



Commissioners of Leonardtown

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J. HARRY NORRIS
Mayor

LASCHELLE E. MILLER
Town Administrator

Commissioners of Leonardtown
Leonardtown Planning and Zoning Commission Meeting
October 15, 2007 ~ 2:30 p.m.

Attendees: Jean Moulds, Chairperson
Dan Burris, Member
Jack Candela, Member

Absent: Frank Fearn, Vice Chair
Dave Frock, Member

Also in attendance were: Laschelle Miller, Town Administrator; DeAnn Adler, Plans Reviewer; Teri Dimsey, Recording Secretary; Jackie Post, Fiscal Clerk. A complete list is available on file at the Leonardtown Town Office.

Chairperson Moulds called the meeting to order at 2:35 p.m.

The meeting minutes for the September 17, 2007 Planning and Zoning Commission meeting are presented for approval.

Chairperson Moulds entertained a motion to approve the September 17, 2007 meeting minutes.

Member Burris moved to approve the minutes as corrected, seconded by Member Candela, no further discussion; motion passed unanimously.

Town Administrator's Report – Laschelle Miller

Aero Energy Presentation- This company provides community piped propane systems to allow residents access to propane without individual propane tanks. The company is pursuing putting a system in the Leonard's Grant development. They build the system using piping that meets the natural gas requirements so that if natural gas comes into the area in the future the piping could then be converted.

St. Mary's Hospital Request for Temporary Trailer Permit Extension- Town Council renewed a temporary trailer permit to St. Mary's Hospital to house the MRI equipment.

COUNCIL: WALTER WISE, *Vice President* THOMAS R. COLLIER
ROBERT C. COMBS LESLIE E. ROBERTS J. MAGUIRE MATTINGLY, III

T&T Sweeping Contract Renewal- In August 2003 T&T Sweeping was awarded a 3 year contract with 2 1-year options. This year would be the final option year and would run through 8/30/08. T&T has agreed to hold their prices to last year's rate.

Delahay Construction- Town Council renewed their contract for the final one-year option for the Maintenance and Repair Contract which will go out to bid next year.

Leonardtown Wharf update- An update was provided to the Town Council on the Wharf project.

Port of Leonardtown Concept Plan- Crozier Associates has completed the Port of Leonardtown public park concept plan. An update on the project was provided to the Town Council.

Chairperson Moulds thanked Ms. Miller for her report and moved on to New Business.

NEW BUSINESS

Case # 37-07 Marketplace Fine Wine and Liquors:

Applicant: Mr. Dan Guenther

Enclosed in your packet you will find:

- Board of Zoning Appeals Application
- Sketch of the Banners requested

The applicant is requesting a variance be granted for the placement of (2) 3' x 20' sign banners to be hung in the parking lot of The Breton Marketplace Shopping Center. These banners are advertising a specific business and would fall under the Leonardtown Sign Ordinance. These banners are not approvable signage and would exceed the allowable signage dimensions for an individual business. There was a misunderstanding when Mr. Guenther came in to inquire about the banners prior to him purchasing them. He said they were to be similar to the holiday banners in the Town Square.

Sign Regulations for outside the downtown area allow:

- Pole Signs – Less than 32 sq. ft. (or)
- Wall Signs – Less than 100 sq. ft. (or)
- Ground Sign – Less than 32 sq. ft.

Signage for this location currently consists of a wall sign 3' x 8' = 24 sq. ft. total – located on the face of the building. With these two banners Mr. Guenther would have 144 sq. ft. total signage, much more than the allowable 100 sq. ft. There are currently nine other businesses in the Breton Marketplace Shopping Center that could potentially request sign banners for their businesses.

Action Needed: Recommendation, favorable or unfavorable, to Board of Appeals, scheduled for Oct. 23, 2007.

Mr. Guenther came forward to present his case to the Board members. He explained that the Marketplace Fine Wine and Spirits shop, located in the Breton Marketplace Shopping Center, is difficult to see, due to the recent construction of the Ledo's Pizza and the trailer for the temporary banking facilities. To help us get noticed, I came into the Town Office and requested permission to put up these banners, which cost over \$500.00 each to have made and are made of high-quality materials. We had them initially run down the pole and through a miscommunication I thought we had permission to do it and was later informed that we needed to get an exception which is why I am here before you today. I have spoken with all the shopping center tenants and they have all signed a petition of support and Mr. Davis has provided written permission as well. We believe that these banners do help as many people do not know we are open yet.

Member Candela asked how many square feet is each of the two signs.

