

**PLANNING COMMISSION MEETING
CITY OF REHOBOTH BEACH**

April 10, 2015

The Regular Meeting of the Planning Commission of the City of Rehoboth Beach was called to order at 6:33 p.m. by Chairman David Mellen on Friday, April 10, 2015 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Mr. Francis Markert called the roll:

Present:	Mr. Harvey Shulman Mr. Paull Hubbard Ms. Joyce Lussier Chairman David Mellen Mr. Francis Markert, Jr. Mrs. Jan Konesey Ms. Lynn Wilson
Absent:	Mr. Brian Patterson Mr. Michael Strange
Also Present:	Mr. Glenn Mandalas, City Solicitor Ms. Terri Sullivan, Chief Building Inspector

A quorum was present.

VERIFICATION OF MEETING NOTICE

Ms. Ann Womack, City Secretary, has verified that the Agenda was posted at City Hall, Building and Licensing Department and on the City website on April 2, 2015. The Agenda was faxed to Cape Gazette, Coast Press and Delaware State News on April 2, 2015. An E-News blast was sent out on April 2, 2015. The Public Notice for Public Hearing of the Partitioning Application No. 0115-01 was posted at City Hall, Building and Licensing Department and on the City website on March 19, 2015. The Public Notice was advertised in the Cape Gazette on March 24, 2015 and March 27, 2015, Coast Press on April 1, 2015 and Delaware State News on March 25, 2015 and March 26, 2015. A mailing of the Public Notice to property owners was sent out, and signage was posted on the property.

APPROVAL OF MINUTES

Minutes of the August 8, 2014, September 12, 2014, October 31, 2014 and March 13, 2015 Planning Commission Regular Meetings were distributed prior to the meeting. Minutes of the January 9, 2015 Planning Commission Regular Meeting were not available for approval.

Ms. Lynn Wilson made a motion, seconded by Mr. Paull Hubbard, to approve the August 8, 2014 Planning Commission Regular Meeting minutes as written. (Shulman – abstain, Hubbard – aye, Lussier – abstain, Mellen – aye, Markert – aye, Konesey – aye, Wilson – aye.) Motion carried.

Mr. Francis Markert made a motion, seconded by Mr. Hubbard, to approve the September 12, 2014 Planning Commission Regular Meeting minutes as written. (Shulman – aye, Hubbard – aye, Lussier – aye, Mellen – abstain, Markert – aye, Konesey – abstain, Wilson – aye.) Motion carried.

Mr. Markert made a motion, seconded by Ms. Wilson, to approve the October 31, 2014 Planning Commission Regular Meeting minutes as written. (Shulman – aye, Hubbard – aye, Lussier – aye, Mellen – aye, Markert – aye, Konesey – aye, Wilson – aye.) Motion carried unanimously.

Mr. Markert made a motion, seconded by Mrs. Jan Konesey, to approve the March 13, 2015 Planning Commission Regular Meeting minutes as written. (Shulman – aye, Hubbard – aye, Lussier – aye, Mellen – aye, Markert – aye, Konesey – aye, Wilson – abstain.) Motion carried.

Minutes of the January 9, 2015 Planning Commission Regular Meeting were not available for approval.

CORRESPONDENCE

1. Letter dated March 20, 2015 from Mable Granke, 1013 Scarborough Avenue Extended, noted that as the Planning Commission reviews the land-use plan, what is happening outside the City's boundaries and the impact could have, needs to be studied. It is most important that the Planning Commission review the proposed commercial venture called Overbrook Town Center. A public hearing before Sussex County Planning Board is scheduled in April 2015. The size of this development proposes a problem for the City from the standpoint of significant economic impact for year-round residents and visitors. The projected increase in traffic along the Route 1 corridor should be a concern. The Overbrook proposal should be placed on the Planning Commission agenda.
2. Email dated April 10, 2015 from Harry & Kathryn Nothacker, 219 Hickman Street, noted that the noise issues associated with pools and the many problems associated with mega-houses will not improve unless workable and enforceable ordinances are passed. Antagonism among neighbors will grow with each new house, and the environment will suffer. They support extending the moratorium until there are workable and enforceable ordinances.
3. Letter dated April 2, 2015 from Mayor Cooper, requesting the Planning Commission to review the proposed rezoning request of a property located at 300 Bayard Avenue from R-1 to R-2 and forward its recommendation to the Board of Commissioners.

