

Commissioners of Leonardtown
Leonardtown Planning and Zoning Commission Meeting
Tuesday, January 16, 2007 ~ 2:30 p.m.

Attendees: Jean Moulds, Chairperson
Frank Fearn, Vice Chair
Dan Burris, Member
Jack Candela, Member

Absent: Dave Frock, Member

Also in attendance were: Laschelle Miller, Town Administrator; Jennie McGraw, Plans Reviewer; Teri Dimsey, Recording Secretary; Jackie Post, Fiscal Clerk; Wayne Davis, W.M. Davis; Ned Brinsfield, Brinsfield Funeral Home; Jim Bacot, Brooks Run Builders; Chris Longmore, Attorney; John Norris, Attorney; F.J. Talley, College of Southern Maryland; Bob & Kay D'Esposito, Residents; Kyle Russell, Resident; Tom McKee, Design Builders; Tom Reineke, Lawrence Ave. Project; Larry Ludwig, LSA; Briana Campbell, KCI; Gary Whipple, St. Mary's County DPWT; John Wharton, Enterprise; Bill Higgs, LSR; Chip & Jan Norris, Residents. A complete list of attendees is available on file at the Leonardtown Town Office.

Chairperson Moulds called the meeting to order at 2:30 p.m.

The meeting minutes for the November 20, 2006 Planning and Zoning Commission meeting are presented for approval.

Chairperson Moulds entertained a motion to approve the November 20, 2006 meeting minutes, Member Candela moved to approve the minutes, seconded by Member Fearn, no further discussion; motion passed unanimously.

The meeting minutes for the December 15, 2006 Planning and Zoning Commission Special meeting are presented for approval.

Chairperson Moulds entertained a motion to approve the December 15, 2006 Special meeting minutes, Member Burris moved to approve the minutes, seconded by Member Fearn, no further discussion; motion passed unanimously.

Town Administrator's Report – Laschelle Miller

At the January 8, 2007 Town Council meeting, Council approved the 2007 Budget Calendar. Budget hearings will be held in March.

Council received three requests for liquor license letters of support for:

McKay's Food and Drug is opening in the vacant Super Fresh site at Shops of Breton Bay. They are pursuing an off site sales liquor license under Thomas McKay's name.

Salsa's Mexican Café- Victor and Arturo Llamas from North Carolina will be opening a Mexican restaurant at Breton Market Place. They have requested a letter of support for a liquor license to serve alcoholic beverages on site.

The Maryland Antiques Center Tea Room - Dot Sparling is requesting a Class B liquor license allowing both on and off site sales. Previously the Town gave a letter of support to the Tea Room for a wine/beer license for on site sales but that was never followed through.

Council approved Ordinances that were introduced at the prior meeting:

Ordinance #126 - Water and Sewer Capacity Allocation Charges and Connection Fees-

This ordinance was introduced last month and is intended to codify the rate structure currently in place. This fee is collected to cover capital charges associated with new connections to the water and sewer system. These fees are payable at occupancy permit.

Ordinance #127 - Development Impact Fees- This ordinance was also introduced last month dealing with the impact fees collected and set aside for growth related projects. The fees will be collected at occupancy permit.

Ordinance #129 - Wastewater Impact Fees- This ordinance was introduced last month to increase the sewer impact fee from \$2,850 to \$13,000.

Chairperson Moulds moved on to new business.

NEW BUSINESS

CASE # 3-07: Board of County Commissioners, 41770 Baldrige Street, New Meeting Room at the Governmental Center. Concept Plan Approval.

Applicant: Board of County Commissioners
Engineer: Paul Davis, William H. Gordon Associates, Inc.
Location: 41770 Baldrige Street
Zoning: Institutional Office (I-O)

The Applicant has submitted plans for a new meeting room located at the Governmental Center site. The plan shows a 2 story, 17,144 square foot new building. The building will be a steel frame with brick. There is also an 857 square foot covered walkway that connects the proposed meeting room to the existing Government building. An existing building was demolished at this site; the engineer has provided a layout where the demolished building is in conjunction with the proposed.

Enclosed:

- Site Plan
- Performance requirements/Statement of work

Discussion:

- Case number needs to be added to plan.
- Have parking needs for overall site been addressed?

The applicant is requesting Concept Approval at this time. The Planning and Zoning Commission can approve, approve with conditions, or deny.

Mr. Gary Whipple came forward to present the design plans on the new Governmental Center. Mr. Whipple stated that what they are trying to capture is an elevation that is similar to the County Courthouse. Mr. Whipple described the plans in detail to the Council and asked if they had any questions.

Member Candela remarked that his biggest concern is the screening of the HVAC system and also the large off-site building has some mammoth electrical cables on the outside of the building and would like to see them screened somehow if possible.

Mr. Whipple responded that they are designing specific screening for the HVAC. They will share one side of the building with the school, which is where all the utilities will be, such as the transformer and fuel tanks. We will have these details on the plan to present for final approval.

Member Candela commented that he liked the columns that they have added on the front.

Chairperson Moulds stated that the columns help to identify the building as the Governmental Center and separates it from the rest of the buildings. It also ties in very nicely with the covered walkways to the other buildings and the outdoor areas.

Mr. Whipple said there is still a lot of discussion going on regarding the final design and some designs hinge on the dimensions and the elevation but he hopes to maintain the same look.

Member Candela inquired if this new building would generate any need for additional parking. Is there space allocated for additional parking?

Mr. Whipple replied that we have identified a grassy area next to the school that could be converted to parking and, if necessary, there are a few other areas we could use to create some additional parking.

Ms. Miller explained that this was considered a replacement building. The meetings are being held there now and some are standing room only and they have been able to accommodate the parking. At this time, it is up to the County to look at their growth.

Member Candela asked how many people the present meeting room could accommodate?

Mr. Whipple replied the current meeting rooms holds up to 40 people and the new meeting room will accommodate 160 people.

Ms. Miller stated that they are trying to have seating for the folks who are coming to the meeting standing in the hall. They can bring back some specific parking solutions for their final design approval.

Member Fearn moved on Case #3-07 to approve the Governmental Center Concept Plan as presented; Member Burris seconded, no further discussion, motion passed unanimously.

CASE #1-07: McKay's Food and Drug- 40845 Merchants Lane, 4,000 square foot addition, Concept/Final Site Plan approval.

Applicant: Fairland Market, Inc.
Engineer: John Norris
Location: 40845 Merchants Lane, Shops at Breton Bay
Zoning: C-B

The applicant is opening a grocery store in the vacant 43,646 square foot Super Fresh Store. The intention is to obtain an off site sales liquor license, which the Town Council voted to support at their January 8th Town Council meeting. The Liquor Board requires a separate building for liquor sales from the food sales. The original concept plan for Shops at Breton Bay showed a planned future expansion site located next to the Super Fresh building.

