

**Town of Bethany Beach  
Planning Commission Minutes  
November 22, 2014**

The Bethany Beach Planning Commission held a meeting on November 22, 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; Mike Boswell; Jerry Morris; Diane Fogash; John Gaughan; and Fulton Loppatto.

Also present: Building Inspector, Susan Frederick; Council Members, Bruce Frye and Chuck Peterson; Administrative Assistant, Nathalie Fernandes; and interested members of the public.

**OPENING OF MEETING**

Mr. Killmer called the meeting to order at 9:00 a.m. The Pledge of Allegiance was recited.

Approval of Agenda

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

Discussion/Approval of the Planning Commission Minutes of October 18, 2014

Mr. Boswell commented that the topic of the Pledge of Allegiance needs to be added to the minutes. Ms. Fogash made a motion to approve the minutes dated October 18, 2014 as amended. The motion was seconded by Mr. Morris and unanimously approved.

Announcements/Comments/Updates

***Non-Residential Design Review Update (Killmer)***

Mr. Killmer reported the following:

There was a Non-Residential Design Review Committee meeting held on October 24, 2014. An application for proposed new wall sign for "Bicycle Connection," was reviewed and approved.

***Comments/Updates Regarding the October Town Council Meeting***

Mr. Killmer reported the following:

The Town Council had a public hearing to review an Ordinance to amend section §425-2 Definitions and §425-77.1 through §425-77.9 of the Town Code and to modify the parking requirements under Section §425-87 of the Town Code. The other topic under review at the public hearing was to add a new Chapter §425-26 "The Regulation of Residential Bulk Density in the R-1, R-1A, and the R-1B Zoning Districts" to the Town Code. No one was in attendance the public hearing. Mr. Killmer suggested to the Town Council that there be another hearing in the spring to hopefully get the attention of the

community. The proposed new chapter is a dramatic change to the Town Code. The Town Council decided not vote on it because they would like to have some additional input from the community.

There was a Town Council workshop, which was in regards to the Town possibly consider to manage the beach concession in the future. At the regular Town Council meeting, a lot of people showed up with signs, banners, and stickers attached to their clothing. Reporters for local newspapers were also in attendance. The Steen's used social media to gather support from property owners and those who vacation in Bethany Beach. Mr. Killmer explained that the Town Council believed the issue was rushed and decided not to further pursue the Town possibly taking over the beach concessions. Rather than issue the Steen's another five (5) year contract, the Town Council agreed to add a two (2) year extension to their current contract.

The proposed idea of managing the beach concession was presented in order to address the issue that the Town needs to begin to plan to create a storm emergency relief fund if a storm related disaster were to strike. The Legislature in Dover has discussed with the Town a need for preparation and need to start developing plans. So far the Town has purchased a mobile Command Center, which will be used as a Town office in the case of an emergency. The Town has a local construction company on retainer to come to Bethany Beach first if a major disaster impacts the beach and downtown area. A Mobile Aerial Camera (MAC) has also been purchased to assess flood damage and the information will shared with federal and state agencies to document flooding and property damage. The proposed storm emergency fund should be funded by all of the stakeholders that use our beaches and downtown commercial districts, which includes property owners, renters, and business and commercial property owners.

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

Mr. Gaughan attended the Town Council meeting. He stated that he received messages from the community stating that the Town's idea to manage the beach concession was out of nowhere. There was a tidal wave of complaints and he noticed there was an online petition with thousands of signatures. He further voiced frustration that so many people had shown an interest in that one topic, but the Planning Commission continuously has a hard time getting people interested in the Planning Commission meetings and agendas. It was a reasonable proposal but there are other critical things that no one seems to care for. All of the Council and Commissioner members are volunteers. He added that he was happy that the Coastal Point had a balanced report on the situation about the beach concessions.

Mr. Morris stated that he is involved with the Bethany Beach Landowners Association, and because of that, he received many emails with negative comments. He responded to each and explained that the Town Council had to have a public hearing initially to get the topic to be discussed; nothing was voted on, but many perceived that the Town had already made the decision. The Town Council is filled with intelligent volunteers who will make decisions that are best for the Town. Some of the things the community members and beach visitors were saying were extremely negative.

Mr. Killmer added that he too received angry calls from community members. He lives in Bethany Beach full time and did not understand why his neighbors and friends believed that he and the Town Council would just do something behind their backs without opening the conversation to the public. Mr. Killmer explained that he suggested the two (2) year extension on the Steen's contract for the beach

concession so that the Town Council can have the time to do more research and more studies to figure out the best way to move forward.

## **PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION**

There were no comments or questions at this time.

## **NEW BUSINESS**

There was no new business.

## **OLD BUSINESS**

### ***Continue the Review and Possibly Vote to Amend and Update the Bethany Beach Non-Residential Design Guidelines to Include the Commercial Lodging District (CL-1).***

Mr. Killmer explained that once the document gets approved today, he would send everyone an electronic version. The document was printed page-by-page to ensure that there was only one correctly formatted copy. The texts found in red are the first changes made and approved by the Commissioners at the last meeting; the text found in blue are new additional changes from the last time we met. Not all the pages were distributed to the Commissioners, only pages with additional changes.

Mr. Gaughan suggested they review page-by-page.

