

**City of Cape May
Planning Board Meeting
Minutes – Tuesday – October 8, 2013**

Opening: The meeting of the City of Cape May Planning Board was called to order by Chairman William 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		Absent - excused
	Mr. Jones		Present
	Ms. Weeks		Absent - excused
	Mr. Murray		Present
	Mr. Winkworth		Absent - excused
	Dr. France, 1 st Alternate		Present
	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

Business/Discussion: Shared Parking – Discussion and possible action on this matter.

William Murray who represented the Advisory Committee on Shared Parking Committee, read into the record verbatim the report that was distributed to the Members with their Agenda packets. He informed Members that three (3) meetings of the Committee was undertaken that covered “Shared Parking Concept, Committee Proceedings, Findings & Observations, Conclusion and Specific Recommendations” (not recommended to incorporate a shared parking provision & indicated it should be considered by the Planning or Zoning Boards on a case by case basis). All meetings were opened to the Public and he profusely thank all who participated with the inclusion of Craig Hurless, Board Engineer for his valuable input and his excellent report that guided them through the process. It is recommended that the report be forwarded to City Council. Chairman Bezaire informed a resident (Charles Hendricks, who was on the Committee) that requested to voice his opinion that it this portion of the meeting will not be opened for Public Comment. He then clarified that the process was undertaken and was opened to the public at all times. He stated it is now time to forward the report to Council.

Motion made by Mr. Jones that the report be forwarded to Council. Seconded by Mr. VanDeVaarst **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr.

Jones, Dr. France, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

Applications:

Adis, Inc., LaMer Beachfront Inn
1317 Beach Avenue
Block 1146 Lot(s) 6,7, 10-24
Site Plan – Preliminary & Final with variances

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

James Pickering, Jr. Esquire representing the Gus Andy, Principal and George Andy who were present along with their professional Vincent Orlando, Engineer from Engineering Design Associates (EDA), all were sworn in by George Neidig.

Mr. Pickering gave a brief history of the application stating it is located in the C-3 Hotel Motel Zoning District, currently is 108,000SF and contains 141 Hotel Units (LaMer) and 146 seated restaurant. They are requesting to demolish the existing restaurant and construct a new 44 seat ground level complimentary continental breakfast lounge for hotel guest only with twenty one (21) one (1) bedroom units constructed above and thirteen (13) additional parking spaces are proposed.

Testimony was taken from Mr. Orlando who presented an enlarged color Site Plan dated July 16, 2013, with a revision dated of August 12, 2013 (same dated plans that were submitted with the application) and was marked into evidence as **A-1**. He described how the site is developed today denoting the 177 parking spaces, confirmed that the parking spaces comply with the hotel use, the Restaurant has 146 seats and confirmed what structures currently surrounding the hotel. The proposal for 190 parking spaces was denoted in light green with landscaping in darker green, in orange the existing stripped parking, storage/laundry area, ground floor lobby, porte-cochere, bike rack and the darker orange was the proposed 44 seat Restaurant on ground level with 3 level Motel expansion above. He then used a Aerial Photograph dated in 2012 marked into the record as **A-2** clarifying all locations of the LaMer including the Restaurant (that sits close to Pittsburg & New Jersey Avenue), the single family dwelling was denoted in white and stated this application is different from all other prior applications submitted for the LaMer. He then clarified the variances request of the Building Setback (Pittsburg & Beach Avenues), Height, Parking within the setback, Lot Coverage and concurring with the Board Engineer a Sign Variance. Mr. Orlando explained the application is a proposal to simplify to make the site useful, provide ample parking to the site/additional parking, parking within the setback (2spaces on New Jersey & 2 spaces on Beach), reduction in restaurant, building line setback 20 feet, FY handicap ramp, building height variance in order to align the parapet 37FT desire to keep Architectural feature (mansard roof) and landscaping will be enhanced. **A-3** photograph depicting the view from Beach Avenue northwest direction Landscape Treatment with no detriment. **A-4** photograph view from Beach Avenue south to northwest of the grass panel denoting the removal of 3 1/2 feet of it to construct a parking space, he stipulated this is not visible from any angle and will only

affect the existing landscaping. **A-5** photograph of property viewed west to east from the fence inclusive with the magnitude of landscaping to create 2 additional parking space and will be buffered with additional landscaping. **A-6** alternated view parking location that will remain under new construction plan that are 8 ½ FT from the property Line. He indicated they will work with Mr. Hurless regarding the internal and directional parking signage. Mr. Orlando stated for C-2 the purpose in zoning is advanced. They are not seeking a parking variance for the number of spaces, they are in compliant with the hotel even with additional rooms and introduction of a patron complimentary breakfast area and stated there is significant reduction of seating in the restaurant. Preliminary and Final Site Plan could be granted the C-1 - no detriment to public good and C-2 - aesthetics purpose of Zoning is advance. Mr. Orlando stated the need for Hotel Rooms in the City is tremendous and the LaMer is in the premier location offering all the amenities for a family oriented vacation.

