

**PLANNING AND ZONING COMMISSION
MINUTES
February 17, 2016**

ATTENDEES:

Members

Lauren Taylor
John Staley
Peck Miller
Chris Shanahan
Palmer Gillis

Staff

Bill Neville
Blaine Smith
Kay Gordy
Will Esham

6:30 PM

I. MINUTES

Minutes of February 2, 2016

MOTION/Gillis **SECOND/Taylor** Motion made to accept the minutes as presented. Those attending voted (5-0-2), with Chairperson Pam Buckley and Commissioner Joel Brous absent.

II. SITE PLAN

1. Site Plan Review to allow the use of an additional 5 motel rooms within existing structure with no changes to the physical site. The site of the application is described as Lots 146, 147, 148 and 149 of the Neptune Development Plat, further described as located on the west side of Philadelphia Avenue between Dolphin Street and Herring Way, and locally known as The Islander Motel, 2001 Philadelphia Avenue, in the Town of Ocean City, Maryland.

APPLICANT: ISLANDER MOTEL – KHEA, LLC (File #16-18100002)

Zoning Administrator Blaine Smith presented the application. This motel was built in the 1950's and presumably this owner or a former owner had converted 5 storage rooms into dwelling units, resulting in a parking deficiency. In order to bring this property into compliance, the staff gave recommendation to approve the site plan subject to all life safety code, issuance of necessary building permits and prior to future occupancy obtain the required parking as follows:

- Applicant submitted an off-site parking agreement/covenant with VPST, LLC tenant, of the Fountain Court Corporation, located on the east side of Philadelphia Avenue at 1900 Philadelphia Avenue for a minimum of three (3) parking spaces and maximum of five (5) parking spaces to be recorded in perpetuity for exclusive use of the Islander Motel while the use of those additional rooms continue.

The Commission's attorney, Will Esham, III, pointed out a discrepancy in this agreement. The tenant is unable to enter into this agreement since it is recorded with the land records. Therefore the owners, Fountain Court Corporation, need to sign and execute this agreement to also include the lender or mortgagor if required.

Commissioner Gillis stated that since the rooms were created covertly without benefit of review, inspections and permits that the applicant must meet with the Building Department and the Fire

Marshal's office prior to being rescheduled on the Commission agenda to allay concern that these rooms do not meet life safety codes.

MOTION/Miller SECOND/Taylor Motion made to table this application until a thorough code inspection is obtained from the Building and Fire Marshal's offices and the covenant agreement resubmitted between the property owner of 1900 Philadelphia Avenue and the Islander Motel. The vote to table was unanimous (5-0-2) with Chairperson Pam Buckley and Commissioner Joel Brous absent. A letter will be sent to the applicant with these requirements to move forward at a later date (attached).

2. Site Plan Review for proposed approximately 3000 gross square foot accessory addition to replace the portion damaged by fire. The site of the application is described as Lot 5, Block 4N of the Sinepuxent Beach Company Plat, 1891; and further described as located on the east side of Baltimore Avenue and north of 3rd Street, and locally known as St. Paul's by the Sea Episcopal Church, 302 Baltimore Avenue, in the Town of Ocean City, Maryland.

APPLICANT: VESTRY OF ST PAULS BY THE SEA EPISCOPAL CHURCH (FILE #16-18100003)

Zoning Administrator Blaine Smith again introduced the application. The church was the site of a devastating fire in November of 2013, resulting in this request to review the accessory addition. The former structure had encroached into the Baltimore Avenue right-of-way and the new plans eliminates that encroachment. The driveway around the new addition has been configured to be entered from Baltimore Avenue, turning east and driving along the northern side of the structure and continuing into the 16' wide alley to the east of the church. The Commission deliberated the site plan staff recommendations:

1. Design Guidelines, per the Upper Downtown Design Overlay Zone (Chapter 110, Article 26). Please see comments and renderings attached.
2. This project is subject to the provisions of the Atlantic Coastal Bays Critical Area Protection Act and shall comply with all regulations pertaining to stormwater management, Chapter 30, Environment, Article III Stormwater Management, and all landscape shall be installed in accordance with Chapter 30, Article VII, prior to the issuance of a building permit.
3. 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.
4. Curb cuts located on the State highway are subject to review and approval by the State Highway Administration based on proposed ingress and egress to the project.
5. 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.
6. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.

7. The alleys abutting the project shall be improved per Ocean City specifications at the expense of the owner/developer.
8. 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.
9. The location of transformers shall be subject to the approval of Delmarva Power and the Zoning Administrator.
10. Location, height, type, and direction of lighting designed per Section 110-865.21(1)(b) (Upper Downtown Design Area), including at a minimum a photometric plan to illuminate site and off-street parking areas expressed in footcandles throughout the property.
11. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.
12. The project is subject to impact fees adopt the Mayor and City Council.
 - a. Infrastructure impact fees are as follows: One-half amount due at application for building permit; remainder due prior to issuance of building permit.
 - b. Water and sewer impact fees are due as follows: One-half amount at building permit issuance; the remainder at certificate of occupancy.
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 SECOND/Miller Motion made to approve the site plan as presented per staff recommendations. The vote was unanimous (5-0-2), Pam Buckley and Joel Brous, absent.

