

Planning Commission

Regular Meeting Agenda

Thursday, September 4, 2014

7:00 p.m., Council Chambers



AGENDA AMENDMENT: DUE TO PENDING ACTION BEFORE THE ZBA, TOM BRUSSEE HAS REQUESTED THAT HIS REZONING REQUEST (38 NORTSHORE DRIVE) BE POSTPONED FOR ANOTHER MONTH.

City of South Haven

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes – August 7, 2014
5. Interested Citizens in the Audience Will be Heard on Items Not on the Agenda
6. New Business – Public Hearings
 - a. Steve Schlack is seeking to amend Riverwatch Condominium development by eliminating Phase 2 from the development. Phase 2 is 32,070 square feet in area. The development is located at 815 E. Wells Street. The parcel number for the property is 80-53-880-003-00.
 - b. Adam Schaap Builders of Holland, MI request a special use permit to construct an inground swimming pool at 902 Monroe Boulevard. Swimming pools on waterfront properties require a special use permit according to zoning ordinance section 1725-2d. The parcel number for the property is 80-53-210-013-50.
 - c. Adam Schaap Builders of Holland, MI request a special use permit to construct an inground swimming pool at 906 Monroe Boulevard. Swimming pools on waterfront properties require a special use permit according to zoning ordinance section 1725-2d. The parcel number for the property is 80-53-210-013-60.

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7. Commissioner Comments

8. Adjourn

RESPECTFULLY SUBMITTED,
Linda Anderson, Zoning Administrator

Planning Commission

Regular Meeting Minutes Thursday, August 7, 2014 7:00 p.m., Council Chambers



City of South Haven

Note: Due to illness, Tom Brussee's rezoning request (38 Northshore Drive) was moved to the September 4, 2014 agenda

1. Call to Order by Paull at 7:00 p.m.

2. Roll Call

Present: Frost, Heinig, Miles, Peterson, Stimson, Wall, Webb, Paull
Absent: Smith

Motion by Heinig, second by Frost to excuse Smith.

All in favor. Motion carried.

3. Approval of Agenda

Motion by Wall, second by Heinig to approve the agenda as presented.

All in favor. Motion carried.

4. Approval of Minutes – July 10, 2014

Motion by Wall, second by Frost to approve the July 10, 2014 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

There were none.

6. New Business – Public Hearings

Proposed amendments to City of South Haven Code of Ordinances, Chapter 30, ENVIRONMENT, Article II, Noise. Proposed amendments include changes to the allowed decibels levels and further limitation for the hours of 1:30 a.m. to 7:00 a.m.

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Paull explained the purpose of tonight's meeting is to obtain information from the public to assist the sub-committee as they determine what changes might be made to the current draft; then hold a public hearing again to obtain information on those changes.

Anderson noted that the Planning Commission was requested by City Council to review and recommend changes to the noise ordinance to complete one of the council's 2014 -2015 adopted goals. Since March 26, 2014 a subcommittee has been working to gather information. As part of that process the committee interviewed the mayor, the police chief, the director of the housing commission and Old Harbor Inn management. The committee attended a demonstration of decibel levels and both the subcommittee and Planning Commission have completed reviews. This public hearing is the beginning of the process of public comment. Anderson noted that she has already received numerous comments via emails, phone calls and correspondence dropped off at the office.

Anderson reviewed a memo from the police chief, Tom Martin which stated that the average decibel reading has been less than fifty-five (55) decibels so far this summer and approximately eight (8) excessive noise calls are received by the police department over a typical weekend period.

Webb asked if Chief Martin tells, of those approximately eight (8) calls, whether the complaints are all different individuals or the same ones multiple times. Anderson said that the memo did not say but she could get that information later.

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

All in favor. Motion carried.

Joanna Rider; 201 Center Street. Owns the Hotel Nichols across the street from York's Landing. Described a recent experience with a guest with more than one complaint about the noise that showed desk staff a decibel reading, taken in his unit on his laptop was eighty (80) decibels. Police response time was slow so the guest went over and unplugged the band's equipment, then came back to the hotel and locked her desk clerk out of the hotel. Rider explained this is the way her weekends are during the summer and complained that there is not good monitoring in the downtown area. Said she heard the readings were taken on Thursdays; noted that most of the bands do not play on those nights. Rider wants more monitoring and for the police to come right away. Rider noted she has to make coffee and cookies and give free nights and refunds to guests who are disturbed by the noise level.

Paull indicated that the decibel meters used by the police are certified; the guest probably does not have a certified decibel meter and noted that enforcement is a matter for the police.

Owen Ramey, 136 East Michigan, Kalamazoo, Michigan. Attorney representing Captain Lou's. Noted that it is apparent that the Hotel Nichol's guest had more issues than noise issues to do what he did and hoped that this is not a Hotel Nichols' normal customer. He requested that the commission focus on the importance of this issue as they address it. "If you pass the ordinance this would constitute a taking of my client's business." Ramey called the ordinance inverse condemnation. Ramey also stated that the ordinance is in conflict with the city's own zoning ordinance; that legal processes typically take five (5) to ten (10)

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years and would be very expensive to everyone. Ramey also stated that the city is proposing to have an ordinance that is a curfew on speech; totally illegal and with very great consequences.

Paull asked specifically what Ramey's objection is since the allegations were broad based. Ramey responded that lowering the decibel level to sixty (60) decibels and disallowing talking loud with no differentials between residential and commercial districts is a violation of the city's own zoning. "That is a specific thing you are doing here – these are resort areas, not residential, in this commercial district. To change that and supersede the zoning with the noise ordinance is not legal."

Commissioner Wall requested permission speak, noting that she wants everyone to understand that our city attorneys looked at our ordinances; that the city is not trying to pull the wool over anyone's eyes; that nothing illegal is going to be done; and that the city does not want a lawsuit. Wall further noted, "That's why we have a committee and why our attorneys look at this. Before this comes to council our attorneys will look at this (proposed amendment) and tell us if it's okay or not."

Trent Morgan, 201 Center Street. Does night security and front desk every weekend night at the Hotel Nichols. In reference to "the guy that went a little crazy this weekend" in his defense Morgan pointed out that guest had paid over \$1000 for his extended stay and had two (2) babies, and "those kids were kept up every night." Morgan noted that when the guest approached him he also called the police. "I work with the police a lot at my regular security job at Meijer's and it did take the police a good ten (10) to fifteen (15) minutes to get to the hotel that night." Morgan noted that there are two different groups with the main goal being to keep the tourists coming in – the bars and the hotels – and there is a need to come to a compromise with our target audience. Morgan also noted that with a reading of sixty-five (65) decibels, it depends on where the monitoring is being done. "It might be louder upstairs at Hotel Nichols or on the street a little ways away." Morgan stressed compromise and believes the hotels should be able to tell guests that the music will be turned down at a specific time.

Jim Shek, P.O. Box A, Allegan, Michigan. Attorney represents the principals of Phoenix Street Café; Café Julia; Brix; Tello's and York's Landing. Expressed concern with what he called "the secrecy of this process" as it involves the interest holders. Shek noted that in the Planning Commission's July 10, 2014 minutes commissioners were informed there would be a hearing today "and bar owners will be encouraged to attend." Shek reviewed the Staff Report from August 7, 2014 which noted that copies of the draft ordinance have been sent to "all bar owners in the city." Shek assured that his and Mr. Ramey's clients did not receive copies of the draft ordinance in advance of this public hearing but "discovered this process only a few days ago." Shek stated that he brings that to the commission's attention, to indicate that it was probably an administrative oversight and for that reason alone, it would be appropriate to adjourn this public hearing to another public hearing when we are done." Indicated that his clients are in a commercial business district, a waterfront business district, with specific commercial uses in those districts that produce more noise and should produce more noise than a residential district, but "this proposal indicates equalization without consideration of the inherent nature of differences".

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Dorothy Appleyard, 806 Wilson Street. Stated that she comes from a slightly different perspective as one who lives in a quiet neighborhood. Noted that she had thoughts of encouraging the Planning Commission to consider a zoned approach. "The city is only three point five (3.5) square miles in circumference and it is going to be really hard to control where the sound stays; they are commercial but they can't keep the sound on their property. It travels." Appleyard knows the commercial folks want to earn some money but we want to maintain our quiet neighborhoods, too. "We give up a lot to support tourists and we deserve some consideration. Limit the sound by time as well as decibel level. There has to be some consideration for the residents here, too."

Bernard Sherburn, 532 Dyckman, the Colonial Condominiums. Stated that since January 1st he has made investments of over two million dollars (\$2M) in properties and represents two other parties. "We want this entertainment to stay just exactly as it is. It is important for people to come here; for music to be available; we have repeat customers and we look forward to them coming back." Noted the short season of two (2) to three (3) months; requested that the Planning Commission consider what this ordinance is going to do and stated that he and his other partners would like to stay here and maybe spend some more money.

Maureen Stefan, 516 Williams Street #5. Homeowner in the Watertown Building across the street from Lou's, the Idler & York's. Stated that the property owners' average age in her building is about fifty (50) to fifty-five (55) at most at this point. They are owners, not renters, and they come on weekends and enjoy the music. Requested that things be kept the same noting that they hear that music the most and "there isn't one person I know in our place that's against it. It's a tourist town; there is a short time people can make money here and enjoy your city. It hasn't been a nuisance; we knew it was a tourist town when we bought in here. We don't have a problem." Noted that people who do rent are made aware that there could be some noise on the weekend.

Mayor Bob Burr, 162 Dunkley. Has lived in South Haven thirty-five (35) years and when he first moved in there was one (1) liquor establishment, the South Haven Yacht Club. Noted that the current ordinance prohibits sound after 7:00 a.m. from going one hundred (100) feet from the source. "Could this be eliminated after 11:00 at night as one option? Do we need to have a cut off time when all music would cease? Saugatuck, Douglas, Holland and other cities up and down the lakeshore have a time when outdoor noise/music ceases." Burr noted that the problem with a decibel based system with seven (7) bars is that it is virtually impossible for our police force to monitor through the night; "as they leave one establishment the music gets turned up; one was ticketed this season." Burr would like the Planning Commission to look at whether the city should substitute the 100' rule for nighttime operations or go to a time cut-off period.

Ron Wiser, 96 Chicago Avenue. Owns nineteen (19) condos in Old Harbor Village and three (3) in Watertown plus numerous other properties around town. Saluted "the individual from Nichols that went over and turned off that band." Stated there is a lot of money represented here, with a disconnect between the bar owners and a huge residential area surrounding them. Many of those residential places were here before the bars; when the police are called there is poor response. "The police get there and the bands are playing Frank Sinatra." Stated that the guests in the front units at Watertown are constantly complaining; that people in the back do not get the noise. "We refund, we discount and people walk out."

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Noted these are residential units, sleeping units, for three hundred fifty dollars (\$350) plus (+) per night and the customers deserve respect. Noted there was a comment about lawsuits for passing these laws and noted that a lot of cities up and down have done it and there have been no lawsuits.

Shek requested consideration of the chair. Stated that he represents three (3) separate clients and wants to receive three (3) minutes for each client. Paull responded that the commission may consider that once everyone else has spoken.

Ann Pantalone, 777 North Shore Drive #7. Has been very happy with development of the town over the period of time they have been here. Noted that there is a short summer season and the music/noise is only two (2) nights a week for ten (10) weeks. Stated that they made a choice to come to South Haven, a resort town, and to stay in a location in town, that they were aware of other choices where it would be quiet. Stated that those in her complex are all very happy with the way things have grown and things she can do in town.

Dan Onzman, 732 Green Street. Works at Black River Tavern and they have music every weekend. "We should respect our neighbors and want to do that." Suggests that we work as a team and cooperate; if there is specific problem come to us and work it out together. In regards to the gentleman from Old Harbor Inn and the young lady from Hotel Nichols; Black River Tavern gets people who came in and decided to extend their vacation. They ask for suggestions and we recommend the Hotel Nichols and Old Harbor Inn. "We want to please everybody, but that's not always possible. Let's come together and work out a solution. We don't want to bother their guests; we want them to be happy and to stay longer and come have lunch with us."

Corey Talcott, owner Captain Lou's. Noted he bought Lou's thirteen (13) years ago, knowing he would have bands. "Sixty (60) decibels? I am speaking way over sixty (60) right now. It is so frustrating; I gave my heart and soul to this business. Changing the decibel level is like if you bought a two (2) story house and the city ripped the top story off and told you to get on with business. My customers are working class people who work all day and come out at night and want to have a good time."

