

# Planning Commission

## Regular Meeting Agenda Thursday, April 14, 2016 7:00 p.m., Council Chambers



City of South Haven

1. **Call to Order**
2. **Roll Call**
3. **Approval of Agenda**
4. **Approval of Minutes** – March 3, 2016 Regular Meeting and March 24, 2016 Special Meeting
5. **Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**
6. **New Business** – Site Plan Review Application  
Site plan review for building renovation and deck – 515 Williams #10
7. **Other Business** – None
8. **Commissioner Comments**
9. **Adjourn**

RESPECTFULLY SUBMITTED,  
Linda Anderson, Zoning Administrator

South Haven City Hall is barrier free and the City of South Haven will provide the necessary reasonable auxiliary aids and services for persons with disabilities, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon seven (7) days notice to the South Haven City Hall.

## Planning Commission

### **Regular Meeting Minutes** **Thursday, March 3, 2016** **7:00 p.m., Council Chambers**



**City of South Haven**

#### **1. Call to Order by Heinig at 7:00 p. m.**

#### **2. Roll Call**

Present: Bill Fries, John Frost, Clark Gruber, Steve Miles, Dave Paull, Terri Webb, Larry Heinig

Absent: Brian Peterson, Judy Stimson

Motion by Paul, second by Gruber to excuse members Peterson and Stimson.

All in favor. Motion carried.

#### **3. Approval of Agenda**

Gruber spoke about the decision to use first and last names during roll call.

Motion by Paull, second by Miles to approve the March 3, 2016 regular meeting agenda as presented.

All in favor. Motion carried.

#### **4. Approval of Minutes – February 4, 2016**

Motion by Frost, second by Gruber to approve the February 4, 2016 regular meeting minutes as written.

All in favor. Motion carried.

#### **5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**

None at this time.

#### **6. New Business – Site Plan Review Applications**

##### **a) McDonald's Drive Through Remodel – 1025 LaGrange**

Anderson reviewed the request, noting the zoning district and the project's compliance with all zoning. The city engineer has signed off on this project since the staff report was written. Anderson noted that any business with a drive-through window requires a special use permit and when there is an expansion of a special use it has to go before the Planning Commission. Anderson recommended approval of the site plan contingent on engineer's sign off.

Jeff Brinks, Williams and Works, representing McDonald's. This is a plan revision due to necessity in the way customers interact with McDonald's now. Seventy percent of McDonald's business now is drive-through. Having a second drive-through helps the business both internally and externally with customers getting through more quickly.

Brinks noted that after submission of the plans, engineer comments were received concerning the plans, which were revised and resubmitted.

Gruber commented he has seen this at almost every McDonald's he has been to.

Motion by Frost, second by Gruber to approve the site plan contingent on satisfactory resolution of the remaining engineering.

All in favor. Motion carried.

#### **b) Deck on Water Side of Dwelling – 337 Northshore Drive**

Anderson noted that anything that is constructed between a residence and the lake must have site plan review. The plans were reviewed by Michigan Department of Environmental Quality (MDEQ) and no permit was necessary as it is not in a sensitive dune area. Anderson noted that any further modification, such as roof or enclosure, would require zoning variance approval.

Kathy McDonald; owner of 337 Northshore Drive. She noted that there is already a deck at the location and they just want to improve it and make it more user friendly.

Gruber asked about there being multiple cottages there which McDonald confirmed noting that this is our 27<sup>th</sup> summer. "This is a South Haven treasure, one of the last where middle class people can come and enjoy a week on the beach."

Motion by Gruber to approve the deck on the water side of dwelling at 337 North Shore Drive as submitted. Second by Frost.

All in favor. Motion carried.

#### **c) Smith Proposed Residence Exemption From Moratorium – 36 Bluffwood**

Anderson noted this is for a proposed house in the Bluffs and reviewed the recent annexation of this parcel and the state law regarding annexation and zoning classification. Anderson reminded that one other situation like this has come before the board. The proposed house is beyond the bounds of the moratorium, both in total square feet and number of bedrooms and bathrooms. The owner will be filing a certification statement, declaring no intent to rent the house. The owner is a council member; we have

March 3, 2016  
Planning Commission  
Regular Meeting Minutes  
DRAFT

no reason to believe he is leaving any time soon. This will be a full-time residence for this family.

Scott Smith, 36 Bluffwood Drive. Stated that as soon as it is built we will be there all the time.

Gruber noted it is a large house; it looks nice.

Smith noted a builder has not yet been chosen and he hopes to move in this October.

Motion by Paull, second by Miles to approve the plan for the residence at 36 Bluffwood Drive with the certification documents signed as required.

Anderson noted the applicant will file the certification document with his building permit application.

All in favor. Motion carried.

**7. Other Business – Set Short Term Rental Ordinance public hearing for March 24, 2016.**

Anderson explained that the Planning Commission has to set a public hearing to review the proposed short term rental ordinance for March 24, 2016.

Motion by Gruber, second by Paull to set the short term rental ordinance public hearing for March 24, 2016, a Thursday, at 7:00 p.m.

All in favor. Motion carried.

**8. Commissioner Comments**

Gruber: Noted last month's minutes do have full names in the roll call. Now that we set the public hearing date can we post the date and the current document on the website?

Anderson responded "Yes, and we have documents in the office. The ad will run in the paper this Sunday. We cannot make any changes at this time."

Paull: This feels real comfortable.

Webb: None

Frost: If there is anyone out there that hasn't eaten dinner tonight Taste is donating 20% of profits to the museums. Great food by Chef Joel.

Miles: No comment.

Fries: No comment at this time.

Heinig: No comment.

March 3, 2016  
Planning Commission  
Regular Meeting Minutes  
DRAFT

**9. Adjourn**

Motion by Paull, second by Webb to adjourn at 7:17 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary

## Planning Commission

### **Special Meeting Minutes** **Thursday, March 24, 2016** **7:00 p.m., Council Chambers**



**City of South Haven**

#### **1. Call to Order by Heinig at 7:00 p.m.**

#### **2. Roll Call**

Present: Bill Fries, John Frost, Clark Gruber, Steve Miles, Brian Peterson, Dave Paull, Judy Stimson, Terri Webb, Larry Heinig

Absent: None

#### **3. Approval of Agenda**

Motion by Gruber, second by Stimson to approve the March 24, 2016 Special Meeting Agenda as presented.

All in favor. Motion carried.

#### **4. PUBLIC HEARING REGARDING A PROPOSED SHORT TERM RENTAL ORDINANCE**

Anderson introduced the item, noting that this public hearing is a culmination of about 6 (six) months of work, beginning in October 2015, at the direction of the City Council. The sub-committee met weekly, except for a couple of missed meetings around the holidays, to work on the ordinance. Anderson pointed out that even before the council directive; the Planning Commission was already working with some changes to the Zoning Ordinance, to alleviate some problems they saw with the rentals. A couple of those changes included removing the half story provision and reducing the height from forty feet to thirty-five, both of which make a huge difference in the size of the house and the massiveness of it on the site. Another requirement was for additional parking for any house having more than three bedrooms; extra parking has to be provided for each additional bedroom. Anderson noted that this has two advantages. It reduces the amount of parking on the street and actually provides extra parking for each additional bedroom and the extra guests that may be visiting. Also, Anderson noted, the more parking that is required on that site, the more space is taken up on that site and the more space that is taken up by parking, the size of the house, the area for the house to be built, is lessened.

