

**PLANNING AND ZONING COMMISSION  
MINUTES  
SEPTEMBER 4, 2013**

**ATTENDEES:**

Members

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

Staff

Blaine Smith  
Kay Stroud  
Kevin Gregory  
Matt Margotta  
Terry McGean

**CALL TO ORDER – 6:30 PM**

**I. APPROVAL OF MINUTES:**

Minutes of August 20, 2013

Lauren Taylor made the motion to approve, seconded by Chris Shanahan. Minutes were approved (6-0).

**II. SITE PLAN:**

Resubmission with Amendments – Final 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) 4,500 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 26<sup>th</sup> Street and the north side of 25<sup>th</sup> Street and locally known as 2501 and 2505 Philadelphia Avenue, in the Town of Ocean City, Maryland.

**APPLICANT: 25<sup>TH</sup> STREET DEVELOPMENT OF OCEAN CITY, LLC (FILE #13-18100013)**

Blaine Smith reintroduced the application and gave history of site and project, including the changes that were requested at the last meeting of the Planning Commission:

- 1) Create direct connection between 25<sup>th</sup> and 26<sup>th</sup> Streets
- 2) Improve internal traffic flow
- 3) Took into consideration the Planning Commission's request that 26<sup>th</sup> Street easterly drive be exit only, but determined to ask for permission to keep it both entrance and exit.

Terry McGean, City Engineer, elaborated on his memo, which he had submitted as part of the record. He thanked the Commission for soliciting his recommendations and presented his reasoning for allowing the 26<sup>th</sup> Street easterly drive to remain both entrance and exit as originally proposed.

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Joseph E. Moore, Esquire, attorney for the applicant, discussed removal of parking spaces for maintenance area between restaurants and improved internal drive circulation, which necessitated reducing the size of the restaurants down by 100 square feet each.

**MOTION/Miller      SECONDED/Brous**    Vote was unanimous (6-0) to approve the final site plan as presented with the following conditions, listed as A-C:

- A. Per staff recommendations, listed below, with the condition that any design changes will come back to the Planning Commission for review:
  - 1. For 9,000 square feet of restaurant space, better interior vehicular and pedestrian traffic flow, and a 2<sup>nd</sup> access from 25<sup>th</sup> Street through to 26<sup>th</sup> 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. REVISED - The 26<sup>th</sup> Street driveway access closest to Coastal Highway should be 2-way per City Engineer's recommendations.
  - 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.

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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.
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 25<sup>th</sup> and 26<sup>th</sup> 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 25<sup>th</sup> 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.

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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:
  - (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.

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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).
  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.
- B. Per City Engineer, Terry McGean's memo, attached, with condition that if the easterly entrance at 26<sup>th</sup> Street presents problems, it will be brought back to the Planning Commission for adjustment to remedy any issues.
- C. The newly designed maintenance area, shown as a single parking space between restaurants on the site plan, to be fenced/screened as appropriate.

**III. PUBLIC HEARINGS**

- (1) To consider amending Article I, Code Section 110-2. Definitions:

*Building, height of.* The vertical distance from **base flood elevation** grade to the highest point where the exterior walls meet the roof. The area above the maximum building height (attic) shall not be used for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof **unless specified otherwise within regulations.**

**APPLICANT: PLANNING & ZONING COMMISSION – FILE #13-1410001**

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Recent discovery that the FEMA maps are being revised will make defining this change a bit more difficult. This change will not be fully adopted for a period as long as 18 months from now. Discussion between Commissioners and staff led to a consensus to work on the language a bit further, readvertise the public hearing, and bring it back toward the middle of October.

**MOTION/Taylor** **SECONDED/Miller** Vote was unanimous (6-0) to table this public hearing until it is readvertised and rescheduled.

(2) To consider amending Article V, Code Section 110-932 (b) (22)

Shopping centers, shopping plazas, retail stores, personal service establishments and convenience food stores greater than 5,000 square feet of gross floor area: a) One space per 225 square feet gross floor area, except for movie theaters, which shall comply with the parking requirements as set forth in subsection (24), hereof. b) When restaurants, fast food establishments, cocktail lounges, taverns, nightclubs, or other establishments for the consumption of food or beverage on or off the premises are located in a shopping center: i) If these establishments, individually or in total, comprise less than 25 percent **or less** of the gross floor area of the shopping center, the parking requirements shall be that for shopping centers; ii) If these eating and drinking establishments, individually or in total, comprise more than 25 percent of the gross floor area of the shopping center, parking shall be provided for **the gross floor area of** those uses **in excess of the 25 percent** in accordance with their separate requirements. The parking calculations shall be computed for the retail and eating and drinking establishments separately and then combined.

**APPLICANT: PLANNING & ZONING COMMISSION – FILE #13-14100002**

Blaine Smith introduced this public hearing and testified that the request was initiated by the Planning Commission to clarify the code so that only the percentage of food and beverage establishments over 25% in the above uses would be subject to the higher parking demand of 1 space per 100 square feet of gross floor area.

**MOTION/Taylor** **SECONDED/Shanahan** Vote was unanimous (6-0) to forward this code amendment to the Mayor and City Council

**ADJOURNMENT @ 7:35 p.m.**

John Staley      October 1, 2013  
John Staley Commission Sec.      Date