

**Town of Bethany Beach
Planning Commission Minutes
August 16, 2014**

The Bethany Beach Planning Commission held a meeting on August 16, 2014 at 9:00 a.m. in the Bethany Beach Town Hall, 214 Garfield Parkway, Bethany Beach, DE 19930.

The following members were present: Lew Killmer, Chairman, who presided; Faith Denault; John Gaughan; and Jerry Morris.

Excused members: Mike Boswell and Fulton Loppatto

Also present: Council member, Joseph Healy; Building Inspector, Susan Frederick; and Administrative Assistant, Nathalie Fernandes.

OPENING OF MEETING

Mr. Killmer called the meeting to order at 9:00 a.m.

Approval of Agenda

Mr. Gaughan made a motion to approve the agenda. The motion was seconded by Ms. Denault and unanimously approved.

Discussion/Approval of the Planning Commission Minutes of June 21, 2014

Mr. Morris made a motion to approve the minutes dated June 21, 2014. The motion was seconded by Mr. Gaughan and unanimously approved.

Announcements/Comments/Updates

Non-Residential Design Review Update (Denault/Killmer)

Mr. Killmer reported the following:

There have been no Non-Residential Design Review Committee meetings since May.

Comments/Updates Regarding the June Town Council Meeting

Mr. Killmer reported the following:

The Town Council held a short meeting on Friday, August 15, 2014 at 2:00 p.m. The following items were second readings and voted on:

- An Ordinance to Amend Chapter 223 (Beach), Article II (Unlawful Activities), Section 3 (B) (Throwing of Objects) of the Bethany Beach Town Code. It was approved by the

Town Council that it is the lifeguard's decision regarding playing ball or other throwing games on the beach.

- An Ordinance to Amend Chapter 223 (Beach) Article VI (Surfing), Section 14 (B-1) (Surf leash required; permitted hours) of the Bethany Beach Town Code. It was voted that only a soft body boards shall be used during the hours lifeguards are on duty; hard body boards are only allowed when lifeguards are off duty.

Comments, Q&A and Discussion for Planning Commissioner Members (All)

Ms. Denault stated that three (3) people have come up to her to complain about the use of tents on the beach and that many of the tents have a back to them, so others have difficulty viewing the water and/or children. Ms. Frederick added that the lifeguards would have a difficult time seeing past any tent. Mr. Killmer stated that it is a possible safety concern for parents who are keeping an eye on their children as well as for the lifeguards. It was suggested that they be allowed but as long as it doesn't obstruct any views and that they be located behind the lifeguard stands. Mr. Killmer agreed and added that he would speak with the Town Manager in order to discuss the situation with the lifeguards.

Mr. Killmer added that there is a Partitioning hearing next month, September 20, 2014.

PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION

There were no comments or questions at this time.

OLD BUSINESS

Review And Consider Comments and Suggestions Provided By Those Companies And Individuals That Were Invited And/Or Attended The Public Hearing To Add A New Chapter §425-26 To The Town's Zoning Code Entitled "The Regulation Of Residential Bulk Density In The R-1, R-1A And R-1B Zoning Districts" To The Town's Zoning Code. A Possible Vote Will Be Taken To Send The Draft Ordinance To The Town Council For Their Comments And Consideration.

Mr. Killmer explained that this will be the Planning Commissioners final review of the new proposed chapter to be added to the Town's Zoning Code entitled §425-26 "The Regulation Of Residential Bulk Density In The R-1, R-1A And R-1B Zoning Districts." The Planning Commission invited thirty-five (35) local companies and individuals to the June Planning Commission meeting to review the draft for a proposed new chapter in the Town Zoning Code as well as to discuss and for the Planning Commission to receive any comments, questions, concerns, or recommendations that the invited guests may wish to offer. During the meeting, there was a comment made to better define the meaning of a two and a half (2 ½) story house. As a result, the following note was included to the Trade Off Chart for R-1, R-1A and R-1B District:

Note: By definition a two and a half story house is one in which the floor above the second floor is a maximum of sixty (60%) of the square footage of the floor below.