Dan O'Donnell, 777 North Shore Drive. Stated he has been here twenty-five (25) years and wants to support the bar owners. Noted the need to work together and have certain expectations. Noted that both citizens and bar owners have rights; and "need to come to a solution." Noted that eighty (80) decibels is the OSHA regulation for not requiring hearing protection and that sixty (60) is very low; if there are five (5) people talking in a room the sound will be way over sixty (60) decibels.

Paull inquired whether anyone else had comments; hearing none Paull asked the commission's pleasure regarding hearing from Attorney Shek. The commission agreed to hear Mr. Shek.

Jim Shek, P.O. Box A, Allegan, Michigan. Questioned why Mr. Wisner would applaud a citizen who would unplug equipment and trespass. He stated he applauds Mr. Wisner for addressing this commission as if he has not spoken on this before. Stated that Wisner has been part of the drafting of this ordinance while Shek's clients have not been considered. Noted that Mr. Wisner purchased his units in Old Harbor Village from Shek's client, York,

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while York's Landing has been in operation with music; now that Mr. Wiser owns these units he has a different idea of what kind of guests he would like to have. Urged the commission to take into account Wiser's interest in this process.

Paull requested information regarding Mr. Wiser's interest and involvement in the process. Anderson noted that Mr. Wiser and Mr. Marple were interviewed at one meeting of the subcommittee. They were not members.

Wall noted, in regards to our police enforcement, it is no different than going to an Emergency Room (ER). "The guy with the heart attack is going to take precedence over the guy with stitches." Wall stated that the city has a very good police chief, who takes very seriously who he hires and what their procedures are, noting, "I'm sorry if you are inconvenienced by noise, but if it were your parents getting mugged wouldn't you want the police officer to give them precedence over a noise complaint? Our police officers work very hard and pull some very long hours and cover a lot of territory, especially during festival weekends. Please try to be understanding with our police officers, especially when it comes to noise; emergencies will take precedence over noise and they will get to you, it just may take some time."

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

Paull noted that this commission will take the information from this hearing and give it their full attention and effort.

Paull called for a five (5) minutes recess and reiterated that the subcommittee will be meeting in the coming weeks to continue to work on this issue.

After five minutes, Paull again called the meeting to order.

7. Unfinished Business

a) Site Plan Review for new Goodwill Store, 340 73 ½ Street – final

Anderson reviewed the process; this site plan review went to the Zoning Board of Appeals due to variances that were requested. The board of appeals approved both variances. The applicants corrected all other planning commission and staff concerns and staff is satisfied. She then noted that the architect is still working out a couple of issues with the city engineer. Anderson recommended that commissioners approve the site plan contingent on the city engineer signing off on the project before any permits are issued.

Paull noted one of the reasons there was a need for a variance; the request of a larger drop off garage than usual to facilitate the delivery of merchandise to the store. They could have made the garage narrower but it did not make sense for their purposes. Noted that when the Zoning Board of Appeals approved the variance for the front of the property, it was limited to the one part that was not in compliance, the first ten (10) to fifteen (15) feet.

Anderson explained the reasoning behind the granting of the variance.

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Paull pointed out that Goodwill is making a substantial investment and contribution to the community with what they are planning.

Motion by Heinig, second by Wall to approve the site plan contingent on no permits being issued until city engineer feels that all issues have been corrected to his satisfaction.

All in favor. Motion carried.

b) Steve Schlack PUD amendment (Riverwatch Condos)

Anderson said Schlack came in last month regarding his two phase condominium development; the second phase has not been developed. He proposed to take out 16,000 square feet for a single family residence and the balance for parking structures and open space. The applicant since withdrew the single family request and the parking structure plan. He is now asking to just remove Phase Two from the project to make it available for sale. The previous public hearing on a condo amendment did not include removing entirely Phase Two. Zoning Section 1303-9 defines minor and major amendments. This request is considered a major amendment and she asks that the Planning Commission hold a public hearing in September to address this request.

Steve Schlack, developer of River Watch Condo. Noted that there have been many changes before this board regarding the ordinance and other proposed changes. Asked for the commission to simply clarify. Schlack feels it is his right as a developer to remove this phase without any other permission; has everything in order. The land split application is filled out with the required documentation, the master deed amendment, the legal descriptions, etc. Schlack noted that at the close of the last meeting it was voted to continue the public hearing to the next meeting he was at . . . "so here I am."

Paull asked Schlack's pleasure. Schlack stated he would like to get the commission's input on this; it is an ongoing process that seems to change monthly.

The Commission discussed opening, then closing the carried over public hearing, then decide what to do.

Motion by Wall to open the public hearing from the issue of the July 10, 2014 meeting. Second by Peterson.

All in favor. Motion carried.

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

All in favor. Motion carried.

Paul noted that the previous request to split the property for a single family home and garages for Phase One owners "has been withdrawn and the new issue before us requires that we set a public hearing".

Paull directed Anderson to arrange the public hearing.

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Schlack questioned, regarding the ordinance, the current zoning is for fifty (50) residential units, "Does the Planned Unit Development (PUD) override the current zoning? If I remove the second phase, what is the zoning?" Anderson stated the zoning will still be the B-3 zoning that it is in right now.

c) Proposed B-3 amendment changes

Anderson noted we have been working on a provision to allow single family homes in the B-3 zone. At the last meeting some proposed amendments from City Council were discussed. The commission had some minor issues with those amendments and decided not to move forward until the matter could be studied further. Since then there was a subcommittee meeting with a conference call with city attorney in which they went over the concerns. The attorney made some minor modifications; after those modifications were made Anderson reviewed them and asked the attorney if he felt another public hearing was required. The attorney said the changes were minor and could be acted on at the next meeting without further public hearings.

Anderson explained that in the B-3 zone, new lots could not be created in order to put a single family home on a lot. After Jan 1, 2014 no lot split could be permitted for the purpose of constructing a single family home. We added that the inability to use the lot for another use in the zoning district could not be a self-created issue. Since there was no time limit that was wide open and could have been a split from thirty or forty years ago. The attorney added that the inability to use the lot could not be the result of a lot split after January 1, 2014. Anything done before that would not be affected by the amendment. Anderson recommends forwarding to City Council with a recommendation to adopt.

Steve Schlack asked why this is being done. Paull said the amendments originally proposed by City Council were too restrictive and the Planning Commission has modified them and placed controlling dates on what was originally drafted.

Schlack stated that feels picked on; does not understand the inclusion of the January 1, 2014 date and asked why it has to be there. "What about accessibility? I know you have attorneys looking at these matters, but you need to look at other neighbor's properties, not just mine."

Paull responded that "frankly we weren't looking at any particular lots but rather to allow B-3 property owners the ability to build a house if they can't use the property for any other permitted B-3 use."

Wall questioned whether part of the problem was that the inability to use a property for something other than a commercial use was that it was not to be self-created. Paull commented, "We wanted to address a planning issue; if City Council wants to turn it into politics go ahead, but not this commission." This started out, according to Paull, as slight amendments to make it possible for lots too small for a B-3 use to be able to have a house built.

Peterson asked, regarding the last meeting which ended going into a subcommittee, didn't it end up being about the economic benefit? Paull said he didn't think that was ever

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a question. Anderson noted that the biggest concern of the Planning Commission and the subcommittee was the wording about self-created problems; it was felt to be vague and unreasonable as there was no time limitation provided; we worked with the attorney to come up with a date and it was decided to go with January 1, 2014. If a lot was recorded before January 1, 2014 that's fine. Likewise, If the lot was split twenty (20) years ago and now is too small for a B-3 business use that would also not be taken into consideration under this amendment.

Paull noted that the commission is trying to make using the lots easier not harder.

Motion by Frost to approve Resolution 2014-0002, approving and recommending City Council approval of a text amendment to Ordinance Section 901-17. Second by Miles.

All in favor. Motion carried.

8. Commissioner Comments

Wall: It's Blueberry Fest weekend – everybody go eat blueberry pie.

Paull asked Anderson whether those agendas were mailed out to the bar owners to which Anderson responded, "No, I hand delivered them."

There were no other comments.

9. Adjourn

Motion by Heinig, second by Stimson to adjourn at 8:20 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6a Riverwatch Condominium Amendment

City of South Haven

Background Information:

A few months ago the applicant, Steve Schlack, asked to amend the master plan for the Riverwatch Condominium development by taking 15,600 square feet out of the Phase 2 plan for a single family residence (by special use permit) and changing the remaining Phase 2 area from the original residential units to a parking structure for Phase 1 residential units. The applicant has since withdrawn the single family request and the parking structure plan and is asking now to remove the entire Phase 2 area from the project.

Several documents have been submitted as part of this application including the proposed amendment to the master deed and the legal description for each new parcel. There is also a copy of the 2007 master deed which provides for the developer to remove undeveloped phases from the development within ten (10) years. Also included is the applicant's narrative of the proposed action and the easement to allow access through the phase 1 property.

Recommendation:

Staff asks that the planning commission members review the attached materials in order to understand the request. Staff has no problem with the amendment.

This request will need to receive final approval from the city council. Remember to make any motion in the form of a recommendation to council.

Attachments:

Revised application

Applicant narrative

Master Deed Article VIII

(This original article provides for access to be allowed through Phase 1 as well as providing the developer the right to withdraw the Phase 2 property at any time prior to 9.14.2017.)

Second Amendment

(This amendment separates Phase 1 from Phase 2 and provides legal description for both parcels.)

Access easement agreement

(This provides for access across Phase 1 to Phase 2.)

Utility diagram

Condo Documents

Respectfully submitted,
Linda Anderson
Zoning Administrator

BUILDING / ZONING PERMIT APPLICATION

CITY OF SOUTH HAVEN
BUILDING DEPARTMENT

539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-277-8573

Application changed to delete phase 2 entirely

Rvd Amend

**DO NOT PAY FEE WITH SUBMITTAL OF THIS PERMIT APPLICATION
PAY FULL AMOUNT OF FEE DUE WHEN ISSUED PERMIT IS PICKED UP**

Project Address: 817 E. Wells St.

Applicant: Steve Schlach 815 Wells Street, LLC Property Owner: 815 Wells St. LLC

Appl. Address: 626 Dunkley Ave. Owner Address: 626 Dunkley Ave.

Applicant Phone: 269-214-1809 Owner Phone: 269-214-1809

Current Use of Property: Vacant land Zoning District of Property: B3

Project Description: Phase II Riverwatch condominiums - Remove previously approved 25 unit 6 story building + Amend to 14 garages for Rfd owner's open space green space

Contractor: Wolverine Building Group License No.: _____ Exp. Date: _____

Liability Carrier: _____ Fed Id or S.S.: _____

Total Value of Construction (All Materials & Labor for this Permit Only): _____

Yes No Property is subject to an association. (If yes, attach a letter of approval from said association)

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, and that I understand 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, which 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.

APPLICANT'S SIGNATURE: *Steve Schlach* DATE: 4-23-14
CONTRACTOR - OWNER

All contractors must be registered with the City of South Haven before a building permit may be issued.
For new single family dwellings, a completed New Single Family Home Submittal Requirements application form must be attached.

For any work involving a change to the footprint of a structure, a drawing must be included with the following:

1. SHOW PROPERTY LINES AND DIMENSIONS OF LOT
2. SHOW ALL STRUCTURES ON PROPERTY
3. SHOW DISTANCES FROM STRUCTURES TO PROPERTY LINES
4. SHOW DISTANCES BETWEEN BUILDINGS
5. SHOW STREETS AND EASEMENTS
6. SHOW ANY UTILITIES NEAR CONSTRUCTION AREA

The submittal of accurate drawings results in faster permit application processing. A survey or professional drawing of the property may be required if the proposed work is at or within 3 ft. of a property line, or it is determined to be needed by the Zoning Administrator or Building Official.

IMPORTANT: THIS BUILDING PERMIT APPLICATION IS NOT A PERMIT. A PERMIT MUST BE ISSUED AND PICKED UP FROM CITY HALL BEFORE ANY WORK IS BEGUN.

I am Steve Schlack and the Developer of Riverwatch Condominiums of South Haven. I wish to exercise my option to withdraw the Phase II portion of the development and revert it back to its underlying zone of B-3.

