

The regular meeting of the North Wildwood Planning Board was held on the above date & time. Adequate notice of this regular meeting was submitted to the official newspaper of the City of North Wildwood (AC Press) & local newspapers. An Agenda was posted on the main bulletin board at City Hall, well in advance of the meeting date & on the City web site.

A) CALL TO ORDER

Chairman Davis called the meeting to order.

B) OPEN PUBLIC MEETING STATEMENT

Chairman Davis read the Open Public Meeting Act statement.

C) PLEDGE OF ALLEGIANCE

Chairman Davis led the audience in reciting the Pledge of Allegiance to the Flag.

D) ROLL CALL

Chairman Robert Davis	Present	Mayor Patrick Rosenello'	Absent
Vice Chair Jodie DiEduardo	Present	Mayor's Designee Doug Miller	Absent
Chief Matt Gallagher	Present	Mr. William Green	Present
Mr. John Harkins	Present	Councilman David Del Conte	Present
Mr. George Greenland	Present	Mr. James M. Flynn	Present
Mr. Bill Auty (Alt. 1)	Absent	Mr. Bill O'Connell (Alt. 2)	Present
Mr. Ron Peters (Alt.3)	Present	Ms. Haas (Alt. 4)	Present

Mr. Dean Marcolongo (Board Solicitor)	Present
Mr. Ralph Petrella (Board Engineer)	Present
Mr. Brian Murphy (Board Planner)	Present
Eric Gundrum, (PB Secretary)	Present

The Board Solicitor announced that the Board quorum has been established.

D) SWEARING IN OF PROFESSIONALS:

The Board Solicitor did conduct the truth swearing of the Board's professionals as it was necessary for tonight's meeting.

E) MOTIONS FOR ADJOURNMENTS: None presented.

F) MEMORIALIZATIONS:

P-17-3-1 White Sands II, LLC

Block 192, Lot 1
131 W. Spruce Avenue, North Wildwood
Resort Residential -2 (RR-2) Zoning District
Major siteplan approval

White Sand II, LLC, doing business at 3846 Kirkwood Road, Philadelphia, PA, has applied to the Board for Preliminary & Final Siteplan approval to construct a quadraplex on property located at Block 192, Lot 1, commonly known as 131 W. Spruce Avenue.

The Board Solicitor called for a motion to approve the memorialization as discussed. Motioned by: Mr. Greenland & 2nd by Mr. O'Connell. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Memorialization of the Resolution was approved by the Board. Councilman DelConte, Mr. Peters & Ms. Hass abstained on the memorialization.

Z-17-4-2 New Cingular Wireless PCS, LLC (aka Morey's Pier)

Block 288.02, Lot 1
2501 Boardwalk (aka Morey's Pier), North Wildwood, NJ
P Zoning District
Minor siteplan approval, with Use Variance (Height) approval

New Cingular Wireless, PCS, LLC, doing business as AT&T Mobility Corporation doing business at 5565 Glenridge Connector, Suite 1520, Atlanta, GA has applied to the Board for Minor Siteplan approval, a D-1 Use Variance for a use not permitted in a zone, & a D-6 Height Variance (50 ft. proposed where 35 ft. is permitted) to install two (2) small cell wireless communication nodes on the property located at Block 288.01, Lot 1, commonly known as 2501 Boardwalk (Aka Morey's Pier, aka Surfside Pier, North Wildwood, NJ.

The Board Solicitor called for a motion to approve the memorialization as discussed. Motioned by: Vice-Chair DiEduardo & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Memorialization of the Resolution was approved by the Board. Councilman DelConte, Mr. O'Connell, Mr. Peters & Ms. Haas abstained on the memorialization.

