

**PLANNING AND ZONING COMMISSION  
MINUTES  
February 2, 2016**

**ATTENDEES:**

**Members**

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

**Staff**

Blaine Smith  
Kay Gordy  
Will Esham

**6:30 PM**

**I. MINUTES**

Minutes of January 20, 2016

**MOTION/Taylor      SECOND/Gillis**      Motion made to accept the minutes as presented. Those attending voted (5-0-2), with Commissioners Chris Shanahan and Peck Miller abstaining since they were absent for the January 20<sup>th</sup> meeting.

**II. SITE PLAN**

Site Plan Review of six (6) proposed townhouse units each consisting of three (3) bedrooms. The site of this application is described as an unnumbered lot, Parcel 5750 of the Bunting, Scott Plat, further described as located on the north side of 25<sup>th</sup> Street on the bayside, and locally known as 220-25<sup>th</sup> Street (formerly 218-25<sup>th</sup> Street).

**APPLICANT: NOLEN GRAVES (FILE #15-18100013)**

Zoning Administrator Blaine Smith presented the application. The applicant, Nolen Graves, was present to submit further color renderings and answer questions of the Commission. The staff gave recommendations as follows:

1. Design Guidelines, per Section 110-181, apply to all of the corporate limits of the Town of Ocean City.
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. 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.

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. 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. 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.
7. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.
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 transformer shall be subject to the approval of Delmarva Power and the Zoning Administrator.
10. Location and/or relocation of fire hydrants shall be subject to the approval of the Water Department and the Fire Marshal.
11. 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.
12. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.
13. The building and any porch covered with a roof shall not be located over tiebacks and deadmen which support existing bulkheads. It is required that the owner/developer verify the location of existing tiebacks and deadmen prior to issuance of a building permit.
14. The project is subject to impact fees adopted by 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.
15. All site plan approvals are subject to building code, fire code and all other applicable governmental regulations.
16. 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.

17. 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).

18. Subject to obtaining a building permit for all site work.

**MOTION/Miller**      **SECOND/Gillis**      Motion made to approve the site plan as presented per staff recommendations and the additional condition that a maximum 42” fence be installed on the southern side of premise. If not installed within the front yard setback of 10 feet, the fence may have a maximum height of 6 feet. The vote was unanimous (7-0)

### **STAFF/ATTORNEY COMMENTS**

In the time remaining before the advertised public hearing, Zoning Administrator Smith presented Planning Director Neville’s proposed agenda to the Commissioners for the joint meeting scheduled between the Mayor and Council and Commission on Wednesday, March 9<sup>th</sup>. Chairperson Buckley mentioned that she would propose a minimum 4 month rental period in the R-1, Single-family, Zoning District to accomplish the goals of a less-transient neighborhood and also enforceability of rental contracts.

### **III. PUBLIC HEARING 7:00 PM**

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.

#### **APPLICANT: PLANNING & ZONING COMMISSION (FILE #16-14100001)**

Zoning Administrator Smith presented the staff comments including the history how this need for a definition arrived (see attached). The staff report also recommended that the Planning Commission favorably recommend the amendment to the Mayor and City Council based on necessity to differentiate between the types 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.

No testimony was taken from the audience either for or against the proposed amendment.

The hearing was closed at 7:17 pm for commissioner deliberation. Commissioners were in support of the staff recommendations for the reasons given and due to the times this subject

has been discussed in recent meetings. All minutes are on file with the staff and available online at [www.oceancitymd.gov](http://www.oceancitymd.gov).

**MOTION/Taylor      SECOND/Miller**      Motion made to send a favorable recommendation to the Mayor and City Council to adopt the code amendment as presented for the health, safety and welfare of residents and visitors to the Town of Ocean City. The vote was unanimous (7-0).

**ADJOURNMENT – 7:20 PM**

John Staley      2/17/16  
**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 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.**