

Meeting Minutes
Town of Dewey Beach Planning Commission
Meeting Date: June 29, 2012

The meeting was called to Order by Chair Harry Wilson (6:30 pm), followed by the Pledge of Allegiance and Roll Call. Commission members present were: Jim Dedes, Don Gritti, David King, Gary Mauler, Chuck McKinney, and George Metz. Town Attorney Fred Townsend, Town Manager Bob Stickels, and Code Enforcement Official Bill Mears were present in their official capacities; Mayor Hanson and Town Commissioners Howell, Laird, Legates, and Seitz were also present.

Chair's Comments. Chairman Wilson noted that the purpose of this meeting was to receive land-use Attorney John Paradee's evaluation of the Town's 2007 Comprehensive Development Plan, and to discuss how to move forward with its five-year review.

Attorney Paradee's Comments. Having now reviewed the Town's Plan, he is fairly certain that the Plan does not need a full update. There are two different pathways that the town might take: 1) Amendment(s) that introduce changes to limited areas; 2) Full-blown update that is a mini-version of the 2005-2007 effort. The pathway for simple amendment includes a public hearing held by the Planning Commission, recommendation to the Town Commissioners, and a public hearing and action via ordinance by the Town Commissioners. The pathway for the full-blown update, including changes to the zoning maps and statistics, additionally includes a full PLUS review by the Office of State Planning Coordination (OSPC). The decision maker as to which implementation path needs to be followed is the OSPC, and so it was recommended that the Planning Commission forward a summary of issues being addressed to OSPC to get their recommendation on which pathway would likely be most appropriate given the changes anticipated.

Mr. Paradee's recommended amendments (written) to the Town of Dewey Beach Comprehensive Plan [oral comments in square brackets]

Substantive Recommendations (and Questions):

- In Section 1.1 of Chapter 1, the last sentence of the third paragraph should be changed to read: "It is intended to cover a ten-year planning period and must be reviewed at least every ten years." [to reflect status of current DE law]
- Consider updating the demographic and population data in Section 2-1 of Chapter 2 to reflect more current data available from 2010 census. [e.g., demographic, housing, traffic counts; should not require substantial changes]
- Consider updating the housing data in Section 2-2 of Chapter 2 to reflect more current data available from 2010 census.
- Question: Is it a goal of the Town to become "more residential and less seasonal", which appears to be an assumption stated in Section 2-3 (page 19) of the Comprehensive Plan?
- Question: Were the 2 recommendations at the bottom of page 19 to the top of page 20 actually implemented?
- On page 20, under the heading "Leased Land", I would recommend stating explicitly that these lands shall remain zoned for low-density residential use only (you might even want to specify single-family dwellings – i.e., no duplexes, townhouses, condominiums, apartments, or other multi-family uses will be permitted).
- Question: Was the annexation feasibility study recommended at the top of page 21 ever performed?

- Question: Were Plan Recommendations #1 and #2 on page 21 ever achieved?
- Strike Plan Recommendation #4 on page 21. [past history; language dated and not appropriate for comp plan; will not have any impacts on MAR, all in the past, will not affect rights]
- Strike the last two sentences in the last paragraph on page 21 (starting with “It is the goal of this Comprehensive Plan...”). [not appropriate to delegate police/zoning authority to a committee]
- In the specifications for each of the RB Zones set forth at pages 22-23, revise the usage of the phrase “relaxed bulk standards” to make it clear that, notwithstanding the relaxation of bulk standards, no building shall be permitted to exceed 35 feet in height (despite any pre-existing exceptions). [be more specific about what is meant by relaxed bulk standards]
- Clarify the distinctions between the three RB Districts.
- Consider updating the traffic count data in Table 22.
- Question: Were the Plan Recommendations set forth on pages 35-40 ever implemented?
- Strike Plan Recommendation #4 at the top of page 37. [as per changes on p 21]
- Question: Were the Implementation Steps at the top of page 43 ever completed (especially the fourth bullet point)?

