PRIORITY HEALTH | GROUP 784340 FEB 2023 PREMIUM | 0.00 |
| 02/01/2023 | 46350 | PURE WATER WORKS | 3 GALS LESS BOTTLE RETURNS | 5.00 |
| 02/01/2023 | 46351 | SLC METER, LLC | PO # SB2023-01 METERS QUOTE#35707 | 5,816.97 |
| 02/01/2023 | 46352 | STANDARD INSURANCE COMPANY | 642946 0117, JAN 2023 PREMIUM | 1,005.34 |
| 02/01/2023 | 46353 | WELLS FARGO FINANCIAL LEASING | CONT# 6030214439000 COPIER-420 FRONT | 72.92 |
| 02/03/2023 | 46354 | NORTHERN BUILDING SUPPLY, LLC | MULTIPLE INVOCIES | 0.00 |
| 02/03/2023 | 46355 | THE COPY SHOP | SCAN BAYVIEW PRINTS | 6.00 |
| 02/03/2023 | 46356 | LEELANAU CTY ROAD COMMISSION | UNLEADED/LEADED JANUARY 2023 | 1,458.86 |
| 02/03/2023 | 46357 | NORTHERN BUILDING SUPPLY, LLC | MULTIPLE INVOCIES | 0.00 |
| 02/03/2023 | 46358 | NORTHERN BUILDING SUPPLY, LLC | MULTIPLE INVOCIES | 174.54 |
| 02/07/2023 | 46359 | PRIORITY HEALTH | GROUP 784340 FEBRUARY 2023 PREMIUM | 9,443.93 |
| 02/08/2023 | 46360 | RICHARD & MICHELLE BALDWIN | BALANCE OF ESCROW FUNDS | 2,000.00 |
| 02/10/2023 | 46361 | BRAMER AUTO SUPPLY | CUST# 8571 LED WORKLAMP | 306.95 |
| 02/10/2023 | 46362 | CONSUMERS ENERGY | MULTIPLE ACCTS FEB 2023 | 4,635.68 |
| 02/10/2023 | 46363 | ART'S AUTO AND TRUCK PARTS INC | CUST# 20090 2015 GMC GENERATOR BELT | 475.52 |
| 02/10/2023 | 46364 | AIRGAS USA, LLC | CYLINDER RENTAL JAN 2023 | 32.81 |
| 02/10/2023 | 46365 | DIXON ENGINEERING, INC | PROJ# MI2022EVB4358 MAINT INSPECTION | 3,000.00 |
| 02/10/2023 | 46366 | INTEGRITY SOFTWARE SYSTEMS | TECHNICAL SUPPORT TREASURER COMPUTER | 330.00 |
| 02/10/2023 | 46367 | JACK DOHENY COMPANIES INC | HYDRO EXCAVATION NOZZLE | 1,237.65 |


| Check Date | Check | Vendor Name | Description | Amount |
|------------|----------|---------------------------------|--|----------|
| 02/10/2023 | 46368 | KYLE JEAN | REFUND-OVERPAYMENT WAITING LIST | 25.00 |
| 02/10/2023 | 46369 | WILLIAM BRYNE | REFUND FOR OVERPAYMENT ON SLIP FEES | 250.00 |
| 02/10/2023 | 46370 | NORTHWOODS PRINTERS, LLC | LASER CHECKS-INDEP | 442.51 |
| 02/10/2023 | 46371 | PRINTING SYSTEMS, INC | UTILITY BILLING FORMS-SHUT OFFS | 221.24 |
| 02/10/2023 | 46372 | PURE WATER WORKS | COOLER RENTAL FEB 2023 | 8.50 |
| 02/10/2023 | 46373 | LEELANAU CTY ROAD COMMISSION | 24.0 YDS WINTER MIX | 607.95 |
| 02/10/2023 | 46374 | SECURITY SANITATION, INC | PORTA JOHN WATERWHEEL FEB 2023 | 110.00 |
| 02/10/2023 | 46375 | SOS ANALYTICAL | LAB ANALYSIS JAN 2023 | 100.00 |
| 02/10/2023 | 46376 | SONDER, RACINE & DOREN | CLIENT# 6027-00 LEGAL MATTERS JAN 2023 | 3,060.00 |
| 02/15/2023 | 18808(E) | FIFTH THIRD BANK | BANK FEES FEB 2023 | 135.57 |
| 02/15/2023 | 46377 | BRAMER AUTO SUPPLY | MAINTENANCE HOMELITE TRASH PUMP | 44.96 |
| 02/15/2023 | 46378 | CONSUMERS ENERGY | CONSUMERS 601 FRONTS STREET | 32.56 |
| 02/15/2023 | 46379 | GRAINGER | CUST#871012852 SUPPLIES | 388.50 |
| 02/15/2023 | 46380 | ART'S AUTO AND TRUCK PARTS INC | EQUIPMENT MAINTENANCE-MOWERS | 245.26 |
| 02/15/2023 | 46381 | FLEIS & VANDENBRINK ENGINEERING | PROFESSIONAL SERV JAN 2023 WRS UPDATE 20 | 4,800.00 |
| 02/15/2023 | 46382 | NETLINK BUSINESS SOLUTIONS | MAINTENANCE AGREE/COLOR COPIES | 650.33 |
| 02/15/2023 | 46383 | INTEGRITY BUSINESS SOLUTIONS | ACCT# 957380 OFFICE SUPPLIES | 10.58 |
| 02/15/2023 | 46384 | DOROTHY PETROSKY | OFFICE SUPPLIES | 87.92 |
| 02/15/2023 | 46385 | SECURITY SANITATION, INC | PORTA JOHN MARINA FEB 2023 | 110.00 |
| 02/15/2023 | 46386 | WEST MARINEPRO | MARINA-1008197 PROPELLER-DEICER | 26.98 |

GEN TOTALS:

(8 Checks Voided)

Total of 69 Disbursements:

69,287.84

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|  | | VILLAGE OF SUTTONS BAY | |
| | | REPORT VSB -2023-14 | |
| Prepared: | February 14, 2023 | Pages: | 1 of 1 |
| Meeting: | February 21, 2023 | Attachments: | <input type="checkbox"/> |
| Subject: | Accessory Dwelling Unit (ADU) amendments | | |

OVERVIEW

The Village Council at their Committee of the Whole meeting requested that the proposed zoning amendment regarding Accessory Dwelling Units as recommended by the Village Planning Commission at their May 11, 2022 meeting to be on the agenda for consideration. The current language states:

Section 9-2 Accessory Dwelling

- A. *Size.* Accessory dwellings in the Central Residential District (CR), Newer Village Residential (NV), Single-Family Waterfront (SFWF), South Gateway (SG), North Gateway (NG), and Bay View (BV) Districts shall not exceed 600 square feet. Accessory dwellings in the Hillside Residential (HR) District shall not exceed 800 square feet.
- B. *Setbacks.* Accessory dwellings are subject to the setback and height requirements for principal buildings within the applicable zoning district.
- C. *Owner-occupancy.* The owner of the parcel where an accessory dwelling exists shall reside on the property.