Mr. Guenther replied the signs are 3' x 20' so they would 60 sq. ft. One sign sits back further behind the Ledo's and one is closer to the main road. Some of our customers have commented that they saw the banner which drew them into the store. If somebody else put more signage out that would let the public know as they drive by that we have shops available for their use, I think we would all be in favor of that as well.

Member Candela noted that one of the two signs would be a total of 84 sq. ft. and you are allowed 100 sq. ft. and with the first signs combined give you a 144 sq. ft. which is almost 50% more than the ordinance allows.

Mr. Guenther responded that one of the two is positioned reasonably far back and when you look at the 22 sq. ft. we have now on the store it is very far back from the main road and not very visible, especially because of the bank and the Ledo's. When you weigh the visibility of the public and the Town's sign restriction should offset the required sq. ft.

Member Burris noted he has a number of concerns, one being that if this variance is granted, then the other tenants may require a variance being granted to also put up signs of this size too. I do have some concerns about our sign ordinance but granting a variance in this case might set a precedent.

Mr. Guenther replied that I would guess you have granted variances for other signs in the past and no one feels obligated to grant the next one so I would think that granting this variance would likewise not obligate other requests.

Member Burris indicated that he himself was turned down for a variance. He also noted that there are a large number of banners and signs posted that are not permitted at this time and they have not gotten a 30 day permit to do so. I do understand the need for temporary signage due to the on-going construction.

Mr. Guenther noted that he has received permission from Mr. Wayne Davis for additional signage for one year. Mr. Davis tells me that the bank trailer, which blocks the view of the storefront signs, will be there until approximately May of 2008.

Ms. Miller stated that the Board can indicate their reservations along with their favorable or unfavorable recommendation to the Board of Appeals.

Chairperson Moulds indicated that there is a sign close to the main road listing all of the businesses in the shopping center. I can understand your dilemma with the ongoing construction but I would not endorse a sign like that to be permanently displayed.

Ms. Miller stated that she had not received any request for one sign listing all of the tenants. We are concerned that others may come forward asking for the same type of signage.

Member Candela remarked that he has a problem with granting a variance for any period of time that would in essence be half again as much sq. ft. I understand the concerns of Mr. Guenther but as the Chairman of the Board of Appeals for a number of years and when you start making exceptions they begin to multiply. I would think that one of these banners, which I like as they go vertical and not horizontal, but I could not recommend that much of a variance be granted.

Member Candela moved to forward to the Board of Appeals the recommendation to grant a variance for the one banner to be limited to one year; seconded by Member Burris, no further discussion, motion passed unanimously.

2:45 PUBLIC HEARING: REQUEST FOR REZONING – PARCEL 254 – PUD TO R-MF

Member Burris moved to close the regular Planning and Zoning Commission meeting; Member Candela seconded; motion passed unanimously.

Chairperson Moulds opened the scheduled Public Hearing and asked Ms. Miller to provide the description of the request.

Case # 71-07 Parcel 254 Rezoning:

Applicant: Michael Mummaugh, for The SABA Group, Inc.
Location: Between Rt. 5 Leonardtown Bypass and Fenwick Street,
across from Academy Hills
Zoning Change Requested: PUD to Residential Multi-Family
Total Tract Size: 12.07 ac.

Enclosed in your packets you will find:

- Application For Rezoning
- Map showing location of Parcel 254
- Rezoning Guidelines/Process
- Correspondence from The Saba Group regarding reasons for rezoning request
- Residential Multi-Family Zoning Code
- Minutes from the rezoning case for Parcel 16 at Town Council – Jan. 12, 2004 and P & Z on Dec. 15, 2003.
- The request for a public hearing was advertised and notices were sent to neighboring properties on Sept. 20, 2007 as required

A request has been made by the applicant, Mr. Mike Mummaugh, for a public hearing for the purpose of considering a rezoning of Parcel 254 from PUD to Residential Multi-Family. The Academy Hills project was rezoned by St. Mary's County as a PUD. Subsequently the project was annexed into Leonardtown and was then bisected by the Leonardtown bypass. The subject property was no longer a part of the Academy Hills project. At that time the parcel maintained the PUD zoning designation, even though the parcel was too small to accommodate PUD type development. In April 2004 the adjacent parcel, Lot 1, Map 40, Parcel 16 (the Barbarich property) was rezoned from PUD to R-MF. Those property owners also argued that a mistake in zoning was made and the Town Council agreed and allowed that Parcel to be rezoned to R-MF. Because of the intense development now occurring on this adjacent parcel there is also a significant change in the neighborhood, according to the applicant. Although the applicant is not required to submit a site plan at this time, if the zoning change is allowed the developer would be proposing 2 condominium buildings, 3 stories each for a total of 50 units, 50 townhouse units, and 249 parking spaces, with an entrance off Rt. 5 and off of Fenwick Street. The applicant will bring a proposed site plan, for informational purposes only, to the meeting.

