

Commissioners of Leonardtown
Town Council Meeting Minutes
September 10, 2007 ~ 4:00 P.M.

Attendees: J. Harry Norris, Mayor
Walter Wise, Vice President
Thomas Collier, Councilmember
Robert Combs, Councilmember
J. Maguire Mattingly, III, Councilmember
Leslie E. Roberts, Councilmember

Also in attendance were: Laschelle Miller, Town Administrator; Rebecca Sothoron, Town Treasurer; DeAnn Adler, Plans Reviewer; Jackie Post, Fiscal Clerk; Teri Dimsey, Recording Secretary; Tom McKee, Design Builders; Capt. Robert/Ann Combs, Residents; Tom Reinecker, Architect; Dan Burris, LBA; Dr. Winnik, Resident; Frederick Garner/Cole Westin, Ledo's; John Stellway, Baldus; Scott Rudge/Michael Davis, Coles Point Tavern; Bob/Kay D'Esposito, Residents; Paul Dougherty, Davis, Upton Palumbo; Dan Guenther, Marketplace Fine Wine. A complete list of attendees is on file at the Leonardtown Town Hall.

Mayor Norris called the regularly scheduled meeting to order at 4:00 p.m. After the recitation of the Pledge of Allegiance, Mayor Norris proceeded to take up the first item of business.

Approval of Minutes:

The meeting minutes for the August 13, 2007 Town Council meeting were presented for approval.

Mayor Norris entertained a motion to approve the August 13, 2007 Town Council meeting minutes; Councilmember Mattingly moved to approve the minutes; seconded by Councilmember Collier; motion passed unanimously.

Treasurer's Report – Rebecca Sothoron

During the month of August I transferred \$200,000 from the local government investment pool to the checking account. In your packet is the July income statement, as I mentioned at the last meeting I am running a little behind and will get you the August income statement as soon as possible generally most of the August activity relates to fiscal year 07.

In August a certificate of deposit did mature. The principal amount was \$60,000. It was renewed for a term of 9 months for the principal plus the interest that has been earned and was renewed at PNC for 5%.

Ms. Post and I have lots of audit work going on right now. The auditors will be here next Tuesday starting their field work utilizing our conference room.

We are currently in the heavy tax payment season. Ms. Peele posts the tax payments on a daily basis in September. We try to stay up-to-date but it is an increased workload this time of year.

Mayor Norris noted that we do not yet have a full-time Deputy assigned to the Town as Deputy Maloy has been reassigned but he will continue to report to the Council.

Police Report – Deputy Gray Maloy

Deputy Maloy reported that for the month of August, he attended a DARE training session for two weeks. Town events such as the Beach Party and Fall Follies were covered by other officers, all went smoothly.

Councilmember Combs inquired if there were any reports of incidents back behind the Hardware store after the raid.

Deputy Maloy responded that it has been quiet.

Dr. Winnik asked to speak and noted that the traffic through Leonardtown is 25 mph and most of the cars seem to be traveling much faster than the posted speed limit. I would like to see more enforcement of the posted speed limit.

Mayor Norris stated that Deputy Maloy and previous Deputies have focused and still focus on that problem. Quite a few people have gotten tickets and we can supply copies of the reports if you desire. It is an issue and we hope the safety enhancement and streetscape program will slow people down.

Planner's Report – DeAnn Adler

Planning and Zoning Meeting – Monday, August 20, 2007

- Case # 91-03: Foxwell Apartments – A request was made by the applicant, Mr. Wayne Davis, for condominium plat approval for a 32 unit condominium complex. Mr. Davis had previously received final site approval on April, 2006. The request was approved.
- Case # 113-06 Tom McKee Property – The applicant, Mr. Tom McKee, was at the meeting with a revised request and second public hearing for the rezoning of Parcel 316 only. He was still requesting the PIRD overlay for parcels, 316 and 500. There were some comments and concerns expressed by some of the surrounding neighbors. Mr. Paul Dougherty gave a presentation and the board voted not to recommend approval of this project at this time. We will be hearing from Mr. McKee later today at this meeting.

Upcoming Planning and Zoning Meeting – September 17, 2007

- Case # 122-05: Leonardtown Landing, Phase II – The applicant, Mr. Ron Russo is requesting final site plan approval.

Town Administrator's Report – Laschelle Miller

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

At last month's meeting Ordinance No. 131 was introduced to authorize the Mayor to sign the Development agreements for Leonard's Grant. This ordinance can now be approved at this month's meeting. The agreements that the ordinance approves are the Sewer Impact Fee agreement, Storm Water Maintenance Agreement and the Public Works Agreement. Copies of the ordinance and agreements are attached.

Councilmember Roberts moved to approve Ordinance #131 which includes the Sewer Impact Fee Payment Agreement, the Storm Water Management Inspection and Maintenance Agreement and the Public Works Agreement with Leonard's Grant; Councilmember Wise seconded, no further discussion, motion passed unanimously.