PLANNING COMMISSION RECOMMENDATION

The planning commission at their May 11, 2022 meeting recommended the following motion:

Following discussion by Commissioners, Ostrowski moved, Suppes seconded, CARRIED, to recommend approval to Village Council of the proposed Zoning Ordinance amendment to Section 9-2 Accessory Dwelling Units to read as follows: Ayes: 5, No: 1.

- A. *Size.* Accessory dwelling units shall not exceed 800 square feet.
- B. *Setbacks,* Accessory dwelling units are subject to the setback and height requirements for principal buildings with the applicable zoning district.
- C. (Current language removed)

RECOMMENDATION:

No recommendation. Staff has prepared a number of reports regarding amendments to Section 9-2. Please refer to the COW report for staff comments.



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION MEETING
MINUTES OF MAY 11, 2022

The meeting was called to order at 5:01 p.m. by Chairperson Hetler.

Present: Feringa, Hetler, Ostrowski, Pontius, Smith and Suppes

Absent: Hylwa

Staff present: Fay and Kopriva

Approval of Agenda

Feringa moved, Ostrowski seconded, CARRIED, to approve the Planning Commission agenda as presented. Ayes: 6, No: 0.

Approval of minutes

Suppes moved, Ostrowski seconded, CARRIED, to approve the April 13, 2022, Planning Commission meeting minutes as presented. Ayes: 6, No: 0.

Public Hearing – Accessory Dwelling Units

The public hearing opened at 5:06 p.m. by Chairperson Hetler. Having heard public comments, the public hearing closed at 5:15 p.m.

Following discussion by Commissioners, Ostrowski moved, Suppes seconded, CARRIED, to recommend approval to Village Council of the proposed Zoning Ordinance amendment to Section 9-2 Accessory Dwelling Units to read as follows: Ayes: 5, No: 1.

- A. Size. Accessory dwelling units shall not exceed 800 square feet.
- B. Setbacks, Accessory dwelling units are subject to the setback and height requirements for principal buildings with the applicable zoning district.
- C. (Current language removed)

Pontius moved, Ostrowski seconded, CARRIED, to recommend the Village Council to consider additional language or an amendment for an owner/property manager of short- and long-term rentals to respond within a 30-minutes. Ayes: 5, No: 1.

Smith moved, Ostrowski seconded, CARRIED, to recommend to the Village Council to amend the Short-Term Rental Ordinance to not allow a short-term rental in an ADU with a non-owner-occupied property. Ayes: 6, No: 0.

Public Hearing – Harbor Heights

An application was received from Northporte Development, LLC, for a planned unit development amendment relating to property number 043-821-005-15, located at the north end of N. Duester Park Lane in the Village of Suttons Bay. The application is for the purpose of a major amendment to the North Bluff Addition (Harbor Heights) of the Harbor Club Planned Unit Development (PUD) pursuant to the requirements of Section 8 of the Village of Suttons Bay Zoning Ordinance.

Jeff Cockfield, Engineer for the project, gave a short presentation. The public hearing opened at 5:40 p.m., by Chairperson Hetler. Having heard public comments and responses from the Engineer for the project, the public hearing closed at 6:02 p.m.

Following discussions and review of the Finding of Facts, it was the consensus of Commissioners that the applicant has complied with the following Findings of Facts:

A. The proposed PUD complies with the Intent and all Qualifying Conditions of Sections 8-1 and 8-2 of this Article, respectively.

B. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with the master plan.

C. The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.

D. The PUD shall not negatively affect the character of the surrounding area.

E. The PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.

F. The PUD shall not place demands on public services and facilities in excess of current or anticipated future capacity.

Pontius moved, Suppes seconded, CARRIED, to recommend approval to Village Council on the PUD major amendment for Harbor Heights, 750 Waypoint Circle Drive, Parcel Number 28-043-821-005-15 as it meets the standards for approval in the Zoning Ordinance. Ayes: 6, No: 0.

Ostrowski moved, Suppes seconded, CARRIED, to recommend to Village Council that they confirm the ownership and maintenance of the N. Duester Park Lane, as part of the PUD approval. Ayes: 6. No: 0.

Conditional Rezoning Request – Introduction and Preliminary Review

Kopriva, Planner, stated the applicant has requested to rezone a portion of their property from SFWR to NVR with the conditions that only detached single family dwellings would be constructed with a maximum floor area of 2,400 sq ft, and with a waterfront setback equal to where the neighboring dwellings are located. The NVR district does not have a waterfront

setback requirement since this district is currently on the water. Timothy Figura, Attorney for the applicants, provided additional information. Following discussion and clarification from Figura regarding the application, Feringa moved, Smith seconded, CARRIED, to schedule a public hearing for June 8th, 2022, at 5:00 p.m., for the purpose of approving the Application for a Zoning Map Amendment received by Bahles, to change the Single-Family Waterfront Residential and New Village Residential Zoning to Conditional Rezoning from Single Family Waterfront Residential to New Village Residential. Ayes: 6, No: 0.

Public Comment

William Crackel commented on Short-Term rentals. Rick Andrews commented on the Conditional Rezoning Request.

Reports

Village Council Updates – Suppes encouraged Commissioners to view Village Council updates and action on the Village website.

Good of the Order

Ostrowski stated that there is no striping around the proposed three way stop sign. He further stated his displeasure with how staff did not work with the Northporte Development and the expiration of the project.

Pontius requested to be placed on the next Planning Commission agenda for a Master Planner Citizen presentation.

Hetler thanked the Clerk for keeping everyone on track.


Suppes stated the Village does pay for training and that training is always very good.

Announcements

The next meeting date is June 1, 2022, Special meeting Master Plan kick-off at 6:00 p.m., and June 8, 2022, Planning Commission regular meeting.

The meeting adjourned at 7:02 p.m.

Meeting minutes submitted by Shar Fay, Clerk.

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|  | | VILLAGE OF SUTTONS BAY | |
| | | REPORT VSB -2023-12 | |
| Prepared: | February 14, 2023 | Pages: | 1 of |
| Meeting: | February 21, 2023 | Attachments: | <input type="checkbox"/> |
| Subject: | Article 5 Section 5-2, 5-3 & Article 9 Section 9-7 | | |

PURPOSE

To inform the VC of a recommendation by the Planning Commission to amend the Zoning Ordinance as requested by Peninsula Housing.

