

ORIGINAL

## FIRST AMENDMENT OF 2014 SPECIAL USE PERMIT

First Amendment of the 2014 Special Use Permit for Portage Point Inn by Windfalls Landing, L.L.C., for the premises located at 8567 S Portage Point Drive (Portage Point Inn and Marina), including Parcel Nos. 51-11-410-038-00, 51-11-410-037-00, 51-11-410-015-00, 51-11-411-009-00, 51-11-411-010-00., 51-11-411-011-00, 51-11-411-037-00, 51-11-411-038-00, 51-11-411-039-00, 51-11-411-044-00, 51-11-411-045-00, and 51-11-411-048-00, and the “Ballfield” property consisting of Parcel Nos. 51-11-370-095-00, 51-11-370-095-10 and 51-11-370-113-00 (Ballfield), Sections 28-29, T23N R16W, Onekama Township, Michigan; which together define the Special Use Permit (or “SUP”) combined Premises.<sup>1</sup>

This constitutes the First Amendment of the Special Use Permit (or “SUP Amendment”) issued under Article 86 of the Onekama Township Zoning Ordinance (“ZO”) to Windfalls Landing L.L.C. (“Windfalls”) by the Township Planning Commission on May 15, 2014. This First Amendment is granted based upon the Findings of Fact under Article 86 and other applicable sections of the ZO. This First Amendment (or “SUP Amendment”) was approved by the Onekama Township Planning Commission on a 7 to 0 vote at a meeting on July 20, 2017

### FINAL APPROVALS

Windfalls is hereby given final approval for the following activities to be conducted at the above-cited parcels (collectively “Premises”) subject to the conditions set forth below:

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<sup>1</sup> The Premises for purpose of a Waterfront Resort Complex under the Zoning Ordinance also consists of individual condominium units owned by entities other than Windfalls but which, nonetheless, collectively comprise the Portage Point Inn historic property as depicted in the Site Plans. A list of those other condominium units is attached as **Exhibit 1** to this SUP Amendment.



1. Rehabilitation, renovation and reconstruction of the hotel, main dining room, kitchen, lobby building and pool complex in accordance with the Site Plan, as well as the construction of a Boat Barn building (54,100 square feet) at the Ballfield site, relocation of the “Dollhouse” cottages to the Ballfield site, the construction of new dollhouse cottages at the current site of such structures west of the condominiums and on the west side of Portage Point Rd. at 9<sup>th</sup> street, and for Marina reconfiguration to include the addition of 32 slips to the existing 48 slips (for a total of 80 slips). Landscape work around all buildings presently on the site.
  
2. Construction of signs on the premises shall include an entrance sign having dimensions no greater than 5’ x 6’ and additional identification signs having dimensions no greater than 2’ x 3’. The signs may be illuminated by one white or colored light, which does not flash, directed toward the sign.
  
3. Maintenance work on the present parking lot in front of the doll houses and overflow parking lot at the Ballfield.
  
4. The storage of machinery, equipment, docks and other items of personal property which are commonly used in connection with the operation of a “Waterfront Resort Complex” having the types of facilities which may be located on the Premises pursuant to this Special Use Permit or which are commonly used by the owners and occupants of such a complex.
  
5. All of the foregoing work at the Inn, the marina, and the Ballfield Property is to be completed in accordance with the Site Plan by Nordlund Associates / Integrated Architecture dated July 6, 2017, pages S.P. 1.0 and S. P. 2.0 accepted by the Planning Commission on July 20, 2017 and the Integrated Architecture Site Drawings, dated October 15, 2015, February 23, 2016 and February 27, 2016 also accepted by the Planning Commission on July 20, 2017 (collectively “Site Plans”).

6. All rehabilitation and renovation activities shall substantially conform to the floor plans and drawings submitted as part of the Site Plans. However, due to the inexact nature of rehabilitation and renovation activities, deviation from the site plan documents may occur as circumstances of the buildings and structures dictate, provided that the outside dimensions and shapes of the buildings or structures being renovated or rehabilitated remain as shown on the Site Plan. The Planning Commission shall have the right to final approval of any substantive changes to the Site Plans.