Enclosed:

- Site Plan
- Storm Water Management calculations
- Parking calculations

The applicant is proposing to build a 4,000 sq. ft building attached to the original building and enclosed is a copy of the site plan and some elevations of what the side and the front of the building will look like and also an interior layout of the store. It was requested of Mr. Norris to look at the stormwater management. We have had three upgrades to the swm facility on that site, one was Auto-Zone and one was Dr. Patel's building and also True Value. He ran the original computations for the entire site and looked at the three improvements that were done and it will accommodate this small addition, no improvements are required for swm. Also, there was overall parking done for the site on the original plan and according to our zoning ordinance if they are not increasing more than 50% they do not have to go back and modify the parking plan. They would need to look at how the parking is working for them.

The applicant is requesting Concept and Final Approval at this time. The Planning and Zoning Commission can approve, approve with conditions, or deny.

Ms. Miller remarked that Mr. Norris of NGO Engineering was not in attendance but Mr. Thomas McKay is present to answer any questions.

Mr. McKay stated that the new building would look identical to the rest of the shopping center.

Member Candela asked if there was an entrance from the main store into the liquor store. It would be nice if people in the main store didn't have to go out into the weather to get into the liquor store.

Mr. McKay responded that that has not been determined yet. They will be discussing this with the liquor board. We would like to have it connect but at this time it will have its own separate entrance from the sidewalk for customers.

Member Burriss inquired about the rear entrance, do you need loading and unloading?

Mr. McKay replied yes they would and we are discussing that with the architect. We are planning on placing a rear door and adding a sidewalk from the service road. We planned on it coming through the supermarket but if we can't, there is a service road along that side there we could use.

Member Burriss asked if Mr. Grant had looked at the calculations for the swm.

Ms. Miller responded yes he had.

Member Burriss commented that he would like to see the side of the building dressed up with some landscaping for a nicer image.

Mr. McKay remarked that the 40' width is in keeping with the original approved concept expansion area. The depth has been reduced as it was originally shown to go back 190' and we are only going back 100', this leaves about 4 or 5 feet of green area that we can put in some plantings.

Member Candela moved on Case #1-07, McKay's Food and Drug, to grant Concept and Final site plan approval for a 4,000 sq. ft. addition, taking in consideration the recommendations for the plantings, doors and loading platform; Member Burriss seconded, no further discussion, motion passed unanimously.

CASE # 151-05: Brinsfield Funeral Home, 22955 Hollywood Road, Recommendation for variance request to the Board of Appeals.

Applicant: Jim Bacot, Brooks Run Builders
Owner: Edward Brinsfield
Location: 22955 Hollywood Road
Zoning: Residential Multi-Family (R-MF)

The applicant, Jim Bacot, of Brooks Run Builders is filing for a variance to expand a non-conforming use in a category R-MF by 2,710 square feet. There is a Board of Appeals hearing on January 23, 2007, which Brinsfield Funeral Home will be on the Agenda. The proposed 2,710 square feet addition is mostly in place at this time, this will be an after the fact approval if one is granted.

The Funeral Home was issued a building permit on November 29, 2005 for enclosure and an addition totaling 1,239 square feet. The construction that was being performed is beyond the

scope of the permit that was issued, therefore resulting in a request for a variance. See minutes from Special Meeting, December 15, 2006.

Enclosed:

- Variance Application
- Site Plan provided by Brooks Run Builders which shows 2,710 sq. ft. of addition
- Original Site Plan from LSR did not break out an itemization of the total square footage
- Photos of property
- Letter from John Norris

Per the Leonardtown Code:

§ 155-65. Nonconforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure shall be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure shall be enlarged or altered in a way, which increases its non-conformity.

§ 155-66. Non-conforming use of structures.

If a lawful use of a structure or of a structure and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the zone under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No structure of nonconforming use, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the structure to a conforming use.

B. Any nonconforming use may be extended throughout any part of a building, which was manifestly arranged or designed for use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, any nonconforming use of a structure or a structure and premises may be changed to another nonconforming use, provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.

The Applicant is requesting a recommendation to the Board of Appeals at this time.

Ms. Miller stated that the first item for discussion is the verification of the 2,710 square foot, as shown on the site plan, and in fact, includes the garage.

Mr. Chris Longmore came forward and introduced himself as the attorney representing Mr. Ned Brinsfield today and stated for the record that Mr. Brinsfield is present along with Mr. Bacot, the builder, and Mr. Bill Higgs of LSR, Inc. If the square footage is the first issue you would like to address, Mr. Longmore referred to the colored diagram site plan they brought. Mr. Higgs will point out what the different colors are in relation to the square footage.

Mr. Higgs came forward to provide an overview. He stated that the property is about 1.37 acres, averaged out it is roughly about 185 feet wide and 320 feet deep and is currently zoned Residential Multi-Family (RMF) and is improved by an existing funeral home and also a detached garage. The existing buildings are shown in olive green, the gray indicates the existing parking area and the existing circular drive in the front of the building that comes into the property, with green being the grassy area. The red represents the additions that were added to the building. I do not have the actual footprint plans. The first floor and second floor were done in a modification but the actual footprint area that was added is 2,243 square feet. The overall building was 6,183 square feet existing and then they added 2,663 square feet so the whole building now has a 9,846 square foot footprint. I do not have the information for the floor plans or what was done on the second floor.

Ms. Miller asked to clarify that 2,243 sq. ft. is the footprint added onto the building and that 2,663 sq. ft. is the total footprint.

Mr. Higgs responded no, that is just the bottom footprint there are some improvements that were made and I believe that is where the 2,710 sq. ft. comes from.

Ms. Miller stated that 2,243 sq. ft. was the first number and then 2,663 sq. ft. was given as the second number.

Mr. Higgs replied that the 2,243 sq. ft. is the impervious surface. The actual building is 2,663 sq. ft. because we removed some parking area in the process. The BRL on this property, currently zoned RMF is 25 feet on the front, 10 foot on the sides and 30 foot on the rear and currently the current building is 88.7 feet from the front and 40.1 foot on one side and 48.35 foot on one side and 124 foot on the rear, it is well within the BRL.

Chairperson Moulds remarked that we have a lot of issues that need to be discussed today because of the way that this whole thing has evolved and the fact that there was a permit issued originally for the smaller area of 1,239 sq. ft. and then the actual building turned out to be bigger than that. I do not know whether we have all the information given to us to even make a decision today. We need to have some open discussion on this whole project, how it started and where it is today. I know some of that discussion happened during the Special meeting in December but we need to follow through on that before we can even think about making a decision.

Mr. Longmore remarked that he would like to present a little more background information and all the necessary parties are present to answer any questions. One preliminary matter that we think is very important for the Board to consider is that the issue here, we believe, is not whether the building is a non-conforming structure but it is rather the non-conforming use that is within that building. There are different provisions relating to a non-conforming use that exists in the structure that would otherwise be allowed in that zone. As Mr. Higgs just mentioned, the building itself, as far as we can tell, and we believe this is accurate, does not violate any of the

other provisions of the ordinance by the structure itself. It is only the use that is within it. The Board is correct that there was a building permit originally issued on this for a certain amount of square footage and what was brought before the Board during the Special meeting last month was in relation to that work. The work being done did not meet the square footage on that permit and there was confusion over how that came about and whether or not that was approved or not. We are here today at the suggestion of the Board to discuss seeking a variance and we are asking for the Board's recommendation to the Board of Appeals. We also believe it is within the purview of the Town to grant this permit without a variance and will get into that in a moment. We are here voluntarily and are willing to look toward this Board for whichever direction you believe is the most appropriate to take. We are a little unclear which way is the most appropriate way to go.

