

Standing TALL

As building heights threatened to rise skyward in Rehoboth, a homeowners group rose to the occasion

BY LYNN R. PARKS | PHOTOGRAPH BY ROB WATERS

At its April meeting, the Rehoboth Beach Planning Commission had as its first order of business a review of preliminary plans for a new hotel, proposed for the south corner of Rehoboth Avenue and the boardwalk. The hotel, dubbed by its developers as the Belhaven, would span the entire block and have about 100 rooms, a restaurant, a pool and a bar.

During his presentation before the commission, architect Peter Fillat III said the building's eave line would sit exactly 42 feet above street level. That is the height limit for commercial buildings in the city, according to its zoning code.

Fillat went on to explain, though, that the highest point of the roof would be 45 feet above the street, to allow space for air conditioning equipment. And the very tippy-top of the building, the uppermost point of several decorative finials, would be almost 10 feet higher, 54 feet 11 inches above street level.

Commissioner Joyce Lussier reminded Fillat that city code permits "embellishments" — special decorations like the finials — to be just 50 feet above street level. Allowing them to be constructed as designed would require that the city grant a special exception. And Commissioner Francis "Bunky" Markert asked the architect about the additional afternoon and early evening shade the building would cast on the beach if it is allowed to be higher than city code allows. "I'm not worried about the finials," Markert said. "But how much shade do you create as a result of being 3 feet higher?" ►

The Star of the Sea, an oceanfront condominium building between Brooklyn Avenue and Laurel Street, is one of several high-rises that are part of the skyline of Rehoboth Beach. Its construction in 1971, as well as the construction of several others that year, spurred local citizens to fight for more restrictive building height limits.



Former Rehoboth Beach Mayor Sam Cooper stands in front of the high-rise Star of the Sea condo building. Cooper, who grew up in Rehoboth, remembers the bitter fight to get the city to lower its building height limit.

Fillat replied that his firm would provide the commission with computer-generated studies showing where the shadow would fall and when.

“I would think that those would be essential,” Markert said. “Our height limit was set for exactly that reason, because buildings were going up that were cutting off light from the beach. We already have one gigantic structure that does that, and that resulted in the height limit.”

The commissioner says that when he was talking to Fillat during that April meeting, he didn’t have just one high-rise building in mind. Rather, he was thinking of several hotel and condominium buildings along the boardwalk that were part of a flurry of construction in the 1970s.

The construction of those buildings, including the seven-story Star of the Sea, the eight-story Henlopen Hotel, and the nine-story One Virginia Avenue, inspired residents to push commissioners to lower the city’s height limit, which at the time was 85 feet.

“Back then, people were looking at what was going on in Ocean City, Md.,” Markert says. High-rise development in the northern part of that resort town, from 91st Street up to the Maryland-Delaware line, was booming. The 15-story Highpoint condo building was constructed in 1970, quickly followed by the Sheraton Fontainebleau (now the Clarion Resort Fontainebleau), also 15 stories tall. By the mid-1970s, Ocean City’s “Gold Coast” was lined with high-rise condo buildings and hotels, the tallest of them being The Century, looming 25 stories above the Atlantic shoreline.

“People looked at Ocean City and were worried that Rehoboth Beach would soon look like that,” Markert says. “Many were very sensitive about that.”

Former Rehoboth Beach Mayor Sam Cooper was a young man

in the late 1960s and early 1970s when the battle over building heights in his hometown was at its hottest. He remembers William “Doc” Ehrlich, who lived at the corner of Stockley Street and King Charles Avenue, a block from the Cooper family home, visiting and talking about the fight. “I would hear all about the building heights from him,” Cooper recalls. “It’s going to be awful!” he would say. “They’re going to shade the beach! People aren’t going to be sitting in the sun — they’re going to be sitting in the shade.”

Adding fuel to the fire was the fact that in October 1970, Sussex County granted permits for construction of Sea Colony, a cluster of eight-story buildings along the ocean shoreline south of Bethany Beach and referred to during one public meeting in Lewes as “a blot on the Delaware seashore.”

Community activists such as Ehrlich, many of whom became founding members of the Rehoboth Beach Homeowners Association, had it right, Markert says. The height restriction that they pushed for and that commissioners eventually put into

place has served Rehoboth well.

“Absolutely, it was a good thing,” he says. “The fact that we don’t have great big tall buildings lining our beach and our boardwalk adds to the charm and attractiveness of the city, for residents and visitors alike.”

A history of highs and lows

The Rehoboth Beach Homeowners Association was formed in 1971, a year after commissioners approved a zoning law change raising the height limit for buildings in commercial districts from 56 feet to 85 feet. “Rehoboth Beach was faced with increasing pressures from developers for more high-rise construction,” according to the group’s history. “Concerned citizens came together and formed a homeowners’ organization to oppose this development.”

