6. **BUILT ENVIRONMENT**

6.1 ZONING

***Vision – Zoning. Dewey Beach’s Zoning Code balances the preservation of the Town’s unique residential and business communities while providing for flexibility in future improvement and redevelopment and, in concert with the Town’s Flood Loss Reduction Code, protects homes and businesses from the perils of increasing storm severity and sea-level rise.***

***6.1.1 Current Situation***

The Town has always had two distinct residential zoning districts, distinguished by the type of housing permitted. In the Neighborhood Residential (NR) district only one detached single family home is allowed per parcel. The Resort Residential (RR) district allows for detached single family homes and multi-dwelling structures, and multiple dwellings per parcel provided the parcel is large enough (3,500 square feet of land area is required per dwelling unit built upon that parcel).

The purpose of the NR district is to provide for medium-density residential development – typically one dwelling unit per 5,000 square feet of land area (approximately 8 dwelling units per acre) – together with such recreational facilities and accessory uses as might be necessary or are normally compatible with residential surroundings.

The main purpose of the RR district is to provide for residential development that, while still of moderate density is of greater density than that provided for in an NR district (typically one dwelling unit per 5,000 square feet of land area, but up to one dwelling unit per 3,500 square feet of land area; since most parcels are 5,000 square feet in size, this results in an effective maximum density of maybe 10 dwelling units per acre), together with low-impact community and municipal functions.

There are three commercial zoning districts designated as Resort Business – 1 (RB-1), Resort Business – 2 (RB-2), and Resort Business – 3 (RB-3). The RB-1 district is located in the south end of Town, containing the Hyatt Place and Sea East III hotels, Lighthouse, Cove, Que Pasa and Rusty Rudder restaurants, retail shops, BayCenter conference center, and Pier Point Marina. The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities. Intended to provide a “town center” environment; this district permits the most intense development of such activities.

The RB-2 district lines both sides of Coastal Highway (State Route 1). The purpose of this zoning district is to provide a middle level of commercial development intensity in a main-street like district. A main feature of the RB-1 and RB-2 districts is that they provide for structures that are either entirely dedicated to commercial use or mixed, commercial and residential use. Purely residential-use structures are not a permitted use in either zoning district.

The RB-3 district occupies a mid-town area on the Bay side of Coastal Highway that includes the Bay Resort Hotel, NorthBeach and Ivy restaurants, and Lions Club clubhouse and children’s’ park. While most of this district historically has been zoned resort residential, there are many detached single family and multi-family residential use structures within its boundaries. The purpose of this district is to provide for the lowest level of commercial development in coexistence with dedicated residential land use. Unlike the RB-1 and RB-2 districts, detached single family homes and dedicated multifamily residential-use structures are permitted, along with commercial and mixed-use structures.

The Town Zoning Code has provisions for planned development overlays in the two residential districts and RB-1 and RB-3, including relaxed bulk standards to facilitate residential development (NR and RR districts) and commercial and mixed-use development (RB-1), and commercial, mixed-use and residential-use development (RB-3) for a large block of land (100,000 contiguous square feet for NR and RR; 80,000 contiguous square feet for RB-1 and RB-3) rather than requiring separate structures on individual lots or parcels. Which bulk zoning standards may be relaxed, and to what extent are defined within the Bulk Zoning Requirements within the Zoning Code for each specific type of overlay.

**6.1.2.Critical Issues and Planning Ojectives and Recommendations**

**Loss of community character in the residential zoning districts**

There is concern that the current Zoning Code Bulk Zoning Standards are overly complex and will not be effective in protecting and preserving the character of the communities within the existing NR and RR districts in the face of future development. In terms of complexity for example, there are factors that are included in the calculation of maximum floor area in one district that are not included in the other district. In terms of protecting community character, if all housing repaired, upgraded/improved, or replaced within the next 10 to 30 years were built out to the maximums permitted by the current code it would result in a transformation of the characters of each of the NR and RR districts in a way that is negatively perceived and to be avoided.

Continued development of housing with 5,000 (NR district) or 6,000 (RR district) square feet of living area will also result in higher demands on Town and county services including the Town’s water supply, storm and sanitary sewer services, parking, and trash removal, and will result in increased congestion in Town and on its beaches.

Residential land use in Dewey Beach has largely always been a mix of second homes and resort rentals. Of the approximately 1,700 individual residential dwelling units in Town (not including hotel and motel units) some 700 to 750 of these obtain Residential Rental Business Licenses each year. In Dewey Beach and surrounding municipalities, the economics of investment properties purchased and improved to provide large rental facilities is driving a trend for larger and larger rental homes. In neighboring Rehoboth Beach such rental homes are often referred to by the public and town officials as “mini-hotels”. Large rental houses with occupancies of 20 or more have been seen by many to overwhelm neighboring cottages and second homes and impair the sense of community.

**Obj. BE/Z-1 Preserving Community Character**

High-priority recommendations to preserve the Town’s small town ambience and the neighborhood character of each respective zoning district, and to protect from increased congestion, increased demand on services and infrastructure, and protect and improve residential property values include:

* The Town should review and amend the Zoning Code Table 2 Bulk Zoning Standards to base the metric of maximum “size” on a simpler definition of habitable floor area in a manner that provides for diverse and architecturally interesting beach homes that are modestly sized (perhaps in the 3,500 to 4,500 square foot range depending on zoning district and what is or is not included in that calculation), do not create canyon environments, and have appropriate areas for outdoor activities;
* The Town should review and amend the Zoning Code Bulk Zoning Standards to simplify the code by making it clear to the lay reader, and by removing conflicting and possibly ambiguous language, and harmonize the code across all zoning districts to the maximum extent possible;
* The Town should consider amending the Zoning Code and/or other relevant codes to regulate one- and two-day rentals through agencies like Airbnb and FlipKey that might bring a more commercial rental environment into the residentially zoned neighborhoods, and to establish a maximum occupancy for residential-rental use properties.