What we are talking about here is a non-conforming use of having a funeral home in this structure. It is a very unique non-conforming use in that the work we are asking to be performed is not to add a third chapel to this funeral home, where presently, there are two chapels where viewings can take place, but it is to enlarge one of them and to add accessible bathrooms to the structure, expand the garage to allow more privacy for the work that the hearses must do and to expand some of the work area in the back. By doing this, the applicant Mr. Brinsfield, who is happy to answer any questions you have in this regard, will not be allowing his business to maintain more funerals at the same time. He will still have the same capacity and have the same number of funerals that it could at this time. It will simply make the area within it more comfortable than what it is now. If we were adding a third chapel that would certainly be an expansion of the structure, an expansion of the use. We do not believe we are asking to expand a non-conforming use of the funeral home because we are not asking to put in a new chapel. We are not really adding more seating. We are simply making it more open for the seating that we currently have and to have more flow for the traffic for the individuals that will be coming to the funerals.

We believe under the ordinance, and it is specifically in the previous minutes, the Board considered that Ordinance #155-65, which is a provision of your ordinance. Ms. Miller mentioned that at the outset and that relates to non-conforming structures. The next entry in the ordinance however talks about non-conforming uses within structures, that are otherwise conforming is the way I interpret that provision. That says that you cannot extend or restructure structures of that kind except for dwellings. The way the ordinance defines dwellings is, "any building or portion thereof designed or used for residential purposes, but not trailers or mobile homes". The building we are looking at here was in fact designed for residential purposes; it was originally Dr. Camalier's home with his medical office in the downstairs as you walk into the front door. But the portion where the main work is being done is a building that was designed for residential purposes. Mr. Higgs and Mr. Bacot can comment on this. This was designed as an old house and this provision that says you are not allowed to expand these structures says that as an exception, if you are working on a building that is residential or was originally designed to be a residence. It makes sense if you look at the nature of the neighborhood. I know from growing up there that we have these two to three story homes. If it is designed as residential you will be allowed to expand those but not put the buildings in that would look more commercial in nature than what we have. So we do not believe a variance is required under that provision because we are dealing with a structure that was designed as a dwelling and, as long as we meet the other requirements of the ordinance, we believe that the expansion is appropriate.

We understand that the Board, from reading the minutes, has some concerns regarding stormwater management in light of what is being done. Mr. Higgs is on standby to address those concerns should this Board or Board of Appeals believe that is appropriate. We have talked with Mr. Brinsfield and he is certainly willing to work with the Town staff to take any measures that are reasonable in that regard.

So the first issue, we think, and it was not clear whether it was addressed at the last meeting, I don't believe that issue was looked at in terms of whether this was really an issue. Again it is the structure we believe is conforming, we do not believe we are expanding the use that is non-conforming and we believe we are allowed to expand the structure because it was initially designed as a dwelling for residential purposes. With that being said if there is a variance that this Board feels is more appropriate, in light of the concerns addressed at the last meeting, we believe we can meet those standards set forth in the variance provisions of the ordinance.

One is that we clearly have a business that is allowed to be there as a non-conforming use that is allowed to be there under our ordinance. The first standard that we would need to meet is whether the strict application of the regulations and restrictions would result in peculiar, exceptional or practical difficulties or exceptional hardship. A hardship was mentioned during the last meeting. A lot of the work being done here is a repair to the existing roof on the backside and an expansion being done with that is to make the bathrooms in the funeral home handicapped accessible for both the men's and women's room. A lot of it is for the comfort of those who are going to be using this home. Dealing with the structural issues that are there, addressing those types of concerns for this type of business and the fact that I believe they saw that the owner has been acting in good faith and not knowing there was an issue with the permit until this issue arose with the Town. So we think this hardship, considering the historic nature of this home at this point to allow Mr. Brinsfield to do this work to modernize it to correct the structural problems that he has concerns with and to make it more comfortable for his clients. The unique and historic nature of the property, we believe, is one of the items for this Board to consider for granting a variance. It is also important that we try to comply with the ordinance in any way that we can. Mr. Brinsfield does not intend to have more funerals at one time, to have more people at any given funeral, but instead to make it more comfortable for those who are there. So we do not believe we are expanding the use. The building meets all the other code requirements that we know of in the Leonardtown ordinance and unless there is any other concerns that the Board has. With swm being an issue, Mr. Brinsfield is willing to work with Town staff to work out a reasonable resolution. The building is set up as a dwelling and it does lend to meeting the intent of the ordinance.

The final standard is that what is being done is not for convenience, profit or caprice. The work that is being proposed is to make the restrooms more comfortable for families that are there, enclosing the garage and making it easier to do work within the garage so that can be done in private for the families that have a loved one at the funeral home. It is not a typical expansion that would be requested; say for a restaurant where you are adding more tables for more people to buy more meals. This is simply to make it more comfortable. We all know from going to funerals at this particular establishment that the size of the funeral home is not going to dictate how many come, it will be the funeral itself, the family and friends of the deceased. All of these measures are being done simply to make it a more comfortable place for our citizens to go to. It is not being done to expand the amount of business; it is to do it in a way to make it friendlier to our citizens. So for all those reasons, should this Board feel that we should go with a variance,

we would ask for your recommendation to the Board of Appeals feeling that we can meet all the standards of the variance.

Chairperson Moulds thanked Mr. Longmore and commented that she understands what he said about the variances but it still goes back to the section of the general provisions which is #155-62 and it describes in there about a non-conforming use. Especially line C, which says, "that a non-conforming use of the structure, land or boat shall not be extended or enlarged after passage of this chapter. Nor shall additional uses of the nature, which would be prohibited in the zone involved, be allowed." In that case, the variance might not be what you were looking for here. Probably what we should have looked at the very beginning was a re-zoning of this property, considering what else is along this street and what we already have there. We will have to discuss this in more detail to decide how we are going to resolve this.

Mr. Longmore commented that he has discussed this with the attorney for the Board on this case. Maryland law notes a difference between an intensification of a non-conforming use and an expansion of one. What the case law allows is that when an individual has a non-conforming business, for example, their hands are tied so that they can never do anything to improve that business. There is a law that says you may not be able to expand it in certain ways. That is why in this case we believe what is being proposed, if anything is more of an intensification, which means adding improvements to the existing non-conforming use, as opposed to expanding it. We believe, for example, a third chapel would probably fall within the expansion category. If Mr. Brinsfield's plans were to have three chapels or viewing rooms in there I do not think our argument would hold any water. The fact that we are keeping the same number of chapels and simply rearranging them and making them more comfortable we do not view that as an expansion, but simply an intensification of it. The case law says that owners in non-conforming uses have a right to intensify but they do not have a right to expand unless the Town ordinance allows them to. That would be an area for consideration that I did not notice in the minutes from the last meeting.