OVERVIEW

The applicant requested a zoning text amendment to provide for the following:

- 1) Section 5-2 Table of Uses-to allow for Multi-Family Dwellings as a permitted use in the South Gateway District.
- 2) Section 5-3 Spatial Requirements- to allow for a maximum of 3 stories in the South Gateway District
- 3) Section 9-7 Multi-Family Development- to allow for up to 18 units per acre

The Village Planning commission held a public hearing at their January 11, 2023 regular meeting and recommended that the Village Council adopt the requested changes to Article 5-2, 5-3 and 9-7. See attached minutes.

ACTION REQUESTED

MOTION TO ADOPT/DENY- AMENDMENT NO. Z-2023-03 AMENDMENT 9 OF ORDINANCE 2 OF 2018 TO AMEND SECTION 5-2 TABLE OF USES TO ALLOW FOR MULTI-FAMILY HOUSING IN THE SOUTH GATEWAY DISTRICT AS A PERMITTED USE; SECTION 5-3 SPATIAL REQUIREMENTS TO ALLOW FOR MAXIMUM OF THREE STORIES IN THE SOUTH GATEWAY DISTRICT AND SECTION 9-7 MULTI-FAMILY DEVELOPMENT TO ALLOW FOR UP TO 18 UNITS PER ACRE.



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION MEETING
MINUTES OF JANUARY 11, 2023

The meeting was called to order at 5:00 by Frank Smith.

Present: Steve Feringa, Richard Hylwa, Pete Ostrowski, Frank Smith and Roger Suppes
Absent: Gail Hetler and Jared Pontius
Staff present: Shar Fay, Karrie Zeits, Attorney and Sara Kopriva, Planner
Guests: Timothy Figura, Attorney

Approval of Agenda

Smith added agenda item to 8. New Business, Election of Officers. Suppes moved, Hylwa seconded, CARRIED, to approve the agenda as amended, adding 8. New Business, Election of Officers. Ayes: 5, No: 0.

Approval of Meeting Minutes

Hylwa moved, Ostrowski seconded, CARRIED to approve the Planning Commission meeting minutes of December 7, 2022 and December 14, 2022, as presented. Ayes: 5, No: 0.

Public Hearing – Bahle et.al. Amended Conditional Rezone Request – 301 S Shore Drive
Parcel 45-03-828-031-00

Zeits referred to her report found in the packet in detail. Applicants Attorney Figura followed with an explanation of the request, and further offered a Proposal, which was not part of the current request. Applicant Rich Bahle also provided information about the request, further stating the desire to set a precedence with this application due to the fact they own a similar property with the same dilemma with even more complications.

Smith opened the public hearing at 5:45 p.m.

Public comments

Andrews said the discussion was very confusing, noting that the applicants are presenting changed information that is unclear, and appear to be engaging in negotiations. He asked for a Planners perspective.

Lois Bahle stated Patersons just sold their very large home for two million dollars. She stated the applicants would like to find a way to divide the waterfront from the area in the woods, and build two waterfront cottages on the water side.

Rich Bahle stated he is offended by letter from the Patersons and stated they are in violation of the ordinance as well as multiple other houses in the area.

Written public comments in opposition to the conditional rezoning requests were received from Patersons, Andrews, Houk, and Mozak and can be found in this meeting packet. Additional written public comments in opposition were received from Halasinski, Pattersons, and Millns.

The public hearing closed at 5:53 p.m.

Attorney Zeits stated for the record, Planning Commissioners are not negotiating conditions so the new Proposal presented by the Attorney tonight is not part of the application. The new proposal would require a new application and another public hearing. Commissioners asked if there was any validity to the Proposal presented tonight and Zeits responded by saying she would still have issues with their Proposal. Kopriva agreed with Zeits noting that it would not be feasible once you look at the Master Plan, the Future Land use map, and the Zoning Ordinance.

Based on information provided by the Attorney and discussions regarding the application, Suppes moved to recommend to Village Council to approve the request for Conditional Rezoning Request. Motion dies.

Based on information provided by the Attorney and discussions regarding the application, Suppes moved, Ostrowski seconded, CARRIED, to recommend to Village Council to deny the Conditional Rezoning Request. Ayes: 5, No: 0.

Public Hearing – Request from Peninsula Housing for Text Amendments to the following Sections in the Mixed-Use District

Kopriva briefly reviewed Peninsula Housing requests for text amendments and applicant having no additional comments, the public hearing opened at 6:22 p.m. Written and verbal public comments in support of the requests were received from Zach Hilyer, Housing North. The public hearing closed at 6:24 p.m.

Feringa moved, Hylwa seconded, CARRIED, to recommend Peninsula Housing Zoning Amendment to section 5-2 of the Suttons Bay Zoning Ordinance to Village Council for approval adding multi-family to South Gateway, based on criteria in the staff report. Ayes: 5, No: 0.

Feringa moved, Hylwa seconded, CARRIED, to recommend Peninsula Housing Zoning Amendment to section 5-3 of the Suttons Bay Zoning Ordinance to Village Council for approval, to amend stories allowed, based on criteria in the staff report. Ayes: 5, No: 0.

Feringa moved, Hylwa seconded, CARRIED, to recommend Peninsula Housing Zoning Amendment to section 9-7 of the Suttons Bay Zoning Ordinance to Village Council for approval, to change requirements for multi-family dwellings, based on criteria in the staff report. Ayes: 5, No: 0.

Resolution 1 of 2023 Reinstatement

Hylwa moved, Ostrowski seconded, CARRIED, to approve Resolution 1 of 2023, recommending to Village Council to adopt the 5-Year Recreation Plan covering years 2022-2026, with an affirmative unanimous roll call vote. Ayes: 5, No: 0.

Planning Commission 2022 Annual Report

Suppes moved, Hylwa seconded, CARRIED, to accept and forward the 2022 Annual Planning Commission report to Village Council for acceptance at their January 17, 2023 meeting.

Election of Officers

Smith nominated Gail Hetler as Chairperson and Jared Pontius as Vice-Chairperson. Suppes nominated Frank Smith as Secretary. Feringa moved, Ostrowski seconded, CARRIED, to elect Hetler as Chairperson, Pontius as Vice-Chairperson, and Smith as Secretary. Ayes: 5, No: 0.

The meeting adjourned at 6:35 p.m.

Meeting minutes submitted by Shar Fay, Clerk.

