

**Town of Bethany Beach
Planning Commission Minutes
November 20, 2010**

The Bethany Beach Planning Commission held a meeting on Saturday, November 20, 2010 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, who presided; John Gaughan; Fulton Loppatto; Mike Boswell; Chuck Peterson; and Faith Denault.

Also present: Susan Frederick, Building Inspector; Jeff Mascornick, Planning Commission Intern; Mr. Jeff Clark of Land Tech Land Planning LLC, representing applicants; Applicants, Mr. John Cooper, Ms. Carolyn Hockman, Mr. John and Mr. William Addy; Engineer of GMB, Mike Kobin; Mayor Tony McClenny; Council Members, Jack Gordon, Margaret Young, Jerry Dorfman, and Carol Olmstead; former Planning Commission member Kathleen Mink; Patricia Titus of the Coastal Point; Lindsey Shallcross, Administrative Assistant; and other interested members of the public.

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

OPENING OF MEETING

Approval of Agenda

Mr. Killmer amended the agenda so that III. New Business (A) would be the first item to be discussed after the discussion/approval of the minutes from the October 12, 2010 meeting.

Mr. Loppatto made a motion to approve the agenda as amended. Seconded by Mr. Gaughan, the motion was unanimously approved.

Discussion/Approval of the Planning Commission Minutes of October 16, 2010

Ms. Denault made a motion to approve the minutes dated October 16, 2010. Seconded by Mr. Gaughan, the motion was unanimously approved.

NEW BUSINESS

Consider an application submitted under Section 410-22 for sketch plan review for a major subdivision filed by Mr. Jeff Clark of Land Tech Land Planning LLC for Mr. John Cooper, Ms. Carolyn Hockman, Mr. John and Mr. William Addy with Mrs. Christine Addy for properties identified as Lots #3 and #5, Block 140 located at 67 and 69 Kent Avenue, in the R-2 Zoning District.

Mr. Killmer explained that there have been questions from a number of individuals regarding the process of considering an application for a major subdivision.

There are three phases in the process and they are as follows:

- 1.) Sketch Plan Review
- 2.) Preliminary Plan Review
- 3.) Final Plan Review

Mr. Killmer explained that each review has a list of requirements that needs to be met before the proposed major subdivision is permitted to move forward. The purpose of this meeting is to conduct an informal sketch plan review of the application. The Town Code required no separate posting of the property for this public hearing. The Preliminary Plan Review meeting is a more formal review and requires the property to be posted as well as the notification by first class mail of all property owners within 200 feet of the proposed major subdivision in addition to the normal notification requirements.

Mr. Killmer noted that the Building Inspector determined that the newest submitted plan had been significantly altered from the previously approved preliminary plan and therefore it was necessary to resubmit a new sketch plan for review of the proposed major subdivision.

The applicant's representative, Mr. Jeff Clark, of Land Tech Land Planning, LLC was asked to come to the podium. He presented the following information:

Mr. Clark has submitted an application under Section 410-22 for sketch plan review for a major subdivision and is representing Mr. John Cooper, Ms. Carolyn Hockman, Mr. John and Mr. William Addy with Mrs. Christine Addy for properties identified as Lots #3 and #5, Block 140 located at 67 and 69 Kent Avenue, in the R-2 Zoning District.

The first sketch plan review was in October 2007 and the previous Preliminary Site Plan Review was reviewed and approved by the Planning Commission in March 2009.

Mr. Clark stated that a meeting with the Sussex County Conservation District representatives was scheduled in November, in which representatives from the Delaware Department of Transportation (DeIDOT) drainage section engineers, the Delaware Department of Natural Resources and Environmental Control (DNREC), representative staff, Mr. Mike Kobin of GMB, the clients and the Town also attended. The purpose of this meeting was to provide DeIDOT with sufficient information for approval from the agency to drain to Kent Avenue. No answer or approvals from the agency has been received concerning this issue.

In April 2010, Mr. Clark met with the Town Manager, Cliff Gravier, Public Works Director, Brett Warner and Building Inspector, Susan Frederick to discuss an alternative drainage system for the site. During this meeting, it was suggested that the applicants consider an open drainage system that would tie into existing and planned systems in the Town.

Attorney Heidi J. A. Gilmore of Tunnel & Raysor, who was representing the applicants, addressed the Planning Commission. She explained that the applicant's property has been undergoing regulatory challenges dealing with the drainage storage area for the past three (3) years.

Ms. Gilmore stated that they have been able to produce a revised sketch plan and would like the Planning Commission to ensure that it will be a fair process since it has been brought to her client's attention that recent e-mails indicated to the applicants that there may be a negative attitude toward the project.

Mr. Peterson disagreed and stated that the Planning Commission has only been fair to the client.

Mr. Killmer added that the client has not been biased in any way and they are being treated fairly.

Mr. Gaughan noted that he has had no communication with residents on this matter other than what he receives through the Town Office.

