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3 Meeting Minutes  
4 Town of Dewey Beach Planning Commission Meeting  
5 Meeting Date: July 12, 2014  
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7 **Purpose.** To hold a public-hearing style meeting to garner public input and stimulate Planning  
8 Commission discussion on important zoning issues related to commercial activity on the beach, increased  
9 coastal flooding and sea-level rise, zoning in the Neighborhood Residential district, FEMA/DNREC  
10 requirements regarding floodplain management, and Town administrative zoning procedures.  
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13 **Opening.** The meeting was called to order by Chair David King (1:03 pm). Followed by the Pledge of  
14 Allegiance and roll call. Planning Commission members present included Jim Dedes, Mike Harmer,  
15 Chuck McKinney, Vice Chair Mike Paraskewich, and Marty Seitz. Also in attendance were Town  
16 Manager Marc Appelbaum, Town Commissioner David Jasinski, and members of the public including  
17 Tim Arnold, Rick Judge, Carter Willson, Kevin Monagle and others.  
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19 **Approval of minutes.** The draft minutes of the May 10<sup>th</sup> meeting were duly approved with any clerical  
20 corrections that might be appropriate by unanimous voice vote of those members in attendance at that  
21 meeting. Following discussion regarding the “minutes” of the June 7<sup>th</sup> meeting, at which there was not a  
22 quorum, there was a consensus that the references to “near-unanimous agreement” in the draft minutes  
23 should be modified to reflect the extent and breadth of public input received at that meeting, and that  
24 these minutes should be clearly identified as the Chair’s summary of a public gathering convened by  
25 members of the Planning Commission rather than official minutes of a Planning Commission Meeting  
26 since there was not a quorum at that meeting.  
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28 **Regular Agenda**

29 **1. Zoning Code requirements for the Neighborhood Residential district (1:07).** Compare and  
30 discuss all aspects of current zoning regulations pertaining to the NR district and the overall  
31 architectural character of the community.  
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33 Tim Arnold, who has been working with Bill Coulbourn for the Planning Commission on this issue  
34 presented an update of their work to define the NR zoning district.  
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36 An updated draft report was posted on the Town web site for this meeting. In his presentation Mr. Arnold  
37 noted that there are three defining characteristics: nestled in pine trees, 1 and 1 ½ story beach cottages, and  
38 low effective floor area ratio of existing residences. In the ensuing discussion the following questions and  
39 issues were raised:

- 40 • Current zoning permits a FAR of 1.0, including conditioned space and covered decks and porches  
41 (unconditioned space) but not garages. This was reduced in 2009 from a FAR of 1.2. This is  
42 much higher than many residential areas permit.
- 43 • Rick Judge expressed concerns – some of which were based on incorrect information – that many  
44 of the changes made to the zoning code in 2009 in response to the passage of the 2007  
45 Comprehensive Development Plan made the zoning code more restrictive.
- 46 • Commissioners Paraskewich and Harmer asked what mistakes or factors are driving the current  
47 review of NR zoning. Chair King noted 1) the Town Commissioners felt the zoning code did not  
48 sufficiently protect the neighborhood character, 2) with leased lands now being sold and having  
49 leases extended there is likely to be a significant increase in building/redevelopment and that it  
50 would be prudent to re-evaluate NR zoning now, and 3) public and Town Commissioner concern

1 has been expressed about the ability in current code to build one or more planned residential  
2 developments on 100,000 square foot tracts of land in the NR district.

- 3 • Carter Willson, a member of Rehoboth By The Sea and builder in MD, noted: 1) with respect to  
4 trees, trees are a renewable resource not a permanent fixture – require tree planting (specific  
5 varieties) rather than strict prohibition on tree removal that would require a house to be designed  
6 around a tree; 2) much of the existing beach cottage housing is dilapidated, is not in compliance  
7 with modern building code, and does not address current family resort/vacation standards/needs;  
8 3) cannot legislate “architectural character” because everyone’s definition of character is  
9 different.
- 10 • Vice Chair Paraskewich noted that there are different “neighborhoods” within the NR district. For  
11 example, there is little tree-canopy cover in the ocean blocks, and there is more varied  
12 architecture in these blocks versus the area West of King Charles Highway, as exemplified by the  
13 Sea Gate development, Wilson Dunes, and many larger ocean-front houses.
- 14 • Mr. Willson noted that Montgomery County, MD uses a much lower lot coverage figure – 30%  
15 on a 5,000 square foot lot. He suggested reducing lot coverage, reducing the FAR a little, possibly  
16 to 0.75 which would provide a reasonable amount of space on a 5,000 sq. ft. but only include  
17 conditioned space, increase the rear-yard setback to 18’ but keep the side-yard set backs at 8’.  
18 Want to encourage a diversity of architecture; want to encourage porches.
- 19 • Vice Chair asked, given the differences of neighborhood character of the ocean block versus west  
20 of King Charles/Coastal Highway, should we divide the existing NR district into 2 distinct zoning  
21 districts, with a larger FAR in the ocean block?
- 22 • Mr. Judge noted that there are about 400 properties in the north end, about half are owned fee  
23 simple. Recently RBTS has released about 40 property and only a few of them built to the  
24 maximum permitted by current zoning. He emphasized that he doesn’t want to see four hundred  
25 5,000 sq. ft. houses in the north end, but that we don’t have them and he doesn’t think it is fair to  
26 restrict what one can build given that others have recently built that large.
- 27 • There was some discussion of what should be included in the FAR – porches, garages, etc. A  
28 FAR of 1.0 as defined might be equivalent of a FAR of .8 that excludes porches.
- 29 • Several people noted that a larger rear yard set back would be more appropriate to a  
30 neighborhood. As currently defined, the height of back-to-back houses are higher (35’) that the  
31 separation between them (24’). This is a very different experience that in most other  
32 neighborhood communities.
- 33 • Marcia Sheick, owner of multiple properties with fee simple ownership and land leases, voiced  
34 the opinion that owners of short-term land leases (e.g., 10 – 12 years) do not have a long-term  
35 interest in the town and should not have a voice in this decision or discussions related to a 2017  
36 Comp Plan. Not an advocate of “down zoning” but supportive of increased rear-yard setbacks;  
37 would not want to sit in her back yard with the canyon effect created by current setbacks.
- 38 • Len Read spoke about the \$200 million discount of land in Dewey versus Rehoboth, and asked  
39 for zoning to encourage nice housing and more year ‘round ownership as a public safety  
40 consideration.
- 41 • Commissioner McKinney reminded us all that we have still only heard from a small number of  
42 NR-district property owners.