STATE OF MICHIGAN
COUNTY OF LEELANAU
VILLAGE OF SUTTONS BAY

PUBLIC HEARING NOTICE

The Village of Suttons Bay Planning Commission will hold a public hearing at the Village office meeting room located at 420 Front Street, Suttons Bay at their Commission Meeting scheduled for Wednesday, January 11, 2023 at 5:00 P.M. regarding the following text amendments:

- 1) Section 5-2 Table of Uses-to allow for Multi-Family Dwellings as a permitted use.
- 2) Section 5-3 Spatial Requirements- to allow for a maximum of 3 stories
- 3) Section 9-7 Multi-Family Development- to allow for up to 18 units per acre

Information regarding the request may be examined by contacting the Office of Planning & Zoning at the Village of Suttons Bay, during regular business hours of 8:00 a.m. – 4:00 p.m., Monday through Thursday, and 8:00 a.m. – Noon on Friday, at 231-271-3051. Comments or questions may be sent by email to suttonsbay@suttonsbayvillage.org; or to Village of Suttons Bay, PO BOX 395, Suttons Bay, Michigan 49682.

Date: 01.06.2023

From: Sara Kopriva, AICP
To: Suttons Bay Planning Commission

RE: Peninsula Housing Zoning Ordinance Text Amendments



initiative

Action:

Amendment to Add Multi-Family to South Gateway:

Motion to recommend to approve/deny Peninsula Housing Zoning Amendment to section 5-2 of the Suttons Bay Zoning Ordinance to Village Council.

Amendment to amend stories allowed:

Motion to recommend to approve/deny Peninsula Housing Zoning Amendment to section 5-3 of the Suttons Bay Zoning Ordinance to Village Council.

Amendment to change requirements for multi-family dwellings:

Motion to recommend to approve/deny Peninsula Housing Zoning Amendment to section 9-7 of the Suttons Bay Zoning Ordinance to Village Council.

Following the public hearing, the Planning Commission will need to review each amendment and determine if the criteria for text amendments in Section 18-3(3) is met or not met. The criteria for each amendment can be found in the original staff report that is attached.

Beckett & Raeder, Inc.
535 West William
Suite 101
Ann Arbor, MI 48103

734.663.2622 ph
734.663.6759 fx

www.bria2.com

Petoskey Office
113 Howard Street
Petoskey, MI 49770

231.347.2523 ph
231.347.2524 fx

Traverse City Office
148 East Front Street
Suite 207
Traverse City, MI 49684

231.933.8400 ph
231.944.1709 fx

Grand Rapids Office
5211 Cascade Road SE
Suite 300
Grand Rapids, MI 49546

616.585.1295 ph

Date: 11.4.2022

From: Sara Kopriva, AICP

To: Suttons Bay Planning Commission

RE: Peninsula Housing Zoning Ordinance Text Amendments



Action: Motion to schedule a public hearing at the next regular Planning Commission meeting.

The village has received multiple applications from Peninsula Housing for Zoning Ordinance text amendments to allow for multi-family workforce housing within the South Gateway (SG) zoning district.

OVERVIEW

Peninsula Housing seeks to build multi-family workforce housing on a property within the South Gateway (SG) zoning district.

To accommodate the proposed multi-family workforce housing project, the applicant requests the following Zoning Ordinance text amendments:

- Amend Table. 5-2, Schedule of Uses: Mixed Use Districts, to allow Multi-Family housing as a permitted (P) use within the South Gateway (SG) zoning district.
- Amend Table 5-3, Spatial Requirements – Mixed Use Districts, to allow for a minimum of one and one half (1 ½) stories and a maximum of three (3) stories.
- Amend Sec. 9-7 to strike the maximum allowable density of eight (8) units per structure, and maintain an 18 units per acre gross density per site.

Proposed Text Amendment Language

Below is the ordinance language for each of the proposed Zoning Ordinance text amendments. Proposed deletions are shown in **~~strikethrough~~** and proposed additions are shown in **underline**.

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5211 Cascade Road SE
Suite 300
Grand Rapids, MI 49546

616.585.1295 ph

Table 5-2 Schedule of Uses: Mixed Use Districts

| Use | CB | NB | SG | BV | Specific Conditions |
|--------------------------------|----|----|----|----|---------------------|
| RESIDENTIAL | | | | | |
| <u>Dwellings, multi-family</u> | | | P | P | Section 9-7 |

Section 5-3

| Table 5-3 Spatial Requirements- Mixed Use Districts | | | | | |
|--|-------------------------------------|---------------------|------------------------|------------------------|---------|
| Zoning District | | CB | NG | SG | BV |
| Minimum Depth (ft.) | | 120 | 100 | 120 | |
| Width (ft.) | | 25 min. | 60 min., 120., max. | 60 min., 120., max. | |
| Minimum Frontage | | 25 | Equal to width | Equal to width | |
| Front Setback | Front/ Primary Street (ft.) | 0 max. ¹ | 15 min. | 15 min. | 15 min. |
| | Front/ Secondary Street (ft.) | 0 min., 5 max. | 10 min. | 15 min. | 15 min. |
| Side Setback | Adjacent Commercial (ft.) | 0 min. | 10 min. | 10 min. | 5 min. |
| | Adjacent Residential (ft.) | 10 max. | 10 min. | 10 min. | 5 min. |
| Rear Setback | Alley (ft.) | 0 min. | 10 min. | 10 min. | 10 min. |
| | Lot (ft.) | 10 min. | 10 min. | 10 min. | 20 min. |
| | Secondary Street (ft.) | 0 min., 20 max. | 15 min. | 15 min. | 15 min. |
| | Lake Michigan(ft.) | 50 min. | 50 min. | 50 min. | 50 min. |
| Height- (ft.) ² | All buildings | 15 min., 35 max. | 35 max. | 35 max. | 35 max. |

¹ See Section 5-5 B for exceptions.

² Certain projections may exceed 35 feet. See Section 2-11 D.

| | | | | | |
|--------------------------------|----------------------|----------------|------------------|----------------------|--------------------|
| | Corner lot buildings | 20 min.3 | 35 max. | 35 max. | 35 max. |
| Stories- Maximum (number) | | 1 min., 3 max. | 1 ½ min., 2 max. | 1 ½ min., 2 ¾ 3 max. | 1 ½ min., 2 ½ max. |
| Building Coverage Maximum (%) | | - | 40 | 40 | - |
| Impervious Surface Maximum (%) | | - | 50 | 50 | - |
| Front Parking Setback (ft.) | | 25 min. | - | - | - |
| Building Frontage Minimum (%) | Primary Street | 80 | - | - | - |
| | Side Street | 50 | - | - | - |
| | Secondary Street | 50 | - | - | - |

Section 9-7 Multi-Family Development

- A. *Maximum Units.* ~~Eight (8) units per structure~~ Maximum **and** 18 units per acre gross density.
- B. *Open Space.* Open spaces comprising at least 10 percent of the total gross area of the project shall be planned and built as a common area.