St. Mary's County Comprehensive Water and Sewer Plan Letter of Support- For the last several months, St. Mary's County has been working to revise their 1993 Comprehensive Water and Sewer Plan as required by State law. Leonardtown is part of that plan and I have attended the committee meetings to update the language of the plan. The County needs a Leonardtown letter of support for the plan as it gets finalized. The letter of support will also address the comments pertaining to Leonardtown received at the public hearing on Monday, August 27, 2007. The three comments pertained to properties outside the town boundary on the northwest side of town. The properties were formerly included in the development district but were removed by the County a number of years ago. These properties formerly had S-6 designations and are now being proposed as No Planned Service designations since the County has no available capacity outside the town limits and the properties are no longer in the development district. S-6 means that there is development planned within 10 years. These properties have held that designation since the 1993 Plan with no development having occurred.

Enclosed you will find the pages of the document that pertain to Leonardtown with the updated information. Action needed today is to send a letter of support for the updated plan.

Councilmember Roberts moved to send a letter in support of St. Mary's County Comprehensive Water and Sewer Plan; Councilmember Combs seconded, no further discussion, motion passed unanimously.

New MDE TMDL possible requirements update- There has been a proposal for multi-state TMDL's (total maximum daily load) for PCB's in the lower Potomac Basin. We have joined forces with Metcom to weigh in on this movement because of the extreme financial burden it will place on the Leonardtown facilities if this is imposed. A copy of the letter that was drafted by a consultant for area local governments for Metcom and the Town is attached. The total cost of the consultant is \$2,000 which will be divided between Metcom and Leonardtown. This is a very technical issue and of great importance to the Town and Metcom.

Councilmember Collier inquired why Leonardtown is affected.

Ms. Miller responded that none of the other plants discharge into the Potomac. It is Virginia, Charles County and the Leonardtown plant.

Revised Resolution for Newtowne Village- In March we passed a Resolution to support their financing the rehabilitation of Newtowne Village. There was no financial obligation to the Town. This is just in support of their renovation of the 36 unit facility. The Resolution presented today is revised Resolution 2-07 with a change to paragraph six as they are doing a more extensive renovation and the change says “that we hereby support Leonardtown Senior Housing Limited Partnership to pursue project financing in the form of tax-exempt bonds and an HRP loan for the total amount of \$2,149,000.” Originally, they were only going to do around a \$360,000 renovation. That paragraph is the only change from the previous Resolution.

Councilmember Wise stated that we are only endorsing.

Councilmember Combs inquired if any residents will be relocating during the renovation?

Ms. Miller responded that this would be a temporary move if necessary and if they get all the funding approved and we will be informed of the exact renovations they will be doing. It is a private venture; we are in support of them going forward with the renovations.

Councilmember Collier moved to accept the Revised Resolution #2-07 in support of the Newtowne Village rehabilitation; Councilmember Wise seconded, no further discussion, motion passed unanimously.

4:18 P.M. – PUBLIC HEARING - CASE# 113-06: TOM MCKEE PROPERTY – REVISED REQUEST – SECOND PUBLIC HEARING FOR REZONING OF PARCEL 316.

Councilmember Collier moved to adjourn the regular meeting; Councilmember Wise seconded, motion passed unanimously.

Mayor Norris opened the meeting up for the Public Hearing concerning Case# 113-06: Tom McKee Property – Revised Request – Second Public Hearing for Rezoning of Parcel 316.

Mayor Norris stated that we have two separate issues here today which do affect each other. The first issue is the rezoning request and after that we have an additional Public Hearing and decision on the PIRD Designation. It is confusing to try to address both at one time and we will try to limit the first Public Hearing to the rezoning request only which is for Parcel 316.

Mayor Norris asked Ms. Miller to provide background information on 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,
Maintain R-SF Zoning with 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
- Draft Minutes from August 20, 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 townhomes above. The proposal also showed underground parking for the site.

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 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.

At the August 20, 2007 Planning and Zoning meeting Mr. McKee came back with a new application which he hoped would 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.

The revised request for a public hearing was re-advertised and notices were re-sent to neighboring properties for both the August 20, 2007 Public hearing and the September 10, 2007 Public Hearing.

As you will see from reading the August 20, 2007 minutes, it seemed that the Planning Board liked the plan but was concerned mostly about the density. Following the meeting it was discussed that if the Council came to a non-favorable conclusion after today's meeting that they may consider a workshop with a couple of Planning Board members, a couple Town Council members and staff to work with Mr. McKee to find a more acceptable density solution.

The Planning Commission sent an unfavorable recommendation for both the rezoning request for parcel 316 and the PIRD request for both parcel 316 & 500.

Action needed: Following today's Public Hearings the Council will need to make a decision on both requests as well.

Ms. Miller remarked that anyone who steps up to speak, please state your name and address for the record.

Councilmember Combs clarified that we are talking about Parcel 316 which is the further parcel back on that property as the copy of the survey has it labeled incorrectly.

