

Commissioners of Leonardtown
Leonardtown Planning and Zoning Commission Meeting
August 20, 2007 ~ 2:30 p.m.

Attendees: Frank Fearn, Vice Chair
Dan Burris, Member
Dave Frock, Member
Jack Candela, Member

Absent: Jean Moulds, Chairperson

Also in attendance were: Laschelle Miller, Town Administrator; DeAnn Adler, Plans Reviewer; Teri Dimsey, Recording Secretary; Jackie Post, Fiscal Clerk; Thomas Reinecker, Architect; Wayne Davis, W.M Davis; Tom McKee, Design Builders; Bill Higgs, LSR; Dr. Herbert Winnik, Resident; Bob/Kay D'Esposito, Residents; Ann/Bob Combs, Resident; Chip Norris, Resident/Mayor; Member; Tom Collier, Resident; Leslie Roberts, Resident; John Wharton, Enterprise. A complete list is available on file at the Leonardtown Town Office.

Vice Chair Fearn called the meeting to order at 2:35 p.m.

The meeting minutes for the July 16, 2007 Planning and Zoning Commission meeting are presented for approval.

Vice Chair Fearn entertained a motion to approve the July 16, 2007 meeting minutes, Member Burris noted a correction to the approval of the minutes should reflect Member Fearn approved and Member Frock seconded.

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

Town Administrator's Report – Laschelle Miller

Banner City Award

The Mayor and Council were presented with the 2007 MML Banner City Award by President Stu Cumbo and Executive Director Scott Hancock. This is the first year for this award. Only 14 towns out of 157 municipalities received this award.

Soapbox Derby

The Soapbox Derby World Champion and National Champion, Kacie Rader was acknowledged and presented with a \$100 savings bond and a Town of Leonardtown flag.

Leonardtown Lion's Club

The Lions Club was here to announce their membership drive and did a presentation on the benefits of becoming a member. They are seeking both men and women to join their club.

Trash Removal Rates

Council approved new trash removal rates based on the recently bid contract and transition to Goode Trash Removal Service. The transition went very smoothly with very little problems.

Case #58-07- 22840 Lawrence Ave.- Request for PIRD designation-

They are requesting a PIRD Designation for the site and the request was denied and not forwarded to the Planning and Zoning Commission.

Beacon Printing Contract Renewal- Heritage Printing was awarded an extension of one year to their contract.

Introduction of Ordinance No. 131- Leonard's Grant Approval of Development

Agreements- This Ordinance was introduced and will be presented for approval in September.

Old Business:

Case # 91-03: Foxwell Apartments – Condo Plat Approval:

Applicant: Davis Office Park IV, LLC
Engineer: Little Silences Rest, Inc.
Location: Fenwick Street South, across from Gregory Lane
Zoning: R-MF
Acreage: 3.25 ac.

The Board was presented with a copy of the plat of the property. Mr. Wayne Davis is requesting condominium plat approval for a 32 unit condominium complex consisting of 3 buildings. Each building is 3 stories tall. Sixty six parking spaces have been provided. The applicant received final site plan approval on April 17, 2006. Before filing the plats the applicant will need to have 911 addresses assigned and added to the General Notes #5. Also the Case Number will need to be listed under General Notes #4.

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

Member Burriss inquired what the suggested sale price will be.

Mr. Davis responded they estimate it to be just under \$300,000.

Member Burris moved to approve Case #91-03, Condominium Plat Approval for 32 unit complex; Member Candela seconded, no further discussion, motion passed unanimously.

Vice Chair Fearn's recessed the regular meeting at 2:50 p.m.

3:00 PUBLIC HEARING: REQUEST FOR REZONING – TOM MCKEE PROPERTY – PARCEL 316 ONLY – R-SF to C-B

Vice Chair Fearn's entertained a motion to close the regular meeting and open the Public Hearing meeting at 3:00 p.m.

Member Burris moved to close the regular meeting and open the Public Hearing, seconded by Member Candela, motion passed unanimously.

Vice Chair Fearn's asked Ms. Miller to provide the details of Case #113-06.

Case# 113-06: Tom McKee Property – Revised Request – Second Public Hearing for Rezoning of Parcel 316:

Applicant: Design Builders & Assoc., Inc.

Location: Parcels 316 & 500 – Fronting on Lawrence Ave. and Washington Street

Present Zoning: Single Family Residential

Zoning Change Requested: Commercial Business District with PIRD Overlay for Parcel 316, PIRD Overlay only for Parcel 500

Acreage: 1.5 Acres

Enclosed in your packets you will find:

- New application for rezoning and PIRD designation
- Plats/Maps of Parcel 316 & 500
- Minutes from the July 16, 2007 Planning and Zoning meeting
- Minutes from the Jan. 16, 2007 Planning and Zoning meeting
- PIRD guidelines
- Rezoning process
- Set of plans for proposal
- Correspondence received for public hearing

At the July 16, 2007 Planning and Zoning meeting Mr. McKee requested a zoning change for 2 parcels, Lot 500 which fronts Washington Street and is mainly residential in character and Lot 316 which fronts on Lawrence Ave. He proposed to develop these sites with a mixed use of retail on the first floor and town homes above. The proposal also showed underground parking for the site. The members who were not here were able to view the tape and testimony from the last hearing. I did receive a call from Dr. Winnik to say that the petition still stands even with the change. Today we will hold a Public Hearing for changing the re-zoning on the one parcel and also address the decision as it was tabled at last month's meeting as far as the PIRD designation.