Chairman Mellen noted that the proposed rezoning request will be placed on a future agenda for discussion.

OLD BUSINESS

Chairman Mellen called for the Public Hearing of Partitioning Application 0115-01 for the property located at 101 & 105 Columbia Avenue consisting of the westerly portion of Lot No. 75 and Lot Nos. 77, 79 & 81, Block Columbia, into two (2) lots with the westerly portion of Lot No. 75, Lot No. 77 and the easterly portion of Lot No. 79 becoming one (1) lot of 10,000 square feet, and the westerly portion of Lot No. 79 and Lot No. 81 becoming one (1) lot of 7,500 square feet. The Partitioning has been requested by Vincent G. Robertson, Esq. on behalf of Katherine Ahearn of the Northern Trust Company and Trustee of the Carol L. Hastings Revocable Trust, owner of the property. Chairman Mellen provided the Public Hearing procedures. The Preliminary Review was entered into the record.

Building Inspector Terri Sullivan gave her report with exhibits.

Exhibit A – Application packet which includes:

1. Application
2. (2) Planning Commission Affidavits
3. Photographs
 - a. 101 Columbia Avenue from across Columbia Avenue
 - b. Property to the east of 101 Columbia Avenue
 - c. Western side of 101 Columbia Avenue
 - d. 105 Columbia Avenue from across Columbia Avenue
 - e. Eastern side of 105 Columbia Avenue
 - f. Western side of 105 Columbia Avenue
 - g. Across Columbia Avenue from 105 Columbia Avenue
 - h. Across Columbia Avenue from 105 Columbia Avenue
 - i. Across Columbia Avenue from 101 Columbia Avenue
 - j. Across Columbia Avenue from 101 Columbia Avenue
 - k. Across Columbia Avenue from 101 Columbia Avenue
 - l. Across Columbia Avenue (eastward) from 101 Columbia Avenue
 - m. Rear yard of 101 Columbia Avenue
 - n. Rear yard of 101 Columbia Avenue (including portion of garage)
 - o. Rear yard of 101 Columbia Avenue between garage and accessory structure
 - p. Rear yard of 105 Columbia Avenue
 - q. Rear yard of 105 Columbia Avenue
 - r. Rear yard of 105 Columbia Avenue (looking northwest)
4. Boundary Survey & Partitioning Plan
5. Tree Survey
6. Deed for Lot No. 77 and the westerly portion of Lot No. 75
7. Deed for Lot Nos. 79 & 81
8. Boundary Survey & Partitioning Plan, revised March 18, 2015

The owner wishes to partition a portion of Lot No. 75, all of Lot Nos. 77, 79 & 81 into two lots with Lot No. 81 and part of Lot No. 79 becoming one lot known as 105 Columbia Avenue and consisting of 7,500 square feet and part of Lot No. 75, all of Lot No. 77 and part of Lot No. 79 becoming one lot known as 101 Columbia Avenue and consisting of 10,000 square feet. All structures are to be retained. Changing the lot line will make the lot more conforming as 101 Columbia Avenue currently has two dwellings on a 7,500 square foot lot, and the Code requires 5,000 square feet per dwelling. Currently, there are 26 trees located on the property, and no trees are being proposed to be removed. Thirteen trees will be on 101 Columbia Avenue, and thirteen trees will be on 105 Columbia Avenue. Based on the survey submitted, both proposed lots can fully contain a 4,000 square foot rectangle. Both proposed lots have a lot size of at least 5,000 square feet and have at least 50 feet of frontage on a street. The revised survey shows the side yard setbacks for Lot No. 81 and a portion of Lot No. 79. The minimum side yard setback is 6.3 feet, and the aggregate total is 20.3 feet.

