

# 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