

Planning Commission

Regular Meeting Agenda Thursday, February 6, 2014 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** – January 9, 2014
5. **Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**
6. **Unfinished Business** – Discussion of following items from the January agenda:
 - A. A zoning ordinance text amendment to add One Family Detached Dwellings to the list of uses permitted in the B-3, Waterfront Business Zone.
 - B. A request from the City of South Haven Planning Commission to amend the official zoning map to rezone the following properties from B-3, Waterfront Business Zone to the CBD, Central Business Zone:
 - 519 Williams Street (C299A)
 - 519 Williams Street (C299A1)
 - 521 Williams Street (C299B)
 - 423 Williams Street, Units #1-8
 - 515 Williams Street, Units #1-38, and #61-62
 - 425 Williams Street, Units #20-29 and #39-60
 - C. A zoning ordinance text amendment to limit the height of buildings and structures in the previous amendment to 35 feet or 2.5 stories.
7. **New Business - None**
8. **Other Business - None**
9. **Commissioner Comments**
10. **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, January 9, 2014** **7:00 p.m., Council Chambers**



City of South Haven

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

2. Roll Call

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

Motion by Wall, second by Smith to excuse Peterson.

All in favor. Motion carried.

3. Approval of Agenda

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

All in favor. Motion carried.

4. Approval of Minutes – December 5, 2013

Motion by Wall, second by Smith to approve the December 5, 2013 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 – PUBLIC HEARINGS

A. A zoning ordinance text amendment to add One Family Detached Dwellings to the list of uses permitted in the B-3, Waterfront Business Zone.

Motion by Wall, second by Smith to open the public hearing.

All in favor. Motion carried.

Anderson introduced the proposed zoning ordinance amendment. Single family homes are permitted at present in the B-3 zone but only as part of a planned development; this amendment would allow an individual single family home on an individual lot.

The sub-committee added this proposal after doing a study; driving around to see the uses in the B-3 zone. It was noted that there are several lots that are large enough for single family homes but not for any commercial use. There are currently existing, non-conforming single family homes, which means the owners of those properties may have difficulty getting a variance to expand or improve their property or even experience difficulties acquiring insurance.

This amendment would allow people who own those lots to come in and ask for a dimensional variance to put that single family home in.

Anderson read the specific caveats of the above referenced amendment:

1. One family detached dwellings on existing lots when it is documented that the development of any other permitted use is not possible due to lot size or configuration.
2. Conversion of an existing permitted use to single family homes on individual lots is not permitted without a special use permit from the planning commission.
3. In addition to the standards found in Section 1502 of this ordinance, the applicant shall demonstrate that the conversion is of substantial benefit to the city of South Haven and the waterfront business community.

Those would be requirements before anything could be taken out of a current permitted use and put into a single family residential use.

Paull requested public comments.

Elaine Herbert, 140 N. Shore Drive. Thanked Anderson for putting her comments in the packet and the board for reading them. Noted that B-3 Waterfront Business is a restrictive zone for many serious reasons and does not feel the Planning Commission should be backing into such areas as Zoning Ordinance uses. The Waterfront Business district is precious to this town. Herbert requested that such changes be left to the Zoning Board of Appeals and that the Planning Commission should not let there be a gaping exception to the existing uses and zoning.

John Marple, 515 Williams Street #9. Noted the resolution from Old Harbor Village Condominium Association. Stated that when the resolution was drafted Marple did not understand this particular subject. Anderson and Marple had not spoken, so Marple wants to inform the commission that paragraph four (4) of our resolution could be stricken from the record.

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

All in favor. Motion carried.

Paull asked that all hearings be held prior to any decisions. All members agreed.

B. A request from the City of South Haven Planning Commission to amend the official zoning map to rezone the following properties from B-3, Waterfront Business Zone to the CBD, Central Business Zone:

**519 Williams Street (C299A)
519 Williams Street (C299A1)
521 Williams Street (C299B)
423 Williams Street, Units #1-8
515 Williams Street, Units #1-9; #30-38, and #61-62
425 Williams Street, Units #20-29 and #39-60**

Motion by Wall, second by Smith to open the public hearing.

