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**To:** Town of Bethany Beach Administration <admin@townofbethanybeach.com>

**Subject:** Letter to Council Re 4/13 BBLA Meeting and Proposed Zoning Changes

**Date:** Thu, Apr 18, 2013 10:44 am

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On behalf of the Bethany Beach Landowners Association, I want to express our appreciation for the use of the Town Hall/Community Center meeting room and the logistical support of Town staff for BBLA's public meeting on April 13. The meeting purpose was to provide facts regarding a number of zoning related changes in the Town Code that have been recommended by the Planning Commission. We especially appreciate the extensive efforts of Lew Killmer in his role as Chairman of the Planning Commission, who presented factual information on each recommendation and answered citizen questions.

Over sixty people attended the meeting. It was viewed as a very informative and positive step in the process of promoting public awareness and understanding of the pending proposals. Among the things we learned from the meeting, and from the Council's public hearing on the proposals on March 15, is that the most controversial issue is the proposal to rezone Block 110, lots 9-12, known as 96 Hollywood Street (part of the Bethany Arms Motel) and 98 Hollywood Street (a multi-unit building) from R-1 Residential to C-1 Commercial. Most of the questions from citizens pertained to this issue, clearly indicating significant public concern.

Another thing we learned from the questions of those who attended the meeting and hearing is that there is a need for more extensive explanation and discussion of the zoning history of the properties in question, the rationale and justification for the rezoning proposal, including the perceived necessity for making the zoning change now and its major consequences if adopted, for example, the effect on all affected property owners and on the historical character of Bethany Beach. We also believe there is a need for more time and opportunity for more citizens to consider the issue and express their views until there is a clear public consensus on the matter.

Therefore, because of the clear importance of the rezoning issue to citizens and the Town, we urge the Council to continue to take the necessary time to provide additional opportunities for public awareness and input in the decision-making process through both established procedures and other efforts as well.

As to established procedures, we understood from a Town announcement on April 12 that the proposed changes would be considered by the Town Zoning Commission at a meeting on April 20. We further understood from review of provisions in Title 22, Chapter 3 of the Delaware State Code governing municipal zoning regulations that Zoning Commission review would provide for a public hearing and a separate report and recommendation to the Council. We thought this process would be very beneficial because it would not only provide for additional public input, but also a separate, independent review of the issues and determination as to whether the proposals met applicable zoning standards and requirements, especially including those set forth in Chapter 425, Section 425-1, of the Town Code. We subsequently learned that the Council has determined, based upon a legal opinion, that the Town does not have to go through a Zoning Commission process for amendments to zoning provisions in the Town Code and, indeed, that there apparently is no legal requirement for a Zoning Commission once original zones are established. Accordingly, the Council cancelled the April 20 Zoning Commission meeting. This is an unfortunate development because it will deny citizens, and the Council, the benefits that would have been provided by the statutory Zoning Commission process.

In view of the Zoning Commission developments, there is an even more urgent need for broader public awareness, input and involvement in the decision-making process on the rezoning issue. We believe that a clear and substantial public consensus is essential to support any Council decision on such a controversial matter.

Therefore the BBLA Board strongly recommends that the Council focus its May 17 discussion on ways to insure broader public awareness, input and involvement in the decision-making process on the rezoning issue and move any possible final vote on rezoning on May 17th to a later date. Such an early date is too soon for consideration and input by a substantial number of voters. To proceed in such an expedited fashion on such a significant issue would create the negative impression of bias and rush to judgment in favor of the rezoning proposal. The final vote should be scheduled only after a substantial number of voters have an adequate opportunity to consider and comment on the issue.

In that regard, the BBLA Board further recommends that the Council consider, at the May 17 Council meeting, use of a non-binding referendum pursuant to section 24.4.5 of the Town Charter, to obtain the opinion of as many voters as possible on this important matter before reaching a decision. In the alternative the Council could conduct an opinion survey among voters for the same purpose. The voters may approve or oppose the zoning change. In either event, the Council's decision should include awareness of the will of a substantial majority of voters. There appears to be no immediate need for a decision on the issue that would weigh against conducting a referendum or survey, especially in view of the length of time the property in question has been zoned residential.

The BBLA Board of Directors has not yet formulated a position on the rezoning issue or the other proposed changes in the Town Code. We intend to continue to gather information and perspective and further determine the opinion of our members on the proposals.

Thanks again for the support for our April 13 meeting and your consideration of our views on this matter.

Sincerely,

John Himmelberg  
President, BBLA