

**PLANNING AND ZONING COMMISSION
MINUTES
AUGUST 20, 2013**

ATTENDEES:

Members
Pam Buckley
John Staley
Peck Miller
Lauren Taylor
Joel Brous
Chris Shanahan

Staff
Blaine Smith
Kay Stroud
Kevin Gregory
Matt Margotta

CALL TO ORDER – 6:30 PM

I. APPROVAL OF MINUTES:

Minutes of July 16, 2013

Lauren Taylor made the motion to approve with correction of capitalization of “Skye Bar”; seconded by Peck Miller. Minutes were approved (4-0-2) with Joel Brous and Chris Shanahan abstaining since they were not present on that date.

II. SITE PLAN:

1) Proposed new construction of a 9,848 square foot retail (only) structure. The site of the application is described as Lot 11 and part of Lot 10, Block 5, of the Sinepuxent Beach Company Plat, 1891; further described as located on the west side of Atlantic Avenue (Boardwalk), between 4th and 5th Streets and locally known as 407 Atlantic Avenue, in the Town of Ocean City, Maryland.

APPLICANT: S & S PROPERTIES (File #13-18100009)

Blaine Smith introduced the application and gave history of site and project, including the special yard exception and landscaping variance granted by the Board of Zoning Appeals on July 11, 2013 (BZA 2369 #13-09400006). This approval has since been appealed to the courts by the neighboring El Capitan Condominium and unit owners.

Keith Iott, Architect, Iott Architecture and Engineering, located in Salisbury, MD, explained another board decision, that of the Board of Adjustments and Appeals granted in June, 2013 (BAAV 13-0000075) allowing the new structure to have a basement parking level. The current use will be retail stores only with compliant parking. If the use is ever changed to a more intense use, such as food and beverage, more parking will need to be obtained within 600’ of the property or a waiver given by the Board of Zoning Appeals.

MOTION/Miller **SECONDED/**Staley Vote was (6-0) to approve the site plan as presented with the following staff recommendations:

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1. Subject to the Upper Downtown Design Overlay Zone (Chapter 110, Article 26) design guidelines, review and approval except Boardwalk façade, which is under Planning & Zoning review of Design Guidelines, Section 110-181.
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.
3. The project shall comply with all regulations pertaining to stormwater management, Chapter 30, Environment, Article III, Stormwater Management, prior to issuance of a building permit.
4. All vehicular use areas shall maintain headroom clearance of seven (7) feet, clear of all obstructions including utilities and lighting fixtures. All supporting columns within the vehicular use areas shall not encroach into any minimum parking space or access drive.
5. The alleys abutting the project shall be improved per Ocean City specifications at the expense of the owner/developer if disturbed during development.
6. 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.
7. The location of transformers/generators shall be subject to the approval of Delmarva Power and the Zoning Administrator. The generators shall be subject to the noise regulations set forth in Chapter 30, Article V.
8. All landscape shall be installed in accordance with Chapter 30, Article VII, Atlantic Coastal Bays Critical Area criteria, where applicable, and per variance granted by the Board of Zoning Appeals, BZA 2369 #13-09400006, to provide less than 15% afforestation but maintaining lot area that is now landscaped, dated July 11, 2013.
9. Location, height, type, and direction of lighting designed per Section 110-865.21(1)(b) (UpperDowntown Design Area).Lighting Requirements, including at a minimum a photometric plan to illuminate site and off-street parking areas expressed in footcandles throughout the property.
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.

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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. All sign permits shall be issued in accordance with those signs shown on the site plan.
17. Subject to obtaining a building permit for all site work.

2) Site plan review of proposed Hotel consisting of 92 rooms and 16 suites; a multi-family residential structure to consist of 12 (3) bedroom units; and two (2) 4,600 square foot restaurants – project to be condominiumized. The site is described Lots 1, 4-7, and 10 of Parcels 5754, 5755, 5756, 5757, 5749, 5753, Grid 6, Tax Map 111, Elisha Bunting and Robert Scott Subdivision; further described as located on the west side of Philadelphia Avenue, the south side of 26th Street and the north side of 25th Street and locally known as 2501 and 2505 Philadelphia Avenue, in the Town of Ocean City, Maryland.

APPLICANT: 25TH STREET DEVELOPMENT OF OCEAN CITY, LLC (FILE #13-18100013)

Blaine Smith introduced the application, explaining the prior history of the site and the new proposal for development which is likely to be phased in construction. The site will consist of a hotel, multi-family residential structure, and two restaurants. The first portion to be constructed will be the residential components, with the accessory commercial element to be constructed in a later phase.

Joe Moore, attorney for applicant, and Robert Heron, representing Atlantic Planning, Development & Design, Inc., answered commission members' concerns regarding mainly the accessory restaurant use and parking demand, internal vehicular and pedestrian circulation, and ingress and egress paths. The exchange was quite lengthy with several alternatives discussed.