7. Windfalls shall secure approval from all other governmental agencies having jurisdiction over the Premises and such additional permits as may be required by law. These agencies include, but are not limited to, the Michigan Department of Environmental Quality (“MDEQ”), the United States Army Corps of Engineers (“USACE”), county or state health departments, etc.

## **CONDITIONS APPLICABLE TO FINAL APPROVALS**

### **Portage Point Inn**

1. **Total Overnight and Seating Capacity.** Legal seating capacity means the number of place settings and/or the number of seating positions which are established in the various areas of the facility. Occupancy of any area of the facility shall not, at any time, be greater than the legal seating capacity. Legal sleeping capacity means the number of bed spaces which are maintained on the Premises; a double, queen size or king size bed being determined to be two (2) bed spaces, and a single or twin bed being determined to be one (1) bed space. Actual occupancy of the Premises for overnight accommodations shall not be greater than the legal sleeping capacity. The legal seating and sleeping capacity of all buildings and structures shall be as follows:

A. Total sleeping capacity, including staff and persons sleeping aboard boats moored overnight in the slips, not more than 800.

B. Seating capacity, dining room and bar not more than a total of 413.

C. Seating capacity - Casino lounge: Not more than 150.

Exclusive of the boat slips, the total number of residential condominium and rental units on the Premises shall not exceed 115 units.

2. **Permissible Activities.** The operations and uses of the land and buildings shall be limited to the following:

A. Sleeping accommodations with full range of maid service and room service.

B. Living accommodations for hotel owners/managers and employees.

C. Restaurant operations, including food preparation.

D. Cocktail lounge operations, Sunday sales, dancing, SDM sales of alcoholic beverages, all per applicable licenses issued by the Michigan Liquor Control Commission.

E. Outdoor recreational activities, water sports, and all other sporting activities consistent with the approved used of the Premises.

F. Convention and meeting room operations.

G. Staff and management offices.

H. Management offices and living accommodations for owner/managers, staff, students or interns may be maintained on the Premises year around.

I. Organized educational and social programs for guests (e.g., annual Fourth of July fireworks, beach parties, cook-outs, etc.), including Culinary Institute and teaching facilities.

J. Uses and operations clearly associated with and incidental to the above, which do not involve a departure from or change in the buildings or structures or the primary uses listed above and which are consistent with the resort nature of the Premises and the proposed uses set forth in the Site Plan.

K. Boat slips and marina services except as restricted by this document.

3. **Nature of Services.** The services offered to the public shall be limited to the services reasonably incidental to the operations and uses listed in paragraph 2 above, but may include rental and gift shop, coffee shop / ice cream pastries, small convenience store, wedding chapel and operations, office space, Day Spa and fitness operations and similar amenities. Final authority on what additional uses may be permissible under the Special Use Permit and definition of “Waterfront Resort Complex” is granted to the Onekama Township Planning Commission.

4. **Parking.** A total of 337 parking spaces shall be provided between the Portage Point Inn site and the Ballfield site. 136 spaces shall be provided at the Inn. 201 spaces are provided at the Ballfield site, with 129 spaces provided inside the Boat Barn structure and 72 spaces provided outside at the Ballfield site in locations as shown in the Site Plans. Except as may be required for the needs of the adjacent buildings and walkways, no high intensity outdoor lighting shall be provided for the parking areas. Low-level security lighting which is directed downward and which does not shine directly on areas

beyond the boundaries of the parking areas and connecting walkways shall be provided. All exterior lighting shall conform to “dark skies” standards.. The Planning Commission shall have final authority on exterior lighting. The South parking lot, identified on the Site Plans, shall consist of turf block; it shall not be paved or used in the cold weather season when salting or other method of ice management would be required.

5. **Walkways.** All walkways shall be paved or otherwise protected against erosion and appropriate barriers or devices shall be established so that foot traffic is directed away from erosion sensitive areas. All surfaces must use pervious materials to the extent that is practical.