All in favor. Motion carried.

Anderson explained that this request came about when there was interest in expanding a dock for outdoor dining. One of the planning commissioners suggested taking that area, including Old Harbor Village and rezoning it into the Central Business District (CBD), removing one hurdle for such development. There is a map included showing the properties that would be included. Anderson noted one correction; the Key West Parking lot should not be part of the area being considered for rezoning.

Anderson pointed out that the resolution from the Old Harbor Village Association and a letter from John Marple about this proposal is in the packet along with a series of emails from Elaine Herbert. Anderson also addressed this within her comments on Item A.

Paull opened the meeting for public comment.

Mike Poll, 244 Oak Street. Owner and part-owner of three (3) retail stores, about 15% of the Old Harbor Village Association. Stated that he and the other store owners are in favor of this; noted that the former Nichols dock is not part of the association, but is adjacent to it. Poll stated that he would love to see the dock expanded and made safe. Presently, "it is an eyesore and a safety hazard." Poll wanted to go on record for the owners of those shops to support this rezoning.

Elaine Herbert, 140 North Shore Drive. "The question is what this is about? What makes the City want to add a big chunk of Old Harbor Village to the CBD. What is the motivation? There is obviously a back story to what is happening here. This property does not 'kind of' belong in the Central Business District (CBD); it belongs in the B-3 Waterfront Business zone."

Herbert stated that zoning goes with property forever. Reminded the commission about the pizza place on the North Side peninsula requesting to add a table and chairs. Also recalled a time when someone suggested zoning of "Mixed Resort Use". Do not take the North Shore Drive peninsula out of the residential zone. You do not know all the things that can get a foot in the door if you change this zoning. Let these people go to the Zoning Board of Appeals (ZBA) to accommodate their use.

Joe Wiltgen, 518 Virginia Avenue. Stated that he has bought that dock (former Nichols dock) and plans to make that dock into a waterfront restaurant. Wants to build a nice restaurant and have boat dockage. Feels that parking should not be an issue because

people are used to walking; "if anything else is going to happen on the river, we need to change this zoning."

Ron Wiser, 96 Chicago Avenue. President of Old Harbor Inn Condo Association. Stated that the executive committee of the association strongly objects to the change in the zoning. They have sixty-two (62) units in there, pretty much all the condo owners and a good share of the retail owners are against it and feel it just adds more confusion. People are already hauling luggage two (2) to three (3) blocks to our place of business. Wiser noted that future development of the Hale's building and Foundry Hall will make parking a complete dilemma for us. The situation we already have is bad; three (3) bars in close proximity; noise, smells, garbage sitting on the street every day until the garbage trucks come along. We are first a hotel that has three (3) bars in it and it is becoming a dilemma for us. "We have music, loud talking, hollering and a certain amount of lights already; we don't need any more of that down there."

John Marple, 515 Williams Street, Unit 9. Asked that the Planning Commission review the resolution from Old Harbor Inn Association as drafted because the board of directors is against the rezoning.

Motion by Smith, second by Miles to close the public hearing.

All in favor. Motion carried.

C. A zoning ordinance text amendment to limit the height of buildings and structures in the previous amendment to 35 feet or 2.5 stories.

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

All in favor. Motion carried.

Anderson explained that even though Item B and Item C are both amendments, one is a text change and one is a map change, so they could not be combined into the same amendment. Item C would only take affect if Item B takes place. This would place two (2) conditions on properties in that area should the rezoning take place.

Amplified sound would be restricted after eleven (11) p. m. at night in addition to the already-in-effect city ordinance. In the case of conflict the stricter of the two shall apply.

Height restriction; Structures in the B-3 Waterfront Business zone are allowed to be thirty-five (35) feet or 2.5 stories, whichever is less. The Central Business District allows building heights of forty-five (45) feet or 3.5 stories; this amendment would limit height to that permitted in the B-3 Waterfront Business zone.

