



Commissioners of Leonardtown

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DANIEL W. BURRIS
Mayor

LASCHELLE E. MCKAY
Town Administrator

Commissioners of Leonardtown
Leonardtown Planning and Zoning Commission Meeting
July 20, 2015 ~ 4:00 p.m.

Attendees: Jean Moulds, Chairperson
Laura Schultz, Member
Christy Hollander, Member

Also in attendance were Mayor Dan Burris, Councilmembers Leslie Roberts, Roger Mattingly and Jay Mattingly, Laschelle McKay, Town Administrator, and Town staff members Teri Dimsey, Recording Secretary, and Cindy Williams, Planning & Zoning Assistant.

Wayne Davis of Annewayne Investments, LLC, and Wayne Hunt of Little Silences Rest, Inc, Dick Myers from The Bay Net, Mock Mattingly, Glenn Gass and other members of the Leonardtown Volunteer Rescue Squad were also present. A complete list of attendees is on file in the Town Office.

Chairperson Moulds called the meeting to order at 4:00 p.m. The minutes of the April 27, 2015 meeting were presented for approval.

Member Schultz moved to approve the April 27, 2015 minutes as submitted, which was seconded by Member Hollander. There being no further discussion, the motion passed unanimously.

New Business:

Case #36-15 Orchard Hills – Map 133 Parcels 460 and 482 – 22715 Johnson Lane
Boundary line adjustment request

Owner: Annewayne Investments, LLC
Current Land Area: 40,510 sq. ft. +/-
Adjusted Land Area: 2.47 ac. +/- (Parcel 460) and 1.31 ac. +/- (Parcel 482)
Zoning: R-SF

Ms. McKay explained that Mr. and Mrs. Davis purchased this property from Mary Lou Raley in January 2015, and had recently completed renovations to the existing home. The owners are requesting approval of a boundary line adjustment to increase the size of this R-SF parcel and reduce the remaining buildable lot of the remaining Parcel 482.

Mr. Davis addressed the Board and pointed out the location of the boundary line adjustment, and stated that the adjusted acreage of Parcel 482 would be sufficient for the development of one building consisting of four townhomes.

Chairperson Moulds entertained a motion to approve the Boundary Line Adjustment Plat of Outparcel A – Orchard Hills Subdivision & Tax Map 133 – Parcel 460, as presented. Member Hollander made the motion, which was seconded by Member Schultz. There being no further discussion, the motion passed unanimously.

Town Administrator’s Report:

Ms. McKay reported on several items Town Council addressed in its July 13, 2015 meeting.

New Business continued:

Case #78-14 – Leonardtown Volunteer Rescue Squad; 22855 Lawrence Avenue – addition
Request for concept plan approval

Owner: The Leonardtown Volunteer Rescue Squad, Inc.
Contractor: W.M. Davis, Inc.
Engineer: Glenn G. Gass, P.E.
Architect: J.F. Jochum Architects, LLC
Project Size: 4,640 sq. ft. addition
Current Zoning: I-O

Ms. McKay provided an overview of the project, stating the following:

The size of the existing building is 5,278 sq. ft., and the applicant is proposing a 4,640 sq. ft. two-story addition. The purpose of the addition is to provide office space as well as accommodations for volunteers to include a kitchen, lounge and dining areas, bathrooms with shower facilities, a laundry room and bunk rooms.

The plan does meet the required 20’ side and rear setbacks. No additional parking is being added, and the current number of EDU’s will remain the same, as the addition is just adding space for existing volunteers. Final approval of the architectural drawings will be required at a later date; however, it may be beneficial to address any initial concerns at this time.

Conceptual review of the stormwater management plan will be conducted internally. DPW, Fire Marshal, local Fire Department, and water and sewer plan review will be part of final site plan approval.

Mr. Gass spoke on behalf of the Leonardtown Volunteer Rescue Squad and stated that the area of disturbance would be limited, and that a small portico is planned for the front entrance to the

existing building. He said they are ready to proceed with construction immediately following final site plan approval.