Members of the new association urged commissioners to put new, more restrictive height limits into law: 35 feet in residential areas and 50 feet in commercial areas.

In December 1971, owners of the Henlopen Hotel and Motor Lodge on the boardwalk announced that the facility, which had been renovated just nine years earlier after being damaged in the storm of ’62, was to be razed. Its replacement would be 85 feet high, the maximum permitted by the city code. On its top floor, overlooking the beach and the Atlantic Ocean, would be a restaurant and ballroom.

That same year, construction was started on the Star of the Sea and the One Virginia Avenue building. Already completed were the Patrician Towers on Olive Avenue and the Edgewater House on Virginia Avenue, both of them six stories tall and greater than the previous 56-foot limit.

Wilbur J. Martin, president of the homeowners association, didn’t have a problem with the Henlopen plans. “It sounds to me like they’re going to improve

How Low Can You Go? ==

In 1987, then-Rehoboth Beach Commissioner Norman Sugrue proposed lowering the city’s building height maximum. He wanted no new construction, residential as well as commercial, to be higher than 28 feet.

His proposal, he told Wilmington’s *The Morning News*, was to “encourage attractive, pitch-roof buildings.” His goal was to avoid permitting flat-roofed structures that go straight up, creating a tunnel effect along city streets.

As was the case for decades with height limitation proposals, this one ran into opposition from the business community. Sugrue’s suggestion would cut into the value of their land, they told the paper.

The proposal was referred to the city’s planning commission and in the end, it didn’t go anywhere. Today, buildings in Rehoboth Beach can be no taller than 35 feet (residential) and 42 feet (commercial), height limits that were set in 1975. ■



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North and South, a Coastal Concern

Rehoboth Beach wasn't the only coastal Sussex community struggling with building height limits in the 1970s. From Fenwick Island to Lewes, resort towns were looking south to high-rise-laden Ocean City and seeking ways to avoid a similar fate.

Both Fenwick Island, the town closest to the Delaware-Maryland line, and Bethany Beach established height limitations in the 1970s. In Fenwick, building heights are limited to 30 feet, 32 feet if the structure has to be elevated because it's in a flood zone.

Bethany Beach permits construction of up to 31 feet, for residential as well as commercial buildings. Like Fenwick, the town also allows slightly higher elevation when flooding issues require it.

South Bethany permits construction of up to 33 feet in residential areas, and to 35 feet if the building is in a flood zone. In commercial areas, buildings can be 30 feet tall.

Dewey Beach was incorporated in 1981 and adopted its building code that same year. The code sets height limits at 35 feet, as measured from the top of the roof to the center of the street adjacent to the building.

Lewes's debate over this issue started in 1974, when the town's planning commission recommended lowering limits from 50 feet to 35 feet in commercial areas and from 35 feet to 26 feet in residential areas. A public hearing on that proposal resulted in the plan being sent back to the commission. It wasn't specific enough, citizens said.

A second proposal, the subject of a public hearing a year later, relented a bit, suggesting limits of 40 feet in commercial areas and 30 feet 6 inches in residential ones. At that public hearing, Arthur Lieb, a representative of Save Our Seashores of Delaware, spoke in favor of the new limits. He warned the city away from becoming "a repetition of Ocean City" and referred to Sea Colony, the then-new high-rise community south of Bethany Beach, as "a blot on the Delaware seashore."

Today, the city pretty much follows the plan that Lieb endorsed more than 40 years ago. Residences can be 30 feet 6 inches tall (in flood zones they can be 34 feet tall) and commercial buildings can be built to 40 feet. New

construction in the town's historic center, where there are older, taller buildings, is allowed to be as tall as the average height of the buildings around it.

As for Sussex County, which oversees construction in unincorporated areas, officials stirred controversy in 1970 when they granted permits for construction of the Sea Colony East community: nine multi-story buildings to be built on a privately owned ocean beach between Bethany and South Bethany. That same year, the Bethany Beach Town Commission passed a resolution asking the county to put in place tight restrictions on high-rise development.

But opponents of Sea Colony were apparently swimming against the tide. In April 1972, when they filed yet another injunction to try to stop the project, a lawyer with Sea Colony noted that the first buildings were nearly complete. "When the roof is on the building, the case is over," Robert Tunnell told the *Evening Journal*.