Mayor Norris responded that Councilmember Combs is correct and everyone should make note that that is incorrect and it is only the parcel fronting on Lawrence Avenue.

Ms. Miller noted that the property was advertised and posted, as well as certified mailings sent to the adjacent property owners.

Mayor Norris remarked that the applicant can make a presentation and Mr. Dougherty, Mr. McKee and Mr. Reinecker are here today to provide a brief description. This is strictly about the rezoning and the specifics of what the owner may want to do are not applicable here, they are in the PIRD, but keep the presentation focused on the rezoning of the parcel.

Mr. Dougherty thanked the Council for hearing them today. I will do my best to only talk about the rezoning although I have to say that there is some difficulty in separating the two but will do my best.

We are here following the lack of recommendation from the Planning and Zoning Commission. Mr. McKee came before the Planning and Zoning Commission on an informational basis back in January and he received feedback from the Board to move forward. We submitted our original rezoning application for both Parcels 316, fronting Lawrence Avenue, and also for Parcel 500

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fronting Washington Street. We made our presentation based on a change of character of the neighborhood as opposed to any mistake or change of zoning back in 1974 and we went forward to define the neighborhood as we were required. We received quite a bit of feedback and some of it was negative and there was a lot of discussion on what constitutes the neighborhood. We had provided our definition of the neighborhood to show what changes have taken place. I have listed and discussed and provided the members of the Planning and Zoning Commission five rezonings, three plan approvals, and one PIRD within our defined neighborhood. These are the changes that have taken place in the last five or six years. The comment we received back was that this neighborhood should only be Washington Street. We, of course, disagree because then every street in Leonardtown is its own neighborhood and that is not a practical way to move forward particularly in the Comprehensive Plan. That will come into play when we discuss the PIRD. We made our presentation for a change in neighborhood and that was disagreed with by a lot of folks. After that meeting, we filed an amended application. He presented the Washington Street elevation, stating this is not new but exactly what we showed everyone at the July meeting. Our Washington Street elevation never did propose any commercial, only residential development. There was some fear expressed that if we got the rezoning to commercial business, we could build anything we wanted and that is not our intention. We went ahead and filed our amended application and took the rezoning out of consideration for the Washington Street elevation for Parcel 500. Rezoning only now applies to the Lawrence Street evaluation.

With the commercial business, what we are trying to put in here is low intensity commercial use that will be a good fit with the mixed use that the PIRD allows. A lot of that comes in with the actual design principals we are using. The PIRD and Comprehensive Plan both address design principals so you just can't come in and build a Wal-Mart. The best feature is the commercial space frontage is set back so you have a lot of pedestrian access trying to make it fit as much as possible with the character of Leonardtown. This is a PIRD issue as our plan includes having residential units on the top floor and some loft units on top. If we get the rezoning with the PIRD overlay we can do that mixed use. You have a recommendation before you from the Planning and Zoning Commission to not approve the rezoning. I will discuss the recommendation for the PIRD separately but for the rezoning the recommendation was to not approve it. If that doesn't happen, as you know, it amounts to a moratorium, I believe it is two years and if that is not done, it takes away the majority of flexibility for this property. But the Town enacted the PIRD and a lot of what is discussed in the Comprehensive Plan does discuss flexibility in in-fill and redevelopment. We would ask that you not accept the Planning and Zoning Commission's unfavorable recommendation. But at the very least workshop this or meet to talk about what would be considered an appropriate use for that property. This is where it starts to drift into the discussing the PIRD and the lower parcel as well.

Mayor Norris commented that he asked to keep these issues separate. I believe your intention is exactly what you are showing us, however, this Council has to realize that changing this zoning from Residential Single Family to Commercial Business changes the zoning and a number of projects around Town projects did not work out the way they were presented, ownerships changed. This is the main reason I asked that these issues be discussed separately.

Councilmember Roberts asked if we do a PIRD overlay over the entire property without rezoning then this project would still be possible.

Ms. Miller responded that if you look at the PIRD guidelines, it does allow you to have some light commercial and residential and depending on the density and uses, this project could move forward with just the PIRD overlay.

Councilmember Roberts inquired as to the type of commercial businesses they envision there.

Mr. Dougherty replied possibly a Starbucks, dry cleaners, real estate company, antique shop, and restaurant/bar, something that would flow with the rest of Washington Street. The commercial space is 7,000 sq. ft. in each building.

Ms. Miller stated that it is all interpretation. The PIRD allows a mix of uses, including residential, small-scale commercial service and retail establishments.

Mr. Dougherty remarked that there was a comment made in the July meeting that once you get the rezoning, you can build anything you want, we cannot control what happens. As the PIRD is written it actually allows more controls over what is to be built.

Councilmember Collier commented that the survey indicates that Lawrence Avenue has a 40' right-of-way where did you obtain that information?