Evaluation of Proposed Text Amendment

Below is an evaluation of the proposed Zoning Ordinance amendment based on the criteria for text amendments set forth in Sec. 18-3(C). (Evaluation in *italics*):

- The proposed text amendment would clarify the intent of the ordinance.
The intent of the South Gateway zoning district "accommodates a mix of residential and commercial uses while maintaining residential neighborhood design characteristics to the south of the CBD." The text amendment would accommodate a greater range and mix of residential uses within the SG zoning district.
- The proposed text amendment would correct an error or oversight in the ordinance.
The amendment would not correct an error or oversight.

3. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
The proposed text amendment is not in response to any State legislation, recent case law or opinions from the Attorney General.

4. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
The proposed amendment would not promote compliance with changes in other County, State or Federal regulations.

5. In the event the amendment will add a use to a district, that use shall be fully consistent with the intent of the district and the character of the range of uses provided for within the district.
The SG district "accommodates a mix of residential and commercial uses while maintaining residential neighborhood design characteristics to the south of the CBD." The proposed amendments would accommodate a mix of various residential uses with the inclusion of multi-family housing and allow for greater flexibility in building design for increasing the maximum number of stories in the SG district, as well as a variety of density to support the CBD.

6. The amendment will not create incompatible land uses within a zoning district, or between adjacent districts.
The proposed uses does not appear to create incompatible land uses within the zoning. However, several SG properties appear to be within or adjacent to the village's Conservation Future Land Use Overlay in the Suttons Bay Joint Master Plan, as well as adjacent to several parcels within the Public Lands zoning district. Additional standards to mitigate potential adverse impacts may be appropriate.

7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
There is compatibility with the Joint Master Plan and there does not to appear to be any conflict with any other reports, studies, or other documents.

8. As applicable, the proposed change shall be consistent with the Village's ability to provide adequate public facilities and services.

It is not anticipated that public facilities and services should be impacted by the proposed change as proposed overall site density is not affected, and only allowing flexibility for increased density per structure.

9. The proposed change shall be consistent with the Village's desire to protect the public health, safety, and welfare of the community.

The proposed text amendments is consistent with the Village's desire to protect the public health, safety and welfare of the community.



initiative



Office of Planning and Zoning
420 N Front Street
P O Box 395
Suttons Bay, MI 49682
231-271-3051 or 231-392-5828
zoning@suttonsbayvillage.org

APPLICATION FOR ZONING ORDINANCE TEXT AMENDMENT

This application must be typed or printed in ink and completed in full. An incomplete or improperly prepared application will not be accepted and will result in processing delays.

A. APPLICATION INFORMATION

Name of Applicant: Peninsula Housing

Address: PO Box 555, Suttons Bay, MI 49682

Phone: 231-866-0512 E-mail: home@peninsula-housing.org

Name of Agent: Larry Mawby

Address: PO Box 555, Suttons Bay, MI 49682

Phone: 231-866-0512 E-mail: home@peninsula-housing.org

Please specify to whom all communications should be sent: Applicant ☒ Agent ☐

B. PURPOSE OF APPLICATION

Section(s) reference: Section 5-2 Schedule of Uses: Mixed Use Districts [page 5-3]

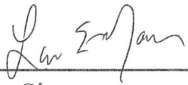
Please explain why the zoning text amendment is being requested (if additional space is required please attach a separate sheet).

Amendment requested to facilitate multi-family affordable workforce housing


Please provide in detail a draft of the proposed text amendment, including all necessary additions to or deletions from current zoning ordinance text (if additional space is required please attach a separate sheet).

Amend to add under Residential Dwellings: Multi-family in SG

C. SIGNATURE:


Applicant Signature

9/9/2022
Date


Agent Signature

9/9/2022
Date



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Please specify to whom all communications should be sent: Applicant ☒ Agent ☐

B. PURPOSE OF APPLICATION

Section(s) reference: Section 5-3 Spatial Requirements: Mixed Use Districts [page 5-4

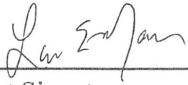
Please explain why the zoning text amendment is being requested (if additional space is required please attach a separate sheet).

Amendment requested to facilitate multi-family affordable workforce housing


Please provide in detail a draft of the proposed text amendment, including all necessary additions to or deletions from current zoning ordinance text (if additional space is required please attach a separate sheet).

Amend Stories - Maximum (number) to 1 1/2 min 3 max. in SG

C. SIGNATURE:


Applicant Signature

9/9/2022
Date


Agent Signature

9/9/2022
Date



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Please specify to whom all communications should be sent: Applicant ☒ Agent ☐

B. PURPOSE OF APPLICATION

Section(s) reference: Section 9-7 Multi-Family Development [page 9-5]

Please explain why the zoning text amendment is being requested (if additional space is required please attach a separate sheet).

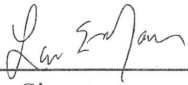
Amendment requested to facilitate multi-family affordable workforce housing

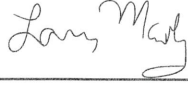
Please provide in detail a draft of the proposed text amendment, including all necessary additions to or deletions from current zoning ordinance text (if additional space is required please attach a separate sheet).


Amend A, which currently reads: A. Maximum Units. Eight (8) units per structure maximum and
18 units per acre gross density.

striking Eight (8) units per structure maximum and
to read: Maximum Units. 18 units per acre gross density.

C. SIGNATURE:


Applicant Signature Date 9/9/2022


Agent Signature Date 9/9/2022

| | | | |
|---|--|-------------------------------|--------------------------|
|  | | VILLAGE OF SUTTONS BAY | |
| | | REPORT VSB -2023-12 | |
| Prepared: | February 14, 2023 | Pages: | 1 of |
| Meeting: | February 21, 2023 | Attachments: | <input type="checkbox"/> |
| Subject: | 301 S Shore Conditional Rezoning Request | | |

PURPOSE

To inform the VC of a recommendation by the Planning Commission to deny a request for a conditional rezone of property located at 301 S Shore Drive.

OVERVIEW

The applicant requested the following conditional rezone for parcel #Parcel 45-043-828-031-00 – 301 S Shore Drive, Suttons Bay

An application has been filed by Lois Bahle, Rich Bahle, Karl Bahle, & Chris Bahle for a conditional rezoning of property located at 301 S Shore Drive. The applicant is asking that the portions of the Property currently zoned as SFWR be conditionally rezoned to NVR. In order to protect the best interests of the public and community, this rezoning would be subject to the following voluntarily offered conditions:

1. Lake Michigan Setback equal to the average setback of the two adjacent built structures.
2. The Conditional Rezoning would be abandoned if a land division is not completed within 10 (ten) years.
3. Above conditions would be included as deed restrictions if a land division is completed.

