

**PLANNING AND ZONING COMMISSION  
MINUTES  
JULY 16, 2013**

**ATTENDEES:**

Members  
Pam Buckley  
John Staley  
Peck Miller  
Lauren Taylor

Staff  
Blaine Smith  
Kay Stroud  
Kevin Gregory  
Matt Margotta  
Bob Nelson

**CALL TO ORDER – 6:30 PM**

**I. APPROVAL OF MINUTES:**

Minutes of June 18, 2013

Lauren Taylor made the motion to approve; seconded by Peck Miller. Minutes were approved (4-0).

**II. STAFF PRESENTATION:**

Planner Bob Nelson presented the Maryland Department of Planning's Annual Report for recommendation on to the Mayor and City Council to send to the State.

**MOTION/Taylor**      **SECONDED/Miller**      Vote was (4-0) to recommend the Annual Report to the Mayor and City Council.

**III. SITE PLAN:**

1) Proposed 3,150 square foot retractable roof and wall enclosure system for the rooftop Skye Bar. The site of the appeal is described as Unit 1, 66<sup>th</sup> Street Commercial Condominium Plat, further described as located on the west side of Coastal Highway between 66<sup>th</sup> and 67<sup>th</sup> Streets, and locally known as The Galaxy 66 Skye Bar & Grille, 6601 Coastal Highway, in the Town of Ocean City, Maryland.

**APPLICANT: RTCC, LLC (FILE #13-18100012)**

Blaine Smith introduced the application, and staff recommendation of design review by the Planning Commission of the retractable panels to be installed. Harry How of MAD Engineering brought renderings showing the actual bar with proposed enclosures from the side and aerial views. The panels on the roof will be tinted and these enclosure system will function as sound reduction as well as cover from inclement weather conditions.

**MOTION/Miller**      **SECONDED/Staley**      Vote was (4-0) to approve the site plan as presented.

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2) Proposed open, unenclosed, covered pavilion (32' x 50') +/- uncovered dining area inclusive of expansion of offsite parking lots at 211, 209 and 207 – 1<sup>st</sup> Street and 21 Dayton Lane. The sites of the application are described as Lots 3, 4, 5, 6, Part of 7, 8, and 9, and 10, Block 40 N of the Sinepuxent Beach Company Plat; further described as located on the north side of 1<sup>st</sup> Street and the far northwest area of the property, on the west side of Bayview Lane, and known locally as De Lazy Lizard, 302-1<sup>st</sup> Street, in the Town of Ocean City, Maryland.

The offsite parking lots are described as Lots 46, 47 and 48A, Block 27N of the H & P Subdivision Plat, further described as Located on the south side of 1<sup>st</sup> Street and west side of Dayton Lane, and known locally as 211, 207 and 209-1<sup>st</sup> Street, and 21 Dayton Lane, in the Town of Ocean City, Maryland.

**APPLICANT: CHRIS CARBAUGH, R. L. A. (FILE #13-18100008)**

Blaine Smith gave the up to date history for the projects of de Lazy Lizard and ongoing parking issues. Glenn Irwin, Executive Director of OCDC, is in support of the project and associated bayside watersport business, a good use with the restaurant and bar. The staff made the following recommendations:

1. Design Guidelines, per Ocean City Development Corporation Design Review Committee in accordance with the Downtown Design Overlay Zone (Chapter 110, Article 23), shall be adhered to in exterior design.
2. Trash refuse containers and recycling containers shall comply with the minimum standards set forth in Chapter 70 subject to the Solid Waste Department approval. All exterior garbage or rubbish containers shall be screened from the street on all but one side by an opaque fence, landscaping, an earth berm or other suitable opaque enclosure. The average height of the enclosure shall be one foot more than the height of the container but shall not be required to exceed eight feet in height. This office has been advised that there are issues with the existing trash collection system. Solid Waste has no intentions of signing off on any additional CO's or expansions until these are resolved – per Steve Brown and Hal Adkins, Public Works Administrator.
3. 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.
4. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.
5. The alleys abutting the project shall be improved per Ocean City specifications at the expense of the owner/developer if disturbed during construction.

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6. The remote parking lot shall be deed restricted by a recorded covenant as parking space to be used in conjunction with the principal use and shall be reserved as such through an encumbrance to be valid for the total period the use or uses for which the parking is needed are in existence. A certificate of recording shall be furnished to the Administrator prior to issuance of the Certificate of Occupancy.
7. Any existing power poles that interfere with the development of this project shall be relocated at the expense of the owner/developer with appropriate approvals.
8. All landscape shall be installed in accordance with Chapter 30, Article VII, Atlantic Coastal Bays Critical Area criteria, where applicable.
9. Location, height, type, and direction of lighting designed per Section 110-831.23 Lighting (Lower Downtown Area) Downtown Design Overlay Zones.
10. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.
11. The project is subject to the provisions of the Atlantic Coastal Bays Critical Areas Protection Act.
12. The project is subject to impact fees adopted by the Mayor and City Council.
13. All site plan approvals are subject to building code, fire code and all other applicable governmental regulations.
14. 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.
15. 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).
16. Subject to obtaining a building permit for all site work.

**MOTION/Taylor** **SECONDED/Miller** Vote was (4-0) to approve the site plan as presented with staff and OCDC recommendations, and Commissioner Miller added he would like verification of outdoor dining #'s and adequate parking as previously approved.

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Administrator Smith added for the Commission's information that Solid Waste is withholding any further sign-offs on permits and certificates of occupancy until an issue with a necessary trash compactor is resolved; and also that the de Lazy Lizard is facing a dilemma as to how to get electricity to the new project. These issues will be resolved prior to permitting of this project.

