



VILLAGE OF SUTTONS BAY
Planning Commission
420 N. Front Street, Suttons Bay, MI 49682
January 11, 2023 at 5:00 pm
Regular Meeting 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. Call to order
2. Roll call and notation of quorum
3. Approval of Agenda
4. Member conflict of interest on any item on the agenda
5. Approval of minutes December 7, 2022 & December 14, 2022
6. Public comment/Written communications (Reserved time for items listed on the agenda). Please limit remarks to no more than three (3) minutes
7. Old Business
 - a. Public Hearing-Bahle et.al. Amended Conditional Rezone Request-301 S Shore Drive
 - b. Public Hearing- Request from Peninsula Housing for Text Amendments to the following Sections in the Mixed- Use District -Set for Public Hearing:
 - 1) Section 5-2 Table of Uses-to allow for Multi-Family Dwellings
 - 2) Section 5-3 Spatial Requirements- to allow for maximum of 3 stories
 - 3) Section 9-7 Multi-Family Development- to allow for up to 18 units per acre
 - c. Resolution 1 of 2023 restatement
 - d. Planning Commission Annual report for 2022
8. New Business
9. Public comment
10. Reports
 - a. Zoning Administration Report
 - b. ZBA Report
 - c. Village Council Updates
11. Good of the order
12. Announcements: Next Master Plan Meeting January 25, 2023; Next Regular Meeting February 8th, 2023
13. 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 at suttonsbay@suttonsbayvillage.org as soon as possible.



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION MEETING
MINUTES OF DECEMBER 7, 2022

The meeting was called to order at 5:00 p.m., by Chairperson Hetler.

Present: Feringa, Hetler, Hylwa, Ostrowski, Pontius, Smith and Suppes
Staff present: Fay
Guests: Jill Bahm and Rose Kim of Giffels Webster

Approval of Agenda

Suppes moved, Smith seconded, CARRIED, to approve the agenda as presented.
Ayes: 7, No: 0.

Master Plan Review

Jill Bahm stated tonight's meeting will include the future land use descriptions, changes identified on the maps and some action strategies. Discussions continued and Bahm will make changes as discussed.

Commissioners would like comments and suggested revisions on the Master Plan sent to the Clerk for forwarding to Giffels Webster and the other Commissioners.

Public Comment

Lois Bahle commented on large residential lot sizes, and suggested adding studio apartments to the plan.

The next regular Planning Commission meeting is December 14, 2022.

The meeting adjourned at 6:18 p.m.

Meeting minutes submitted by Shar Fay, Clerk.



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION MEETING
MINUTES OF DECEMBER 14, 2022

The meeting was called to order at 5:00 p.m. by Chairperson Hetler.

Present: Feringa, Hetler, Hylwa, Ostrowski, Pontius, Smith (arriving at 5:15 p.m.)
and Suppes

Staff present: Kopriva, Planner and Karrie Zeits, Attorney

Approval of Agenda

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

Approval of minutes

Ostrowski moved, Suppes seconded, CARRIED, to approve the November 2, 2022
Planning Commission meeting minutes. Ayes: 6, No: 0.
Suppes moved, Ostrowski seconded, CARRIED to approve the November 9, 2022,
Planning Commission meeting minutes. Ayes: 6, No: 0.

Public Comment

Larry Mawby encouraged the continued discussion regarding the Request from
Peninsula Housing for Text Amendments and supports moving to a public hearing.

Rich Bahle is encouraging the Amended Conditional Rezone Request at 301 S. Shore
Drive to move to a public hearing.

Drew Lutke was present to answer any questions regarding the Public Hearing for a
Text Amendment to 6-2 Commercial and Industrial Table of Uses.

Public Hearing for a Text Amendment to 6-2 Commercial and Industrial Table of Uses-to
include small distillery, microbrewery and small winery as permitted uses.

Hetler opened the public hearing at 5:06 p.m. Lutke provided explanation of his
request. Public comment was received from Mawby in support. The public hearing
closed at 5: 13 p.m.