The Village Planning commission held a public hearing at their January 11, 2023 regular meeting and recommended that the Village Council deny the conditional rezone. A copy of the attorney recommendation and meeting minutes are attached.

ACTION REQUESTED

MOTION TO DENY- THE CONDITIONAL REZONE REQUEST FOR PARCEL 45-043-828-031-00 FOR 301 S SHORE DRIVE AS PRESENTED IN REPORT VSB-2023-12 AND ATTACHED LEGAL REVIEW DATED 1-4-22 AND BEING MADE PART OF THIS MOTION.



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION MEETING
MINUTES OF JANUARY 11, 2023

The meeting was called to order at 5:00 by Frank Smith.

Present: Steve Feringa, Richard Hylwa, Pete Ostrowski, Frank Smith and Roger Suppes
Absent: Gail Hetler and Jared Pontius
Staff present: Shar Fay, Karrie Zeits, Attorney and Sara Kopriva, Planner
Guests: Timothy Figura, Attorney

Approval of Agenda

Smith added agenda item to 8. New Business, Election of Officers. Suppes moved, Hylwa seconded, CARRIED, to approve the agenda as amended, adding 8. New Business, Election of Officers. Ayes: 5, No: 0.

Approval of Meeting Minutes

Hylwa moved, Ostrowski seconded, CARRIED to approve the Planning Commission meeting minutes of December 7, 2022 and December 14, 2022, as presented. Ayes: 5, No: 0.

Public Hearing – Bahle et.al. Amended Conditional Rezone Request – 301 S Shore Drive
Parcel 45-03-828-031-00

Zeits referred to her report found in the packet in detail. Applicants Attorney Figura followed with an explanation of the request, and further offered a Proposal, which was not part of the current request. Applicant Rich Bahle also provided information about the request, further stating the desire to set a precedence with this application due to the fact they own a similar property with the same dilemma with even more complications.

Smith opened the public hearing at 5:45 p.m.

Public comments

Andrews said the discussion was very confusing, noting that the applicants are presenting changed information that is unclear, and appear to be engaging in negotiations. He asked for a Planners perspective.

Lois Bahle stated Patersons just sold their very large home for two million dollars. She stated the applicants would like to find a way to divide the waterfront from the area in the woods, and build two waterfront cottages on the water side.

Rich Bahle stated he is offended by letter from the Patersons and stated they are in violation of the ordinance as well as multiple other houses in the area.

Written public comments in opposition to the conditional rezoning requests were received from Patersons, Andrews, Houk, and Mozak and can be found in this meeting packet. Additional written public comments in opposition were received from Halasinski, Pattersons, and Millns.

The public hearing closed at 5:53 p.m.

Attorney Zeits stated for the record, Planning Commissioners are not negotiating conditions so the new Proposal presented by the Attorney tonight is not part of the application. The new proposal would require a new application and another public hearing. Commissioners asked if there was any validity to the Proposal presented tonight and Zeits responded by saying she would still have issues with their Proposal. Kopriva agreed with Zeits noting that it would not be feasible once you look at the Master Plan, the Future Land use map, and the Zoning Ordinance.

Based on information provided by the Attorney and discussions regarding the application, Suppes moved to recommend to Village Council to approve the request for Conditional Rezoning Request. Motion dies.

Based on information provided by the Attorney and discussions regarding the application, Suppes moved, Ostrowski seconded, CARRIED, to recommend to Village Council to deny the Conditional Rezoning Request. Ayes: 5, No: 0.

Public Hearing – Request from Peninsula Housing for Text Amendments to the following Sections in the Mixed-Use District

Kopriva briefly reviewed Peninsula Housing requests for text amendments and applicant having no additional comments, the public hearing opened at 6:22 p.m. Written and verbal public comments in support of the requests were received from Zach Hilyer, Housing North. The public hearing closed at 6:24 p.m.

Feringa moved, Hylwa seconded, CARRIED, to recommend Peninsula Housing Zoning Amendment to section 5-2 of the Suttons Bay Zoning Ordinance to Village Council for approval adding multi-family to South Gateway, based on criteria in the staff report. Ayes: 5, No: 0.

Feringa moved, Hylwa seconded, CARRIED, to recommend Peninsula Housing Zoning Amendment to section 5-3 of the Suttons Bay Zoning Ordinance to Village Council for approval, to amend stories allowed, based on criteria in the staff report. Ayes: 5, No: 0.

Feringa moved, Hylwa seconded, CARRIED, to recommend Peninsula Housing Zoning Amendment to section 9-7 of the Suttons Bay Zoning Ordinance to Village Council for approval, to change requirements for multi-family dwellings, based on criteria in the staff report. Ayes: 5, No: 0.

Resolution 1 of 2023 Reinstatement

Hylwa moved, Ostrowski seconded, CARRIED, to approve Resolution 1 of 2023, recommending to Village Council to adopt the 5-Year Recreation Plan covering years 2022-2026, with an affirmative unanimous roll call vote. Ayes: 5, No: 0.

Planning Commission 2022 Annual Report

Suppes moved, Hylwa seconded, CARRIED, to accept and forward the 2022 Annual Planning Commission report to Village Council for acceptance at their January 17, 2023 meeting.

Election of Officers

Smith nominated Gail Hetler as Chairperson and Jared Pontius as Vice-Chairperson. Suppes nominated Frank Smith as Secretary. Feringa moved, Ostrowski seconded, CARRIED, to elect Hetler as Chairperson, Pontius as Vice-Chairperson, and Smith as Secretary. Ayes: 5, No: 0.

The meeting adjourned at 6:35 p.m.

Meeting minutes submitted by Shar Fay, Clerk.

MAURICE A. BORDEN
JEFFREY L. JOCKS
KARRIE A. ZEITS

RONALD W. SONDEE, OF COUNSEL
JOHN P. RACINE, JR., OF COUNSEL
W. PETER DOREN, OF COUNSEL

310 WEST FRONT STREET
SUITE 300
TRAVERSE CITY, MICHIGAN 49684
TEL (231) 947-0400
FAX (231) 947-0748
www.sonderracine.com

TO: Village of Suttons Bay Planning Commission

FROM: Karrie A. Zeits – Sondee, Racine & Doren, PLC

DATE: January 4, 2022

RE: Conditional Rezoning Request for Parcel 45-03-828-031-00

In May/June 2022, the Applicant applied for a conditional rezoning per Suttons Bay Village Zoning Ordinance Section 18-4. On November 4, 2022, the Applicant amended the original application.

