

**Town of Bethany Beach
Planning Commission Minutes
October 3, 2009**

The Bethany Beach Planning Commission held a meeting on Saturday, October 3, 2009 in the Bethany Beach Town Hall, 214 Garfield Parkway, Bethany Beach, DE 19930.

The following members were present: Lew Killmer, who presided: Donald Doyle, Faith Denault, Fulton Loppatto and Kathleen Mink. John Gaughan was officially excused from this meeting.

Also present: Mayor Tony McClenny, Vice-Mayor Carol Olmstead, Councilwoman Margaret Young, Clifford Graviet, Town Manager, Susan Frederick, Building Inspector, Alan Kercher, Town Engineer, Seville Pettit, Administrative Secretary, Patricia Titus of the Coastal Point and interested members of the public.

The meeting was called to order at 9:00 a.m.

OPENING OF MEETING

Approval of Agenda

Mr. Loppatto suggested a minor change (a typo error regarding lot numbers) to the agenda. Mr. Doyle made a motion to approve the amended agenda. The motion was seconded by Ms. Denault and unanimously approved.

Discussion/Approval of the Planning Commission Minutes of August 22, 2009

Ms. Mink suggested a minor change to the minutes. The minutes indicated that Ms. Mink was not present at the meeting, which was an error. Mr. Doyle made a motion to approve the amended minutes dated August 22, 2009; the motion was seconded by Ms. Denault and unanimously approved.

Announcements/ Comments/ Updates

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

There was no meeting for the month of September.

Comments/ Updates Regarding the September Town Council Meeting (Killmer)

Mr. Killmer reported the Town Council held a special meeting on September 21, 2009, discussing the transfer of money from the Collins Street sidewalk project to the general fund. The transfer of funds will be used to repave streets in designated areas of the Town. The paving contract was also awarded at the special meeting.

Ms. Mink was reappointed to serve on the Planning Commission for another three-year term and Mr. Killmer was reappointed to serve for another year as the Town Council's representative on the Planning Commission.

At the meeting Mr. Doyle's resignation as a member of the Planning Commission was announced. The nomination and election of the Planning Commission's chair and vice chair for the 2009/2010 term will be held at the Planning Commission's meeting on October 31, 2009.

Mr. Killmer also noted the Town Council is preparing a proposal concerning the construction of a hundred foot AT&T cell tower that will be located behind the Arby's restaurant on Route One. The Town Council is requesting the reopening of the Public Comment portion of the Board of Adjustment hearing, based on the following issues:

- The Public Notice Placard was placed on the wrong property.
- The amount of time that the Public Notice Placard was even posted on the wrong property was also too short to meet the County guidelines, therefore not providing sufficient time for concerned citizens to obtain information about and possibly oppose the construction of the proposed tower.

Comments, Q&A and Discussion for Planning Commissioner Members

Mr. Killmer introduced Ms. Susan Frederick as the new Building Inspector to the Planning Commission members and the members of the public.

PUBLIC COMMENT/ QUESTIONS FOR THE PLANNING COMMISSION

There was no discussion at this time.

NEW BUSINESS

Consider the application for the combining of Lot #3 and Lot #4, Block 140 located at 67 and 69 Kent Avenue for the purpose of the creation of a major subdivision filed by Mr. John Cooper, Ms. Carolyn Hockman, Mr. John and Mr. William Addy with Ms. Christine Addy (All)

Mr. Killmer questioned Ms. Frederick about the advertisement and notification of the applicants' request for the land combining.

Ms. Frederick testified that the land combining notice was advertised in the local newspaper, placed on the Town Website, posted on both of the lots and at five places in the Town, which are the Town Hall, the PNC Bank, the Town Bandstand, the United States Post Office and the Sussex County Library and the property owners within 200 feet of both lots were notified by first class mail of the hearing.

The applicants requested the combining be conditional pending the approval of the final plans. Ms. Frederick stated the Town Code requires the approved application has to be filed and recorded within fourteen days of the approval of the Planning Commission. The Town's attorney had advised her that the combining could be approved on a conditional basis upon the approval of the final plans of the major subdivision request. The final combining plat could be signed just prior to the Planning Commission signing off on the final plans of the major subdivision.

Ms. Mink made a motion to approve the land combining application on a conditional basis as stated and to be corrected to note that the strip of land located adjoining Kent Street on the plans is to be re-titled "Dedication to DelDot".

The motion was seconded by Ms. Denault and unanimously approved.

OLD BUSINESS

Continued hearing/review of the submitted preliminary plans on the application for a major subdivision filed by Mr. John Cooper, Ms. Carolyn Hockman, Mr. John and Mr. William Addy with Ms. Christine Addy for properties identified as Lots #3 and #4, Block 140 located at 67 and 69 Kent Avenue, in the R-2 Zoning District. (All)

Mr. Killmer read the following statement from the Town Engineer amended letter dated September 30, 2009:

“It is recommended that the Preliminary Site Plan approval shall be contingent upon the applicant being able to adequately address both the stormwater management and surface drainage issues to the satisfaction of the Department of Natural Resources and Environmental Control (DNREC) and the Sussex Conservation District (SCD), as well as the Town of Bethany Beach.”

Mr. Loppatto questioned who decides on the type of lighting for the streets. Mr. Jeff Clark of Land Tech Land Planning LLC explained that the Town can select a lighting fixture and that the fixtures are free but there is a monthly maintenance fee.

Mr. Killmer noted the surrounding property owners are concerned about their trees being exposed to environmental problems, such as being knocked over or prematurely dying because of possible damage to the tree roots during construction. Mr. Clark stated that there are numerous legal precedents that do not hold the developer(s) of the major subdivision responsible for those trees on adjoining properties.

Mr. Killmer opened the discussion up to the public at this time.

Mr. Robert Bradley of 417 Beachwood Lane stated that he was disappointed in not receiving a copy of the document dated August 5, 2009 that was sent by Mr. Clark of Land Tech concerning his comments and concerns that were stated at the previous meeting. Mr. Bradley made a presentation to the Planning Commission, Mr. Clark and the Addy and Cooper family members in attendance, a copy of which is attached.

Mrs. Elaine Murphy of 523 Doral Drive noted the property owners could still make a profit if they reduce the density and save the trees. Mr. Clark stated that the State mandated stormwater management regulations are requiring the removal of all of the trees on the site.

Mr. Alan Kercher of Kercher Engineering, the Town’s Engineer noted the stormwater management issues are being taken seriously and the applicant is going to work with DelDot and DNREC to address the issues.

Mr. Doyle made a motion to approve the preliminary plans with the following conditions:

- The preliminary site plan approval is contingent upon the applicant being able to adequately address both the stormwater management and surface drainage issues.
- All issues are to be adequately addressed in the Town Engineer’s report.

The motion was seconded by Ms. Denault and unanimously approved.

ADJOURN

Mr. Doyle made a motion to adjourn. The motion was seconded by Mr. Loppatto and unanimously approved. The meeting was adjourned at 9:50 a.m.

Respectfully Submitted,

Seville Pettit
Administrative Secretary