Action Needed: The applicant is requesting a recommendation to be forwarded to Town Council regarding requested rezoning for Parcel 254 at this time. The Planning and Zoning Commission can forward a recommendation to approve, approve with conditions or deny. We are not here today to approve or deny the conceptual site plan for this property, only to recommend or deny a zoning change

Ms. Miller remarked that Mr. Joe Mitchell would be presenting on behalf of the SABA Group.

Mr. Mitchell came forward and brought forth a plan that was done in the early 80's and the parcel of land was purchased while the concept of a large PUD (Planned Unit Development) were popular and there were a myriad of issues at that time. One of which was the consideration of the by-pass and much of the land was donated and as part of the negotiation with the State, the State agreed to put in an intersection, designed to be a cross over and then the Town annexed the remaining portion of the property and portions have since been bought and sold to various owners. One of the portions was sold to Wayne Davis and was rezoned a few years ago. Presently, this parcel is far too small to be a PUD. The cemetery is on one side and adjacent to it on the other side is Mr. Davis' property. There is a bit of school property and a very large ravine that runs through the property. There are two reasons for a re-zoning; first being a mistake and arguably it was a mistake to keep this property zoned as a PUD. The second reason is a change in the neighborhood. This neighborhood has changed significantly with the substantial multi-family development next to it. There are no other changes that can occur here and in terms of future development this seems to be the logical use for the property. We respectfully request that this property be rezoned from its present PUD status to RMF.

Ms. Miller noted that they were not here today to talk about the concept plan but asked Mr. Mummaugh to provide a brief overview of the plans if they were to obtain the rezoning.

Mr. Mummaugh stated that they plan to offer condominiums for sale and depending on the cut through road that will determine the amount of units.

Chairperson Moulds inquired if this will be a mixture of townhomes and condominiums?

Mr. Mitchell remarked that we have heard that there is a need in the town for senior type condominiums for people who might want to relocate to areas that require less maintenance. Please understand that we are not asking for approval for any of that but if we do get the rezoning, it is an option that we will be exploring. There is also a piece of land that we would make available for a park area.

Councilmember Candela asked how this would impact the adjacent church property.

Mr. Mitchell replied that there is a huge ravine that separates the two and there would be no visible impact.

From the floor, Father Dakes asked them to explain where the school and church is located in relation to the ravine.

Mr. Mitchell pointed out the location on the site plan.

From the floor, Mr. Darren Larra asked where on the park the sewer line would run.

Mr. Mitchell pointed out on the site plan where the sewer line would run and remarked that in discussion with the Town there was no objection to planning a park in that area.

Mr. Larra asked what the mistake is.

Mr. Mitchell responded that there is a minimum size the property should be to be zoned a PUD and when Wildewood was started it was a 1,000 acres but the first plan we had here was 84 acres for a PUD and this is only 12 acres, the mistake is in trying to designate something that is 12 acres as a PUD.

Member Candela noted that the bypass segregated the property which was the original PUD acreage.

Mr. Mitchell agreed and noted that it created these parcels on each side which are not suitable for much else.

A resident asked what the original density was for the PUD and what would be the new total?

Ms. Miller replied that it is 5 units per acre and there are a lot of requirements for the Open Space Program and one more reason why a small parcel like this cannot meet a PUD requirement. Multi-Family is 10 units per acre and 12 units if it meets certain guidelines for senior housing. Under the PUD zoning it would be 60 units, under RMF it would be 120 and Academy Hills has 77 units.

A resident noted that he has spoken to the Town a few times regarding Academy Hills developments effect on the water run-off, the rainfall collection, which Academy Hills with P.F. Summers the builder is in contention with the Town about damages to the water flow system that occurred when two or three years ago and how is this going to impact that same water runoff and sewer handling capability?

Ms. Miller responded that this is the only drawing that has been submitted and it has not gone to review. There are a lot of steep slopes and the only comment from the Town is that if there is only one entrance from Rt. 5 then it is important to us to have the ability to walk to the downtown and if this was approved we would like to see a connection to Fenwick Street. We have to stay on the subject if this was a mistake or a change in the neighborhood. That is the decision that the Board needs to determine today. We will be holding public hearings and going through the process for the concept plan for that development. At this time, none of that has been done.