Mr. Vincent G. Robertson, Esq. of the law firm Griffin & Robertson P.A., represented the owners of the property who were not in attendance at the meeting. Copies of an updated survey had been forwarded to the Planning Commission prior to the meeting.

There was no correspondence and no public comment.

City Solicitor Glenn Mandalas read the resolution to grant final approval. No written or oral comment was received prior to or during the April 10, 2015 Public Hearing. The Partitioning Application shall be and is hereby granted. Adoption of the Resolution shall constitute final approval. Subdivision of the property shall be in accordance with the final plat plan prepared by Wingate & Eschenbach LLC for Carol L. Hastings, dated September 22, 2014, with revisions dated March 18, 2015. A final plat shall be filed by the Applicant with the office of the Recorder of Deeds in and for Sussex County within 90 days from the date of this final approval. A copy of the recorded final plat shall be provided to the Planning Commission, the Board of Assessment, the Building Inspector and the City Manager. If the final plat is not filed within this period, the approval shall expire, except that the Planning Commission for good cause shown may extend the time for final plat filing for a period not to exceed 90 days. The Resolution shall take effect immediately upon its adoption by a positive vote of the members of the Planning Commission.

Mr. Harvey Shulman made a motion, seconded by Mrs. Konesey, to adopt the Resolution to grant final approval of Partitioning Application No. 0115-01 after a change is made that no public comment was received prior to or during the April 10, 2015 Public Hearing. Motion carried unanimously.

NEW BUSINESS

There was none.

OTHER BUSINESS

Chairman Mellen called to continue to discuss plans and timeline for review and documentation of the required 5-year update of the Comprehensive Development Plan (CDP).

Chairman Mellen has added State Planning Office Suggested Topics – Evaluation of impact of rising sea level and Interaction With Surrounding Communities – Impact of proposed shopping mall developments in the County/Lewes on Rehoboth Beach and concerns of economic impact and infrastructure (traffic) to the items on the spreadsheet regarding the update of the CDP. Currently, the City Commissioners are dealing with issues related to large houses, FAR, possibly extending the moratorium on swimming pools, etc. Chairman Mellen has not included these issues in the spreadsheet at the present time because the City Commissioners need to go through that process. These issues may be added at a later date. Chairman Mellen has sensed that the expectation of the scope of what the Planning Commission should/should not do is changing. The Planning Commission members will have to recognize what those responsibilities are, and the City Commissioners have to have that same expectation of what the Planning Commission's responsibility is.

Mrs. Konesey noted that the City has done nothing to coordinate with Dewey, Henlopen Acres and Lewes on anything that gets built on Route 1. Ms. Joyce Lussier suggested that there should be one or two people from each municipality to meet once per month or once every six months for discussion regarding issues and concerns with growth, economic impact and infrastructure.

Discussion ensued regarding the process for updating the CDP.

Mr. Shulman suggested that there may be one or two items which would be fairly immediate that the Board of Commissioners is not dealing with that the Planning Commission members make a priority to discuss

because it is possible to have an impact and get something moving that does not collide with the Board of Commissioners. He suggested that Chairman Mellen should contact the heads of the Planning Commissions for Lewes, Dewey, Bethany, Henlopen Acres, North Shores and Fenwick Island and see if they would be interested in a joint meeting of all the Planning Commissions sometime in the next month or two where the meeting would be chaired by the Chairs of the Planning Commissions and the members would be in attendance. The meeting would need to be noticed, and the agenda items may be to 1. Institutionalize a process such as a meeting every three months of two people from each Planning Commission and an annual meeting of the assembly of beach resort Planning Commission members. 2. Discuss if there is anything for all Planning Commissions that is fairly immediate that they feel the group should work on either through the chairs or a smaller committee. It would be dilutive of the first or second meeting for Sussex County to be involved.

