

**City of Cape May
Planning Board Meeting
Minutes – Tuesday – March 12, 2013**

Opening: The meeting of the City of Cape May Planning Board was called to order by Vice Chairman Shuler, at 7:00 PM. In compliance with the Open Public Meetings Act, adequate notice was provided.

Roll Call:	Mr. Bezaire,	Chairperson	Absent - excused
	Mr. Shuler,	Vice Chairperson	Present
	Mayor Dr. Mahaney		Present
	Mr. Elwell		Present
	Mrs. Nelson		Present
	Mr. Jones		Present
	Ms. Weeks		Present
	Mr. Murray		Absent - excused
	Mr. Winkworth		Absent - excused
	Dr. France, 1 st Alternate		Absent - excused
	Mr. VanDeVaarst, 2 nd Alternate		Present

Also Present: George Neidig, Esquire – Board Solicitor
Craig Hurless, PE, PP, CME Associate - Polistina & Associates
Mary L. Rothwell, Board Assistant/Zoning Officer
Edie Kopsitz, Recording Secretary

Minutes: December 11, 2012 and January 8, 2013

Motion made by Mrs. Nelson to approve the Minutes of December 11, 2012 as presented. Seconded by Mr. VanDeVaarst and **carried 7-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mrs. Nelson, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: None.

Motion made by Mrs. Nelson to approve the Minutes of January 8, 2013 as presented. Seconded by Mr. Elwell and **carried 7-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mrs. Nelson, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: None.

Resolution: #2-26-2013:1 – Montreal Inn, 1025 Beach Avenue, Block 1061 Lot 9-12

Motion made by Ms. Weeks to approve Resolution: #2-26-2013:1 – Montreal Inn, 1025 Beach Avenue, Block 1061 Lot 9-12 as presented. Seconded by Mr. Jones and **carried 7-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mrs. Nelson, Dr. Mahaney, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: None.

APPLICATIONS:

Stewart's of Cape May, LLC
502 Washington Street
Block 1061 Lot 9-12
Waiver of Site Plan Review/Parking Variance

Mayor Dr. Mahaney recused himself from the application.

Craig Hurless, Board Engineer was sworn in and clarified his credentials for the record.

William J. Kauffman, Esquire representing Stewart' of Cape May principals Patrick Rosenello, EJ Dougherty, Sean Dougherty, Robert Small-General Manager, Victoria Phillips-Office Manager along with their professional Matthew Hender of Engineer Design Associates (EDA) all were sworn in by Mr. Neidig. Mr. Kauffman gave a brief overview of the familiarizing the Members of Stewart's located on the Washington Street Mall. He indicated they are seeking relief of Site Plan Waiver and increase the seating in the restaurant from the current 48 seats to 92 seats which would trigger a variance for parking. He then called on Mr. Rosenello to confirm the introduction giving the testimony that they have been in operation in Cape May since May 2012 and have an 18 year lease. Testimony clarifying the applicant increased seats during the 2012 season, acknowledged they were cited and payment of the fine was satisfied. Mr. Kauffman confirmed the applicant's awareness of a parking fund, the formula devised and if granted the variance relief of 11 parking spaces they will pay the amount of \$55,000.00. Mr. Neidig clarified that the determination of the parking fund amount and the payment plan will be determined by Council. Mr. Rosenello confirmed the number of employees of 15 (per shift) but have 50 employees in total. Mr. Neidig clarified that the determination of the amount and the payment plan will be determined by Council.