Mr. Dougherty responded that his tax map does not have that information on it but we will have to go back to the survey company to clarify.

Mr. McKee noted that when you come onto Lawrence Avenue from Rt. 5 there is a curve which is a 30' right-of-way plus the rest area and sidewalks would give it a 40' right-of-way. In all the research once you get past Park Avenue there is no dedication for the road on paper the road kind of just happened. I also found that at one time, Lawrence Avenue from Park Avenue was one-way, so it could be converted back to one-way and would allow additional parking on the street for residents and spaces could be used for Mondays and Tuesdays for the Courthouse.

Mr. Dougherty remarked that all the parking spaces are not located on the street. Mr. McKee is also willing to take on the cost of some of the required infrastructure.

Mayor Norris opened the floor up for public comments.

Dr. Winnik stated that the Council has a copy of the petition signed by many residents of the Town. The petition notes that you have to in order to develop a commercial zone say that the neighborhood has changed and the petition clearly shows that the neighborhood has changed in a strongly positive way. The petition notes that on Washington Street there are two new houses, one, which was a small run-down home, now rebuilt into a small Victorian and across from that a new Victorian, four times as big as the small Victorian is under construction. In addition, many of the houses, the petition notes have been improved substantially, such as my own home. The neighborhood has not run down but just the opposite, improved, therefore there is no reason to zone it commercial. We introduced the question of neighborhood because they were including the houses across the Town square which did not seem like the neighborhood to us. Many of the Town Council Minutes – September 10, 2007

people who signed the petition live along Lawrence Avenue, Camalier, Key and Landing Way. It is the whole area that is strongly opposed to this commercial rezoning. They are planning a very intensive development which requires underground parking and high rise buildings three-stories high, very intensive. You have a Critical Areas condition report which would severely restrict what could be built in that area. You have a sloping land, you have it in the critical area and there is no way that what they want to produce could be done. They have presented the same exact proposal which requires very high intensive traffic to support this type of commercial development. Furthermore, the road is substandard. It comes around then curves and goes down and comes back up. There is a bicycle race that comes through, they use that turn to make the race a little bit more competitive because it is narrow and sort of difficult. This is a substandard road where they want to have a very high development of traffic in order to support the number of commercial units they want to put there. I think their proposal has no leg to stand on and I think the Planning and Zoning Commission recognized that and I assume that the Council will do the same.

Mrs. D'Esposito commented that she agrees with Dr. Winnik and especially in regard to the road.

Mr. McKee addressed Dr. Winnik's remarks and pointed out specific areas on a colored map which reflects the various zoning changes in the neighborhood. Dr. Winnik said that the neighborhood hasn't changed but the house next to him went commercial and the house across the street went commercial which was zoned residential R-1. So there is a real change in the neighborhood. The neighborhood down the street also changed to which at one time was all R-1 but has a commercial marine use now. There is a major change in the neighborhood which would allow you to approve the zoning. We are willing to bring Lawrence Avenue up to a standard street for the Town.

Mr. Dougherty commented that he believes there are not any statutory requirements to show that there has been a detriment to the neighborhood only to show the change. The applicant is required to define the neighborhood.

Mayor Norris stated that everyone here would have a different interpretation of the neighborhood.

Ms. D'Esposito remarked that those businesses will not empty out onto Lawrence Avenue. You can't widen the road. My house and property are right up to the road.

Mr. McKee commented that SMECO has their electric poles running down both sides of Lawrence Avenue. Without SMECO here, SMECO would have had to get an easement to have those poles there and that easement then is dedicated probably to get access to their lines and we would need to work with them. Lawrence Avenue is not in the Critical Areas. The major concern was being in a high density forest populated acreage and there are not many trees along Washington Street, it is all buildings. I do not think critical areas will be a problem. We are getting rid of the sloping ground and taking water underground. We are building quite a bit for the town to make this project work.

Mr. Dougherty noted that the Critical Areas letter sets out any criteria that may have to be met. We will do whatever needs to be done.

Mayor Norris stated that regardless of whether the zoning has changed or whether it is designated the PIRD, the Critical Areas issues will have to be addressed.

Mayor Norris asked for any comments, there being none, he entertained a motion to close the Public Hearing.

Councilmember Roberts moved to close the Public Hearing; seconded by Councilmember Collier, no further discussion, motion passed unanimously.

Mayor Norris opened the regular meeting.

Mayor Norris asked Ms. Miller to provide the recommendation of the Planning and Zoning Commission.

Ms. Miller stated that the minutes were included in the packet stating the motion that it was an unfavorable recommendation for the rezoning request for Parcel 316.

Ms. Miller read the motion from the minutes:

“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 forward to Town Council; Member Frock seconded, no further discussion, motion passed unanimously.”

Mayor Norris asked if all members were present.

Ms. Miller replied that Chairperson Moulds was absent with all other members in attendance.

Mayor Norris reiterated the options which are to follow the Planning and Zoning Commission and deny the rezoning request or, not follow their recommendation and approve the rezoning request for Parcel 316. If you think you need further information, you can table it.

