

**PLANNING AND ZONING COMMISSION
MINUTES
March 17, 2015**

ATTENDEES:

Members

Pam Buckley
John Staley
Lauren Taylor
Peck Miller
Chris Shanahan
Palmer Gillis

Staff

Blaine Smith
Bob Nelson
Kay Stroud
Will Esham

I. MINUTES 6:45 PM

Minutes of March 3, 2015

MOTION/Shanahan SECOND/Staley Motion to approve as presented with a vote of (5-0-1) Palmer Gillis absent for March 3rd meeting, abstained.

II. STAFF PRESENTATIONS/UPDATES

- 1) Comprehensive Plan update information by Bob Nelson, Planner.
 - a) **Strengths, Weaknesses, Opportunities, Threats (SWOT) Rankings** – Bob asked that changes be sent to Kay and she will give to him to tally. Lauren dislikes the format and Pam asked if this format 0-10 be checked into with the State to see if this is a mandate or left over from the last comprehensive plan update by the consultants. Pam suggested gathering items of most importance, and then grouping those that need improvement. Peck suggested adding a wish list. Bob asked that the Commissioners begin reviewing the current plan for changes to assist with the update.

III. PUBLIC HEARING 7 PM

Pursuant to Code Section 110-821 and 822 for a Planned Overlay District to include a 13-story hotel expansion which will have 87 units to be added to an existing 8-story hotel containing 110 units. The site is described as Lots 1, 2, 3, 13, 14, 15, 16, and 17, Block 1 of the Isle of Wight Land Company Plat, said properties owned by OC Hotel Holdings, Inc.; and Lots 4, 5, 18, 19, 20, 21 and part of Lot 22, Block 1 on the Plat of Isle of Wight Land Company, said property owned by Boardwalk Inn, Inc. Said properties, in combination, are located between 33rd and 34th Streets, and oceanfront, in the Town of Ocean City, Maryland.

APPLICANT: JOSEPH E. MOORE, ATTORNEY FOR BOARDWALK INN, INC., AND OC HOTEL HOLDINGS, INC. (FILE #15-14100002)

Zoning Administrator Blaine Smith presented the application for this Planned Overlay District. Joseph E. Moore, Esquire, attorney for the applicant, came forward. He called Jack Mumford of Becker Morgan, 312 W. Main Street, in Salisbury MD to detail for the commission and attendees the design of the anticipated structure. He presented exhibits showing what the structure could

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look like if built using height by right bulk for the POD eligible design. He discussed how the addition would attach to the existing Quality Inn and showed the full complement of parking with a couple new loading zones. The 3D flyover and shadow study were also offered as exhibits. Mr. Mumford further testified that with this design no adverse affects were created.

Betty Tustin of the Traffic Group presented a study that further supported the project transportation and traffic flow design.

James Collins (Skip) of 12-34th Street, came forward to question the applicant and commissioners as a concerned neighbor living adjacent to the north side of the project. He testified that leaving the check-in on 33rd Street would be desirable to the private residences on 34th Street. He also prefers the curb cut to remain where it currently is rather than a new one further to the east on 34th Street. His biggest concern is the dumpster location and wants to make sure this is remedied to the best possible scenario prior to issuing the building permit, at site plan review phase. Other points he offered were to maintain the open lot on 34th Street, and to preserve native mature trees onsite.

The hearing was closed to testimony at 8:02 pm.

MOTION/Miller **SECOND**/Gillis Motion to forward a favorable recommendation for a Planned Overlay District to the Mayor and City Council as presented with the following conditions with a unanimous vote of (6-0).

- 1) Preserve the existing mature native trees and landscaping wherever possible.
- 2) Maintain the existing cooling towers and preserve their screening as they have worked well with the neighborhood over the years.
- 3) Widen the sidewalks on the south side of property, north side of 33rd Street, to 8 feet.
- 4) Determine the size, location, and screening of the proposed dumpster at final site plan approval phase of development.
- 5) Creating a curb cut/driveway farther east than the existing one on 34th Street.

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PUBLIC HEARING 7:15 PM

To consider amending the Zoning Code, Article V, Division 1, Section 110-884, Outdoor display of merchandise standards for properties fronting on Atlantic Avenue (Boardwalk), to change or modify the minimum standards for display.