Anderson noted that City Council also adopted a couple of measures; they increased the utility hook-up fees for houses with more than 4 (four) bedrooms or bathrooms and

approved a dedicated police officer to enforce the noise and disturbing the peace ordinances during the summer months. These amendments and the policy changes went into effect at the end of 2015. These are already in place; they are already being enforced. Anderson added that the police officer will begin in the summer and that there has been very good cooperation with the builders and contractors in the city.

As part of the Planning Commissions efforts to create recommendations for City Council, Anderson pointed out, the Planning Commissioners and staff studied ordinances from many other cities. "Not just around the state and along the lake shore, but from other states, as well," Anderson noted. Administrators in those cities were contacted to find out what worked and what didn't work, what their path was to get to that ordinance and if they had met with success. Police department representatives were met with to discuss noise concerns and complaints during the high rental season. "Planning Commissioners and staff have received many emails and they continue through today, as I'm sure most of you are aware," Anderson added, "phone calls and advice on recommendations the commission was putting forth." Staff met with members of the public frequently to discuss various options on the proposed ordinance.

"On November 16, 2015, City Council approved a resolution placing a six (6)-month moratorium on the construction of new residences, to halt the construction of purpose-built short-term rental houses that would exceed thirty-five hundred square feet," Anderson stated, "That moratorium will expire on May 16, 2016 or when a new rental ordinance is enacted, whichever comes first. The Planning Commission determined that the best ordinance could only be enacted after the city processes the registration information and learns where the short term rentals are most prevalent in the city." Anderson noted that this information will be used to review and revise the ordinance in the fall and be folded into the comprehensive Master Plan and the Citizen Attitude Survey results that will be conducted as part of the Master Plan update. Anderson added, "The city will be doing a very comprehensive citizen attitude survey, reaching, hopefully, as many people as we can in the city, and it will cover a number of things, not just rentals. Economic development, public safety, recreation and will also, as part of the Master Plan update, be having some city-wide workshops, likely on Saturdays, where we can get the most people in and do some goal setting as a whole community."

Anderson noted that the key points in the draft and explained that these are recommendations that are going to City Council. "This isn't done," Anderson stated. "City Council will hold their own public hearing; they will likely make changes to what the Planning Commission is presenting. The draft, at this point, includes a registration. Every short term rental will be registered. The fee will cover administrative costs; we cannot make profit on this program, but we may cover our costs." Anderson noted that the city has not yet determined what those costs will be, and that will be a matter for City Council; there will be a high penalty for failure to register. There will be a registration card placed in the window of each rental and it shall include the occupancy limit for the residence and emergency contact information.

Anderson noted that another point in the draft is occupancy. The Planning Commission has proposed two persons per bedroom plus two additional persons per occupied floor or 16 occupants, whichever is less. Children 6 (six) and under are not included in that number. Regulations and procedures to allow increased occupancy in certain zones where multi-family condominiums, inns and resorts are permitted are also included. Additional

March 24, 2016  
Planning Commission  
Special Meeting Minutes  
DRAFT

regulations include built-in fire suppression measures, supplementary setbacks, screening and isolation from other properties, and the ability to go over those numbers in those certain zones but not the single family residential zones, but to go higher will require Planning Commission approval, as well, which brings us now to the public hearing. From here, Anderson added, this will be sent to City Council and noted that Chair Heinig will be touching on their schedule later, which Heinig affirmed.

Heinig asked whether the Commissioners had any questions on anything Anderson had touched on so far. Hearing none, Heinig entertained a motion to open the public hearing.

Motion by Miles, second by Peterson to open the public hearing.

All in favor. Motion carried.

Heinig announced the public hearing open, noted that at this point public comments will be accepted and added, "Threats, accusations and personal attacks are not helpful and will not be tolerated. We will hear your comments in the order in which you signed the sign-in sheet. If you did not sign the sign-in sheet, you will have opportunity to speak after that list is exhausted." Heinig explained that each speaker will have 3 (three) minutes and that Anderson will show a card at the one minute and thirty seconds remaining indicated, noting that at that time the speaker should begin to wrap up their comments because at that time he will rap the gavel and the speaker will be asked to leave the podium. Heinig concluded, "Be considerate of those who follow you. If you agree with what another speaker has said, please feel free to come to the podium and state that you agree and what it is you agree with. We do not need to hear a complete explanation; we have already heard that explanation. In the interest of time, it will be appreciated if we can keep it short."

Heinig then explained that each speaker should come to the podium, state their name and place of residence and suggested that the public hearing proceed.

Dr. Bob Hiddema, 212 Monroe Street. Spoke about following the intent of the 2012 Michigan Building Code and the city's Zoning Ordinance, referencing sections of the Building Code to reinforce his points.

Bob Andree, 42 Cass Street. Spoke of the small 6 (house) neighborhoods' beach access and how the number of residents being proposed in the short-term rental house being built will affect the beach access; listed a number of feelings and activities, both negative and positive, that he guarantees will happen if this ordinance is enacted.

Susan Ryan, 37 Cass Street. Spoke about the 3 (three) bedroom house at 57 Cass Street being razed and new construction beginning on a 7 (seven) bedroom house advertised as accommodating 23 in beds, a 50% deposit being accepted at a charge of \$1695 per night with a 2 (two) night minimum stay. Spoke about those on Planning Commission who would directly benefit from the passage of the proposed ordinance.

Heinig used the gavel and requested Ryan refrain from personal attacks. Ryan responded that she didn't see it that way, said, "I'm sorry," and asked that those who will profit recuse themselves.

March 24, 2016  
Planning Commission  
Special Meeting Minutes  
DRAFT

Susan Ryan, 37 Cass Street (continued). Spoke about visiting the city manager of the City of St. Joseph and details of the rental ordinance of that city and shared her proposal for the number of residents to be allowed in various zones.

Gail Patterson Gladney, 914 Kalamazoo Street. Spoke about working together as a community to work out what is best for our community. Read a portion of a letter that was sent to Anderson, the Planning Commission and carbon copied to Scott Smith and Brian Dissette from John Lorscheider, Joseph Reeser, she and Steve Runkle. Spoke about starting with an occupancy level of 10.

Scott Smith, City Attorney. Addressed the chairman, suggesting it might be helpful for people to know that everything that has been submitted in writing has been sent to the Planning Commissioners and City Council members whether by email, mail or hand-delivered. Noted those speaking can read anything they want, but it is not necessary since it is all part of the record.

Gruber, City Council Rep. Seconded the reassurance, noting that some of them he has received three or four times and he reads them all.

David Fenske, 2 Pine Street. Spoke about there being a place in our city for both short- and long-term and commercial rentals; and it being the responsibility of the Planning Commission to protect neighborhoods.

Steve Runkle, 16 Pine Street. Agreed with Terri Webb that the data must be looked at and urged starting with a maximum occupancy of 10, excluding those under 2 (two) years of age, then looking at the data. Expressed his belief that it would be easier to start low and add to the occupancy than to start at 16 and try to reduce the occupancy in some areas.

Michael Biedermann, 64 North Shore Drive. Stated that if a rental ordinance will improve the City of South Haven he is all for it but wants to understand what exactly the rental ordinance will accomplish; that if a rental ordinance is passed simply to appease those who oppose short term rentals within their traditional neighborhoods, it will be a disservice to everyone. Spoke about already having noise, parking and building codes in place and asked what another regulation will accomplish.

Susan Woodhull, 1000 Monroe Boulevard. Spoke about every heartbeat counts in the Federal Government's HUD (Housing and Urban Development) program. Urged a maximum occupancy of 10 or less. Wants non-owner occupied rental homes to be considered commercial businesses.