- 1) The amendment is to remove the Phase II portion only.
- 2) I have the required easements in place in the Master Deed for ingress and egress along with easements for utilities serving the removed parcel. (Will be signed & filed upon final approval)
- 3) I have the Land Split application filled out with the documents ready for signatures. I have the Master Deed Amendment prepared for signatures along with the necessary documentation and legal descriptions to be filed upon final approval. The City Assessor has stated in past correspondence that there are no issues within his department for the removal to occur.
- 4) Attachments for your review include the preliminary 2nd Amendment to the Master Deed. I have the two sets of stamped engineered drawings prepared and will submit upon final approval. The city colored drawing shows the Phase II line between the properties not allowing the required 10 foot side yard setback. The proposed amendment shows a straight line 20 feet from the pool fence to allow more than the required side yard setback for future Riverwatch use and more green space. I have also included the "cross hatch" access easement area to be finalized upon approval.
- 5) This amendment will not retract any of the previous green space required from the original PUD that has already been given to the City of South Haven in which the City has already developed into a park on Prospect and Conger Street.
- 6) The colored drawing also shows current utilities ready to serve the phase II property and those easements are already in place and included in the Master Deed.
- 7) Access is through the current Riverwatch site and the easement shows by cross hatch the easement area. This easement can only service a future residential development on the land removed. It is for ingress and egress. Under zoning law Riverwatch owners will not have to allow any commercial traffic through the easement area.
- 8) Future use of the parcel removed will be limited to B3 zoning such as residential multifamily dwellings. Or for example the marina sharing a property line to the North could purchase the parcel and put a marina club house or pool on the lot and access it thru their property but not thru Riverwatch property. The other property sharing a line with the removed parcel may want to expand their boat business and access it thru their property.

Condominium. There shall exist easements of support with respect to any Unit interior wall which supports a common element.

B. OTHER EASEMENTS.

The Developer has granted an exclusive perpetual easement for ingress and egress from Wells Street to the shoreline of the Black River, for the maintenance and operation of a boat haul out well to be used for the placing of boats in and removing them from the Black River; for a related storage building; and for the use of the eighty (80) feet of shoreline and dock and the adjacent bottomland along the Black River, over and across the westernmost eighty (80) feet of the Condominium Project. Except for the Co-Owners' right to use the sidewalk, consistent with the normal use of sidewalks, to the extent that it lies within this 80 foot area, **neither the Association nor the Co-Owners of this Condominium Project shall be entitled to use the Access and Boat Well Easement Area or the building in this easement area for any reason whatsoever.** The road within the Access and Boat Well Easement Area must remain open and unobstructed at all times.

C. STATUTORY EASEMENTS.

Pursuant to Section 67(3) of the Act, certain utility and access easements may be created through the Project for the benefit of undeveloped portions of the Project.

ARTICLE VIII

RIGHT TO WITHDRAW - AUTOMATIC CONVERSION

Notwithstanding anything to the contrary contained in this Master Deed, if the Developer has not completed development and construction of Units or improvements in the Project that are identified as "need not be built", during a period ending (10) ten years after the date of commencement of construction, or if the Developer exercises its contraction rights, then the time period shall be six (6) years from the date the Developer last exercised such rights, the Developer, its successors, or assigns has the right to withdraw from the Project all undeveloped portions of the Project not identified as "must be built" without the prior consent of any Co-Owners, mortgagees of Units in the Project, or any other party having an interest in the Project. Any undeveloped portions so removed from the Project shall automatically be granted easements for utility and access purposes through the Project for the benefit of the undeveloped portions. If the Developer fails to so withdraw any undeveloped portions of the Project before the expiration of this time period, then such lands shall remain a part of the Project as General Common Elements and all rights to construct Units upon that land shall cease. In such event, if necessary, the Association or a Co-Owner may commence an action to revise the percentages of value to adjust for the existence of fewer Units in the Project.

9/19/2017

ARTICLE IX

AMENDMENT AND TERMINATION

A. If there is no Co-Owner other than the Developer, the Developer may unilaterally amend the Condominium Documents or, with the consent of any interested mortgagee, unilaterally terminate the Project. All documents reflecting such amendment or termination shall be recorded in the public records of Van Buren County, Michigan.

B. If there is a Co-Owner other than the Developer, the Condominium Documents may be amended for a proper purpose only as follows:

SECOND AMENDMENT TO MASTER DEED

RIVERWATCH CONDOMINIUMS

(Act 59, Public Acts of 1978)

as amended

Van Buren County Condominium Subdivision Plan No. 112

No interest in real estate being conveyed hereby, no revenue stamps are required.

This Instrument Drafted by:

Cynthia P. Ortega
MILLER JOHNSON
100 West Michigan Ave., Suite 200
Kalamazoo, Michigan 49007
(269) 226-2959

SECOND AMENDMENT TO MASTER DEED
RIVERWATCH CONDOMINIUMS
PAGE 2 OF 5

SECOND AMENDMENT TO MASTER DEED
Riverwatch Condominiums
(Act 59, Public Acts of 1978)
as amended

This Second Amendment to Master Deed is made and executed on this 14th day of June, 2013, by **815 Wells Street, LLC**, a Michigan limited liability company, whose address is 815 E. Wells Street, South Haven, Michigan 49090 (the "**Developer**"), pursuant to the provisions of the Michigan Condominium Act, being Act 59 of the Public Acts of 1978, as amended (the "**Act**") and Article VIII of the Master Deed.

PREAMBLE

A. A condominium project known as **Riverwatch Condominiums** (the "**Project**"), was established pursuant to the Master Deed recorded in Liber 1484 Page 516, on June 4, 2007, as amended by the First Amendment to Master Deed recorded on August 27, 2007 at Liber 1488 Page 659 (collectively, the "**Master Deed**"), Van Buren County Records.

B. Pursuant to the provisions contained in Article VIII of the Master Deed, the Developer is recording this amendment to withdraw the undeveloped land from the Project that is not identified as "**must be built.**"

AMENDMENT

1. The land described on **Exhibit #1** is removed from the Project.
2. The land remaining as dedicated to this Project is described on **Exhibit #2**.
3. The Replat No. 2 Sheets 1-6 attached hereto shall supersede and replace the Replat No. 1 Cover Sheet (Sheet No. 1) and Sheet No. 4; and original Sheets Nos. 2, 3, 6 and 7 of the Condominium Subdivision Plan, **Exhibit B** to the Master Deed. Original Sheet No. 5 has been deleted.

Except as above provided, all of the terms and conditions contained in the Master Deed shall remain in full force and effect. This Second Amendment to Master Deed has been executed as of the day and year first above written.

DEVELOPER

815 Wells Street, LLC

By: _____
Steven Schlack, Agent

SECOND AMENDMENT TO MASTER DEED
RIVERWATCH CONDOMINIUMS
PAGE 4 OF 5

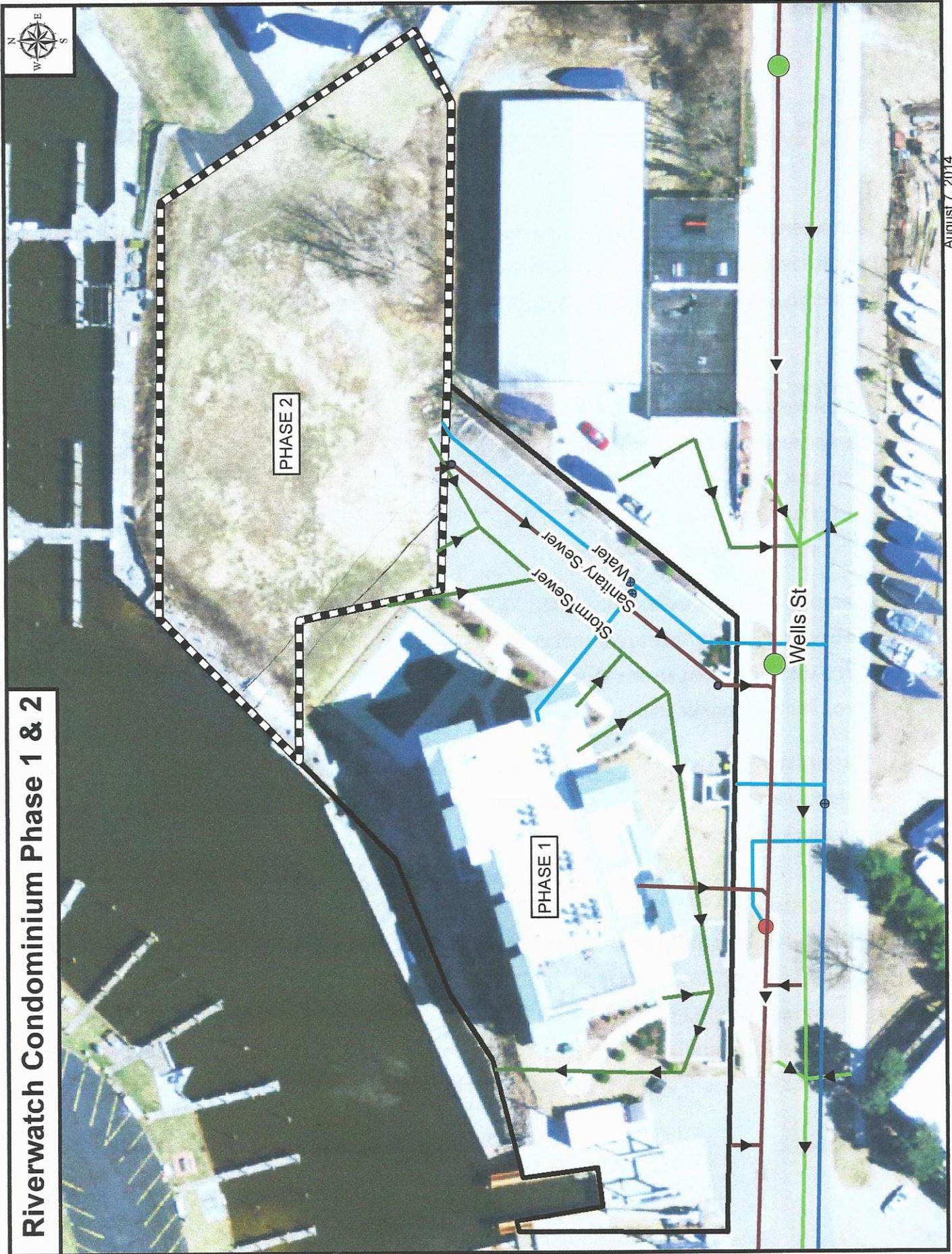
EXHIBIT #1
Land Removed from the Project

Part of the Supervisor's Plat of Avery Subdivision in Section 3, T1S, R17W, City of South Haven, Van Buren County, Michigan being described as: Beginning at a point found by commencing at the East 1/4 post of Section 3, T1S, R17W; thence S89°45'00"W on the East and West 1/4 line, 486.20 feet; thence N00°15'00"W at right angles, 33.00 feet; thence N38°00'00"E 173.30 feet to the place of beginning of this description; thence N77°40'54"W 60.92 feet; thence N51°20'07"W 91.50 feet to a point on an intermediate traverse line along the Black River; thence on said traverse line N43°02'20"E 85.84 feet to the end of said traverse line; thence N89°26'00"E 154.03 feet; thence S35°06'00"E 142.00 feet; thence S62°01'50"W 37.70 feet; thence S89°45'00"W 130.00 feet to the place of beginning, together with all land lying between said intermediate traverse line and the North and Southwesterly boundary lines extended to the Black River.

SECOND AMENDMENT TO MASTER DEED
RIVERWATCH CONDOMINIUMS
PAGE 5 OF 5

EXHIBIT #2
Land Remaining in the Project

Part of the Supervisor's Plat of Avery Subdivision in Section 3, T1S, R17W, City of South Haven, Van Buren County, Michigan being described as: Beginning at a point found by commencing at the East 1/4 post of Section 3, T1S, R17W; thence S89°45'00"W on the East and West ¼ line, 486.20 feet; thence N00°15'00"W at right angles, 33.00 feet to the place of beginning of this description; thence S89°45'00"W on the North line of Wells Street, 285.10 feet; thence N00°29'00"W, 74.17 feet to a point on an intermediate traverse line along the Black River; thence on said traverse line the following courses; N80°19'42"E, 84.05 feet; N62°05'40"E, 136.98 feet; and N46°00'00"E, 80.00 feet to the end of said traverse line; thence S51°20'07"E, 91.50 feet; thence S77°40'54"E 60.92 feet; thence S38°00'00"W, 173.30 feet to the place of beginning, together with all land lying between said intermediate traverse line and the North and West boundary lines extended to the Black River.