There were several residents who spoke, voicing their objections to the proposed development. They were concerned about the high density of development on this site and how a designation of commercial zoning would affect their neighborhood character. They were also concerned

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about the comments that the Critical Area Commission brought up regarding problems within this site. They were also concerned that if Mr. McKee got approval to change the zoning to Commercial Business that he could then potentially sell the site to another developer. It was decided by the Planning and Zoning Commission to table the decision for a month, especially since two of the members were absent from the meeting.

This month Mr. McKee has come back with a new application which he hopes will be more acceptable to the surrounding neighbors. He is now asking to re-zone only Parcel 316, which is the parcel that fronts Lawrence Ave., from Single Family Residential to Commercial Business, with a PIRD overlay. For Parcel 500, which fronts Washington Street, he is now asking for just the PIRD overlay, with the underlying zoning classification to remain Single Family Residential. In this way he hopes to allay the fears of the surrounding neighbors that he will put any large commercial development on Washington Street.

These are the Permitted Uses as listed in Section 155.34.5 of the P.I.R.D. Ordinance:

- a. The Town Council may permit a mix of uses including residential, small-scale commercial service and retail establishments.
- b. The Town Council may permit the redevelopment, including tear down and rebuild, of any residential unit or units provided such residential unit or units existed prior to the adoption of this section regardless of whether or not the units constitute a non-conforming use.

Mr. Dougherty remarked that he is here today with Mr. Tom McKee and Mr. Reinecker to present the amended application for parcels 316 and 500 at the corner of Washington St. and Lawrence Ave. As the previous minutes reflect, we went through a detailed presentation last month defining the neighborhood as we were required to do. We described the change in the neighborhood which we thought was the basis for the rezoning and PIRD request discussing in detail the rezoning and PIRD approvals, as well as, significant plan approvals in what we had defined as our neighborhood in the last five or six years. Mr. Burris and Mr. Candela may not have copies of the maps I provided. The main point we sought from the last hearing was that despite the fact our renderings and elevations do not show any commercial uses and even though that was not shown, there was clearly some concern that if we had gotten the rezoning on that particular parcel we could put a Wal-Mart or something there that no one really wanted to see. I commented at that time that we had no interest in doing that but I understood the apprehension. It made sense to us to remove the zoning itself and just ask for the PIRD designation over both parcels. I don't want to come in and say look at all the great things we are doing for you but we wanted to show you that we are listening. We did not have to do it but it made sense with our plan anyway both economically and legally so we are happy to take that step to show folks we are serious about making this a good mixed use development and to do what the PIRD statute was enacted to accomplish. I am happy for Mr. Reinecker, Mr. McKee or myself to answer any questions. The previous meeting minutes do reflect our presentation and that has not changed other than to remove the rezoning on parcel 500.

Member Burris and Mr. Candela commented they have reviewed the minutes and the tape.

Vice Chair Fearn opened the floor for anyone to speak.

Dr. Winnik remarked that there has not been a change in any of the drawings and they do not take into account the letter from the Critical Areas Commission requiring tremendous care on the way the land is elevated and being within the 100 foot critical area. Although they are not asking for commercial zoning on Washington St., they are still asking for it along Lawrence Ave. and our petition mentions both parcels. The new townhouses down Washington St. and the two neighborhoods off of Washington St. are very much opposed to a commercial designation. The reason, as we said in the petition, is that there has been change along Washington St. but it has been mainly at the bottom of the hill. Many houses along most of Washington St. have been undergoing renovations and improvements. In fact, the home next to me was torn down and a beautiful new small Victorian was built and across from me was a very small old home and a massive Victorian is being built. The neighborhood is improving its single family residences, not going downhill, just the opposite. Along that street, houses that are not being torn down have been improved, such as my own home, and we have not done this to support a commercial designation. Another factor to consider is that Lawrence Ave. is a substandard road and they are asking for an increase in traffic, along a road that is not wide and has a curve and slopes steeply down. It was amazing what they included in the neighborhood, such as the renovations on the Sterling house which is on the other side of Town as this neighborhood. The entire neighborhood really includes Washington St. to Lawrence Ave. down and over. Residents of that neighborhood are directly opposed to any commercial designation. If they want to do it, let them do it under the PIRD which gives us a lot of control, but with the commercial designation who knows what could go there, we would have very little control. This massive development right next to a nice single family home is inappropriate.