Ken Beehla, 311 Clinton Street. Stated that he had a question about who would have to register, noting that tonight he heard that all would have to register, so that answered his question. Noted he has lived at his address for 30 years, is surrounded by 10 rentals, 5 (five) are adjacent to his property and he has not had any problems. Stated he likes his neighbors and they have good renters.

Jim Wettlaufer, 3 Oak Court. Spoke of his concern for the 16 persons plus rental homes in residential neighborhoods. Lives adjacent to one of these so-called "neighborhood hotels," noting that this location has turned their quaint, quiet neighborhood into "Party Town." Suggested that none of the commissioners would want one next to their personal home.

March 24, 2016  
Planning Commission  
Special Meeting Minutes  
DRAFT

Sue McCabe, 511 Kalamazoo Street. Spoke about living here for 3 (three) years, and can access, can walk to, the lake and the downtown; that's what attracts people here. Wants the Planning Commission to be careful that we don't lose what is unique about South Haven, that quick access. Noted that she agrees with Gail Patterson's letter.

Joyce Thompson, 51 Pine Street. Spoke about living in her house (Susan Woodhull's house is between her house the "resort") for 23 years, that she loves her house and her neighbors, that she is not against short-term rentals but wants to keep single-family homes for single families, whether year-round or short-term rental.

Sandy Fenske, 2 Pine Street. Has been here almost 49 years, has seen a lot of changes. Spoke about not being against rentals, keeping the number 10 in mind, 10 and under, 10 and over, the number 10. Babies in arms, cradles, cribs don't count but keep to the number 10. If you want bigger capacity, keep it in the riverfront or business districts.

Jack Fitzer, 24 ½ Grand Boulevard. Spent 25 years in the real estate appraisal business; never sold real estate but learned a lot about the rental business in those years. Spoke of purpose-built rentals not always being built to the same standard as you would build your own home. Spoke about living near a rental with 3 (three) or 4 (four) parking spaces to which 50 or more people show up on a weekend; that it's time to draw that in. Asked that the commissioners, during discussion, tell why they feel that 16 is a good number, when the state regs mandate 10.

Dorothy Appleyard, 806 Wilson. Spoke about the R-1 residential zone being created to protect neighborhoods from incompatible uses; that the proposed rental ordinance does not go far enough to protect our neighborhoods, that 8 (eight) should be the maximum and that "at least 6 years of age" should be deleted from the definition of 'occupant'. Spoke about hours of use of pools and the stays of day visitors, signage, and about registration revocation requirements being too onerous and not permitting short-term rentals in all zones.

John Kalenda, 60 Kalamazoo Avenue. Spoke about buying his house in Monroe Park in 2005 and being surrounded by rental homes; about not doing anything to harm the ambience that draws people here, that he has never had a problem that he has been unable to solve by either talking to the owners or the renters, and then only twice in 10 years.

Bill Bradley, 746 Lee Street. Spoke about his ancestors coming here in the eighteen hundreds and being born here in 1931. Noted that most in this room could be called "newbies" and commented on their attitudes of not wanting change. Noted he loves change and free enterprise because that is the way the world works. Stated that if change and free enterprise had not been allowed we could be Russia, with the government running things and people falling in line. Suggested if people don't like it here they should move and that people should run their own lives but not try to run the lives of others.

Don Bemis, 740 Phillips. Noted being on the planning Commission for over 20 years and on Council for the short time that we had a rental ordinance that he was disappointed that it was repealed. Observations: that he moved here in 1979 but probably couldn't buy that home today because property values have risen so much; has co-workers that do not consider moving to South Haven because they cannot afford to live here; that those values have risen because houses are not being purchased as homes but as business speculation, the end of South Haven being a place people can afford to live. Agreed with 10 as an

March 24, 2016  
Planning Commission  
Special Meeting Minutes  
DRAFT

occupancy limit; suggested limiting rentals to two per week, cutting down on packing and unpacking, likes the safety requirements and inspections and agrees with Dorothy Appleyard on signage.

Pat Gaston, 97 Superior. Spoke about it not being nice to live in a town with so much divisiveness, people pitted against people, and that the Planning Commission could end much of the controversy by changing the occupancy limit from 16 to 10 so we could see where you all stand. Commented that not everyone would be happy but she thinks it would make 80 percent of the voters and residents happy and would end 80 percent of the controversy. Spoke about the number 10 coming out of the Michigan Building Code.

Anderson noted that was the last signed in speaker. Heinig opened the public hearing to anyone else that would like to speak to the commission.

Gerald Webb, 508 North Shore Drive. Provided examples of occupancy levels of 16. 1.) Twenty ladies between the ages of 55 and 70 who have been renting here for over twenty years. 2.) A family with 6 (six) adult children; four young children aged 4 (four) to 9 (nine); four grandparents. Total of sixteen. Noted he has many more, that this was not a cherry-picked sample but representative of what we call a "larger home" that occupies 16. "I hope we don't tell these people in 2017 and thereafter that they are not welcome in our city."

Rosemary Fitzer, 24 ½ Grand Avenue. Spoke about the city needing to differentiate between what is a residential and what is a business structure. If a law applies to the entire city you can have as many bathrooms as you want. If it is a business it has to be built differently, taxed differently and out of a residential area. Spoke about not chasing people out, not chasing renters out, those people are going to come but they don't need to be housed in residential neighborhoods.

Mary Lynn Bugge, 70 Gabriel Drive. Concurs with 10 people in a residential district; spoke about, in the Zoning Ordinance, in your definition of short term rentals, defining anything as more than 10 people being a commercial use, therefore put it into commercial areas which will solve the problem of them being in residential areas. Welcomes the registration of rentals because it allows the city to be more aware of what is going on and alerts emergency agencies. Agreed with Dorothy Appleyard's comments on revocation of registration. Noted that regarding people who may lose money by not being able to rent to as many people, no investment is guaranteed.

Connie Shaeffer, 735 North Shore Drive. Spoke about not being against rentals; has had rentals, small rentals, in the past and was there to manage them. Who manages, who is going to manage, these rentals? Spoke about occupancy numbers having a profound impact on our communities, empty homes in neighborhoods and break-ins, and who do we call? Hates the feeling of being glad summer is over.

Lottie Resick, 712 Lee Street. Spoke about choosing the neighborhood they are in because it is still a neighborhood with people living in it year round. Spoke about several houses being for sale now and the need for guidance because it could change their neighborhood. Spoke about having no problem with small family rentals in smaller homes in residential areas, but not large party houses.

Motion by Gruber, second by Stimson to close the public hearing.

All in favor. Motion carried.

Gruber commented on the behavior of those participating in the public hearing.

Heinig asked the city attorney to speak to an issue that was brought up, that of conflict of interest.

Scott Smith, City Attorney. Stated conflict of interest is a common question asked at planning meetings but the Michigan Planning Enabling Act requires a planning commission to have representatives of various community interests. Planning Commissions are supposed to be made up of people in various occupations; various demographics; of various ages and so forth and the act is pretty specific on that. We want the input of people who have various interests in the community and oftentimes I get the question, "Well, doesn't so and so have a conflict of interest, since they benefit, either directly or indirectly, from a decision of the planning commission?" I've heard that from Planning Commissioners who live across the street from a proposed development, and somebody will say he or she has a conflict of interest. Well they don't have a conflict of interest. There is not a direct financial result in the decision being made and once you start down the road of deciding that people have a conflict of interest due to their closeness to the issue at hand, on a planning commission, you would eliminate a lot of planning commissioners. If living across the street gives you a conflict of interest, what happens if you live a block away, or within the same neighborhood, or you're going to hear that industry or that particular project will affect the traffic on your street? So the law is pretty clear unless there is a direct financial interest in the particular decision being made, there is not a conflict of interest by planning commissioners".