Riverwatch Condominium Phase 1 & 2

REPLAT NO. 2 TO VAN BUREN COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 112
EXHIBIT "B" TO THE MASTER DEED OF:

RIVERWATCH CONDOMINIUMS

CITY OF SOUTH HAVEN, VAN BUREN COUNTY, MICHIGAN
DEVELOPER:

815 WELLS STREET, LLC A MICHIGAN LIMITED LIABILITY COMPANY
815 E. WELLS STREET
SOUTH HAVEN , MICHIGAN 49090

ENGINEER:

FLEIS & VANDENBRINK
ENGINEERING, INC.
2960 LUCERNE DRIVE SE, GRAND RAPIDS, MICHIGAN 49546
SURVEYOR:
MEDEMA, VAN KOOTEN AND ASSOCIATES, INC.
252 STATE ST., SE., GRAND RAPIDS, MICHIGAN 49503-4381

NOTE: ALL SHEETS HAVE BEEN AMENDED. THESE SHEETS
REPLACE ALL SHEETS PREVIOUSLY RECORDED.

SHEET INDEX	
NO.	TITLE
1.	COVER SHEET
2.	SITE & SURVEY PLAN
3.	UTILITY PLAN
4.	FLOOR PLANS, SCHEDULE OF BLDG. & UNIT DATA BUILDING "A"
5.	BUILDING DETAILS AND SECTIONS
6.	FLOODPLAIN PLAN

PROPERTY DESCRIPTION

Part of the Supervisor's Plat of Avery Subdivision in Section 3, T1S, R17W, City of South Haven, Van Buren County, Michigan being described as: Beginning at a point found by commencing at the East 1/4 post of Section 3, T1S, R17W; thence S89°45'00"W on the East and West 1/4 line, 486.20 feet; thence N00°15'00"W at right angles, 33.00 feet to the place of beginning of this description; thence S89°45'00"W on the North line of Wells Street, 285.10 feet; thence N00°29'00"W, 74.17 feet to a point on an intermediate traverse line along the Black River; thence on said traverse line the following courses; N80°19'42"E, 84.05 feet; N62°05'40"E, 136.98 feet; and N46°00'00"E, 80.00 feet to the end of said traverse line; thence S51°20'07"E, 91.50 feet; thence S77°40'54"E 60.92 feet; thence S38°00'00W, 173.30 feet to the place of beginning, together with all land lying between said intermediate traverse line and the North and West boundary lines extended to the Black River.

PRELIMINARY

2ND AMENDED DATED
AMENDED DATED
PROPOSED DATED

JUNE 13, 2013
AUGUST 22, 2007
MAY 18, 2007

GENERAL NOTES

- PROPERTY CORNERS WILL BE MARKED WITH A CONCRETE MONUMENT.
- THE FLOATING DOCK IS A COMMON DOCK FOR ALL RESIDENTS TO USE AS TEMPORARY DOCKAGE.
- THE PERMANENT DOCK IS A COMMON DOCK FOR ALL RESIDENTS TO USE AS TEMPORARY DOCKAGE.
- ALL IMPROVEMENTS "NEED NOT BE BUILT". ONLY BUILDING "A" AND THE POOL "MUST BE BUILT".
- ALL LANDSCAPING WALLS ARE GENERAL COMMON ELEMENTS

COORDINATES		
STA	NORTH	EAST
1	500.0000	500.0000
2	498.7557	214.9020
3	572.9231	214.2764
4	587.0436	297.1317
5	651.1524	418.1837
6	706.7251	475.7309
7	649.5594	547.1756
8	636.5623	606.6941
9	585.3212	307.4126

BENCH MARK

BENCHMARK ELEVATION 586.98 N.G.V.D.
TOP OF RIM OF SANITARY SEWER MANHOLE
45' SW. OF SW. PROP. CORNER

BLACK RIVER

WATER SHEETING LINE
(EDGE OF RIVER)

PRELIMINARY

LEGEND

- ☉ = CONCRETE MONUMENT
- P.O.B. = POINT OF BEGINNING
- ELEV = ELEVATOR
- ☉ = COORDINATE POINT (SEE COORDINATE TABLE)
- MBB = MUST BE BUILT
- NNBB = NEED NOT BE BUILT
- ▭ = GENERAL COMMON ELEMENT
- ▨ = LIMITED COMMON ELEMENT
- = FENCE LINE
- ▨ = DIMENSION OF TYPICAL ASSIGNED PARKING SPACE
- ▭ = GENERAL COMMON ELEMENT ENCUMBERED BY EASEMENT PER LIBER 1461, PAGE 530.

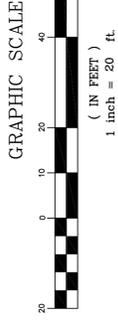
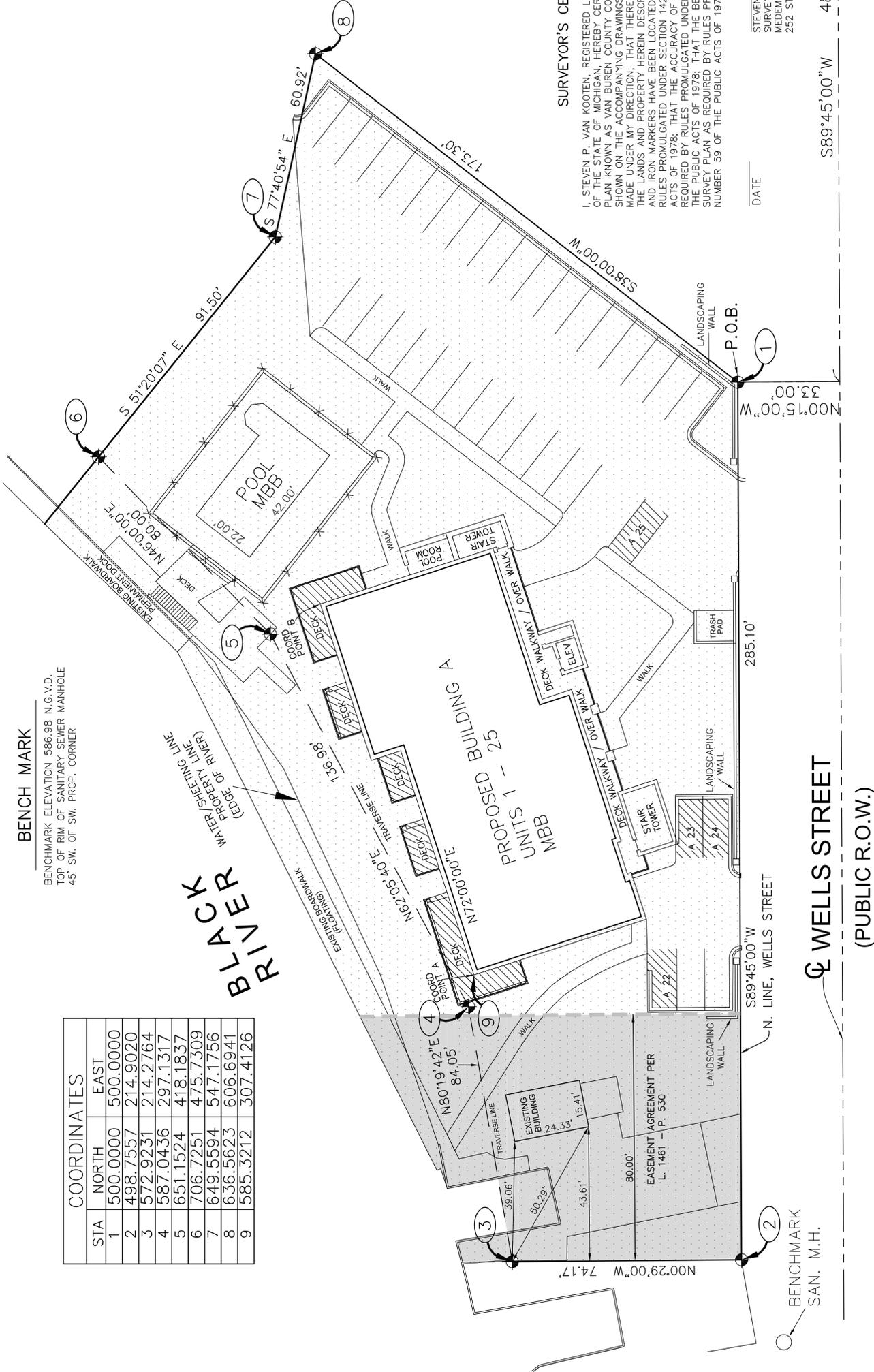
SURVEYOR'S CERTIFICATE

I, STEVEN P. VAN KOOTEN, REGISTERED LAND SURVEYOR OF THE STATE OF MICHIGAN, HEREBY CERTIFY: THAT THE SUBDIVISION PLAN KNOWN AS VAN BUREN COUNTY CONDOMINIUM SUBDIVISION PLAN NO. 112 SHOWN ON THE ACCOMPANYING DRAWINGS, REPRESENTS A SURVEY ON THE GROUND MADE UNDER MY DIRECTION; THAT THERE ARE NO EXISTING ENCROACHMENTS UPON THE LANDS AND PROPERTY HEREIN DESCRIBED; THAT THE REQUIRED MONUMENTS AND IRON MARKERS HAVE BEEN LOCATED IN THE GROUND AS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978; THAT THE ACCURACY OF THIS SURVEY IS WITHIN THE LIMITS REQUIRED BY RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978; THAT THE BEARINGS, AS SHOWN, ARE NOTED ON THE SURVEY PLAN AS REQUIRED BY RULES PROMULGATED UNDER SECTION 142 OF ACT NUMBER 59 OF THE PUBLIC ACTS OF 1978.

DATE

STEVEN P. VAN KOOTEN
SURVEYOR NO. 37284
MEDEMA, VAN KOOTEN AND ASSOCIATES, INC.
252 STATE ST., S.E., GRAND RAPIDS, MICHIGAN 49503

E. 1/4 COR.
SECTION 3
T1S, R17W



SITE & SURVEY PLAN
RIVERWATCH CONDOMINIUMS

MEDEMA VAN KOOTEN
CONSULTING ENGINEERS AND SURVEYORS
252 STATE ST., S.E., GRAND RAPIDS, MICHIGAN, 49503

2ND AMENDED DATED JUNE 13, 2013
AMENDED DATED AUGUST 22, 2007
PROPOSED DATED MAY 18, 2007

GENERAL NOTES

- THE LOCATION OF SOME PROPOSED UTILITIES IS NOT KNOWN, BUT WILL BE SHOWN ON THE AS-BUILT PLAN.
- 72 HOURS BEFORE YOU DIG, CALL "MISS DIG" TOLL FREE AT 1-800-482-7171 FOR UTILITIES LOCATION ON THE GROUND.
- THE LOCATION AND IDENTITY OF ALL UTILITY METERS WILL BE SHOWN ON THE AS-BUILT PLAN. THE LOCATION AND IDENTITY OF ANY PUBLIC UTILITY NOT SHOWN ON THIS PLAN WILL BE SHOWN ON THE AS-BUILT PLAN AFTER THE UTILITIES ARE INSTALLED.

