

**PLANNING COMMISSION MEETING
CITY OF REHOBOTH BEACH**

December 12, 2014

The Regular Meeting of the Planning Commission of the City of Rehoboth Beach was called to order at 6:30 p.m. by Acting Chair David Mellen on Friday, December 12, 2014 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

Ms. Joyce Lussier was welcomed as a new member to the Planning Commission. Mr. Harvey Shulman and Ms. Lynn Wilson were reappointed to the Commission.

ROLL CALL

Mr. Francis Markert called the roll:

Present: Mr. Paul Hubbard
 Ms. Joyce Lussier
 Mr. David Mellen
 Mr. Francis Markert, Jr.
 Mrs. Jan Konesey
 Ms. Lynn Wilson
 Mr. Michael Strange

Absent: Mr. Brian Patterson
 Mr. Harvey Shulman

Also Present: Mr. Glenn Mandalas, City Solicitor
 Mr. Kyle Gulbranson, Planner

Also Absent: Ms. Terri Sullivan, Chief Building Inspector

A quorum was present.

VERIFICATION OF MEETING NOTICE

Ms. Ann Womack, City Secretary, verified that the Agenda was posted at City Hall and Building and Licensing Department on December 5, 2014. The Agenda was faxed to Cape Gazette, Coast Press and Delaware State News on December 5, 2014. The Public Notice for the Partitioning Application No. 1114-03 was posted at City Hall and Building and Licensing Department on November 25, 2014. The Public Notice was advertised in the Cape Gazette on November 25, 2014 and November 28, 2014, Coast Press on December 3, 2014 and Delaware State News on November 26, 2014 and November 27, 2014. A mailing to property owners for the Public Notice was sent out, and signage was posted on the property.

APPROVAL OF MINUTES

No Minutes were available for approval.

CORRESPONDENCE

There was none.

PRESENTATION by and discussion with Ms. Dorothy Morris, Delaware Office of State Planning Coordination (Sussex County "Circuit Rider") concerning State requirement and possible assistance in the five year review and update of the City's Comprehensive Development Plan (CDP) that was certified by the State on July 23, 2010.

Ms. Dorothy Morris of the Office of State Planning Coordination was in attendance at the meeting. The City of Rehoboth Beach is at its five year mark for review of the CDP which is a requirement by the State. The City is not required to make any changes to it. If the City chooses not to make any changes, a letter must be sent to her notifying her that no changes will be made. Ms. Morris' office would send a confirmation back to the City with the new date for updating the CDP. If the City chooses to make minor changes such as demographics, accomplished recommendations, etc., then this would be considered an amendment to the Plan. The certification date would not change. If the City chooses to do a complete update, the Plan would be reviewed through PLUS. The State agencies would review the Plan, and the City would be notified if there are changes to State law and regulations to be included in the Plan. The City would then update the Plan and send it back to the State for certification. Checklists were provided to the Planning Commission members of what the Office of State Planning Coordination

goes by when looking at the Plan for certification. As of today, everything on the checklist not marked draft is in the Plan. Everything that is required in the Plan is in the Plan at this point. The Office of State Planning Coordination is recommending that the City look at sea level rise and what the City would do to implement anything for that. A letter was sent to the City from DNREC regarding resiliency funds which are available. The Office of State Planning Coordination is available to look at the Plan anytime. Ms. Morris suggested that any minor changes in the Plan should be sent to her or Ms. Connie Holland.

OLD BUSINESS

There was none.

NEW BUSINESS

Acting Chair David Mellen called for the Preliminary Review of Partitioning Application No. 1114-03 for the property located at Lot Nos. 36 & 38 Surf Avenue, Block Surf, into two (2) lots with Lot No. 38, the northerly portion of Lot Nos. 37 and the northeasterly portion of Lot No. 2 becoming one (1) lot of 8,505 square feet, and the southerly portion of Lot No. 37, the easterly portion of Lot No. 36 and the southeasterly portion of Lot No. 2 becoming one (1) lot of 6,000 square feet. The Partitioning has been requested by Caren Euster Nelan, owner of the property. Acting Chair Mellen provided the Preliminary Review procedures.

City Solicitor Glenn Mandalas read the Building Inspector's Report with exhibits. Based on the surveys submitted, both proposed lots can fully contain a 4,000 square foot rectangle, have a lot size of at least 5,000 square feet and have 50 feet of frontage on a street. There are currently 13 trees located on the property per the Tree Plan, and no trees are proposed to be removed. There will be six trees on the proposed 36 Surf Avenue lot and seven trees on the proposed 38 Surf Avenue lot.

Ms. Caren Euster Nelan provided a brief history of the property. She decided to provide 60 feet of frontage on Surf Avenue for the corner lot. A driveway can be placed on the proposed lot facing Surf Avenue without removing any trees. Ms. Nelan will plant more trees on the proposed lots if the City requires it. Currently, there are no plans to build houses on the proposed lots. The shed is non-conforming. She had hoped to leave the shed in its place for now. There is no plumbing or electricity in the shed. The driveway for the corner lot will be off of Pennsylvania Avenue.

City Solicitor Mandalas noted that in the residential district, there needs to be 16 feet aggregate for the side yard setbacks with a minimum of six feet on one side. One of the structures is 5.9 feet from the property line, and the other is 4.1 feet from the property line. This is an existing non-conformity. The line between the two structures currently exists. The Planning Commission would not be creating the subdivision line so the non-conformity could remain. No new non-conformity could be created. A non-conformity will not be created for the shed because it will have enough footage in the setbacks. There is nothing requiring the demolishing of the shed since the new line would not be doing anything to the existing non-conformity other than leaving it as a non-conformity.