Elaine Herbert, 140 North Shore Drive. Understands that if you change the zoning you have the option of restricting 4.5 stories; please consider setbacks, signage, everything else that is radically different between the B-3 and CBD zones. Zoning goes with the property forever and this is like taking a hammer to something that a little tweak at the Zoning Board of Appeals (ZBA) would remedy. "Don't change the zoning and you won't need this amendment either."

John Marple, 515 Williams St. #9. Had a question about noise in the proposed amendment. Requested that it be re-read.

Anderson read the restrictions regarding noise as a separate restriction along with the already existing city ordinance.

Marple stated, "As an individual owner, I am in very much in favor of that. As far as the height regulations, once again I ask you to review the resolution drafted by the board of directors, as it would place a burden upon the Old Harbor Village that would create an unfair disadvantage to us. If the property is rezoned we should have the same rights, duties and responsibilities as every other member of the CBD. Otherwise it would be inequitable and unfair."

Mike Poll, 244 Oak Street. Strongly supports the noise ordinance. We have a unique situation; we have stores, retail shops, bars and hotel rooms. There is a constant battle between the fun and the tranquility. Thinks that amendment is a good step; knows it is a tough job.

Paull noted that the noise restrictions in this amendment are stricter than the city ordinance.

Wall pointed out that the new decibel meters used by the bars agree with the police meters and enforcing the ordinance has been much better.

Ron Wiser, 96 Chicago Avenue. Stated that decibel readings are all well and good but tell that to our guests. "The only complaint we get from the hotel guests on the website is for bar noise; we have to give free nights, and some people may not come back. Even if it's not music it is noisy, talking, yelling which cannot be enforced." Stated that it will be very harmful to our business, and not good for the city, to have that kind of thing going on.

Wall requested permission from Paull to address that issue. She stated that when looking at South Haven, noise and repeat customers, 'You don't buy a house by a cow farm, if you don't like the smell.' The Idler has been there for a long time, Wall stated, and most of your customers, if they have common sense, look around the area, and see they are next to a bar and across the street from a bar and across the river from a bar. As a lifetime resident and as a boater, we know water amplifies sound.

Frost asked about the closing time. Anderson noted that any outdoor dining is a special use, so when an applicant comes before the Planning Commission there can be conditions placed on any approval.

After comments by Miles, Anderson clarified that the last discussion regarding expanding the former Nichols' dock was with a different applicant.

Smith says personally this is a pretty big change proposed for pretty small issues. Smith would like to see pros and cons on what we should consider regarding these changes.

Anderson said that is good thinking; the commission can consider all comments. This is a larger issue than it seems initially; in view of the comments we know there are a lot of issues and strong feelings.

Wall said this needs more looking into and more details before any decisions are made.

Elaine Herbert, 140 North Shore Drive. Stated Ms. Wall brings up not moving next to a cow farm, etc. Herbert would like to see this same thinking brought to bear on our neighborhoods where we seriously did not expect there to be huge rental parties night after night when we purchased our properties.

Motion by Heinig, second by Frost to close the public hearing.
All in favor. Motion carried.

Paull suggested these items be placed for discussion and clarification at the next Planning Commission meeting.

7. Other Business

A. None

8. Old Business

A. None

9. Commissioner Comments

Wall. We appreciate your comments and hope no offense is taken by my comments. We get that complaint the most, "How do we control the noise?" We are a tourist town and that is what is keeping this town alive, people come here for our harbor and our beaches. I live on a block where there are mega rentals. It can be loud in the summer; then we have five months of quiet and start all over again. We all pay taxes; we live here; we all understand how it works.

Paull mentioned, regarding an ordinance on rentals, a house on Brockway with no driveway because the owner landscaped the front yard, poured a patio and so forth. One winter weekend there were seven (7) vehicles parked on the street. The city needs something in place to regulate occupancy and parking.

10. Adjourn

Motion by Wall, second by Smith to adjourn at 7:44 p. m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,

Marsha Ransom
Recording Secretary



Agenda Item #6 Proposed Zoning Ordinance Amendments To the B-3 Zoning District

Background Information:

At the January meeting, the planning commission heard public comments on three (3) proposed changes to the B-3 zoning district. The planning commission did not take any action at that meeting but decided to deliberate and take action on the items at the February meeting.

