

**PLANNING COMMISSION MEETING
CITY OF REHOBOTH BEACH**

October 9, 2015

The Regular Meeting of the Planning Commission of the City of Rehoboth Beach was called to order at 3:04 p.m. by Chairman David Mellen on Friday, October 9, 2015 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Mr. Francis Markert called the roll:

Present: Mr. Brian Patterson (arrived at 3:18 p.m.)
 Mr. Harvey Shulman
 Mr. Joyce Lussier
 Mr. Michael Strange
 Chairman David Mellen
 Mr. Francis Markert, Jr.
 Mrs. Jan Konesey
 Mr. Paull Hubbard
 Ms. Lynn Wilson

Also Present: Mr. Glenn Mandalas, City Solicitor (left the meeting at 4:13 p.m. and returned at 4:38 p.m.)
 Mr. Damalier Molina, Chief Building Inspector
 Mr. Kyle Gulbranson, planning consultant of AECOM

A quorum was present.

VERIFICATION OF MEETING NOTICE

Chairman David Mellen has verified that the Agenda was posted at City Hall, Building and Licensing Department and on the City website on October 2, 2015. The Agenda was faxed to Cape Gazette, Coast Press and Delaware State News on October 2, 2015. An E-News blast was sent out on October 2, 2015. The Public Notice for Public Hearing of Application No. 0815-02 on the matter of the Minor Subdivision Request was posted at City Hall, Building and Licensing Department and on the City website on September 21, 2015. The Public Notice was advertised in the Cape Gazette on September 25, 2015 and September 29, 2015, Coast Press on September 30, 2015 and Delaware State News on September 23, 2015 and September 24, 2015. Notification to property owners within 200 feet was mailed out and signage was posted on the property.

APPROVAL OF MINUTES

No Minutes were available for approval.

CORRESPONDENCE

Correspondence will be read into the record when the Public Hearing portion of the meeting is held.

OLD BUSINESS

Public Hearing of Application 0815-02 on the matter of the Minor Subdivision request for the properties located at 1028 & 1030 Scarborough Avenue Extended, Lot Nos. 28 & 30, Block Scarborough Avenue Extended, into four (4) lots with a portion of Lot Nos. 28 & 30 becoming Lot No. 1, a lot of 5,963 square feet; a portion of Lot Nos. 28 & 30 becoming Lot No. 2, a lot of 5,000 square feet; a portion of Lot Nos. 28 & 30 becoming Lot No. 3, a lot of 5,100 square feet and a portion of Lot No. 30 becoming Lot No. 4, a lot of 11,040 square feet. The Minor Subdivision has been requested by William Roger Truitt, sole member of Truitt Properties LLC and owner of the properties. Chairman Mellen provided the Public Hearing procedures.

Building Inspector Damalier Molina gave his report with exhibits. (Copy attached.)

Exhibit A – Application packet which includes:

1. Cover letter dated August 13, 2015 from William Roger Truitt of Truitt Properties LLC to Planning Commission Recording Secretary and Building Inspector's Office regarding 1028 and 1030 Scarborough Avenue Extended
2. Application for Land Subdivision (Minor – Major)

3. Attachment A to Application responses
4. Affidavit of William Roger Truitt
5. Resolution of William Roger Truitt
6. Deeds
7. Photographs
8. Minor Subdivision Survey Plan
9. Letter dated August 26, 2015 from William Roger Truitt of Truitt Properties LLC to Planning Commission Recording Secretary and Building Inspector's Office
10. Amended Application Page 3
11. Existing Boundary Survey Plan

The owner wishes to subdivide Lot Nos. 28 & 30, Block Scarborough Avenue Extended, into four (4) lots. The existing side lot line of Lot Nos. 28 & 30 located N51°23'02"E is being requested to be relocated to N51°40'45"E. The existing structures on Lot No. 30 will remain if the proposed subdivision is approved. Currently, there are 17 trees located on the property per the minor subdivision survey plan. Proposed Lot No. 1 will contain two (2) trees; proposed Lot No. 2 will contain seven (7) trees; proposed Lot No. 3 will contain three (3) trees and proposed Lot No. 4 will contain four (4) trees. Currently, there is one (1) 10-inch maple tree (S) on the southeasterly portion of proposed Lot No. 4 which is dead and may be removed. The minimum required is three (3) trees to meet the density requirements with one (1) tree being planted in the front yard. Based on the survey submitted, each proposed lot can fully contain a 4,000 square foot rectangle, has a lot size of at least 5,000 square feet and has at least 50 feet of frontage on a street. While there are three (3) existing lots shown on the boundary survey plan and four (4) proposed lots and one (1) existing lot shown on the minor subdivision survey plan, the northeasterly lot located at 1026 Scarborough Avenue Extended is not a part of the minor subdivision request.