6. **Platted Roads and Streets.** To the extent that any court, or other action, is required to resolve the status of any platted roads or streets prior to implementing any aspect of this amended SUP with respect to the Portage Point Inn Property, Windfalls shall take the appropriate steps to do so

### **The Marina at Portage Point Inn**

These conditions apply to the expanded Marina at Portage Point Inn Marina (“PPI Marina” or “Marina”) approved under the SUP Amendment:

1. **Clean Marina.** A “Clean Marina” certification shall be secured and maintained. A copy of the certificate shall be filed with the Township annually. Failure to remain in compliance with the Clean Marina Program shall be considered a violation of this approval and all activities associated with the dispensing of fuel and other activities as listed in the Program shall be required to cease until the Marina is re-certified. The Clean Marina Program also incorporates all Clean Marina items on the marina portion of the Site Plans, by reference, including, but not limited to, the “Underground Drainage System for the Boat Wash”, pump out connections at each slip, and other items. The Boat Wash



Underground Drainage System shall be utilized on all launchings and retrievals of boats for the purpose of preventing and minimizing the movement of invasive species.

2. **Court Orders.** The Marina expansion shall not violate any valid court orders or valid building and use restrictions of which the Premises may be subject.

3. **Dark Sky Lighting.** All lighting for the boat slips (except navigational lighting) shall be directed downward to not shine on adjacent properties, meeting ‘Dark Sky’ standards.

4. **Slips and Slip Dimensions.** A maximum of 80 slips is allowed which includes the finger pier slips, 19 Broadside or Monte Carlo style slips and five (5) slips for non-motorized watercraft. All boat slips shall conform to the configuration shown in the Site Plans, and shall conform to all side yard setback requirements from the north and south boundary lines of the Premises as extended into the waters of Portage Lake, except as may be modified by the consent of Windfalls and of adjacent riparian property owners, including Onekama Township (“Township”).

5. **Slip and Harbor Access.** All access to boat slips shall be planned so that entry into the slips by boats can reasonably be made without passing into areas which lie outside the North and South boundaries of the Premises as extended into Portage Lake.

6. **Breakwaters.** Other than what has been allowed under the Site Plans, the design of any breakwater facilities, if needed, shall be subject to further approval of the Planning Commission and any appropriate state or federal agencies.

7. **Quiet Hours.** Except for arrivals or departures, or unless an emergency situation exists, quiet hours shall be required between the hours of 11:00 o’clock p.m. and 7:00 o’clock a.m. During this time quiet is to be observed on the marina docks and activity on



and about the docks and watercraft shall be kept to a minimum. Quiet hour rules shall be prepared and distributed to the users of seasonal and transient slips, and shall be enforced.

8. **Transient Slips.** At least 10% of the Marina slips shall be reserved for use by non-seasonal transient boaters.

9. **Charter Fishing.** A maximum of one (1) charter fishing company shall be authorized to operate with the Portage Point Inn Marina as a mooring and base of operations. In the event of repeated and demonstrated disregard for no wake regulations, bona fide excessive noise complaints, or repeated actions that may pose a hazard to health and safety or environmental risk, the Planning Commission shall have the right to revoke charter fishing operations as a public nuisance upon fifteen (15) days' notice.

10. **Bathroom and other Facilities.** Bathrooms / showers, laundry, office & lounge for the use of Marina patrons shall be required..

11. **Full Service Marina.** Full service Marina operations are permitted under the following conditions:

A. **Fuel Dock.** The fuel dock may be used by persons with a slip at the Marina as well as the general public.

B. **Brokerage sale of Boats** is permitted. However, boats for sale shall not be displayed on the Marina grounds, except for those in the water. These boats may be located inside, or otherwise alongside the Boat Barn at the Ballfield property. Boats may be lifted onto the hydraulic trailer at the Portaged Point Inn launch ramp for purposes of inspection and surveying.

C. **Servicing of Boats.** The servicing of boats stored within the Boat Barn and/or with a seasonal or transient slip is permitted.

**D. New Boat Ramp.** The “New Boat Ramp” identified on the Site Plans shall only be used for the launch or retrieval of watercraft which are under contract for storage at the Boat Barn and/or have a *seasonal* slip at the PPI Marina. Seasonal launching of the foregoing watercraft boats shall only occur during the “shoulder season” of mid - April through late May with an ending date of the Wednesday prior to Memorial Day weekend.. The retrieval of the foregoing watercraft shall only occur during the shoulder season of early September through mid –November with a beginning date of the first Wednesday after Labor Day weekend.. The Boat Ramp can otherwise be used for a bona fide repair of a watercraft with a fouled or damaged propeller or shaft, survey or inspection of watercraft if such action does not involve transport or movement of the watercraft upon the public roadway, or for a watercraft where there is an emergency condition or state of affairs which poses an imminent threat of injury or death to persons, substantial damage to a watercraft (i.e. the craft’s hull has been holed and is danger of sinking), other property, or to the environment.