Now, that may also be because planning commissions only make recommendations on zoning ordinance changes like this and the recommendation goes to the city council, which is the legislative body, and the city council can make changes in what the planning commission recommends before the city council approves the ordinance. Moreover, in this case, one of the ordinances even requires planning commission action. The Zoning Ordinance amendments require Planning Commission action; the other ordinance amendment does not require action of the Planning Commission, but the City Council asked the Planning Commission to consider it as a package, and to offer a package and to work together, because the two ordinances should work in harmony with one another.

Smith asked whether that addressed the chair's question to which Heinig responded, "Yes, it does." Heinig then opened the floor to discussion by commissioners.

Stimson asked the attorney, "It was mentioned during the public hearing about the enforcement of problems, the process that we have in there for people who continue to have the same problem over and over, get tickets, etc. Is it your opinion that this type of problem is not enforceable?"

Smith responded, "That is really a policy decision for you and the council to decide. It's a legislative issue and a policy decision. You have some standards in there; some may prefer that those standards be more strict and revocation be an easier result to come to. Some might prefer otherwise, and I guess that's a policy decision for you to make and probably not an issue for me to make a recommendation on."

Gruber: We've heard a lot about the Commercial Building Code of 2012 and the Residential Building Code of 2009, about up to 10 and a boarding house. Can we get a little clarification? Because the city does abide by both of those building codes, both the residential and the commercial.

Anderson suggested that might be a question for Brian (Peterson); Brian is an architect and he works with both building codes.

Peterson joked that he could in trouble for that. "I'm one test away from that."

Peterson thanked Gruber for bringing that up because it is something he, too, wanted to clarify. Peterson noted, "The Michigan Building Code was invoked here but it's confusing. Both the International Building Code and the Michigan Building Code are pretty much the same, but they both state in their scope, Sec. 101.2, the structures that this document covers and it is pretty much everything under the sun," and quoted 'the provisions of this code shall apply to the enlargement, replacement, repair, equipment use and occupancy location to maintenance, removal and demolition or rebuilding of structure, or any appurtenance connected or attached to such buildings or structures.' Peterson added, "So it's pretty much everything. But both the International Building Code and the Michigan Building Code have an exception, the International one has two, but they both share the exception that detached, one and two family dwellings and multiple single family dwellings not more than three stories above grade/plane in height, with separate means of egress, and accessory structures shall comply with the International Residential Code or the Michigan Residential Code. So that is saying that all, if not all, most, of the houses in this town are beholden to the Michigan Residential Code and not the building code. And I know the essence of this argument is that these structures, single family homes, should not be and that's why they should be beholden to the Michigan Building Code. But, as it is now, they are single family homes and they're beholden to the residential code."

Gruber: "So the boarding houses referred to, I think boarding houses allow the renting of individual rooms for anywhere from 24 hours or longer, to separate individuals, so a 7 (seven) bedroom home could be rented to 7 (seven) different families, each of them occupying a particular bedroom for an indeterminate number of days. So we are looking at that 10 as boarding houses; but really these aren't boarding houses, these are individual homes. There is a different standard and I think what was happening was we were getting one standard mixed with another standard . . ."

Anderson addressed the chair, noting that the City Building Official also prepared a statement in regard to this. Anderson noted, "He said there are two construction codes enforced in South Haven. The first is the 2012 Michigan Building Code, which is the document cited in the letter and that we keep hearing reference to. That code regulates commercial use construction and he attached a section of the code that the letter writer addresses. That code specifically addresses uses such as boarding houses, dormitories, group homes. Residential, but commercial. Single family homes are not covered in this code even though the code references the use groups as R-1, R-2, and R-3. Those references in the building code have nothing to do with residential zoning. The second building code is the Residential Building Code of 2009. This code concerns single and two-family residences only, as Brian stated. There is no part of the code that restricts the number of bedrooms or bathrooms in the residence."

March 24, 2016  
Planning Commission  
Special Meeting Minutes  
DRAFT

Anderson added that the City Building Official contacted the State Bureau of Construction Codes this week and confirmed what he believed was true; found it was absolutely the truth and that there are no limitations on the size of the home, the number of bedrooms, bathrooms or kitchens under the Residential Building Code, and that's the one that single family homes are under in the city." Anderson summarized, "According to our Zoning Ordinance and the building code, a single family home is a private residence regardless of whether it is rented short term, long term or not at all." Anderson added that if there are further specific questions on that, the Building Official may be the one to talk to.

Stimson stated that one of the emails we received had an excellent point. It was the 48 hours versus 2 (two) nights. A normal weekend rental, it is her understanding, is from 3:00 on Friday to 11:00 on Sunday. That is not 48 hours. So the suggestion of the person who wrote the email was 2 (two) nights, not 48 hours, is the better description of what we are addressing. Stimson would like, and asked if anyone else would like, to make that change.

Gruber commented that he has never rented anything that had hours; it was always nights. "And I think that's a clearer definition."

Stimson asked if she should propose a change, to which Heinig suggested, "I think it should be done by motion."

Motion by Stimson on page 7 (seven) under the definition of short term rental, where it says 48 hours, that be changed to 2 (two) nights, to more accurately cover what we are trying to do. Second by Paull.

A roll call vote was taken.

Ayes: Peterson, Paull, Stimson, Webb, Fries, Frost, Gruber, Miles, Heinig  
Nays: None

Motion carried.

Smith asked for clarification of whether this change should carry over to the rental ordinance itself. Stimson responded that any place where it states 48 hours, we want it changed to two (2) nights.

Heinig asked if there was further discussion and hearing none suggested the disposition or moving along of the ordinance.

Gruber noted that it was mentioned by someone that they did not have money in the game. Gruber thinks everybody in South Haven has money in the game. If you're a homeowner, at some point, we all have ownership in something in this. I think it is important to think of it holistically. It was also mentioned going down to St. Joe and talking with John Hodgson, the city manager, and I think that was an excellent thing to do. "We've had some conversations with John ourselves; I had one, myself, months ago and I know that St. Joe has a pretty good plan down there. St. Joe didn't do that from Day One. That was a process; something they came to over time. And it took years for them to get to that point. Also, I know that John has seen our plan, and mentioned to our group that gathering data is the right way to start. To get going, get started with this, understand what you've got to work with and then, from

there, see where you need to go. I think that's a good process. Someone asked what we feel, how we came up with the 16. Where do we feel we need to be? I, personally like the formula we came up with, 2 (two) per bedroom, 2 (two) per floor. If we look at a 3-bedroom ranch that's only 8 (eight) people. I look at five bedrooms as being a pretty large house, especially in our older neighborhoods. If you take 5 (five) by 2 (two) we get (10), and I hope my math is right, if we have two stories, we're at 14. I like the 14 better than the 16; I also like to see children in cribs, maybe 2 (two) and under not be counted. That's probably the crib, the toddler, the little ones, not being included in that. I don't see that when folks go on vacation, it's about how many kids we can cram into a home. They're typically a couple of families having a good time and if they're enjoying themselves, having a family vacation in a family town, and you've got toddlers, you're probably going to bed early. A lot earlier than I probably do. I think the Planning Commission has done an excellent job putting this together and certainly I will be seeing this again. So this is a recommendation that will go forward; if voted on, and we'll see what happens again, but I would like to stress, if in fact this heads to CC tonight, this excellent body is done with their work, so from this time forward, you don't have to email the Planning Commission or Linda any more. Email the City Council."

Paull interjected, "And Bob Burr."

Gruber agreed, noting that emails should go to Bob Burr and all the members of the council; that if this goes forward we have something to work with and thanked everyone again for their hard work.