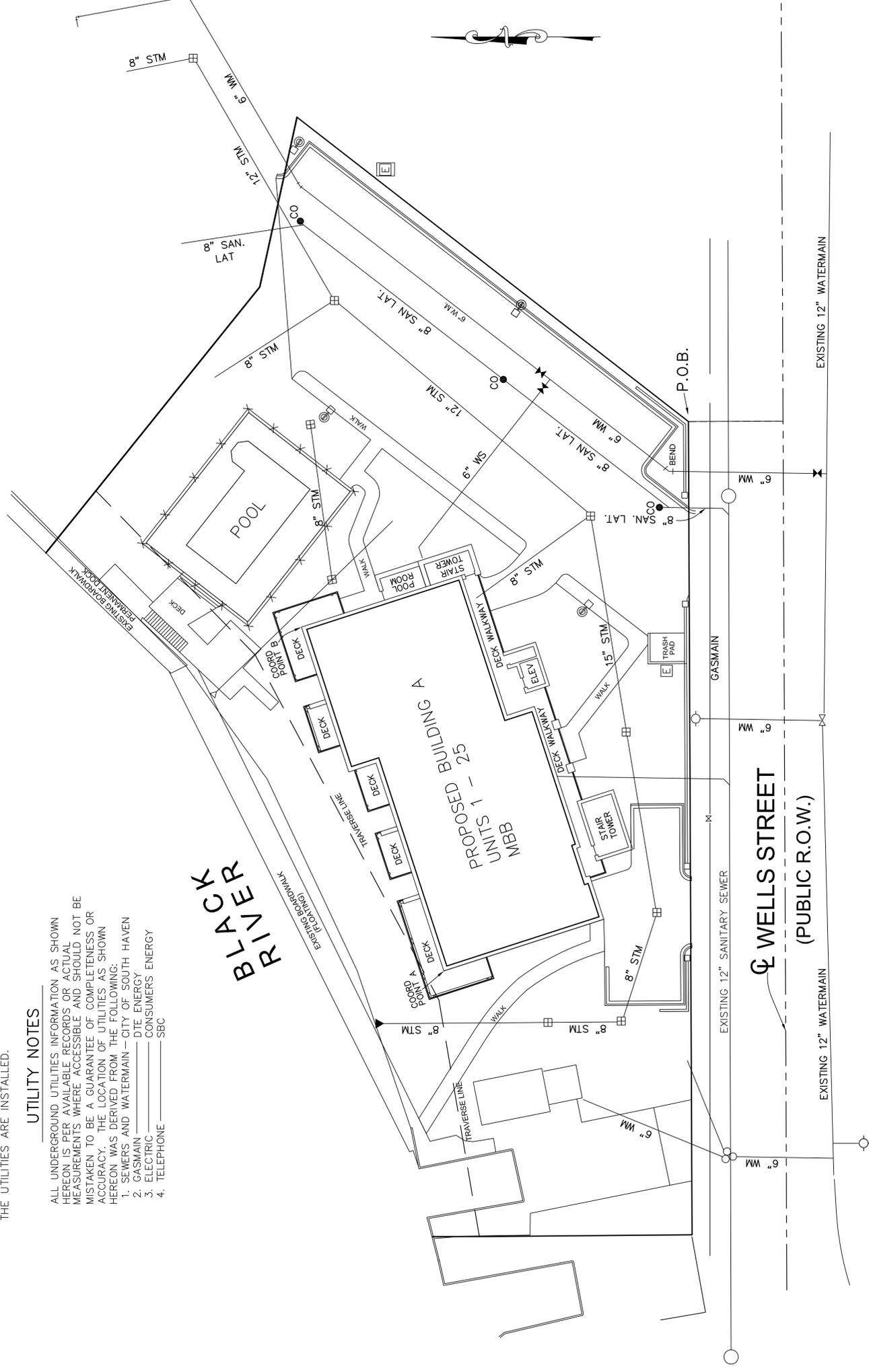
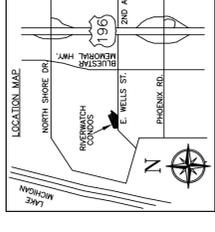
UTILITY NOTES

ALL UNDERGROUND UTILITIES INFORMATION AS SHOWN HEREON IS PER AVAILABLE RECORDS OR ACTUAL MEASUREMENTS WHERE ACCESSIBLE AND SHOULD NOT BE MISTAKEN TO BE A GUARANTEE OF COMPLETENESS OR ACCURACY. THE LOCATION OF UTILITIES AS SHOWN HEREON WAS DERIVED FROM THE FOLLOWING:

1. SEWERS AND WATERMAIN - CITY OF SOUTH HAVEN
2. GASMAIN - DTE ENERGY
3. ELECTRIC - CONSUMERS ENERGY
4. TELEPHONE - SBC

BENCH MARK

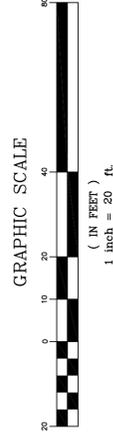
BENCHMARK ELEVATION 586.98 N.G.V.D.
TOP OF RIM OF SANITARY SEWER MANHOLE
45' SW. OF SW. PROP. CORNER



LEGEND

- ELEV = ELEVATOR
- MBB = MUST BE BUILT
- NMBB = MUST BE BUILT
- STM = STORM SEWER
- SAN = SANITARY SEWER
- ☉ = PROPOSED LIGHT POLE
- ⊙ = PROPOSED SANITARY CLEANOUT
- ⊙ = PROPOSED ELECTRIC TRANSFORMER
- ⊙ = PROPOSED STORM CATCHBASIN
- ⊙ = PROPOSED WATERMAIN VALVE
- = MANHOLE
- ⊙ = PROPOSED FIRE HYDRANT
- ⊙ = EXISTING WATERMAIN VALVE
- *** = FENCE LINE

PRELIMINARY



**UTILITY PLAN
RIVERWATCH CONDOMINIUMS**

**MEDEMA VAN KOOTEN
CONSULTING ENGINEERS AND SURVEYORS
252 STATE ST., S.E., GRAND RAPIDS, MICHIGAN, 49503**

2ND AMENDED DATED
AMENDED DATED
PROPOSED DATED

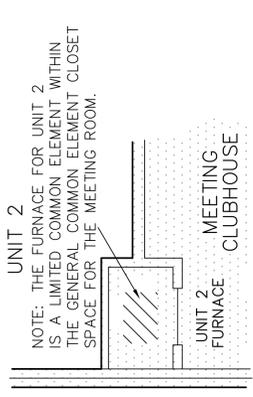
JUNE 13, 2013
AUGUST 22, 2007
MAY 18, 2007

LIMITS OF OWNERSHIP
 NOTE: ALL OWNERSHIP LINES ARE AT 90° TO EACH OTHER UNLESS OTHERWISE NOTED.

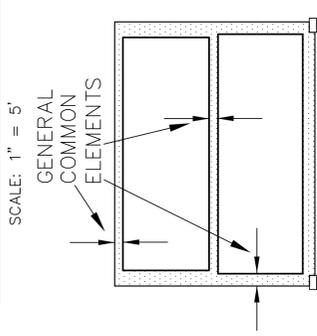
LEGEND

- ELEV = ELEVATOR
- SQ. FT. = SQUARE FEET
- NNBB = NEED NOT BE BUILT
- MBB = MUST BE BUILT
- RES/PK = RESERVED PARKING
- FL = FLOOR
- FMSR = FIRE SUPPRESSION MECHANICAL ROOM
- SR = STORAGE ROOM
- E&S = ELECTRIC/SECURITY ROOM
- = LIMITED COMMON ELEMENT
- = GENERAL COMMON ELEMENT
- MR = MECHANICAL ROOM (1ST. FL. AND 2ND FL. ONLY)

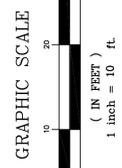
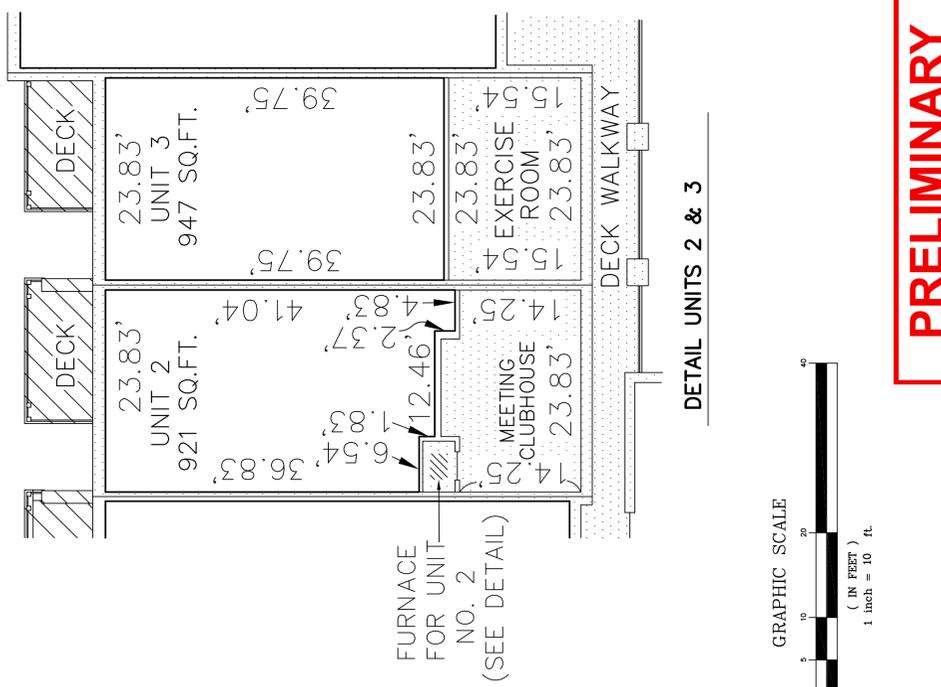
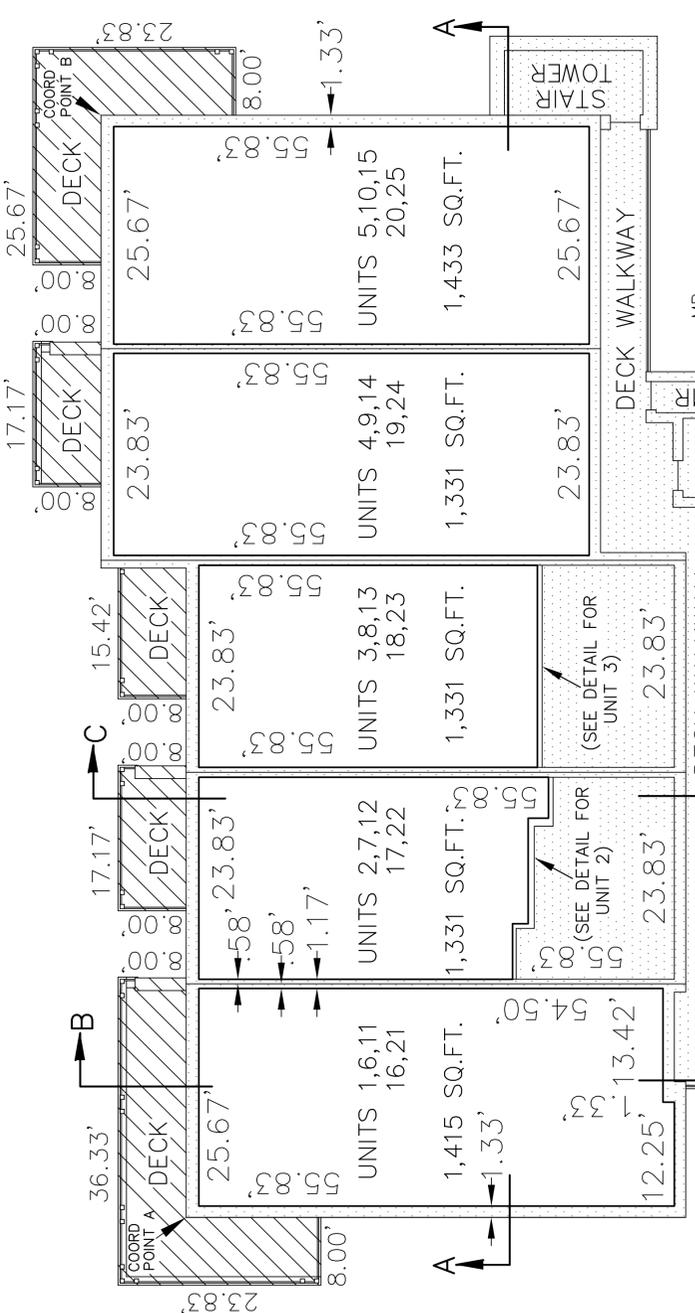
TYPICAL WALL THICKNESS
 FIRST FLOOR WALLS
 EXTERIOR = 1.33'
 2ND - 6TH FLOOR WALLS
 EXTERIOR = 1.33',
 PARTY WALL = 1.17'
CEILING HEIGHT
 1ST FL. = 8.2'
 2ND - 6TH FL. = 8.9'
 NOTE: ALL UNITS HAVE FLAT CEILINGS.