**Changing Commercial Uses**

Two major drivers for zoning code changes in the 2007 Comprehensive Development Plan and a constant thread through discussions leading up to the revised 2017 Plan are: creating opportunity for a “town center” and attracting more-year-round businesses.

Over the past 10 years there has been a major focus on the Town being recognized as “family friendly”. Trying to uncover exactly what this means, and what contributes to being a family-friendly town have led to vigorous discussions regarding certain permitted commercial uses, most notably “micro-brewery” and “brew pub”. It is not unreasonable at this time to review all types of commercial use and identify those most appropriate for the type of family-oriented resort community Dewey wants to evolve into.

**Obj. BE/Z-2 Commercial Uses**

High-priority recommendations to preserve the Town’s small town ambience while creating a viable town center with iconic meeting places, and stimulating diverse businesses and an increase in favorable shoulder season activities include:

* The Town should review and amend the Zoning Code’s Table 3 Uses in Resort Business Districts to ensure that current and future permitted uses, permitted accessory uses, conditional uses, uses permitted by special exception, and permitted special events contribute to the image of a family friendly resort town with vibrant day- and night time activities;
* The Town should consider establishing a process under which contiguous parcels of 80,000 square feet or less of land area in a RB-1 or RB-3 zoning district could be developed or re-developed to create a vibrant town-center environment that remains compatible with neighboring residential-use properties and districts;
* The Town should investigate ways to attract appropriate businesses to support its evolution to becoming an ever more-year-round town.

**Stranded and Deteriorating Properties**

Collectively, across all zoning districts there are a small but significant number of residential dwellings that are non-conforming either due to 1) being on a sub-standard sized parcel and encroaching in one or more required yards (setbacks), or 2) representing a higher dwelling unit per square foot density than permitted by the Zoning code. Most of these properties are in FEMA-designated flood hazard areas and do not conform to the relevant FEMA- and Town elevation requirements. Most were built during the 1960s and are prime candidates for repairs and/or improvements, but the owners of these properties are limited as to what can be done by requirements and restrictions in the existing zoning code.

A related issue deals with derelict properties that either appear abandoned or are not kept up to the standards one might reasonable expect in a resort community, representing an eye sore and impairing property values of neighboring properties. Municipal code needs to be amended to ensure stranded and deteriorating properties can and will be improved and/or maintained in a manner compatible with a first class coastal resort town.

**Obj. BE/Z-3 Stranded and Deteriorating Properties**

High-priority recommendations to preserve Dewey’s small town ambience while protecting against declining property values include:

* The Town should amend its Zoning Code to provide clear pathways (possibly as a “one-time not to exceed” exception) for repairs, upgrades in materials and building techniques (possibly permitting an entire tear-down and rebuild), and improvements for non-conforming residential-use properties on parcels of less than 3,500 square feet of land area, and for multiple properties on larger parcels for which the existing dwelling unit density per land area exceeds that permitted by zoning regulations;
* The Town should enact ordinance to establish minimum standards of (external) maintenance.

**Climate Change & Sea-Level Rise**

Various factors addressed in this Comprehensive Development Plan accept the reality of increasing storm severity and rising sea levels at the local level as components of global climate change. Most Town housing predates the first set of Flood Rate Insurance Maps (FIRMs), and are now situated at elevations lower than the relevant FEMA base-flood-elevation. This results in these properties being at higher risk for sustaining substantial flood damage, and paying more for flood insurance through the National Flood Insurance Program. In 2014 and 2015 the Town enacted revised Flood Loss Reduction legislation consistent with current FEMA guidelines and updated FIRMs for the Town, and Zoning legislation permitting non-conforming properties in flood prone areas that suffer substantial damage (as defined in the Flood Loss Reduction Code) to rebuild back to essentially similar conditions as prior to such damage but at an increased elevations so as to meet the Town’s base elevation requirements. Current Town zoning and flood loss reduction ordinances are tied to current 1% annual flood levels,[[1]](#footnote-1) and in many instances do not provide for preemptively elevating existing buildings in, and adjacent to, current flood hazard areas that are now or will in the next 10 to 30 years be below the FEMA minimum building elevation standard.

**Obj. BE/Z-4 Sea-Level Rise**

High-priority recommendations to preserve the unique small town between the ocean and bay, while protecting against declining property values and showing leadership in sea-level rise adaptation include:

* The Town should amend its Zoning Code and/or Flood Loss Reduction Code to permit existing residential-use structures as of March 24, 2015 that lie in a FEMA-designated flood hazard area to be preemptively raised to the Town’s required base building elevation in the same manner as permitted for substantially damaged properties;
* The Town should consider amending its Flood Loss Reduction Code to increase the Town-required freeboard (currently one foot) for properties in FEMA-designated flood hazard areas to mitigate the effects of future sea-level rise;
* The Town should consider sea level rise projections in future zoning code amendments that deal with base building elevation or maximum height for residential-use buildings in designated flood hazard areas;
* The Town should consider defining local flood prone areas, possibly based on historical flood damage data, and extend special considerations for residential-use buildings in FEMA-designated flood hazard areas to residential-use buildings in these Town-defined flood prone areas.
1. Actually, the current FIRMs are based on flood data collected through 2005. [↑](#footnote-ref-1)