Ms. Gilmore said that is what her clients wanted to be assured of.

Mr. Clark placed the previously approved preliminary Plan and the proposed new sketch plan on easels for the public in attendance and Planning Commission to view. He noted that the two Plans are very similar and added that in the revised plan, the former two large retention ponds would not be required and that the applicants added two additional building lots.

Mr. Clark explained that residents were concerned about the loss of vegetation with the prior plan. The site plan that was developed using the ponds required the entire site to be raised by three (3) or four (4) feet for stormwater management related issues and the entire lot to be cleared of all existing vegetation.

Mr. Clark said that the required sidewalks for the proposed subdivision would not be able to be connected to any nearby existing pedestrian walkways. Changes to the Plan include adding two (2) additional lots and deletion of the required curbs, gutters and sidewalks.

Mr. Clark presented an additional aerial view plan. The sketch showed the surrounding communities, and the blue line represents the proposed open swale drainage system. He also presented a separate Plan where he explained that the green area on the Plan represents vegetation that will remain on the property using the open drainage concept.

Mr. Killmer expressed that he appreciates the major effort to save vegetation on the new sketch Plan.

Mr. Killmer noted that he along with the other members of the Town Council attended a workshop that dealt with methods that can be used to enhance pedestrian safety via sidewalk systems and explained that some residents would like sidewalks to be put on Kent Avenue. Kent Avenue is a State Road and any improvements such as sidewalks are the responsibility of the State and not the Town. He noted that it's been documented that sidewalks add value to properties.

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

Property owner, Mr. Mike Timchalk (407 Beachwood Lane), explained that members of his neighborhood suggested that they didn't like sidewalks at the previous meeting. Mr. Timchalk added that there was a concern with curbs and where water would flow to during times of rainfall.

Mr. Killmer said that this issue will be addressed during the Preliminary Plan Review meeting.

A property owner whose lot adjoins the parcel (no name or address given) asked how high the properties on the Addy/Cooper parcel are going to be built up.

Ms. Frederick replied that it cannot be raised above the adjoining property.

Property owner, Mr. Ron Vickers (406 Lekites Avenue), stated that the residents that live on his street are concerned about open swales.

Property owner Betty Vickers (406 Lekites Avenue) asked if the water just sat in the swales and stated that she thought that it would be illegal to drain through Bethany West.

Mr. Kobin explained that the original plans were produced to comply with the requirements of DelDOT. To be able to meet the regulations with piping of stormwater required the lot to be cleared and raised. This creates a concern for the drainage of surrounding properties, since there is a substantial amount of fill that needs to be placed on the property. However, vegetation can now be saved because the new proposed Plan is an open drainage system requiring no increase in elevation to the existing site. Mr. Kobin added that the Town's Engineer would review this new Plan in detail. The stormwater drainage plan would also have to be approved by the appropriate State agencies.

Mr. Kobin explained that there are two (2) different kinds of drainage: Open Drainage Systems and Closed Drainage Systems. The major difference between the two is that there are more access points using the open swales as opposed to a closed drainage system where access points are limited. He added that open drainage systems are very efficient with dealing with stormwater management.

The public brought up issues such as water backing up onto surrounding properties, whether water will overflow from the open swale onto their properties and concerns of the depth as well as the grade of the proposed open swale. These issues will all be addressed in the Preliminary Plan.

Property owner, William Mammarella (527 Doral Drive) stated that he has resided there for twenty (20) years and asked if there are any plans for the drainage issue on his street. He said that there are no sidewalks on Beachwood Street, so water drains into the ground.

Mr. Kobin clarified that water on Beachwood Street goes into DelDOT's drainage system located on Kent Avenue.

Property owner, Mr. Tom Merrick (523 Doral Drive), questioned what would happen to the vegetation that is currently there and who will replace the trees that are lost.

Mr. Killmer stated that this would be addressed at the Preliminary Plan Review meeting.

Ms. Gilmore noted that some vegetation areas on the sketch are not supposed to be there since they are already legal drainage areas.

Property owner, Elaine Murphy, stated that she is protesting against the subdivision of the Addy/Cooper properties. She proposed that the Planning Commission consider lower densities so there will be a decrease in water displacement issues. He added that having an open ditch in the backyard would be a danger to young children.

Mr. Gaughan questioned whether there are other option of systems that can be used other than a closed system or open drainage.

Mr. Kobin stated that there are only these two options in this particular case.

Property owner Jim Whalen (402 Lekites Avenue) stated that he agreed with other comments from property owners against having open ditches.

Property owner, Ms. Moira Stoddard, presented a letter that was written by Robert Bradley. In the letter, he stated that the previous drainage plan failed due to a lack of storm water outfall and regulatory requirements on conveying storm water from a proposed subdivision to a point which does not accept storm water in the undeveloped condition, and that the proposed plan to solve the storm water is again to discharge storm water to a point that doesn't receive water today. He questioned why there is no provision for storm water quantity management on this site and if a waiver has been issued. Concerned of open space, roads, adjacent properties and compatibility were also expressed in Mr. Bradley's letter.

