PLANNING AND ZONING COMMISSION
MINUTES
February 21, 2018

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

Staff
Bill Neville
Frank Hall
Kay Gordy
Jon Bulkeley

6:30 PM

I. APPROVAL OF MINUTES – Minutes of February 6, 2018

MOTION/Wilson SECOND/Taylor to approve the minutes as submitted. Vote was unanimous of those present for that meeting (5-0-1-1). Commissioners Palmer Gillis absent this meeting and Joel Brous abstaining due to absence on February 6, 2018.

II. SITE PLANS -

1. Site Plan Review to create a 900 gross square foot addition on the south side of the existing church, a 200 gross square foot accessory shed, and site/landscaping improvements. The site of this application is described as located on the southwest corner of S. Baltimore Avenue and Talbot Street, and known locally as St. Mary Star of the Sea Catholic Church, 208 S. Baltimore Avenue, in the Town of Ocean City, Maryland. APPLICANT: ST. MARY STAR OF THE SEA CATHOLIC CHURCH (File #18-18100002)

Zoning Administrator Frank Hall introduced the application, emphasizing the existing one off-street parking space for the priest would remain and that an older structure has been demolished that this addition replaces. Glenn Irwin, Executive Director of Ocean City Development Corporation, spoke in favor of the improvements.

MOTION/Miller SECOND/Taylor Motion and second made to approve the site plan based on staff recommendation and conditions stated below. Vote was unanimous of those present, (6-0-1) Commissioner Palmer Gillis absent.

Staff Recommendation: Planning & Community Development staff respectfully recommends approval of the Site Plan application for St. Mary Star of the Sea with these standard conditions.

1. Design Guidelines, per Section 110-181, are subject to the Downtown Design Overlay Zone (Chapter 110, Article 23).

2. Trash refuse 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 and shall be at the applicant/developer’s expense.

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.

6. 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.

7. The parking space 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 generators shall be subject to the approval of Delmarva Power and the Zoning Administrator. The generators shall be subject to the noise regulations set forth in Chapter 30, Article V.

10. Location and/or relocation of fire hydrants shall be subject to the approval of the Water Department and the Fire Marshal.

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 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. 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.

2. Revised Site Plan (FILE #15-18100004) to expand the existing arcade and laser tag buildings by approximately 7,087 gross square feet, to enclose the previously approved 18 hole mini-golf course in a building approximately 13,375 gross square feet, and to provide the required parking on Block 46, south of the commercial complex. The expanded site of this application is described as Lots 1-8, 12-16, Block 45 of the Fenwick Plat; and Lots 11 and 15, and parts of Lots 10 and 14, Block 46 of the Fenwick Plat; and further described as located on the west side of Coastal Highway and the east side of Sinepuxent Avenue between 144th and 146th Streets, and known locally as Buccaneer’s Booty Mini Golf and Game World and former lands of the St. Luke’s and St. Andrew’s Catholic Church, in the Town of Ocean City, Maryland. APPLICANT: GOLF VENTURES, LLC C/O NOLEN GRAVES (FILE #18-18100001)

Zoning Administrator Frank Hall again introduced the application. He summarized the process that the application had come through with a Conditional Use application which was heard and recommended by the Planning and Zoning Commission on January 17, 2018 and approved with conditions by the Mayor and City Council on February 20, 2018.

Regan Smith, Esquire, attorney, and Mr. Graves were present to address the Planning and Zoning Commissioners. After lengthy discussion, the Commission made the following decision:

MOTION/Wilson SECOND/Brous Motion and second made to approve the site plan presented subject to the following conditions from the final Conditional Use approval by the Mayor and City Council. The vote, (4-0-2-1) reflected Chairperson Pam Buckley and Commissioner Lauren Taylor abstaining, and Commissioner Palmer Gillis absent.

1. All exterior lighting shall be shielded and directed away from all residential property to the west.

2. The existing pedestrian walkway shall remain to provide a connection between the miniature golf course and the family amusement arcade.

3. The hours of operation shall be the same as previously approved from 9:00am to 12:30am.
4. At least one (1) supervisory employee shall be on duty during all business hours per building facility.

5. The buildings shall be soundproofed to keep noise within the buildings.

6. Additional bicycle racks must be added for the expanded uses.

7. Expand sidewalks on all street frontages to eight (8) feet wide and unobstructed.

8. Coordinate with the City Engineer to add a crosswalk between the off-site parking and the proposed use area on 145th Street.

