

**CHARTER TOWNSHIP OF SOUTH HAVEN**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION GRANTING FINAL APPROVAL FOR THE THREE BRIDGES RV CONDO RESORT PLANNED UNIT DEVELOPMENT AND FINAL SITE PLAN AND ADOPTING ORDINANCE NO. \_\_\_\_, ORDINANCE TO AMEND ZONING DISTRICT MAP OF THE TOWNSHIP ZONING ORDINANCE**

A resolution made and adopted at a regular meeting of the Township Board of the Charter Township of South Haven, County of Van Buren, State of Michigan, held at the Township Hall on \_\_\_\_\_, 2011, at \_\_\_\_\_ P.M.

PRESENT: \_\_\_\_\_  
\_\_\_\_\_

ABSENT: \_\_\_\_\_  
\_\_\_\_\_

The following Resolution was offered by \_\_\_\_\_ and seconded by \_\_\_\_\_.

WHEREAS, pursuant to the Michigan Zoning Enabling Act, 2006 PA 110, the Charter Township of South Haven ("Township") has authority to adopt and amend zoning ordinances regulating the use of land in the Township; and

WHEREAS, 12th Ave, LLC ("Applicant") owns real property (the "Property") located in the Township on the north side of 12th Avenue at 73rd Street and legally described as follows:

Part of the northeast quarter and northwest quarter of Section 14, Town 1 South, Range 17 West, South Haven Township, Van Buren County, Michigan, beginning at the south quarter post of said section 14; thence north 89 degrees 07' 56" east along the south line of said northeast quarter, 115.68 feet; thence north 44 degrees 22' 24" east, 830.72 feet; thence north 46 degrees 15' 12" west, 227.72 feet; thence south 44 degrees 00' 52" west, 222.95 feet; thence north 45 degrees 03' 27" west, 434.78 feet; thence north 44 degrees 51' 52" east, 45.46 feet; thence 44 degrees 44' 22"

west, 198.53 feet; thence north 43 degrees 38' 55" east, 609.90 feet; thence north 46 degrees 15' 12" west 242.37 feet; thence south 45 degrees 45' 12" west, 997.26 feet; thence south 45 degrees 44' 30" west, 176.24 feet; thence north 46 degrees 19' 59" west, 335.07 feet; thence south 42 degrees 17' 46" west, 660.47 feet; thence south 00 degrees 03' 13" east, 224.48 feet; thence south 88 degrees 55' 34" east, 165.00 feet; thence south 00 degrees 03' 13" east, 400.00 feet to the south line of said northwest quarter; thence north 88 degrees 55' 33" east along said south line, 1154.44 feet to the point of beginning.

WHEREAS, Applicant has requested final approval of a Type II Planned Unit Development project ("PUD Project"), final site plan ("Final Site Plan," attached as **Exhibit A**), and Zoning Map Amendment in connection with the Property pursuant to Article XVI and Article XXII of the South Haven Charter Township Zoning Ordinance (the "Zoning Ordinance"); and

WHEREAS, the Township Planning Commission ("Planning Commission") held a public hearing on September 1, 2010; and

WHEREAS, following the public hearing, the Planning Commission reviewed the PUD Project, Final Site Plan, and proposed Zoning Map Amendment in relation to the regulations and objectives of the Zoning Ordinance; and

WHEREAS, the Planning Commission determined that the PUD Project, Final Site Plan, and proposed zoning map amendment substantially comply with the applicable regulations and objectives of the Zoning Ordinance and recommended approval, subject to certain conditions identified in the meeting minutes of the Planning Commission's December 1, 2010 meeting; and

WHEREAS, the Township Board received the Planning Commission's recommendation on December 8, 2010; and

WHEREAS, the Planning Commission transmitted a summary of comments received at the December 1, 2010 hearing and the proposed Zoning Map Amendment to the Van Buren County Planning Commission ("VBCPC"); and

WHEREAS, on December 15, 2010, the VBCPC reviewed the proposed Zoning Map Amendment and voted to recommend approval to the Township Board; and

WHEREAS, the Township Board has determined that the PUD Project and Final Site Plan should be approved, subject to certain conditions set forth in this Resolution and its Exhibits; and

WHEREAS, the Township Board has concluded that the proposed Zoning Map Amendment is consistent with the Township's Master Plan and is in the best interests of the health, safety and welfare of Township residents; and

WHEREAS, on \_\_\_\_\_, 2011, the Township Board introduced Ordinance No. \_\_\_\_\_, Ordinance to Amend Zoning District Map of the Township Zoning Ordinance (**Exhibit B**), and published the proposed ordinance as required by law.