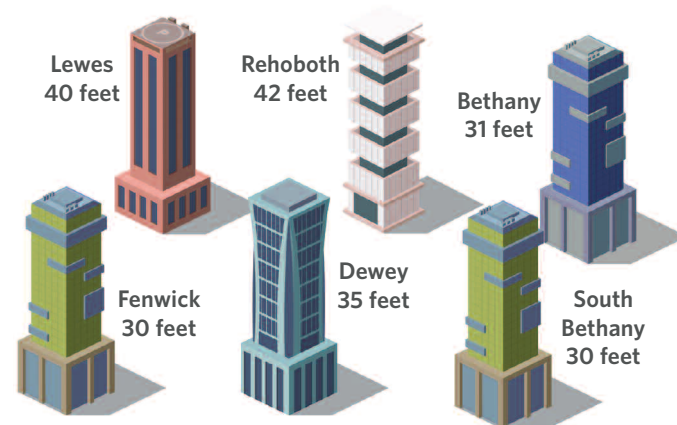
In May of that year, the County Council voted unanimously to approve zoning regulations that would allow construction of up to 16 stories,

or 165 feet. Despite that, no building was ever built to that height.

In 1975, then-Councilman Charles Cole proposed that the building limit be lowered to 75 feet. By a vote of 3-2, the council rejected that change. Voting in favor of the more restrictive limit were Cole, who represented the southern half of the Sussex coast, and Ralph Benson, who represented the northern half. Voting against, and carrying the day, were the three councilmen from the western side of the county.

Less than a year later, in July 1976, the county adopted the South Coastal Land Use Plan, which said that buildings constructed south of the Indian River Inlet, and about 8 miles inland, could be no taller than 95 feet. Only 85 feet of that height could be residential space.

Now, under regulations that were adopted in 1982, the county permits buildings of up to 42 feet, but 52 feet for homes built in high-density residential areas. In marine districts, non-residential structures can be up to 45 feet high. In some light-industrial zones, buildings can be up to 52 feet high, and in heavy-industrial zones, they can go up to 125 feet. ■



Height limits for commercial buildings

something that's already there," Wilmington's *Evening Journal* quoted him as saying in a December 1971 article.

But the other new buildings were too much for the association. Calling them "visible pollution," members demanded in a letter that the commission limit all buildings to 35 feet. At an October 1971 meeting, Martin informed commissioners that his group had 400 members, a substantial number considering the fact that only 800 people had voted in that summer's election.

"The thought of 400 votes seemed to stir the commission to action," the *Evening Journal* reported following the meeting. Commissioners put in place a moratorium on approvals of high-rise construction, and then lifted it a month later, pending the results of a public hearing on the matter. (It was during that window, post-moratorium and pre-hearing, that developers for the Henlopen obtained permits, allowing its construction to proceed.)

Nearly 300 people attended the hearing, held in June 1972, and more than 250 responded when the RBHA's Martin asked supporters of a 50-foot height limit to stand up.

He then spoke, as reported in the June 19, 1972, edition of Wilmington's *The Morning News*: "The commissioners have said that when they raised the height limit, there was no expression of public sentiment against the change. I hope this serves as an expression of public sentiment to guide the commissioners in making a decision this time."

Just a month later, the governing body voted unanimously to lower maximum building heights to 50 feet. Commissioners cast their votes without comment, *The Morning News* reported.

But the homeowners' association wasn't content to rest on its



The white Henlopen Hotel, here in late 1950s, was rebuilt to a height of 85 feet after it was damaged in the Storm of '62. Other high-rises soon followed.

laurels. In August, candidates endorsed by the association won three seats on the seven-seat governing body (six commissioners and the mayor). New commissioner Reed A. Booth had included in his platform a proposal to reduce the just-lowered height maximum again, to 35 feet.

In October 1974 (by which time Booth was mayor), the commission held another public hearing on the issue. Representatives of the city's business community pleaded with the commissioners to keep the 50-foot maximum, reporter Nancy Kesler wrote for *The Morning News*. Rehoboth Beach-Dewey Beach Chamber of Commerce President Orme Meade said that restricting heights

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would make renovation and reconstruction projects economically unfeasible. Land prices were increasing so dramatically, he said, that there was nowhere to go but up. Meade “showed a series of slides to demonstrate the ramshackle condition of certain sections of the business area,” Kesler noted.

RBHA representatives weren’t to be outdone. President Joseph Chambers reminded the audience of the purpose of the association: “to keep Rehoboth as a family resort town.” And past president Martin warned that before the city increases its density by allowing more 50-foot buildings, it should “figure out where we’re going to put the people and the automobiles.”

By April 1975, the chamber and the homeowners association had agreed on a compromise proposed by the city commission to lower maximum building

heights to 42 feet in commercial areas and to 35 feet in residential areas. Yet another public hearing was scheduled for May.

This time, only 18 people showed up, and most of them were opposed to the height reduction, repeating Meade’s argument that “the lower height ... would

penalize unfairly business people in a community where land values have soared in the last few years,” according to an article in *The Morning News*. But chamber President Richard Derrickson expressed hope that the

compromise “would end the bitterness which has too long divided our citizens.”