## 43 44 45 **2. Issues related to floodplain management, coastal flooding and sea-level rise. (2:10 PM)**

- 46 • Review and discuss adoption of a red-lined draft version of DNREC’s recommended flood loss  
47 reduction ordinance to replace Chapter 101 Floodplain Management of the Town Code.
- 48 • Discuss various aspects of Town zoning pertaining to coastal flooding and sea-level rise  
49 including, but not limited to freeboard (freeboard is the additional elevation above FEMA’s  
50 “100-year flood” level required by Town Code), elevation of encroaching structures situated in a

1 flood zone, elevation of structures situated in a flood zone when the resulting building height will  
2 exceed 35' above grade, substantial damage/improvement.  
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4 Overall, review of sections 1 – 6 of the draft prepared for this meeting, resulted in accepting  
5 recommendations from Ms. Rebecca Quinn, a contractor for DNREC helping Sussex County  
6 municipalities pass FEMA flood-loss requirement review. Section 7, Variances, was not reviewed due to  
7 lack of time, and will be addressed at the next review meeting. Chair King made a few introductory  
8 comments:

- 9 • Of the 15 or so communities in Kent County that adopted the FEMA-recommended ordinance, all  
10 were approved under FEMA's final review. Ones that had significant departures from the  
11 recommended ordinance in general did not pass their first review.
- 12 • It is best not to include issues or metrics that are likely to change, since that would trigger the  
13 requirement for subsequent DNREC review, e.g., for specific metrics like building height it is  
14 better to point to the appropriate place in Chapter 185 than to include a specific number in the  
15 proposed revisions to Chapter 101.
- 16 • In getting to a final draft for recommendation to the Town Commissioners, there are a number of  
17 "administrative" issues that need to be addressed, e.g., list of recommendations being adopted,  
18 tracking notes, and numbering, which Chair King will complete off-line.

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20 There was consensus to:

- 21 • Move any Dewey Beach specific "definitions" to Section 1-16, or elsewhere, in the Town Code,  
22 as well as updating Dewey's definitions in 1-16 and elsewhere to conform with those  
23 recommended by FEMA.
- 24 • Make minor clarifying changes as shown in the updated draft.
- 25 • Amend the Administrative portion of Chapter 185 to require a structural assessment by a  
26 professional engineer for any repair or new construction on a building in any flood zone for  
27 which the cost of materials and repairs appear likely to exceed 30% of the value of the existing  
28 buildings.

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30 Areas of significant planning commission discussion included:

- 31 • **Freeboard.** While individuals supported leaving the freeboard at 1', 1½', 2' and 3', there was  
32 broad interest in establishing town-required freeboards of 1' in an AO zone (sheet flow), 2' in an  
33 AE zone, and 3' in a VE zone (highest risk from wave action and debris), with commensurate  
34 increases in permitted height (in Chapter 185). While an individual can build to any particular  
35 elevation above that required by the Town's freeboard to provide more protection from flooding  
36 and reductions in flood insurance rates (unless encroaching in a setback), an increase in required  
37 freeboard will result in a higher rating for the Town in the NFIP Community Rating System,  
38 providing reduced rates for all properties in a flood zone across the Town regardless of base  
39 elevation.
- 40 • **Height.** It was noted that any increase in building height requires approval by voter referendum  
41 and unanimous vote of the Town Commissioners. Because there is not sufficient time to develop  
42 and put such a question to the voters in the time frame required for FEMA approval of this flood-  
43 loss ordinance, there was consensus in the Planning Commission to frame any proposed increase  
44 in freeboard in the context of no commensurate increase in height.

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46 Chair King will question Ms. Quinn as to the Town's ability to 1) have different freeboards for different  
47 flood zones and 2) to make changes to an adopted flood-loss code at a later date.  
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1 3. **Administrative Provisions. (3:00 PM)** Discuss potential amendments to Article XI Administrative  
2 Provisions of Chapter 185 Zoning, especially as related to site plan requirements and  
3 submission/approval processes.

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6 **Adjournment.**

7 The next meeting is a joint workshop with the Town Commissioners, re-scheduled for August 9 at 11:00  
8 am at the Life Saving Station, with a subsequent meeting tentatively scheduled for the second Saturday of  
9 September at 1:00 pm.

10 Following a motion, second and unanimous voice vote, the meeting was adjourned at 3:50 pm.  
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