**E. Additional Prohibited Activities at the Boat Ramp.** The following activities are *prohibited* at the Boat Launch:

a. The launch and retrieval of any watercraft which do not have a seasonal slip or which are not under a contract for storage at the Boat Barn during the winter months. This prohibition includes the watercraft that guests of the Inn may bring during a temporary visit. The launch and retrieval of such watercraft shall only occur at public access or other ramp facilities located elsewhere off of the Premises.

b. In / out service, other than the *seasonal* launching of watercraft during the shoulder seasons as described above.

c. Travel lifts or overhead cranes placed for use in marine service operations, except during construction or facility maintenance activities. Non – permanent lift devices used to step sailboat masts for watercraft stored at the Boat Barn or otherwise having a seasonal slip at the Marina are permitted. Mast stepping and unstepping is also encouraged during the shoulder seasons of mid - April through late May and early September through mid –November.

**F. Other Prohibited Activities at the Marina.**

a. Commercial operations not primarily centered on providing such services. E.g., the Marina cannot be used as a base for dredge operations or other commercial activities not directly related to the operation of the Portage Point Inn as a Waterfront Resort Complex.

b. Rack storage of boats and watercraft other than that described elsewhere herein is prohibited as is in/out service other than seasonal launching e.g., removed from inside winter storage in Spring and returned to inside winter storage in Fall.

**12. Marina as Accessory to Portage Point Inn.** The Marina functions as an accessory use to the Inn’s historic hotel (as renovated under this permit), including condominium units within the hotel structure, restaurant, and other tourism functions under the definition of "Waterfront Resort Complex" under the provisions of this SUP Amendment. The foregoing permitted Marina functions and activities are only allowed as an *accessory* use to the other permitted uses of Portage Point Inn under the terms of this SUP Amendment. The Marina and its functions are not severable from the Portage Point Inn. This includes all activities and operations related to the Marina including boat storage and other marina support activities at the Ballfield Boat Barn. If the hotel, including condominium units within the hotel structure, restaurant,

conference, and/or other tourism residential functions of the Inn terminate, then the Marina and its functions shall also terminate. Temporary use may be permitted in the event of a catastrophe such as a fire or windstorm that makes hotel or condominium rental operations impossible. All lessees or grantees of slips in the Marina shall be required to sign an Acknowledgment of this condition in either their slip lease or conveyance contract where they further agree to release the Marina, the Inn or other entity holding title to the slips, and Onekama Township, for any loss associated with this condition.

### **The Boat Barn at the Ballfield**

1. **Boat Barn.** . The Boat Barn at the Ballfield, as identified by the Site Plans, is approved only for the use of vehicle and boat storage, indoor marine repair and associated activities, as a primary<sup>2</sup> component of the Marina, and for vehicle parking associated with the hotel, restaurant and conference functions of the Portage Point Inn.

A. Paralleling the Marina, the Boat Barn, and its foregoing-described permitted uses, constitutes an accessory use to the Inn's hotel, restaurant, and other tourism functions under the definition of "Waterfront Resort Complex under the provisions of this SUP Amendment. If the hotel, restaurant, conference, and/or other tourism residential functions of the Inn terminate, then the use of the Boat Barn shall also terminate. Temporary use may be permitted in the event of a catastrophe such as a fire or windstorm that makes hotel or condominium rental operations impossible.

B. All lessees or grantees of marine storage space within the Boat Barn shall be required to sign an Acknowledgment of this condition in either their storage space

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<sup>2</sup> The Township Board's zoning text amendment of March 2016 allows a full-service marina in association with the Inn. A marine storage and maintenance building – Boat Barn - is considered a *primary component* of a full service marina and is therefore not an accessory building to such a marina. The marina, including the Boat Barn are, nonetheless, *accessory to the operation of the Inn* as otherwise described in this SUP permit amendment.

lease or conveyance contract where they further agree to release the Marina, the Inn or other entity holding title to the Boat Barn, and Onekama Township, for any loss associated with this condition.