3) Proposed 3,910 square foot rooftop bar/dining addition. The site of the application is located at Lots 202 and part of Lots 193 and 198, Block 22 of the Old Town Ocean City Plat, further described as located on the west side of St. Louis Avenue and north side of Dorchester Street at the Bay, and locally known as the Marina Deck Restaurant, 306 Dorchester Street, in the Town of Ocean City, Maryland

**APPLICANT: DENNIS KALCHTHALER (FILE #13-18100011)**

Blaine Smith introduced the application to the Commission. Over the years the parking nonconformity has been reduced by acquiring parking. Glenn Irwin, OCDC, spoke in favor of the project. The staff rendered these recommendations:

1. Design Guidelines, per Ocean City Development Corporation Design Review Committee in accordance with the Downtown Design Overlay Zone (Chapter 110, Article 23) shall be adhered to in exterior design.
2. Trash refuse containers and recycling containers shall comply with the minimum standards set forth in Chapter 70 subject to the Solid Waste Department approval. All exterior garbage or rubbish containers shall be screened from the street on all but one side by an opaque fence, landscaping, an earth berm or other suitable opaque enclosure. The average height of the enclosure shall be one foot more than the height of the container but shall not be required to exceed eight feet in height.
3. 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.
4. 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.
5. All landscape shall be installed in accordance with Chapter 30, Article VII, Atlantic Coastal Bays Critical Area criteria, where applicable.

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6. Location, height, type, and direction of lighting designed per Section 110-831.23 Lighting (Lower Downtown Area) Downtown Design Overlay Zones.
7. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.
8. The project is subject to the provisions of the Atlantic Coastal Bays Critical Areas Protection Act.
9. The project is subject to impact fees adopted by the Mayor and City Council.
10. All site plan approvals are subject to building code, fire code and all other applicable governmental regulations.
11. 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.
12. 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).
13. All sign permits shall be issued in accordance with those signs shown on the site plan.
14. Subject to obtaining a building permit for all site work.

Environmental Engineer Gail Blazer's comments were also attached as staff recommendations, but not formally addressed:

1. The trees that are shown to be removed are not on this property. They are required landscaping for the adjoining property. Approval from the neighbor is required and trees must be replanted.
2. Mitigation is required for the limit of disturbance outside the footprint of the building. Must meet the afforestation requirement or pay the fee-in-lieu. If a walkway is needed from the steps this must be shown on the site plan and mitigated. It doesn't appear to have 15% plantable so must maintain the existing plantable area. Must remove it elsewhere on site.

The Commission determined after discussion concerning open, unenclosed and enclosed dining area and required/non-required parking that the owner needs to prove that the restaurant is parking compliant in order to move forward with this addition. The Commission does not favor increasing the degree of non-conformity.

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The Code makes provision that parcels owned by the same owner and deed restricted to the same use can be used in calculation of a project, but not unless it is deed restricted and recorded in the Land Records of Worcester County.

Christopher Lynch, Project General Manger, requested that the project be given approval per deed restriction and dedication of required parking to bring the project into compliance.

**MOTION/Miller      SECONDED/Taylor**      Motion to table until exact parking tabulation per gross square footage valuations are obtained.

**III. PUBLIC HEARING**

Pursuant to the provisions of Article II, Section 5, Conditional Uses, a request has been filed under the provisions of Section 110-544, Uses permitted by Conditional Use in the SC-1, Shopping Center District, to permit water-related recreational activity with a maximum total of twenty (20) devices: stand-up paddle boards, kayaks, and pedalboats. The site of the request is described as Land Unit 4, 45<sup>th</sup> Street Land Condominium Plat, further described as located on the west side of Coastal Highway, north of 44<sup>th</sup> Street, and locally known as 4435 Coastal Highway, 45<sup>th</sup> Street Village, LLC, in the Town of Ocean City, Maryland.

**APPLICANT: MIKE HRICIK/44<sup>TH</sup> STREET WATERSPORTS (FILE #13-12100001)**

Blaine Smith was sworn and introduced the application to the Commission. He described the site conditions, showed the photograph exhibit (entered as Applicant's Exhibit #1) and introduced the letter from Avi Sibony, partner of 45<sup>th</sup> Street Shopping Village, LLC, promising to leave Flavors of Italy closed as concession so that the watersport may utilize its parking.

Michael Joseph Hricik, 3103 Windjammer Lane, testified on behalf of his application. He answered all questions the Commissioners asked him, including:

- 1) He will bring a chase boat from his other watersport business at 48<sup>th</sup> Street around the point and anchor it daily.
- 2) The site will be cleaned up prior to obtaining his business license.
- 3) Only non-motorized watercraft (vessels) specified in the application will be used at this location – stand-up paddle boards, kayaks, and pedalboats, a maximum of 20.
- 4) He testified to the conditions in the bay and at the shoreline, that it is perfect for eco-tours and that the vessels would remain close to the shoreline in the shallow water.
- 5) The closest motorized watersport business is north at 49<sup>th</sup> Street.

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The record shows that there was no opposition or support present in the audience.

**MOTION/Taylor    **SECONDED/Miller****    Motion to close the hearing to further testimony and to enter into discussion and deliberation.

**MOTION/Taylor    **SECONDED/Miller****    Motion to recommend acceptance of this Conditional Use application to the Mayor and City Council based on the Town's Watersport Policy for a period of five (5) years based on the applicant's nine (9) years of experience at the 48<sup>th</sup> Street watersport business. Mr. Miller emphasized that the site shall be cleaned up and inspected prior to the license issuance, and Chair Buckley added that parking be verified yearly as compliant. Vote was unanimous (4-0) for approval.

**ADJOURNMENT @ 7:40 p.m.**

John Staley, Sec. 8/20/13  
John Staley Commission Sec.    Date