

City of Cape May Planning Board Meeting Minutes
Tuesday – November 22, 2011

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

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

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:

September 27, 2011 and October 11, 2011

Motion made by Mrs. Nelson to approve the minutes of September 27, 2011 and October 11, 2011 as presented. Seconded by Mr. Jones and **carried 7-0.** Those in favor: Mr. Elwell, Mrs. Nelson, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Mr. Shuler and Mr. Bezaire Those opposed: None. Those abstaining: Dr. Mahaney and Mr. Winkworth on October 11, 2011.

Resolutions:

R1 Zoning District Lot Coverage Increase #11-22-2011:1

George Neidig announced the Resolution has the omission of the 1st Motion after the 3rd page the 1st paragraph.

Motion was made by Dr. Mahaney to postpone the matter for decision until the December meeting. Seconded by Mrs. Nelson and **by voice vote with all in favor the motion was carried.**

BUSINESS:

**Bantry Bay LLC, 901 Stockton Avenue, Block 1082 Lot 21
Extension of Site Plan**

Craig Hurless clarified his credentials for the record.

Louis Dwyer, Esquire was present to represent the applicant Andrew O'Sullivan who was present and sworn in by George Neidig. Mr. Dwyer continued with the presentation referring to the previous approval of substantial renovations of the Victorian Lace Inn AKA Bantry Bay LLC requesting the Board grant a five (5) year extension to the project. He explained that the renovations have not started due to the current economic conditions. The first approval was granted April 24, 2007 with a third (3rd) one-year extension granted on June 16, 2010, a one year final extension granted March 8, 2011 to expire on April 24, 2012. He elaborated further on the economy having a serious affect to this application and stated the Governor's permit extension act that applied to the majority of New Jersey would carry the base approval until 2013 with the applicant being entitled to three (3) one (1) year protections thereafter. He explained the Site Plan does not expire but their protection from zoning changes expire after a certain period of years. Mr. Dwyer is requesting that the applicant be allowed the same protection of the Governor Extension Act. Mr. O'Sullivan concurred and responded to Mr. Dwyer's questions.

George Neidig explained the Permit Extension Act not applying to Cape May but reminded the Members of another applicant (Sowers) that came before the Board with the same request and it was granted. Members questioned in depth the request of the five-year request with the outcome after much deliberation in granting the extension until December 31, 2014 and it will not be precedent setting. Mr. Dwyer then amended his request to be three years.

Motion made by Mrs. Nelson that the applicant be granted the extension a three (3) year extension of Site Plan to December 31, 2014. Seconded by Mr. Elwell and was **carried 7-0.** Those in favor: Mr. Elwell, Mrs. Nelson, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

**City Centre, Inc., 421 Washington Street Mall, Block 1044 Lots 5 & 6
Site Plan – Waivers – Variance Relief**

Craig Hurless clarified his credentials for the record.

Louis Dwyer, Esquire was present to represent Larry Hirsch the president of the Corporation along with professional Vincent Orlando, Engineer from Engineering Design Associates and was sworn in by Georg Neidig. Mr. Dwyer questioned Mr. Hirsch who testified his ownership of the property since 1984, confirmed the previous use of the building was an Insurance Agency with 60 employees and is now an internal Mall on the Washington Street Mall with 2 floors of retail operations. He indicated a decline in retail rentals; they have

recent vacancies of three (3) businesses in the mall with no interested parties to date even after lowering the rental rates. The application is for the consolidation of two of the retail spaces in the upper level to be consolidated and introduced a small eatery (restaurant use) with 46 seats, serving in a deli type environment and the remaining stores to exist as retail.

Vince Orlando, EDA reviewed the submitted Variance Plan dated June 7, 2011 that indicated the project site, the proposed 2nd floor plan and described the overall plan for the membership. He stated the application is a classic C1 with a unique property, approximate 1000 square feet to be converted to an upscale deli (not a destination restaurant) that will be utilized by pedestrians walking the mall, the trash & recyclables are stored within the structure and will not impact the traffic flow or parking. He reviewed the parking variance calculation of 11.5 spaces indicating they are deficient 6 spaces. His testimony regarding the negative criteria, he stated there is no negative impact in or surrounding the immediate area, with no detriment to the Zone Plan and will be an enhancement to the Washington Street Mall that will encourage pedestrians to elongate their day.