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MOTION/Brous **SECONDED/Shanahan** Vote was (6-0) to preliminarily approve the site plan as presented with the following staff recommendations for corrections to be brought back for final site plan approval:

1. For 9,000 square feet of restaurant space, better interior vehicular and pedestrian traffic flow, and a 2nd access from 25th Street through to 26th Street should be created with associated walkways.
2. Create interior vehicular and pedestrian walkways between the hotel and restaurants to connect the front and rear parking areas.
3. The 26th Street driveway access closest to Coastal Highway should be exit only onto 26th Street.
4. 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.
5. The project shall comply with all regulations pertaining to stormwater management, Chapter 30, Environment, Article III, Stormwater Management, prior to issuance of a building permit.
6. 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.
7. 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.
8. All vehicular use areas shall maintain headroom clearance of seven (7) feet, clear of all obstructions including utilities and lighting fixtures. All supporting columns within the vehicular use areas shall not encroach into any minimum parking space or access drive.
9. All loading zones and service areas shall maintain a minimum headroom clearance of fourteen (14) feet, clear of all obstructions including utilities and lighting fixtures.

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10. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.
11. The shared ingress, egress and parking to serve Parcels A & B shall be deed restricted by a recorded covenant, including ingress/egress easement, 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.
12. Storm drains to be relocated on 25th and 26th Streets must provide easements as shown on plans. All upgrades shall be made at the expense of the owner/developer and performed according to city specifications.
13. It is required that the overhead utility lines on 25th Street from Coastal Highway to the westerly lot line of the multi-family structure be placed underground to provide fire/emergency access to hotel and multi-family dwellings. Any existing power poles that interfere with the development of this project shall be relocated or placed underground at the expense of the owner/developer with appropriate approvals.
14. The location of transformers shall be subject to the approval of Delmarva Power and the Zoning Administrator.
15. Location and/or relocation of fire hydrants shall be subject to the approval of the Water Department and the Fire Marshal.
16. All landscape shall be installed in accordance with Chapter 30, Article VII, Atlantic Coastal Bays Critical Area criteria, where applicable.
17. Location, height, type, and direction of lighting designed per Section 110-876(h) Lighting Requirements, including at a minimum a photometric plan to illuminate site and off-street parking areas expressed in footcandles throughout the property.
18. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.
19. The project is subject to the provisions of the Atlantic Coastal Bays Critical Areas Protection Act.
20. The project is subject to impact fees adopted by the Mayor and City Council.
21. The hotel/motel project shall be operated in compliance with Section 110-907, items 1 thru 11, Hotel/Motel Definition, following:

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- (1) Be operated exclusively as a place of temporary lodging for compensation.
 - (2) Be open to the public generally rather than to a limited group.
 - (3) Contain a public lobby and guest registration office with guest rooms & suites.
 - (4) Provide full-time on-site management, guest registration personnel, daily maid service and maintenance to all guest rooms and suites.
 - (5) Limit the number of different guest room and suite keys to the number of guest rooms and suites approved by Ocean City; rooms or suites shall not be subdivided or used to provide more separate living areas than approved by Ocean City.
 - (6) Individual guest rooms and suites shall not have individual utility connections metered separately, including water, sewer and electric connections.
 - (7) Maintain a sign with the name of the hotel/motel on the outside of the property, with the word "hotel/motel" prominently displayed.
 - (8) Maintain records, for at least the most recent two years, of all guests, including names, addresses, rooms or suites assigned and term of stay, and make said records available for inspection by the department on 24 hours' notice.
 - (9) Comply with the minimum lot area per dwelling unit specified in the district regulations.
 - (10) Not to be construed to include any building or structure defined as a multiple-family dwelling in this chapter for the purpose of calculating lot area per unit and off-street parking per dwelling unit. In the case of mixed dwelling types, the required minimum lot area per unit and parking requirements shall equal the sum of the requirements of the various uses computed separately.
 - (11) In the event that that hotel/motel units are to be sold as condominiums, timeshare, partnerships or other forms of individual ownership, the condominium plats, bylaws and covenants shall be reviewed and approved by the administrator and the Planning Commission attorney.
22. All site plan approvals are subject to building code, fire code and all other applicable governmental regulations.
 23. 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.
 24. All parcels shall be deed consolidated as per Section 110-874.
 25. If the project is to be a phased project, site plan approval shall include a phasing plan.
 26. 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).

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27. All sign permits shall be issued in accordance with those signs shown on the site plan.
28. Subject to obtaining a building permit for all site work.

ADJOURNMENT @ 8:10 p.m.

John Staley Sept. 4, 2013
John Staley Commission Sec. Date