Since that meeting, some of the Old Harbor Village business owners have met with the association representatives to discuss the concerns associated with the rezoning proposal as heard at the public hearing. According to discussions staff has had with involved parties, the issues have been resolved and the association no longer objects, provided that the height restriction is deleted and the sound provision is included.

Staff has asked for letters of support from the association representatives as well as from business owners in Old Harbor Village. Staff has included a letter from the manager of Old Harbor Village and we anticipate additional support letters from the business owners. When these letters are received, staff will forward them to the planning commission members.

Recommendation:

Staff advises that the planning commission recommend to the city council adoption of the text amendment to add single family homes to the B-3 regulations. The benefit to current single family home owners as well as to owners of certain small lots in the zoning district outweighs the concerns heard at the January meeting.

Since there appears to be consensus among all involved parties that the inclusion of the Old Harbor Village properties to the CBD zoning district is generally beneficial to residents of Old Harbor Village as well as the city, staff recommend that this proposal also be forwarded to the city council with a recommendation to adopt. Staff finds that the advantages, including the opportunity for additional waterside dining and relief from the off-street parking requirements outweigh other concerns heard.

Staff also recommends that the proposed text change associated with the building height be deleted from the request. This provision was not initiated by the planning commission or the subcommittee.

The proposed amendment concerning amplified sound limited to hours before 11:00 p.m. has been found to be less restrictive than the city code of ordinances. The City Code Section 30-31 – Noise, General Exemptions, states that:

Sec. 30-31. General Exemptions.

The following activities are exempted from the sound level limitations of this division:

(5) The operation or use between 9:00 a.m. and 10:00 p.m. of any loudspeaker, sound amplifier, public address system or similar device used to amplify sounds, whether stationary or mounted on a vehicle, subject to the following:

- a. The only sounds permitted are human speech or music.*
- b. Operations are permitted for a period not in excess of three hours daily.*
- e. No sound-amplifying equipment shall be operated with an excess of 15 watts of power in the last stage of amplification.*

Staff recommends not adopting the the sound provision as previously considered because the city code of ordinances is more retractive.

Attachments:

Proposed Zoning Ordinance Section 901 amendment
Email from Old Harbor Village Manager

Respectfully submitted,
Linda Anderson
Zoning Administrator

CITY OF SOUTH HAVEN
VAN BUREN AND ALLEGAN COUNTIES, MICHIGAN

ORDINANCE NO - ____

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE SOUTH HAVEN ZONING ORDINANCE TO ALLOW FOR ONE FAMILY DETACHED DWELLINGS IN THE B-3 WATERFRONT BUSINESS ZONE.

The City of South Haven Ordains:

SECTION 1 Amendment: Section 901 of the South Haven Zoning Ordinance is amended to read as follows:

**ARTICLE IX
B-3 WATERFRONT BUSINESS DISTRICT**

SECTION 901. USE REGULATIONS

Land, buildings or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. Automatic teller machines when inside a building and accessory to another use.
2. Beaches and recreation areas, either municipal or private by special use permit.
3. Boat launching ramp.
4. Campgrounds, subject to compliance with the standards and procedures for establishing a Planned Unit Development as regulated in Article XIII.
 - a. The minimum size of the campground shall be three (3) acres.
 - b. Thirty (30%) percent of the campground shall be dedicated to open space for the common use of the residents. For purposes of calculating the open space percentage, areas set aside for common recreational use may be included; driveways and parking areas shall be excluded.
 - c. There shall be a traffic route which does not pass through a residential area, connecting the campground entrance with a public street with a minimum right of way of eighty (80') feet in width.
 - d. The campsites shall be set back from the property line a minimum distance of thirty (30') feet.
 - e. A recreational unit may be located at the campground for no more than twenty-one (21) consecutive nights. After five (5) nights out of the campground, the recreational unit may return again for no more than twenty-one (21) consecutive nights. A recreational unit shall not be located on the premises of a campground for more than forty-two (42) nights in any calendar year. Storage of recreational units for more than twenty-one (21) days is not permitted in a campground.
 - f. The recreational units (excluding tents) located at the campground shall be validly licensed as vehicles or trailers, and shall at all times be legal for use on roads and highways without requiring any special permits. The maximum allowable trailering width of a recreational unit is ninety six (96") inches. The

