

**PLANNING COMMISSION MEETING
CITY OF REHOBOTH BEACH**

September 11, 2015

The Regular Meeting of the Planning Commission of the City of Rehoboth Beach was called to order at 6:31 p.m. by Chairman David Mellen on Friday, September 11, 2015 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Mr. Michael Strange called the roll:

Present: Mr. Brian Patterson
 Mr. Harvey Shulman
 Mr. Joyce Lussier (left the meeting at 8:56 p.m. and returned at 9:02 p.m.)
 Mr. Michael Strange
 Chairman David Mellen
 Mrs. Jan Konesey
 Mr. Paull Hubbard
 Ms. Lynn Wilson

Absent: Mr. Francis Markert, Jr.

Also Present: Mr. Glenn Mandalas, City Solicitor
 Mr. Damalier Molina, Chief Building Inspector
 Mr. George Bendler, planning consultant of AECOM

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 September 2, 2015. The Agenda was faxed to Cape Gazette, Coast Press and Delaware State News on September 2, 2015. An E-News blast was sent out on September 2, 2015. The Public Notice for Preliminary Review 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 August 17, 2015. The Public Notice was advertised in the Cape Gazette on August 21, 2015 and August 25, 2015, Coast Press on August 26, 2015 and September 2, 2015 and Delaware State News on August 26, 2015 and August 27, 2015. Notification to property owners within 200 feet was mailed out and signage was posted on the property.

APPROVAL OF MINUTES

Minutes of the January 9, 2015 and April 10, 2015 Planning Commission Regular Meetings were distributed prior to the meeting. Minutes of the May 8, 2015 and June 12, 2015 Planning Commission Workshop Meetings were not available for approval.

Mrs. Jan Konesey made a motion, seconded by Ms. Lynn Wilson, to approve the January 9, 2015 and April 10, 2015 Planning Commission Regular Meeting and May 8, 2015 and June 12, 2015 Planning Commission Workshop Meeting minutes as written. Motion carried unanimously.

Chairman Mellen verified that only the January 9, 2015 and April 10, 2015 Planning Commission Regular Meeting minutes were approved.

CORRESPONDENCE

Correspondence will be read into the record when the Preliminary Review portion of the meeting is held.

INTRODUCTION of Damalier (Dam) Molina, the City's newly appointed Chief Building Inspector.

Chief Building Inspector Damalier Molina provided a brief history of his background prior to employment with the City.

OLD BUSINESS

There was none.

NEW BUSINESS

Preliminary Review 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 Preliminary Review 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. 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 (A-L, O-S) 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 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. The house located on Lot No. 30 will remain. Currently, Lot No. 28 Scarborough Avenue Extended has always been vacant. More than 30 lots are located on Scarborough Avenue Extended from Coastal Highway to Silver Lake, and they are zoned residential. The lot to the northeast of the subject property is not part of the request and is zoned residential. Lot Nos. 28 & 30 Scarborough Avenue Extended are zoned C-3 commercial. The intent is for proposed Lot Nos. 1, 2 & 3 to be residential, and they are proposed to front on Scarborough Avenue Extended. Residential structures will be built on the commercial lots. He did not think that deed restrictions are needed. The determination of the setbacks, trees, curb cuts, etc. would occur when someone would apply for a building permit. Mr. Truitt's intent is to not seek a zoning change. His intent is to sell the lots to a builder or individuals to build single family houses.

City Solicitor Mandalas said that with regard to the City's Zoning Code, there are Tier 1, Tier 2 and Tier 3 in the commercial district. Depending on what is being built, it would fall under one of those tiers. Each tier has different setback requirements and other bulk standard requirements that would look more like the zoning requirements of the residential zoning district. The tier structure in the Zoning Code was implemented in approximately 2006 or 2007 and is currently in place.

Mr. Shulman said that there are special zoning rules that apply with regard to lots that have a commercial lot on one side and a residential lot on another side, i.e. natural screening. He suggested that Mr. Truitt look at the Code to see what the limitations are regarding what can be done on these lots.

Dependent upon how the lots are sold, it may be necessary to go through a site plan review if one developer would build on all three lots. Possible deed restrictions could be part of the approval. A driveway runs from Scarborough Avenue Extended through the lot at 1026 Scarborough Avenue Extended, runs through Lot No. 30 and comes out on Coastal Highway. This raises a question of merger and what will happen to that driveway.