Suppes moved, Feringa seconded, CARRIED, to recommend approval of the Lutke Zoning Amendment to add Small distillery, microbrewery and small winery to Section 6-2, to Village Council. Ayes: 6, No: 0.

Public Hearing for Daycare/Group Home language Amendment – Housekeeping Amendment
Hetler opened the public hearing at 5:14 p.m. Public comment from Mawby in support.
Commissioner Smith arrived at 5:15 p.m. The public hearing closed at 5:16 p.m.

Suppes moved, Pontius seconded, CARRIED, to recommend to Village Council to adopt the proposed amendment. Ayes: 7, No: 0.

Bahle et.al. Amended Conditional Rezone Request 301 S Shore Drive

Feringa moved, Suppes seconded, CARRIED, to set a public hearing on the Bahle et.al. Amended Conditional Rezone Request at 301 S. Shore Drive for the next Planning Commission meeting scheduled for January 11, 2023. Ayes: 7, No: 0.

Continued Discussion regarding the Request from Peninsula Housing for Text Amendments in the Mixed-Use District

Pontius moved, Smith seconded, CARRIED, to set a public hearing for January 11, 2023, to amend Section 5-2 of the Village of Suttons Bay Zoning Ordinance, Table of Uses – to allow for Multi-Family Dwellings. Ayes: 7, No: 0.

Pontius moved, Smith seconded, CARRIED, to set a public hearing for January 11, 2023, to amend to Section 5-3 of the Village of Suttons Bay Zoning Ordinance, Spatial Requirements – to allow for maximum of three stories. Ayes: 7, No: 0.

Pontius moved, Smith seconded, CARRIED, to set a public hearing for January 11, 2023, to amend Section 9-7 of the Suttons Bay Zoning Ordinance, Multi-Family Development – to allow for up to 18 units per acre. Ayes: 7, No: 0.

2023 Meeting dates

Smith moved, Ostrowski seconded, CARRIED, to approve the 2023 meeting dates and times as proposed. Ayes: 7, No: 0.

Public Comment

Larry Mawby thanked the Planning Commission for the work they are doing.

Reports

Zoning Administration Report – The Zoning Report was submitted and can be found in this meeting packet.

Village Council updates

Suppes stated the proposed 2023 budget was approved. Suppes stated that Feringa and Hetler were appointed to the Planning Commission for another term.

Good of the order

Hetler thanked Planning Commissioners for their participation and the accomplishment of the Parks and Rec Plan, the work on the Master Plan, and the public for their comments. Hetler stated she is willing to continue as chairperson.

The next regular meeting will be held on January 11, 2023.

Meeting minutes submitted by Shar Fay, Clerk.

From: Richard Paterson <rich.d.paterson@gmail.com>
Sent: Wednesday, December 28, 2022 1:33 PM
To: suttonsbay@suttonsbayvillage.org
Subject: re: Amended application (11/3/22) for Conditional Re-zoning- 301 S. Shore Drive

Dear Planning Commission Members:

We are Deborah and Richard Paterson. We have owned the property at 201 S. Shore since 2012. Earlier this summer, we wrote in opposition to the proposed conditional re-zoning. We see nothing in the revised proposal to change our view. We continue to oppose the re-zoning.

Why? The village's zoning requirements were developed for a reason. To protect from over development and increased density of the lake shore. This is sound policy for aesthetic and environmental reasons.

To grant one single property owner a conditional re-zoning that does not meet the current lake front setbacks is inappropriate. The fact that other properties were grandfathered, including the property in question, impacts everyone equally. No one should be able to do whatever they want. This is the essence of sound zoning policy. If this request is granted, wouldn't every other property owner on the lake front be justified in requesting their own version of "fairness"....whatever that may be? Would the commission grant all these exceptions? Hopefully not. It seems to us that granting this request would lead to extensive litigation if other requests from other property owners were not to be granted ... if the precedent is established. Fair is fair? Let's not degrade the standards adopted by the Village by granting a re-zoning request that is only in the financial interest of one party.