Conditional rezoning is authorized by the Michigan Zoning Enabling Act at MCL 125.3405. It provides that a property owner may ask the Village to rezone a parcel with specific volunteered conditions proposed by the property owner. However, the Village may not negotiate any of the property owner's volunteered conditions and may not add additional conditions as part of its decision. Said another way, the Village has discretion to approve or deny an application for a conditional rezoning, but its decision on approval or denial is strictly limited to the application and volunteered conditions as proposed by the Applicant.

Here, Applicant is asking to rezone part of Parcel 45-03-828-031-00 which is currently zoned as Single Family Waterfront Residential (SFWR) and New Village Residential (NVR). The parcel's section of SFWR zoning is located between S. Shore Drive and Lake Michigan. The remainder of the parcel is zoned NVR. Applicant is asking that the entirety of the parcel be rezoned to NVR.

The revised Application has three (3) possibly four (4) proposed conditions which are as follows:

Proposal

We are asking that the portions of the Property currently zoned as SFWR be conditionally rezoned to NVR. In order to protect the best interests of the public and community, this rezoning would be subject to the following voluntarily offered conditions:

1. Lake Michigan Setback equal to the average setback of the two adjacent built structures.
2. The conditional rezoning would be abandoned if a land

division is not completed within 10 (ten) years.

3. Above conditions would be included as deed restrictions if a land division is completed.

A fourth possible condition is the Property being developed solely for single family detached residential purposes. However, it is unclear whether this condition is being proposed as it is not in the Applicant's Proposal list.

Analysis of Revised Application

a. NVR Waterfront Setback

The SFWR district fronts on Lake Michigan and has a minimum setback of 50 feet from the lake. ZO, Table 4-3, p 4-4. The NVR district has no minimum setback from Lake Michigan. *Id.* Therefore, the NVR district does not contemplate that any parcels zoned NVR will touch the lakeshore. Applicant has proposed condition 1 which reads: "1. Lake Michigan Setback equal to the average setback of the two adjacent built structures."

Applicant's revised proposed Lake Michigan setback is still vague. Without knowing the actual setbacks of "adjacent built structures" there is no ability for the Planning Commission to determine the actual distance of Applicant's proposed setback. Although the Applicant offers in its narrative that using the "two adjacent built structures," the setback would be "roughly 55 feet." The Applicant's actual proposal is not for a 55' setback. It is proposed to be based on the "two adjacent built structures," and it is unclear what is meant by "the two adjacent built structures." Such vagueness is a red flag because this body must know the precise conditions upon which the Applicant will ultimately utilize the rezoned parcel. Accepting a proposal with such vagueness will likely result in disputes in the future between the Village and the Applicant as to what the language means and what the proper setback should be under the language.

Based on the issue set out in this subsection, I recommend the Planning Commission recommend denial of the proposed conditional rezoning to the Village Council. The vagueness in the proposed setback is a material issue that warrants a recommendation of denial.

b. Parcel

The Applicant's narrative contemplates a potential land division if this conditional rezoning is approved to create a new waterfront parcel on the rezoned portion of Applicant's property. However, this plan creates potential issues that are unaddressed by the proposal.

Although the "Proposal" portion of the revised application does not expressly propose a new lot it also does not expressly exclude a proposal for a new lot either.

A new lot for the portion of the Applicant's rezoned parcel as contemplated in the Applicant's narrative would not meet the minimum depth requirement of the NVR District. The NVR District requires a parcel to have a minimum depth of 100 feet. ZO, Table 4-3, p 4-4. Applicant's survey provided in the Application shows that the rezoned parcel has a 78-79 foot depth. Therefore, the proposed rezoned parcel would not comply with the NVR District if it was

divided from the remaining parcel.

A conditional rezoning cannot result in permitting something that would otherwise not be permitted in the new district. To do so goes well beyond the Village's authority under MCL 125.3405 by allowing parcels that are not allowed in the NVR District. Although a land division is not being requested in this application, it appears the entire purpose of the conditional re-zone offer is to accomplish a division of the waterfront property from the large, wooded area property.

Additionally, it appears the intent is to develop the waterfront parcel for single family detached residential purposes. However, based on the applicable front yard setback and the apparent proposed waterfront yard setback, it would be practically impossible to develop the waterfront parcel for single family detached residential purposes. The front yard setback for the NVR district is 15 feet.¹ ZO, Table 4-3. When combined with the apparent proposed waterfront setback of 55' (although again, this is unclear), this would leave approximately 8-9 feet of depth available for a residential use.

Section 18-4. D of the Zoning Ordinance prescribes considerations for the Village Council with respect to conditional rezoning offers as follows: "[t]he Village Council may consider voluntarily offered conditions **in addition to the minimum considerations listed in Section 18-2**, if the offered conditions protect the best interests of the public and community." (Emphasis supplied.) Section 18-2 D provides the guidelines that shall be used in considering amendments to the Zoning Map:

1. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the master plan; or, if conditions have changed significantly since the master plan was adopted, and the map change would be consistency with recent development trends in the area.
2. Whether the proposed district and the uses allowed are compatible with the physical, geological, hydrological and other environmental features of the site. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
3. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.
4. Other factors deemed appropriate by the Planning Commission or Village Council.

(Emphasis added). In considering the emphasized factors, it appears the proposed district and conditions for the waterfront parcel are not compatible with the physical features of the site nor is the site capable of accommodating the uses that would be allowed by virtue of the rezoning. As

¹ Even if the eventual division of the waterfront parcel included some portion of the wooded parcel to meet the minimum depth requirement for an NVR parcel, the portion of the waterfront parcel adjacent to South Shore Drive would still be considered a front lot line. LOT LINE, FRONT means, in the case of an interior lot, the line separating the lot from the street right-of-way or road easement. Through lots shall have two front lot lines and corner lots shall have a primary and secondary front lot lines. ZO Section 20-7.

outlined above, it would be practically impossible to develop the site as proposed to be re-zoned given the dimensions of the waterfront parcel, the front yard setback for the NVR district, and the proposed waterfront setback.

Based on the issues set out in this subsection, I recommend the Planning Commission recommend denial of the proposed conditional rezoning to the Village Council. The purported entire purpose of the rezone under the current proposal is not possible. The waterfront parcel does not comply with the dimensional requirements of the NVR District. And the parcel would not be developable within the setbacks that would apply if the proposal was approved.

c. Timeline.