Mr. Truitt noted that this driveway is used as a convenience. He may live at 1026 Scarborough Avenue, and at that time the road would be closed off. Access to proposed Lot No. 4 would be from Coastal Highway. In an email from DeDOT, the pre-existing driveway would remain and would continue to provide access to the structures on proposed Lot No. 4. The garage and driveway were existing before 1968.

Correspondence:

1. Letter received September 9, 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.

Public Comment:

1. Mr. Frank Cooper, 96 East Lake Drive, commented that the existing lot could be a commercial venture with a drive-thru if this subdivision is not acted upon quickly. With regard to the garage, a setback is not required in commercial, and it does not need to be grandfathered because it is currently compliant. He would like to see restrictions on this property if it becomes a R-1 residential property.
2. Mr. Peter Emmanuel, 1037 Scarborough Square, commented that while he appreciated the intent to keep it residential, restrictions may be a good idea because the Forgotten Mile is becoming a commercial attraction.

Chairman Mellen closed the public portion of the hearing.

City Solicitor Mandalas read the Resolution of the Planning Commission concerning the Preliminary Review for the property located at 1028 & 1030 Scarborough Avenue Extended. (Copy attached.)

Mrs. Konesey made a motion, seconded by Mr. Mike Strange, that the Minor Subdivision Application No. 0815-02 is substantially complete and accurate, such that the Applicant may proceed forward to a public hearing on the Application and action by the Planning Commission pursuant to §246-8.1.

Chairman Mellen suggested that Mr. Truitt should think about the issues which have been raised in terms of how to better protect the intent of the subdivision as residential.

Mr. Shulman noted that the provision in the Code needs to be identified which relates to required plantings such as a buffer because that could mean in creating proposed Lot No. 4 to comply with the current code, Mr. Truitt may need to plant a buffer across the driveway.

Motion carried unanimously.

OTHER BUSINESS

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

Approximately one year ago the Planning Commission started the review of the CDP. A spreadsheet was formulated to look at the action items that have been described in the CDP. All members of the Planning Commission had interviewed various people in the City to see what the current status was for various items. Priorities were established which evolved into a spreadsheet. The spreadsheet was forwarded to Mr. Gulbranson for him to develop the report for the State. The Planning Commission decided that in its report to the State, it should state what the status of the CDP is and provide comments related to the current state of affairs. The letter and report would be shared with the City Commissioners before forwarding it to the State. Ms. Dorothy Morris of Office of State Planning Coordination has stated that the letter and report regarding the CDP can be forwarded by the Planning Commission.

Mr. George Bendler of AECOM noted that a status report of the CDP will be forwarded to the State of Delaware. Ms. Dorothy Morris has seen the draft and is happy with it. The cover letter explains the legal ramifications of the status update. A detailed summary report has been developed and will also be provided to the State.

Dr. Preston Littleton commented that this is a communication piece to the Commissioners and the public to educate and bring people up-to-date in the community.

A change to the letter to be sent to Ms. Dorothy Morris of the Office of State Planning Coordination regarding the status update of the CDP is:

1. First paragraph, second sentence. Change §702b to §702e.

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

1. Page 2, Completed Implementation Tasks. Clarification is needed between the Board of Commissioners and the Planning Commission.
2. Page 2, first paragraph. Change “[T]he Planning Commission immediately started...” to “[T]he Board of City Commissioners and Planning Commission immediately started...”
3. Page 3, first bullet. Change “[I]n 2010 the official Zoning Map was adopted...” to “[I]n 2010 the official Zoning Map was adopted by the Board of Commissioners...”
4. Page 3, second bullet. Change “[T]he Board of Commissioners has not yet acted on the Tree Ordinance rewrite” to “[T]he Board of Commissioners has not yet acted on the tree ordinance rewrite while it considers other zoning changes which could affect the Tree Ordinance.”
5. Page 3, third bullet. Change “...160 trees in parks and along street as a way to enhance the ‘walkability’ of the City” to “...160 trees in parks and along streets as a way to enhance the ‘aesthetics’ of the City.”
6. Page 3, fourth bullet. Add “[T]he City has been active in creating a friendlier pedestrian and bicyclist community by the following: Adoption of a pedestrian and bicycle plan., Wayfinding/informational signs have been added throughout the City, Additional bike racks have been added throughout the City, and Additional ADA curb-cuts have been added throughout the City.”
7. Page 3, fifth bullet. Change “[T]he Planning Commission completed a Rehoboth’s Lakes Report in 2012” to “[A]t the request of the Board of Commissioners, the Planning Commission completed a Rehoboth’s Lakes Report in 2012.
8. Page 3, fifth bullet. Add “[T]he report led to community awareness that pollution was coming not from areas adjacent to the basin but also areas further out.”
9. Page 3, fifth bullet. Change “[I]n October 2012 the Report went through the PLUS process, but has not been acted on since” to “[I]n October 2012 the Report was reviewed and went through the PLUS process,. The Report has not been formally adopted however, the data from the Report has led to the creation of a 10 foot buffer around the Lake.”
10. Page 4, third bullet. Add “[A]s of this date the zoning ordinance revisions have been suspended and will now be voted on through referendum.”
11. Page 4, first bullet under “There are several Action Items that can be classified as ‘still being discussed’”. Change “...redevelopment and streetscape improvements of Wilmington and Baltimore Avenues and First Street which continues to be a top priority” to “... redevelopment and streetscape improvements of Wilmington and Baltimore Avenues and First Street which continues to be a critical issue.”
12. Page 4, second bullet. Add “[T]he Board of Commissioners and the Planning Commission have been working on implementing and refining the site plan process. A recent large scale project proved the success of this refinement however, the process also highlighted the need to continue to refine the procedure for future large scale projects. During this process it was also realized that changes made to the zoning code could yield the quality of development desired by the City.”
13. Page 4, add third bullet. Change “[A]lso being discussed is ways to solve traffic congestion with ideas such as the joint venture of a Rehoboth-Lewes water taxi, and establishing a Canal Park” to “[A]lways a major topic the City continues to discuss and review options for traffic management and determine options for the built-out City. The City desires to work with Sussex County, DelDOT and State Planning on viable solutions.”
14. Page 4, first bullet under “All these topics have been debated ...” Change “[A]nother Action Item still being talk through are the issues related to the numerous vacation rentals found throughout the City. The City Commissioners have already had several discussions regarding vacation rentals and are currently drafting a vacation rental ordinance” to “A major topic of discussion has been the increase in large multi-bedroom homes being built, or ‘mini hotels’ as they have been referred to, which are changing the City’s character and residential neighborhoods and which are straining the City’s services.”
15. Page 5, first paragraph. Change “[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,