Chairperson Moulds entertained a motion to approve the concept plan for Case #78-14 – Leonardtown Volunteer Rescue Squad addition – as submitted. Member Schultz made the motion, which was seconded by Member Hollander. There being no further discussion, the motion passed unanimously.

Case #36-15A PUBLIC HEARING – 22705 Johnson Lane; Map 133 Adjusted Parcel 482

Request for Rezoning to Residential-Multi-Family (R-MF)

Owner: Annewayne Investments, LLC
Developer: W.M. Davis Development, LLC
Engineer: Little Silences Rest, Inc.
Project Size: 1.31 ac. +/-
Current Zoning: R-SF
LDA - Critical Area Overlay

Ms. McKay provided an overview of the project, stating that this property will be the remainder of Parcel 482 after the boundary line adjustment. Mr. Davis is proposing construction of one building consisting of four townhomes if the rezoning is approved, but we are not really looking at that issue today. He will have to bring forward a concept plan if the rezoning goes forward, but he wanted to show the use he is considering for the property. A copy of the site plan is in your packets. The hearing today is just for the rezoning. There would be a separate entrance off of Fenwick Street and not by way of Johnson Lane.

In accordance with the rezoning process, the property has been posted, the notice was sent to adjacent property owners by certified mail, and an ad was placed in *The County Times* newspaper on June 18, 2015. The Planning and Zoning Commission is holding a public hearing today on the rezoning and will make a recommendation to the Town Council, and the Town Council will hold a public hearing and make a final decision at its August 10, 2015 meeting.

Chairperson Moulds entertained a motion to close the regular meeting and open the public hearing. Member Schultz made the motion, which was seconded by Member Hollander. There being no further discussion, the motion passed unanimously.

Ms. McKay invited Mr. Davis to comment on his rezoning request. He provided a picture of an aerial view of the properties to better define the location for the townhomes and the proposed entrance.

Ms. McKay said there are a significant amount of steep slopes on the property, and according to our regulations you have to look at slopes that are 15-24% or greater than 25%, so the property could

potentially accommodate up to nine townhome units. That is not being proposed, but that is the worst case if a different project came forward. The Critical Area Ordinance would also apply, so that would also need to be taken into consideration when the concept plan comes forward for approval.

Ms. McKay opened the hearing to public comments.

The first to speak was Francisco Fernandez, 22680 Johnson Lane. Mr. Fernandez read a petition which was signed by him and his wife, Sonia, and submitted at the beginning of today's meeting. A copy of the petition is attached to these minutes.

Ms. McKay stated that we are not addressing a development plan at this point. We are really looking at the change in the neighborhood and whether you agree that it warrants a rezoning. Fire and emergency access, etc. will be addressed during the development process if the rezoning is approved. Mr. Davis confirmed that he is planning to build four units to be sold individually instead of being retained as rental properties.

Susan Erichsen, 22690 Johnson Lane, stated that she is fine with four units on the property, but she is not fine with the rezoning and then the property being developed as something different. She said that years ago when she served on the Commission, a rezoning could be approved with a contingency, meaning approval of this rezoning is contingent upon the applicant adhering to only four units.

Ms. Erichsen asked Mr. Davis if he minded if they made the contingency. Mr. Davis responded that he has no problem with doing that. He said engineering had been done by the previous owners showing a greater area being developed, but that has never been his intention.

Ms. Erichsen said once it is rezoned, it is rezoned with all of the rights and privileges that this Commission establishes for this property, and if it is going to move forward, she would at least like a contingency that there be only four townhouse units. Ms. McKay said that is one of the reasons that we asked to have them look at the steep slopes that are there. The maximum number of units would be nine, but with the critical areas the number will be even less.

Ms. Erichsen said what we get to do here and now is say the rezoning is contingent upon there being only four units because we have done that before. Ms. McKay said she wants to obtain clarification regarding the contingency because that has not been done in the past 15 years, and that's fine if we get a legal opinion that that is okay. As part of your recommendation I would think you could do that today, but once again, before the Council makes their final decision we would want to know that really can be part of the rezoning.