Peterson followed up on his earlier comments, noting that the number 10 was zoned in on from the building code. "That very well may be the ideal number, but "I don't think it is, I think it should be a little higher if we start too low before we evaluate, in my view we're going to lose some visitors to other communities who may never come back. And if we go too high before we evaluate, we may tick off some residents and they may leave town and never come back, too. So it's a conundrum we've all been tackling for several weeks and months. The backbone of our community on one hand and the lifeblood of our economy on the other. There's no real good middle ground. And about the kids. I don't disagree with what Gruber said, the under 7 (seven) or 6 (six), seems a little ominous, nefarious or catch-all, but I think what we were trying to do was not limit the family who may have 1 (one) or 2 (two) kids over the limit. And what's wrong with having an extra kid, really? I do think we need to monitor this, in case someone decides to invite their child's whole preschool, and I would be happy to put this on the chopping block when next we evaluate. Or severely reword it."

Heinig noted we will be required to evaluate this in the future.

Webb said that when this goes to council, perhaps that is something that City Council wants to consider, putting a cap on the non-infant number of children you can have so that you don't end up having eleven or twelve or eight of them. "I think that's something the council can decide; we've done our work."

Paull stated he believes this is a reasonable compromise, with the numbers as they are; we can work with them for now and review things in the fall. "And I'm going to take this opportunity to chide City Council. We wouldn't be here; we wouldn't be struggling with these details, at this time, if City Council had not, as someone mentioned earlier in the audience, revoked the existing ordinance which was beginning to serve the community in 2009. We would be refining it as we now have to deal with this coming fall. So I think it's time we fish

and cut bait. And do the right thing so we can come back and revisit this issue in the fall. And all numbers should remain as they are, because they are good compromises and we have spent 6 (six) months reviewing this.

Motion by Paull that the ordinance, with the amendment as made tonight, be recommended to the City Council for approval. Second by Stimson. All ayes.

## 5. Comments

Frost: None.

Webb: "I would like to see City Council, if they are considering lowering the occupancy limits that they will reach out to Shores, Jacqua, us and get all the information you need to really make a good decision. For example, I would like to point out that of the 143 reservations that we have on the books currently for 2016, 70 of them have 11 or more people/guests. And we are actually the smallest property management company in town; I reached out to Sally (at Shores) who will put some numbers together, but at 10, that's almost half of our reservations, I think that would have a significant impact on tourism. It's not only about homeowners and management companies profiting from this, it's also about cleaners that clean these homes, restaurant owners, it's actually about all of us. Our restaurants stay open longer than they used to; many of these larger groups are actually coming in the non-peak season. So it would actually have a large impact even in the non-peak season, when retail and restaurants may struggle a little bit more." Webb noted that there is a lot of good data out there even at present and expressed her hopes that City Council will get that information before they make some decisions/changes.

Miles: Thanked everyone for the emails the past few weeks, noting that is has really been helpful.

Stimson: Please now communicate with the city council about how you feel.

Gruber: Noted that the council from 2012 to 2015, in regard to revocation of the registration ordinance, two of those members voted not to revoke and two of them never had a chance. Four out of seven were not a part of that. And since 2016, four of us never had an opportunity to vote. Now we'll get an opportunity.

Peterson: None

Fries. Expressed thanks to the commissioners for all their hard work, especially the workshops.

Heinig: Seconded Fries' comment adding, "We've done a lot of hard work on this, as has staff, and I will even thank our attorney."

## 6. Adjourn

Motion by Gruber, second by Paull to adjourn at 8:23 p.m.

March 24, 2016  
Planning Commission  
Special Meeting Minutes  
DRAFT

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom  
Recording Secretary



City of South Haven

## Deck Expansion at Old Harbor Village

### Background Information:

Bob Lewis, owner of The Idler Riverboat Restaurant, has submitted an application to convert the former Bling Shop site into a restaurant and bar with deck seating. The site is on the second floor of Old Harbor Village. The project involves a remodel of the interior building space and the construction of a deck connected to the space. The proposed deck will be an expansion of the existing walkway and be above the lower dock which is not part of this project.

The proposed deck does not extend further than the existing lower level deck and will not extend into the harbor lines. The deck will be eight (8) feet above the lower dock as is the existing upper level walkway.

This project went before the Harbor Commission as required by city code. The Harbor Commission review is attached. Army Corp of Engineers and MDEQ permits are not required for this project as no part of the deck extends into the harbor lines. A letter of support from the Old Harbor Village Association is attached.

### Recommendation:

Staff recommends that the Planning Commissioners review the attached plans and documents and grant site plan approval for the proposed deck.

### Support Material:

Application and plan review  
Graphic of proposed deck  
Harbor Commission application and review  
Detail drawings of deck  
Model of deck (Will also be available at the meeting)  
Old harbor Condo letter of support

**BUILDING & ZONING PERMIT APPLICATION**  
**CITY OF SOUTH HAVEN**  
**BUILDING DEPARTMENT**  
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090  
FOR INFORMATION CALL 269-277-8573

**RECEIVED**  
  
MAR 25 2016  
  
BUILDING DEPARTMENT  
CITY OF SOUTH HAVEN

**Incomplete Forms Will NOT be  
Approved or Processed**

Project Address: 515 Williams St #10

Tax ID 80-53-775-096-00 (If property is part of a PUD or condominium development, confirmation of parcel number from the Assessing Department is required)

Applicant: Markos Construction LLC Property Owner: VSOP

Appl. Address: 8830 West RS. Ave Owner Address: 3505 Greenleaf Blvd

City Schaefer State MI Zip 49087 City Kalamazoo State MI Zip ~~49001~~ 49008

Applicant Phone: 269-760-4278 Dan Markos Owner Phone: 269-217-1149 Bob Lewis

Current Use of Property: Vacant Store Front Zoning District of Property B-3

Project Description: Interior Raw bar remodel with seating  
Exterior Deck for tables & seating between building & Idler

Contractor: Markos Construction LLC Lic. No. 2102181028

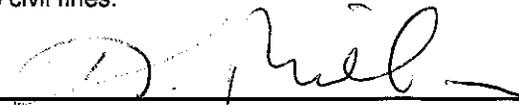
Liability Carrier: Farm Bureau Ins. Exp. Date 5/17 Fed ID or SS#: 36-454-8993

Total Value of Construction (Materials and Labor, Building Permit Only): 125,000

Is property subject to an association? Yes  No  (If yes, attach letter from association)

Is property currently served with city water and sanitary sewer connections? (Letter from city engineer req'd.)

I hereby authorize the Zoning Administrator, Building Inspector or other authorized representative of the City of South Haven to enter and inspect the above property for the purpose of inspection of the premises.  
AFFADAVIT: I certify and affirm that I am the property or building owner or owner's authorized agent and that I agree to conform to all applicable laws of this jurisdiction. I also certify that this application is accurate and complete. Section 23A of the State Construction Code Act of 1972, Act No. 230 of the Public Acts of 1972, being Section 125.1523a of the Michigan Compiled Laws, prohibits a person from conspiring to circumvent the licensing requirements of the state relating to persons who are to perform work on a residential structure. Violators of Section 23a are subject to civil fines.