- campground owner shall establish the maximum allowable length of a recreational unit based on the available turning radii in the campground.
- g. There shall be a security fence surrounding the campground, with a minimum height of six (6') feet. There shall be security gates at the entrances.
 - h. Accessory uses and structures are allowed as part of the campground under the following conditions:
 - 1) Allowed uses are convenience store, snack bar, laundromat, or similar uses.
 - 2) The accessory use is intended for use of occupants of campground only.
 - 3) The accessory use must be centrally located in the campground, it shall not abut or adjoin a public street.
 - 4) No signs advertising the accessory use shall face public streets.
 - 5) The accessory use shall cease business operation when the campground is closed for the season; the accessory use shall only be open for business when the campground is operating.
 - 6) One structure is allowed to be used as an office.
 - 7) One mobile home is allowed in a campground as a caretaker's residence.
 - i. Home occupations are not permitted within the campground.
 - j. Campgrounds shall be licensed by the State of Michigan, including as required in Act 368 of 1978, the Public Health Code. The City may enforce the provisions of the Public Health Code.
 - k. A Planned Unit Development shall not be licensed as both a campground and a seasonal mobile home campground.
 - l. The maximum number of sites per acre of total campground area is 12 sites per acre.
 - m. The minimum area of each site is one-thousand-three-hundred (1300) square feet.
 - n. All driveways and parking areas shall be paved with bituminous or concrete paving. Two paved parking spaces shall be provided for each campsite.
 - o. Each entrance and exit to and from the campground shall be located at least twenty-five (25') feet distant from adjacent property located in any single-family residential district.
 - p. There shall be no vehicle access to the campground except through designated common driveways, unless an access for use only by emergency vehicles is approved as a condition of development approval.
 - q. Screening shall be provided along side yards, rear yards and any part of the parcel which abuts a public or private right of way. Screening shall be maintained in a living condition and shall consist of 1) a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season; or 2) a solid wall or tight board fence six (6) feet in height.
 - r. The campground owner or applicant must research and show proof that the campground will not overload available roadways, utilities and drainage, including a study which estimates peak loads and shows that there is excess capacity in city utilities, streets and drainage to service the campground.
 - s. The City Fire Marshal may prohibit campfires as part of site plan approval.
5. Convenience store.
6. Dwelling above permitted use according to the standards in Section 601.16.

7. Marinas and marine services.
8. Miniature or par 3 golf course.
9. Motels, hotels or resort motels or hotels when authorized as a special land use (see Section 1510.22 and Section 1738). (Amended 8/21/06, Ord. 946)
10. Parking lots by special use permit.
11. Planned Unit Development which contains a mix of land uses including any use permitted by right in this district and one or more of the following land uses according to the requirements of Article XVIII:
 - a. Attached and semi-detached dwelling units including dwellings known as townhouses or condominiums, among other names, subject to conformance with the following standards:
 1. Each dwelling unit shall have one (1) floor at ground level.
 2. No more than four (4) dwelling units shall be attached in any construction group, or contained in any single structure, except that where the roof ridge lines and building facades of any four (4) consecutive units are staggered or offset by at least ten (10) feet, then a maximum of eight (8) units may be permitted.
 3. The site plan shall be so planned as to provide ingress and egress directly onto a major or minor thoroughfare, except when the Planning Commission finds, upon review of the site plan, that ingress and egress directly onto an adjacent minor street will not be detrimental to the harmonious development of the adjacent properties.
Where feasible, the Planning Commission may require that ingress-egress to parking facilities be provided from adjacent alleys so as to minimize curb cuts directly onto the major or minor thoroughfares.
 4. The site plan shall be so planned as to recognize yard and general development relationships with adjacent land uses. The Planning Commission may recommend physical features to be provided which will insure harmony in these relationships.
 - b. Multiple-family dwellings and apartments where not all the units are at ground level. (Amended 6/6/05, Ord. 933)
12. Private clubs, fraternal organizations, lodge halls and convention halls.
13. Recreation centers and facilities by special use permit.
14. Restaurants, lounges or other places serving food or beverage, except those having the character of a drive-in.
15. Retail uses.
16. Accessory buildings and structures customarily incidental to the above uses.
- 17. One family detached dwellings on existing lots when it is documented that the development of any other permitted use is not possible due to lot size or configuration.**