Ms. Shultz clarified that the condition would be that no more than four units will be built.

Mr. Fernandez asked if the property gets rezoned back to R-SF if Mr. Davis determines that he cannot build four units after the property is rezoned. Ms. Erichsen said the likelihood is that he can build four units or he would not be going through this process.

Mr. Fernandez said he disagrees with that based on the rules and that most of the townhouses are within the 15% slope and they need retention walls. I think it says you are going to disturb half an acre but I think it is going to be even more than that. Chairperson Moulds responded that these are individual townhomes so they are not going to require a lot of parking.

Mr. Fernandez asked why not leave it R-SF. Ms. McKay answered saying that the property owner has the right to ask for R-MF, and even if it is approved he could always build a single family home there. The rezoning does not eliminate that option.

Candi Farren, 22705 Johnson Lane, addressed the Commission and said she and Mr. Davis have been communicating the past couple of months, and that she feels much better about the project now that he has decided to increase the size of the lot to remain Residential-Single Family. She said she is nervous about townhouses being so close to her, and for her neighbors who are adjacent to this property. Ms. Farren said that when the Sterling property was rezoned to Commercial Office they were never notified; that they went away one weekend and when they returned all the trees were gone. Now light from the parking lot is shining into their yard so it is not a very private area. It is very disturbing. If she planted trees it would take 40 years for them to grow back, so when she thinks of townhouses she thinks of lots of light and it will be just a little brighter. At the same time, Mr. Davis would like to recoup some of his money because that renovation was quite expensive.

Ms. Farren said she does not want the property to be zoned Residential Multi-Family, but as a compromise she would not mind having a little house or two in there that would be more in style with their neighborhood and better than building townhomes. She is afraid that they will become rentals or more would be built. Foxwell Condominiums is a nicely done complex, but they are on the opposite side of the cemetery and they all bought homes with woods surrounding them and privacy. Even though they are right in the middle of Town, they are in a unique situation and would like to keep it that way.

Ms. McKay read a letter received from St. Aloysius Catholic Church:

I am writing in regard to the hearing on July 20, 2016 about permission to rezone property adjacent to the St. Aloysius Parish Property from Residential Single Family to Residential Multi-Family (Tax Map 133, Parcel 482).

As pastor of St. Aloysius Parish, I have no objection to the proposal of development for the designated plot. However, I respectfully request that, should a decision be made in favor of the rezoning, a condition of approval be that a boundary survey with physical boundary markings will be provided to St. Aloysius Church prior to any approvals for development of the subject property for the benefit of confirming that there will not be any encroachment onto St. Aloysius property.

*Sincerely yours,
Reverend David W. Beaubien
Pastor*

Ms. McKay asked Mr. Davis if a survey had been done when he purchased the property, and he said it had not, but that one would be required as part of the development, even to do the engineering.

George Erichsen, 22690 Johnson Lane, addressed the Commission. He said in response to Ms. Farren's comments, there is a 15 ft. rear buffer requirement, and that the area of disturbance would end up leaving more like 30, 40 or 50 feet of natural wooded buffer. He said letting everyone know that if the property is rezoned it will not be cleared up to the property line might ease some of the concerns.

Mr. Davis described that there is a distance of approximately 125 feet from the back of the building to the property line and from the boundary to Mr. Fernandez is approximately 200 feet. Chairperson Moulds asked about the setback for the front of the townhomes and Mr. Davis responded that there would be approximately 60 feet between the townhomes and the cemetery. Part of the reason for designing one building consisting of four units is that there would be less impact as far as trees and grading and they would come up with a suitable architectural design that works. Just to do the site engineering on this will cost approximately \$30,000 by the time it is all said and done. Mr. Davis said it is not something they can do ahead of time and hope that they get rezoning and lose that money. He feels they are pretty close to a final concept plan.

