PLANNING AND ZONING COMMISSION
MINUTES
January 8, 2019

ATTENDEES:
Members
Pam Buckley
Peck Miller
Joel Brous
Lauren Taylor
Chris Shanahan
(Palmer Gillis – absent)
Joe Wilson

Staff
Bill Neville
Frank Hall
Kay Gordy
Will Esham, Attorney
Daphne Hurley, Public Hearing Reporter

6:30 PM
I. APPROVAL OF MINUTES –

Minutes of December 18, 2018

MOTION/Taylor SECOND/Shanahan to approve the minutes as submitted. Vote was (6-0-1), Commissioner Palmer Gillis absent.

II. SITE PLAN –

Site plan review for a new 20’ x 40’ open pool house with an interior 8’ x 18’ kitchen to serve limited food items at poolside to onsite guests only of The Beach Bum Motel. The site of this application is described as lands of O.C. Palm Beach, LLC, Lots J, K, and L; P1; and N and O, Block 35 of the Evans Development Bay Heights Plat; further described as located on the southwest side of 9th Street and Philadelphia Avenue, and the east side of St. Louis Avenue between 8th and 9th Streets, and known locally as 203-9th Street, 805 Philadelphia Avenue, and 804 St. Louis Avenue, The Beach Bum Motel, in the Town of Ocean City, Maryland.

APPLICANT: ANGELL DESIGN, PATRICK ANGELL, PRINCIPAL (FILE #18-18100014)

Frank Hall, Zoning Administrator, introduced the application. He explained that the cottage located at 805 Philadelphia Avenue, is to be demolished to provide 12 additional parking spaces, 4 which are required for this accessory use to the motel, and a required fire emergency ingress/egress lane. He discussed the staff report with recommendations (reference below after the motion).

Applicant Patrick Angell, designer, and Brian Peter Cosby, P.A., spoke in favor of the project. They explained that the pool house was intended to provide food items for onsite guests only. The new structure is to be placed in the middle of the complex at the pool so that it is easily accessed by both residential buildings of the motel. Initially they stated that the food items would be purchased separately as consumed. The Commission and Mr. Esham informed the applicant that the R-2 zoning would not allow a commercial business, which led to the condition of approval that the food served would be complimentary and to guests of the establishment only.
MOTION/Wilson          SECOND/Miller to approve the site plan with staff conditions (project specific conditions listed after the motion) and the below added condition. Vote was (6-0-1), Commissioner Palmer Gillis absent.

1. The food shall be complimentary for hotel guests only.

Staff Recommendations

Planning and Community Development Staff recommends the following conditions should the Planning Commission approve the requested site plan.

1. The pool house dining shall be for the guests of the hotel only and not open to the general public.
2. All lots will be consolidated into one parcel as proposed on the site plan.
3. All requirements for storm water management and landscaping be approved by the Environmental Engineer prior to Certificate of Occupancy.
4. The design of the pool house exterior must be approved by the Ocean City Development Corporation.
5. All site work, including but not limited to the demolition of the structure at 805 Philadelphia Avenue and the paving and striping of the new parking area be completed as required by city code.

STANDARD RECOMMENDATIONS FOR SITE PLANS

1. Design Guidelines, per Section 110-181, apply to all of the corporate limits of the Town of Ocean City, except those area subject to the Downtown Design Overlay Zone (Chapter 110, Article 23) and the Upper Downtown Design Overlay Zone (Chapter 110, Article 26).
2. Trash refuse containers shall comply with the minimum standards set forth in Chapter 70 subject to 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. 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.
9. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.
10. All private utilities extending across property lines serving new parking lot shall carry approved easements and/or the property shall be deed consolidated as per
Section 110-874. As a policy of the City, private utilities may not extend across public ways.

11. 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.

12. 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.

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. All parcels shall be deed consolidated as per Section 110-894.

16. 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).

17. All sign permits shall be issued in accordance with Chapter 66 – Signs.

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

Scheduled for 6:45 PM, Began at 7:00 PM

III. PUBLIC HEARINGS –

Continuance from December 4, 2018

To consider amending Article II, Division 3. Section 110-72(a) Determination of existence of nonconforming use, structure or lot, to limit a Determination of Nonconformity for parking requirements.