Property owner Doug Mowrey (President of the Bethany West Recreation Association) stated that he would be involved in the process.

Mr. Kobin stated that if gutters and curbs are required, then they will also be required to design and install a closed storm water collection system. This will create a loss of much of the existing trees and will require raising the grade of the entire parcel to create sufficient slope for the underground piping.

Ms. Kathleen Mink stated that the residents should become familiar with the Code, Section 410.

Property owner, Tom Liddle (525 Doral Drive), stated his concerns regarding the open swales on Doral Drive. He thanked the Planning Commissioners for their consideration.

Mr. Clark explained that he contacted DELDOT in regards to the following programs for sidewalk construction along Kent Avenue via the following revenue sources:

- 1.) Transportation Enhancement Program
- 2.) Capital Program

Mr. Clark acknowledged that Subdivision Manager, Mr. Fiori, researched these programs and found no evidence that there are any proposals for the construction of the pedestrian walkways along Kent Avenue.

Mr. Killmer stated that he is well aware of this.

Mr. Clark emphasized that the Town consider treating Beachwood equally as the surrounding communities if sidewalks are installed.

Mr. Clark noted that he has been in contact with the Town Engineer and the Sussex County Conservation District, and they have expressed in writing that the proposed stormwater management system could be a workable concept.

Mr. Clark stressed to the public that the blue line on the sketch plan that extends from the corner of the Addy property and stretched behind Beachwood and connects to the exiting canal will be maintained by the Town.

Mr. Killmer advised that there would be additional meetings so the public will have time to consider this application to consider their concerns and answer any of their questions.

Ms. Frederick stated that if the Planning Commission enforces the installation of gutters, curbs and sidewalks and the applicants wish to appeal, they will need to appeal directly to Town Council.

Mr. Gaughan advised that based on the balance of the evidence, it would be better for the water drainage if sidewalks and gutters were not required on that side of the street.

There was an unofficial vote on what the public would prefer, and the majority of the present audience felt that having no gutters, curbs and sidewalks would be more beneficial.

Ending the conversation, Mr. Killmer said that he will write a proposal which communicates to the development this application will be waived. Ms. Frederick will send this proposal to Mr. Clark.

There was a small recess before continuing on with the meeting.

Announcements/Comments/Updates

Non-Residential Design Review Update (Killmer/Denault)

There was no meeting so there was no report.

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

A report was not given at this meeting.

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

There were no comments or questions at this time.

PUBLIC COMMENT/QUESTIONS FOR THE PLANNING COMMISSION

There were no comments or questions at this time.

NEW BUSINESS

Review Second Draft of the 2010 Comprehensive Plan for Bethany Beach

Mr. Killmer reported that he received a significant amount of information from the Town regarding Comprehensive Plan updates, and he is attempting to obtain information on beach replenishment from Tony Pratt.

Mr. Killmer questioned in text on “Surrounding Areas” should be included in a section of the Comp. Plan. If so, they would need to establish who produces the text.

Mr. Killmer suggested to Mr. Loppatto to review the City of Rehoboth Beach Comp. Plan as an example to create text for the Bethany Beach Comp. Plan.

Possible Status Reports of Individual Planning Commission Members Regarding Strategic Plan Assignments

Mr. Killmer reviewed other items that have been completed and what information still needs to be added to the Comp. Plan.

The Commission discussed the Action Items that were produced at the prior Planning Commission meeting.

Mr. Killmer stated that he did a page-by-page review of the Comp. Plan, and it is reaching the final stages of being complete.

Mr. Killmer acknowledged that useful information was received from the Cultural and Historical Affairs Committee (CHAC), including verbiage on four (4) houses in the Town that are recognized as being historical by having plaques.

Mr. Killmer expressed his appreciation to the Planning Commissioners for all of their help towards this project.

SUMMARY OF ACTION ITEMS

- A. Create an Executive Summary – cannot be produced until after the Commission receives input from the Public and the Town.
- B. Mr. Killmer will include in the Comp. Plan responses to questions that the Commissioners had.
- C. Mr. Loppatto is going to review the “Surrounding Areas” section in the City of Rehoboth Beach Comp. Plan to gain ideas for Bethany Beach’s Plan.
- D. Mr. Killmer will ask Entertainment Coordinator, Gloria Farrar, to provide a photograph of the Bandstand to include in the Comp. Plan.

ADJOURN

Ms. Denault made a motion to adjourn the meeting. Mr. Peterson seconded the motion and it was unanimously approved.

The meeting was adjourned at 11:35 a.m.

The next meeting is scheduled for December 18, 2010.

Respectfully Submitted:

Lindsey Shallcross, Admin. Secretary