Mr. Killmer stated that it was a suggestion and that it can be changed. There was some confusion and discussion on the use of a two and a half (2 ½) story plus an additional percentage for the number of floors permitted. Mr. Morris suggested to use a partial story definition instead of 2 ½. It was clarified that the average person will understand a half floor because it is common verbiage used in real estate as well as in design and construction. Mr. Gaughan questioned if 60% is large enough, in an architectural stand point. Ms. Frederick explained that the average lot in the R-1, R-1A and R-1B zoning districts is about five thousand (5,000) square feet and the zoning code permits a maximum of forty percent (40%) lot coverage, or two thousand (2,000) square feet. A half floor in this case would be twelve hundred (1,200) square feet. Mr. Gaughan stated that he was satisfied that sixty percent (60%) would be a large enough area.

Ms. Denault made a motion to approve the Ordinance for a new chapter §425-26 to be added to the Town of Bethany Beach's Zoning Code Entitled "The Regulation Of Residential Bulk Density In The R-1, R-1A And R-1B Zoning Districts" with the additional note to the Trade Off Chart . The motion was seconded by Mr. Gaughan and unanimously approved.

This Ordinance will be passed along to the Town Council for approval and a future workshop.

NEW BUSINESS

A) A Draft Ordinance to Amend/Update Section §425-2 Definitions and §425-77.1 through §425-77.9 of the Bethany Beach Town Code to Further Define and Clarify Zoning Requirements For The Newly Created Commercial Lodging District (CL-1) and Modifying Parking Requirements Under Section §425-87 of the Bethany Beach Town Code.

Mr. Killmer explained that the theme to all the changes is the removal of the term 'oversized guest rooms.' The following suggested changes were discussed:

- Amend/Update **Section §425-2 Definitions** to modify certain defined terms:
 - Remove the term "or Oversized Guest Rooms" from the definition for "Commercial Lodging Room"
 - Completely Eliminate the Definition for "Oversized Guest Room"
- Update definition of "**Standard Guest Room**" to the following:
 - A Commercial Lodging Room with standard accommodations in any configuration of beds or any type of furniture capable of converting into beds or sleeping facilities. For the Commercial Lodging (CL-1) Zoning District the following conditions apply:
 - The total number of registered guests permitted in the hotel is strictly limited to a maximum of 460 with no exceptions permitted at any time of the year.
 - The number of permitted guests and the reporting of the number of guests is a condition that is to be listed on the business license.
 - Between 1 June and 30 September the hotel must verify weekly to the Town Manager the number of registered guests.
- Amend **Article VI §425-37. Districts Established to add the Commercial Lodging District (CL-1)**

- Remove the term “or Oversized Guest Room” from **Section §425-77.3 Permitted Uses; Subsection (4)**
- Update **Section C “Mandatory Amenities”** under **§425-77.3** by removing the terms “and/or Oversized Guest Rooms and (which amount is to be calculated in the aggregate)”
- Update **Section §425-77.7 Administration and enforcement** by removing the term “Oversized Guest Room”
- Update **Section §425-77.8 Violations and penalties** by removing the term “Oversized Guest Room”
- Amend **Section §425-87 (A) “Off -Street Parking” Subsection (5):**
 - (5) Commercial Lodging Rooms: minimum of one space per Standard Guest Room

Mr. Morris asked if the hotel would have a grace period if they exceeded their maximum capacity. Mr. Killmer responded that there would be no grace period; the hotel would have to use a “No Vacancy” sign if the maximum amount of guests has been reached. It was clarified that the hotel would report to the Town Manager on a weekly basis during the summer season. If the hotel exceeds the limit of 460 registered guests, they could be fined and may lose their business license and be shut down. Mr. Gaughan made a suggestion that the hotel report to the Town Manager weekly between the dates of 15 May – 15 September to correspond with the time when the paid parking regulations are in effect. All agreed.

Mr. Morris made a motion to approve the Ordinance to amend/update Section §425-2 Definitions and §425-77.1 through §425-77.9 of the Bethany Beach Town Code to further define and clarify zoning requirements for the newly created Commercial Lodging District (CL-1) and modify Parking Requirements Under Section §425-87 of the Bethany Beach Town Code. The motion was seconded by Ms. Denault and unanimously approved.