Chairperson Moulds asked if those are things the Commission can require when Mr. Davis comes back for concept plan approval. Ms. McKay said that if Mr. Davis is saying he is fine with the four townhome limit, she will get confirmation that it is legal to do that before the final decision is made by the Council.

Mr. Fernandez said Mr. Davis wanting to get his money back from the original lot should not be considered a reason to rezone. He spent a lot of money on that property to get it fixed, but he knew that property was zoned Single Family before he purchased it and now he is trying to make up for it. Ms. McKay said this Commission knows what they need to be comfortable with in order to make a decision, and whether he makes money or not will not be the basis for their recommendation.

Chairperson Moulds entertained a motion to close the public hearing and reopen the regular meeting. Member Hollander made the motion, which was seconded by Member Schultz. There being no further discussion, the motion passed unanimously.

Ms. Hollander asked for confirmation that the Commission needs to decide (1) if the original zoning allocation was wrong, or (2) if there has been a change in the neighborhood. She asked what is defined as the "neighborhood."

Ms. McKay said that has been a question over the years, but the determination is subjective. There is one parcel between this one and the last rezoning, which was The Hamptons, and then the parcel adjacent to The Hamptons was rezoned in 2003. A "neighborhood" is not defined as having to be side by side.

Chairperson Moulds asked if some of this comes into play because we are increasing density inside the Town boundaries. Ms. McKay said yes, and certainly within the walkable areas. When we recently updated the Multi-Family section of our Zoning Code, we looked at what was downtown and how to encourage higher density development downtown for walkability, which is really what is called for in our Comprehensive Plan.

Ms. Hollander asked if this would be considered spot rezoning since it is not connected to any other Multi-Family parcels. Ms. McKay said it just needs to be shown that there has been a change in the neighborhood.

Ms. Schultz said the diagram really helps to illustrate where the parcels are located and that it is important that whatever you are going to end up building causes the least amount of disturbance to the residents who already live there. The wooded area appears to be fairly dense. She asked if there is a lot of privacy between this parcel and where everyone currently lives.

Mr. Fernandez said that today there is, but things change. Currently it is all forest so he will basically have to cut down all the trees. Mr. Davis said that is not correct. Roughly 100 feet of the forested area will remain. We have to meet critical areas and other design requirements and he is the one who is taking a risk.

Chairperson Moulds reminded everyone that the regular meeting had resumed and was closed to comments.

Ms. McKay explained that the property across the street is zoned Commercial-Business, as well as the other side right up to Johnson Lane, so it is a very developed area with a pocket of single family homes, just to give everyone a good understanding of what is in the area.

Chairperson Moulds said that also these townhomes will have their own access off of Fenwick Street and not Johnson Lane.

Member Schultz made a motion to recommend that Map 133, Adjusted Parcel 482 be rezoned from Residential Single Family (R-SF) to Residential Multi-Family (R-MF). The motion was seconded by Chairperson Moulds. There being no further discussion, two members voted yea, Member Hollander opposed; the motion passed.

Chairperson Moulds entertained a motion to close the regular meeting and open the public hearing regarding Ordinance #171. Member Hollander made the motion, which was seconded by Member Schultz. There being no further discussion, the motion passed unanimously.

PUBLIC HEARING – Ordinance #171 – Town Comprehensive Zoning Map Changes

Ms. McKay introduced the Ordinance. The purpose of this ordinance is to adopt changes to the Comprehensive Zoning Map for the Town of Leonardtown to incorporate the annexation of 241.42 acres +/- of land along Hollywood Road. These properties include the Wilkinson farm, Wathen farm, and several small parcels along Route 245.

The hearing was advertised in *The County Times* newspaper and we posted the property regarding the annexation and advertised the annexation itself. The Town Council will hold a public hearing on this Ordinance at their August meeting. They will first make a decision regarding annexation of

the property. I gave you a copy today of the existing zoning designations within the County and what is being proposed on each of the parcels. Once the decision is made on the annexation we will also hold a public hearing at the Town Council meeting. This ordinance just codifies the recommended zoning categories for the annexed parcels to our Town Code.

