

La Plata Planning Commission  
Town Hall, La Plata, Maryland  
Regular meeting  
April 6, 2004, 7:00 PM

Present: Chairman C. Keith Back, Garyton C. Echols, Jr., Keith A. Hettel, Robert W. Thompson, Zakary A. Krebeck, Roy G. Hale – Commission members; Douglas R. Miller, Town Manager; Judith T. Frazier, Town Clerk

Town staff: Steven F. Schroeder, Project Manager

Guests: (see roster)

Minutes:

Chairman Back called the meeting to order at 7:00 PM and read the agenda. Chairman Back asked Mr. Hale to lead the Commission and audience in reciting the Pledge of Allegiance.

#### Approval of March minutes

Mr. Echols made a motion to approve the minutes of the March regular meeting. Mr. Thompson seconded the motion and it passed by unanimous vote.

#### Public hearing: Zoning Amendment Application 04-1

Calvin H. Rupard, Property Owner, and Brandt Construction Co., Inc., by Stephen H. Brandt, President, Contract Purchaser, 3.03 ac. on the west side of Dorchester St., from Central Business District (C-B) to Industrial (I).

Chairman Back called the hearing to order and explained the procedure. The clerk entered into the record an Affidavit affirming that the hearing notice was properly published, property owners within 170 feet of the subject property were notified of the hearing by certified mail, and signs were posted on the subject property giving notice of the time and place of the hearing.

Mr. Miller briefly described the property and location as approximately 3 acres near the Town Shop, for which the applicant wants the Central Business District zoning classification changed to Industrial. Mr. Miller further advised that the process being followed includes hearings before the Planning Commission and the Town Council, and that the Planning Commission makes a recommendation to the Town Council. He also advised that the applicant must prove a mistake in the original zoning or change in the neighborhood.

Thomas C. Hayden, Jr., attorney representing Mr. Brandt regarding this rezoning application, confirmed that the Planning Commission had the application and documents included with it, and handed out supplemental documents. Mr. Hayden stated that the property meets both criteria of change in the neighborhood and mistake in the original zoning.

Mr. Hayden called on the applicant, Stephen Brandt, who gave his address as 8400 Megan Lane, Port Tobacco, and his occupation as president and chief operating officer of Brandt Construction Co., Inc. During his testimony, Mr. Brandt advised he was the contract purchaser of the Rupard property, and described how he would develop the property if it is rezoned. Mr. Brandt advised he

would construct 28,200 square feet total of offices/warehouses, for businesses such as HVAC, electricians, plumbers and others who need storage and office space, and that he planned to sell most of the 47 units to individual businesses. Mr. Brandt stated there was very little Industrial zoned property in the town and that this project would allow businesses to operate out of La Plata instead of Waldorf. Mr. Brandt stated that this project would cost \$2 million and could be fully developed in approximately two years.

Mr. Hayden called on Raymond Gore Bolton, who gave his address as 3920 Mt. Zephyr Farm Place, La Plata, stated his education and work background, including that he has testified as an expert witness in land use cases, including rezoning. Mr. Hayden submitted Mr. Bolton as an expert witness in the field of land use and engineering.

During his testimony, Mr. Bolton described the neighboring properties as industrial and commercial type uses to the west, general industrial (county zoning) to the north, and public lands zone with an industrial use to the east (Town shop and water tower). Mr. Bolton described the topography and physical characteristics of the property. Mr. Bolton testified that the property was originally zoned Central Business by comprehensive zoning action in 1987.

Mr. Bolton described the proposed development as 5 separate buildings connected by breezeways, office building type architecture, each building being approximately 6,000 square feet in size, with ten 12' x 50' (600 sq. ft.) units in each building; no exterior storage yards; 150 parking spaces (100 required); fencing for security, with a tie-in to the existing Town Shop fence.

Mr. Bolton acknowledged the land exchange and agreement between the Town of La Plata and Joseph W. Norris, dated December 12, 1989, which provided for access to Dorchester Street and a requirement that Dorchester Street be extended and paved from its current terminus to the property, of which Mr. Brandt is willing to assume responsibility.

Mr. Bolton testified that the immediate neighborhood is comprised of General Industrial (Mitchell Supply property), part of a Mixed Use District property, the Town's property, and Light Industrial properties. He stated that the overall neighborhood is the entire town, which has limited Industrial type activity, and that this proposal would provide space for businesses who serve the La Plata neighborhood. Mr. Bolton stated that rezoning this property to Industrial would provide for a transition between the Light Industrial property to the south and the General Industrial property to the north.