B) Update Chapter 530: “Signs” To Include Signage Requirements For The Commercial Lodging Zoning District (CL-1)

Mr. Killmer explained that Chapter §530: Signs needs to be updated. He wanted to begin the process by discussing the ‘low hanging fruit’: the sections that would not involve signs for the hotel. He stated that Mr. Jeff Schoellkopf, architect for Jack Burbage/Bethany Boardwalk Group, LLC, will be proposing ideas on the signs to be considered. Mr. Killmer added that Mr. Schoellkopf knows what the Town would accept because he helped compile the Non Residential Design Guidelines for the Town. This discussion is just to begin the process; no vote will be made.

The following suggested changes were discussed:

- **Article I. General Provisions: §530-3. Definitions**
 - Current Code: Commercial Districts: Commercial districts refers to all nonresidential districts, that the property is zoned commercial.
 - Suggested Update: Commercial/Commercial Lodging Districts: Commercial and Commercial Lodging districts refers to all nonresidential districts, that the property is zoned commercial or commercial lodging.

- **Article II. Exempt Signs: §530-4 Types of Signs Exempt From a Sign Permit**
 - G (2) Temporary Commercial Speech Signs
 - **(a) Real Estate Signs:**
 - Current Code: Commercial districts: one freestanding real estate sign, no larger than 32 square feet in total sign area, nor exceeding eight feet in height, advertising the sale or lease of each property, and located on the property for sale or lease. Such signs may be illuminated in accordance with the provisions of §530-9. Window signs shall not exceed, in the aggregate, 32 square feet in total sign area. Real estate signs advertising the sale of a property shall be removed within 10 days following final closing or exchange; real estate signs advertising that a property is for lease shall be removed when no leasehold terms remain available for the remainder of that calendar year.
 - Suggested Update: Commercial/Commercial lodging districts: one freestanding real estate sign, no larger than 32 square feet in [...]
 - **(b) Yard and Garage Sale Signs:**
 - Current Code: (2) Commercial districts: one freestanding yard/garage sale sign, no larger than 32 square feet in total sign area, nor exceeding eight feet in height, located on the property where such yard/garage sale is occurring. Such signs shall not be illuminated. Yard/garage sale signs shall be posted no more than two days prior to the day of the sale and shall be removed by 8:00 p.m. the day of the sale.
 - Suggested Update: (2) Commercial/Commercial lodging districts: one freestanding yard/garage sale sign, no larger than 32 square feet in total sign area, nor exceeding eight feet in height, located on the property where such yard/garage sale is occurring. Such signs shall not be illuminated. Yard/garage sale signs shall be posted no more than two days prior to the day of the sale and shall be removed by 8:00 p.m. the day of the sale.
- **Article IV. Sign Standards**
 - Current Code: §530-12. Permitted Signs in the C-1, C-2
 - Suggested Update: §530-12. Permitted Signs in the C-1, C-2 and CL-1 Zoning Districts
- **Note: §530-12 (B) Exterior Business Signs For The CL-1 Zoning District Is A Work In Progress And Will Be On The Agenda Of Future Planning Commission Meeting(s).**
 - Current Code: §530-12 (F): Windblown displays may be flown or displayed in the C-1, C-2 Zoning Districts, subject to the following limitations [...]
 - Suggested Update: Windblown displays may be flown or displayed in the C-1, C-2, CL-1 Zoning Districts, subject to the following limitations [...]
- **Note: §530-12. F. (1 - 5) Windblown displays For The CL-1 Zoning District Is A Work In Progress And Will Be On The Agenda Of Future PC Meeting(s).**
- The following signs under the Current Code: **§530-14. Sign Standards by Sign Type**, will need to be established by the Planning Commission for the CL-1 Zoning District:
 - **(A) Wall Signs**