9. If the expansion is to be phased, a phasing plan must be submitted as part of the Site Plan review process.

10. All parking spaces required for the existing and proposed uses must be constructed for each phase of the development prior to receiving a final Certificate of Occupancy for the new structures and the new indoor mini-golf course.

11. The off-site parking must be within 600 feet of the proposed use and recorded in a covenant or agreement in the land record to support the proposed uses per Chapter 110, Section 110-934 Joint Use and Off-Site Facilities.

12. Site Plan and Conditional Use approval does not grant future preferential consideration of an Amusement Overlay District as previously proposed for this site.

And the following Conditions of Approval for the Site Plan:

Standard Conditions for approval of site plan #18-1810001:

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

2. Trash refuse 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 at the expense of the applicant/developer.

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.

6. 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.

7. 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.

8. The parking lot shall be paved in accordance with Chapter 74 of the Town Code.

9. The remote parking lot shall be deed restricted by a recorded covenant 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 a 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.

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 location of transformer/generators shall be subject to the approval of Delmarva
Power and the Zoning Administrator. The generators shall be subject to the noise
regulations set forth in Chapter 30, Article V.

13. Location and/or relocation of fire hydrants shall be subject to the approval of the
Water Department and the Fire Marshal.

14. 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 foot-candles throughout the property. No
building lighting is illustrated and therefore is not approved.

15. Provide survey verifying wetland boundary lines by Dept. of Natural Resources and
Army Corps of Engineers including other property lines prior to issuance of a building permit (if applicable).

16. It is required that the owner provides a location survey verifying compliance with minimum setbacks when the building foundation is completed above grade.

17. 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.

18. After the Mayor and City Council has approved a conditional use, the conditional use so approved shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which such conditional use was approved or if the Mayor and Council does not specify some longer period than one (1) year for good cause shown. Once a conditional use has expired, the provisions of these regulations shall thereafter govern.

19. Whenever a conditional use which was approved by the Mayor and City Council remains idle or unused for a continuous period of two (2) years, whether or not the equipment or fixtures are removed, such use so approved shall be considered abandoned and thereafter shall be null and void and of no effect whatsoever.

20. All site plan approvals are subject to building code, fire code and all other applicable governmental regulations.

21. 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.

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

23. If the project is to be a phased project, site plan approval shall include a phasing plan (Conditional Use permits phasing of project).

24. 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).
25. Sign permit approval shall be required for all signs shown on the site plan.

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

Further Department comments and requirements:

1. Revise sheet title page SW1.1 to “Site Plan”.

2. Provide accessible path from ADA parking spaces to both existing and new building entries.

3. Revise parking count and labels for sheets SW1.1 and SW1.2 to confirm removal of 2 spaces at primary entry to indoor golf building.

4. Prepare detail of entry to indoor golf building from Coastal Highway to confirm approximate 4 foot elevation change from sidewalk to landing will remain within required setback.

5. Revise site plan label to provide minimum 8’ wide sidewalk along all street frontages in compliance with Conditional Use Permit.

6. Building lighting (up or mounted) is not shown and therefore is not approved by this site plan.

7. Flood Elevation Certificate will be required prior to CO issuance for any new construction.

8. All curb cuts not used for site access shall be abandoned and replaced with sidewalk.

III. COMPREHENSIVE PLAN IMPLEMENTATION –

Commission Attorney Jon Bulkeley presented a draft memorandum concerning the R-1 Zoning District. His opinion is that the existing zoning code can be amended to address the issues specific to Ocean City. His legal research has led him to conclude that renting a single-family dwelling unit is not a commercial use. He and Planning Director Bill Neville are collecting information from ordinances from other resort communities. Mr. Bulkeley emphasized that it is important to avoid constitutional challenges when addressing Ocean City’s need to protect single-family neighborhoods.

Chairperson Buckley summarized that the Commission should be ready to hold some public hearings this next fall, and that the Commission would be meeting with the Mayor and City Council prior to the hearings. In the meantime the PRESS Committee, the rental community and residents need to work together to follow and enforce the ordinances that currently exist.

IV. PUBLIC COMMENTS –

Rick Lutz, 30-year resident at the corner of 43rd Street and On the Bay Seafood, spoke specifically concerning the fence that has not been corrected since he addressed the Commission in November 2012. Chairperson Buckley recommended that Mr. Lutz speak with Frank Hall, Zoning Administrator, to help correct possible violations on the site.
With no further business, the meeting was adjourned.

**ADJOURNMENT – 7:45 pm**

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