City Solicitor Mandalas noted that Sussex County does not have a keen sense of the issues that drive the coastal communities. At some point, it might have value in involving Sussex County so it gets a better sense of the issues that are important to the coastal communities.

Chairman Mellen will try to contact the other communities to see what the feeling is about getting a meeting together. With regard to the spreadsheet for updating the CDP, he would like to remove things from it that do not need discussion and provide a status update in order to document it for the State. Then an addendum can be written of the status of the CDP. The members should identify the three or four items to have discussions on so that a point of view can be brought together and written. Chairman Mellen will notify the members of a future CDP workshop meeting on a Friday or a weekend. He will be forwarding a list of the items on the spreadsheet that can be currently documented for the State.

Chairman Mellen called for discussion of potential use of external City planning resources to help in a "Master Plan" design.

Chairman Mellen has contacted Mr. Jim Ellison who will be contacting the University of Maryland to examine what the process might be which is similar to the AIA Regional/Urban Design Assistance Team Program process. It is related to a way of developing a Master Plan for the downtown area. In the future, a proposal and recommendation would be developed by the Planning Commission to be forwarded to the Board of Commissioners for its review.

Chairman Mellen called for the Building Inspector's Report.

Building Inspector Sullivan noted that Avenue Inn's building permit will be issued the beginning of next week.

Chairman Mellen called for the City Solicitor's Report.

There was nothing to report.

Chairman Mellen called for possible agenda items for the May 8, 2015 Regular Meeting.

An agenda item will be the discussion of the possible rezoning of 300 Bayard Avenue.

Chairman Mellen called for the report, discussion and possible action concerning those activities or actions taken at Regular or Workshop Meetings of the Mayor and Commissioners that directly relate to the Planning Commission.

City Solicitor Mandalas noted that the Board of Commissioners is considering a series of zoning amendments to downsize homes on April 13, 2015. The amendments would also deal with lot coverage, setbacks, natural area, FAR, etc. The City Commissioners will be discussing in the near future the topic of rentals and limiting occupancy. A Public Hearing will be held on April 17, 2015 regarding merger.

Mr. Shulman suggested that Chairman Mellen write a letter to the Board of Commissioners saying that the Planning Commission members were polled at their meeting and that they unanimously opposed the proposal regarding merger/un-merger. The Board of Commissioners should know that the members of the Planning Commission unanimously do not support the current proposal. What is happening by this proposal is elimination of something that is legally in the Code which has been implemented a certain way for more than 40 years. The public's ability to participate in minimizing adverse impact has been eliminated, and there will be no consideration of adverse impact.

Chairman Mellen said it did not appear to him that there was any sensitivity on the part of the decision to do what the Commissioners are doing. There is the potential when something is un-merged that the

nature of the streetscape and the adjoining community may have changed. The City Commissioners have avoided the ability to let the public participate and comment.

Mr. Shulman made a motion, seconded by Mrs. Konesey, that in conjunction with the Planning Commission's review of updating the CDP and in accordance with the Planning Commission's prior submissions to the Mayor & Commissioners on the merger issue as something that should be clarified for CDP purposes, the Planning Commission opposes the current proposal before the Mayor & Commissioners regarding un-merger of lots because it removes the public's ability to participate in a subdivision process that could minimize adverse impact on adjoining properties. Motion carried unanimously.

Chairman Mellen will forward a letter to the Board of Commissioners to be included in the record at the April 17, 2015 Public Hearing on merger/un-merger.

No new applications have been timely submitted.

The next scheduled Regular Meeting will be held on May 8, 2015.

There being no further business, Mrs. Jan Konesey made a motion, seconded by Mr. Harvey Shulman, to adjourn the meeting at 8:19 p.m.

RECORDED BY

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
SEPTEMBER 11, 2015**

(Michael Strange, Acting Secretary)