Mayor Norris entertained a motion to close the regular meeting and open the second Public hearing.

Councilmember Roberts moved to close the regular meeting and open the Public Hearing on the PIRD Designation – Case #113-06 Tom McKee Property - Parcel 316 and 500; Councilmember Combs seconded, motion passed unanimously.

PUBLIC HEARING ON PIRD DESIGNATION – CASE #113-06 TOM MCKEE PROPERTY - PARCEL 316 AND 500

Mayor Norris stated that the Public Hearing was opened to discuss the PIRD Designation – Case #113-06 Tom McKee Property - Parcel 316 and 500
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Mr. Dougherty noted that this application has not changed; it has always been for the PIRD overlay on both parcels.

Ms. Miller described the PIRD definition:

The Planned Infill and Redevelopment District (PIRD) Ordinance was passed a few years ago to help neighborhoods. The purpose of the PIRD is to encourage redevelopment of sites and buildings in situations where buildings and properties are located within the Town's designated PIRD area and are in deteriorated or dilapidated condition or are surrounded by residential or other incompatible uses. It describes all of the requirements and the entire concept plan was presented when the PIRD designation was requested. You would be approving the PIRD for this property specific to the plan being presented. The Town Council may permit a mix of uses including residential, small-scale commercial service and retail establishments. It describes what you are allowed to do in the PIRD district. It is there to allow for flexibility if they are projects that meet the strict criteria for redevelopment or infill.

Mr. Dougherty agreed with Ms. Miller's description and Mr. McKee briefly mentioned what the anticipated commercial uses are. I will speak a little more about what the plan looks like. We are talking about retail on the street level; we are talking about on the second level roughly 10 zero lot line single family homes, 10 to 12 one bedroom condo units on the second level and then again, depending on meeting the height requirements, potentially two loft units.

Councilmember Roberts inquired if they are talking about condo as opposed to apartments?

Mr. Dougherty replied yes and will get to that later in terms of what types of mixed housing are here in Leonardtown.

Councilmember Combs asked what would be the total number of units?

Mr. Dougherty responded they are talking about 22 to 24 units.

Councilmember Roberts clarified it would be 10 townhouse and then how many condos?

Mr. Dougherty replied they needed to confer to confirm the total number of units and will provide shortly. In regard to parking, in particular, a proposed 130 off-site parking spaces, 50 spaces on a lower level coming off of Washington Street and 80 spaces coming off of Lawrence Avenue would be proposed. All of this will be off-street, underground parking. The PIRD statute requires that Town Council has to make certain findings and those are under Section 154.34.6 K and they are fairly specific.

First, does the plan meet the purpose, objections and minimum standards of the overlay district? It will accommodate growth in the town of Leonardtown by encouraging new development on underutilized land when such development is compatible with the existing neighborhood. This land is not being utilized at all right now. We are talking about new development here and again

trying to make this as compatible as possible with the center of Town and the neighborhood and make it more pedestrian oriented with the way the commercial is set forth.

The second requirement in the intent of the PIRD is to encourage efficient use of land and public services within the context of the existing neighborhoods. We talked about utilities and roadways but we do not have any comment on this impacting any public services.

And the third requirement is it that stimulates redevelopment in older established neighborhoods and we feel this goes directly to that. To provide developers and property owners flexibility to assure high quality design for infill projects. This is the very definition of an infill project; to get two old parcels in the middle of a residential and now commercial area, sitting fallow. Mr. McKee is not just the developer; he is the owner of the property. Create high quality neighborhoods, this fits in with the comprehensive plan. What he is building here are not going to be lower end units, the Comprehensive Plan addresses the need to increase the current inventory in the Town of middle to upper middle housing. The quality issue has been since the start of the project. The Comprehensive Plan specifically mentions downtown revitalization. We have commercial, folks using it and living right there as well as other folks in the neighborhood. Flexibility of mixed use development, community character is maintained, higher priced housing mix and allows for the expansion of the commercial business district and encourages pedestrian scale development. We have not had any comments about existing or planned public facilities and their adequacies. We have not had negative comments but we will address it as best we can. The Town has to find that the development staging is adequate in relation to public facilities and private amenities. This has not yet been requested of us yet but we will comply. The recommendation from the Planning and Zoning Commission on the PIRD specifically was unique they said they wouldn't recommend the PIRD at the current density. PIRD allows for flexibility in setbacks, lot lines and density. Those are not yet addressed, we are not really at the site plan process and I am not sure about talking about density at this time. They said they were uncomfortable about the current density but we did not get any feedback as to what density would be appropriate. If what is being proposed is too intense or too dense, again, we ask for some sort of workshop to get feedback so we are not coming back in with a fresh new application and see what is and what is not going to work. We are open to discussion.