Mr. Bolton testified that substantial change has occurred in the neighborhood since the last Comprehensive Plan, including the Vision Plan for the central business area and the walking downtown concept. Since 1987, changes include a shift of the central business district and amount of reconstruction activities, the amount of available central business space, and the walking downtown concept being very much towards the Charles Street center area and not likely to extend to the subject property; 12% growth rate between the 1990 and 2000 Census; and improved availability of public facilities, including road network, the nearby water tower, and the Town's work to upgrade the wastewater treatment plant as necessary due to growth. Mr. Bolton stated that the proposed use of this property would not generate as much demand on water and sewer and that its impact on the transportation pattern would be fairly minimal due to user traffic being more spread out during the day

and having early morning arrival and evening departure. Mr. Bolton stated that the proposed use would be compatible with the existing architecture and uses in the neighborhood.

Mr. Bolton testified that a mistake was made in zoning the property Central Business District as the property is surrounded by Light Industrial, County General Industrial, Public Lands and the railroad tracks, and that the mistake was not focusing on the area around this property.

Mr. Hayden introduced into evidence as part of the proceedings the following documents:

- Petition and all attachments as filed on January 15, 2004, including List of Property Owners within 170 feet of Property to be rezoned; deeds of subject property; Agreement between Town of La Plata and Joseph Norris, dated December 12, 1989; Exhibit 1 (Vicinity Map); Exhibit 2 (Tax Map Showing Property); Exhibit 3 (Zoning Map); Exhibit 6 (Neighborhood Map); and Exhibit 7 (Plat of Property).
- Revised list of Property Owners within 170 feet of Property to be Rezoned, filed March 9, 2004.
- Affidavit regarding posting of signs with pictures attached.
- Two concept plans.
- Concept design drawings (color and black and white).

During the discussion which followed, the Commission discussed certain issues with Mr. Bolton. In response to Chairman Back's question, Mr. Bolton described the property east of the subject property as also including apartment complexes zoned R-3, and noted that the proposed structures were architecturally designed to look more like the apartment buildings due to that apartment/residential neighborhood. Chairman Back pointed out that the proposed industrial use and trucks from that use would impact a residential neighborhood. He also asked if Mr. Bolton contended that the Central Business zone properties just south of the subject property are incorrectly zoned. Mr. Bolton responded that the difference was the subject property has no road access off Kent Avenue, that it has a common access from Dorchester Street with other industrial users, and reiterated that Industrial zoning makes a better transition from Central Business to Light Industrial to General Industrial. As to the question of how this property's neighborhood has changed, Mr. Bolton contended that this property is in an Industrial environment and not a place for Central Business type uses, and pointed out the central business district rebuilding efforts occurring on the south side of Charles Street. He further pointed out that even the new Town Hall is being built where most of that rebuilding is taking place. Mr. Bolton stated that the mistake made was that the subject property was not going to become the central business district of the Town.

Mr. Hale asked if the impact of the GP Homes development nearby had been considered. He also expressed his concern about the location of the subject property with regard to that future major residential development; and noted that the Town had considered closing the railroad crossing, and questioned the traffic/transportation impact on the use of the subject property. Mr. Bolton noted that GP Homes could be contacted regarding providing interconnectivity of roads in their master plan.

Mr. Thompson received confirmation from Mr. Miller that the subject property had not been included in the Town's comprehensive rezoning project to rezone other properties in the area to the new Central Business Transition District due to its pending rezoning application. Mr. Thompson

advised he had visited the site and agreed with Mr. Bolton that the subject property probably would not be developed as Central Business District zone.

Mr. Echols noted his belief that the applicant has made the point that the Town made a mistake in the 1987 rezoning of the property to Central Business District, and stated that the Commission should weight that there has been no Industrial change and no Central Business development has occurred since the 1987 rezoning. Mr. Echols advised he would support that there was a mistake in the original zoning.

Mr. Hettel received confirmation from Mr. Miller that the zoning on this property has remained the same since 1987, through the 1996 and 2002 comprehensive plan processes.

In response to Mr. Krebeck, Mr. Bolton stated that the Town's growth and the rebuilding have increased the need for Industrial property in the Town.

Chairman Back pointed out that the Vision Plan group discussions indicated that new Light Industrial should be more on the outskirts of Town rather than its center.

Chairman Back asked if anyone in the audience wished to speak for or against Zoning Amendment Application 04-1. No one wished to speak.

There being no further discussion by the Commission, Chairman Back closed the hearing.