2. **Site Conditions** In addition to any conditions shown on the Site Plans for the Boat Barn, the following conditions apply:

A. **50 Foot Max Height.** The structure is approved to be fifty (50) feet or less in height.

B. **Design/ Trim to Match Portage Point Inn.** The design, trim, colors (green and white) of the Boat Barn building shall closely reflect the character of the Portage Point Inn to reinforce the Waterfront Resort Complex. Architectural enhancements to the Boat Barn are to include additional windows on the front facing sides of Portage Point Drive and Seymour Avenue, contrasting trim/fascia, eave overhangs, and **other** details. All structures shall be of similar appearance to the Inn. Final design to be approved by the Planning Commission and shown on the final site plans.

C. **Doll House Elevations.** The doll house cottages will be elevated from the grade on Portage Point Drive by not less than five (5) feet.

D. **Berming.** Berming is required on the lower six feet of the south and west sides of the building, to include a conifer screen shall be provided composed of 3\_-4 foot trees, at the time of planting, located every 5-6 feet in two staggered rows. An evergreen screen composed of 3-4 foot trees, at the time of planting, located every 5-6 feet in staggered rows shall also be placed on the north side of the building.

E. **Existing Trees.** Existing trees on the site shall be maintained where practicable.

F. **Parking.** Parking to the south of the Boat Barn (Seymour Avenue) shall be reduced to six (6) spaces and moved to the southwest corner of the building as reflected on the site plans.

G. **No Retail.** No retail component will be provided in the building.

H. **Platted Roads and Streets.** To the extent that any court, or other action, is required to resolve the status of any platted roads or streets prior to implementing any aspect of this amended SUP with respect to the Ballfield Property, Windfalls shall take the appropriate steps to do so.

I **Seymour Street Driveway.** Driveway width will be reduced to be no larger than necessary to serve as an entry/exit to the Boat Barn on Seymour Avenue.

J. **Hydroblasting.** The use of pressurized mechanical equipment using water to clean and repair boat hulls, shall be operated inside the structure to reduce noise. It may be an outdoor activity only near (within 40 feet of ) the entry doors of the Boat Barn.

K **Outdoor Storage.** Outdoor storage areas shall be in a defined area on the site plan and screened from view by fencing and by an evergreen screen, with trees located every 5-6 feet.

L **Maintenance Work Limited by Boat Owners.** Only light maintenance work on boats will be allowed to be done by owners. No electrical work, spray painting, or use of flammable/hazardous fluids or materials shall be used by boat owners/renters. No persons shall engage in mechanical or other repairs than sanding and brush or roller painting, or handle flammable and / or hazardous materials unless trained and certified or working under the direct supervision of a trained and certified staff person.

**M Berms.** Berms, walls, landscaping, and other measures to minimize sound transmission beyond the ballfield / boat barn parcel are required as set forth in the Site Plans, and subject to review and approval by the Planning Commission.

**N Outdoor Storage.** All vehicles/boats/trailers/accessories stored outside must be in good working order with valid licensing or registration as required by the State.. Boats and boats on trailers may each be stored outside for no more than 21 days in any 60 day period and only during the period of May 15<sup>th</sup> – September 15<sup>th</sup>.

**O. Flammable and/or Hazardous Fluids.** All flammable and / or hazardous fluids shall be stored indoors in ways approved by the Fire Marshal or other controlling authority. Methods of storage, handling, and disposal of flammable and/or hazardous materials shall be approved by the Fire Marshal or other controlling authority. Clean Marina Certification for the management of such materials shall apply.

**P. Dumpsters.** Dumpsters shall be enclosed.

**Q. Parking Spaces.** The Boat Barn shall accommodate 129 indoor parking spaces, which shall be available during summer peak season for customer parking and shall be prioritized so that parking of vehicles shall occur indoors before outdoor overflow “flex” parking spaces are utilized. Valet parking or a shuttle service shall be available during all events and at peak times when full occupancy and/or large assembly events are occurring. Outdoor parking at the Ballfield site shall be as depicted on the Site Plans.