OWNER'S SIGNATURE:  DATE: 3-21-16

APPLICANT'S SIGNATURE:  DATE: 3-21-16

April 14, 2016  
 RECEIVED  
 MAR 25 2016  
 BUILDING DEPARTMENT  
 CITY OF SOUTH HAVEN

**SITE PLAN APPLICATION**  
**CITY OF SOUTH HAVEN**  
**BUILDING DEPARTMENT**  
 539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090  
 FOR INFORMATION CALL 269-637-0760

Project Address: 515 Williams St #10 Tax ID 80-53- 775-006-00

Applicant: Markus Construction LLC Property Owner: V5OP LLC

Appl. Address: 8830 West RS Ave Owner Address: 3505 Greenleaf Blvd  
Schoolcraft, MI 49087 Kalamazoo, MI 49008  
~~49008~~ ~~49008~~

Applicant Phone: 269-760-4278 Owner Phone: 269-217-1149 Bob Lewis

Applicant Email: dan@markusbuilders.com Owner Email: boblewis.mrg@hotmail.com

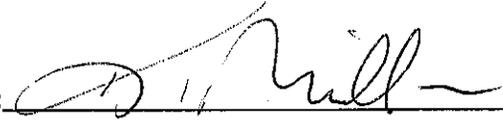
Current Use of Property: Vacant Store Front Zoning District of Property B-3

Project Description: Interior raw bar remodeled with seating  
Exterior deck for tables & seating between building & Idles Boat

PROPOSED USE: Interior bar with seating inside & out

SECTION NUMBER WHICH PERMITS THIS USE: \_\_\_\_\_

COMMENTS:

OWNER'S SIGNATURE:  DATE: 3-21-16

APPLICANT'S SIGNATURE:  DATE: 3-21-16

DATE SUBMITTED: 3-2 DATE ACCEPTED: \_\_\_\_\_ BY: \_\_\_\_\_

FEE: \$ 300 DATE OF PAYMENT: \_\_\_\_\_

FORM CONTINUES ON OTHER SIDE, PLEASE COMPLETE BACK OF SHEET

**SETBACKS (IN FEET):**

FRONT YARD: N/A SIDE YARD: N/A

REAR YARD: N/A SIDE YARD: N/A

LOT AREA (IN SQUARE FEET) N/A

LOT WIDTH (AT FRONT SETBACK) N/A

AREA COVERAGE (BY ALL STRUCTURES) N/A

HEIGHT (AVERAGE OF PEAK AND EAVE) N/A

**OFF-STREET PARKING, SECTION 1800**

PARKING USE GROUP: N/A

SECTION NUMBER: 1800.12. N/A

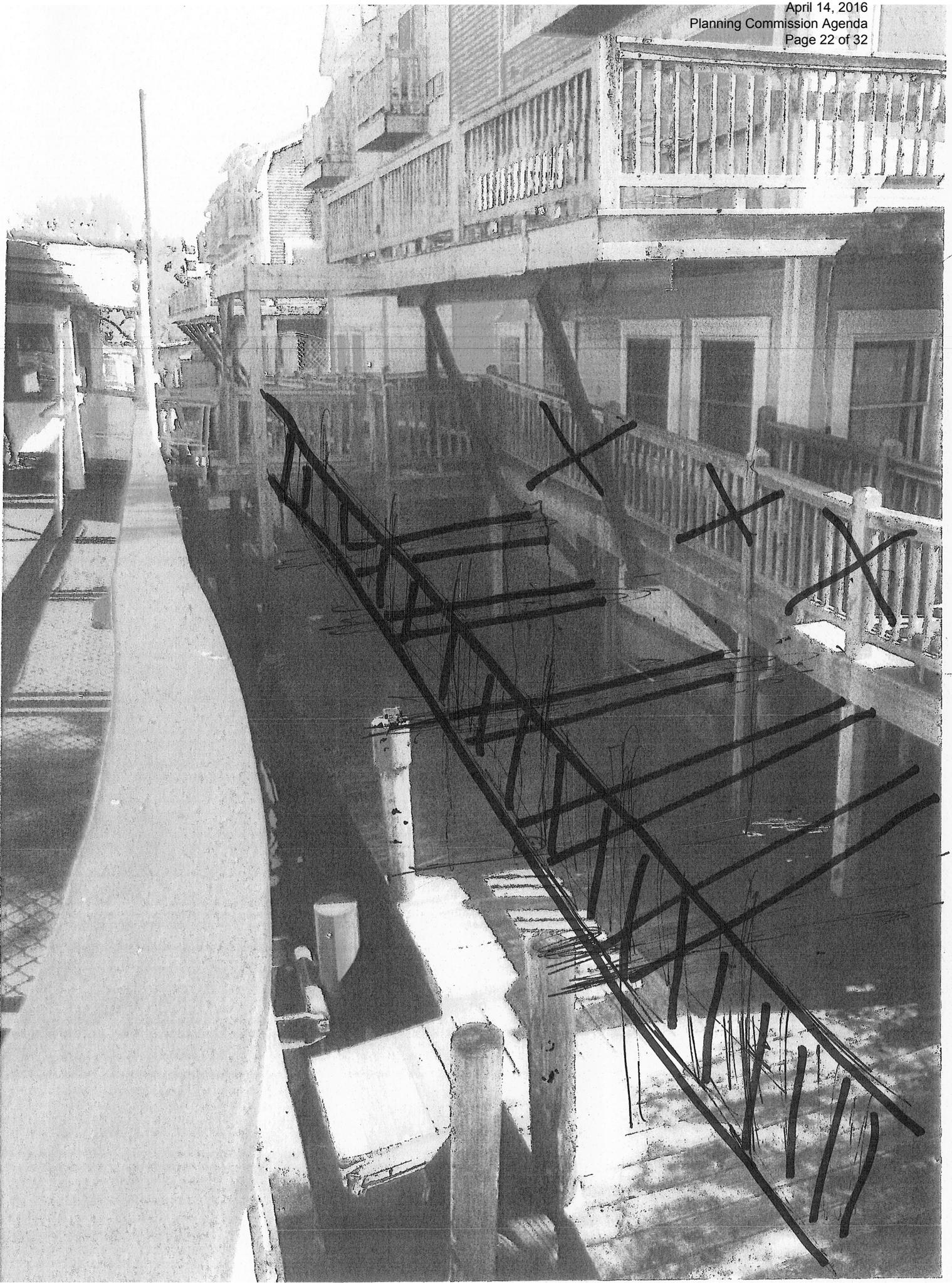
PARKING REQUIREMENT: N/A

**PARKING REQUIREMENT  
CALCULATION:**

REQUIRED PARKING SPACES N/A PROVIDED SPACES N/A

DIMENSION OF INDIVIDUAL PARKING SPACES N/A

**COMMENTS:**





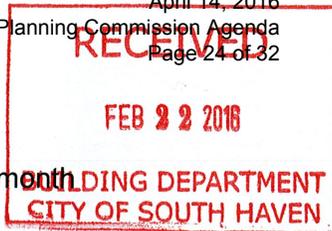
# HARBOR COMMISSION APPLICATION

CITY OF SOUTH HAVEN

SITE PLAN REVIEW

The Harbor Commission meets the third Tuesday of each month

Application deadline is 15 days prior to the meeting



Applicant Name Bob Lewis Phone 269-217-1149  
 Address 515 Williams # 10  
 Project Name & Address Foley Dockside

Brief Description of Project Deck to be built over existing dock.