FURNACE ROOM DETAIL UNIT 2



SCHEDULE OF BUILDING AND UNIT DATA						
BLDG. NO.	FLOOR	UNIT NO.	TOTAL SQ. FT.	FLOOR ELEV. Z	1ST FL RES./PK	
PROPOSED BLDG A	2ND FLOOR	1	1415.00	589.33	NO	
		2	921.00	589.33	NO	
		3	947.00	589.33	NO	
		4	1331.00	589.33	NO	
		5	1433.00	589.33	NO	
	3RD FLOOR	6	1415.00	608.33	NO	
		7	1331.00	608.33	NO	
		8	1331.00	608.33	NO	
		9	1331.00	608.33	NO	
		10	1433.00	608.33	NO	
	4TH FLOOR	11	1415.00	618.33	NO	
		12	1331.00	618.33	NO	
		13	1331.00	618.33	NO	
		14	1331.00	618.33	NO	
		15	1433.00	618.33	NO	
	5TH FLOOR	16	1415.00	628.33	NO	
		17	1331.00	628.33	NO	
		18	1331.00	628.33	NO	
		19	1331.00	628.33	NO	
		20	1433.00	628.33	NO	
	6TH FLOOR	21	1415.00	638.33	NO	
		22	1331.00	638.33	NO	
		23	1331.00	638.33	NO	
		24	1331.00	638.33	NO	
		25	1433.00	638.33	NO	



PRELIMINARY

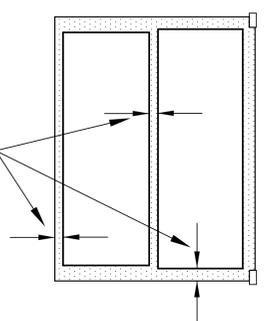
FLOOR PLANS, SCHEDULE OF BUILDINGS & UNIT DATA - BUILDING "A"
RIVERWATCH CONDOMINIUMS

MEDEMA VAN KOOTEN
CONSULTING ENGINEERS AND SURVEYORS
252 STATE ST., S.E., GRAND RAPIDS, MICHIGAN, 49503

2ND AMENDED DATED JUNE 13, 2013
 AMENDED DATED AUGUST 22, 2007
 PROPOSED DATED MAY 18, 2007

LIMITS OF OWNERSHIP
 NOTE: ALL OWNERSHIP LINES ARE AT 90° TO
 EACH OTHER UNLESS OTHERWISE NOTED.

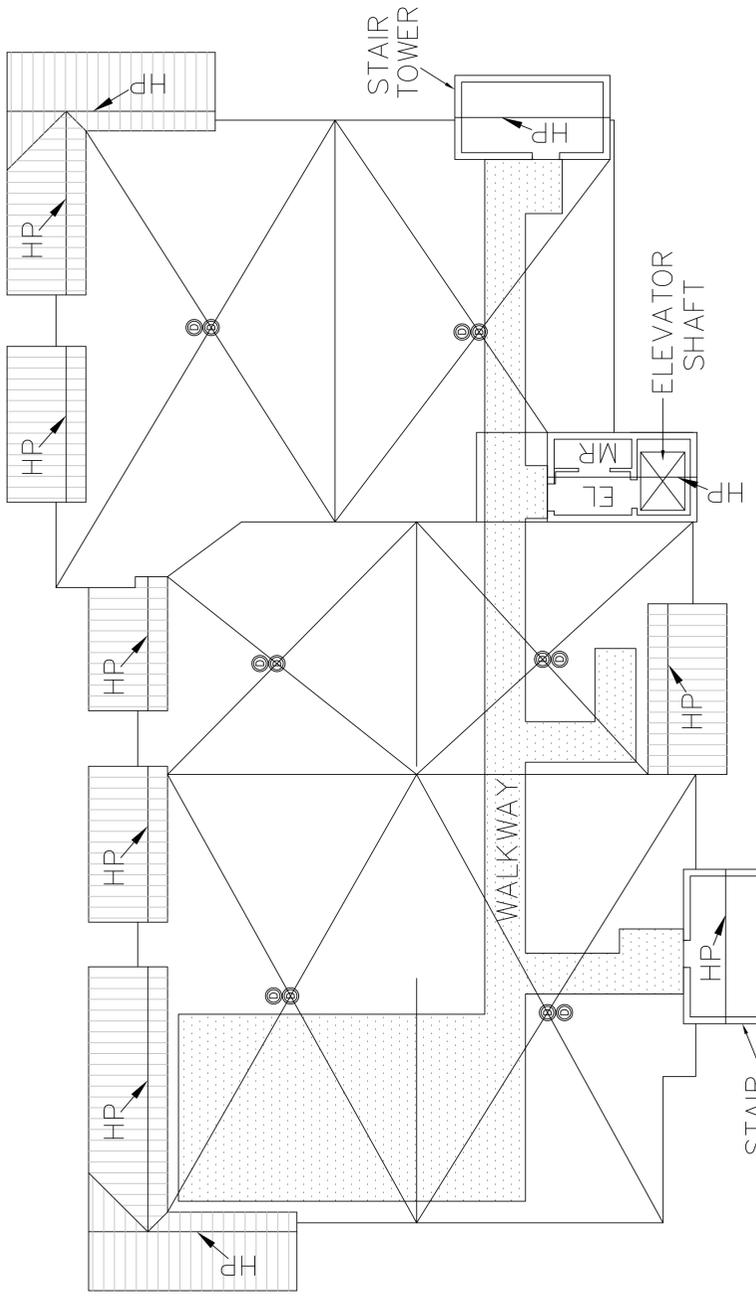
GENERAL
 COMMON
 ELEMENTS



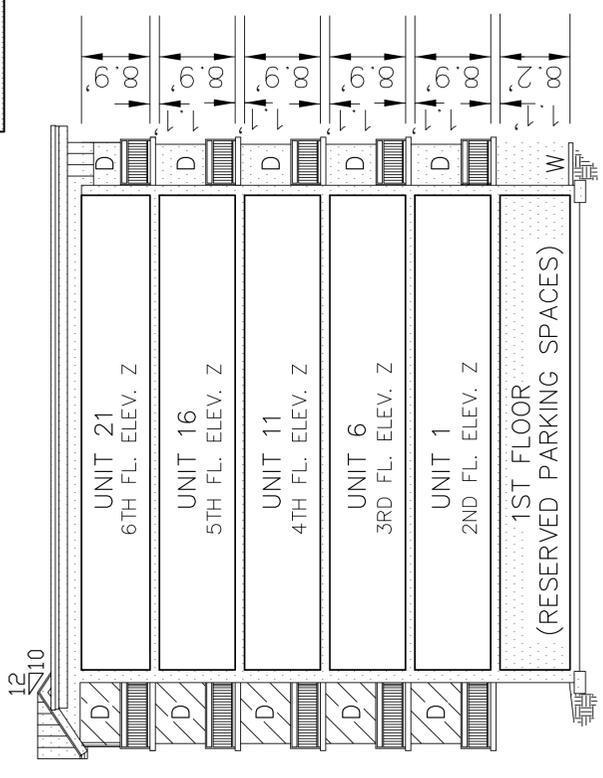
LEGEND

- HP = ROOF HIGH POINT
- ELEV = ELEVATION
- W = WALKWAY
- SQ. FT. = SQUARE FEET
- MBB = MUST BE BUILT
- RES/PK = RESERVED PARKING
- ME/CH = MEETING ROOM/CLUBHOUSE
- FL = FLOOR
- ⊙ = ROOF DRAIN
- EL = ELEVATOR LOBBY
- [Hatched Box] = LIMITED COMMON ELEMENT
- [Dotted Box] = GENERAL COMMON ELEMENT
- [Staircase Box] = NATURAL GROUND
- [Blank Box] = AREA RESERVED FOR THE INSTALLATION OF SATELLITE DISHES

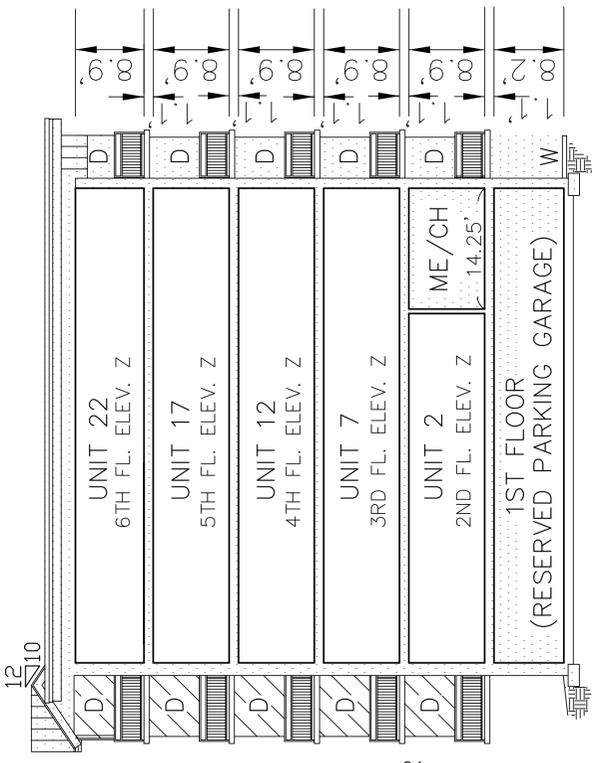
TYPICAL WALL THICKNESS
FIRST FLOOR WALLS
 EXTERIOR = .66'
 PARTY WALL = .88'
2ND - 6TH FLOOR WALLS
 EXTERIOR = .30'
 PARTY WALL = .83'
CEILING HEIGHT
 MAIN FL. = 9.0'
 2ND - 6TH FL. = 8.0'



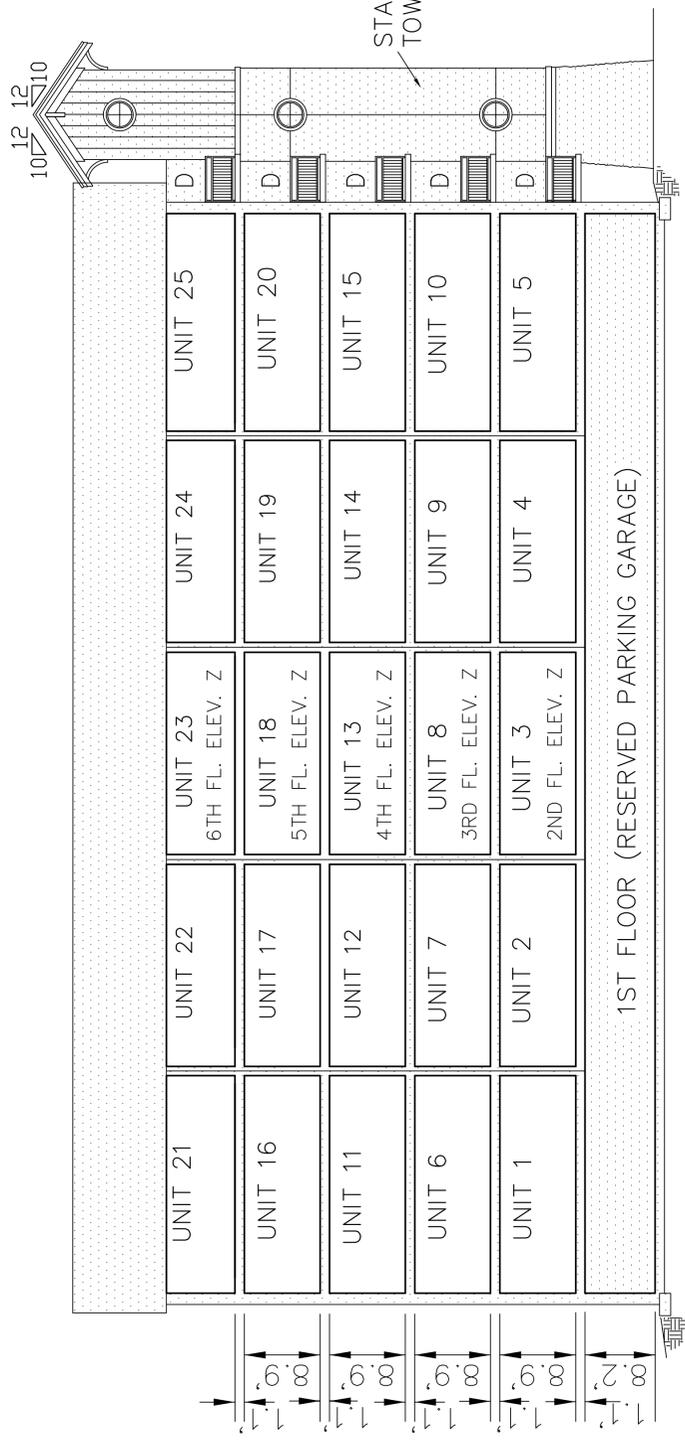
ROOF DETAIL
 BUILDING A



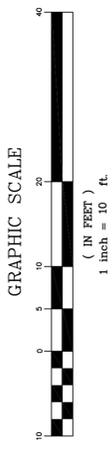
SECTION B-B
 BUILDING A



SECTION C-C
 BUILDING A



SECTION A-A
 BUILDING A



PRELIMINARY

BUILDING SECTIONS AND DETAILS - BUILDING "A"
RIVERWATCH CONDOMINIUMS

MEDEMA VAN KOOTEN
CONSULTING ENGINEERS AND SURVEYORS
252 STATE ST., S.E., GRAND RAPIDS, MICHIGAN, 49503

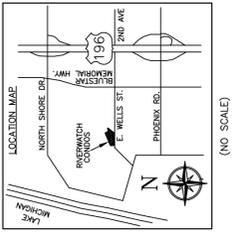
2ND AMENDED DATED JUNE 13, 2013
 AMENDED DATED AUGUST 22, 2007
 PROPOSED DATED MAY 18, 2007