Mr. Roger Truitt, owner of the properties provided his testimony and 1953 and 2015 aerial photographs of the property. Both Lot Nos. 28 & 30 are zoned C-3 and have been that way since they were annexed into the City in the late 1960s. He is not requesting a change in zoning to residential. Mr. Truitt's neighbors on Scarborough Avenue Extended have voiced that they would prefer to see residential development on Lot No. 28. He requested that the Planning Commission not place restrictions on the new lots before he determines if they will sell as residential lots. The house and garage have been at the current location on Lot No. 30 at least since the late 1950s. In the 1953 aerial photograph, the driveway currently appears the way it was at that time. The driveway is useful if there is an emergency situation, and it provides another option of getting on to Route 1. No affidavit has been filed to merge the lots. Lot Nos. 30 and 26, prior to December 2012, were held in different ownership.

Correspondence:

1. Letter received September 10, 2015 received from Mable Granke, 1013 Scarborough Avenue Extended, was glad the proposed plan is residential, but she cautioned that access to the proposed new lots must be carefully engineered in light of the existing driveways across from the site.
2. Email received October 1, 2015 from Brad Askin, 1011, 1014 & 1021 Scarborough Avenue Extended, requested that the three new lots be rezoned as single-family residential as a precondition of the subdivision approval and/or that the subdivision plat state on its face that the three new lots are restricted to single-family residential use as a condition of subdivision approval.
3. Email received October 1, 2015 from Richard Hanewinkel, 1025 Scarborough Avenue Extended, was in support of the Mr. Truitt's request to rezone his property to residential.
4. Email received October 7, 2015 from Lester T. Kelley, 1001 Scarborough Avenue Extended, was in support of having commercially zoned Lot Nos. 28 & 30 converted for residential use.
5. Email received October 7, 2015 from Carl G. Pierce, 1005 Scarborough Avenue Extended, was in support of the subdivision plan to create three lots fronting on Scarborough Avenue Extended, and he would like to see the commercially-zoned corner lot be developed into residential use.
6. Letter dated October 9, 2015 from Jon C. Worthington, 1008 Scarborough Avenue Extended, stated that he would like to see the commercially-zoned corner lot be developed into residential use. He supports the plan to create three lots fronting on Scarborough Avenue.
7. Email received October 9, 2015 from Martha L. Cochran, 1004 Scarborough Avenue Extended, supported the proposal to create three lots fronting on Scarborough Avenue Extended.

Public Comment:

1. Ms. Libby Stiff, 1007 Scarborough Avenue Extended, was in support of the subdivision.

Chairman Mellen closed the public portion of the hearing.

After a lengthy discussion, there was consensus of the Planning Commission that a buffer zone and screening would be required between the residential and commercial lots. The Planning Commission would approve the minor subdivision with the condition that the screening would be put in place on Lot Nos. 3 & 4 in accordance with Section 270-26(B). The buffer zone and screening would need to be enforced prior to the sale of any of the lots.

Mrs. Jan Konesey made a motion, seconded by Mr. Mike Strange, to approve the minor subdivision with the condition that a buffer be created in accordance with Section 270-26(B) and to be completed within nine months.

In Section 270-72, the height of the fence or screen shall not be more than 3.5 feet.

Chairman Mellen read the Resolution. The minor subdivision shall be conditionally granted on the condition that a proper code (Section 270-26(B)) defined buffer (screen) shall be installed based upon best/appropriate planting time, not to exceed six (6) months from the adoption of this Resolution.

(Patterson – aye, Shulman – aye, Lussier – aye, Strange – aye, Mellen – aye, Markert – aye, Konesey – aye, Hubbard – aye, Wilson - aye.) Motion carried unanimously.