In June, the city commission voted to set the limits according to the compromise the RBHA had reached with the chamber. The association had carried the day by, as *The Morning News* reported, “gaining control of the city commission with election of sympathetic candidates.”

Rehoboth has always been a uniquely traditional Delmarva beach town. So its skyline should be dominated by trees and church spires.”

The RBHA Today

Susan Gay, a five-year member of the Rehoboth Beach Homeowners Association and its vice president, is proud of the group’s role in fighting high-rise buildings. “We could have easily become another Ocean City, a concrete canyon, with no green space,” she says. “Imagine not only high-rises down the boardwalk; they may have gone farther, down Rehoboth Avenue. They would have been so close to our residential areas that those districts would have been changed as well.”

Despite its success in fighting for height restrictions — achieved largely by working to elect city commission candidates who held sympathetic views — the nearly 600-member association no longer endorses candidates for office. In fact, Gay says, its registration with the IRS as a charitable nonprofit group forbids it from engaging in political campaign activity. It last endorsed a candidate in 2001.

“That is not our mission,” Gay says. “We can educate and we can take positions. But we cannot endorse candidates.”

The group keeps track of issues in the city, informs members about those issues, collects feedback from the membership and then takes positions, which it makes known through letters to government bodies and to area newspapers. Most recently, it sent a letter to the state General Assembly in support of the city’s effort to enact a 3 percent hotel tax, and expressed members’ concerns at a town hall meeting in January regarding a proposal that would allow the county to take over the city’s wastewater treatment and disposal system.

Members will also take part in the process to update the city’s 10-year Comprehensive Development Plan, which is up for recertification next summer. “RBHA members have historically been very active in that,” Gay says. ■

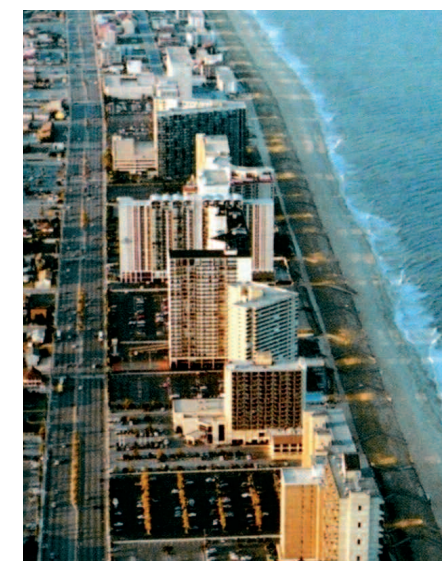
In four years, the *Evening Journal* added, the association had become “the most powerful organized political group in the city.”

Jan Konesey witnessed that power, and appreciated it. A former Rehoboth Beach commissioner (1990-1997) as well as a planning commissioner who retired in October 2018 after 15 years, says that the association’s fight against high-rise buildings, including members’ willingness to find and back candidates who agreed with them, was worth the effort.

“We were on our way to looking like Ocean City, and we could never do OC as well as OC does it,” she says. “The scale of Rehoboth is so important to its character and sense of place. It’s sized right for people to feel safe and comfortable in.”

“Rehoboth has always been a uniquely traditional Delmarva beach town,” adds Bill Cook, a member of the RBHA. “So its skyline should be dominated by trees and church spires.”

Cook’s parents, Bill Sr. and Betty, bought the family’s vacation home in 1951 and were longtime members of the



Ocean City, Md., was what people who battled for lower building height limits did not want Rehoboth Beach to look like. The Maryland resort’s “Gold Coast” was developed in the early 1970s.

Rehoboth Beach Homeowners Association. Cook credits the organization with saving the town from high-rise development.

“If the RBHA hadn’t advocated for a limit on tall buildings, Rehoboth would

have become just another Ocean City,” he says, echoing Konesey. “The developers had money, lawyers and lobbyists. The retailers had the chamber of commerce. Rehoboth homeowners — year-round and seasonal residents as well as those who rent their homes to vacationers — were looking for an organization that would advocate for them. RBHA filled that need.”

Cooper, who served as mayor from 1990 to 2017, says pro-high-rise town leaders a half-century ago “missed what the people were feeling.” Were a similar situation to occur today, he feels that citizens, banding together, could have the same impact that William “Doc” Ehrlich and his fellow organizers had. He acknowledges that the homeowners’ association no longer endorses candidates for the city commission, but adds that the organizing effort to fight high-rises developed first, and then the association grew from that.

“Whatever power the association had came from the people,” he notes. ■

LYNN R. PARKS is a frequent contributor to *Delaware Beach Life*.



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