

Planning Commission

Regular Meeting Minutes Thursday, February 6, 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: Heinig, Miles, Peterson, Wall, Webb, Paull
Absent: Frost, Smith

Anderson noted that both Frost and Smith had notified her of their inability to attend.

On motion with second, Frost and Smith were excused.

All in favor. Motion carried.

3. Approval of Agenda

Motion by Miles, second by Wall to approve the February 6, 2014 Planning Commission Agenda as presented on the City of South Haven website.

All in favor. Motion carried.

4. Approval of Minutes – January 9, 2014

Motion by Wall, second by Miles to approve the January 9, 2014 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. 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.

Paull questioned the size of lots required for one family detached dwellings in the B-3 zone. Anderson reviewed the proposed requirements for single family homes in the B-3 zone.

Paul pointed out that the proposed addition to the B-3, Waterfront Business zone would not put at risk the zone continuing as a waterfront business district. The Planning Commission sub-committee recognized approximately fifteen (15) single-family homes already in the zone plus another dozen lots that are too small to develop as a waterfront business but could possibly be used for a single family home site under the conditions as stated.

Motion by Wall, second by Miles to recommend to city council the approval of the proposed amendment to Article IX, B-3, Waterfront Business District, Section 901 Use Regulations of the South Haven Zoning Ordinance as follows:

“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.”

All in favor. Motion carried.

B. A request from the City of South Haven Planning Commission to amend the official zoning map to rezone the properties at 515, 519 and 521 Williams Street and 423 and 425 Williams Street from B-3, Waterfront Business Zone to the CBD, Central Business Zone:

Anderson introduced the proposed text amendment, noting that at the January meeting the commission heard public comments on the changes proposed. Since that time, business owners and association representatives have met to discuss the concerns associated with the rezoning proposal as heard at the public hearing.

Anderson explained that staff has had discussions with involved parties; the issues have been resolved and the association no longer objects, provided that the height restriction is removed from the proposed amendment.

Anderson explained that this would change the Old Harbor Village and Old Harbor Inn, including those businesses in the condominium association related to the Old Harbor development, from B-3, Waterfront Business to the CBD, Central Business District with the advantages (opportunity for additional waterside dining and relief from the off-street parking requirements) outweighing the concerns heard. Anderson also recommended that the proposed text change associated with the building height be deleted from the request and noted that this provision was not initiated by the planning commission or the subcommittee. Paull noted that this amendment recognizes what has been and is actually happening in the Old Harbor development. Over time, parking requirements have either been eliminated, granted waivers or were part of the now defunct buy-in parking program. Since there

actually is no parking available at this time for this area, changing the zoning from B-3, Waterfront Business to the CBD, Central Business District, eliminates the requirement for parking, making the area open to future development and other potential opportunities.

Motion by Heinig, second by Wall to recommend to city council the rezoning of the following properties:

519 Williams Street (C299A)
519 Williams Street (C299A1)
521 Williams Street (C299B)
423 Williams Street, Units #1-8
515 Williams Street, Units #1-19, 30-38, and #61-62
425 Williams Street, Units #20-29 and #39-60

from B-3, Waterfront Business Zone to the CBD, Central Business Zone.

All in favor. Motion carried.

- C. Proposed Noise Restriction on Businesses Rezoned from B-3, Waterfront Business District to the CBD, Central Business District.

Anderson explained that as noted during previous discussion, the height amendment has been removed from the proposed text amendment.

Added was the noise provision which was on the agenda at the last meeting, having been added at the last minute. Anderson read the proposed ordinance amendment:

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.

Anderson explained that staff had correspondence from the Old Harbor Village Association president, stating that the Old Harbor Village Condominium Association will go along with the rezoning proposal if Joe Wiltgen signs an agreement that he understands and will abide by noise restrictions as presented at the last meeting. Signatures were obtained on an agreement between the Planning Commission and Mr. Wiltgen stating that he will abide by all city ordinances. Anderson pointed out that this type of restriction really comes into play with any Special Use application and does not have much bearing on the proposed rezoning.

Paull noted that this particular portion of the amendments came out of discussions with the Old Harbor Village Condominium Association and the owners of the Old Harbor Inn, whose particular concern was trying to run a hotel in a neighborhood that has many sources of noise, particularly bars. The owners of the inn were concerned with keeping the noise at a level that would not disturb their guests. Paull said he believes that this came out of a concern to have the cessation of amplified music at a specific time, 11:00 p.m. Since then, review of the ordinance by staff has shown that the limit for amplified noise in the City Code

of Ordinances is at 10:00 p.m. Paull stated that passing this amendment would amount to conflict with city code and dereliction of duty by the Planning Commission.

Wall asked the chair for clarification of what is being asked of the Planning Commission. Wall stated that the City Code of Ordinances clearly states that amplified noise shall end at 10:00 p.m. and that the police have the right to go in and reprimand or ticket the establishment which does not comply. We also have two signed agreements stating that the people concerned, John Marple, the manager of Old Harbor Inn and Wiser) have agreed to this. Anderson pointed out that, if a special use permit was being considered, the applicant would be allowed to amplify sound until 11:00 p.m. Wall asked whether the chair was suggesting that the Planning Commission should take the whole issue of noise end time out of the ordinance or just insert the new verbiage.

Anderson interjected that the current City Code requires amplified sound to be turned down at 10:00 p. m. and that this proposal for an 11:00 p.m. end time confuses the issue. Anderson explained that no matter what this amendment might state, the more restrictive ordinance will pre-empt any others.

Anderson asked the chair if Old Harbor Village association president Wiser could be allowed to speak to this controversy. Paull invited Mr. Wiser to the podium.

Wiser explained he is the owner of a large portion of the Old Harbor Inn and asked for clarification of the question. Anderson explained that the City Code of Ordinances stated that amplified noise must cease at 10:00 p.m. and the agreement verbiage regarding 11:00 p.m. being requested is moot because in the case of conflict between ordinances the police will enforce the more restrictive ordinance.

Wiser stated that the condominium association had a concern and wanted to try to restrict the noise. "We didn't really intend to change the ordinance," Wiser explained.

Paull asked if the Wiser would agree to allow the ordinance to stand as it is. Wiser said the association has two conflicts: the timing of the noise and possible conflict with Wiltgen, who Wiser considers a friend.

Wall asked whether we should change the time in the amendment or strike the entire proposed noise amendment.

Anderson suggested an alternative way to handle this, referencing the actual wording of the noise ordinance in the amendment.

Paull agreed that might be an appropriate way to deal with the noise issue, explaining that the type of noise is the real issue.

Wall commented that use of the references to City Code will make it simple for any proposed business as it would point them to the current City Code of Ordinances' conditions for amplified music by reference.

Anderson noted that she would draft language referencing the City Code of Ordinances which will clarify what is being discussed.

Paull called for a recommendation to council.

Motion by Wall to add in the reference to the City of South Haven Code of Ordinances to this section of the Zoning Ordinance amendment. Second by Peterson.

All in favor. Motion carried.

7. New Business - None

8. Other Business - None

9. Commissioner Comments

Wall: None

Peterson: None

Miles: Ice Breaker was a success; very well attended

Webb: None

Heinig: None

Anderson: We have nothing on the agenda as of yet; unless we get an application in the next few days, there will not be a meeting in March.

10. Adjourn

Motion by Wall, second by Heinig to adjourn at 7:34 p.m.

All in favor. Motion carried.

RESPECTFULLY SUBMITTED,
Marsha Ransom
Recording Secretary