NOW, THEREFORE, the Township Board of the Charter Township of South Haven resolves as follows:

1. The Township grants final approval of the PUD Project and Final Site Plan, subject to the terms and conditions set forth in this Resolution and the Planned Unit Development Agreement ("PUD Agreement") attached hereto as **Exhibit C**.

2. As a condition of approval, Applicant shall execute and comply with the PUD Agreement attached hereto as Exhibit C. The Township Supervisor is authorized and directed to execute the PUD Agreement on behalf of the Township. In the event Applicant fails or refuses to execute the PUD Agreement prior to the date this Resolution is adopted by the Township

Board or within three (3) business days after approval by the Township Board, any and all approvals granted by this Resolution shall automatically become null and void, *ab initio*, and shall have no further force or effect.

3. Applicant shall comply with all state, federal, and local laws and regulations in connection with the PUD Project, including all permit requirements imposed by the Michigan Department of Natural Resources ("MDNR") or any other state or federal agency. Applicant's failure to comply with any such laws or regulations shall entitle the Township to seek immediate injunctive relief against Developer and to pursue any other remedies available to the Township at law or equity, including remedies provided under the Township Zoning Ordinance.

4. Ordinance No. \_\_\_\_\_, Ordinance to Amend Zoning District Map of the Township Zoning Ordinance (the "Ordinance"), which is attached as Exhibit B to this Resolution, is hereby adopted.

5. The Ordinance shall be filed with the Township Clerk.

6. The Township Clerk shall publish the Ordinance as required by law.

7. Any and all resolutions that are in conflict with this Resolution are hereby repealed upon the effective date of the Ordinance to the extent necessary to give effect to this Resolution.

YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

STATE OF MICHIGAN            )  
  )  
COUNTY OF VAN BUREN        )

I, the undersigned, the duly qualified and acting Clerk of the Charter Township of South Haven, Van Buren County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board at a regular meeting held pursuant to the Open Meetings Act on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Brenda Bertorelli  
Clerk, South Haven Charter Township



EXHIBIT B

CHARTER TOWNSHIP OF SOUTH HAVEN

ORDINANCE NO. \_\_\_\_\_

ORDINANCE TO AMEND ZONING DISTRICT MAP OF  
THE TOWNSHIP ZONING ORDINANCE

SOUTH HAVEN CHARTER TOWNSHIP ORDAINS:

Section 1. Purpose.

The Township adopts the following amendments for the health, safety and welfare of Township residents.

Section 2. Amending Zoning District Map.

The Township hereby amends the Zoning District Map of the Township Zoning Ordinance to change the HDR (High Density Residential) symbol and indication as shown on the Township Zoning Map for certain real property previously approved for a Type I Special Use PUD, which property is located on the north side of 12th Avenue at 73rd Street and is legally described as follows:

Part of the northeast quarter and northwest quarter of Section 14, Town 1 South, Range 17 West, South Haven Township, Van Buren County, Michigan, beginning at the south quarter post of said section 14; thence north 89 degrees 07' 56" east along the south line of said northeast quarter, 115.68 feet; thence north 44 degrees 22' 24" east, 830.72 feet; thence north 46 degrees 15' 12" west, 227.72 feet; thence south 44 degrees 00' 52" west, 222.95 feet; thence north 45 degrees 03' 27" west, 434.78 feet; thence north 44 degrees 51' 52" east, 45.46 feet; thence 44 degrees 44' 22" west, 198.53 feet; thence north 43 degrees 38' 55" east, 609.90 feet; thence north 46 degrees 15' 12" west 242.37 feet; thence south 45 degrees 45' 12" west, 997.26 feet; thence south 45 degrees 44' 30" west, 176.24 feet; thence north 46 degrees 19' 59" west, 335.07 feet; thence south 42 degrees 17' 46" west, 660.47 feet; thence south 00 degrees 03' 13" east, 224.48 feet; thence south 88 degrees 55' 34" east, 165.00 feet; thence south 00 degrees 03' 13" east, 400.00 feet to the south line of said northwest quarter; thence north 88 degrees 55' 33" east along said south line, 1154.44 feet to the point of beginning,

to Type II PUD (Planned Unit Development). Corresponding regulations and land uses are established for the above-described property.

Section 3. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 4. Repealer Clause. Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 5. Effective Date. This Ordinance shall take effect seven days after publication as provided by law.



## EXHIBIT C

### **THREE BRIDGES RV CONDO RESORT PLANNED UNIT DEVELOPMENT AGREEMENT**

THIS AGREEMENT (the "Agreement") is made by and between South Haven Charter Township (the "Township"), whose address is 09761 Blue Star Memorial Highway, South Haven, Michigan 49090, and 12th Ave LLC ("Developer"), a Michigan limited liability company whose address is 220 Aylworth #200, South Haven, Michigan 49090.