Chairman Bezaire called for a 10 minute break at 8:10pm. The meeting resumed @ 8:22pm.

William Kaufmann, Esquire representing a number of objectors Frank & Joan Harvey of 1401 New Jersey Avenue, Richard Zeghibe of 1400 New Jersey Avenue and Matthew Glenn of 1404 New Jersey Avenue along with their professional Brian Murphy, Engineer. Mr. Kaufmann cross examined Mr. Orlando regarding the parking spaces currently on site requesting clarification if they are all 9 x 18 compliant according to the ordinance of the City of Cape May. Mr. Orlando responded that he believes they comply. Mr. Kauffman referred to the 190 spaces proposed increasing the existing and requested clarification regarding these total of spaces concerning the Complimentary Breakfast area. He then requested a breakdown to which Mr. Orlando responded 162 for Hotel quest, 13 Employees for Hotel, 4 employees for Restaurant (both largest shift) and then ask Mr. Orlando if had written documentation verifying the number of Employees. Mr. Orlando stated it was verbal by the Management and Mr. Kaufmann debated the verbal confirmation at length. The question of monitoring employee with regards to parking was debated with Mr. Orlando concurring that it was difficult to monitor but manageable. Mr. Kaufmann then questioned at length the Conference Room (referring the Web site that informs it could accommodate up to 90 people). Mr. Orlando clarified that the Conference Room was a ancillary use not a accessory use with Mr. Kaufmann commenting that is a determination for the Board to make. Mr. Orlando stated the Board had already made that determination in prior approvals. Mr. Kaufmann then mentioned the Spa area that should have a parking requirement with Mr. Orlando begging to differ. Debate ensued regarding the Handicap Ramp. They debated these various items at length with the conclusion that they have a difference of opinion regarding the C1 criteria with Mr. Orlando stating it is a efficient Civic minded design and Mr. Kaufmann dwelling on the parking issue of accessory versus ancillary. Mr. Kaufmann states that the Conference Room and the Spa are opened to outside groups and that should be taken into consideration, he also states there are several pre existing non conformities that exist and requested clarification on everyone (7 calculated by Mr. Orlando) and implied that the applicant is adding 3 more non conformities bringing the total to 10 non conformities. Mr. Orlando also explained that C1 & C2 variance do not always fold neatly in a box and believes both negative & positive criteria are balances that are being met expressing that the benefits out way the detriments. Mr. Pickering interjected occasionally reminding Mr.

Kaufmann that this is not adversarial proceeding with Mr. Kaufmann disagreeing and Chairman Bezaire stipulating that this hearing must remain civil. The Cox Treatise was mentioned by Mr. Kaufmann clarifying that non conforming conditions is a goal of Zoning to eliminate non conforming conditions as lawfully and practically as possible. This issue was debated at length.

Mr. Pickering requested two (2) minutes to confer with his client to determine if other witnesses were needed to testify.

Chairman Bezaire called for a 2 minute break at 9:03pm. The meeting resumed @ 9:06pm.

