

Meeting Minutes
Town of Dewey Beach Planning Commission Meeting
Meeting Date: December 6, 2014

Purpose. To discuss and vote on recommendations to the 2014 Annual Comprehensive Plan Progress Update; to discuss recommendations regarding changing how height is measured or regulated under specific circumstances for buildings in specific flood zones; and, to discuss recommendations regarding amendments to Chapter 1 General Provisions Article III Definitions of the Town Code.

Chair’s Meeting Summary and Comments.

1. Recommendations to the Town Commissioners on an annual update report on progress toward achieving the goals and objectives included in the 2007 Comprehensive Development Plan were discussed and approved by unanimous voice vote.
2. Consensus was reached on a proposal to regulate building height in special flood hazard areas by measuring from the effective FEMA base flood elevation plus Town mandatory freeboard elevation, permitting a maximum of 32’ of vertical building envelope for any remodeling or new construction and for substantial improvements, and permitting existing buildings which are substantially damaged to be elevated to the required base building elevation and rebuilt to the pre-existing building envelope (i.e., what was there prior to the substantial damage). The Planning Commission will hold a public hearing on a draft ordinance to this effect at its January meeting and possibly vote on a recommendation to the Town Commissioners.
3. A full discussion of possible amendments to Chapter 1. General Provisions Article III. Definitions was held, resulting in consensus on a number of changes to this Chapter and others in the Town Code. A full set of possible amendments will be reviewed at the January meeting.

Opening. The meeting was called to order by Chair David King (1:00 pm), followed by the Pledge of Allegiance and roll call. All Planning Commission members were present: Jim Dedes, Don Gritti, Mike Harmer, Chuck McKinney, Mike Paraskewich, and Marty Seitz. Also in attendance were Town Manager Marc Appelbaum, Gary Talley, Georgia Leonhart, Dale Cooke, Town Commissioner David Jasinski, Bill Winkle and others; the proceedings of the meeting were recorded (audio only) and will be posted on the Town Website under this meeting event.

Prior meeting minutes. Following a motion and second, the draft minutes from the Commission’s November 7, 2014 meeting were approved by unanimous voice vote of those present at that meeting.

Regular Agenda

1. Planning Commission discussions and possible vote on a recommendation for the Town’s 2014 Annual Comprehensive Plan Progress Update. (1:02 PM). The Planning Commission discussed possible updates to progress toward meeting the goals and objectives of the Town’s 2007 Comprehensive Development Plan, building on last year’s submittal to the Office of State Planning Coordination (OSPC).

The amendments made were minor and were approved for recommendation to the Town Commissioners for submission to OSPC by unanimous voice vote.

1 **2. Planning Commission discussions on a various proposal to amend Town maximum building**
2 **height regulations for buildings in specific special flood hazard areas (1:23 PM).** The Planning
3 Commission will discuss various options regarding the amendment of Chapter 1 General Provisions
4 and/or Chapter 185 Zoning of the Town Code to change how building heights are measured in
5 various flood zones and/or relaxing the current height standard under certain circumstances for
6 buildings in specific flood zones in response to rising sea level and increasing storm severity. The
7 results of this discussion might result in a Draft Ordinance that would then proceed to a Public
8 Hearing before the Planning Commission and subsequent deliberation by the Planning Commission
9 prior to recommendation to the Town Commissioners for further action.

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11 This item was 1) to deal with the conflict between a Town height standard (not to exceed 35' as measured
12 from grade) and FEMA requirement for substantially damaged structures in a flood zone to be elevated
13 (to a minimum base flood elevation); and 2) to provide a pathway to increased freeboard for new
14 construction. Today's discussion followed a 1 ½ hour Town Manager workshop with all Town and
15 Planning Commissioners in which various options regarding modification of the Town's height standard
16 were discussed, and is intended to provide guidance to Chair King to use to prepare a draft ordinance for
17 consideration at the next meeting.

18
19 Commission Dedes suggested developing the following scenario ("option 1" discussed in the Town
20 manager workshop):

- 21 a. make some base flood elevation (BFE) as the zero point in flood areas and permit building
22 heights up to 35' from that point;
- 23 b. for those buildings not in flood zones, maintain the existing 35' from grade height standard.

24
25 It was recognized that any change in the height standard or how height is measured triggers the
26 requirement of Ord. 682 that requires either unanimous approval of the Town Commissioners to revoke
27 Ord. 682 or approval in an election referendum, and that the Planning Commission is moving forward
28 with the formulation of a recommendation that will be contingent upon revocation of Ord. 682 and/or an
29 election referendum.

30
31 Commissioner Gritti suggested this as a long term solution, and noted there might be a need for a short
32 term solution if a building burns down tomorrow. Chair King suggested moving forward first on a long-
33 term recommendation, and then focus on a short term patch until the Ord. 682 prohibition is resolved.

34
35 There was general consensus on the starting point for these discussions: applicable only in a flood zone,
36 applicable both to commercial and residential use-buildings, establish a height standard measured from
37 FEMA BFE plus Town mandatory freeboard, use the same height standard as currently in the code.

