PLANNING AND ZONING COMMISSION
MINUTES
April 3, 2018

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

Staff
Bill Neville
Frank Hall
Kay Gordy
Heather Stansbury

6:30 PM

I. APPROVAL OF MINUTES – Minutes of February 21, 2018

MOTION/Shanahan  SECOND/Taylor to approve the minutes as submitted. Vote was (4-0-2-1), Commissioners Peck Miller and Joel Brous absent this meeting and Palmer Gillis abstaining due to absence on February 21, 2018.

II. SITE PLAN

1. Site Plan Approval 2ND EXTENSION REQUEST - Proposed addition of ten (10) multi-family residential units on floors 2-5 atop the existing commercial element. The site of the application is described as Lot 11 and part of Lot 10, Block 5, of the Sinepuxent Beach Company Plat, 1891; further described as located on the west side of Atlantic Avenue (Boardwalk), between 4th and 5th Streets and locally known as 407 Atlantic Avenue, in the Town of Ocean City, Maryland.

APPLICANT:  S & S PROPERTIES C/O AVI SIBONY (FILE #15-18100010)

Zoning Administrator Frank Hall introduced this extension request. Richard Jarvis, representative for Mr. Sibony, asked for a 3 year extension to coincide with the extension granted by the Board of Zoning Appeals on March 22, 2018.

MOTION/Taylor  SECOND/Shanahan to approve a 24 month extension. Vote was (4-0-2-1), Commissioners Peck Miller and Joel Brous absent this meeting and Palmer Gillis abstaining.

2. Site Plan Review of the proposed “The Island Wave Condominium” to consist of seven (7) residential units - four (4) units with four (4) bedrooms, two (2) units with three (3) bedrooms, and one (1) two-level five (5) bedroom unit. The site is described as Lots 25 and 26, Block 5 of the Fenwick Plat, revised 1965; further described as located at the northwest corner of 125th Street and Assawoman Drive, and locally known as 10-125th Street and 12503 Assawoman Drive, in the Town of Ocean City, Maryland.

APPLICANT:  125TH STREET DEVELOPMENT OF OCEAN CITY LLC C/O JEFF TALER (File #18-18100003)
Zoning Administrator Frank Hall introduced this application and informed the Commission that due to weather-related and technical review issues, the Board of Zoning Appeals had not yet reached a decision for the related application for a special parking exception. That hearing is continued until the next BZA meeting on April 12, 2018.

Joseph E. Moore, Esquire, attorney for the applicant, and applicant Jeff Thaler testified in favor of the project and answered questions asked by the Commission.

After discussion, the following motion and second was made:

MOTION/Taylor SECOND/Gillis to table the decision on the site plan until after the Board of Zoning Appeals makes its ruling. Vote was (5-0-2), Commissioners Peck Miller and Joel Brous absent.

3. Site Plan Review for a change of use in the LC-1, Local Commercial, Zoning District, and the R-3, General Residential, Zoning District, from an existing building formerly utilized as a scooter rental business to a restaurant. The site of the review is described as Lots 2, 3, and 11, Block 78N of the Skyline Development Plat; further described as located on the east side of Philadelphia Avenue between 26th and 27th Street, and known locally as 2606 Philadelphia Avenue, in the Town of Ocean City, Maryland.

APPLICANT: PETER GIKURIAS (FILE #18-18100006)

Zoning Administrator Frank Hall introduced this application. Change of use from retail (scooter rental) to restaurant is the trigger that brought this application forward. No code irregularities exist that necessitate variances or special exceptions.

MOTION/Shanahan SECOND/Taylor to approve the change of use site plan. Vote was (5-0-2), Commissioners Peck Miller and Joel Brous absent.

7:00 PM

III. PUBLIC HEARING

Pursuant to the provisions of Article II, Division 5, Section 110-121, et. seq., Conditional Uses, a request has been filed under the provisions of Section 110-304(2), Uses permitted by Conditional Use in the R-2A, Low Density Multiple-Family Residential, District, to amend an existing Conditional Use permit #12-12100002, by requesting the removal of Condition #1 which states “The applicant shall, at its own expense, hire an independent environmental specialist to measure and report the Electro-Magnetic Field and Noise levels from every adjacent property and send the results to all properties within 300 feet of the source property and the Planning Commission.” The site of the request is described as Lots 1A and 1B as shown on a Plat entitled “Resubdivision Lot 1, Block 110, Fenwick Plat No. 4,” recorded in Plat Book R.H.O. No. 153, page 75; and Lots 2A and 2B as shown on a Plat entitled “Resubdivision Lot 2, Block 150, Fenwick Plat” and recorded among the Plat Records in Plat Book 190, Page 60; Parcels 2623A and 2624A, Map 118, further described as located on Sinepuxent and Derrickson Avenues between 137th and 138th Street, in the Town of Ocean City, Maryland.

APPLICANT: DELMARVA POWER – AN EXELON COMPANY, REGAN J. R. SMITH, ESQUIRE, ATTORNEY FOR THE APPLICANT (FILE #18-12100001)
Zoning Administrator Frank Hall introduced this application to amend the existing Conditional Use to remove Condition #1 biannual testing described above and to adopt in its place the following language: “Any new reactor installation having the potential to increase EMF’s or noise levels shall require a third party certification, at applicant’s expense, be provided to the Zoning Administrator that evidences the EMF levels do not exceed 2,000 Mg and that all noise levels are compliant with Chapter 30, Article V of the Town of Ocean City Code.”

Regan Smith, Esquire, attorney for the applicant, presented the application and evidence of testing that has been performed since 2013. In addition, Jim Smith, Senior Public Affairs Manager, Neil Baker, Manager of Real Estate PEPCO Holdings, and Roy Collins, General Engineer of Electric Substations for Delmarva Power testified that the biannual tests cost the utility customers approximately $35,000 - $40,000 a year and that evidence bears out the facility is within limits established for safety.

Residents Donna Moulton, Richard and Irene Hanson, Vincent Gisriel, Jr., Joe Kosteluc, and Bruce Davis testified to concerns related to safety and property value. All these property owners have requested that Delmarva Power provide them with a written letter stating that residents are safe from any emissions from the substation. Roy Collins, General Engineer of Electric Substations, also testified that individual tests would be performed at the request of a property owner, particularly if selling their home.

The public hearing was closed at 9:08 PM. After deliberation, the following motion and second was made:

MOTION/Taylor SECOND/Wilson to send a favorable recommendation to remove Condition #1 and adopt the new language above. Vote was (3-2-2), Chairperson Pam Buckley and Commissioner Chris Shanahan voted against because they favored one test per year in order to vote to recommend; Commissioners Peck Miller and Joel Brous absent.

IV. COMMISSION/STAFF WORK SESSION

Zoning Administrator Frank Hall passed out the memo with possible code amendments to be reviewed and discussed at the next meeting.

With no further business, the meeting was adjourned.

ADJOURNMENT – 9:35 pm

Peck Miller 5-1-18
Peck Miller, Secretary DATE