Sincerely,

Deborah and Richard Paterson

Sent from my iPad=

PC

suttonsbay@suttonsbayvillage.org

From: Rick Andrews <andrews8887@hotmail.com>
Sent: Monday, January 2, 2023 9:49 PM
To: suttonsbay@suttonsbayvillage.org
Subject: Opposition to Proposed Rezoning - 301 S. Shore Drive

Dear Members of the Planning Commission:

This note is to express opposition to the proposed rezoning of 301 S. Shore Drive.

First, let me say it gives me no satisfaction to oppose a project by the Bahle family. I consider Rich, Chris, Lois, Bob and Karl friends, neighbors and professional colleagues (in my work w/ the Bay Theatre previously owned by the Bahles). The Bahles have always been strong supporters of the community, easy to work with, and committed to the positive development of the Village of Suttons Bay. Having said this, I am not comfortable with the rezoning proposal for the following reasons:

1. Sets a Precedent that Risks Further Unwanted Rezoning (and/or law suits)

How will the village deny others who want to rezone their waterfront lots? Allowing this rezoning would be poor/undisciplined zoning management in my view.

2. Not consistent with long term development goals of the village.

The SFWR district was created to protect waterfront areas like S. Shore Drive from over-development and to establish consistent rules for setbacks, lot sizes, etc going forward. The SFWR zoning is so clear (and demanding) on this goal that many of the older homes built before the SFWR do not meet the SFWR's requirements. This is not a surprise. It is just indicative of how seriously the village considers the need to control the development of the waterfront district.

This rezoning proposal would be a step backward.

3. Unfair to all other waterfront property owners

The applicant seems to want to apply old zoning rules to their specific property while asking all other waterfront property owners to comply with current zoning. I am not comfortable with this.

One final note: I very much hope the PC (and the public) will have the benefit of a report and recommendation by the village planner(s). This proposal is not just a legal situation for village attorneys to review. This is a strategic zoning issue our planner(s) can and should help us navigate.

Thank you for your consideration.

Regards,

Rick Andrews
345 and 361 S. Shore Drive

TR

TO: Suttons Bay Village Planning Commission
Village of Suttons Bay
PO BOX 395
Suttons Bay, Michigan 49682

FROM: James M. Houk
333 South Shore Drive 2916 Pickwick Dr.
Suttons Bay, Michigan Columbus, Ohio 43221

DATE: December 30, 2022

RE: PROPOSED CONDITIONAL REZONING
PARCEL 45-043-828-031-00
301 SOUTH SHORE DRIVE, SUTTONS BAY

I RESPECTFULLY REQUEST THAT A COPY OF THIS LETTER BE PROVIDED TO EACH COMMISSION MEMBER!

My name is Jim Houk and I am a property owner of 333 South Shore Drive in Suttons Bay, Michigan. I am in receipt of a notice for a proposed conditional rezoning request hearing to be held on January 11, 2023, by the Village of Suttons Bay Planning Commission for 301 South Shore Drive in Suttons Bay.

For point of reference, I have considerable expertise in the area of city planning and rezoning. I am a recently retired certified planner and licensed Landscape Architect within the State of Michigan. Up until my retirement the beginning of 2021, I was a Managing Partner and Chairman of the Board for one of the largest Engineering and Planning firms in the State of Michigan, OHM Advisors.

As a "down the street" neighbor to the property being proposed for rezoning from the SFWR district to a conditional NVR district, I am very concerned with the proposal both as a neighbor and a professional planner. I originally testified in opposition to this rezoning request at the planning commission meeting when this zoning was proposed last summer.

First off, I absolutely have no issue with the Bahle family or their desire to sell or redevelop their property. They have been a stalwart family of Suttons Bay for many generations and our Village would not be what it is today without the efforts of their family. My issue is solely related to the potential impact this zoning change could have on our neighborhood and the Suttons Bay waterfront district over time.

While it is true that the redevelopment of their parcel under the conditional NVR district (even with the presumed lot split) would result in a built environment consistent with most of the homes on our street, my concern is related to the legal precedent a rezoning to the NVR district could have on the waterfront district over the long term.

