

Council of the Town of La Plata  
Town Hall, La Plata, Maryland  
Regular Meeting  
April 13, 2004, 7:00 PM

Present: Mayor William F. Eckman, Councilman Wayne Winkler, Councilman Gene Ambrogio; Douglas R. Miller, Town Manager; Patricia L. Bembe, Assistant Town Manager; Judith T. Frazier, Town Clerk; Frederick C. Sussman, Town Attorney

Guests: (see roster)

Minutes:

Mayor Eckman called the meeting to order at 7:00 PM and then led the Pledge of Allegiance.

#### Approval of March minutes

Councilman Ambrogio made a motion to approve the minutes of the March 9, 2004 regular meeting, March 16, 2004 Manager-Council meeting, and March 23, 2004 Manager-Council meeting. Councilman Winkler seconded the motion and it passed by unanimous vote.

#### Petitions, Communications and Appearances

##### Presentation to Russell Watson, Robin Hill Farm Nursery

Mayor Eckman and Paula Winkler presented a Town Seal to Russell Watson, expressing the Town's appreciation for his generosity in helping the Town's residents recover from the 2002 tornado, including the donation of many trees, the generous discounts for the "Big Tree" project on Oak Avenue and relocation of the *Wye Oak* and other trees from Town Hall to Wills Park, and the donation of *The Heritage Tree*, a large Colorado Blue Spruce planted near the soccer field in front of the County Government Building.

##### Chris Lind, La Plata Business Association (not present)

##### Proclamation – Medical Laboratory Week April 18 – 24, 2004

Mayor Eckman read the proclamation and presented it to Councilman Ambrogio. Councilman Ambrogio thanked the Town on behalf of his coworkers at Civista and invited anyone interested to tour the lab.

##### Proclamation – Municipal Government Week April 26 – 30, 2004

Mayor Eckman read the proclamation and invited anyone interested to tour the Town Hall and see the plans for the new Town Hall.

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).

Mayor Eckman opened the hearing. 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.

Thomas C. Hayden, Jr., attorney representing Mr. Brandt regarding this rezoning application, provided additional exhibits (Exhibit 4 and Exhibit 5) that he advised he would be referring to in his presentation. Mr. Hayden described the size and location of the subject property for which rezoning to I is requested, and stated that evidence would be submitted that the property meets the criteria of mistake in the original zoning and change in the character of the neighborhood.

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 the location and size of the property and its location off Dorchester Street near the Mitchell Supply property and Town maintenance facility. Mr. Brandt advised he would construct warehouses/offices for businesses such as HVAC and electricians, and that he planned to sell some and lease some of the 23 to 24 600 sq. ft. units, which could be combined in 600 sq. ft. multiples. Mr. Brandt stated that, if rezoned, he would start construction next spring and build to completion as sales go, which he stated would be about two years in today's market.

In response to a question from the Council, Mr. Miller advised that the property was zoned from residential to CB in the 1987 comprehensive rezoning, and maintained as CB zoning through the 1996 and 2002 comprehensive plans.

Mr. Hayden called on Raymond Gore Bolton, a professional engineer registered in Maryland, 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 annexation, zoning and special exception cases. Mr. Hayden submitted Mr. Bolton as an expert witness in land use and engineering matters.

During his testimony, Mr. Bolton stated he concurred with Mr. Miller's description of the history of when the property was zoned CB, and proceeded to describe the area surrounding the subject property. He stated that the property is vacant with a gently rolling topography and suitable for infill development. It was Mr. Bolton's opinion that it was a mistake to zone the property CB as overall the property is surrounded by non-residential uses: Industrial to the north, the Town's water tower and maintenance facility to the east, which is zoned Public Lands and is an industrial-type use, active railroad tracks/heavy industrial use and Stricker/commercial

industrial activity with storage/warehouse along the railroad tracks to the west. Mr. Bolton stated the subject property could not reasonably be developed as a CB use, noting that the Town's Comprehensive Plan describes how the Town wants the Central Business District to look, which he stated is more like the Centennial Street activities rather than the Dorchester Street activities. He also stated he believed the property was not looked at properly when it was zoned CB, especially in light of the Town's plan for a walking downtown, noting there is no area to install sidewalks.

Mr. Bolton stated that the neighborhood is the entire town, because of changes in the town which pulled away the demand for CB on the subject property's area of the town. He stated that substantial change in the character of the neighborhood includes the reconstruction in the town after the 2002 tornado, which shifted the overall emphasis of the Central Business District to the area south of Charles Street, and which includes buildings being rebuilt with additional space. He also pointed out the relocation of the Town Hall to that area. Mr. Bolton stated his opinion that he felt those businesses would have a serious problem giving consideration to locating their business on the subject property, with the tower and industrial neighbors. Mr. Bolton stated that it was his opinion that the Town did not consider where industrial type businesses would locate in the Town when Industrial property was rezoned during the comprehensive rezoning. He pointed out there had been significant impact on the Town with the development on Route 301 north of Hawthorne Drive, and stated that there are very few places for the location of the businesses who support larger retail and other businesses. He also pointed out the significant 12 % population increase over the last ten years.