- not even as ‘second homes’ for a substantial part of the year, typically the summer” to “The discussions have focused around the fact that many of these larger homes are not primarily second homes used as residences by their individual owners for a substantial part of the year, but instead are often investor homes or entity owned property operated for profit and offered for rent throughout the year along with associated services such as maid services, pools, etc., as weekly vacation rentals.”
16. Page 5, first bullet. Add “[A] milestone for this is the State of Delaware determining that the owner of Silver Lake is the State of Delaware.”
 17. Page 5, second bullet. Add “[T]he City desires to develop strong standards for sidewalks and possibly require inspections for sidewalks.”
 18. Page 5, third bullet. Change “...bike map showing safe bike routes throughout the City...” to “...bike map showing recommended bike routes throughout the City...”
 19. Page 6 first bullet under “Implementation Tasks...” Change “[A]ction items that have been dealt with on an as needed basis include capital improvements” to “[A]n action item that, more often than not, has been dealt with on an as needed basis is Capital Improvements. This needs to be an on-going task and instituted as a Long Range Plan.”
 20. Page 6, second bullet. Change “and traffic management” to “[T]raffic Management dealing with both the quantity of vehicles, their flow through the City and improved access to parking should be a major effort. Dealing with the large quantity of vehicles, especially during the vacation season, seems to be a matter of accepting and tolerating the resulting problems, rather than developing a plan to manage the problem.”
 21. Page 6, third bullet. Change “[A]dditional planning and/or reports should be drafted for both of these items” to “[T]he City would also like to look into developing a long range plan for the City’s parks and their use for recreation.”
 22. Page 6, first bullet under “Action items have yet to be started...” Change “...to ensure the County is aware of the impacts new development will have on the City...” to “...ensure the County is aware of the impacts new development in the County will have on the City...”
 23. Page 6, first bullet. Change “[T]he City hopes to work with other coastal communities on this topic” to “[T]he City should, with other Regional Coastal Communities, engage in a combined effort to make sure that these common concerns are properly addressed. Development of a Regional Planning Council to address such common issues should be explored.”
 24. Page 6, second to last paragraph. Change “[T]he Commissioners continue to see all the items as important...” to “[T]he Commissioners should continue to see all of these items as important...”
 25. Page 7, first bullet. Change “[o]ngoing implementation task section” to “[A] continuing topic of discussion has been the increase in large multi-bedroom homes being built or ‘mini hotels’ as they have been referred to as, which are placing a strain on the City’s services and the City’s character and residential neighborhoods as discussed previously in the ongoing implementation task section.”
 26. Page 7, second bullet. Delete “[T]he main continuing topic of discussion...” in its entirety.
 27. Page 7, third bullet. Add “[R]ecent news from DelDOT suggests that DelDOT will develop statewide regulations for the enforcement of drones. The should work with DelDOT to ensure their needs are being addressed.”
 28. Page 8, second bullet. Add “[T]he City is facing increasing legal challenges and lawsuits that affects the progress of the City and daily operations. The City desires to review how to reduce these legal challenges to continue to effectively run the City.”
 29. Page 8, third bullet. Change “[A]nother item of concern is the ever increasing popularity of Rehoboth Beach and the financial impacts it’s having on the City. The City is at a tipping point as commerce is thriving at all-time highs from the summer influx of tourism from hotels, restaurants, house rentals to boardwalk attractions, and it is private business that are reaping the benefits of the City’s summer guests. As the hosts of these summer tourists, the City is not realizing the same financial benefits as the private sector. The return the City receives from the influx of visitors is minimal, while the City must ensure the health, safety and welfare of thousands of visitors annually and provide the needed infrastructure to serve them” to “[A]nother item of concern is the increase of population during the summer season and the financial impacts it’s having on the City. The City must provide services and infrastructure for these guests, however the financial return the City receives from the influx of visitors is questionable as it relates to the cost of providing these services. During the budgeting process the City should analyze the cost of providing services to the seasonal population vs. current sources of revenue received.

City Commissioner Toni Sharp mentioned that the summary is helpful. It is an opportunity to have a very good running commentary on things that effort has been put into and things that may need more. This is being

done in the spirit of the goals and objectives set forth in the CDP.

Mr. Shulman will redraft the report and forward the changes and his suggestions to Chairman Mellen and Mr. Bendler of AECOM by next September 16, 2015.

Discuss the analysis prepared by Brian Patterson concerning “Non-Conforming Property Issues”.

This item was deferred to the October meeting.

Building Inspector’s Report

Approximately one month ago, the representatives of Bay Mart submitted a project for condominiums, both individual and multiple homes, on its commercially zoned property. The former building inspector reviewed the documents and basically questioned many aspects of the project which would have precluded it coming to the Planning Commission. The representatives of Bay Mart challenged those positions. At that time, Chairman Mellen offered the Bay Mart representatives the opportunity to come before the Planning Commission for a sketch review, but they declined. Building Inspector Dam Molina met with the representatives and their attorney yesterday and today. As a result of yesterday’s meeting, Building & Licensing agreed to review the comments made by the former building inspector and the response made to those comments. Based on Article 7 of Section 236-30, which outlines the requirements, purpose and consideration, he also reviewed the procedures of the site plan review under Section 236-32 of the Code. The arguments which were made had validity on the extent that they were limited to zoning issues; however Section 236-30(F) will require clarity. Under Title 25 of the State Code, this project is a condominium. There are things in the design such as with the streets, sidewalks, etc. which the former building inspector took issue with. The Building Inspector cannot forward the plans to the Planning Commission until the representatives of the project present something to him that is compliant after his review. Once the Building Inspector blesses the project, it will come before the Planning Commission, and site plan review is initiated.

City Solicitor’s Report

There was nothing to report.

Possible agenda items for the October 9, 2015 Regular Meeting.

There were none.

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.

There was none.

No new applications have been timely submitted.

The next scheduled Regular Meeting will be held on October 9, 2015 at 3:00 p.m.

There being no further business, Mrs. Konesey made a motion, seconded by Ms. Paull Hubbard, to adjourn the meeting at 10:09 p.m.

RECORDED BY

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
APRIL 8, 2016**

(Francis Markert, Secretary)