Councilmember Roberts noted that she referred back and it looks like there are 10 townhouses, 24 one-bedrooms and 4 lofts, for a total of 38. If we were to okay the PIRD overlay, would we be approving that density>

Ms. Miller stated that there will be a lot of work between now and final site plan. If you felt this presentation meets the PIRD guidelines and you want to move forward but are not comfortable with the density, you can say that in the motion. The PIRD is very flexible and you can have a presentation again after working through some of the designs.

Councilmember Roberts inquired if we approve the PIRD but then never got comfortable?

Ms. Miller responded that if you were not comfortable at that point, with what they are suggesting and presented before you, you could make the decision on the PIRD or you could allow the workshop. They are looking for some type of feedback on what is an acceptable

density. We did hear a lot of comments from the Planning and Zoning Commission that they like the plan but they felt the density was too much. Possibly you don't reach a decision on the PIRD today but could hold a workshop, which we have done in the past. There are a lot of details that need to be worked out before anyone knows what density would really be allowed there.

Mayor Norris opened the floor for any comments relating to the case in regard to the PIRD.

Dr. Winnik stated that when the proposal came for the PIRD I wrote a letter stating that the language was not clear. On an acre and a half, they are asking to place 38 housing units, plus commercial plus 130 underground parking spaces, that is much too intense. The road is a problem and walking for pedestrians is dangerous and there will be more traffic. This is clearly too intense and we would want a meeting with you too.

Mr. and Mrs. Combs remarked that they have concerns about the road but are not against any development at all.

Mrs. D'Esposito commented that the road issue is a big concern. We are not opposed to anyone improving that property and building residential homes but they continue to want to focus on the commercial end and this is a little piece of land.

Mr. McKee stated that the one-bedroom condos could change to two or three bedroom condos decreasing the number of condos and this depends on the market. We came to the Town and asked them what they would like to see and they gave us the suggestion of commercial/residential and we worked to design this plan accordingly. We also were told that the less you ask for concessions for the Town the better off you will be so we asked for no parking, swm concessions at all, we asked for no money or grants or anything for Lawrence Avenue underground utilities. The plan comes into being by how much density you need to make it work. If the Town is not going to give us anything and we take it all on ourselves then you have to have enough density to pay for everything you want to do. Now if the Town wants to concede and we'll help you with utilities then there is a lot to be said for how much density will take to make it work. Parking was a big issue and we solved that with the underground parking. The building height meets the zoning requirements for 35' or 40' and we are still under the 45' level. Technically we could go up another floor but we didn't ask for four floors as there is another zoning law that said you can only have three floors. Therefore, we came up with something that didn't over power the courthouse but still had the brick front to blend in with the surrounding buildings. The tax revenue and the other things that make this good for the town. My suggestion is that you approve this, because this good for the town. It addresses a lot of the issues along Lawrence Avenue by making the street wider, adding curbs and gutter and street lights will make it safer than it is now.

Mayor Norris stated that if there are no further comments, I entertain a motion to close the Public Hearing.

**Councilmember Roberts moved to close the Public Hearing on Case #113-06;
Councilmember Mattingly seconded, no further discussion, motion passed unanimously.**

Mayor Norris reopened the regular meeting and asked Ms. Miller to read the recommendation from the Planning and Zoning Commission on the PIRD.

Ms. Miller read from the previous minutes:

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.

Mayor Norris remarked that the first issue to address is the request for rezoning; I open the floor up for discussion or a motion.

Councilmember Collier asked for clarification on the zoning classification, is it commercial business and what is allowed for commercial business?

Ms. Miller stated that it is more limited than commercial highway but commercial business is most professional services, Retail stores under 20,000 sq. ft., personal service establishments, such as banks, barber shops, restaurants, florists, newspapers, taverns, dressmaking, repair shops, office and office buildings, maximum height 3-stories, medical office building and clinics, semi-public and institutional uses, theaters, hotels and motels, funeral homes, and dry cleaners.

Ms. Miller read from the previous minutes:

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.

Ms. Miller stated that one of the reasons that the rezoning can be granted is change in the neighborhood. They are presenting a change in the neighborhood and the burden of proof is on them to show a change in the neighborhood.

Councilmember Collier moved to deny the request for rezoning; Councilmember Mattingly seconded, no further discussion, motion passed unanimously.

Mayor Norris asked Ms. Miller to provide the definition of the PIRD:

Ms. Miller read:

The purpose of the PIRD is to encourage redevelopment of sites and buildings in situations where buildings and properties are located within the Town's designated PIRD area and are in deteriorated or dilapidated condition or are surrounded by residential or other incompatible uses.

Mayor Norris noted that we had left this ordinance open-ended to provide us some flexibility to help properties and neighborhoods that are in distress. The term compatible is in the description of the PIRD designation and compatible does mean density and is something to consider. I also think that the intention of the PIRD was to listen to the residents of the neighborhoods and it is

important that people are involved in the decisions. We now need to decide and if this Council decides to approve this PIRD we are approving this plan and the applicants have asked that if we do not approve this plan that we schedule a workshop to come up with some solutions.