Most of the homes on South Shore Drive were built years ago, well before the establishment of the SFWR district and, for this reason, many do not meet the SFWR requirements. However, the zoning ordinance that established the SFWR district is forward looking and will result in: lower density, better preservation of existing vegetation and less impact to our lakefront over time. **THIS IS GOOD LONG-TERM PLANNING** and I commend the Village of Suttons Bay for taking this step when they did.

My concern with the proposed conditional NVR rezoning request is solely related to the legal precedent an NVR zoning could have on the lakefront environment and our current SFWR zoning district. To date, I do not believe that any NVR district zoning exists along any of our waterfront, clearly not on the South Shore Drive waterfront. I believe once we open this door, it will be extremely difficult to say no to the next NVR request along our waterfront as legal challenges will be brought based on previous precedent!

While this may not be in the financial best interest of my property or my family, I commend the village planners for taking the efforts when they did to establish the SFWR District. Over time, lowering the density and potential environmental impacts to our lakeshore will have positive results on our quality of life!

Suttons Bay and its lakeshore is one of the most beautiful places on earth and this resource is why we are all here! It is extremely important to all of us in the

Village of Suttons Bay, that we do all we can to protect our lakeshore! I believe the strict preservation of the SFWR district will help to assure this.

I respectfully request that the Village Planning Commission do everything within their powers to preserve the SFWR district and our lakeshore by rejecting this zoning request!

Respectfully submitted,
James M. Houk, (Retired AICP, ASLA)

From: Paul Mozak <Pmozak@outlook.com>
Sent: Wednesday, January 4, 2023 8:51 PM
To: suttonsbay@suttonsbayvillage.org
Cc: Rich Paterson; Debbie Paterson; Kathleen Mozak
Subject: Opposition to the Amended Application for Conditional Rezoning:: 301 S. Shore Dr

Dear Suttons Bay Village Planning Commission Members,

We are Paul and Kathleen Mozak and are purchasing the property located at 201 S. Shore Drive in Suttons Bay from the Paterson's who have owned the property since 2012. I have a copy of the proposal to conditionally rezone the property located at 301 S. Shore Drive. I understand a proposal to amend the SFWR language regarding the Spatial Requirements was appropriately declined by the Planning Commission in November 2019. We oppose the new request for Conditional Rezoning.

As new residents of waterfront property in Suttons Bay, not far from the property requesting Conditional Rezoning, I support existing zoning requirements be consistently applied to avoid land use conflicts with others in the area. Zoning is a means to promote the welfare of the community by guiding orderly growth. While the Michigan legislature has created a structure which allows Conditional Rezoning, its use should be very limited and only where it provides consistency and predictability in implementing the community vision as articulated in the master plan.


My understanding is that a request for conditional rezoning must not only request specific conditions, it must also be reasonable and intended to protect natural resources, the health, safety and welfare, and the social and economic well-being of people. Requests also have to be related to a valid exercise of power and necessary to meet the intent and purpose of the zoning ordinance related to land use under consideration and necessary to ensure compliance with those standards. We do not believe the request is reasonable or meets those standards.

It appears that the proposed conditional rezoning is an attempt of the owners to create an unwarranted exception to the existing zoning rules to their personal benefit, but to the detriment of others. The village's zoning requirements protect from over development and increased density of the lake shore. This is a sound policy for aesthetic and environmental reasons. To grant a single property owner a conditional re-zoning that does not meet the current requirements for historical events that are "outside the property owners control" is not a valid justification and will lead to extensive litigation if other similar requests are not granted. We also believe the rezoning would have a detrimental impact on traffic, which is heavy in the summer months on S. Shore Drive. Finally, the proposed rezoning would have a detrimental impact on the property values, including the value of our home, due to the risk of future over-development and the uncertainty of a capricious zoning environment.

We oppose the requested conditional rezoning for 301 S. Shore Drive, and it should be rejected by the Commission.