Members were allotted time for questions to the applicant and their professionals. Members major concerns with a lengthy discussion regarding the refuse, odor and drainage of the small eatery even with the storage facility being enclosed in the structure. Mayor Dr. Mahaney requested input from the Board Engineer regarding the change in use from retail office space to restaurant and that the site is adjacent to public restrooms and the Gazebo that have band concerts that will have viable visibility. Mr. Hurless referred to the two concerns that address the exhaust fans where the food is prepared and garage on site being used a trash/recycle. He concurred that the stench from food waste has always been a problem. Mr. Dwyer requested to be excused briefly to confer with the applicant regarding these concerns.

Chairman Bezaire requested a five (5) minute recess @ 7:40pm. The meeting resumed @ 7:45pm.

Mr. Dwyer informed the members that the project Engineer would provide a plan that will have a surface drain in the garage area that will hook into the sanitary sewer. Craig Hurless, Board Engineer must peruse and approve. Members inquired to the frequency of delivery trucks and are requesting an additional pick up of trash, garbage and recycle to 3 times a week during the summer season. Mr. Orlando indicated that trash pick-ups are currently 2 times a week year round. Mr. Hirsch indicated that the trash is monitored and will add additional pick-ups should it be required. Mary Rothwell, Zoning Officer requested a detail of the storage/trash facility be indicated on the plans. Mayor Dr. Mahaney strongly recommended that the trash removal of 3 times a week be a condition to approval beginning Memorial Day through Labor Day elaborating on the City's concern.

Craig Hurless, Board Engineer briefly updated the membership by summarizing his report dated September 1, 2011. He explained the Site Plan Waiver with Variance in the C-1 Primary Business District. He moved on to the Completeness Review on page 2 regarding the details required for Preliminary Site Plan Approval §417-5C, #3 and (aa). He reviewed the Zoning Requirements for the C-1 District (sec. 525-22) "All Uses". He requested the members disregard the parking calculation with his detailed explanation put forth. He continued on page 3 with the Variance of Parking Number §525-49C (§525-22C) of six (6)

spaces. The General Review Comments on pages 3 through 4 were itemized #1 – Create Easement in format acceptable to the City Solicitor, #2- waste/recycling removal to 3x times week, #3-Sinage, #4, #5, #6 - HPC if necessary, and #7 – COAH. Mr. Hurless responded in depth all members' questions put forth.

Mayor Dr. Mahaney stated it is an approval that can be granted in the interest of the City's long range future, giving the City a economic boost for people who work on the mall and in town, encourages patronizing locally owned businesses especially in the winter time when the choices are few, positive from a economic and planning prospective adding another dimension needed in the City, diversity of use, the eatery will not be destination setting and the approval will not be precedent setting.

The meeting was opened to the public @ 8:00pm with no one coming forward the public portion was closed.

Motion made by Dr. Mahaney that the Site Plan Waiver be granted. Seconded by Mr. Jones and **was carried 7-0.** Those in favor: Mr. Elwell, Mrs. Nelson, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mrs. Nelson to grant the Parking Variance for 6.3 spaces. Seconded by Dr. Mahaney and **was carried 7-0.** Those in favor: Mr. Elwell, Mrs. Nelson, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

Motion made by Mr. Jones to grant approval with the following conditions; Craig Hurless report dated September 1, 2011 - Page 2 – CD Rom, Page 3 of Craig Hurless report under General Review Comments - # 1 with added Easement provided for the Satisfaction of the Board Solicitor and Board Engineer regarding the detail of Garage Plan (including drainage w/grease trap), #2 – 3x week trash pick-ups from Memorial Day through Labor Day for the eatery, #3, #4, #5, #6 HPC – if necessary, #7 last sentence and plan shall provide the location of the venting. Seconded by Mr. Elwell and **was carried 7-0.** Those in favor: Mr. Elwell, Mrs. Nelson, Dr. Mahaney, Mr. Winkworth, Mr. Jones, Mr. Shuler and Mr. Bezaire. Those opposed: None. Those abstaining: None.

All members voiced their reasons for the record.

Motion made by Mr. Elwell, Seconded by Mrs. Nelson to adjourn the meeting at 8:15 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

Adopted-1/10/2012-mlr