APPLICANT: PLANNING & ZONING COMMISSION (FILE #15-14100001)

The Boardwalk Committee of the Ocean City Development Corporation, working with zoning staff, presented these amendments to the Planning Commission, who by motion and second turned this application over to legal advertising. It was first scheduled for February 18th, but it was necessary to readvertise because a second draft of the changes was advertised on the website after the earlier advertisement in the newspaper. The proposed amendments are listed below:

MODIFIED FOR NEW PUBLIC HEARING MARCH 17, 2015

- **Sec. 110-884. - Outdoor display of merchandise standards for properties fronting on Atlantic Avenue (Boardwalk).**

(a) Properties displaying merchandise outdoors fronting the Boardwalk shall be subject to the following:

(1) An annual display permit, issued by the zoning administrator, is required for outdoor display of merchandise. It is required that the display permit application be reviewed for recommendation by the ~~Boardwalk Development Association (BDA)~~ **OCDC Boardwalk Committee (BC)** review committee. The ~~BDA~~ **BC** review committee shall consist of five persons, recommended by the ~~BDA~~ **BC**, to be appointed by the mayor and city council. Two committee members shall be representative of Boardwalk retail merchants, with a quorum required of three members ~~to include at least one Boardwalk retail merchant~~. If the ~~BDA~~ **BC** review committee recommends against the issuance of the display permit, it shall state in writing to the zoning administrator, the reasons for the unfavorable recommendation. Upon his/her review, the zoning administrator may grant or deny the display permit. Any applicant aggrieved by the decision of the zoning administrator may file an appeal to the board of zoning appeals as set forth in this chapter;

(2) A copy of the approved plans for display of merchandise must be conspicuously displayed on the premises;

(3) No merchandise, signs or other items shall encroach into the Boardwalk right-of-way (property line) other than as allowed by other provisions of the Town Code;

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(4) Framed merchandise such as decals or t-shirts, is to be treated as outdoor display, not signage. The square footage of these panels is counted toward the total square footage allowed for outdoor display. The total amount of wall merchandise may not exceed 30 percent of exterior walls. The boards may not exceed ten feet in height. These display boards do not require sign permits as they are considered merchandise of outdoor display;

(5) Display areas may be utilized for certain activities such as a caricaturist, henna tattoo artist, hair wraps and the like. Square footage of amenity displays (henna, hair wraps, etc.) is considered part of the outdoor display and counts toward the allowable display square footage. Display boards showing examples of designs are considered display of merchandise and count toward allowable square footage;

(6) Properties fronting the Boardwalk south of 3rd Street are allowed 30 percent of the total wall space or pad space in aggregate for display;

~~(7) Properties with a 32-foot setback from the boardwalk are allowed a 12-foot display area adjacent to the building. The display area within the setback may not exceed 30 percent of the setback display area; the allowed amount of merchandise may be displayed no closer than 10 feet to the boardwalk.~~

~~(8) Properties with less than a 32-foot setback from the boardwalk area are allowed an 8-foot display area adjacent to the building. The display area within the setback may not exceed 30 percent of the setback display area; the allowed amount of merchandise may be displayed no closer than 10 feet to the boardwalk.~~

(7) Properties fronting the Boardwalk north of 3rd Street are allowed outdoor display of merchandise based on 30% of the pad area measured ten (10) feet distance from the property line adjacent to the Boardwalk to the face of the main building by the width of the pad in front of the main building.

~~(8) As an incentive for providing certain decorative/functional amenities such as landscape plantings, attractive seating, permanent chairs/tables, etc., that enhance the display and Boardwalk experience and which equal at least ten percent of the total display area, properties which provide setbacks from the Boardwalk may increase their total amount of display area to 20 percent of the setback area (pad area). The pad area is to be measured from the main building closest to the Boardwalk to the Boardwalk right-of-way (property line) multiplied by the width of the store frontage or use area. Fifty percent of the allowed display~~

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may be located within ten feet of the Boardwalk right-of-way. Decorative and functional amenities are allowed and encouraged in the 10' area abutting the Boardwalk to enhance the display and the Boardwalk experience. These amenities may include live plantings (no plastic or silk plantings), and attractive seating such as benches and chairs for the comfort of the visitors. The amenities must be well maintained throughout the entire season.