**R Rack Storage Restrictions.** In and out launching and retrieval of motorized watercraft for use on the water, from rack storage in the Boat Barn, during the boating season (about May 1 to November 1) is prohibited. Rack storage is permitted for winter storage between early September and through mid-April. Small non-motorized



craft such as kayaks, canoes, and similar small craft that may use a sail are exempt from prohibitions in this section.

## **GENERAL CONDITIONS APPLICABLE TO USE OF THE PREMISES**

1. **Intensity of use of the Premises.** The Developer may operate 24 hours a day, 7 days a week, subject to the terms of any applicable liquor and food service licenses. The outside use of amplified sound equipment for any purpose after 11 p.m. Sunday thru Thursday, excepting State / Federal holidays, is prohibited. On Fridays and Saturdays this restriction shall commence at 12 midnight, excepting for intermittent special events as may be authorized by the Township Board. All such requests shall be filed with the Township Clerk a minimum of 30 days prior to the scheduled event. All activities are otherwise subject to Onekama Township Anti-Noise & Public Nuisance Ordinance 2005-2, except as to the more restrictive provisions noted above.

2. **Soil Erosion Control.** No soil, dirt, sand or gravel shall be excavated and removed from the site and no fill shall be placed on the site, except as may be reasonable and necessary for the construction, operation, and maintenance of the approved uses, listed above. Any fill or excavation activities will be done in accordance with the requirements imposed by the Michigan Department of Natural Resources and/or Manistee County Soil Conservation office. Any site modifications resulting from a review of the MDNR and/or Manistee County Soil Conservation Office shall return to the Planning Commission under Site Plan Review.

3. **No Stagnant Water.** No stagnant water will be allowed to collect on the surface of the Premises. Ground disturbed by the Developer's activities, will be made suitable for the growing of turf, landscaping and the other approved uses. After construction the site shall be replanted with appropriate erosion controls as soon as the weather permits.

4. **Phasing.** The construction and/or renovation permitted hereunder shall be completed in phases and each phase shall be conditioned upon the existence of sufficient utility capacity – particularly sanitary sewer capacity - as a prerequisite to the issuance of a final land use permit for the stage of construction at issue. The Michigan Department of Environmental Quality (MDEQ) or other applicable state, county or federal agency shall provide confirmation and necessary permits that such sanitary sewer capacity exists before the land use permit for each stage is issued. Similarly, the Marina shall not be expanded as part of a stage until the MDEQ and the U.S. Army Corps of Engineers have given their necessary permits and approvals. Windfalls shall provide a timeline schedule of the planned stages, and substantial progress shall be required towards completion of each phase before commencing another as a condition of the granting of this Special Use Amendment. The approval of land use permits for separate stages shall reflect other sections of this amended SUP which declare that the Marina and Boat Barn component are *accessory uses to, and dependent upon the continued operation and rehabilitation of the Portage Point Inn* and no land use permits shall be granted for the construction of the Boat Barn and the Marina expansion until land use permits have been issued for the rehabilitation of the Portage Point Inn and surrounding grounds as depicted in the Site Plans, that such work has been completed on the Portage Point Inn, and those components are operating. Such sequencing of stages may be modified by the Planning Commission only if the completion of such construction or renovation in a timely fashion is prevented by the circumstances beyond the control of Windfalls, such as labor difficulties, act of God, civil insurrection, act of war or natural disaster, untimely processing of permit applications by government agencies, non-availability of a connection to a public sewer system or other reason accepted by the Planning Commission as a reason for delay, but under no circumstance shall the Marina and Boat Barn operate in an independent manner from the Portage Point Inn. Except as noted above, should any individual phase of the contemplated construction not be completed within the approved timeline, a supplemental special use permit must be applied for and

obtained prior to continuing such construction or beginning another phase of development.

5. **Application to Successors and Assigns.** This SUP Amendment and the conditions thereto shall endure to the benefit of and be binding upon Windfalls and its successors and assigns. A notice approved by the Township attorney and containing the legal description of the Premises shall be recorded with the Manistee County Register of Deeds to provide constructive notice that this Amended Special Use Permit exists and limits the method of using the Premises. The Developer shall execute the Certification at the end of this permit.