Chairperson Moulds asked if they would point out on the colored diagram what is going to be in all the red space. I assume on the one side that it would be a garage because we have a picture that shows two garage doors. Yet it looks like the garage doors have been covered over and there is a smaller door in one of them. What is going to be used in that space that is around the corner?

Mr. Longmore asked Mr. Bacot to share that information, as he is more familiar. You have a drawing showing the proposed layout of the project. I do not know that it coincides with the red area.

Mr. Bacot came forward and indicated that they took the doors down to keep the drafts out and put in a small temporary door; it will be changed back to garage doors.

Chairperson Moulds indicated there was an addition upstairs.

Mr. Bacot indicated that that was to hold the air handler, which is not a room, just a cavity.

Member Candela asked if this was the existing chapel and what this area here was?

Mr. Bacot indicated that it was all new chapel.

Member Candela noted that one concern regarding the design is to keep the project looking like a house, the covered walkway does not look like a house, it looks like the old Siesta Motel.

Member Burris asked to see the photos presented at the last meeting.

Chairperson Moulds indicated that there were no windows at all on one side and asked if there would be windows?

Mr. Bacot replied there would be windows before you get to the garage doors.

Ms. Miller pointed out that depending on which direction you go, certainly at a minimum there will have to be a design review. There are other issues than setbacks that have not been addressed on the site. If that is the direction that the Board goes I think there will be other questions. I think the decision today needs to be which direction we are going to go with it.

Member Burris asked Mr. Norris to provide a definition of a dwelling in our ordinance which Mr. Norris read as “any building or portion thereof designed or used for residential purposes.”

Mr. Norris responded that there are a couple of different definitions for dwellings. One is “dwelling is any building or portion thereof designed or used for residential purposes but not trailers or mobile homes and there is a definition for single family, two family, multiple family” and this is located in Article #155-4 – definition section.

Member Burris noted that it was designed as a dwelling.

Mr. Norris stated that the real issue is the use of the dwelling and even though it was originally built as a dwelling, the use of the dwelling we presume is a legal, non-conforming use since the Town put in, at least under the current zoning designation of multiple family.

Member Fearn asked when the ordinance was written?

Mr. Norris responded because it is a legal, non-conforming use, the funeral home would have to have existed before it came out of conformance. Under the last adopted zoning plan it is non-conforming. There are also limitations on non-conforming uses and that is what we are dealing with today. Is this intensification or an expansion? The presumption has been that while it is a funeral home, the chapel today is very small and the second chapel is very small. It is a presumption on my part that with the expansion of the chapel it could then serve a second funeral at the same time. I have not been in Brinsfield’s when they have had two funerals in two separate chapels at the same time. If they have never done it before, that would be an expansion of their use as opposed to intensification where more people come.

Member Fearn asked if we had any precedent for this situation, have we had anything like this occurring before?

Ms. Miller replied none that we are aware of. We have had questions come in on what can be done with a non-conforming use.

Mr. Norris remarked that he is not aware of any in the Town of Leonardtown but there are cases in the State of Maryland dealing with non-conforming uses and whether they can expand or intensify. The case on intensification was with a bar and they were increasing their square footage to allow more people to come and stay. This is a different use than a bar but perhaps that warrants some consideration.

Ms. Miller pointed out that the Board received a copy today of the Town's Comprehensive Land Use Plan. Many of you served on that committee and this RMF neighborhood has been a very big concern of the Town's. We specifically talked about this area in the Comprehensive Plan. We did not change the zoning or make any decisions, but we did say for future consideration that this area could be considered for rezoning for commercial office with special conditioning; we are specifically talking about the corner parcel. But this would be consistent with the 1997 rezoning of adjacent properties and would be sensitive to historic homes in this immediate area. I think that this case is so important. This was one of the areas we spelled out in the Comprehensive Land Use plan and is an area we have been very protective of. I know some of the concerns of the neighbors are they did not have any participation in this and they feel it does change the neighborhood. We need to be cautious about the decisions that we make today and its impact.

Mr. Longmore noted that this neighborhood, and the nature of non-conforming uses in general, is that there are not a whole lot of them out there. There are not any other ones that I know of in this Town, although there may be. In order for this to create any type of precedent, if that is something the Board is concerned about, the only thing you are considering today is whether this type of non-conforming that use existed prior to the ordinance, can continue to make the improvements to the structure that my client has asked. In my opinion this would not allow any other new types of businesses to come into this particular zone or to do anything of that kind. It is simply a right that this property owner has to continue the use that they had prior to the zoning change on their property. So it is a use that was legal and allowable before the zoning laws about that use changed, not the use itself. So for instance, on a neighboring property along that street, it does not mean that some other type of business could now locate in a house that is being used as a residence right now because that use was not occurring prior to the enactment of this ordinance. So while we appreciate the sensitivity of this area of the Town, I would ask that you consider that and any concerns you have that this could open any type of floodgate.

Member Fearn's inquired how much of the construction renovation has occurred on impervious surface? The reason I am asking is that swm has been thrown into the mix and we do not show anywhere where there was already impervious surface when they added the building. Was there existing impervious surface and you just added the building over it or was it not impervious and you built on it? It does not show that.

Member Burris asked if there were any photos prior to construction.

Ms. Miller stated that the numbers Mr. Higgs provided earlier show an additional 223 sq. ft. impervious surface.

Mr. Norman Norris, who introduced himself as Mr. Brinsfield's neighbor, interjected that he would like to make some comments. I had just painted my house and I wake up one morning and

there is a crew and no hearing or anything. If I had known this area was going commercial I would not have painted, I would have put a for sale sign up. I don't think you can issue a variance for a dramatic increase in size of a building and a dramatic increase in size of the lot and then take on the property next door also. Town code goes on to say you can't increase the lot and can't increase the size of the building. The code then says for variances that you can't use them as a disguise to rezone the area. Your building code says that you don't want any long, ugly buildings, long rooflines and your building code has been ignored too. What I am saying is this isn't a variance. You have too many issues on the table; this is a re-zoning. If you approve all this, the whole area changes. These are large homes and large lots and are worth preserving. If you don't want to preserve it, zone it all commercial.

Member Burris noted that if it goes to the variance process, there would be public hearings.

Mr. Norman Norris noted an issue discussed today which is the expansion out at the Governmental Center. There is already heavy traffic along Rt. 245. What they are going to do at the College with putting in a swimming pool, all these cars will exit along Rt. 245 because you can't get out onto Route 5. At one time they talked about running a road out to the Governmental Center, which would give us a better flow. You are increasing the intensity of this area. The College changes shifts at about 5:00 p.m., which is about the time that people generally have families from 4:00 p.m. to 5:00 p.m. for viewing, and then the public comes in at 5:00 p.m. and then prayers at 7:00 p.m. You will have the shift changes at the college and more intense use here at the funeral home. If people want it re-zoned then you ought to know what you are doing and have some public hearings, don't back door it with a variance. It will be on the lot, taking the Warren property next door and taking the dirt under the addition to the building. It is too many things for a variance.

