

**PLANNING AND ZONING COMMISSION
MINUTES
JANUARY 23, 2013**

ATTENDEES:

Members

Pam Buckley
Joel Brous
Lauren Taylor
Peck Miller
John Staley

Staff

Matt Margotta
Blaine Smith
Kay Stroud
Bob Nelson
Will Esham

CALL TO ORDER – 6:30 PM

I. APPROVAL OF MINUTES:

Minutes of November 20, 2012 were approved with the correction of commentary regarding past miniature golf in the DMX and the Henry Hotel to read **Concerns of the Historic Henry Hotel prompted the Trimper Family not to extend the overlay onto the below subject property.**

Joel Brous abstained from the vote since he was absent on November 20, 2012. Minutes were approved (4-0) with correction.

II. FINAL SITE PLAN REVIEW:

Existing electrical substation expansion located on Lots 1A and 1B as shown on a Plat entitled "Resubdivision Lot 1, Block 150, Fenwick Plat No. 4," recorded in Plat Book R.H.O. No. 153, page 75; and Lots 2A and 2B as shown on a Plat entitled "Resubdivision Lot 2, Block 150, Fenwick Plat," and recorded among the Plat Records in Plat Book 190, Page 62, Parcels 7623A and 7624A, Map 118, further described as located on Sinepuxent and Derrickson Avenues between 137th and 138th Streets, in the Town of Ocean City, Maryland.

APPLICANT: DELMARVA POWER & LIGHT COMPANY – A CORPORATION OF THE STATE OF DELAWARE AND THE COMMONWEALTH OF VIRGINIA (FILE #12-18100005)

Blaine Smith, Zoning Administrator, explained the Conditional Use approval condition of the Mayor and City Council concerning DP & L taking EMF and sound readings at the site within 60 days when the substation becomes fully operative, and then semi-annually and reporting to neighbors within 300' radius of the property.

Neil Baker, representative of DP & L, explained that Phase I of the site plan - wall and landscaping - will be accomplished this spring; with the intent to have the entirety of the improvements completed by December, 2013.

Staging and construction, noise, and traffic flow were discussed and resolved satisfactorily.

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MOTION/Miller **SECONDED/Taylor** Vote was unanimous (5-0) to approve final site plan as presented based on these conditions of approval:

1. The recommendations of staff.
2. Including the Conditional Use public hearing file as part of the site plan approval.
3. The required irrigation system to give the larger, more mature trees and plants a better chance at viability.

IV. DISCUSSION: (Agenda Items III & IV changed places)

How building height is measured in conjunction with FEMA regulations

Blaine Smith presented history of how building height is measured and the variables that exist within Ocean City. In 1983, the building height was determined to be measured off the street grade adjacent to the property because it was a fixed point. Prior to that, the property's finished grade was the term (standard of measurement), which allowed filling with dirt/soil in order to get more height for structures. Basements are avoided unless flood-proofed in accordance with FEMA regulations. 3rd Street south, because of the width of the beach, FEMA agreed that base-flood elevation would be referred to as base-flood elevation and have no freeboard – this is in the Code because of the protection of the beach. Otherwise, base-flood elevation always has a freeboard of 2' feet above, unless it's been waived like downtown. In more recent years, when the Upper Downtown district, building height is measured from the base-flood elevation which INCLUDES freeboard by Code.

The goal is to have a common starting place, base-flood elevation, so that some properties are not penalized, where others have the benefit. It affects how the design of the building is achieved with all the headroom clearance, ductwork, stair equations, etc. Blaine cited Rivendell and Jetty Break as two projects that were affected by height regulations. It will give the Town a constant benchmark measured by survey.

Matt Margotta, Director of Planning and Community Development, mentioned that in all communities that he has served in, the FEMA flood elevation is the benchmark for measuring height of buildings. It has a more rational link to the Community Rating System. He added that with variances and the height is most often referred to in number of stories. If Ocean City is not concerned with the design of the roof, measuring to the top-plate makes sense.

MOTION/Taylor **SECONDED/Miller** Vote was unanimous (5-0) to take the question of measuring building height by base-flood elevation code amendment to public hearing.

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III. PUBLIC HEARING – 7:00 PM

To consider amending Section 110-664 of the Code of the Town of Ocean City, Maryland, to include miniature golf as item (7) as a use permitted conditional use in the DMX, Downtown Mixed Use, Zoning District.

APPLICANT: PLANNING & ZONING COMMISSION (FILE #12-14100003)

The record states no objection to sitting Commissioners.

Blaine Smith presented the application, explaining that it was brought up as a result of a property in town in the DMX district, requesting a miniature golf course. He found that prior changes to the Code had not allowed this use as a Conditional Use since the inception of the DMX and Downtown Design Overlay Zone in 2002. Miniature golf has existed in the downtown area, but in different zoning districts than DMX. OCDC's Downtown Design Committee has given a recommendation supporting the addition of miniature golf as a Conditional Use in the DMX zoning district. The property in question, located at S. 1st Street between Baltimore and Philadelphia Avenue, has been most recently used as parking. The Trimper Family had used it as the Tank Battle site before using it for parking. When the Amusement Overlay Zone was created on the east side of Baltimore Avenue for the Trimper Amusements, that property was not included. Changing the language of the code to allow this use as a Conditional Use would be enabling, bringing an application, site-specific, within the DMX zone, to a public hearing, and being recommended on to the Mayor and City Council if appropriate. This would protect the neighborhood against any adverse impacts.

Regan Smith, 3509 Coastal Highway, representing the Trimper Family elaborated on the former miniature golf businesses downtown. When the property was rezoned from B-2 to the DMX, the use was left out. Chris Trimper was also on hand, but it was not necessary for him to testify at this stage.

The Commissioners closed the hearing for discussion. It determined that miniature golf would be a consistent use/activity in this mixed (commercial/residential) use zone.

MOTION/Miller SECONDED/Brous Vote was unanimous (5-0) to forward a favorable recommendation on to the Mayor and City Council for their approval based on the finding of fact.

ADJOURNMENT – 7:27 PM

John Staley February 20, 2013

John Staley/Commission Secretary Date

