

**PLANNING AND ZONING COMMISSION
MINUTES
May 13, 2008**

ATTENDEES:	<u>Members</u>	<u>Staff</u>
	Buckley	Smith
	Miller	Esham
	Singman	Houston
	Taylor	Nelson
	Brous	Fussell
	Shanahan	

I. CALL TO ORDER – 6:00 p.m.

II. APPROVAL OF MINUTES

Approval of minutes of March 18, 2008 and April 1, 2008.

MOTION/Taylor SECONDED/Singman 6-0 IN FAVOR

III. SITE PLAN

1. DOUGH ROLLER RESTAURANT – Proposed 7,933 GSF restaurant to be located on the west side of Atlantic Avenue (Boardwalk) and the north side of South Division Street and known locally as 606 South Atlantic Avenue, further described as Parcel 2611, Tax Map 110, in the Town of Ocean City, Maryland.
APPLICANT: WILLIAM A. GIBBS, JR. – File #08-18100002

MOTION/Taylor SECONDED/Shanahan 6-0 IN FAVOR subject to the following conditions:

1. Trash refuse containers and recycling containers shall comply with the minimum standards set forth in Chapter 70 subject to the Solid Waste Department approval.
2. The project shall comply with all regulations pertaining to stormwater management and infiltration as per the Standards of the Worcester County Soil Conservation District and the State of Maryland prior to issuance of a building permit.
3. All construction and/or repairs of curb cuts, sidewalks and streets and/or street amenities shall be approved by the Department of Engineering and shall be installed in accordance with the specifications and standards of that department. Any existing curb cuts that are being abandoned must be removed and replaced with a sidewalk subject to city specifications.
4. It is the policy of the Planning Commission to require 8' wide sidewalks on all public streets adjoining the project. Pervious pavers may be considered to meet this need subject to specifications set forth by the Engineering Department.

5. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.
6. Location and/or relocation of fire hydrants shall be subject to the approval of the Water Department and the Fire Marshal.
7. All landscape shall be installed in accordance with Chapter 98, Article II, Landscaping, and with Chapter 30, Article VII, Atlantic Coastal Bays Critical Area criteria, where applicable.
8. All focal lighting, including exterior lights, and parking lot lighting necessary for the safety and protection of property, shall be controlled and focused within the site's property lines to minimize glare on adjoining properties.
9. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.
10. The project is subject to the provisions of the Atlantic Coastal Bays Critical Areas Protection Act.
11. The project is subject to impact fees adopted by the Mayor and City Council.
12. All site plan approvals are subject to building code, fire code and all other applicable governmental regulations.
13. All work shall be completed as shown on the approved site plan and any revisions to the approved site plan shall be in accordance with Section 110-184.
14. Final site plan approval shall expire eighteen (18) months after the date of approval unless a building permit for the project is obtained prior thereto pursuant to Section 110-52(c)(2).
15. Any encroachment, such as the roof overhang, into the public right of way shall be subject to approval by the City Engineer.
16. The project, including signage, shall be subject to final approval by the Ocean City Development Corporation in accordance with adopted guidelines.
17. The appearance of the west side of the project shall be enhanced and the plans submitted for review by the Ocean City Development Corporation and the Planning Commission prior to issuance of the building permit for the main structure.

IV. DISCUSSION

1. Finding of Fact – Indoor Miniature Golf Course and Arcade Expansion Conditional Use, Nolen Graves – 107 – 146th Street, File #08-12100001

Blaine Smith and Will Esham met with Guy Ayres, City Solicitor, to review the finding of fact for the referenced request. It is Mr. Ayres' opinion that the section of the Code the

Commission relied on for their decision (Section 110-933) is not intended to permit a reduction in the required parking, however, it could be relied on to enhance required parking. There is nothing in the Code to allow the Planning Commission to reduce the parking required. The only way to remedy the parking is for applicant to file application again to the Board of Zoning Appeals requesting a parking exception or to modify the project to provide the required parking on site. Based on this opinion, the Board voted unanimously (6-0) to rescind the favorable recommendation until applicant can satisfy the parking requirements.

MOTION/Miller

SECONDED/Taylor

6-0 IN FAVOR

AT 7:00 P.M.

IV. PUBLIC HEARING

1. CODE AMENDMENT - To discuss recommendations in the Comprehensive Plan to retain and encourage commercial land uses in commercially zoned areas and to discuss possible changes to the zoning code to implement those recommendations. Zoning code changes could take the form of regulations and incentives.

APPLICANT: PLANNING AND ZONING COMMISSION – File #08-14100003

This public hearing is to consider Code amendments to implement some of the recommendations and proposals in the Comprehensive Plan. Specifically, the Comprehensive Plan has a lot of references to encouraging and retaining commercial Uses and also encouraging mixed use development. The Plan includes statements about providing commercial development on both sides of Coastal Highway and also statements regarding pyramidal zoning that has allowed the market to determine the use of commercially zoned land, i.e. commercial zoned land being developed with residential uses and excluding commercial development on those commercially zoned properties.

The entire town has 2,257 developable acres; 27% is zoned for commercial use (602 acres). Some of the considerations are: do we guide development through rezoning regulations or let the market determine best use of property; if we require commercial development and there's no market for it, do we end up with vacant storefronts; if market develops residential, where will future commercial development locate; do we need additional commercially zoned areas.

Researching standards in other communities, it was found that there is no standard. Some communities allow residential development in all commercial districts, in some commercial districts, some by special exception or conditional use and some do not allow residential development in commercial districts.

Jesse Houston explained some zoning techniques that can be used to require commercial development in commercial areas such as offering incentives for commercial development, instead of requiring commercial or making it mandatory, to encourage commercial development in the commercial districts.

After discussing the various techniques, including conditional use, special exception, and possibly incentives, it's the Commission's opinion that something should be done to

preserve commercial development. Based on Commission's comments, staff will put together some options and will bring back to Commission for further discussion.

There was no input from the public during the hearing. The hearing was left open at this time.

V. ADJOURNMENT - 7:30 p.m.

John Staley, Secretary

Date