Councilmember Roberts stated that she feels this is the perfect piece of property to use the PIRD, there are some wonderful things in the plan and wish we could get everyone to do underground utilities. The Town is specifically looking for things like small retail with condos above and the underground parking is a gift but the density is the issue.

Councilmember Mattingly agreed with some of the comments from Councilmember Roberts but does not feel that Lawrence Avenue is the area for this type of development. What may be good for the developer is not necessarily what is good for the community. With the petition in front of me and all the names from Town residents, I will not turn my back on my fellow constituents.

Councilmember Collier remarked that he has great concerns with the density and how 130 vehicles will be handled within that building and the substantial traffic flow problems, access and pedestrian issues. Lawrence Avenue is no where close to being fit to handle any such problems even if you put in underground utilities. The PIRD specifically says that the proposed development or redevelopment of the subject property would be compatible with and not adversely impact the surrounding neighborhoods. That surrounding neighborhood is residential which is a very low density. It would adversely impact the traffic, noise, lighting, glare, parking and signs. The services and infrastructure of the site will be sufficient and requires that the site has sufficient accommodations for the type of density proposed. The road structure up there does not have the capability of handling this plan. I am of the belief that what we see here if we approve it will be what we have to stay with. I also have concerns about a follow up workshop and I do not want to be obligated and tied to a work group and what comes out from that and then be told what everyone agreed to and therefore we would have to agree with it. I want to maintain my independence and be able to look at anything proposed downstream if there are additional proposals.

Mayor Norris commented that many residents have said they are not opposed to some development and improvement on this property. It appears to me to get to some agreement is to get a Planning and Zoning Commission member, a Council member and some residents to work with the developer to try and devise a plan best suited for everyone. I do not think this obligates anyone.

Councilmember Wise remarked that Lawrence Avenue would not be able to accommodate this amount of traffic.

Councilmember Combs stated that we cannot request a rezoning now for two years but if the PIRD is turned down they can come back next month with a new plan. Last month we went through the same thing and I felt the density was too much. I believe that Mr. McKee needs to come back with a lower density plan. I am not in favor of this plan but I would not object to a workshop.

Mayor Norris entertained a motion on Case #113-06.

Councilmember Collier moved to deny the request for the PIRD Designation – Case #113-06 based on the unfavorable recommendation from the Planning and Zoning Commission; Councilmember Mattingly seconded, no further discussion, motion passed unanimously.

Mayor Norris called for a five minute break at 5:30 p.m. and called the meeting back to order at 5:40 p.m.

Ms. Miller continued with the Town Administrator's report.

Requests for Letters of Support for Liquor Board-

- **Cole's Point Tavern-** At last months Liquor Board hearing the Board tabled a request for a Class D Beer, Wine and Liquor License for on/off sales until a letter of support was received by the applicant from the Town of Leonardtown. While this establishment is in Virginia, they are considered a Maryland business. Mike Davis and Scott Rudge are the applicants. Mr. Davis is an attorney in Leonardtown and they are using his address on the application. One possibility is a letter stating that while the address is Leonardtown, the establishment is not located in Leonardtown, and the Council does not have a strong opinion one way or the other. See letter of request from Mike Davis.

Mr. Davis remarked that they went before the Liquor Board in August and normally if you are within the geographical town limits you would come here but it did not occur to me to come here before going before the Alcohol Board because this is a Virginia business. In the sense that it is tied to the mainland Virginia via a pier but the establishment is over the Potomac River and by virtue of some compact that was reached some 200 years ago between Virginia, Maryland and the Supreme Court, the Potomac River belongs to Maryland and so technically this establishment is in Maryland. It has to be licensed by Maryland Alcohol Beverage Board it is closest to St. Mary's County and to Leonardtown and is how we come to be before the Council.

Councilmember Roberts moved to send a neutral letter of support for a Class D liquor license for Cole's Point Tavern to the Alcohol and Beverage Board; seconded by Councilmember Mattingly, no further discussion, motion passed unanimously.

- **Marketplace Fine Wine and Spirits-** At last months Liquor Board hearing the Board tabled a request for a Class D Beer, Wine and Liquor License for on/off sales until a letter of support was received by the applicant from the Town of Leonardtown. In March of 2007 Mr. Guenther received a letter of support from the Council for an off site sales only for a high end wine and cheese shop/liquor store. Mr. Guenther is holding wine tastings at his establishment. Under State law the applicant can hold up to 12 tastings per year at a cost of \$50 per tasting. The proceeds of those licenses come to the town. Mr. Guenther is now requesting a Class D Beer, Wine and Liquor License for on/off sales license so that he can do more tastings/classes and be able to charge for the tastings as he wants to use more expensive wines and liqueurs. Please

note that a Class D license would effectively allow for a bar establishment now or in the future. Mr. Guenther has offered that a restriction be put on the license for wine tastings only by the Liquor Board if this is feasible under the law.