Conversion of an existing permitted use to single family homes on individual lots is not permitted without a special use permit from the planning commission. In addition to the standards found in Section 1502 of this ordinance, the applicant shall demonstrate that the conversion is of substantial benefit to the city of South Haven and the waterfront business community.

SECTION 2

If any portion of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

SECTION 4

This ordinance shall take effect ten (10) days after its adoption or upon its publication in the *South Haven Tribune*, whichever occurs later.

INTRODUCED by the City Council of the CITY OF SOUTH HAVEN, MICHIGAN on this ---- day of -----, 2014.

ADOPTED by the City Council of the CITY OF SOUTH HAVEN, MICHIGAN on this __ day of _____, 2014.

Robert G. Burr, Mayor

CERTIFICATION

I, Amanda Morgan, Clerk of the City of South Haven, Van Buren County, Michigan do hereby certify that the above Ordinance was adopted by the South Haven City Council on the __ day of _____, 2014; and the same was published in a paper of general circulation in the City, being the *South Haven Tribune*, on the __ day of _____, 2014.

Amanda Morgan, City Clerk

CITY OF SOUTH HAVEN
VAN BUREN AND ALLEGAN COUNTIES, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE OFFICIAL MAP OF THE SOUTH HAVEN ZONING ORDINANCE TO REZONE THE FOLLOWING PROPERTIES FROM THE B-3, WATERFRONT BUSINESS ZONE TO THE CBD, CENTRAL BUSINESS DISTRICT ZONE AS SHOWN IN EXHIBIT A:

The City of South Haven Ordains:

The following properties are rezoned from the B-3 to CBD Zoning District:

519 Williams Street (C299A)
519 Williams Street (C299A1)
521 Williams Street (C299B)
423 Williams Street, Units #1-8
515 Williams Street, Units #1-9; #30-38, and #61-62
425 Williams Street, Units #20-29 and #39-60

SECTION 2

If any portion of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

SECTION 4

This ordinance shall take effect ten (10) days after its adoption or upon its publication in the *South Haven Tribune*, whichever occurs later.

INTRODUCED by the City Council of the CITY OF SOUTH HAVEN, MICHIGAN on this ---- day of -----, 2014.

ADOPTED by the City Council of the CITY OF SOUTH HAVEN, MICHIGAN on this ___day of _____, 2014.