The resident clarified that this was not really a mistake as the original decision was made before the bypass went in so the mistake does not really apply. I am not a proponent of the development as I do not want to see the value of my property affected.

Mr. Mitchell remarked that these will not be apartments, they are homeownership condominiums.

A resident noted that this is closer toward Mr. Davis' development, not toward the church property.

Ms. Miller stated that there is a process that they will have to go through as this concept develops and they have already come up with some revisions but it has not gone through any review process. They are here today to show us some of their ideas but the Board needs to make a decision based on the law which is strictly on changing the zoning.

Mr. Mitchell noted that it is a change in the neighborhood or a mistake and we could argue that it is both.

Member Candela agreed that the original size of the PUD was affected by the bypass and now the Town has to work with the changes.

When the Town accepted the property and annexed it, they accepted it as the same PUD that the County had given it.

Dr. Winnik noted that in speaking of Academy Hills, the Appeals Board has had a number of cases where buildings were allowed to be built when they wanted a deck or not and the building restriction lines do not allow that. There are too many houses there for the land and therefore is constantly having to give variances. In the future, you need to look at the land topography and not allow too many houses so that we will not be faced with the same issues again.

Member Burris remarked that with the change and the condos next door I think there is a change of neighborhood. When the entrance off of the bypass was granted to this property it was part of the PUD and if it is changed to RMF I would have a concern about exiting onto Route 5.

Member Candela remarked that we do need to make sure we do this right the first time and learn from past lessons. I do agree that the neighborhood has changed.

Ms. Miller noted that as we go through the process with this plan, there is a section of this property that is in the Critical Area, it has steep slopes. DNR and MDE will be involved in the

wetlands. There are numerous agencies and other regulations this plan will need to go through to meet all the requirements.

Member Candela moved on Case # 71-07, Parcel 254, rezoning request, that we forward a favorable recommendation to change the zoning from a PUD to RMF noting that the adjoining properties are separated by steep slopes and a huge ravine; seconded by Member Burris, no further discussion, motion passed unanimously.

A resident asked from the floor what the difference is between today's Public Hearing and the Public Hearing advertised for November 13.

Ms. Miller explained that the Planning and Zoning Commission is sending forward a favorable recommendation to the Town Council and the meeting on November 13 is the Town Council meeting and they will make the final decision.

OLD BUSINESS

Chairperson Moulds stated that we have some residents in attendance from Leonardtown Landing who have asked to speak before the Planning and Zoning Commission.

Mr. Jerome DuVal, a resident of the Leonardtown Landing community and with us today are a few other residents. Today we would like to draw your attention to an October 5 article in the Enterprise outlined many of the concerns we have regarding the Wharf development project. One of the things we want to highlight is that the residents that are currently there were not there prior to the original concept being approved for Phase I and Phase II and at this time we would like to voice some of our concerns based on information that we have learned after purchasing the homes.

I will be presenting the first two concerns and the overall issue then we have Julie Ahern who will be presenting the other two concerns.

The first overall issue is that prior to purchasing homes there Sturbridge sold to us the idea of a waterfront view. Many of the residents paid a very large premium for a waterfront view. After seeing the concept plans and the revisions we now have some grave concerns about what we were sold by Sturbridge homes and the impact of those views. We feel that Sturbridge homes used some deceptive marketing practices to sell us two things, a water view and boat slips. As we learned from the past Planning and Zoning Board meeting when RAR Associates presented their design concepts, one the boat slips were not there and the new building. We are concerned about the building height and size and impact in relation to current water views that some residents have that was part of the reasons why they purchased the home. The next concern is the parking issue and RAR Associates made a presentation at last month's Planning and Zoning meeting and they brought up the mixed use concept of parking. One of the challenges we have is with the existing business, Seascapes, which at one point the residents were using that as additional parking for guests and visitors after-house. Recently, Seascapes put up a no parking sign other than customers of Seascapes, all others will be towed. That raised some real concerns for us that the mixed use concept goes right out of the window, now it is not even being practiced.

Ms. Julie Ahern introduced herself as a Leonardtown Landing resident. One of the concerns is the traffic. We get on-lookers, folks just driving through, and using driveways to turn around once they realize it is a closed road. Another issue is public safety and my concern that apartments or condos may be put there and there would be an increase in traffic, places to park are limited, the children in the neighborhood have no place to play other than the street and some of the residents have put up cones to slow down traffic going through so the kids have a safe place to play. There is much more traffic and parking is an issue for guests and for residents. The signs are great but they do not work, some of us would like to see a gated community to stop the traffic from coming through the neighborhood for safety reasons.