Ms. Miller asked Mr. John Norris if he would provide an overview of the direction that could be taken today and what the Board's options were.

Mr. Norris stated that before the Board today is a request for a variance for an expansion of a non-conforming use. The request is to either, one recommend that variance to the Board of Appeals for approval or two recognize it is an intensification of an existing non-conforming use that would not require a variance and send that recommendation to the Board of Appeals. You have the opportunity to consider what this variance does to the character of the neighborhood and if granted whether it warrants reconsideration of zoning of that neighborhood. And that is something you certainly should consider as well. But, if the variance is ultimately granted, what does it do the character of the neighborhood. Is it sufficient change for the adjacent property owners to come in and ask for a change in zoning because of the granting of the variance? So these are the items that are available to you. You may feel you have enough information to come to a final decision. The issue with swm is one that can be resolved through the grant of an additional variance if necessary, if it is greater than 5,000 sq. ft. of disturbed area to require swm or is this improvement less than 5,000 sq. ft. The concern is the cumulative effect of the paving that has occurred for parking spaces, as well as the addition, and the cumulative would be greater than 5,000 sq. ft and swm would need to be addressed.

Member Burris commented that there are a number of issues. First of which we wouldn't be in this situation if the Town did not issue the permit to begin with, which they should not have done.

Ms. Miller remarked that she disagreed with this statement. Issuing the permit could have been a mistake but this has gone way beyond that and that is the issue.

Member Burriss stated that that is part of the reason we are here today. There are swm, parking and construction issues. The parking has not been addressed as far as the required number of spaces needed to compare to what is there. The paving and parking of the adjacent Warren property is an issue. There is concern that this property looks like it is commercial use because of this expansion and we don't want to see commercial use out there. I am not sure how we resolve that issue of making sure no one else is able to change the use to commercial. But I feel that if we send it to the Board of Appeals we need to make sure the swm, parking and the commercial issues are taken care of. I feel because there was a mistake in the original permit that we should send this to the Board of Appeals.

Member Fearn asked what is the Board of Appeals going to decide? Will they decide on whether the work that is being done continue or do they have to come back and we have to get swm information. What is the process this will follow once we make a recommendation? Just say we make a recommendation that there is a variance issue or we say it is not a variance, it is an intensification issue. Does this case turn around and come back to the Board?

Ms. Miller remarked that you could recommend approval for the variance. There are a number of issues that we talked about earlier that would also need to be addressed on the site, such as swm, the look of the building and screening of the equipment on top of the roof. There are a lot of issues that would need to come back for final approval because it never went through that process. So if the variance is given to them and they move forward, then yes it would have to come back to you for final site plan approval. The other option is they do not need a variance. They could move forward but they would still need to come back before the Board for final site plan approval. The third option would be that they would not receive approval for the variance.

Member Candela noted that one issue we keep overlooking is the fact that there is a lot of talk about this being commercial. It has been commercial for a long time and that had not changed. The type of activity within the facility has not changed. It has been a funeral home for a very long time and I see this as an intensification of what has been permitted there as a non-conforming use. I do not think the issue is whether is it commercial or not commercial. If a variance was granted for this particular project I do not see it changing the nature of the neighborhood from the standpoint of additional potential commercial uses of the adjoining properties. That is very clear in the ordinance, that this is a residential district. I do not see any other commercial potential unless you did actually rezone it. But the question is, is this is a non-conforming authorized business that needs to improve. I think a lot of people have made a lot of mistakes, including the Town, and it is not going to be a simple solution. But regardless of what we do here today, I would assume that this would remain in its current use, which is a funeral home. Is the community going to be better served by having a nicer facility for doing what it has been doing for years?

Member Burriss commented that Mr. Norris suggested another option of a waiver?

Mr. Norris responded that this option is the most tenuous of all the options available.

Chairperson Moulds stated that if the Board is considering this as a variance, what is the justification for this variance?

Member Burriss remarked that it was a hardship.

Member Fearn commented that some of the things they are doing to meet code such as the ventilation and handicapped accessible restrooms, he could understand.

Chairperson Moulds asked if this would justify the hardship?

Member Burriss asked Mr. Norris if this were considered intensification would it not need the variance?

Mr. Norris responded it would need to go before the Board of Appeals for a variance request. If your recommendation is for intensification, it shouldn't require a variance. If a variance were required than it would be recommended for approval or denial.

Mayor Norris interjected speaking as the Mayor and not as a neighbor at this point, that he has been involved in this situation and one of the reasons staff did not make a recommendation is because they have not been provided the actual square footage of the site plan. Based on our calculations and their own site plan it is 3,600 sq. ft. and it is not very clear on what the enclosure actually is.

Mr. Higgs pointed to the diagram and noted that the footprint is 2,263 sq. ft. I think the tunnel is 2,710 sq. ft. because there is some square footage associated with some improvements on the second floor that is above that.

Mayor Norris noted that the 2,710 square footage altogether is not clear if it includes the enclosed carport. I am not talking about the new carport, but the permit for the 1,239 sq. ft. where is that; we could not figure it out.

Mr. Longmore replied that what we have done since the last meeting is to have the engineer provide drawings to get an accurate square footage.

Mr. Kyle Russell, resident on Laverne Lane, commented that they are not showing you the second level on purpose because on the right side where it juts out does not conform to the original architecture, it is just an ugly add-on that I get to see from my house.

Mayor Norris remarked that the actual square footage is something we have not been able to clear up from any of our meetings. According to Ms. Miller it sounds more like 3,300 square feet. I think its tough to make any recommendations without all the proper and correct information. In regards to having other precedents set, I cannot remember any but right after this case we have a similar situation with Mr. McKee's property, which is a non-conforming use in a residential area, so the precedent hasn't been set yet but could be set today.

Member Fearn commented that if Town staff is saying they would not make a recommendation and are handing it to the Board, we still do not have all the correct information.

Mayor Norris stated that we need to get all the facts first, what is the total square footage, then we can make a recommendation, but only after we get all the facts.

Member Candela noted that he was concerned if they forwarded this on to the Board of Appeals just what is the nature of the variance that we are forwarding on to them?

Mr. Norman Norris exclaimed that if they are taking in the Warren property are they expanding the land, as well as the building, because if they expand both of them I do believe you change the neighborhood.

Mr. Longmore remarked there are no requests to expand the land in any way this is the only use in this section. But, for zoning purposes and whether or not this structure meets the zoning requirements on this lot, if this were a home it could have this footprint and our zoning ordinance allows for that. We are happy to provide whatever information staff needs from the applicant. We thought we had provided everything requested. We need to know what information is needed to provide you that will assist you in making your decision. Anything we can do we are certainly happy to do so.

Ms. Miller responded that I think there is a lot of confusion, as you can see here today, on the square footage. We really need to know that the final number is an accurate number and we just came up with this 3,300 sq. ft. number.