Robert G. Burr, Mayor

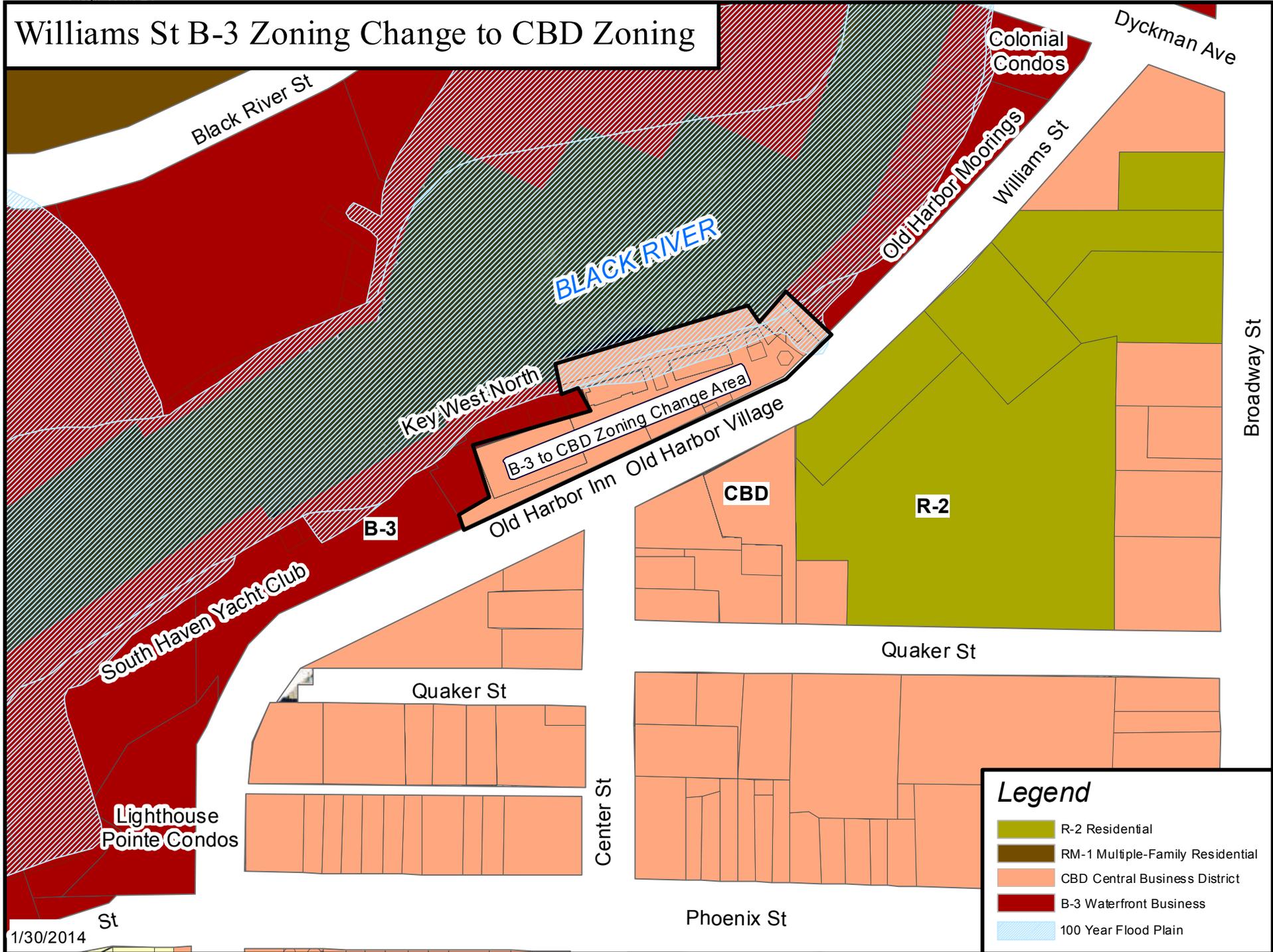
CERTIFICATION

I, Amanda Morgan, Clerk of the City of South Haven, Van Buren County, Michigan do hereby certify that the above Ordinance was adopted by the South Haven City Council on the ___ day of _____, 2014; and the same was published in a paper of general circulation in the City, being the *South Haven Tribune*, on the ___ day of _____, 2014.

Amanda Morgan, City Clerk

Effective: _____, 2014

Williams St B-3 Zoning Change to CBD Zoning



1/30/2014

From: John Marple <info@oldharborinn.com>
Sent: Thursday, January 30, 2014 2:56 PM
To: Linda Anderson
Cc: 'Ron Wiser'; ssuedell@aol.com;
cassuite30@hotmail.com; mjpickell@comcast.net
Subject: Old Harbor Village Condominium
Association

Ms. Anderson:

After learning a bit more about the proposed change of zoning for the Old Harbor Village from B-3 to that of CBD and having discussions with City staff as well as with Joe Witjen, the Board of Old Harbor Village Condominium Association has determined that the change of zoning would be acceptable based on the following criteria:

1. That the height restrictions be removed from the proposed change; and
 2. That the noise restriction that is being proposed be made part of the change in zoning.
- Further, that Mr. Witjen also states his acceptance of the noise restriction.

If either of the above are not part of the final ordinance revision, then the Board would not be in favor of the proposed amendment.

This communication is based from the Board discussion and not the individual owners of property located at Old Harbor Village.