GENERAL NOTES

- PROPERTY CORNERS WILL BE MARKED WITH A CONCRETE MONUMENT.
- 100 YEAR FLOOD PLAIN ELEVATION = 584.8

BENCH MARK

BENCHMARK ELEVATION 586.98 N.G.V.D.
TOP OF RIM OF SANITARY SEWER MANHOLE
45' SW. OF SW. PROP. CORNER

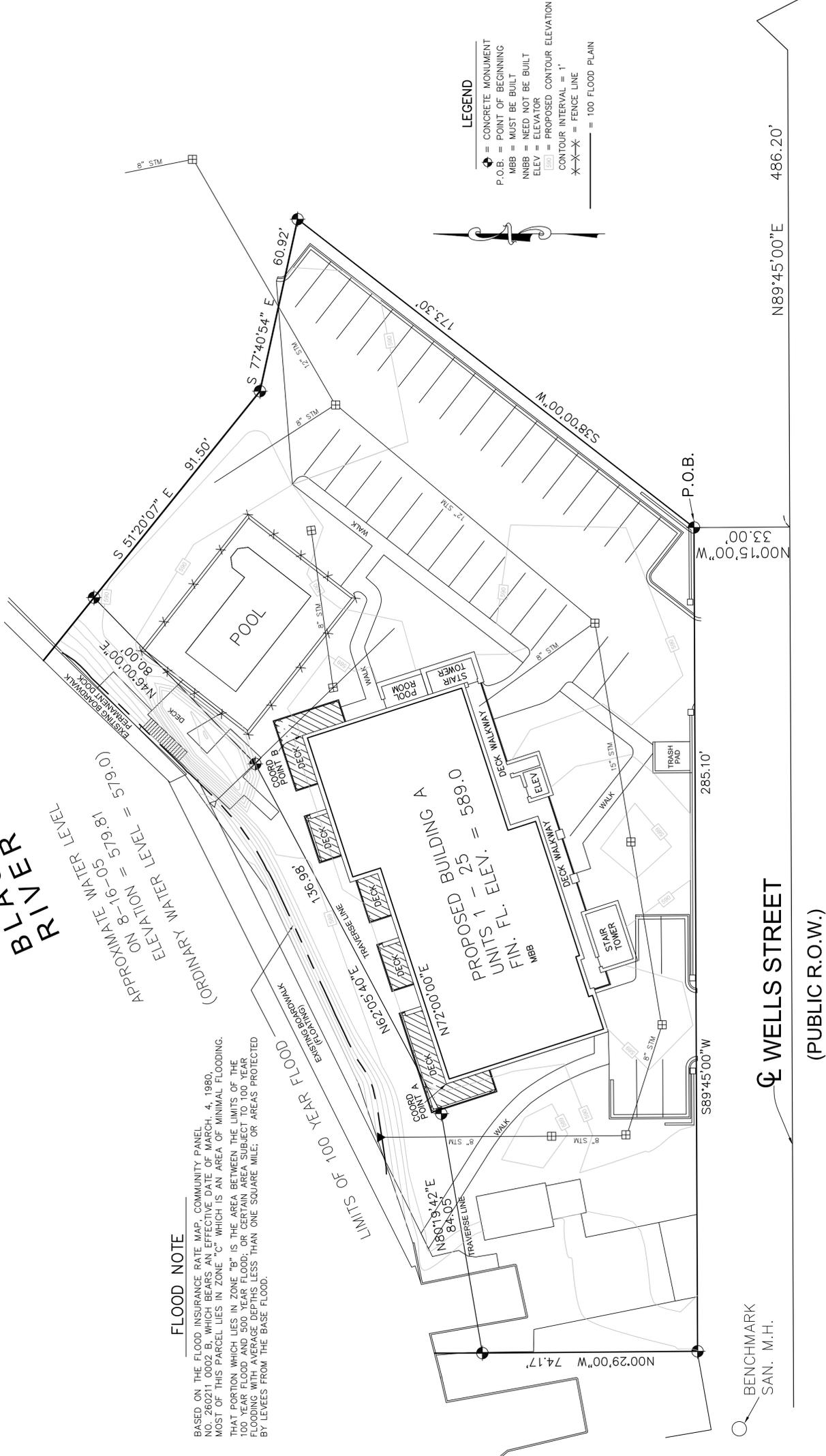


**RIVERWATCH
BLACK
BLAKER**

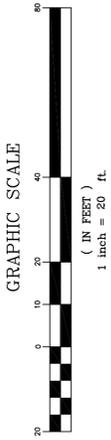
APPROXIMATE WATER LEVEL
ON 8-16-05
ELEVATION = 579.81
(ORDINARY WATER LEVEL = 579.0)

FLOOD NOTE

BASED ON THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 260211 0002 B, WHICH BEARS AN EFFECTIVE DATE OF MARCH, 4, 1980, MOST OF THIS PARCEL LIES IN ZONE "C" WHICH IS AN AREA OF MINIMAL FLOODING. THAT PORTION WHICH LIES IN ZONE "B" IS THE AREA BETWEEN THE LIMITS OF THE 100 YEAR FLOOD AND 500 YEAR FLOOD; OR CERTAIN AREA SUBJECT TO 100 YEAR FLOODING WITH AVERAGE DEPTHS LESS THAN ONE SQUARE MILE; OR AREAS PROTECTED BY LEVEES FROM THE BASE FLOOD.



- LEGEND**
- CONCRETE MONUMENT
 - POINT OF BEGINNING
 - MUST BE BUILT
 - NEED NOT BE BUILT
 - ELEVATOR
 - PROPOSED CONTOUR ELEVATION
 - CONTOUR INTERVAL = 1'
 - FENCE LINE
 - 100 FLOOD PLAIN



PRELIMINARY

**FLOODPLAIN PLAN
RIVERWATCH CONDOMINIUMS**

**MEDEMA VAN KOOTEN
CONSULTING ENGINEERS AND SURVEYORS
252 STATE ST., S.E., GRAND RAPIDS, MICHIGAN, 49503**

2ND AMENDED DATED JUNE 13, 2013
AMENDED DATED AUGUST 22, 2007
PROPOSED DATED MAY 18, 2007



Agenda Item #6b Waterfront Pool Special Use Permit

City of South Haven

Background Information: Adam Schaap Builders are requesting a special use permit to install an inground pool at 902 Monroe Blvd. Details of the proposed pool and location are included in this packet.

Swimming pools are permitted on waterfront lots only with a special use permit per zoning ordinance section 1725, which reads:

SECTION 1725, 2-d SWIMMING POOLS

Pools shall be allowed only in side or rear yards except on waterfront lots abutting the Black River or Lake Michigan, where no pool is permitted in any yard without a special use permit. The Planning Commission shall ensure that views of the water from abutting property are not unreasonably obscured by the pool, a fence, or related accessory structures.

Recommendation: Staff recommends that the planning commission review the case summary, visit the site and determine if this application for a special use permit meets the intent of the city and, if it does, include any conditions they feel necessary.

Support Material:

Application
Application narrative
Site plan
Case study

Respectfully submitted,
Linda Anderson
Zoning Administrator

SPECIAL USE PERMIT APPLICATION
CITY OF SOUTH HAVEN
BUILDING SERVICES DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760

Date: **8/12/2014**

Applicant: **Adam Schaap (Mike Schaap Builders, Inc)**

Applicant Address: **12969 Greenly St, Holland MI 49424**

Applicant Phone Numbers: **616-399-9925**

Applicant e-mail: **adams@mikeschaapbuilders.com**

Subject Property Address: **902 Monroe Blvd (parcel #80-53-210-013-50)**

(A legal description and survey of the subject property is required to be submitted with this application.)

Zoning District: **80010**

Type of Special Use Requested: **pool on waterfront lot**

(A scaled site plan for the subject property is required to be submitted with this application.)

Special Use Section Number: **1725-2**

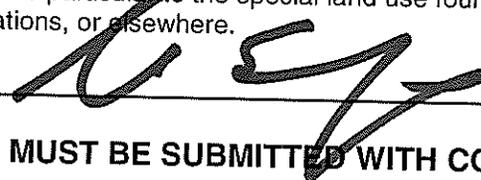
Attach a list of the conditions for approval which apply to your request and comment on how your request will meet those standards:

Applicant shall respond to the general standards in Sec. 1502 below and comment on how the requested Special Use Permit will meet the standards:

General Standards - The Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

- a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- b. The special land use shall not change the essential character of the surrounding area.
- c. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.
- d. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
- e. The special land use is consistent with the intent of the Comprehensive Plan.
- f. The special land use shall meet the site plan review requirements of Article IV.
- g. The special land use shall conform with all applicable state and federal requirements for that use.
- h. The special land use shall conform with all standards in this Ordinance and other applicable City Ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the District provisions, Schedule of Regulations, or elsewhere.

Applicant Signature



Date: **8/12/2014**

A FEE OF \$400.00 MUST BE SUBMITTED WITH COMPLETED APPLICATION.

General Standards - The Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

- a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. **Building material that are native to the area will be used in construction, as to blend with the character of environment**
- b. The special land use shall not change the essential character of the surrounding area. **Pool will be located within the property and setbacks.**
- c. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance. **Pool area will follow all local codes and guidelines and construction will take place during construction of home.**
- d. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion. **Pool is on a private lot, for use and maintained by owner.**
- e. The special land use is consistent with the intent of the Comprehensive Plan.
- f. The special land use shall meet the site plan review requirements of Article IV.
- g. The special land use shall conform with all applicable state and federal requirements for that use.
- h. The special land use shall conform with all standards in this Ordinance and other applicable City Ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the District provisions, Schedule of Regulations, or elsewhere.

AGENDA ITEM #6b
ADAM SCHAAP SPECIAL USE APPLICATION
GENERAL INFORMATION

Case Number.....2014-0013

Date of Plan Commission.....9.4.2014

Applicant.....Adam Schaap

RequestA special use permit to build an in-ground pool on a waterfront property

Location902 Monroe Blvd.

Parcel Number.....80-53-210-013-50

Size.....17,974 sq. feet (.4 ac.)

Street Frontage15 feet at street/55 feet at building line

Current Zoning.....R-1B Residential

Proposed Zoning.....No change

Contiguous Zoning.....North: R-1 B Residential
South: R-1 B Residential
East: R-1 B Residential
West: Lake Michigan

Current Land Use.....Single family residential

Contiguous Land Uses.....North: Residential
South: Residential
East: Residential
West: Lake Michigan

Comp Plan DesignationSingle Family Residential

CHARACTER OF THE AREA

The subject property is in an area of single family homes on waterfront lots similar to the Schaap lot. The character of the area is consistent with the current zoning and future land use classification.

DEVELOPMENT PROPOSAL

Adam Schaap Builders request a special use permit to construct an inground swimming pool at the above address on Monroe Boulevard. Swimming pools on waterfront properties require a special use permit according to zoning ordinance section 1725-2d.

PUBLIC RESPONSE

NA

EVALUATION

The following relevant provisions of the Zoning Ordinance are followed by a statement representing the status of the subject property as it relates to that provision.

Article XVII (Section 1725, 2-d, Swimming Pools)

Pools shall be allowed only in side or rear yards except on waterfront lots abutting the Black River or Lake Michigan, where no pool is permitted in any yard without a special use permit. The planning commission shall ensure that views of the water from abutting property are not unreasonably obscured by the pool, a fence, or related accessory structures.

The term "unreasonably" is concerning in this requirement. It will rest on the planning commission to determine whether the view obstruction is reasonable. After visiting the site, staff does not feel that the pool or fence will create an obstruction.