Mr. Longmore replied that we are happy to work with you in any way.

Member Candela asked if the 3,300 sq. ft is over and above the 2,710 sq. ft. and if so, is that because of the second floor?

Ms. Miller responded no, it is the covered walkway, the fire exit area and another little area that is not included in that 2,710 sq. ft.

Mr. Longmore stated that my understanding of the second story, so the record is clear, is that it is not any type of living or dwelling area it is for storage of the air filtering system.

Ms. Miller remarked that we have met the 25-day advertising requirement. We could cancel the Board of Appeals meeting next week, but we would have to readvertise it.

Member Candela inquired about all the other issues. Should they not be brought back to us next time as far as the designs, swm and all the rest?

Ms. Miller noted that is up to you. Mr. Higgs has already started to work on the swm. It is going to be an expensive process to design and I personally asked him to wait to see what direction today's meeting went in. Because if you were not going to grant the variance and he would have spent a lot of money on design. If you want that to come back they are willing to move forward.

Chairperson Moulds stated that we need to see the architecture, especially how it ties into the roofline, and how it will be once it is painted and the air-handling units are screened. We need to know what it is going to look like from the street and what it is going to look like from the side.

Member Candela noted that another way of saying it is whether it is going to look like a residence or whether it is going to look like a commercial establishment.

Ms. Miller noted that before you hear it again, you would like confirmation on the exact square footage, how swm is going to be addressed, how they are going to screen the HVAC units, and see the architectural drawing, if it will look residential/commercial.

Chairperson Moulds noted to add the parking spaces.

Ms. Miller stated that their claim today is that they are not increasing their need for additional parking.

Mr. Longmore remarked that Mr. Brinsfield intends to have the same number of funerals he would have whether this Board grants his request or not. The proposed parking is on the site plan we have proposed and we believe that adequately addresses the need for three seats per space and the standards that the Town has. The intent, is not to expand the seating, it is to make it more comfortable for the citizens who attend the funerals. So we do not believe it is expanding, we are not requesting to have more funerals at one time. Mr. Norris mentioned that he has never been to one when there have been two at one time, but I have, which I know is rare because it is a smaller chapel. He has hosted two viewings on one night and I have personally been there on one of those nights. But the proposed work, we do not believe will impact the parking. We are happy to provide more explanation of that should you need more.

Ms. Miller inquired if that equates to 225 seats?

Member Burris stated that the current parking would hold 219 seats.

Member Burris asked how many seats would you have with the new chapel.

Mr. Brinsfield replied about 100.

Ms. Miller noted that they have 74 spaces right now.

Mr. Longmore asked if the Board was comfortable with the parking issue or do you need additional information from us?

Chairperson Mould stated that she believes the parking is satisfactory.

Member Fearn moved on Case #151-05 to table the Case until the next meeting and we are provided the requested information discussed today; Member Candela seconded, no further discussion, motion passed.

CASE # 113-06: Tom McKee, Lawrence Ave & Washington Street, Parcel 319 Discussion and Presentation.

Applicant: Tom McKee
Architect: Tom Reinecker
Location: Lawrence Ave & Washington Street

Zoning: Residential Single Family (R-SF)

The Applicant Tom McKee has brought forward some ideas for discussion on his property located on Lawrence Avenue. The property is currently zoned R-SF. Mr. McKee has indicated that he would want to submit an application for rezoning to Commercial Business if there is a possibility his concept plan would have positive feed-back from the Planning & Zoning Commission. The applicant is attending the meeting to discuss the proposed drawings, which include underground parking, retail space and a number of residential units.

Items Enclosed:

- Property Plat
- Concept Drawing
- Excerpts from Town's process for rezoning

This plan is presented today for discussion only.

Mr. Tom Reinecker came forward to present the concept plan starting with the building elevations. Today we propose ten townhouses that would sit on an elevated plaza to handle underground parking. The elevation below would be on Lawrence Avenue on street level to accommodate retail commercial space to be broken into two segments separated by an elevator stair tower that would give access to the two levels of parking below and bring residents up to the second level promenade above a covered walkway on Lawrence Street. We assume a considerable amount of potentially contaminated soil will need to be removed. Instead of replacing it we would use the void that was created. We recognize the need to address swm. The other attribute is that it will provide us with a natural cavity that we believe we will be able to use for swm. From Washington Street there would be a ramp that would take you down to a lower level for approximately 50 parking spaces. There would also be a parking level off of Lawrence Street, which would accommodate roughly 80 parking spaces mainly for the commercial building use. Our final plan is to have 10-12 one-bedroom units and two lofts in each building. This is just our preliminary design, which we created from feedback we received from the Town and in looking at the opportunities the site presents to the developer.

Member Burris noted that this would definitely have to be a change in zoning. How do you propose to present that?

Ms. Miller remarked that it would have to show a change or mistake.

Mr. McKee commented that the mistake in zoning is in relation to the Tudor Hall property, which received zoning approval for 90 townhouses.

Member Fearn stated that this would be a change in the neighborhood.

Ms. Miller commented that the process for re-zoning would involve two public hearings. One would be before the Board for a recommendation to the Town Council who would make the final decision on the re-zoning. There would be a public hearing held at that meeting also.

Chairperson Moulds remarked that her first impression of the plan is that it seems a little crowded to put that many townhouses in that little space along Washington Street. In regard to

the apartments above, would it be better to have fewer apartments and two-bedroom apartments which might sell better than one-bedroom apartments?

Mr. Reinecker responded that at this point they are open to wherever a market study might indicate, which may change the size of the townhouses and build eight instead of ten. This is a very preliminary plan. These plans represent answers to some of the questions that have come up especially on how to handle parking. This is why we are here today to explore these issues.

Chairperson Moulds stated that because we have gone through all other problems with developments to find enough parking this seems like the best solution to place the parking underground. Another concern is the commercial part along Lawrence Avenue, which is an extremely narrow road.

Mr. McKee interjected that he would propose to SMECO that the power lines come down and place them underground that would give us room to widen the road approximately five feet. This would be the developers expense as it is a Town road and not a State road and possibly find some grant money. By moving the electrical underground and cleaning up we would acquire a few parking spaces for people to run in/out of the retail shops.

Mr. Reinecker noted that Lawrence Avenue would definitely be part of the proposal. Some kind of curb or pull up parking needs to be incorporated.

Ms. Miller stated that there are a lot of details that need to be looked at and the first major hurdle is the re-zoning.

Ms. D'Esposito, a resident residing on Lawrence Avenue, stated that as far as the possibility of widening Lawrence Avenue I don't see where that is possible as our homes already abut the road right to the property line.

Mr. McKee responded that SMECO has a five-foot buffer for their power lines but it would need to be researched first to see if this was workable.

Member Fearn stated he could see where you could get that done where you are developing but you will run into a problem with everyone else's houses.

Chairperson Moulds commented that this would be something Mr. McKee would need to discuss with the Town.

Ms. Miller remarked that the major thing today is the direction to move forward, does the Board have positive feedback or not a direction that you would pursue.