6. **Governmental Permits Required.** All permits or approvals from any governmental agency or court of competent jurisdiction which are necessary prior to the commencement of any part or phase of the construction or renovation Premises as contemplated herein shall be obtained prior to construction or renovation and the approval given herein is conditioned upon obtaining such approvals or permits. This SUP Amendment shall not be construed as a recommendation for approval to any agency or court of competent jurisdiction, but this sentence shall similarly not be construed as an indication of disapproval.

7. **Property Limitations.** This SUP Amendment shall not be construed as a grant of any real property rights, including riparian rights, not already owned by Windfalls, but further, the conditions herein contained shall not be construed as an adjudication or designation of the limits of Windfalls' property rights, including its riparian rights (except to the extent this permit regulates such property rights as an exercise of the Township's police power).

8. **Guest Registration.** To ensure that the sleeping capacity of the Premises is not exceeded, a register of all guests occupying the Premises over night for each day that the Premises is available for overnight occupancy shall be maintained, including all

occupants of transient boats at the Marina. Such register shall be available for inspection by the Zoning Administrator during regular business hours (8:00 a. m. to 5:00 p.m.) upon request made not less than twelve hours in advance. Such registration shall not apply to the owners of condominium units or to watercraft owners with a seasonal slip.

9. **Costs and Fees.** Windfalls shall pay to Township all costs and fees imposed by the Zoning Ordinance or as agreed upon by the Township Board.

10. **Condominium Documents.** Windfalls shall file with the Planning Commission a true and accurate copy of its Condominium Master Deed(s) and all amendments that may hereafter be made to such Master Deed(s).

### **PRELIMINARY APPROVALS**

Developer is hereby given preliminary approval for the following activities construction and uses, subject to the conditions set forth hereafter:

1. The construction, maintenance, and operation of such water and/or septic systems, including sewer, at the Premises as may be from time to time be approved by the Michigan Department of Environmental Quality, the Manistee County Health Department, and/or other permitting authorities.

2. Other construction and new construction per the approved Site Plan.

### **CONDITIONS APPLICABLE TO PRELIMINARY APPROVALS**

1. Windfalls shall provide to the Planning Commission information concerning the unified septic system or hook up to a sewer system as this information is received and developed. Nothing in this Permit shall be construed as relieving Windfalls of its

obligation to connect to any wastewater treatment system which it otherwise would be required to connect with in the future under controlling law or ordinances.

2. Prior to granting final approval for any activities which will require excavation other than for infrastructure repair, improvement, and dredging, the Planning Commission shall have the right to require Windfalls to provide: (A) An estimate from a disinterested licensed engineer certifying the expense associated with returning the area to be disturbed by the excavation to its natural condition in the event the planned improvements are not completed, and; (B) A bond, irrevocable letter of credit or other security acceptable to the Planning Commission, to secure the cost of returning the disturbed area to its natural state if the improvements for which final approval are given are not completed.

### **MODIFICATION OR AMENDMENTS TO CONDITIONS**

Pursuant to the Zoning Enabling Act (Public Act 110 of 2006), as amended, the conditions imposed by this permit shall remain unchanged except upon the mutual agreement, in writing, of the Planning Commission and Windfalls or its successor or assigns.

### **REVIEW OF RECORDS**

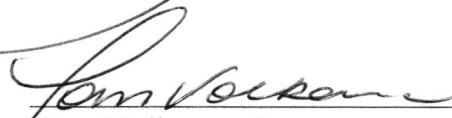
An official copy of all records of this case, including all documents submitted as the Site Plan, are available for public inspection in the Onekama Township Hall by appointment only. Any and all inquiries concerning this Permit shall be directed to the Secretary of the Onekama Township Planning Commission.

Date of execution and  
Effective date:

7/20/17

  
James R. Trout, Chairman  
Onekama Township Planning Commission

7/20/17


  
Tom Volkema, Secretary  
Onekama Township Planning Commission

### CERTIFICATION

Windfalls Landing, LLC, hereby certifies that it shall accept and comply with the terms and conditions of this Special Use Permit and the Onekama Township Permanent Zoning Ordinance, as amended.

Dated:

7/28/17

  
Robert S. Gezon, Owner  
Windfalls Landing, L.L.C.