38
39 Commissioner Seitz voiced the opinion that the property owner should give something – maybe get a
40 couple of additional feet in height in exchange for giving up some height. For example, if the 50%
41 damage included damage to the roofing they could redesign the roofline. While this might create minor
42 inconveniences, it would be a trade off for continued occupation of the property and a component of a
43 future strategic retreat policy. Marty also made the point that if a building entirely burned down, it should
44 be rebuilt to new construction standards under some new height standard. Commissioner Dedes was
45 opposed to this, saying it created additional "hardship" for someone already suffering a substantial loss.
46 Commissioner McKinney suggested creating a separation between rebuilding an existing structure and
47 new construction.

48
49 What about substantial improvements? Commissioner McKinney voiced the opinion that this is a
50 voluntary action and should be included under whatever standard is recommended for new construction.

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1 Commissioner Paraskewich noted there being a balance between relieving individual hardships and not
2 opening the door to changing the character of the Town and the original intent of the Town's founding
3 fathers – for example by creating a swath of 45' high buildings along the ocean and bay fronts.
4

5 Chair King noted that with the new definitions being adopted by the Town for substantial
6 damage/improvement, it is less likely that a 3 story building will suffer substantial damage in a single
7 event (unless totally destroyed by fire). Commissioner Seitz noted that there are many 2 story, 24' high
8 structures in these flood zones and that elevating 3' or even 8' would let them rebuild what they have
9 without broaching the current 35' height limit.
10

11 Commissioner Dedes noted a recent report regarding catastrophic sea level rise. The bottom line being to
12 keep any change in the code simple.
13

14 There seemed to be a consensus on establishing different regulations for a) repairing substantial damage,
15 with a 35' building envelope, b) voluntary substantial improvement/new construction with a 32' building
16 envelope (giving something up). A subtlety is to require rebuilding from substantial damage exactly what
17 was there, versus adding to what was there. Commissioner McKinney voiced what was to become the
18 consensus opinion: if rebuilding from substantial damage, rebuild to what you had and nothing more –
19 same horizontal and vertical envelopes.
20

21 Consensus on

- 22 • measuring height from FEMA & mandatory freeboard
- 23 • Deal with substantially damage & rebuilding to same envelope differently than for voluntary
24 changes subsequent to substantial damage (i.e., beyond simple rehabilitation), substantial
25 improvement, and new construction in the zoning code
- 26 • Voluntary improvements and new construction limited to 32' (a realistic height for a nice 3 story
27 building)
- 28 • Rebuilding following substantial damage,
 - 29 ○ if building beyond what was there, involving horizontal or vertical expansion, limited to
30 32' as for new construction and voluntary improvement
 - 31 ○ if building what was there, i.e., same horizontal and vertical envelopes with possible
32 remodeling but no expansion of footprint or vertical envelope, then can broach 35' by
33 essentially raising what was there to but not more than 0.1' above the FEMA base flood
34 elevation + mandatory freeboard
35
36

37 3. **Planning Commission discussions on draft amendments to Chapter 1 General Provisions**

38 **Sections 1-15 and 1-16 Definitions. (2:15 PM)** The Planning Commission will discuss draft
39 amendments recommended to the Town Commissioners by the Planning Commission in 2008 but not
40 acted on by the Town Commissioners. (A copy of a red-lined version of this old recommendation will
41 be available on line and in Town Hall by Dec 1)
42

43 In introducing this item, Chair King noted that in a previous meeting there was consensus on putting all
44 definitions in the Town Code in one place, i.e., Section 1-16. He polled the membership and there was
45 continued consent to do so. This will require importing definitions from other chapters of the Town Code,
46 including those in the new Chapter 101 and Chapter 185, including those in Section 185-27 (Signs)
47

48 Working of a comparison document showing the amendments recommended by the Planning
49 Commission back in 2008 and following commissioner discussion there was consensus to:

- 1 • tweak the current definitions for “beach” (no dune line on Bay side), “grade” and “height” (in
2 terms of the proposed draft height amendment ordinance), laundromat, swimming pools as
3 “structures”, boat trailer, flood zones;
- 4 • delete “filling station”;
- 5 • add definitions for “wetlands” (consistent with DNREC – as a protected area); and utility trailer
6 (non-motorized; carrying junk around; tagged);
- 7 • provide two alternatives for “home occupations” (owner versus resident family)
- 8 • move requirements for eatery, h/motels, home occupation, etc into to Chapter (regulate in Chpt
9 185, define in Chpt 1); and
- 10 • authorize Chair King to modify other definitions at his discretion to streamline or clarify meaning
11 as needed.
12

13 **Adjournment.**

14 There was no public or commissioner comment. The next meeting is scheduled for Saturday January 17,
15 2015 at 10:00 am. Following a motion, second and unanimous voice vote, the meeting was adjourned
16 (2:55 pm).
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