Respectively,

Paul and Kathleen Mozak

		VILLAGE OF SUTTONS BAY	
		REPORT VSB -2023-04	
Prepared:	January 4, 2023	Pages:	1 of 1
Meeting:	January 11, 2023	Attachments:	<input checked="" type="checkbox"/>
Subject:	Conditional Rezoning Request		

PURPOSE

To briefly discuss the Conditional Rezoning Request

OVERVIEW

Anytime an application is received, it is reviewed to determine if it is complete and to determine the overall appropriateness of the application. If at any time, there is a concern regarding the legality of an application, we request a legal opinion. In this case, the application appeared to exceed the limitations of that permitted by the Michigan Zoning Enabling Act. Therefore, the application was sent to our attorney for review and opinion.

STAFF COMMENT

The Village Attorney has provided a memorandum dated January 4, 2023, that addresses the application and provides direction to the Planning Commission. Rather than reiterate the memorandum, it is attached for your understanding.

ACTION REQUESTED

Review of the attachment.

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.sondeeracine.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.



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
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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

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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**.

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

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113 Howard Street
Petoskey, MI 49770

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

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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.

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	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 ½ 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*):

1. 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.
2. 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.

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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:

 9/9/2022
 Applicant Signature Date

 9/9/2022
 Agent Signature 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

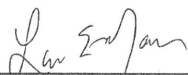
Please explain why the zoning text amendment is being requested (if additional space is required please attach a separate sheet).

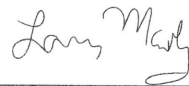
Amendment requested to facilitate multi-family affordable workforce housing

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:

 9/9/2022
Applicant Signature Date

 9/9/2022
Agent Signature Date



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APPLICATION FOR ZONING ORDINANCE TEXT AMENDMENT

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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 [X] 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 [Signature] Date 9/9/2022

Agent Signature [Signature] Date 9/9/2022

**Village of Suttons Bay Planning Commission
Resolution 1 of 2023**

Whereas, the Village of Suttons Bay Planning Commission developed a 5 Year Recreation Plan which describes the recreation and natural resource conservation needs and desires of its residents during a five-year period covering the years 2022-2026: and,

Whereas, following a public hearing on October 5, 2022 to obtain input on recreation needs and opportunities, the Village Planning Commission, by way of a motion rather than by Resolution, recommended that the Village Council adopt the 2022-2026 Parks and Recreation Plan; and

Whereas, at the November 21, 2022, Village Council meeting, the Village Council adopted by Resolution 1 of 2022 the 2022-2026 Parks and Recreation Plan,

Whereas, upon gathering materials to submit to the Michigan Department of Natural Resources, it was discovered that an official Resolution of the body recommending to forward the plan to the Village Council was required;

Now therefore be it resolved, that the Suttons Bay Village Planning Commission recommended on October 5, 2022 by way of a motion that the Village Council adopt the 2022-2026 Suttons Bay Village Parks and Recreation Plan and restates the same by this Resolution.

Moved:

Supported:

Roll Call Vote: Ayes Nays

CERTIFICATION

I, Shar Fay, Clerk of the Village of Suttons Bay, do hereby certify that the above is a true and correct copy of a Resolution which was adopted by the Village of Suttons Bay Planning Commission at a regular meeting held on the 11th day of January, 2023.

Shar Fay, Clerk

Date:



VILLAGE OF SUTTONS BAY
PLANNING COMMISSION
MEETING MINUTES OF OCTOBER 5, 2022

The meeting was called to order at 5:00 p.m. by Chairperson Hetler.

Present: Feringa, Hetler, Ostrowski, Pontius, and Smith
Absent: Hylwa and Suppes
Staff present: Fay, Petroskey, and Kopriva, Planner

Approval of agenda

Smith moved, Ostrowski seconded, CARRIED, to approve the agenda as presented.
Ayes: 5, No: 0.

Approval of minutes

Feringa moved, Smith seconded, CARRIED, to approve the Planning Commission meeting minutes of September 14, 2022, as presented. Ayes: 5, No: 0.

Public Comment

Perkins asked how decisions are made and referred to the sand at Marina Park.

Public Hearing Parks and Recreation Plan

The public hearing opened at 5:03 p.m. Written comments were received from Suttons Bay Township, Pete Ostrowski and Lois Bahle. The written comments regarding the Parks and Rec Plan can be found in this meeting packet. The public hearing closed at 5:05 p.m.