Mr. Dan Guenther came before the Council and presented his explanation of why they are making this request. We opened on June 9, 2007 and have a wine and spirits tasting every month and pay a fee of \$50.00 and are permitted up to 12 tastings a year. We would like to offer more than 12 tastings a year, possibly two a month and offer wine classes and other special events and the current license restricts us from doing so. A tavern license would allow more than we are requesting. Our purpose is solely to have more tastings than we are permitted under the present license. I have spoken with Joanne Wood, the attorney for the Liquor Board and I have learned that the Liquor Board can place a restriction on the license and I have asked the Liquor Board to place a restriction on the license for tastings only. We are asking for support from the Council to take to the Alcohol Beverage Board saying that you would consent to our becoming a Tavern license and place a restriction only to tastings. For your information, if I were to pass away or sell, the new owner could open a Tavern.

Council members asked several questions regarding the license restriction and how many tastings per year they may hold. The Mayor and Council members were all concerned about supporting a Tavern license.

Ms. Miller noted that several other liquor stores in town will be asking for the same type of license if this is the direction the Town supports.

Councilmember Roberts moved to send a positive recommendation for a Tavern license for Marketplace Fine Wine and Spirits with the inclusion of restricting the license to only organized tastings; Councilmember Mattingly seconded, no further discussion, four Council members voted in favor, Councilmember Collier opposed.

- **Ledo's Pizza**- Ledo's Pizza will soon be opening in Breton marketplace. They are requesting a Class B, Beer and Wine liquor license for on site sales. Attached is a letter of request from their attorney, Mr. Frederick Garner, for a letter of support for the restaurant.

Councilmember Roberts inquired how many seats would be in the restaurant.

Mr. Garner responded 140 seats and they plan to open November 1, 2007.

Councilmember Roberts moved to send a letter of support for a Class B liquor license to the Alcohol and Beverage Board; seconded by Councilmember Collier; no further discussion, motion passed unanimously.

Mayors Report

Mayor Norris announced that the Town of Leonardtown was featured in the Maryland Municipal League written by our Town Administrator, Ms. Miller, and has received a lot of attention and good recognition.

Councilmember Roberts noted that this goes to thousands of people and is wonderful advertising for the Town.

Council Reports:

Events – Councilmember Mattingly:

Upcoming Events of Interest/Meeting Reminders:

<u>Date</u>	<u>Time</u>	<u>Meeting</u>
Tuesday, Sept. 11	9:00 AM	Chamber Tourism Committee Meeting @ SM Airport Conference Room
Tuesday, Sept. 11	NOON	9/11 Remembrance Ceremony @ Governmental Center
Wednesday, Sept. 12	8:30 AM	LBA Meeting @ TBD
Saturday, Sept. 15	6:00 PM	Light the Night Walk for Leukemia & Lymphoma @ Governmental Center
Thursday, Sept. 20	11:30 AM	2007 State of the County Luncheon @ JT Daugherty Conference Center
Thursday, Sept. 20- Sunday, Sept. 23		SMC Fair (Parade on Saturday @ 10:30 AM)
Saturday, Sept.22 Sunday, Sept. 23		2007 Motocross of Nations @ Budds Creek
Thursday, Sept. 27	5:30 PM	Chamber Business After Hours @ International Raceway, Budds Creek
Thursday, Oct. 18	9:00 AM	30 th Annual Chamber of Commerce Golf Classic @ Breton Bay Golf Course
Saturday, Oct 6 Sunday, Oct 7	NOON – 6:00 PM	Riverside Winefest @ Sotterly
Saturday, Oct.6 Sunday, Oct. 7	11 AM-DARK 10AM – 4 PM	40 th Annual Blessing of the Fleet @ St. Clements Island Museum

Grounds – Councilmember Combs:

Councilmember Combs reported that we should have something from Sam Crozier on the Port of Leonardtown plan in the next one or two weeks.

Streets and Roads – Councilmember Wise:

Councilmember Wise reported there was some patching done on various streets.

Capital Projects – Councilmember Collier: No report

MML/SMMA – Councilmember Roberts:

Councilmember Roberts reported that as Fourth District Vice President she is a member of the MML Board and attended the annual Board meeting/retreat which was very informative, good workshops and one whole afternoon was on events and event planning.

The SMMA meeting will be next Wednesday in Indian Head at the Village Green and if anybody would like to attend she would be happy to have company.

Adjournment:

Councilmember Mattingly moved to adjourn the meeting. Councilmember Collier seconded the motion, which passed unanimously. The meeting adjourned at 6:10 p. m.

Respectfully Submitted:

Teri Dimsey, Recording Secretary

Approved:

J. Harry Norris, III, Mayor

Walter Wise, Vice President

Thomas R. Collier, Councilmember

Robert C. Combs, Councilmember

J. Maguire Mattingly, III, Councilmember

Leslie E. Roberts, Councilmember