3. Site Plan Renewal - Temporary Commercial Parking Lot 200 St. Louis Avenue
APPLICANT: DRIFTWOOD 3C, LLC, (ORIGINAL FILE #12-18100006)

Zoning Administrator Smith introduced this application to renew a temporary commercial parking lot at 200 St. Louis Avenue. This parking lot was originally given approval in 2008 and renewed in 2012 and 2014 for two years. The Commission received the comments of OCDC below and Gail Blazer, Environmental Engineer, and approved the extension for two more years, to expire in 2018.

1. The repair of the vinyl fencing and pickets.
2. The landscape materials that have died from the original approval to be replaced with new landscape materials.

MOTION/Miller SECOND/Taylor Motion made to approve the site plan as presented per staff recommendations. The vote was unanimous (5-0-2), Pam Buckley and Joel Brous, absent.

4. Site Plan Renewal – Temporary Commercial Parking Lot 2204 Philadelphia Avenue
APPLICANT: JACQUELINE DEGROFT (ORIGINAL FILE #12-18100001)

Zoning Administrator Smith introduced this temporary commercial parking lot renewal request. This original request was approved in 2008 and renewed in 2012 and 2014 for two years. The Commission received staff original conditions Gail Blazer’s comment and approved the extension for two more years, to expire in 2018.

1. The landscape shall be maintained and/or replaced per the approved plan.
2. The parking lot shall be kept in a clean and sanitary condition.

MOTION/Miller SECOND/Shanahan Motion made to approve the site plan as presented per staff recommendations. The vote was unanimous (5-0-2), Pam Buckley and Joel Brous, absent.

ADJOURNMENT – 7:08 PM

John Staley 4/19/16
JOHN STALEY, SECRETARY DATE`

STAFF COMMENTS

February 2, 2016

To consider amending Code Section 110-2, Definitions – to add the definition (Water Related Recreational Activity) for the purpose of defining the term as it pertains to the Zoning Regulations

Water related recreational activity. Any recreational activity that is related to the use of tidal waters in their natural state including but not limited to jet skis, parasailing, sailboats, motor boats and paddle boats, but not including any amusement place, amusement attraction, amusement ride, amusement park, water slide or any ride or amusement device of any kind or description that is subject to regulation by the Maryland Department of Labor, Licensing and Regulation under Title 09, Subtitle 12, Chapters 62, 63, 64 and 65 of the Code of Maryland Regulations and/or Section 3-101, et. Seq. of the Business Regulation Article of the Maryland Annotated Code.

History:

Chapter 110, Zoning, utilizes **Section 110-2. Definitions**, to prescribe specific terms for the purpose of interpretation and administering the chapter. **Currently, no specific definition is included for “water related recreational activity”; however the following terms are defined in this section:**

Amusement attraction. Any building or structure around, over or through which people may move or walk, without the aid of any moving device integral to the building or structure, that provides amusement, pleasure, thrills or excitement.

Amusement park. A tract or area used principally as a location for amusement structures or rides.

Amusement ride. Any device that carries or conveys passengers along, around or over a fixed area for the purpose of giving its passengers amusement, pleasure, thrills or excitement.

Marina. A place for docking pleasure boats or providing services to pleasure boats and the occupants thereof; including minor servicing and repair to boats while in the water, the sale of fuel and supplies and the provision of lodging, food, beverages and entertainment as accessory uses. A yacht club shall be considered as a “marina,” but a hotel, motel, multiple-family dwelling, single-family dwelling, or similar use where docking of boats is incidental to the permitted use shall not be considered a “marina.”

Section 110-3. Rules of construction detail the general rules that apply to the regulations of Chapter 110 Zoning. Subsection (5) states “words and terms not defined herein shall be interpreted in accord with their normal dictionary means and customary usage.” This literal interpretation was exercised by the Board of Zoning Appeals with its favorable decision in May of 2015, application made by de Lazy Lizard, LLC, BZA 2431 Special Use Exception to construct/operate a “flow rider” surfing machine in the M, Manufacturing District, as determined by the BZA to be similar to specific uses, not specified in the M District.

The following zoning districts include water related recreational activity in their allowed uses, either as permitted, special exception or conditional use:

DM, Downtown Marine, District, Section 110-482(17) – permitted use.

LC-1, Local Commercial, District, Section 110-514(10) – conditional use.

SC-1, Shopping Center, District, Section 110-544 – by reference to LC-1, above, permits water related recreational activities as a conditional use.

Likewise, BMUD, Bayside Mixed Use, District, Section 110-574 – by reference to LC-1 and SC-1, permit this as a conditional use.

M, Manufacturing, District, Section 110-692(19) permits water related recreational activity, but since the applicant applied for activity in BZA 2431, described above, was different and not covered by 110-2 Definitions, the applicant applied to the Board of Zoning Appeals as a Special Exception according to Section 110-693.

I, Inlet, District, Section 110-861.3 – conditional use.

Lastly, Section 110-932 Minimum number of spaces in Division 3 Off-Street Parking, subsection (b)(30) prescribes parking spaces required for “Water related activities” as a. Parasail: 3 spaces per boat; b. Jet Ski: 1 space per 2 jet ski devices; c. Sailboat and sailboard: 1 space per 2 boats or devices; and d. Paddleboats: 1 space per 2 boats or devices.

****Staff recommends adopting the definition of water related recreational activity to differentiate the type of activities per the proposed definition and also recommends that the term in Section 110-932 “water related activities” be updated with the word recreational for consistency.**