APPLICANT: PLANNING AND ZONING COMMISSION (FILE #18-14100014)

Zoning Administrator Frank Hall explained that this continuance was to deliberate on the amended language (in red) of Option D to Amend Section 110-72(a) to read as follows:

“The existence and extent of a nonconforming use, structure or lot shall be a question of fact to be determined by the administrator. If, after investigation and an on-site inspection, the administrator cannot make a confident determination, he may require the property owner to apply to the Board of Zoning Appeals for determination of nonconformity following a public hearing.” A Determination of Nonconformity for parking requirements is only permitted when
there is no change in use, bulk, or increase in density. A change in use, bulk, or increase in density greater than the original use must meet the full parking requirement for the new use or additional density.

This continuance brought out several interested and concerned citizens and attorneys representing landowners and developers within Ocean City. Those that spoke:

1. Joseph E. Moore, Esquire – representing Amanda Cropper (Midway Shopping Center), the Mathias family, and the Harrison Group.
2. Keith Iott, President, Iott Architecture & Engineering.
3. Former Mayor and State Senator Jim Mathias.
5. Peter Buas, Esquire – representing Buas family properties.
6. Glenn Irwin, Executive Director of Ocean City Development Corporation (OCDC).
7. Spiro Buas, owner of Madison Beach and other Buas family properties.

Some concerns discussed using Transfer of Development Rights along with parking nonconformity and/or special parking exception to redevelop; the ramifications of “change of use” with redevelopment, and lack of definition in the code of words such as “bulk”. Should the language be made specific for downtown redevelopment or for the entire town?

MOTION/Wilson SECOND/Brous to deny any amendment to Code Section 110-72(a). Vote was (3-3-1), Commissioner Palmer Gillis absent. The motion did not carry so deliberation on this hearing’s testimony will be carried forward with further language amendments at a future meeting.

Scheduled for 7:00 PM, Began at 8:30 PM

Pursuant to the provisions of Article II, Section 5, Conditional Uses, a request has been filed under the provisions of Section 110-544, Uses permitted by Conditional Use in the SC-1, Shopping Center District by reference to Section 110-514(8) Conditional Uses in the LC-1, Local Commercial, District, to permit an 18-hole miniature golf course on the southeastern portion of the property. The site of the proposed use is described as Land Unit 4, 4.72 acs., 45th and 46th Street Land Condominium Plats; further described as located on the west side of Coastal Highway between 44th and 46th Streets, and locally known as the 45th Street Village, in the Town of Ocean City, Maryland.

APPLICANT: OCEAN CITY BOARDWALK (FILE #18-12100005)

Chairman Buckley opened this public hearing and found that there were none in the audience opposed to the present commissioners sitting at this hearing. Zoning Administrator Frank Hall was sworn and introduced the application, which had initially been introduced at an informal discussion on December 4, 2018.

Attorney Brian Peter Cosby, P.A. and architect/engineer Keith Iott presented the changes to the master site plan, citing removal of a retail store on the southeast portion of the
property and replacing it with the proposed 18-hole miniature golf course. Mr. Sibony also attended.

The Commissioners closed the hearing at 8:35 p.m. and Briefly reiterated their support of this recreational activity at this location.

**MOTION/Wilson SECOND/Miller** to send a favorable recommendation for this proposed conditional use to the Mayor and City Council with below staff recommendations. Vote was (6-0-1), Commissioner Palmer Gillis absent.

**Relevant Code References**

Ocean City Code (Chapter 110 - Zoning Regulations):
- Article III, Division 10 - Local Commercial (LC-1)
- Article II, Division 5 - Conditional Uses
- Article IV, Division 3 – Off-Street Parking

**Total Parking Required for Individual Uses Counted Separately:** 363.60 Spaces

**Total Parking Reductions Permitted for Mixed Use Projects:** 17.9 Spaces
Section 110-909(h)

**Total Parking Reductions Permitted for Accessory Hotel Uses:** 74.2 Spaces
Section 110-933(k)

**Total Parking Required After all Reductions:** 272 Spaces

**Total Parking Provided:** 280 Spaces

**Comprehensive Plan**

Economic Development – Ocean City’s economy depends on hotel accommodations, retail sales and the activity generated by restaurants, nightclubs and amusements. These industries are both a source of jobs and income based on the taxes they generate (2-10).

**Staff Recommendation:** Planning & Community Development staff recommends the following conditions should the Planning Commission forward a favorable recommendation to the Mayor and City Council for the requested miniature golf conditional use:

1. The project must return for Site Plan approval.
2. All parking spaces required for the existing and proposed uses must be constructed prior to receiving a final Certificate of Occupancy.
3. All prior conditions of approval for the 45th Street Village mixed use project are still in effect.
ADJOURNMENT – 8:40 pm

Peck Miller 1/23/19
Peck Miller, Secretary DATE