The Applicant proposes that if a land division is not completed within 10 years, the conditional rezone would be abandoned. Firstly, this is another vague condition. It is unclear from the condition what land division needs to occur in order for the conditional rezone to continue. Although it can be assumed from the narrative the Applicant means a land division creating the waterfront parcel as a new parcel(s), this is not what the condition says. Secondly, this condition would leave whether the waterfront portion of the parcel is rezoned open for up to ten years. Looking at general guideline 1 under 18-2 to be considered in considering a conditional rezone, a rezone that may or may not happen for up to 10 years is inconsistent with the Village's Master Plan, which contemplates efficient versus inefficient planning. *See* Master Plan, p 2. Additionally, it would be challenging for the Planning Commission to determine whether the proposed rezone meets the goals of the master plan for the Village since it will be unknown for up to 10 years whether the rezone will occur.

Based on the issues with respect to the proposed timeline outlined in this subsection, I recommend the Planning Commission recommend denial of the proposed conditional rezone to the Village Council. Leaving open whether a property will be rezoned for up to 10 years based on the occurrence of a vague condition is inefficient and impossible to determine whether the goals of the master plan are being met.

Conclusion

The above sets out the legal issues with the Application. These issues are significant and warrant a recommendation of denial to the Village Council. Simply put, the Applicant's proposal is unclear and would not advance public necessity and convenience or the general welfare.

STATE OF MICHIGAN
COUNTY OF LEELANAU
VILLAGE OF SUTTONS BAY

PROPOSED CONDITIONAL REZONING

The Village of Suttons Bay Planning Commission will hold a public hearing at the Village office meeting room located at 420 Front Street, Suttons Bay at their Commission Meeting scheduled for Wednesday, January 11, 2023 at 5:00 P.M. regarding the following request for a conditional rezoning


Parcel 45-043-828-031-00 – 301 S Shore Drive, Suttons Bay

An application has been filed by Lois Bahle, Rich Bahle, Karl Bahle, & Chris Bahle for a conditional rezoning of property located at 301 S Shore Drive. The applicant is asking that the portions of the Property currently zoned as SFWR be conditionally rezoned to NVR. In order to protect the best interests of the public and community, this rezoning would be subject to the following voluntarily offered conditions:

1. Lake Michigan Setback equal to the average setback of the two adjacent built structures.
2. The Conditional Rezoning would be abandoned if a land division is not completed within 10 (ten) years.
3. Above conditions would be included as deed restrictions if a land division is completed.

Information regarding the request may be examined by contacting the Office of Planning & Zoning at the Village of Suttons Bay, during regular business hours of 8:00 a.m. – 4:00 p.m., Monday through Thursday, and 8:00 a.m. – Noon on Friday, at 231-271-3051. Comments or questions may be sent by email to suttonsbay@suttonsbayvillage.org; or to Village of Suttons Bay, PO BOX 395, Suttons Bay, Michigan 49682.



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|---|-------------------|--|--------------------------|
|  | | <h1 style="text-align: center;">VILLAGE OF SUTTONS BAY</h1> <h2 style="text-align: center;">REPORT VSB -2023-15</h2> | |
| Prepared: | February 14, 2023 | Pages: | 1 of 1 |
| Meeting: | February 21, 2023 | Attachments: | <input type="checkbox"/> |
| Subject: | Timeline | | |

OVERVIEW

On September 27, 2018, the Interim Village Manager drafted a memorandum addressed to the General, Administration, and Utility and Marina Committees. That memorandum is the only correspondence we have located regarding what is being referred to as the Baldwin Homes project. That memorandum stated as follows:

Baldwin Homes & Land Development – connection to Sewer System: This anticipated project is informal only. A formal request is forth coming. Status updates will be done verbally, but I expect a more formal written will be provided on or before the council meeting. As always, if you have questions, please feel free to contact me.

According to the minutes and village packets, this is the only time this project was mentioned, and it appears to be at the committee level.

In 2020, Mr. Baldwin requested a meeting to discuss his sewer plan. A brief meeting occurred for the simple fact that there were numerous unacceptable design practices, including an illegal stub for future connection to Herman Park.

In January 19, 2021, the intergovernmental agreement with Suttons Bay Township was rescinded. At the time, the village extended Mr. Baldwin the *courtesy* to allow him to work diligently towards an acceptable sewer design. Several months of inactivity resulted in an email informing him that he failed to advance the expectation that the project would move forward.

January 4, 2022, the Baldwin project expired at the Township, yet was presented to Staff and the village council as a valid project.

In February of 2022, a meeting was held and once again the plan was not acceptable. He was then informed that he had until June of 2022, to have a plan that meets the intent of the ordinance, should he want to continue this courtesy, which he failed to provide.

In September 2022, Mr. Baldwin had the plan set updated to address the 2020 meeting concerns.

In October 2022, approximately 8 months following our meeting and several months past his deadline he dropped off a set of plans at the village. The plan set was once again inadequate and failed to address all the concerns provided since 2020.

My November 28, 2022, email followed, informing him of the rescindment. The email also stated that the village would be drafting a new intergovernmental agreement in 2023, and that we would be happy to discuss his project following its adoption.

VILLAGE COUNCIL

Most importantly, Mr. Baldwin failed to renew his project, which automatically caused its expiration. Mr. Baldwin's attempt to have the village council guarantee him the ability to circumvent *all* procedures in two communities and still fall under the rescinded intergovernmental agreement, is an attempt to place the village council in a precarious legal position. From a procedural perspective, he is no further along than he was in September 2018.

I would recommend that the village council seek a legal opinion if you are in anyway considering offering anything to Mr. Baldwin.

CAPACITY

Preliminarily, the numbers for the wastewater treatment plant indicate that we may not have the capacity for a community buildout. We are continuing to evaluate this information and hopeful that our preliminary numbers improve, regardless, when we feel comfortable, we will present our findings to the village council. Although we will undoubtedly hear that our capacity is plentiful, these individuals are choosing to disregard the portion of the plant that is reserved and paid for. In addition, a property owner in the Bayview Project has hired legal counsel who has contacted my office recently, so disregarding their capacity is not recommended. Until the data can be vetted, offering sewer capacity to anyone outside the village is premature, especially one who has yet to begin the process.

CONCLUSION

It is well documented that the village has a desire to extend utilities to housing projects outside the village jurisdictional boundary. However, the village is required to follow the law and the applicant is required to follow proper procedure. Praising support for a project does not create a new procedure or exempt someone from the law. Nothing has changed procedurally since the original statement in 2018, that informed the village council that the sewer process was informal.

Again, I would recommend that the village council seek a legal opinion prior to offering anything to Mr. Baldwin.