#### Recommendation Zoning Amendment Application 04-1

The Commission discussed the need to consider the proposed use's impact on the Town, the belief that there is a lack of infrastructure in that area to support the Industrial use, the impact of the future GP Homes residential development, closure of the railroad crossing, and traffic concerns. Mr. Miller pointed out that this should not be looked at in terms of a plan review, that the Planning Commission's purpose was to consider the zoning amendment application. If the Planning Commission agrees there was a change in the neighborhood or mistake in zoning, they must make a motion with the specifics to make a recommendation to the Town Council.

Following a brief discussion, Mr. Echols made a motion to recommend to the Town Council that the subject property be rezoned to Industrial, based on a mistake when the property was zoned Central Business District and continued to be zoned Central Business District through the 2002 Comprehensive rezoning. Mr. Hettel seconded the motion. Vote on the motion: Mr. Echols, Mr. Hettel, Mr. Thompson, Mr. Hale voted aye; Chairman Back voted nay. The motion carried by majority vote.

#### Courtesy Review: Rita's Shops

Mr. Miller briefly described the redevelopment of the Charles County Chamber of Commerce building by Rita's, for which building elevations and a site plan had been included in the Commission's meeting packet. Mr. Miller advised that 16 parking spaces are required and 19 have been provided. He further advised there was no reason the project should not go forward, He noted that an addition planned for the south side of the building will require Board of Appeals approval

because the principal structure is nonconforming due to a slight extension beyond the building restriction line.

Gore Bolton, engineer and land planner for the project, participated in the discussion with the Commission, and advised that the project has Design Review Board approval. He also advised they were working with the owner of Arby's for a pedestrian way connection between Rita's and Arby's. Mr. Jelik, owner of Rita's, advised that he was also talking with the American Legion regarding a shared/leased parking arrangement to lease spaces from the Legion.

Mr. Thompson encouraged use of pavers for the walkway between the parcels. Mr. Krebeck received confirmation from Mr. Miller that a sidewalk is in place in front of Arby's and the Town requires that it be extended. Mr. Bolton advised they would discuss its alignment with the owner of Arby's.

#### Final Plat: Martin's Crossing

Mr. Miller provided an overview of the subdivision review, copies of which were given to each Commission member, in particular that details of required off-site sidewalks have not been provided, and no mention has been included regarding the upgrading of the Patuxent Court pump station. John Sites, developer, and James Erdman and Wes Tomlinson, of Ben Dyer Associates, were present to discuss the final plat.

During the discussion which followed, Mr. Tomlinson advised that the final plat complies with Town regulations, the annexation agreement, and the preliminary plan. Mr. Erdman explained that the "asphalt trail" sidewalk is from the intersection to the school, with all other sidewalk being concrete and meeting Town standards. In response to Mr. Hale's question, Mr. Miller advised that the forest conservation dedication easement must be recorded before recording the final plat. He noted that the Planning Commission has discussed requiring all residential development to have forest conservation on-site. Mr. Hale agreed that on-site should be required, particularly in light of the devastation caused by the 2002 tornado. Mr. Miller further noted that the preliminary plat had been approved with off-site forest conservation. Mr. Sites stated he had purchased property in Bel Alton to meet the forest conservation dedication requirement. Regarding provision of an emergency access, Mr. Erdman confirmed for Chairman Back that an emergency access is dedeed in Open Space "C".

Chairman Back called for a motion on the final plat. Mr. Hale made a motion to approve the final plat of Martin's Crossing, pending resolution of the issues of the asphalt sidewalk, address the Patuxent Court pump station, and the forest conservation easement. Mr. Hettel seconded the motion and it passed by unanimous vote.

#### Other business

##### Courtesy review - New office building/Mike Pellegrino

Mr. Miller explained that Mike Pellegrino proposes to build a new office building for his PAS Architecture business on land behind the Port Tobacco Players Theatre building. It would require a cross parking agreement, subject to review by the Town Attorney.

Mike Pellegrino, PAS, Randy Crowder, civil engineer and land surveyor, and Richard Reckeweg, representative of Port Tobacco Players Theatre, were present to discuss the proposed office building plans. The proposed office building would have a residence on the upper floor and would be built on a 5,000 sq. ft. parcel behind the Port Tobacco Players Theatre. The building would be shaped to fit the lot and would not block drivers' view past the building when stopped at North Oak and Kent Avenues. It was noted that a sidewalk should be provided from the redeveloping Port Tobacco Players Theatre property and proposed office building, to link with the sidewalk on Kent Avenue.

There being no other business to discuss, the meeting adjourned at 9:45 PM.

Submitted by:

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Judith T. Frazier  
Town Clerk