Z-17-4-3 New Cingular Wireless PCS, LLC (aka Westy's Restaurant)

Block 222, Lot 1
101 E. Walnut Avenue, North Wildwood, NJ
D& E Zoning District
Minor siteplan approval, with Use Variance (Height) & "c" variance approval

New Cingular Wireless, PCS, LLC doing business as AT&T Mobility Corporation doing business at 5565 Glenridge Connector, Suite 1520, Atlanta, GA has applied to the Board for Minor Siteplan approval, a D-1 Use Variance for a use not permitted in a zone & a Design Waiver for height of an accessory structure to install a small cell wireless communication node on the property located at Block 222, Lot 1, commonly known as 101 W. Walnut Avenue (aka Westy's Tavern), North Wildwood, NJ. The proposed flag pole will be contained on private property.

The Board Solicitor called for a motion to approve the memorialization as discussed. Motioned by: Mr. Green & 2nd by Mr. Harkins. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote being affirmative, the Memorialization of the Resolution was approved by the Board. Vice-Chair DiEduardo voted 'no.' Councilman DelConte, Mr. O'Connell, Mr. Peters & Ms. Haas abstained on the memorialization.

G) NEW BUSINESS:

Board Member Councilman DelConte at this point in time, steps down from the Board dais, as the next applications require a Use Variance approval. Councilman DelConte took a seat in the public gallery.

Z-17-5-1 Edward Roach/Terry Schindel

Block 179, Lot 12
108 W. 10th Street
R-2 & CBD Zoning District
Minor Subdivision approval
Use Variance approval

Edward D. Roach, Sr. & Terry L. Schindel residing at 221 12th Street, Key Colony Beach, FL have applied to the Board for Minor Subdivision approval to create two (2) lots from one (1) lot & a D-1 Use Variance to demolish an existing single-family dwelling & construct two (2) duplexes for property located at Block 179, Lot 12, commonly known as 108 West 10th Avenue.

Doreen Corino, Esq. of Wildwood Crest, NJ appeared on behalf of the Applicants & explained the nature of the application to the Board. Ms. Corino advised that the subject property is split zoned between the R-2 Zoning District & the Central Business District (CBD) Zoning District. The property is currently developed with a single-family dwelling. Ms. Corino stated the Applicants propose to demolish the existing single-family dwelling, subdivide the property into two (2) fully conforming lots & construct two (2) duplexes. Ms. Corino advised that the duplex to be constructed on the westerly lot (Lot 12) is a permitted use on a fully conforming lot. No variances would be required. However, the duplex on proposed Lot 13, in the CBD Zone, will require a D-1 Use Variance since duplexes are not permitted uses in the zone.

John Halbruner, a professional engineer & registered architect with Hyland Design Group, Inc., appeared, was sworn & testified on behalf of the application & from the Plan of Minor Subdivision of Hyland Design Group, Inc., last revised June 26, 2017 which was received by the Board & incorporated as fact. In addition, the Board received a packet containing photographs of the subject property, a Plot

Plan (undated) created by Susan E. Boehret, registered architect, showing the proposed locations of the duplexes & an undated untitled sheet containing four (4) elevation drawings of the proposed duplexes which were incorporated as fact.

John Halbruner reviewed the packet of eight (8) photographs discussing the neighborhood where the proposed development is to occur. He further testified that as a result of the construction of the single-family dwelling on the lot, the lot has merged by Operation of Law. Speaking to the D-1 Variance Relief, Mr. Halbruner noted that while the subject property is located in the CBD Zoning District, it does not front on New Jersey Avenue & there is a residence constructed to the east immediately adjacent to New Jersey Avenue. As such, he believes that residential development on proposed Lot 13 is appropriate. Mr. Halbruner testified that given the fact that the subject property does not have access to New Jersey Avenue, a commercial development on this lot is unlikely. Speaking to the special reasons to the granting of the D-1 Use Variance, Mr. Halbruner testified that he believes that the proposed development provides for the public health, safety & welfare since a residence on the subject property is more compatible with the neighborhood. He further testified that the proposed duplexes will be constructed above base flood elevation thereby protecting same from flooding. Mr. Halbruner testified that since the proposed development is compatible with the neighborhood the relief requested can be granted without substantial detriment to the public good & without substantially impairing the intent & purpose of the Zoning Map & Land Development Ordinance. Upon questioning from the Board, Mr. Halbruner testified that the Applicants are proposing that each duplex will contain three (3) bedrooms which are relevant for purposes of establishing the parking requirements for the duplexes.

In response to same, Ms. Corino stated that regardless of the number of bedrooms in the property the Applicants have agreed to comply with the bulk requirements for the R-2 Zoning District, including satisfying the Residential Site Improvement Standards (RSIS). If the duplexes contained more than three (3) bedrooms additional parking spaces would be required.

The Board was in receipt of a Review Memorandum of Van Note Harvey Associates dated June 30, 2017. Ralph Petrella, Board Engineer, appeared, was sworn and testified as to the application and requested that his recommendations in his report be incorporated in the final Resolution. The Board was in receipt of a Review Memorandum of M.V. Engineering, LLC, dated June 20, 2017 and last revised June 30, 2017. Mr. Murphy, Board Planner, testified as to concerns regarding bump-outs shown on the plans.

The Board was in receipt of a Review Memorandum(s) of Mr. Petrella, Board Engineer, and dated June 30, 2017 & requested that his recommendations in his report be incorporated in the final Resolution. Additionally, the Board was in receipt of a Review Memorandum from Mr. Murphy, Board Planner, last revised June 30, 2017 with these Memorandums incorporated as fact.

Chairman Davis then opened the application for general public comment. No public members wished to speak on behalf of the application or to the Board at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

The Board members then discussed & summarized the Minor Subdivision & Use Variance/siteplan application as presented. The Board then discussed the finding of facts on the Minor

Subdivision & Use Variance/siteplan application. Each Board member gave reasoning for their view of the facts & the application as it relates to the application. Mr. Greenland “volunteered” for the finding of facts. Mr. Greenland reiterated to the address and Block & Lot of the property as stated in the application. The Zoning District is CBD & R-2. The Applicant is the owner to the subject property and, as such, has standing to come before the Board requesting Minor Subdivision & siteplan approval to demolish an existing single family dwelling & construct a new duplex dwelling(s). A “D-1 Use Variance is required for the construction of a duplex in a CBD Zone where a duplex is not a permitted use on the subject property. The subject property is split zoned between the R-2 & the CBD Zoning District(s) & the Applicants are proposing to subdivide the property along the zoning district line. Proposed Lot 12, which is fully within the R-2 Zoning District, will be a fully conforming lot & duplexes are permitted uses in the zone. Proposed Lot 13 is fully within the CBD Zoning District & while it is a fully conforming lot, duplexes are not permitted in the zone, thereby necessitating a D-1 Use Variance. The Applicant’s experts testified that special reasons exist for the granting of the “D-6” Use Variance, specifically, since the proposed development is compatible with the neighborhood’s existing development & this promotes the public health, safety & welfare. The proposed buildings, which meet all building coverage’s, will promote adequate light, air & open space & will create a desirable visual environment. The Board specifically finds that the development plans & will result in the construction of a building fully in conformance with current construction codes. Therefore, the Board is satisfied that special reasons exist for the granting of the “D-1” Use Variance. Similarly, the Board finds that the special reasons justification set forth above for the “D-1” variance is equally applicable to the “C” variances requested by the Applicants. In addition, the Board finds that the benefits of the variance relief outweigh any detriment, specifically, with the Board finding that the proposed development will now provide for two (2) off street parking spaces for each duplex. The Applicant’s planning expert testified that, the proposed development is compatible with the neighborhood, the relief requested can be granted without substantial detriment to the public good & without substantially impairing the intent and purpose of the Zoning Map & Land Development Ordinance. Testimony was provided that the area & the size of the subject property. The purposes of the zoning law would be advanced by the proposed development, the Applicant has satisfied the requirements for Use Variance/siteplan approval. No additions or correction to the finding of facts. No discussion on the facts.

The Board Solicitor called for a motion to approve the Use Variance/siteplan application as discussed. Motioned by: Vice-Chair DiEduardo & 2nd by Mr. Green. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote affirmative votes, the siteplan application was approved by the Board. Councilman DelConte, Mr. O’Connell, Mr. Peters & Ms. Haas did not need to vote on the application.

Z-16-8-3(A) Surf 16, LLC

Block 266, Lot 11

1600 Surf Avenue

MC Zoning District

Siteplan application submitted for approval

Surf 16 LLC doing business at 1600 Surf Avenue, North Wildwood, NJ has applied to the Board for preliminary siteplan approval & a D-1 Use Variance for a use not permitted in a zone (three {3})

residential duplexes to be constructed in the Motel Commercial (MC) Zoning District), together with bulk variances for distance between buildings (18.68 ft. proposed, where 20 ft. is required) & distance between buildings where area is used for vehicular traffic (22 ft. proposed, where 50 ft. is required) to demolish an existing motel & construct three residential duplexes on property located at Block 266, Lot 11, commonly known as 1600 Surf Avenue.

This application was heard by the Planning Board at its regular meetings of November 9, 2016 & December 14, 2016 originally. At the completion of the hearing, by a 4 to 3 vote in favor of the application (whereas the affirmative of 5 Board members was necessary for approval), the Board denied the application for Preliminary Site Plan approval, a D-1 Use Variance for a use not permitted in a zone & several Bulk Variances and the Board's decision was memorialized in Resolution Z-16-8-3 on January 11, 2017.

In response to same, the Plaintiff timely filed a Complaint in Lieu of Prerogative Writs in the Cape May County Superior Law Division under Docket Number CPM-L-136-17 asserting that the Board's denial of the application was arbitrary, capricious & unreasonable and seeking an Order of the Court reversing the Board's decision denying the application & granting the Applicant's request for Preliminary Siteplan approval, a Use Variance & Bulk Variances to demolish the existing motel & construct three (3) residential duplexes in accordance with the plans submitted. In response to same, the Board filed an Answer to the Complaint in Lieu of Prerogative Writs denying all portions of the Complaint & asserting that the Board's decision was supported by substantial & appropriate evidence and that the Board acted reasonably in accordance with the laws in the State of New Jersey & the Ordinances of the City of North Wildwood. During settlement discussions between the parties & upon further deliberation by the Board members, a super majority of the Board was satisfied that the applicant had sustained its burden of proof and established a basis for the granting of Preliminary Siteplan approval, a D-1 Use Variance & Bulk Variances for the proposed development as set forth in the Siteplan application submitted to the Board.

At the request of the Applicant, and at the consent of a super majority of the Board, the Board scheduled a public hearing in accordance with Whispering Woods v. Middletown Township, 220 N.J. Super 161 (1987) for the purposes of determining whether the Board would reconsider its decision & approve the application of the Applicant. At a duly scheduled & noticed public hearing, pursuant to NJSA40:55D-13, occurring on July 12, 2017 the terms of a settlement of the litigation between Surf 16, LLC & the Board were set forth on the record & the Board accepted public comment & input regarding the Resolution of the Prerogative Writ action with the Board having been satisfied to reconsider its prior decision & approve the application as submitted. At said hearing, a super majority of the Board now accepted the prior testimony of Vincent Orlando, licensed engineer, professional planner & certified landscape architect, who testified that the proposed development satisfies the purposes of zoning in that the new buildings will be constructed above base flood elevation thus protecting same from flood, that the proposed development meets all coverage requirements of the Land Development Ordinance (Ordinance) and, as such, same provides for adequate light, air & open space, and as a result of the limited number of units on the site provides for appropriate population densities. The Board finds, in addition to the purposes of zoning set forth above, that the benefits of the Bulk Variances requested outweigh any detriment given their de minimis nature such that the relief requested can be granted to the applicant. The Board finds that since the development will be compatible with neighboring properties that the relief requested can be granted without substantial detriment to the public good &

without substantially impairing the intent & purpose of the Zoning Map & Ordinance. This Resolution was intended to memorialize the foregoing decisions & conditions of the Approval of the Board occurring on July 12, 2017.

Chairman Davis then opened the application for general public comment. No public members wished to speak on behalf of the application or to the Board at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

The Board members then discussed & summarized the Resolution as discussed & as presented. The Board Solicitor called for a motion to approve the Resolution as discussed. Motioned by: Chief Gallagher & 2nd by Mr. Green. The Board Solicitor called for any discussion or corrections to the motion. The Board proposed no corrections, additions or comments to the motion. Based on the majority roll-call vote affirmative votes, the Resolution was approved, with Mr. Greenland & Mr. Flynn voting "no." Councilman DelConte, Vice Chairperson DiEduardo, Mr. Peters & Ms. Haas did not need to vote.

Board Member Councilman DelConte at this point in time, returned to his seat on the Board dais.

H) PUBLIC PORTION:

Chairman Davis then opened the meeting for general public comment. No public members wished to speak on behalf of the meeting or to the Board at this time. No comment was offered. Chairman Davis closed the public portion of the meeting.

I) APPROVAL OF MINUTES: – June 14, 2017 Regular meeting

The Board Solicitor presented to the Board the approval of June 14, 2017 Regular Meeting minutes. The Board Solicitor called for any discussion or corrections to the minutes. Mr. Green mentioned some minor corrections/edits which can be corrected upon adoption. Mr. Green questioned & requested clarification that the proposed flagpole/wireless cell antenna would be on private property and thus reflected in the minutes. Corrected upon adoption of same. No further discussion to the minutes. Motioned as amended, as proposed by Vice Chair DiEduardo & 2nd by Mr. O'Connell. Based on the affirmative majority roll-call vote of the Board members to memorialize the Meeting Minutes, the Meeting Minutes were approved. Councilman DelConte & Ms. Haas abstained on the minutes.

J) UNFINISHED BUSINESS: none presented.

K) COMMUNICATION(S):

Future Master Plan amendments/planning:

Chairman Davis requested as an agenda item be placed on the agenda that the Board could comment on new Master Plan topics and/or Ordinance amendment suggestions. The Board Secretary would keep a list of Ordinance amendment suggestions.

The Board Chairman announced a pending Master Plan Re-Examination process to the Board to amend the Land Development Ordinance to reflect changing development condition/patterns of the City. The Board proposed a sub-committee to work on the Master Plan Re-Examination document. Mr. Green, Chairman Davis, Mr. O'Connell & Vice-Chair DiEduardo will work on the sub-committee. On the side of the Administration, the members will be Mayor Rosenello, Ron Simone, Kevin Yeccho & Sal Zampirri, thus comprising the Master Plan Committee.

Mr. Green gave a brief summary of the Master Plan meeting with the Master Plan consultant. Two major components of the Master Plan investigation is land use opportunities along New Jersey Avenue & the Gateway into North Wildwood. Vice Chair DiEduardo listed some bayside business to be included in the Bayside Business Zoning District. Cellular antenna locations/planning were also discussed.

L) REPORTS: None presented.

M) MEETING ADJOURNED:

Meeting was adjourned at 7:53pm, on motioned by Mr. Greenland & 2nd by Vice-Chair DiEduardo. Based on the affirmative roll-call vote of the Board members, the motion to adjourn was approved.

APPROVED: 8/10/17
Date



J. Eric Gundrum
Board Secretary

This is an interpretation of the action taken at the meeting by the Secretary, and not a verbatim transcript.