Mr. Hender gave testimony confirming the Site Plan Waiver requested and confirmed that no exterior renovations are being proposed and the reconfiguration of the seating of the interior are the only changes proposed. Plans by EDA dated December 12, 2012 were displayed for the Members perusal. He stated the facility has the capacity of this increase. He reviewed the Municipal Land Use Law and informed the C2 Criteria (§70) applies that were read into the record and explained the three (3) purposes; F (to appropriate the expenditure of public funds – Contribution by the applicant for the parking trust account), G (sufficient space, appropriate location – confirming that currently the space is underutilized) and M (encourage public & private procedures with efficient development of the land). He expressed how Stewart's is a family friendly dry (no liquor) restaurant (casual dining) and stated the parking trust was created for such uses as this restaurant. Mr. Hender sated there is no detriment to the Zoning Ordinance, the use is permitted in the zone and his testimony states the benefits out way any detriment and could be granted. Mr. Hender clarified that the chart on his plans denoted a 44 existing seats (with the proposed 92 seats) and requested the error be acknowledged for the record and will submit revised chart on the plans indicating the 48 seat existing with the proposed number of 92 seats.

Members were afforded time for questions throughout the presentation, they expressed concerns regarding the amount of employees current (with the 48 seats), where the employees park (with Mr. Rosenello responding on the various locations), requested the applicants seek parking in other locations in the City and gave an example of Bank Street for their employee parking, discussed the Mercantile License procedures and parking spaces required yearly, clarification of the current employee status (eight 8) and if granted fifteen (15) employees (per shift). Discussion ensued regarding the grease traps, solid waste, trash enclosure location and if deliveries of product would increase. Mr. EJ Dougherty and Mr. Rosenello responded to questions put forth.

Board Engineer, Craig Hurless then reviewed his report of January 22, 2013 clarifying the description for the membership with the denoted correction of existing seats of 44 to 48. He reviewed the Completeness Review on pages 2 of 4 of details required for preliminary site plan approval as outlined in §417-5C of the City of Cape May Code indicating that there are no improvements proposed. He addressed the Zoning Charts on page 4 addressing the C-1 District (§525-22) All Uses stating with a restaurant there would be an increase in seats, patrons, more food, loading and unloading operation and generates more trash. Testimony has not addressed these issues. Mr. Rosenello responded addressing the issues in detail indicating the menu is limited and would not require additional deliveries, loading or unloading and explained the trash enclosure is located on Carpenters Lane. He clarified the variance sought §525-49C – Required Off Street Parking spaces denoting the error of 44 seats on the report clarifying it is the request of 48 to 92 seats proposed. Mr. Hurless calculated the deficiencies of parking spaces as 18 parking spaces. He read into the record §525-49E subsection E regarding the Parking Trust Account regarding the \$5,000.00 per parking space omitted. He clarified the C-2 Variance requested with the reasons stated for the members to consider. Mr. Hurless continued with his general review comments on page 4, items- #1 (condition), #2(condition), #3 (condition) Parking Trust, #4, #5 (condition) and #6.

Mary Rothwell, Board Assistant/Zoning Officer clarified for the record that with the increase of seats this application could trigger additional UCC Code review.

Meeting was opened for public comments at 8:00pm. All those within 200 feet and beyond were called forward. **Susan Tishler, 507 Washington Street Mall**, positive on the application encouraging the Board to approve the application as it will promote diversified visitors (encourages more families). **Peter Karatanagiotis, 417 Washington Street Mall**, co-owner of three restaurants is positive on the application stating it promotes family visitors and is impressed that they signed an 18 year lease. He encourages the Board to approve this application. **Dedre Heinline, 198 Decatur Street, The Pilot House**, negative on the application stating they received approval for 48 seats and were cited with having over 100 seats that remained the entire season. She wanted to know if they are approved who will monitor the seats and parking. Mr. Kauffman responded in detail and indicated that Code Enforcement is a constant presence at Stewarts. **Paul Bogle, 513 Washington Street Mall**, positive on the application and encourages the Board to approve. **Beatrice Pessagno, 1075 Michigan Avenue**, positive on the application, she is representing the Washington Street Mall Association and stated she is for what is best for the Mall, the visitors and City of Cape

May. Stewart's is frequented by many generations (from families with small children to seniors); she elaborated on the senior bus trips that go there for an inexpensive meal and encourages them to shop on the Mall. She is aware of Stewart's citations and hopes that in the spirit of harmony, continuity and for the sake of the Mall and visitors that Stewart's application will be granted. **John Fleming, 1484 Washington Street**, positive on application encouraging the Board to approve. **Public portion was closed at 8:10pm.**

Mr. Kauffman closing remarks encompassed the Site Plan Waiver requested, the C-2 Variance being sought and stated that Stewart's Restaurant fills the need for young family as well as the senior citizen market. He urges the Board to act favorably on this application.