# of Existing Docks 1 # of Proposed Docks 0 # of Docks being increased (decreased) 0

Will there be any change in the length, width, and/or location of existing docks, slips or other structures? YES      NO X

Will any portion of the project extend past the City Project Lines? YES      NO X

	Application Made	Permit Received	Copy Attached
	Yes / No	Yes / No	Yes / No
1. Army Corps of Engineers	<u>NA</u>	<u>    </u>	<u>    </u>
2. DEQ	<u>NA</u>	<u>    </u>	<u>    </u>
3. Flood Plain Management Agency	<u>NA</u>	<u>    </u>	<u>    </u>
4. Soil and Erosion Permit	<u>NA</u>	<u>    </u>	<u>    </u>

### Submittal Requirements

In addition to the requirements for site plan approval as shown on the Plan Application Cover Sheet, Site Plan Submittal Requirements, Site Plan Review Attachment, and any other forms required for the project, the following information must be submitted for any proposed development along the Black River. The drawings must be prepared by or under the supervision of a professional engineer, architect, land surveyor, or landscape architect licensed in Michigan and be signed and sealed by that professional. (Sec. 1402.4)

1. A scaled drawing of the Black River showing the river where the proposed development will be constructed and depicting the following:
  - A. The width of the river.
  - B. A cross section of the river bottom.
  - C. The location of the U.S. Harbor Line and the City of South Haven Project Line (Per Ord. #740)
  - D. Project property lines.
  - E. Length, width, location and type of construction of existing docks, piers, slips and seawalls.
  - F. Length, width, location, and type of construction of the proposed development.
  - G. The current development of the site on the opposing sides of the Black River.
  
2. When any type of dredging is needed to complete the proposed project, the area downstream of the project site for five hundred (500) linear feet and one hundred (100) linear feet upstream from the project must be sounded both before the project is started and at the time of completion, prior to issuance of the Certificate of Occupancy of the project. These soundings must be reported in written form to the City of South Haven for its review. Once the project is completed, the developer will be liable for any debris or spoils that have been found due to the development of the project. If the proposed project includes dredging provide the following:
  - A. Pre-construction soundings report.
  - B. Proposed disposition of dredging spoils.

Applicant's Signature Bob Lewis Date 2/22/16

**HARBOR COMMISSION REVIEW FORM  
 SITE PLAN REVIEW**  
 (To be completed by the Harbor Commission)

SUBMITTAL REQUIREMENTS:	Provided	Not Provided
1A. Width of the river.	_____	_____
1B. A cross section of the river bottom.	_____	_____
1C. The location of the U.S. Harbor Line and the City of South Haven Harbor Line.	_____	_____
1D. Project property lines.	_____	_____
1E. Length, width, location and type of construction of existing docks, piers, slips and seawalls.	_____	_____
1F. Length, width, location, and type of construction of the proposed development.	_____	_____
1G. The current development of the site on the opposing sides of the Black River.	_____	_____
2A. Pre-construction soundings report.	_____	_____
2B. Proposed disposition of dredging spoils.	_____	_____
3. Signed and sealed drawings.	_____	_____

Plans have been reviewed by the Harbor Commission and found to be: Complete / Incomplete (Circle)

If incomplete, explain: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**FINDINGS - All questions must be answered "no" for approval to be recommended:**

1. Does any portion of the proposed project extend beyond the City Harbor Lines? YES / NO (Circle)  
 IF YES: Is the length, width and location of the proposed structure different from the existing structure? YES / NO (Circle)
2. Will any portion of the proposed project impede safe navigation? YES / NO (Circle)
3. Will any portion of the proposed project have an adverse effect on the adjacent property owner's access to their property? YES / NO (Circle)
4. Will any portion of the proposed project have an adverse effect on the adjacent property owner's ability to develop their property? YES / NO (Circle)

COMMENTS: \_\_\_\_\_  
 \_\_\_\_\_

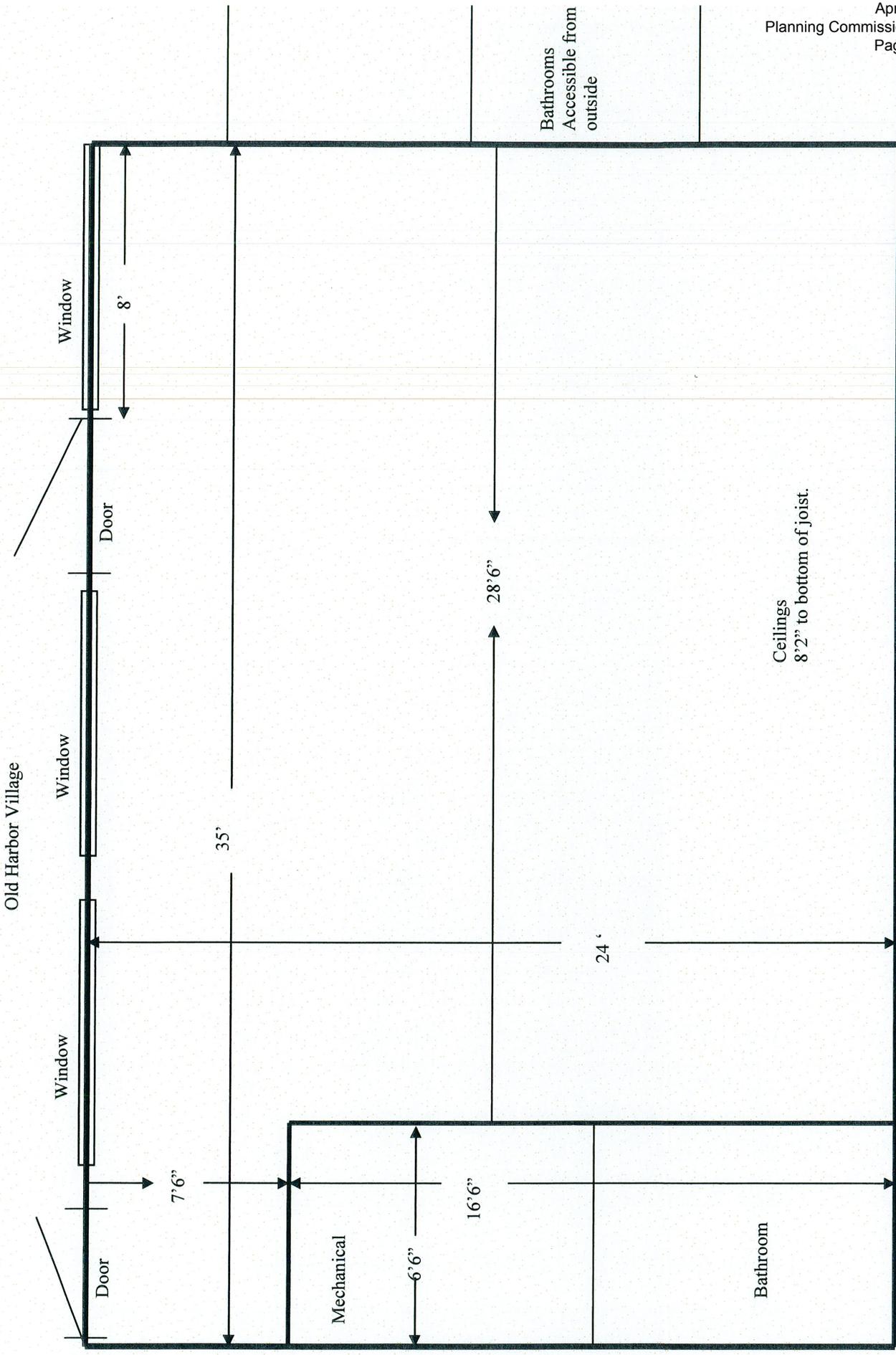
RECOMMENDATION: \_\_\_\_\_  
 \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_  
 (Presiding Chairman, Harbor Commission)

Note: Any approval given by the Harbor Commission under which work is not started within 12 months or, when such use or work has been abandoned for a period of six months, shall lapse and cease to be in effect. (Sec. 38-36 a)

Date of Submittal \_\_\_\_\_ Date of Harbor Commission Review \_\_\_\_\_

Date of Planning Commission Review \_\_\_\_\_ Date of City Council Review \_\_\_\_\_