With a final determination pending the applicant presentation, staff finds this application compliant with zoning requirement Section 1725, 2-d.

Article XV (Section 1502, Basis of Determination):

1. **General standards** - the Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this ordinance:

A. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

The proposed pool is consistent with the surrounding area. There are other homes in waterfront areas with pools and there is no basis to expect that the pool will be poorly maintained.

B. The special land use shall not change the essential character of the surrounding area.

The proposed use will have little or no impact on the neighborhood. There are other homes in waterfront areas with pools and there is no expectation that the pool will change the area character.

C. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.

No hazardous impacts are anticipated provided the pool is fenced as required by ordinance and state law. Any exterior lighting will need to be dark sky compliant.

- D. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.

No additional demands on public services are expected.

- E. The special land use is consistent with the intent of the comprehensive plan.

The 2011 Master Plan does not specifically address swimming pools.

- F. The special land use shall meet the site plan review requirements of Article IV.

The site plan meets all requirements for a project of this type.

- G. The special land use shall conform to all applicable state and federal requirements for that use.

The application shows the fencing as required by state and local law. Since the property is not located in a high risk erosion area (Ref. MDEQ letter dated January 9, 2013), no additional permits are needed for the pool.

- H. The special land use shall conform with all standards in this ordinance and other applicable city ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the district provisions, schedule of regulations, or elsewhere.

The application includes all necessary information for a proposal of this type.

RECOMMENDATION

While staff has no reluctance in the approval of the special use request, the planning commission needs to review the case summary, visit the site and determine if this application for a special use permit meets the intent of the city and, if it does, include any conditions they feel necessary.



Agenda Item #6c Waterfront Pool Special Use Permit

City of South Haven

Background Information: Adam Schaap Builders are requesting a special use permit to install an inground pool at 906 Monroe Blvd. Details of the proposed pool and location are included in this packet.

Swimming pools are permitted on waterfront lots only with a special use permit per zoning ordinance section 1725, which reads:

SECTION 1725, 2-d SWIMMING POOLS

Pools shall be allowed only in side or rear yards except on waterfront lots abutting the Black River or Lake Michigan, where no pool is permitted in any yard without a special use permit. The Planning Commission shall ensure that views of the water from abutting property are not unreasonably obscured by the pool, a fence, or related accessory structures.

Recommendation: Staff recommends that the planning commission review the case summary, visit the site and determine if this application for a special use permit meets the intent of the city and, if it does, include any conditions they feel necessary.

Note: The site plan presented for the pool shows an accessory building between the street and the house. This structure will not be permitted without a variance from the zoning board of appeals.

Support Material:

Application
Application narrative
Site plan
Case study

Respectfully submitted,
Linda Anderson
Zoning Administrator

SPECIAL USE PERMIT APPLICATION
CITY OF SOUTH HAVEN
BUILDING SERVICES DEPARTMENT
539 PHOENIX STREET, SOUTH HAVEN, MICHIGAN 49090
FOR INFORMATION CALL 269-637-0760

Date: **8/12/2014**

Applicant: **Adam Schaap (Mike Schaap Builders, Inc)**

Applicant Address: **12969 Greenly St, Holland MI 49424**

Applicant Phone Numbers: **616-399-9925**

Applicant e-mail: **adams@mikeschaapbuilders.com**

Subject Property Address: **906 Monroe Blvd (parcel #80-53-210-013-60)**

(A legal description and survey of the subject property is required to be submitted with this application.)

Zoning District: **80010**

Type of Special Use Requested: **pool on waterfront lot**

(A scaled site plan for the subject property is required to be submitted with this application.)

Special Use Section Number: **1725-2**

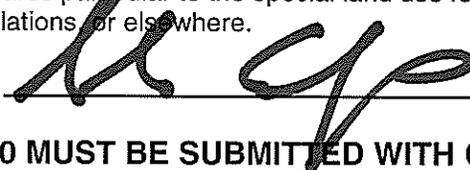
Attach a list of the conditions for approval which apply to your request and comment on how your request will meet those standards:

Applicant shall respond to the general standards in Sec. 1502 below and comment on how the requested Special Use Permit will meet the standards:

General Standards - The Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

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- b. The special land use shall not change the essential character of the surrounding area.
- c. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.
- d. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
- e. The special land use is consistent with the intent of the Comprehensive Plan.
- f. The special land use shall meet the site plan review requirements of Article IV.
- g. The special land use shall conform with all applicable state and federal requirements for that use.
- h. The special land use shall conform with all standards in this Ordinance and other applicable City Ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the District provisions, Schedule of Regulations, or elsewhere.

Applicant Signature



Date: **8/12/2014**

A FEE OF \$400.00 MUST BE SUBMITTED WITH COMPLETED APPLICATION.

General Standards - The Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

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- b. The special land use shall not change the essential character of the surrounding area. **Pool will be located within the property and setbacks.**
- c. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance. **Pool area will follow all local codes and guidelines and construction will take place during construction of home.**
- d. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion. **Pool is on a private lot, for use and maintained by owner.**
- e. The special land use is consistent with the intent of the Comprehensive Plan.
- f. The special land use shall meet the site plan review requirements of Article IV.
- g. The special land use shall conform with all applicable state and federal requirements for that use.
- h. The special land use shall conform with all standards in this Ordinance and other applicable City Ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the District provisions, Schedule of Regulations, or elsewhere.

BENCHMARK
 design studio

12969 Greenly St.
 Holland, MI 49424
 ph: 616.994.7374

www.benchmarkwoodstudio.com

Builder:

MIKE SCHAAP
 BUILDERS INC.
 12969 Greenly St. ph: 616.399.9925
 Holland, MI 49424 fx: 616.399.9924
 www.mikeschaapbuilders.com

Architect:

Project:
The Martin
 Residence
 906 Monroe
 South Haven, MI

Description:
 Site plan

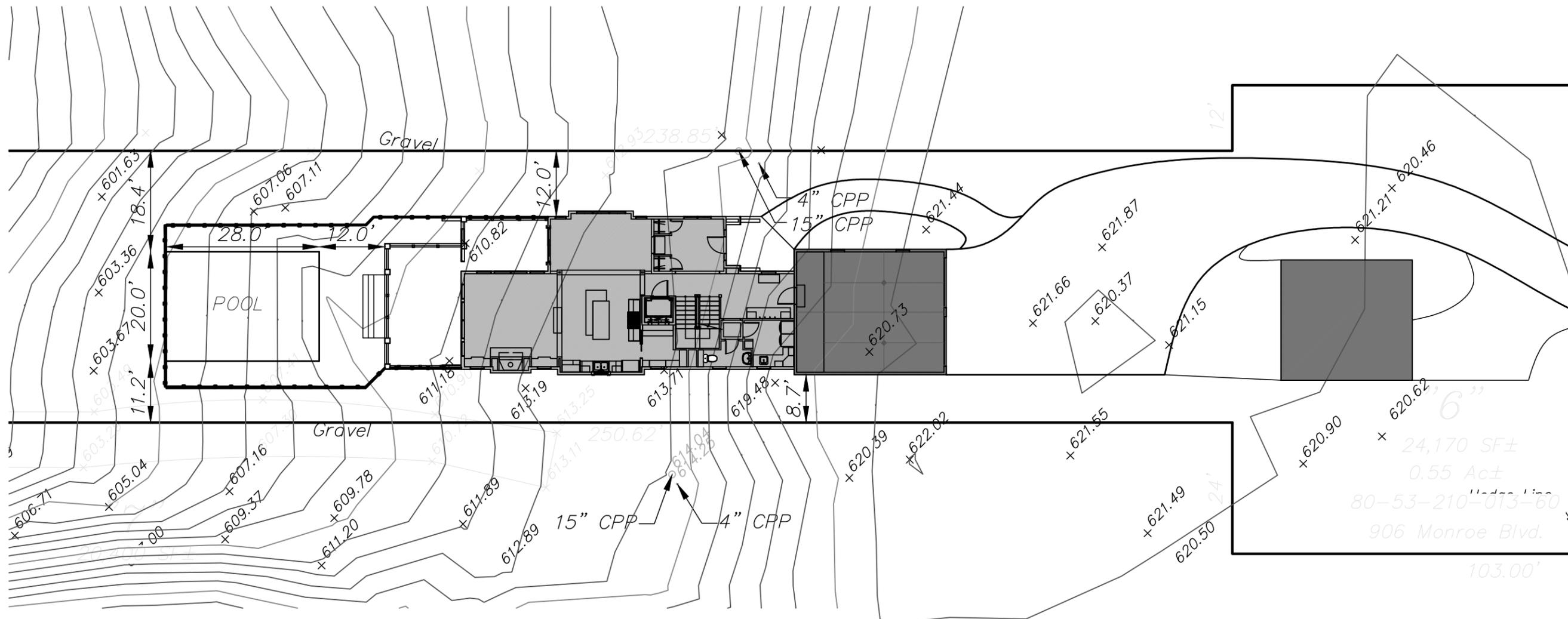
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 08/25/2014

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For Review	08/25/14

Sheet number:



AGENDA ITEM #6c
ADAM SCHAAP SPECIAL USE APPLICATION
GENERAL INFORMATION

Case Number.....2014-0012

Date of Plan Commission.....9.4.2014

Applicant.....Adam Schaap Builders

RequestA special use permit to build an in-ground pool on a waterfront property

Location906 Monroe Blvd..

Parcel Numbers.....80-53-210-013-60

Size.....22,962 sq. feet (.53 ac.)

Street Frontage.....73 feet

Current Zoning.....R-1B Residential

Proposed Zoning.....No change

Contiguous Zoning.....North: R-1 B Residential
South: R-1 B Residential
East: R-1 B Residential
West: Lake Michigan

Current Land Use.....Single family residential

Contiguous Land Uses.....North: Residential
South: Residential
East: Residential
West: Lake Michigan

Comp Plan DesignationSingle Family Residential

CHARACTER OF THE AREA

The subject property is in an area of single family homes on waterfront lots similar to the Schaap lot. The character of the area is consistent with the current zoning and future land use classification.

DEVELOPMENT PROPOSAL

Adam Schaap Builders request a special use permit to construct an inground swimming pool at the above address on North shore Drive. Swimming pools on waterfront properties require a special use permit according to zoning ordinance section 1725-2d.

PUBLIC RESPONSE

NA

EVALUATION

The following relevant provisions of the Zoning Ordinance are followed by a statement representing the status of the subject property as it relates to that provision.

Article XVII (Section 1725, 2-d, Swimming Pools)

Pools shall be allowed only in side or rear yards except on waterfront lots abutting the Black River or Lake Michigan, where no pool is permitted in any yard without a special use permit. The planning commission shall ensure that views of the water from abutting property are not unreasonably obscured by the pool, a fence, or related accessory structures.

The term "unreasonably" is concerning in this requirement. It will rest on the planning commission to determine whether the view obstruction is reasonable. After visiting the site, staff does not feel that the pool or fence will create an obstruction.

Staff finds this application compliant with zoning requirement Section 1725, 2-d.

Article XV (Section 1502, Basis of Determination):

1. **General standards** - the Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this ordinance:

A. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

The proposed pool is consistent with the surrounding area. There are other homes in waterfront areas with pools and there is no reason to expect that the pool will be poorly maintained.

B. The special land use shall not change the essential character of the surrounding area.

The proposed use will have little or no impact on the neighborhood. There are other homes in waterfront areas with pools and there is no expectation that the pool will change the area character.

C. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.

No hazardous impacts are anticipated provided the pool is fenced as required by ordinance and state law. Any exterior lighting will need to be dark sky compliant.

- D. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.

No additional demands on public services are expected.

- E. The special land use is consistent with the intent of the comprehensive plan.

The 2011 Master Plan does not specifically address swimming pools.

- F. The special land use shall meet the site plan review requirements of Article IV.

The site plan meets all requirements for a project of this type.

- G. The special land use shall conform to all applicable state and federal requirements for that use.

The application shows the fencing as required by state and local law. Since the property is not located in a high risk erosion area, no additional permits are needed for the pool.

- H. The special land use shall conform with all standards in this ordinance and other applicable city ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the district provisions, schedule of regulations, or elsewhere.

The application includes all necessary information for a proposal of this type.

RECOMMENDATION

While staff has no reluctance in the approval of the special use request, the planning commission needs to review the case summary, visit the site and determine if this application for a special use permit meets the intent of the city and, if it does, include any conditions they feel necessary.