Discussion ensued regarding parking with Member Nelson requesting if the applicant is comfortable providing 15 spaces for the employees in the Municipal Lot and picking up the remaindered 11 spaces for parking in the parking trust. Mr. Rosenello responded in the positive. Mr. Neidig clarified that the applicant will be required to contribute to the Parking Trust Fund for 11 parking spaces. Assuming they will obtain 15 parking spaces elsewhere in the City for employee parking. He wanted to clarify to the members that these spaces are rented and not purchased (availability yearly) and the verbiage of the recommended condition should read "the Mercantile License is conditioned upon Stewarts showing proof to the Licensing Authority that fifteen (15) additional spaces be obtained somewhere in the City". He indicated that the Planning Board could recommend the parking as a condition but the Board does not have the authority under the ordinance and the City would have to approve. Mr. Kauffman stated it was a creative solution with Mr. Neidig concurring again stating it would require City approval.

Vice Chairman Shuler called for a five (5) minute recess at **8:16pm** to determine a solution for the 15 parking spaces for employees. **The meeting resumed at 8:30pm.**

Vice Chairman Shuler informed the public of the discussion of the parking spaces with Member Elwell explaining he phoned a City Employee in the Licensing department regarding the parking and the procedures that are followed. Member Elwell verified that the amount available parking spaces will be determined by April 1, 2013. Mr. Neidig clarified that Stewarts has five (5) parking spaces earmarked for them on Bank Street Lot and should the application be approved 14 spaces at \$5,000.00 in the parking trust.

Motion made by Mrs. Nelson to approve the variance §525-49C(2) Parking for the eighteen (18) deficient parking spaces subject to the conditions that will be placed. Seconded by Mr. Elwell and **carried 6-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mrs. Nelson, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: None.

Motion made by Mr. VanDeVaarst to approve the Site Plan Waiver. Seconded by Ms. Weeks and **carried 6-0.** Those in favor: Mr. Elwell, Ms. Weeks, Mrs. Nelson, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: None.

Motion made by Mrs. Nelson to impose conditions as stated in Craig Hurless report date January 22, 2013 page 4 of 4 General Review Comments- 1(Deed clarified), 2 (denote number of employees on plan), 3 (parking trust read – plus employees (12), 4, 5(State, county and Local approvals) and 6. Added conditions reviewed by Mr. Neidig; Chart on the plan to be revised to show that there are spaces available on the Bank Street Lot for parking, plan has to set forth how the trash and loading are handled to provided Craig Hurless, Board Engineer a copy of the lease and the portion that indicates that use of the trash enclosure on Carpenters Lane to Mr. Hurless satisfaction, location and usage of the trash enclosure, verify the grease traps that will be acceptable to the Water and Sewer Department an upgrade if required. Seconded by Mr. Jones and carried 6-0. Those in favor: Mr. Elwell, Ms. Weeks, Mrs. Nelson, Mr. Jones, Mr. VanDeVaarst and Mr. Shuler. Those opposed: None. Those abstaining: None.

All Members voiced their reasons in detail throughout the application for the record.

Correspondence: Shared Parking – Letter from Gus Andy dated February 1, 2013.

Vice Chairman Shuler announced that the Shared Parking concept will be heard on **April 23, 2013 the Work Session at 7:00PM**. Craig Hurless informed the Members that he will forward all his memorandums on shared parking for their perusal.

Motion made by Mrs. Nelson, Seconded by Mr. VanDeVaarst to adjourn the meeting at 9:00 PM with all in favor.

A verbatim recording of said meeting is on file at the Construction/Zoning Office.

Respectfully submitted: Edie Kopsitz, Recording Secretary