Minor (Stylistic) Recommendations:

- Capitalize the word “town” throughout, whenever referring to the Town of Dewey Beach in particular.
- Capitalize the word “solicitor” throughout, whenever referring to the Town of Dewey Beach Solicitor in particular.
- Capitalize the word “state” throughout, whenever referring to the State of Delaware in particular.

Planning Commission Q&A

- Given the high quality of the existing Plan, it would be appropriate to plan for a modest amendment, rather than a full update;
- Introducing sections regarding financial management (drafted but not included in the 2007 Plan) and sea level rise (i.e., “Will continue to study sea level rise and its implications for Town zoning...”) would be appropriate, and would likely not be subjected to a full State review;
- Generalized updated recommendations related to the large amount of leased land in the NR district would be appropriate, and might not trigger the requirements for a full blown update. (Don’t want to be too specific because the language of a town’s comp plan has the force of law.);
- Overlay districts? DE case law concludes that overlay zones violate the uniformity requirements of State Code. Although the statute of repose has expired for the 2007 Plan, any change to an overlay’s boundaries could result in future challenges. Because every property owner in, for example RB-1 has the ability to amass 80,000 square feet of land, they all have the right to access this overlay zoning and therefore would not be violating the uniformity requirement (actually our “overlays” are super-zoning districts) ;
- How to deal with “relaxed bulk standards”? Resolve any potential ambiguity, possibly by defining what it doesn’t mean (e.g., “means x and y but not z), or pointing to Table 2 in the zoning code as what specifically is meant by the phrase. This will also make it easier to change the zoning requirements for any or all planned-businesses district by ordinance, rather than Plan amendment;
- For a town, it is important for recognize that the language of the comp plan has the force of law (for counties, it is just the maps that have the force of law), and therefore the plan should be general.

Towns get into trouble when the plan language is too specific, because they are then bound by these specifics requirements.

At the end of the discussion, Town Manager Stickels asked Mr. Paradee if he could review the Town's draft Municipal Comprehensive Land Use Plan Annual Report prior to submission to the OSPC, to which Mr. Paradee responded in the positive.

Public Questions & Comment.

Ellen Danaher asked about the language related to the Planned Residential "overlay" (PR) for the Neighborhood Residential zoning district (NR), which was largely a carry-over from the prior zoning code. This stimulated some discussion among the Planning Commissioners regarding their thoughts on retaining or deleting the PR language for the NR district in this 2012 amendment/update, and a caution from Mr. Paradee that deleting this potential zoning overlay might trigger the requirement for a full update.

Path forward.

The Chair proposed a schedule of meetings as follows:

- Friday July 20, 2012 6:30 pm – Planning Commission holds a public hearing to solicit public input and recommendations for the development of the Town's 2012 Comprehensive Plan review. The output of this meeting will be forwarded to OSPC for their recommendation on how to proceed, via amendment or update;
- Friday August 17, 2012 6:30 pm – Planning Commission holds a workshop to draft its 2012 Plan amendment/update;
- Friday September 7, 2012 6:30 pm. – Planning Commission holds a public hearing to present the draft of its proposed 2012 Plan amendment/update;
- Saturday October 6, 2012 9:00 am – Planning Commission holds a workshop meeting to possibly integrate comments and recommendations from the previous public hearing(s) and to make revisions, changes and additions as necessary;
- Saturday November 3, 2012 9:00 am – Planning Commission holds a public hearing to present the 2012 Plan amendment/update to the Town Commissioners and public;
- Saturday November 17, 2012 – Town Commissioners hold a public hearing to present the draft 2012 Plan amendment/update to the public;
- Saturday December 8, 2012 – Town Commissioners hold a public hearing for adoption of the Town's 2012 Plan amendment/update.

This full schedule will be advertised as a series. If the findings of the early meetings indicate the scope of work to be limited to minor amendments, this list can be shortened.

Minutes of Prior Meeting. After a motion and second, the minutes of the May 4, 2012 meeting were approved with minor corrections by unanimous voice vote.

Adjournment. There was a motion to adjourn; seconded and passed by unanimous voice vote (7:48 pm).