Member Burris asked Mrs. D'Esposito if she would support any commercial around her?

Mrs. Esposito replied that she lives there and would not support it.

Member Fearn's question is, once we re-zone this you are starting down Lawrence Avenue with commercial, which has traditionally been residential, then the neighborhood changes. That would be a concern I would have about introducing commercial.

Mr. McKee stated that this came up because this is what he asked the Town what they would like to see done with the property.

Ms. Miller stated that the discussion with the last proposal on Tudor Hall was expanding the commercial and the developers proposed expanding the commercial area.

Mrs. D'Esposito remarked, except for the wharf property, the entire area from the courthouse down is residential.

Mr. Tom Collier, speaking as a resident, the neighbors in that area have a great concern of going commercial along Washington Street.

Mrs. D'Esposito stated that traffic wise it would impact the area greatly, along with the work along the Wharf.

Chairperson Moulds said there is a lot to think about because we have to take into consideration what is on that property now and what you would be able to put on that. For example, to build a single family home either on the Washington side or Lawrence Avenue side considering the fact that the contaminated dirt would have to be removed which would be a big expense and would we be able to find anyone willing to do that? Is it just the commercial part that you are against or the townhouses on Washington Street or the shops along Lawrence Avenue?

Mrs. D'Esposito remarked that she would not want to see it go commercial but it would be okay put something up for a few families but ten townhouses seems too much.

Member Burris commented that the cost of going in and cleaning that property up would be considerable and it will remain just a bunch of vacant buildings if the developer cannot put in something that would help defer the cost.

Mrs. D'Esposito stated that no matter what they do they will have to clean it up.

Member Burris noted that they would leave it just as is.

Is there any possibility that the Town would entertain the idea similar to other towns and cities where residences above the commercial space were owner occupied?

Member Burris I believe once it goes to an apartment you don't have any control over who occupies it.

Chairperson Moulds stated that I believe what you have presented today is a good start, something will have to be done with it in the future and we would not like to see it just sit there with the warehouses and the contaminated soil. I think we are going to have to make some compromises in order to get that removed and to build on it. It will not be just a single family or maybe even a row of small homes. It will have to be something to bring in revenue to justify the expense of clean up.

Mrs. D'Esposito stated that it sounds like it will have to go commercial.

Chairperson Moulds replied, I do not know if you could come up with any other possibility.

Ms. Miller commented that the Town is looking for some mixed used. We are trying to include residential, not just commercial uses. Not necessary on this site but, we have looked at it in a number of places. This is not something the Town is dictating; we are just suggesting what types of things we are looking for.

Chairperson Moulds stated that we would need to control what types of commercial activities take place there.

Member Fearn stated that one of the first things when you look at something that is this intense in that area down there is a traffic study. I do not know if we have done that.

Member Candela stated that people would not like to walk up and down that hill and likes the idea of underground parking. In order to get some use out of the property we may have to make some compromises but we can be very particular about the compromises, such as what type of activity are were going to permit on the property what can give the investor a fair return and at the same token protect the citizens of Leonardtown.

Chairperson Moulds stated that she felt this was a good start and thanked Mr. McKee and Mr. Reinecker for their presentation.

OLD BUSINESS:

CASE # 7-06: College of Southern Maryland Fitness and Wellness Center Concept Approval

Applicant: College of Southern Maryland
Location: 22950 Hollywood Road, College of Southern Maryland, Leonardtown
Engineer: KCI Technologies, Shachi Sant
Zoning: Institutional Office (I-O)

The College of Southern Maryland, Leonardtown Campus is planning a proposed addition of a New Wellness Center building. The pre-concept and building plans were approved by the Planning and Zoning board on February 21, 2006. The zoning category is Institutional Office. Included in your packet is an excerpt of Article 10 defining Institutional Office district, which allows for Colleges and expansion of the College as a permitted use and they have included a general site plan, which shows the preliminary location of the facility. Also shown on the general site plan are the existing buildings, as well as, the new proposed Wellness Center. They are also showing preliminary vehicular and pedestrian circulation system in and around the College and they are showing preliminary building exterior design. The College has also submitted the final site plan, which includes storm water management, site layout and utility plan, water and sewer profiles, which are in the process of being reviewed by DPW and Town Utilities Staff for comments. Fire Dept and Soil Conservation approvals are received.

Enclosed:

· Site plan (pages 1-16)

- Elevation drawings
- Floor layout

The applicant is requesting Concept and Final Approval at this time. The Planning and Zoning Commission can approve, approve with conditions, or deny.

Mr. F.J. Talley, Dean of the Leonardtown Campus came forward to provide an update on the plan. He noted that there have been some minor changes but basically the same footprint. We have been refining the plan, looking at things such as electrical issues and data port issues.

Ms. Miller inquired as to the exterior, if there have been any major changes?

Dean Talley replied no. I think we have pretty much addressed all the previous issues and want to move toward a groundbreaking in July of this year and to hopefully open in the fall of 2009.

Member Burris noted they were adding additional parking on the south side.

Dean Talley responded, yes. It was the old basketball court.

Member Burris inquired as to the use of this building in terms of daytime and evening hours.

Dean Talley replied that it would be used pretty much during early morning hours and evening hours. We may not have a rush of people at one time. We will get more students overall and there will be members coming in more frequently. It will be used throughout the day for classes at various times, open use and the swim team and open use.

Chairperson Moulds stated that basically it is just an expansion of classes that you already have going on.

Dean Talley commented that they have a new degree program in Sports Management, which will also utilize this facility.

Member Candela stated that one of the criticisms he hears about the current facility is that when school is not in session the facilities are not available to use during semester breaks.

Ms. Miller noted that if we give approval today we need to make sure that all the DPW comments have been addressed and the Fire Marshal's submission is in and we have all the required sign-offs.

Member Candela remarked that his last concern is to make sure the HVAC systems are screened.

Dean Talley explained that the HVAC system for this building would be housed inside within the mezzanine area.

Member Fearn moved on Case #7-06 to recommend Concept and Final Site Plan approval, subject to obtaining all the required sign-offs and Town's approval; Member Burris seconded, no further discussion, motion passed unanimously.

CASE # 87-06: Breton Market Place, 25470 Pt. Lookout Road, Final Site Approval of 3 proposed Office Buildings.

Applicant: W.M. Davis
Engineer: Jonathan Blasco, Mehaffey and Associates.
Location: 25470 Pt. Lookout Road
Zoning: Commercial Business (C-B)

The Applicant Wayne Davis is proposing to construct 3 two-story office buildings at the Breton Market Place site. The entire Breton Market Place site has been approved for Concept including the proposed office buildings before you today. Included is a chart of the parking requirements and the parking provided, this can also be found on the front cover of the drawings.

Parking requirement:

Office space: 1 per 300 square feet
Total Office square feet: 19, 382
Total Parking Required: 65 Spaces
Parking Provided: 57 Spaces

*Note on plans indicates remaining parking will be provided from adjacent parcel.