Mr. Dougherty commented that the one issue of control that was addressed last time is most important to everyone in this room and respectfully disagreed that we are doing this without any control by asking for a PIRD overlay on both parcels. That in fact it is giving you more control, as our submissions under PIRD allow very strict controls. By granting the rezoning with the PIRD overlay on top of it somehow reduces the level of control is inaccurate. In regards to Lawrence Ave., Mr. McKee made a comment to agree to foot some of the bill for upgrading paving along Lawrence Ave., including putting in some under ground utilities so it is more cohesive and make it a better road. As far as what type of housing is going to go in there, the Comprehensive Plan discusses a desire for higher end housing units within the Town of Leonardtown. What we are talking about is zero-lot line single family homes; these are not going to be particle board houses but, will serve middle to upper end of the market which the Town needs. Critical areas are not shown on the drawings and not sure how we would show critical areas on elevations being addressed but of course whatever critical areas comments will of course have to be incorporated. Finally, in terms of the neighborhood, we made our best pitch of what we believe is the neighborhood. The comment that each street in Leonardtown should consist of its own neighborhood does not allow this body to evaluate any project in terms of the overall growth of the Town. This is something you and your predecessors by enacting the PIRD statue should consider.

Mrs. D'Esposito remarked that Lawrence Ave is a narrow, almost one lane street, two cars do pass but, I do not see how it could be widened as our property lines run right up to the road. That in itself is a reason why you could not impact it with that kind of commercial growth; we cannot

support it, especially as we are right next door and are very concerned about how it would impact us and our home.

Mr. Dougherty stated that Mr. McKee is not merely the developer of this project; he holds title and is the owner of the properties.

Vice Chair Fearn closed the Public Hearing and opened the regular meeting.

Ms. Miller stated that the applicant is requesting a recommendation to be forwarded to Town Council regarding the PIRD designation for Parcels 316 and 500 and a request for rezoning for Parcel 316 at this time.

The Planning and Zoning Commission can forward a recommendation to approve, approve with conditions or deny. Included in the PIRD decision is the conceptual site plan approval. The site plan would then come back for final site approval at a later date. If there are issues with the concept plan, those issues should be made part of the discussion and motion today.

Ms. Miller remarked that the applicant needs to show a change in the neighborhood to be granted a rezoning of a property.

Member Burris commented that as far as the rezoning of the parcel I am not sure there has been any change in the neighborhood to necessitate the rezoning. The change must be something physical, not just a paper plan. The use of Tudor Hall to reflect the change is only a paper plan at this time and I do not see a physical change of that neighborhood. In regards to the Weiner building rezoning, it is my understanding that they came before the Town Council for rezoning but were denied. I would like to see some development and the PIRD overlay is probably the way to go but this plan as presented creates some concerns such as the setbacks and the number of buildings. I think it is too intense for this site. I would like to see another plan for the PIRD.

Member Candela remarked that years ago, prior to the Town zoning, this property was commercial use. So the idea of the general area being commercial is not totally new, however, when the Town did adopt their ordinances, this was zoned residential. When I first saw this project I really liked it especially the aspect of the underground parking which is a huge issue in our Town. However, listening to the testimony today, I am concerned about Lawrence Ave. Putting commercial on that site will create more commercial traffic and even Washington St. cannot handle any additional commercial traffic and pedestrian traffic. I am not in favor of changing to commercial. I do like the idea to utilize the PIRD but, some serious consideration needs to be given to the safety aspect of the site.

Member Frock commented that he agrees with the previous remarks. Hearing the testimony of the immediate neighbors is compelling and he understands their concerns. It is too intense of a development being proposed and I cannot be in favor of a rezoning. I do not think that is appropriate and in terms of a PIRD it would need to be scaled back. I also look at the future and what is going on at the bottom of the hill and do see a lot of issues with the amount of traffic and overall congestion that would occur at that intersection and safety is a key word.

Vice Chair Fearn responded that he does not understand why this would need to be rezoned. When you look at the PIRD, the Town Council may permit a mix of uses, including residential and small scale residential and small scale commercial services and retail establishments and they may permit the redevelopment. This project really lends itself to the PIRD concept. I do think it is too intense for that particular area for the site and the streets and I would not be in favor of rezoning but I would be in favor of a PIRD if it were not as intense.

Vice Chair Fearn entertained a motion on the Revised Request for Rezoning of Parcel 316.

Member Candela moved that the members are not in favor of the request for rezoning of parcel 316 and will not send a favorable recommendation to Town Council; Member Frock seconded, no further discussion, motion passed unanimously.

Vice Chair Fearn stated that the member's previous comments also pertain to the next request and entertained a motion on the PIRD designation.

Member Candela moved on Case #113-06 as presented as being too intense and to send an unfavorable recommendation for the PIRD request; Member Burris seconded, no further discussion, motion passed unanimously.

Ms. Miller stated that the Board's recommendation will now go on to Town Council. A Public Hearing will be held in September for both the rezoning and for the PIRD. They will make the final decision. The applicant has the right to come back and if they revise it, it will come back again through the process.

Monthly In-House Permits – No Questions

Town Council Minutes – No Questions

Member Candela moved to adjourn the meeting at 3:25 p.m., seconded by Member Burris, no further discussion, motion passed unanimously.

Respectfully Submitted:

Teri Dimsey, Recording Secretary

Approved:

Absent
Jean Moulds, Chairperson

Frank Fearn, Vice Chair

Dan Burris, Commission Member

Jack Candela, Commission Member

Dave Frock, Commission Member