Bathrooms  
Accessible from  
outside

# Deck

Idler

\* Not to scale

Dockside raw bar

Garage door

Dockside walk out deck (Idler upper deck level)

40'

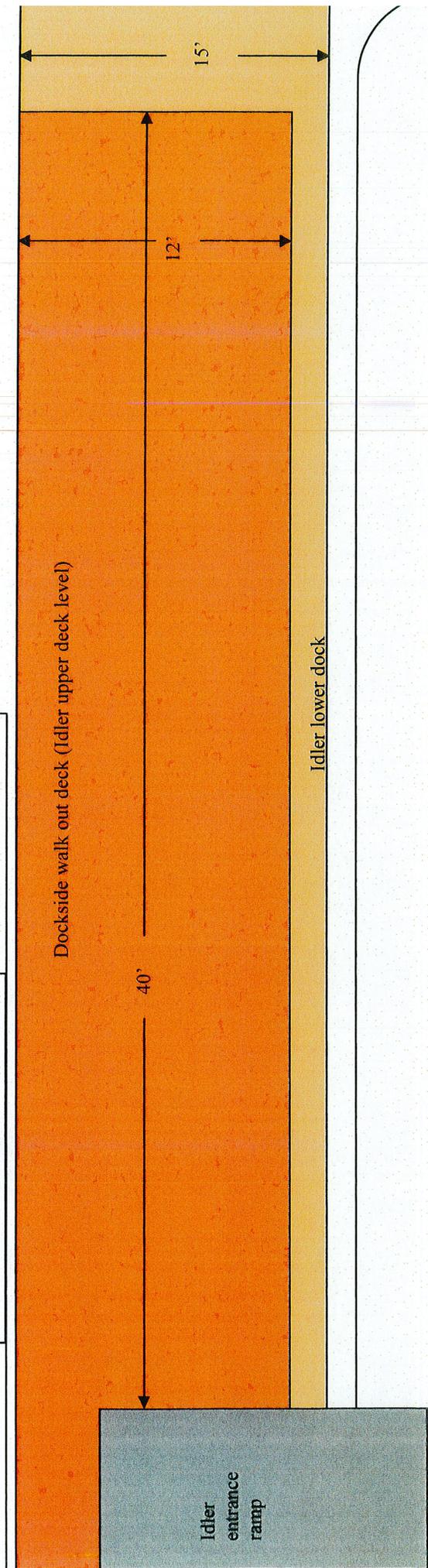
12'

15'

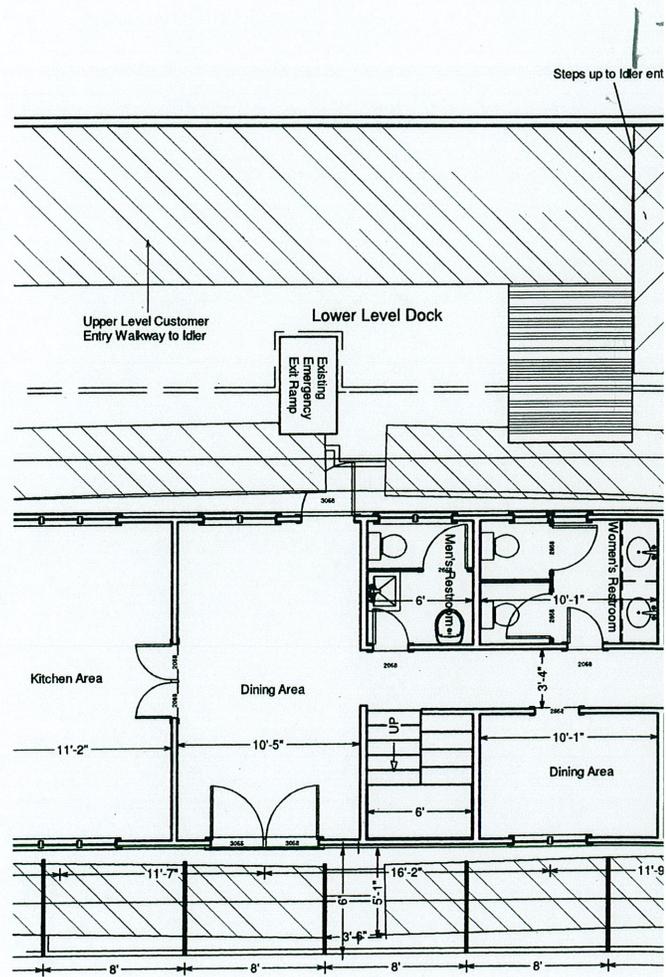
Idler lower dock

Idler  
entrance  
ramp

Idler







**HARBOR COMMISSION REVIEW FORM  
 SITE PLAN REVIEW**  
 (To be completed by the Harbor Commission)

SUBMITTAL REQUIREMENTS:	Provided	Not Provided
1A. Width of the river.	_____	N/A
1B. A cross section of the river bottom.	_____	N/A
1C. The location of the U.S. Harbor Line and the City of South Haven Harbor Line.	_____	N/A
1D. Project property lines.	_____	N/A
1E. Length, width, location and type of construction of existing docks, piers, slips and seawalls.	_____	N/A
1F. Length, width, location, and type of construction of the proposed development.	✓ _____	_____
1G. The current development of the site on the opposing sides of the Black River.	_____	✓ _____
2A. Pre-construction soundings report.	_____	N/A
2B. Proposed disposition of dredging spoils.	_____	N/A
3. Signed and sealed drawings.	_____	✓ _____

Plans have been reviewed by the Harbor Commission and found to be: Complete / Incomplete (Circle)

If incomplete, explain: \_\_\_\_\_

**FINDINGS - All questions must be answered "no" for approval to be recommended:**

1. Does any portion of the proposed project extend beyond the City Harbor Lines? YES (NO) (Circle)  
 IF YES: Is the length, width and location of the proposed structure different from the existing structure? YES / NO (Circle)
2. Will any portion of the proposed project impede safe navigation? YES (NO) (Circle)
3. Will any portion of the proposed project have an adverse effect on the adjacent property owner's access to their property? YES (NO) (Circle)
4. Will any portion of the proposed project have an adverse effect on the adjacent property owner's ability to develop their property? YES (NO) (Circle)

COMMENTS: Applicant needs to submit signed + sealed drawings to Planning Commission -

RECOMMENDATION: Proceed to Planning Commission for review

Signed \_\_\_\_\_ Date \_\_\_\_\_  
 (Presiding Chairman, Harbor Commission)

Note: Any approval given by the Harbor Commission under which work is not started within 12 months or, when such use or work has been abandoned for a period of six months, shall lapse and cease to be in effect. (Sec. 38-36 a)  
 Date of Submittal \_\_\_\_\_ Date of Harbor Commission Review \_\_\_\_\_

Date of Planning Commission Review \_\_\_\_\_ Date of City Council Review \_\_\_\_\_



March 22, 2016

Linda Anderson  
Zoning Administrator  
539 Phoenix Street  
South Haven, MI 49090

Dear Linda,

The Board of Old Harbor Village Condo Association is aware of Millennium Restaurant Group's purchase of a unit at Old Harbor Inn. We are also aware of their intent to convert this unit into a raw bar restaurant with an outside deck toward the water. We think this would be a nice compliment to the other shops in the Old Harbor Inn's village courtyard.

Our main reservation, as always, is compliance with the Old Harbor noise ordinance – that the music stops at 11:00 pm. We have been assured by Mr. Lewis that the noise ordinance will be followed.

Sincerely,

Ronald B. Wiser  
Board President