(9) All approved display areas shall be clearly delineated on the pad surface with some type of permanent markings that can be easily identified by enforcement personnel. The various display areas outlined above shall be arranged in such a manner to avoid clutter;

(10) ~~Display of merchandise shall not exceed five feet in height measured from pad surface, except umbrellas used for display protection shall have a minimum headroom clearance of six feet, eight inches;~~ No display may exceed 5' in height, with the exception of sunglass racks which are manufactured at 6', and open umbrellas of 6'8" used to protect merchandise display from sun damage; and other items deemed appropriate by the BDC.

(11) Items displayed shall be representations of the greater range of products within the store. Only items sold inside the store may be displayed outside;

(12) Display stands, boxes, bins, clothes poles, racks, hermit crab cages, sunglass racks, etc. shall be of uniform size, type and materials to create an attractive and cohesive shopping district;

(13) All merchandise displayed outside must be able to be placed inside the store during inclement weather, and the store must continue to meet life safety regulations in order to remain open, if the merchandise is displayed inside;

(14) All display, including display racks and bins, shall be moved inside the store when the store is not open for business;

(15) The entire display pad/floor surface shall be maintained and kept cleaned regularly;

(16) Graffiti shall be removed from the premises in accordance with Section 302.9, Defacement of property, of the 2006 International Property Maintenance Code;

(17) All coin-operated vending machines shall be kept in compliance with [Section 110-335\(6\)](#) of the Town Code;

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(18) All sales registers and sales transactions shall be located and conducted within the enclosed building;

(19) No business may create a barrier between businesses by using merchandise or signage to inhibit the flow of traffic from one business to another. There must be a 42 24-inch walkway between businesses;

(20) Each store is allowed one A-frame sign for each 25 ~~linear~~ linear feet of store frontage facing the Boardwalk. The A-frame signs may not exceed 17.5 square feet on each side and nothing may be attached to the A-frame that extends above, on the edges, or extends beyond the frame. The A-frame may not exceed 60 inches in height including the legs. Signs may be two sided. A-frame signs will not require a separate sign permit. They will be part of the display permit but will not be deducted from the allowed display area. A-frame signs shall be professionally constructed and lettered;

(21) A-frame signs which are part of the display shall be removed when the business is not open for business;

(22) All other signage shall obtain necessary sign permits; and

(23) Prohibited items: Unclothed mannequins; promotion of alcohol, illegal drugs and paraphernalia, tobacco products, firearms, knives, offensive adult materials, products containing or displaying profanity, sexually explicit messages, or obscenity, sound amplification arranged or directed towards the outdoors and/or located outdoors; and flashing lights.

(b) Restaurants, hotels/motels and amusements shall be subject to the following outdoor display guidelines:

(1) Handwritten signs shall be limited to incidental signs describing or identifying menus, carry-out windows, hours of operation, entry/exit, vacancy, office, and the like;

(2) No hanging displays or signs shall be placed on benches, railings or fences;

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(3) One A-frame sign, not to exceed 17.5 square feet for every 25 ~~lineal~~ **linear** feet of Boardwalk **storefront** frontage shall be permitted, not to exceed two A-frames per ~~property~~ **storefront**;

(4) Wall signs not to exceed 30 percent of exterior walls are permitted;

(5) Enclosures must be well maintained and pad to be maintained regularly; and

(6) Graffiti shall be removed from the premises in accordance with Section 302.9, Defacement of property, of the 2006 International Property Maintenance Code.

(c) Outdoor display of merchandise permits shall be subject to the following enforcement procedures.

(1) The business/store personnel will be given a verbal warning for initial violation to terms of the outdoor display permit. A written confirmation letter will be sent to the business owner and property owner as follow up.

(2) The business owner and property owner will be issued a written correction notice for a second violation.

(3) The business owner will be issued a municipal infraction for a third violation. A confirmation letter and copy of the citation will be sent to the property owner.

(4) The business owner will be cited for a municipal infraction for a fourth violation. The display permit will be suspended for one week beginning the day after the fourth violation. A confirmation letter of the suspension and copy of the citation will be sent to the property owner.

(5) The business owner will be cited for a municipal infraction for a fifth violation. The display permit will be suspended for two weeks beginning the day after the fifth violation. A confirmation letter of the suspension and a copy of the citation will be sent to the property owner.