In describing public facilities required for the proposed use, Mr. Bolton referred to the recorded land exchange and agreement between the Town of La Plata and Joseph W. Norris, dated December 12, 1989, which provides for access to Dorchester Street and a requirement that Dorchester Street be extended and paved from its current terminus to the property. He also stated that the proposed Industrial use will cause less water and sewer use than an office type use, which would have occupants all day. Mr. Bolton stated there were no immediate planned road improvements within the area, other than the GP Homes project, and that planned road improvements in the downtown include those listed in the Comprehensive Plan and improvements as a result of the tornado, which include Charles Street and La Grange Avenue.

Mr. Bolton referred to the Town's adoption of Central Business District design guidelines, which refer to street connection with the downtown for mobility. Mr. Bolton stated his opinion that the subject property is not a pedestrian-type destination, that it has no streetscapes or sidewalks.

Mr. Bolton stated his opinion that the requested Industrial zoning would be consistent with the Town's Comprehensive Plan, that it would be an infill development site surrounded by Industrial uses, would create jobs, and there are adequate public facilities available for the proposed development.

In response to questions from the Council, Mr. Bolton confirmed he is a civil engineer, gave examples of having testified as an expert witness in land use cases, and acknowledged the townhouses and apartment buildings in the neighborhood of the subject property. Mr. Bolton

stated his opinion that the proposed development would give the residents an opportunity to walk to work. In response to a question regarding what guarantee there would be that the proposed style of buildings would be constructed, and the need to consider a “worst case” scenario which might include more traffic than the current roads could handle, Mr. Bolton stated site plan discussions would address those concerns.

Mayor Eckman asked if anyone wished to speak regarding the zoning amendment application.

Earl Woodland, 314 Jennie Run Drive, spoke against the zoning amendment, noting he was concerned about how the increased traffic will affect the community and safety of the children, and safety issues regarding the size and capacity of Kent Avenue.

Jackie Clipper, 10461 Steven Lane, La Plata, assistant manager/representative of La Plata Grande and Carroll-La Plata Village spoke against the zoning amendment, noting concerns regarding property values decreasing, noise and traffic increasing, and safety of the children in the community and the Freedom Landing clients.

Fred Ritter, who owns a home at 502 Kent Avenue in which his daughter and her children live, spoke against the zoning amendment, noting concerns that any of the Industrial uses could be allowed, and that the proposed use of service businesses would receive supplies by way of tractor trailers.

Vic Newman, 511 Chestnut Court, spoke against the zoning amendment, pointing out the time and money put into developing the Vision Plan, which removed Industrial zoning from the downtown, and noting his concern that the Town not set a precedent for others to ask for rezoning to Industrial.

Maggie Upchurch, La Plata Garden Apartments, spoke against the zoning amendment, noting her concerns regarding noise, traffic and safety of children.

Mr. Hayden introduced into evidence as part of the proceedings the following documents and asked that the Planning Commission recommendation be marked as Exhibit #6. Mr. Hayden stated his opinion that the evidence shows substantial change in the character of the neighborhood, and stated that Mr. Brandt will sign a document that he would construct the building as displayed on Exhibit #5.

- 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).
- Planning Commission recommendation (Petitioner's Exhibit #6)

There being no other speakers and no further discussion by the Council, Mayor Eckman closed the hearing.

### Legislation

Ordinance 04-4 Commercial Credit Card Account with SunTrust BankCard, N.A (For Adoption) – For the purpose of authorizing the Town of La Plata to enter into a commercial credit card account relationship with SunTrust BankCard, N.A. and appointing Authorized Persons to enter into, execute and deliver on behalf of the Town of La Plata agreements, documents or other instruments to SunTrust BankCard, N.A. regarding the commercial credit card account relationship; and all matters relating to said commercial credit card account relationship with SunTrust BankCard, N.A.

Councilman Winkler made a motion to adopt Ordinance 04-4. Councilman Ambrogio seconded the motion and it passed by unanimous vote.

### Unfinished Business

#### Council reports

Councilman Winkler reported that he would be meeting with SMECO on April 20 to discuss installation of the poles for the warning sirens to be placed in the Quailwood, Clarks Run and King's Grant areas, which he hopes to have installed by May 1. He is working with Don McGuire, Director of Charles County Emergency Services, on this project.

Councilman Ambrogio reported on the success of the clean-up day held March 27 at Phoenix Run, and advised that trees were cut down to make room for playground equipment.

Mayor Eckman reported on status of the new Town Hall project, noting that the lot has been cleared; he met with Dr. Monteiro and received his agreement to the traffic circle; met with the AV and sound equipment people regarding the sound system and individual microphones; the automated locking system would cost \$15,000 for the entire building and may need to be reconsidered; and the Council needs to discuss at a work session the suggestion of Joe Lehan/Comcast of installation of a remote-controlled, wall-mounted camera in the meeting room.

In response to Councilman Ambrogio, Mr. Miller advised he has not received any data from the engineers on the St. Mary's Avenue project.

### New Business (none)

Public Forum

In response to comments made earlier by Vic Newman regarding the Vision Plan, Paula Winkler advised she had been involved with that process from its beginning, and noted it was only a plan, that it had to change due to the tornado, and focus was shifted from north of Charles Street to south of Charles Street.

There being no further business, Councilman Winkler made a motion to adjourn at 8:49 PM. Councilman Ambrogio seconded the motion and it carried.

Submitted by:

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Judith T. Frazier  
Town Clerk