Ostrowski moved, Smith seconded, CARRIED, to accept the Parks and Recreation Plan as presented. Ayes: 0, No: 5.

Hetler reviewed and Commissioners discussed Ostrowski's comments found in the packet. It was the consensus of Commissioners to make the following changes to the Parks and Rec Plan:

- Page 4 - Leelanau Trail paragraph, change "TART" to "TART Trails."
- Page 19 - Ice Rink paragraph and following the word "skating", add, "The rink also hosts a pond hockey league. Beloved by students, kids and adults, these winter activities have been going on for generations, thanks to volunteers and township support."

- Page 20 - First line, add, "The park was purchased in 2008 and has recently added a multiple purpose field for use by the Leelanau Soccer Club. Future projects include a pump track, dog park and more pickleball courts."
- Page 21 - Remove ")" in the first line.
- Page 23 - Regarding the symbol for Northport, remove the diamond and leave the star.
- Page 25 - First paragraph, add "Trails" following TART.
- Page 25 - Change the ACS numbers to the 2020 numbers.
- Page 25 - Change the # of Short-Term Rentals to "63".
- Page 41 - Add language to imply the stream will improved as needed
- Page 43 & 44 - Add language that specific projects will be developed annually.

Hetler reviewed and Commissioners discussed Suttons Bay Township's comments. It was the consensus of Commissioners to make the following changes to the Parks and Rec Plan:

- Page 15 - Change the current acreage for Graham Green acres to "45".
- Page 15 - Regarding the boat launch, Kopriva will research the boat launch in Suttons Bay Township and make a determination where it should be in the plan.

Hetler reviewed and Commissioners discussed Lois Bahle's comments. It was the consensus of Commissioners to make the following changes to the Parks and Rec Plan:

- Page 1 - Add Northport to the list.
- Page 16 - Add the history that created the name of Deuster Park.
- Page 26 - Correct the spelling error of "privately."
- Page 31 - Following "water fountains" add language, "install and replace".

Smith moved, Ostrowski seconded, CARRIED, to recommend the Parks and Recreation Plan to Village Council for adoption, with the recommended changes found in these minutes. Ayes: 5, No: 0.

Public Comment

Lois Bahle congratulated Commissioners on the completion of the Parks and Rec Plan. She further suggested looking for grant money.

Reports

The Zoning Administration report was submitted and can be found in this meeting packet.

ZBA report - The next ZBA meeting will be October 19, 2022, at 5:30 p.m.

Good of the Order

Smith suggested the Suttons Bay Art Festival Board consider having the vendors/artists and their trailers park at Suttons Bay Schools instead of street parking which takes up valuable customer parking.

Announcements


The Planning Commission meeting scheduled for October 12th, has been canceled. This meeting has been moved to November 2, 2022, at 5:00 p.m.

Adjournment

Feringa moved, Ostrowski seconded, CARRIED, to adjourn the meeting.
Ayes: 5, No: 0.

The meeting adjourned at 5:43 p.m.

Meeting minutes submitted by Shar Fay, Clerk.

		VILLAGE OF SUTTONS BAY REPORT VSB -2022-75	
Prepared:	January 3, 2022	Pages:	1 of 2
Meeting:	January 11, 2023	Attachments:	<input type="checkbox"/>
Subject:	PC 2022 Annual Report		

Introduction

This 2022 annual Planning Report was prepared pursuant to the requirements of Section 19(2) of the Michigan Planning Enabling Act, which states:

"A planning commission shall make an annual written report to the legislative body concerning its operations and the status of planning activities, including recommendations regarding actions by the legislative body related to planning and development."

This report is intended to serve as the Planning Commission’s report to the Village Council, as required above, and will also outline the activities of Staff in the 2022 year.

Administration

Staff was responsible for generating 74 reports in 2022, to the Village Council, Village Planning Commission, DDA, and Parks and Recreation Committee. This number has been consistent of the past two years. Routine tasks also include site visits, dialogue with the development community, reviewing and amending the 2018 Village Zoning Ordinance & Zoning Map, continuing work on the new Parks & Recreation plan, Master Plan and applying for and administering grants.