Mrs. Konesey made a motion, seconded by Mr. Strange to amend the Resolution that the minor subdivision shall be conditionally granted on the condition that a proper code (Section 270-26(B)) defined buffer (screen) shall be installed based upon best/appropriate planting time, not to exceed six (6) months from the adoption of this Resolution. This condition of approval shall not prevent the lots created from being marketed for sale or placed under contract for sale as prescribed by Section 236-5(A) of the Code. Motion carried unanimously.

NEW BUSINESS

There was none.

OTHER BUSINESS

The Planning Commission congratulated Ms. Ann Womack, City Secretary, on her accomplishment of being awarded the 2015 Municipal Clerk of the Year on September 24, 2015 at the Delaware League of Local Governments dinner meeting.

Review and discuss the updated summary draft prepared by Kyle Gulbranson (AECOM) concerning documentation of the required 5-year update of the Comprehensive Development Plan (CDP).

The revised letter and updated summary draft were distributed to the Planning Commission prior to the meeting. A copy of the letter and summary draft have been forwarded to Mayor Cooper for his review.

Changes to the summary report of the CDP to be sent to Ms. Dorothy Morris are:

1. Page 3, fourth bullet. Change "...pedestrian and bicyclist community by the following: Adoption a pedestrian..." to "...pedestrian and bicyclist community by implementing the following: Adoption of a pedestrian..."
2. Page 3, fifth bullet. Change "[T]he report led to community awareness that pollution was coming not from areas adjacent to the basin but also areas further out. In October 2012 the Report was reviewed went through..." to "[T]he report led to community awareness that pollution was coming not only from areas adjacent to the basin but also areas further out. In October 2012 the Report was reviewed through..."
3. Page 4, third bullet. Change "[A]s of this date the zoning ordinance has been suspended..." to "[A]s of this date the zoning ordinance revisions have been suspended..."
4. Page 5, first paragraph. Change "[T]he discussion have focused around the fact that many of these homes are very large and are not primarily 'second homes' used as personal residences by individual owners for a substantial per of the year..." to "[T]he discussions have focused around the fact that many of these homes are very large and are not primarily used as personal residences by individual owners or renters, nor even as 'second homes' for a substantial part of the year..."

Ms. Joyce Lussier made a motion, seconded by Mrs. Konesey, to approve the Comprehensive Development Plan update with the revisions from October 9, 2015. Motion carried unanimously.

Discuss analysis prepared by Brian Patterson concerning "Non-Conforming Property Issues".

Mr. Brian Patterson provided his presentation on the issue of non-conformities. He had reviewed the Code and looked at the issue with the definition of conformity and non-conformity as it relates to properties. An illustration was provided of seven lots of various sizes between two City streets which are non-conforming. When referring to non-conformity under the Zoning Code, the Planning Commission can partition a lot if it meets the requirements of the Zoning Code. If a lot is legally non-conforming, the Planning Commission can partition it. Some of the lots in the illustration could not meet that criteria of being legally non-conforming.

Mr. Shulman thought that a non-conforming commercial use cannot be extended, but a non-conforming structure can be extended as long as new zoning laws are not violated. A subdivision cannot be denied because there is adverse impact under Chapter 236.

Chairman Mellen said that there is a difference between subdivision and dealing only with the property that has non-conforming aspects of the lot vs. non-conforming aspects of either what is on the lot or the use of the lot.

After a lengthy discussion, Chairman Mellen noted that this item would be placed on a future agenda.

Building Inspector's Report

Building Inspector Molina has been working with the representatives from the Beach Walk (Bay Mart) Project. He has summarized in a letter to them all the issues relative to each of the departments. A meeting had been scheduled with the City Engineer, Mr. Bob Stenger, Wastewater Department and Pennoni Associates to discuss the capacity of the Newbold pumping station. Mr. Stenger has noted that those issues have been addressed. The Fire Department's comment still need to be addressed.

City Solicitor's Report

There was nothing to report.

No new subdivision applications have been submitted to date.

The next scheduled Regular Meeting will be held on November 13, 2015 at 3:00 p.m.

There being no further business, Mrs. Konesey made a motion, seconded by Mr. Strange, to adjourn the meeting at 5:36 p.m.

RECORDED BY

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
APRIL 8, 2016**

(Francis Markert, Secretary)