Acting Chair Mellen said because the shed is an existing non-conforming structure, it would continue to be a non-conforming structure. If a house would be built on the lot and it is separate from the shed, the shed would still be able to be located where it currently is located because it is pre-existing. If the shed would be incorporated with the house, then it would have to be moved.

Mrs. Jan Konesey disagreed. The Planning Commission would be creating two new lots, but it cannot create a new lot with a non-conforming structure on it. She has never seen the Planning Commission allow a non-conforming structure on a new lot. The structure has had to be removed in the past.

Acting Chair Mellen disagreed. At the Public Hearing, the Planning Commission can get further clarification and debate whether or not the shed needs to be removed. In the Code, the Building Inspector defines a non-conformity.

Ms. Nelan noted that with regard to D(1) of the Application, two lots will be created. In F(14), not applicable should be checked because no further division is possible due to lot size.

There was no correspondence and no public comment.

City Solicitor Mandalas read the resolution to adopt moving the Application to Public Hearing.

Mrs. Konesey made a motion, seconded by Mr. Michael Strange to move the Application forward to Public Hearing on January 9, 2015. Motion carried unanimously.

OTHER BUSINESS

Acting Chair Mellen called for the nomination and election of Planning Commission Officers. A survey of the members had been done by Dr. Preston Littleton prior to this meeting.

Mrs. Konesey of the Nominating Committee noted that from the survey, the members' recommendations were: Chair – Mr. David Mellen, Vice Chair – Mr. Michael Strange and Secretary – Mr. Francis Markert.

Mrs. Konesey made a motion, seconded by Mr. Paull Hubbard, to approve the entire slate of officers for 2014/15 as presented. Motion carried unanimously.

Chair Mellen called to discuss plans and timeline to review and complete the required 5-year update of the City's Comprehensive Development Plan.

Chair Mellen noted that of the current members, he, Mrs. Konesey and Mr. Harvey Shulman were part of the adoption of the current Plan. Chair Mellen provided a brief history of the process for the adoption of the current Plan. Mr. Bruce Galloway was the Planning Commission's consultant at that time. Mr. Kyle Gulbranson of URS Corporation will be providing help with this review and update. If the Planning Commission is to do something important at this time, it would be to comment on how to implement some of the goals in the CDP. The Planning Commission could be constructive in working with the City Commissioners in moving forward with these goals. The Planning Commission needs to discuss and strategize on what the process might be to get this going without weighing down on the City Commissioners' time. Chair Mellen suggested that on a month-by-month basis, the Planning Commission should deal with the Subdivision and Zoning Codes regarding small details.

Mrs. Konesey suggested that the Planning Commission should prioritize the goals in the current CDP. The Planning Commission needs to present changes in the Code to the City Commissioners for implementation.

Mr. Francis Markert noted that the Planning Commission should build into the Plan some degree of structure because there is merit to it.

Mr. Mike Strange noted that after a CDP or a portion thereof has been adopted by a municipality, the CDP shall have the force of law, and no development shall be permitted except as consistent with the Plan. Under the law, no municipality or county is supposed to receive State funding if they do not have a CDP. The CDP is an excellent document, but it is meaningless if what the Code says it is supposed to do is not followed in the first place. The real value of the CDP is participation. He would like to see a more active document and see the Planning Commission get into the strategy of it and put those things in context.

Chair Mellen suggested that the Planning Commission should go through the Plan and create a spreadsheet or checklist of what has been accomplished/not accomplished, etc.

City Solicitor Mandalas noted that if the Planning Commission will be appointing anyone to make a recommendation to it, the meetings will need to be noticed with minutes, etc. A work group would be considered a public body under FOIA. He read the definition of a public body. Two to three members of the Planning Commission can meet on their own and unannounced to look at issues and do some things.

Chair Mellen thought that the CDP this time is more of a review and a strategy to implement it. He thought that the timeline for completion in July 2015 is reasonable because it is thought that the strategy would be to summarize what has been accomplished/not accomplished in the Plan, then present things that are no longer relevant, and then file the update as an amendment which will not need to go through the PLUS process. Chair Mellen will present some recommendations to the Planning Commission at the next meeting.

Chair Mellen called to discuss and possibly make recommendations to the Board of Commissioners concerning a voluntary policy addressing the size of campaign signs, when and where such signs can be posted and when they should be removed. He noted that in the descriptions of signs in the Code, there is nothing written regarding political campaign signs.

City Solicitor Mandalas noted that a small section of the Code refers to litigation with regard to political signs and when the City can remove them.

Chair Mellen noted that this item will be deferred at this time.

Chair Mellen called for the Building Inspector's Report.

There was nothing to report.

Chair Mellen called for the City Solicitor's Report.

There was nothing to report.

Chair Mellen called to discuss possible agenda items for the January 9, 2015 Regular Meeting, and discuss and determine if, as in the past, the February Regular Meeting will need to be cancelled because of quorum concerns.

Chair Mellen noted that the City does not have an Ethics Code. He suggested that ethics training should be provided at the City level. This item will be placed on a future agenda. City Solicitor Mandalas has volunteered to give a presentation on this matter. A quorum will not be present for the Regular Meeting in February 2015.

Chair Mellen called to 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.

There was nothing to report, discuss or take possible action on.

Chair Mellen called for the report of any new applications that may have been timely submitted.

There were no new applications submitted.

The next schedule Regular Meeting will be held on January 9, 2015 at 6:30 p.m.

There being no further business, Mrs. Konesey made a motion, seconded by Ms. Lynn Wilson, to adjourn the meeting at 8:15 p.m.

RECORDED BY

(Ann M. Womack, City Secretary)

**MINUTES APPROVED ON
JANUARY 9, 2015**

(Francis Markert, Secretary)