Planning Consultant

The firm of Beckett & Raeder was hired this year to allow the planning commission to continue to work with consultant Sara Kopriva. Sara’s role as a consultant is to work on zoning amendments, special use permits and site plans.

Zoning Administration

Nineteen (19) Land Use Permits were issued this year. Our former Zoning Administrator is no longer with us and we are in the process of evaluating the position. Steve Patmore has graciously agreed to assist us in the interim.

Planning Commission

The Planning Commission meets the second Wednesday of each month and is responsible for reviewing development applications, preparing plans, and advising the Village Council on development matters and zoning amendments. This schedule will continue throughout 2023. In addition, the commission has been scheduling extra meetings per month to work on the Master Plan. This should be finalized this year.

Village Zoning Ordinance

The Village Zoning Ordinance was adopted in 2018; however, as is customary, a number of zoning amendments were adopted this year.

- Discussion began in late last year regarding off premise tasting rooms. It was determined that due to requests from interested wineries/distilleries language would be drafted and discussed in January. A public hearing was held and the Ordinance was amended to allow tasting rooms as a permitted use in the Central Business, North Gateway & South Gateway Districts. In addition, language was added to the definition section for on premise and off premise tasting rooms.
- The planning commission recommended changes to Section 9-2 to allow for non-owner occupied Accessory dwelling units and to increase the size of the accessory dwelling unit from 600 to 800 square feet. The subject is currently before the Village Council.
- A public hearing was held regarding a text amendment to Article 6-2 to include a small distillery, microbrewery and small winery as a permitted use was recommended by the planning commission and forwarded to the Village Council. This recommendation will be before the Village Council in January 2023.
- A public hearing regarding a text amendment to the daycare/Group Home language in the Ordinance was held with the planning commission. The changes were brought to the attention of the planning commission via a statutory amendment made at the legislative level. This recommendation will be before the Village Council in January 2023.

Special Land Use Permits

In January a public hearing was held to approve a request from Hop Lot Brewery LLC to operate a small distillery with a tasting room.

In April of 2022, Harbor Heights Development was back before the planning commission when their previous special land use permit (Planned Unit Development) expired. The planning commission forwarded their recommendation to the Village Council to approve the same.

Conditional Rezone:

The planning commission was presented with a condition rezone request in May of 2022. In July, the applicant withdrew their application. The application was amended and is now back before the planning commission with a public hearing scheduled for January of 2023

Parks & Recreation Plan

The 5-year parks and recreation plan was presented for a 30 day review and public hearing that was held on October 5, 2022. The plan was recommended for adoption to the Village Council at their November meeting. The 2022-2026 plan will be filed with the Department of Natural resources.

Master Plan: The Planning Commission has been working hard this year holding extra meetings focused on the Master Plan. The firm of Giffels and Webster has been guiding the planning commission.

Zoning Board of Appeals:

The zoning board of appeals met three times this year. The first meeting in February 2022 was to approve previous meeting minutes, meeting dates and times and to elect officers. An application for a variance request was received and a meeting held in October where the application was denied. A follow-up meeting was held in November to approve the minutes of the previous meeting.

Conclusion

2023 should prove to be a very busy and exciting year as we anticipate continued work on the Master Plan and sending to a public hearing before year-end.

The following Public Hearing(s) for amendments introduced at the November/December 2022 PC meeting will be held in January 2023:

- A. Text Amendments to the following Sections in the Mixed- Use District and set for public hearing are as follows:
 - 1) Section 5-2 Table of Uses-to allow for Multi-Family Dwellings
 - 2) Section 5-3 Spatial Requirements- to allow for maximum of 3 stories
 - 3) Section 9-7 Multi-Family Development- to allow for up to 18 units per acre

- B. Request for a Conditional Rezone at 301 S Shore Dr.

Planning Commission Recommendation – January 11, 2023

The Planning Commission accepted and forwarded the 2022 Annual Report to the Village Council for acceptance at their January 17, 2022 meeting: