

# HPC denies La Mer's request for a 'partial approval'

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Cape May Star and Wave

CAPE MAY - Was the application half approved or half denied?

On Monday, La Mer Motor Inn owner Gus Andy asked the Historic Preservation Commission to give him conceptual approval on the half of his reconstruction project the HPC did not object to. The commission turned him down saying they did not want to give the planning board the impression they were approving the entire project.

Andy returned to the HPC, Monday, looking for conceptual approval for adding 29 units to his 133-unit motel. In July, Andy received approval for permits to demolish an existing laundry/office building and the restaurant portion of the Beach Avenue motel.

However, the HPC has strenuously objected to the portion of the reconstruction plan calling for a new restaurant with three floors above the restaurant, creating an additional 21 motel rooms. The plan also includes reconstructing the laundry building with eight motel units above it.

Andy's attorney, Richard Hluchan said in July the HPC gave his client guidance, but took no vote on the application for conceptual approval. Andy was seeking at least partial approval of his plan before going to the planning board on Tuesday for an informal review. Andy's application was pulled from the planning board agenda.

Hluchan said the planning board had denied a parking variance and his client came back with a new design. However, the new design did not include reducing the

Pittsburgh Avenue end of the project from four floors to only two.

"Mr. Andy's position is that four floors are consistent with the C-3 (commercial) zone," Hluchan said.

The HPC has said it wants a "smoother transition" into the adjoining residential neighborhood, and feels the step down from four floors to two would make that transition. Commission members indicated four floors built out to the maximum allowable limits would be detrimental to the streetscape.

Hluchan said although the HPC said it wanted the smoother transition, city council had created a zoning ordinance that allows what the HPC was denying.

Commission solicitor Robert Fineberg said the HPC operates under the guidance of design standards, whereas the zoning ordinance

deals with density. He said there can be a conflict between the zoning ordinance and design standards, and he considered them to be of equal weight.

Hluchan said one of the general rules of law is that the specific governs over the general, and the zoning ordinance specifically tells what can and cannot be done.

"Nothing in the C-3 section (of the zoning ordinance) says you need to have a transition," Hluchan said.

"The design standards are specific in what the board can consider," Fineberg said.

Commission member Tom Carroll said new construction on the east side of Pittsburgh Avenue has conformed to design standards and he would like to see some of those standards incorporated into the east end of the La Mer project. Additionally, Carroll said Andy's request

for a parking variance had been denied by the planning board.

"We're still looking at a building that needs to be reduced to address parking," Carroll said.

Hluchan said Andy would at least like to move forward with the laundry building portion of the project and requested approval for that element alone.

"I don't know how we approve half a plan," chairman Skip Loughlin said.

Hluchan said it was just a matter of writing a resolution approving the one portion and they would revise their plans for the planning board to show plans for the laundry building only. Loughlin said that was something the HPC wanted to avoid - approving half a plan and then the applicant taking that approval to another board.

"Things like this have got-

ten us in trouble before and that's why we're a little cautious," he said.

Loughlin said he was concerned the planning board would misunderstand the HPC's approval and believe it was for the entire project.

Fineberg said generally applications go to the planning board before coming to the HPC, added that the HPC doesn't know what the La Mer plan would look like until the planning board gives its approval. Carroll said he would not vote to give conceptual approval until the planning board had given its approval.

Loughlin echoed Carroll's comments saying, "I strongly suggest you go to the planning board and get a decision before you come to us."

The HPC voted 7-0 to deny Andy's request for partial approval.

## Pilings

Continued from page A1

injury or "property damage" (Section 194-21. Insurance).

At the council meeting, Gaffney complained of not

being notified that pile driving was to be done near his home and asked if the contractor was not required to

give notice to homeowners within 200 feet of the project. The city code says notification must be given in writing

by certified mail "at least 14 calendar days prior to the commencement date of the pile driving activity or demo-

lition work but not earlier than 30 days prior."

However, the law only requires notice be given to property owners "on either side" of the pile driving site.

Contractors who violate provisions of the ordinance are subject to the penalties established in the city code, ranging from \$100 to \$1,250, to be determined by the municipal court judge. The

judge may also order restitution for any damage to a property caused by pile driving.

Callahan said in most cases contractors are using water to soften the soil so the pilings are "jetted" in most of the way, allowed to set for about 48 hours, and then must be driven in the rest of the way.

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