We rely upon the special use process will should provide the Association with the ability to investigate what the actual development would be and provide us with an opportunity to express our concerns about specific design and construction of the restaurant facility including location of exhaust vents, lighting, nuisances and other issues to insure compatibility with our existing development.

I appreciate your attention to this matter.

John Marple
Old Harbor Inn

ADDENDUM



**Agenda Item #6C
Proposed Noise Restriction on Businesses
Rezoned from B-3 to CBD**

Background Information:

In the agenda packet emailed yesterday, it was the staff recommendation that the noise and height limitation proposed if the Old Harbor Village (OHV) properties were rezoned to Central Business District (CBD) be eliminated from consideration. This was due to the OHV association opposition to the height restriction and the fact that the existing city noise ordinance was more restrictive than what was proposed at the last meeting.

Yesterday, I was contacted by the OHV manager who told me that he wanted the noise provision, as presented at the last meeting, to remain on the table. Staff explained that the existing ordinance calls for all amplified noise to cease at 10:00 pm and the proposed regulation would allow the amplified noise until 11:00 pm. He was further told that, in instances of conflicting ordinances, the more restrictive will prevail so the 11:00 restriction was unnecessary and unenforceable. Staff was told that if the noise provision, as presented at the last meeting, was denied, OHV association would withdraw their support for the rezoning.

Recommendation:

Staff advises that the planning commission consider the request of the Old Harbor Village manager when deliberating this amendment.

Attachments:

Proposed Zoning Ordinance Section 901 amendment

Respectfully submitted,
Linda Anderson
Zoning Administrator

CITY OF SOUTH HAVEN
VAN BUREN AND ALLEGAN COUNTIES, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 602 AND 604 OF THE SOUTH HAVEN ZONING ORDINANCE TO RESTRICT THE NOISE AND HEIGHT OF STRUCTURES IN A PORTION OF THE CENTRAL BUSINESS DISTRICT (CBD)

The City of South Haven Ordains:

SECTION 1 - Amendment. Section 604 of the South Haven Zoning Ordinance is amended to read as follows:

**ARTICLE VI
CBD CENTRAL BUSINESS DISTRICT**

SECTION 602. REQUIRED CONDITIONS

The outdoor display or sale of goods or merchandise shall not extend more than three (3) feet beyond the front lot line, provided the sidewalk is ten (10) feet wide or greater. If the sidewalk is less than ten (10) feet in width, goods or merchandise shall not be displayed outdoors. During special sidewalk sale days, as determined by the City Manager, goods or merchandise may be displayed outdoors in a reasonable fashion.

Any business in the CBD located north of Williams Street, including those businesses which extend over the Black River, shall not have amplified sound after 11:00 P.M. This provision includes the use of any loudspeaker, music amplifier, public address system or similar device used to amplify sounds. This sound provision is in addition to any requirements in other City ordinances and that, in case of any inconsistency, the stricter of the provisions will apply.

~~SECTION 604. HEIGHT REGULATIONS~~

~~No building shall exceed forty five (45) feet and three and one half (3 1/2) stories in height with the following exception: Any building or structure in the CBD located on the north side of Williams Street, including those structures which extend over the Black River, shall not exceed 35 feet in height or 2.5 stories, whichever is less.~~

SECTION 2

If any portion of this ordinance is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

SECTION 3

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

SECTION 4

This ordinance shall take effect ten (10) days after its adoption or upon its publication in the *South Haven Tribune*, whichever occurs later.

INTRODUCED by the City Council of the CITY OF SOUTH HAVEN, MICHIGAN on this ---- day of -----, 2014.

ADOPTED by the City Council of the CITY OF SOUTH HAVEN, MICHIGAN on this __day of _____, 2014.

Robert G. Burr, Mayor

CERTIFICATION

I, Amanda Morgan, Clerk of the City of South Haven, Van Buren County, Michigan do hereby certify that the above Ordinance was adopted by the South Haven City Council on the __ day of _____, 2014; and the same was published in a paper of general circulation in the City, being the *South Haven Tribune*, on the __ day of _____, 2014.

Amanda Morgan, City Clerk

Effective: _____, 2014