- **(B) Window Signs**
- **(C) Awning Signs**
 - Current Code: Awning Signs may be located in the C-1 and C-2 Commercial Zoning Districts. Installation of new awning is subject to the review and approval of the Non-Residential Design Review Committee.
 - Suggested Update: Awning Signs are not permitted in the CL-1 Zoning District
- **(D) Projecting Signs**
 - Suggested to permit Projecting Signs, but the number and size needs to address the overall size of the hotel complex.
- **(E) Hanging and Suspended Signs**
 - Suggested to permit Hanging and Suspended but the number and size needs to address the overall size of the hotel complex.
- **(F) Monument Signs**
 - Suggested to permit Monument Signs, but the number and size needs to address the overall size of the hotel complex.
- **(I) Sandwich Board Signs**
 - Recommend not permitting sandwich-board signs in the CL-1 Zoning District.
- **(J) Murals**
 - Currently outdoor murals are permitted in the C-1 and C-2 Zoning Districts is approved by the Non Residential Design Review Committee.
- **(K) Electronic Message Centers (EMCs)**
 - EMCs with advertisements are not permitted in Bethany Beach. EMCs that display only the date, time and temperature may be permitted in the C-1 and C-2 zoning districts.
- **(L) Shopping Center Identification Signs**
 - Recommend this type of sign not to be permitted in the CL-1 Zoning District.
- **(N) Flags**
 - Suggest adding the CL-1 Zoning District to the current ordinance. “No flag signs shall be displayed in the C-1, C-2 and the CL-1 Zoning Districts without prior approval by the Non Residential Design Review Committee following its review of submitted plans.”
- **(O) Directory Signs**
 - Add the CL-1 Zoning District to the current ordinance. “Directory Signs are allowed in the C-1, C-2, CL-1 and more Zoning Districts and are subject to review and approval by the Non Residential Design Review Committee.”

After some discussion, it was clarified that any and all events that are to occur in the hotel will not be allowed to advertise outside on the structure. Any conferences, weddings, future estate sales, etc will have to advertise these events internally or through any other media.

Ms. Frederick commented that 'CL-1' needs to be added to section §530-4 (H), Temporary Signs in the C-1 and C-2 Commercial Districts.

Mr. Gaughan wanted clarification on whether awning signs would be permitted for the CL-1 Zoning District. After being discussed, it was agreed that the suggested update for §530-14 (C) Awning Signs would read: Awning Signs may be located in the C-1, C-2, and CL-1 Zoning Districts. Installation of new awning is subject to the review and approval of the Non-Residential Design Review Committee.

Prior to adjourning the meeting, Town Council member Joseph Healy commented that the Planning Commissioners' attention to detail and thoughtfulness is much appreciated. He added that he wished that those who oppose the hotel would see what the Planning Commission has done and is doing to benefit the Town. Mr. Healy thanked the Planning Commissioners for all their hard work.

Mr. Killmer thanked Mr. Healy for his comment and stated that the Planning Commission is here to help the Town. Mr. Gaughan added that he is honestly disappointed that no feedback was given on the bulk density ordinance because there was a good exchange at the meeting and the Planning Commissioners was responsive to the positive and negative comments made in regards to the document. He explained that he does not live here year round, but he attends every meeting, when possible, and does homework on the subject matter to be part of the community. Mr. Gaughan stated that it is frustrating when the Planning Commissioners give up their time and try to be conscientious about the matters at hand. Mr. Killmer agreed and added that once it is enacted, there will be a negative reaction given by residents stating they were not informed.

Mr. Killmer explained that these meetings and documents are all open for the public. Everything discussed in the meetings are thought out and the documents are written in comprehensive language so everyone can understand. Mr. Killmer stated that the Town of Bethany Beach Planning Commission was applauded by the state as having one of the better comprehensive plans and is used as a model for other communities.

SUMMARY OF ACTION ITEMS

- A. Include an additional note to the Trade Off Chart to better define a '2 ½ story house' in the new Chapter §425-26 "The Regulation Of Residential Bulk Density In The R-1, R-1A And R-1B Zoning Districts."
- B. Amend/Update Section §425-2 Definitions and §425-77.1 through §425-77.9 of the Bethany Beach Town Code to Further Define and Clarify Zoning Requirements For The Newly Created Commercial Lodging District (CL-1) and Modifying Parking Requirements Under Section §425-87 of the Bethany Beach Town Code.
- C. Change the dates of weekly hotel reports under Section §425-87 to be sent between the dates of 15 May – 15 September to correspond with the parking regulations.

D. Update Chapter §425-26 “The Regulation Of Residential Bulk Density In The R-1, R-1A And R-1B Zoning Districts” to pass to the Town Council for a vote.

E. Update Chapter 530: “Signs” To Include Signage Requirements For The Commercial Lodging Zoning District (CL-1).

ADJOURN

Mr. Gaughan made a motion to adjourn the meeting. Ms. Denault seconded the motion and it was unanimously approved. The meeting was adjourned at 10:24 a.m.

The next meeting is scheduled for September 20, 2014 at 9:00 a.m.

Respectfully Submitted:

Nathalie Fernandes
Administrative Assistant