#### **Recitals**

A. Developer owns certain property located in the Township (the "Property"), the legal description of which is attached as **Exhibit A**.

B. Developer has obtained final approval of a Planned United Development project ("PUD Project") known as the Three Bridges RV Condo Resort and a final site plan ("Final Site Plan," attached as **Exhibit B** and incorporated by reference) in connection with the Property, subject to the execution of this Agreement.

C. The Township desires to ensure that the Property is developed and used in accordance with the approved Final Site Plan, this Agreement, and applicable laws and regulations.

D. Developer acknowledges that the Township's approval of the PUD Project and Final Site Plan provides Developer with certain material development options for the Property that are not available under the existing zoning classification and that these options confer a distinct and material benefit on Developer.

NOW, THEREFORE, it is hereby agreed as follows:

**Agreement**

1. The Property shall be developed, if it is developed at all, only in accordance with the Final Site Plan, including the sequential phases and plan notes set forth in the Final Site Plan.
2. The Final Site Plan may be amended only in accordance with Article XXII of the Township Zoning Ordinance.
3. Prior to development of the Property, Developer shall submit its condominium documents to the Township for review by the Township Attorney.
4. Developer shall comply with all state, federal, and local laws and regulations in connection with the PUD Project, including any and all permit requirements imposed by the Michigan Department of Natural Resources and Environment ("MDNRE") or any other state or federal agency.
5. Developer's failure to comply with this Agreement or with any applicable laws or regulations in connection with the PUD Project shall entitle the Township to seek immediate injunctive relief against Developer and to pursue any other remedies available to the Township at law or equity, including remedies provided under the Township Zoning Ordinance.
6. In accordance with Section 16.06(H) of the Township Zoning Ordinance, the approved Final Site Plan and this Agreement shall be binding upon Developer, its agent(s), and its heirs, successors, and assigns, unless future changes are mutually agreed to by the Township Board and Developer, its agent(s), or its heirs, successors, and assigns.
7. This Agreement is the entire agreement between the parties. No statements, promises or endorsements made by either party or agent of either party that are not contained in this Agreement shall be valid or binding. This Agreement may not be amended except in writing

signed by the Developer or its successors or assigns and the Township. The Final Site Plan may only be amended as provided in Paragraph 2.

8. If any part, term or provision of this Agreement is finally held by the courts to be illegal or in conflict with any law of the State of Michigan or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular part, term, or provision held to be invalid.

9. This Agreement shall be governed by the laws of the State of Michigan, both as to interpretation and performance. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction in the County of Van Buren, State of Michigan.

10. No waiver of any breach of this Agreement shall be held to be a waiver of any other breach. All remedies afforded in this Agreement shall be cumulative and in addition to every other remedy provided by law.

11. The signers of this Agreement warrant and represent that they have the authority to sign this Agreement on behalf of their respective principals and the authority to bind each party to this Agreement according to its terms. Further, each of the parties represents that the execution of this Agreement has been duly authorized and is binding on such party.

*[Signatures on Following Page]*

SOUTH HAVEN CHARTER TOWNSHIP

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
C. Ross Stein

Its: Supervisor

12 AVENUE LLC

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A

Part of the northeast quarter and northwest quarter of Section 14, Town 1 South, Range 17 West, South Haven Township, Van Buren County, Michigan, beginning at the south quarter post of said section 14; thence north 89 degrees 07' 56" east along the south line of said northeast quarter, 115.68 feet; thence north 44 degrees 22' 24" east, 830.72 feet; thence north 46 degrees 15' 12" west, 227.72 feet; thence south 44 degrees 00' 52" west, 222.95 feet; thence north 45 degrees 03' 27" west, 434.78 feet; thence north 44 degrees 51' 52" east, 45.46 feet; thence 44 degrees 44' 22" west, 198.53 feet; thence north 43 degrees 38' 55" east, 609.90 feet; thence north 46 degrees 15' 12" west 242.37 feet; thence south 45 degrees 45' 12" west, 997.26 feet; thence south 45 degrees 44' 30" west, 176.24 feet; thence north 46 degrees 19' 59" west, 335.07feet; thence south 42 degrees 17' 46" west, 660.47 feet; thence south 00 degrees 03' 13" east, 224.48 feet; thence south 88 degrees 55' 34" east, 165.00 feet; thence south 00 degrees 03' 13" east, 400.00 feet to the south line of said northwest quarter; thence north 88 degrees 55' 33" east along said south line, 1154.44 feet to the point of beginning.