Ms. McKay pointed out the three parcels fronting the Hayden farm which are zoned C-O. The Hayden farm is already in Town so the three parcels in front would also be zoned C-O. They are currently zoned RMX, which is a mixed use zoning in the County and we are recommending C-O. The seven smaller parcels along the front on Hollywood Road are zoned R-SF now and they would remain R-SF. The Wathen farm and the Wilkinson farm are the two large farms that we are proposing to be zoned PUD-M, which is similar to Leonard's Grant, Clark's Rest, Tudor Hall and any large development.

The R-SF properties currently use existing Town utilities but they pay out-of-town rates so they will have a significant savings on their utility bills. Even with the addition of Town taxes they will still be saving money annually.

We have sent this information to the Maryland Department of Planning and also to the County, and both have said they are in agreement with the zoning changes that we are proposing when the annexation occurs. We have to look for zoning that is compatible with the current designation.

Earl Lumpkins, 23321 Part Green Hill Farm, stated that a portion that was highlighted on the zoning map as the Wathen farm was incorrect.

Richard Russell, 41908 James Michael Lane, Leonardtown addressed the Commission, and pointed out on the zoning map the location of a pond that is on his property, three feet from property line. He asked what he would be required to do to prevent people from getting into the pond, and what the restrictions or requirements are going to be once the property is developed.

Ms. McKay said that is something that should be addressed with the developer if the project moves forward. It is not something that would be part of the annexation but it is certainly something that could be discussed at the time of development. She said we would personally pass that on to the owner of the property. There are some sensitive areas on the farm, so where exactly they would propose development has not yet been determined. That will take place whenever they bring forward a development plan.

Earl Lumpkins spoke again. He pointed out his property and expressed his concern about the liability he will have from people coming onto his property. He said he would like to see a good fence installed. Ms. McKay reiterated that we are not addressing those issues today; this is only about the annexation. That is something to be considered during the development process but we will pass that along to the owner.

Mr. Lumpkins said he will put up a fence himself if he has to, but he can't see why he should have to go that expense when he gets no benefits from this. Ms. McKay said once again the developer is very cooperative. If you have concerns we need to pass them along to him and he will be happy to

meet with you. The annexation is the next step. This is just about the zoning and we are not making a final decision today; we are just hearing concerns about the zoning categories.

The next step would be a public hearing at the Town Council meeting on August 10, 2015 for the annexation, which simply means that the properties will no longer be in the County. Once that happens, if they move forward with development of that parcel, there will be two public hearings for that and that is when they would propose what they are going to develop on that site. In the meantime, we will pass your information along to the developer.

Mr. Lumpkins said the developer knows who he is, that he has had several conversations with him and things sound pretty good. He is willing to work with them and do whatever, but on the other hand, he does not want to have to foot a big bill that otherwise would be unnecessary.

Ms. McKay said the developer is very reputable, and when they bring the concept forward for what they want to build Mr. Lumpkins is welcome to come to those meetings and express his opinion that there should be a fence there if they don't show one. He will be notified of the public hearings because he is an adjacent property owner.

Chairperson Moulds entertained a motion to close the public hearing and reopen the regular meeting. Member Schultz made the motion, which was seconded by Member Hollander. There being no further discussion, the motion passed.

Chairperson Moulds entertained a motion to agree with the proposed zoning map changes in Ordinance No. 171 that are coming forward with the annexation; Member Hollander made the motion, which was seconded by Member Schultz; there being no further discussion, the motion passed unanimously.

Review of Monthly In-House Permits – No comments

Review of Approved Town Council Meeting Minutes – No comments

Chairperson Moulds entertained a motion to close the meeting. Member Hollander made the motion; seconded by Member Schultz; no further discussion; motion passed unanimously. The meeting ended at approximately 5:30 p.m.

Respectfully submitted:

Cindy Williams

Approved:

Jean Moulds, Chairperson

Laura Schultz, Member

Christy Hollander, Member

Absent

Jack Candela, Member

Absent

Heather Earhart, Member