#### Page iii

The dates of when the Non-Residential Design Guideline was **adopted** and **updated** have been included. The abbreviation **NRDRC** was added to insure consistency in the document. Mr. **Jerry Morris** has been added to the committee roster.

#### Page v (Contents)

**Non-Residential Design Review Committee (NRDRC)** was changed. **Zoning Envelope (page 16)** was added because it was missing from the first document review. All titles are now matching page numbers.

#### Page 1

The prior suggestion to move the Commercial Lodging location description to the beginning of paragraph three (3) was the only new change made. Mr. Morris asked if it's a general description of the areas and Mr. Killmer replied that it is.

#### Page 3

The following sentence was added to the final paragraph: '**The Non-Residential Design Guidelines was updated by the Planning Commission and approved by the Town Council (date) to include the Commercial Lodging District (CL-1).**' Once the document is approved, the date will be added.

#### Page 4

Updated and an improved formatted Bethany Beach zoning map.

### Page 6

Section four (4) under Town Review Process was updated to: ‘If the applicant’s plan(s) are approved by the NRDRRC, the Building Inspector **can only** issue a building permits **when all other required approvals** are met.’

Section three (3) under NRDRRC Review Meetings was updated to: ‘Five copies of all documents pertaining to a NRDRRC **review shall be provided to the Town’s Building Inspector and a copy sent to each of the** NRDRRC members two (2) weeks prior to the scheduled meeting{...}’

### Page 7

Under section four (4), the word ‘**must**’ was changed to ‘**shall**.’ It will not be up to interpretation.

### Page 8

Section one (1) under Terms of Office was updated to indicate that the NRDRRC only has one member of the Planning Commission.

Section four (4) under Appointment of **NRDRRC** Members was updated to: ‘In the event of a vacancy on the NRDRRC involving the seat held by the Town Council **Liaison on the Non-Residential Design Committee**, upon the Mayor’s appointment and the Town Council approval of the **NRDRRC’s** new Town Council Liaison, that person shall serve for the remainder of that vacant seat’s term on the **NRDRRC**.’

Mr. Morris wanted to clarify why the word ‘applicable’ in section one (1) of Terms of Office is being used. Mr. Killmer explained that the two-year term only applies to him, the Town Council Liaison, the registered architect/planner, the business community member, and the member of the Planning Commission. The two-year term does not apply to the Town of Bethany Beach Building Inspector.

### Page 36

First sentence in paragraph one was changed to: ‘It is very important that the Town maintain a broad range of services, for both visitors and residents, in the commercial and **commercial lodging districts**.’

### Page 38

The description of prohibited lighting was updated to: ‘The use of up lighting **except for illuminating the American flag** shall be prohibited to minimize light pollution {...}’

Mr. Morris made a motion to approve the final changes to update the Bethany Beach Non-Residential Design Guidelines to include the Commercial Lodging District (CL-1), with the contingency that the Commissioners see the final document prior to sending it to the Town Council. Mr. Gaughan seconded the motion and it was unanimously approved.

Mr. Killmer suggested to not having a Planning Commission meeting in December. Mr. Gaughan added that he would not be available for the Planning Commission meeting in January. Mr. Killmer explained that it is better to have a set date rather than planning it every month in advanced.

Ms. Frederick commented that the Fire Department has signs that need to be approved through the Non-Residential Design Review Committee, but for now, there are no other items for the Planning Commission. She added that there have not been any updates on the Addy-Cooper property.

Mr. Killmer stated that the hotel has changed its perspective opening date to May 2015. Ms. Frederick added that the Town has allowed the construction of the hotel to start at 7:00 AM and all neighbors have been notified.

The Bethany Beach Christian Church (Disciples of Christ) has opened a homeless shelter in the “Stone House” on their property for the months of November through January from 5 PM- 9 AM. They may be permitted to extend through February or March. Mr. Gaughan asked if there has been any reactions from the community and Ms. Frederick explained that there has, but there is nothing they are doing that is against the zoning code. The only issue was that because they are operating similar to a hotel, the State Fire Marshal has to be involved and sign off on the safety of the building and set the occupancy limits. She added that those who are homeless are picked up from different locations and brought to the center. Mr. Killmer commented that he knows someone who is homeless and believes that it would be cruel to not allow them to have this place to stay, especially during the winter months. Ms. Frederick stated that there are supposed to be at least two members of their staff present there at all times.

Mr. Boswell stated that he was on the Boardwalk the other day and noticed that the crane at the hotel was right above the Boardwalk and he was wondering if that was allowed or if they can change its location. Ms. Frederick and Mr. Killmer explained that the Town gets notified weekly about the operation of the crane. It also cannot be locked in one position but must be permitted to move freely when moved by the wind or else it could become unbalanced and unsafe.

#### **SUMMARY OF ACTION ITEMS**

- A. Amend the October 24, 2014 minutes to include the discussion of reciting the Pledge of Allegiance.
- B. Accept all changes made to the Non-Residential Design Guidelines.
- C. Send final version electronically to all Commissioners prior to Town Council for discussion and approval.

#### **ADJOURN**

Mr. Boswell made a motion to adjourn the meeting. Mr. Morris seconded the motion and it was unanimously approved. The meeting was adjourned at 9:37 a.m.

Respectfully Submitted:

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Nathalie Fernandes  
Administrative Assistant