Dr. Winnik commented that he is not a resident of Leonardtown Landing but lives in the community and has been active in the parking shortage issue with the present site plans proposed. I received strong support from residents both on Washington St and in Leonardtown Landing who all signed a petition which reads as follows:

We the residents of Leonardtown Landing and Washington Street hill most directly affected by the development of commercial building at the "Wharf area" and believe you have a golden opportunity to make sure that any and all parking for business shoppers. Parking spaces should be designed for those commercial buildings and not be mixed in for the single family homes on Washington Street. These spaces should be for family and friends of those residents and all business shoppers and any future residents living in "Wharf area" should have parking spaces only in the commercial area. Therefore we petition the Town Council to pass an ordinance that designates there be no on-street parking for commercial business shoppers on Washington Street from Lawrence Avenue to Godwin Way.

I gave this petition to the Town Council, they have tabled it because they have other concerns but I want you to be aware that there is very strong opposition to any commercial parking along Washington Street hill to solve the parking shortage of at least 33%.

Dr. Winnik thanked the Council members for their time and attention.

Ms. Ahern stated that the residents of Leonardtown Landing support this petition.

Ms. Nelson, a resident on Landing Way, commented that the plan for the townhomes does not allow any additional parking and the only parking there is on the driveway. Some driveways can only house one vehicle and if any vehicle parks on the side of the road it impedes others from getting out of their spots. The trash removal trucks can barely get in and out and there is no school bus service as there is no turn around and the streets are very narrow.

Ms. Trish DuVal, a resident on Landing Way, commented that she has two children and stated that it is impossible to let them go outside as the cones do not slow the traffic down.

Mr. Burris stated that for those of you who were not here last month, all of those issues were addressed with Mr. Russo and in fact I have so many concerns that we tabled it until a definitive list could be compiled.

Dr. Winnik asked when Mr. Russo would be coming back with a new site plan.

Ms. Miller noted that Mr. Russo stated that he was not prepared for this month and would apply for next month.

Ms. Kari-An Behrens Treyes stated that she has been talking with the EPA that the Wharf has not been approved by them.

Ms. Miller responded that the environmental agencies have been involved for the last seven years and we have to meet certain requirements. It has been through Critical Areas, Department of Natural Resources, Army Corp of Engineers, MD Department of the Environment, all of these agencies have been at the table since day one for the entire project. They have approved the entire project and there were many regulations that we were required to meet. We had to reduce the impervious surface, which we did for the entire project which encompasses the park, the townhomes and the commercial portion. The permits are available for review.

Mr. DuVal remarked that the residents had an opportunity to meet with Mr. Russo of RAR Associates and we made it very clear to Mr. Russo that we would like to support the development. Our goal is not to try and stop the development but we would like to look, how we can at this point, modify the buildings that are not built yet to make sure our issues are addressed in some way. His view is the only townhome whose view will not be impacted by the new buildings.

Chairperson Moulds responded that we are aware of all of these concerns and we will be taking these concerns to Mr. Russo and discuss a compromise. Thank you all for coming in and presenting your concerns to us today so that they are now an official part of our minutes.

Mr. Hayden Hammett, a local resident along the waterfront in the community, stated that we can all appreciate the downtown area of Leonardtown and the way it looks is because there are not an expanse of parking areas and I understand the Landings concern of tight parking but one of the reasons I moved into town is so that I can walk almost everywhere I need to go, to restaurants, the grocery store, and to work. I cannot speak highly enough of the quality of life I enjoy by there not being massive expanses of parking lots that I have to get in my car to drive from store to store. There is a reason that people want to live in the Town of Leonardtown.

Monthly In-House Permits – No Questions

Town Council Minutes – No Questions

Member Candela moved to adjourn the meeting at 4:00 p.m., seconded by Member Burris, no further discussion, motion passed unanimously.

Respectfully Submitted:

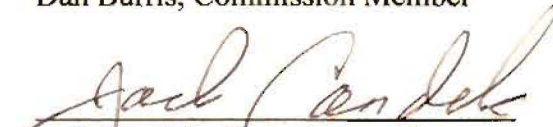

Teri Dimsey, Recording Secretary

Approved:

Jean Moulds, Chairperson

Absent
Frank Fearn, Vice Chair


Dan Burris, Commission Member


Jack Candela, Commission Member

Absent
Dave Frock, Commission Member