Enclosed:

- Final Site drawings
- Minutes from August 21, 2006

Stormwater design was reviewed and approved in-house using porous pavers for the design. Water and sewer review was also performed.

The applicant is requesting Final Approval at this time. The Planning and Zoning Commission can approve, approve with conditions, or deny.

Ms. Miller stated that the only comment from the August 21, 2006 minutes was regarding a sidewalk along the front to help with pedestrian traffic.

Mr. Davis responded that they would be placing sidewalks along the side leading back towards the new hospital parking lot area.

Mr. Davis explained that for swm they would be using brick pavers in the parking lot to capture some of the drainage and they will also help with aesthetics. We will also be adding tree islands after the bank's temporary trailer is moved.

Ms. Miller noted that there is a design meeting with the SHA for the first part of February for the Route 5 widening.

Member Burris asked if they were far enough back from the center lane of Route 5 to accommodate the future widening.

Ms. Miller remarked that the office area sits well back from the 40' requirement and the only concern was the proposed restaurant and they have moved that further back. If they expand, do we have enough room?

Member Burris asked about the parking spaces between the buildings. They are 18' x 8' which is 144 sq. ft. Our ordinance calls for 180 sq. ft. at least 9' wide. These seem kind of small and I would rather see fewer, larger parking spaces.

Mr. Davis responded that all of the parking spaces are 10' except for the handicap space. We will take a look at it.

Member Burris inquired how far back the sign would be from the road?

Mr. Davis replied that the sign will set back considerably and the location of the grade tapers up so it will be well out of the way of sight distance.

Member Burris moved on Case #87-06 to approve the final site plan as presented with the changes discussed today and any required Town staff approval; Member Candela seconded, motion passed unanimously.

CASE # 122-05: Leonardtown Landing Phase II, Final Site Discussion Only.

Applicant: Ron Russo, RAR Associates
Engineer: Larry Ludwig, Loiederman Soltesz Associates Inc.
Location: Leonardtown Wharf Area
Zoning: Commercial Marine

The applicant Ron Russo has submitted plans for Final Approval discussion for Phase II.

Enclosed:

- Project overview from 1/3/07 workshop
- Minutes from October 17 & November 21, 2005 minutes
- MOU agreement between Town and Russo

This plan is presented today for discussion only.

Ms. Miller stated that Mr. Larry Ludwig was here to update the Board on any changes since the last meeting. We did have a workshop with Planning and Zoning and Town Council on January 3, 2007 and information on the discussion is included in your packets. As a result of that workshop a conference call was scheduled between Mayor Norris and Ron Russo. Mr. Russo asked Mr. Ludwig to be here today to present, for discussion only, as there are still a lot of outstanding issues. I have included copies of the minutes from the last two meetings, which were in October and November of 2005. The main significant change on the site plan was an increase in the square footage of the restaurant.

Mr. Ludwig noted that there were about twenty-four issues that were still outstanding. I know there will be one or two that will hit everyone's hot buttons. I plan to go through each one to note if it has been taken care of and note the ones that still need to be resolved.

In looking at the Planning and Zoning minutes of 2005, the first issue was regarding the retail shops needed to be less than 5,000 sq. ft. I understood and the architect understands that we could not have more than 5,000 sq. ft.

The second issue was the applicant must prepare legal documents for Town owned open space, which is being worked on right now and is not an issue any longer.

Third issue is the proposed utility structure where the placement of the SMECO utility boxes and transformers. Previous discussion involved the architect putting the HVAC systems on the roof out of sight.

Fourth issue is the final schedule to be submitted to the Town. I will get that information and other documents after this meeting.

Fifth issue is the road and utility easements. Sheet 4A shows the road with a 20' driveway and anyplace the water and sewer fell outside of the road there was an easement.

Ms. Miller stated that she didn't think it was necessary to go through the entire 24 issues as she had previously gone through it and made sure that those items were taken care of and to save time we could talk about what has been done with the restaurant. She suggested that the Board look at the front page of the enclosed plans to see the most recent change in the square footage, as that is the most important item today.

Mr. Ludwig noted that the square footage was increased. There was a 3,400 square foot footprint and to take care of the extra impervious surface we took away the parking on the side.

Member Candela noted that that increased the restaurant size and decreased the parking, which is the opposite of what we need.

Ms. Miller noted that it indicates they are 110 spaces short and my understanding from the conference call is that parking is a huge issue and something that we need to look into further before approval is received. We will be looking at other options to get that number reduced.

Mayor Norris stated that the workshop was a very informative and productive meeting. Mr. John Norris and I spoke with Mr. Russo on a conference call and it was determined that we were all on the same page. The two main issues were parking and traffic flow. They are not going away and we have to work together to resolve them. Everyone felt the restaurant was a key element for the Wharf project and increasing the restaurant in size was favorable.

Ms. Miller stated that Mr. Russo is not looking for any approvals at this time.

Mayor Norris remarked that Mr. Russo suggested a task force be set up which may be very helpful. Council will need to discuss this in more detail.

Ms. Miller stated that the restaurant size is 6,800 sq. ft. and as they looked at the footprint and it wasn't really workable, they reworked it to come up with the two-story design.

Chairperson Moulds agreed that a bigger restaurant would be fine but we do need to consider parking and the traffic flow.

Member Candela asked if there has been any change to the configuration as far as the radius to accommodate tractor-trailers?

Mr. Ludwig remarked that when we did the traffic study at the office we found that the WD 40 and WD-50 trucks were fine but the WD-60 trucks would encounter problems maneuvering around sidewalks and such.

Ms. Miller commented that in my conversation with Mr. Norris we agreed that the traffic flow is something the task force would look at.

Member Candela asked for an example of a WD-60 truck.

Mr. Ludwig stated that that a WD-60 is the kind you see at Wal-Mart and Target with two dual cams and axles on the back. WD-50 is similar to the tankers used for oil deliveries. WD-40 is a short bed type trailer.

Member Candela asked if the type of commercial activity in this area would it warrant delivery trucks over 60'.

Mr. Ludwig responded that big chains like US Foods do utilize those big trucks but smaller local vendors would use smaller trucks.

Mr. Collier noted that at the workshop there was some discussion about the width of the road and perpendicular parking and being able to back in/out.

Mr. Ludwig noted that you have a 24' road and 18' parking which is considered standard parking. There is some concern about driving up and down and backing up and the plans were changed to parallel parking. This will be something the task force will be looking at and maybe it will help resolve the WD-60 truck issue.

Member Candela asked if we will be leaving this unresolved and having a task force set up?

Ms. Miller stated that Council and staff would be looking at setting up a task force.

Monthly In-House Permits – No Questions

Town Council Minutes – No Questions

Member Candela moved to adjourn the meeting at 5:20 p.m., seconded by Member Fearn, motion passed unanimously.

Respectfully Submitted:

Teri Dimsey, Recording Secretary

Approved:

Jean Moulds, Chairperson

Frank Fearn, Vice Chair

Dan Burris, Commission Member

Jack Candela, Commission Member

Absent

Dave Frock, Commission Member