Board Engineer, Craig Hurless then reviewed his report dated August 21, 2013 clarifying the description for the membership Site Plan-Completeness/Preliminary & Final with Variances 3rd Review. The applicants are proposing a 162 Unit Motel, 44 Seat Restaurant/Cocktail Lounge, 29 seat Continental Service Area and 13 new parking spaces (he will modify his report that denoted 14 new parking spaces). He reviewed his Completeness Review for the Details required for Preliminary Site Plan Approval #3 (v) – EIS Environmental Impact Statement – A NJDEP CAFRA compliance report submitted in lieu of the EIS would be acceptable, Mr. Orlando responded that a modification to the approval DEP CAFRA is in process. (w) A Traffic Impact report – Mr. Orlando stated it is deminimis do to the decrease in the Restaurant and a waiver is encouraged and (aa) CD ROM will be submitted. He then reviewed the Zoning Requirements on pages 4 & 5 C3 Hotel-Motel District §525-24 Table 2 Hotels/Motels Standard, Required, Existing, Proposed and Status. He reviewed the Variances §525-24B(1) Table 2 Building Setback for Pittsburg & Beach Avenues with Mr. Hurless questioning the chimney present or whether it will be removed – Mr. Orlando responded it will be removed and will be denoted on the final plans and a correction of Beach Avenue proposed Building Set Back of 16.35 not 18.13 as denoted in the report. §525-24B (1) Table 1 Building Height, §525-49C (4) Parking – Number of Spaces with correction on report to denote 177 spaces not 176 and With George Andy confirming the number of employees and lengthy discussion introduced by the Mayor regarding the Continental Area and the Restaurant do to their proximity and questioned the possibility of cross seating during lunch and dinner shifts creating a 73 seated Restaurant. All members voiced their opinion in detail with grave concerns regarding enforcement issue (Planning Board does not want to create a situation that has to monitor). Mr. Andy responded to the questions concerning the Restaurant & Continental Areas. §525-49E(7) Parking within Setbacks, §525-24B(2) Table 1 Lot Coverage (Mr. Orlando withdrew – will reduce patio coverage to comply) and §525-48H – Signage, Mr. Hurless requesting clarification regarding parking for Restaurant and Hotel along with requesting the existing signage be reduced to eliminate the confusion the current over-signage has created on site. Mr. Hurless continued with the Design Waivers the applicant has requested - §437 – Stormwater Management (Mr. Orlando verified maintained on Site) and §525-59F Minimum Lighting Requirements. He explained the general review comments on pages 7 through 10 – General Zoning #1, #2, #3, #4 (verified concrete patio), #5, #, 6, Solid Waste & Recycling #7, Parking & Circulation #8, #9, #10 (Mr. Orlando addressed existing drive isle and one way drive isle, Grading, Drainage & Utilities #11, #12, #13, Landscaping & Lighting #14, #15, #16, #17, #18, Signage #19, Approvals & Other

Requirements #20 (Escrow), #21(Cape May Shade Tree), #22 (Fire Department), #23 (Water & Sewer Department), #24 (HPC), #25(CAFRA- NJDEP approval status), #26 (State, County & Local approvals) and #27 (COAH).

Do to the lateness of the hour Chairman Bezaire announced that the application in its length will be continued to November 12, 2013 @ 7:00pm. He did state should any member of the public who wishes to speak who could not be here on November 12th come forward. Mr. Neidig then informed the Board that the applicant should Notice if they want to include a Parking Variance. Mr. Pickering agreed they will incorporate the Parking Variance in the Re-Notice. **The Meeting was opened for public comments at 9:59pm to those 200feet and beyond, Albert Fralinger of 1401 New Jersey Avenue.** He clarified for the record he is a professional Engineer and Land Surveyor but is commenting as a resident. He opposes the application due to traffic and safety issues that he has observed from his front deck. His major concern is with the service trucks that deliver & pick up from the Restaurant & Motel, stating they park on Pittsburg Avenue & New Jersey Avenues causing a traffic back up conditions during the summer. Photographs marked into evidence **O-1** showing his house located on the northeast corner of Pittsburg and New Jersey Avenues. **O-2** showing his house view from Pittsburg Avenue and **O-3** an aerial photograph that encompasses surrounding area (inclusion of the Beach) of LaMer with his structure outlined indicating how another expansion will affect his light, air and open space (view of the beach). He also referred to the noise during construction and Mr. Bezaire informed him of the noise ordinance.

William Kaufman, Esquire requested a time to speak stating this application is substantially similar to the previous application that was denied and the Board has the authority to dismiss it. He also requests to cross examine the General Manager regarding the employee verifications with Mr. Pickering stated they will be present at the November 12th meeting and is requesting Mr. Hurlless adjust his report to reflect the errors that were stated for the record.

Motion made by Mr. Elwell to continue the application until November 12, 2013 @ 7:00pm. Seconded by Mr. Jones **and carried 8-0.** Those in favor: Mr. Elwell, Mr. Murray, Dr. Mahaney, Mr. Jones, Dr. France, Mr. VanDeVaarst, Mr. Shuler and Mr. Bezaire. Those Opposed: None. Those abstaining: None.

Motion made by Mr. Jones, Seconded by Dr. France to adjourn the meeting at 10:20 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