



TOWN COUNCIL & PLANNING COMMISSION

Joint Work Session

St. Charles Parish Hall

July 31, 2008

5:30 p.m.

At approximately 5:30 p.m. at the St. Charles Parish Hall, Mayor Sullivan called to order the Joint Work Session of Town Council and the Planning Commission. In addition to Mayor Sullivan present were Councilmen Bannon, Bennett, Burdiss, Elliott, Evans, Veber, Planning Commission Chairwoman Burge and Commissioners Cobb, Davis, Evans, Morgan, Natali and Kuttler. Also present were Town Manager Joe Vaccaro, Assistant Town Manager Heather Arcos, Town Planner Tom Bonadeo and Acting Town Clerk Charley Wellschleger.

Mayor Sullivan announced the business for the evening would be to hear a presentation from Town Planner Tom Bonadeo regarding the Cape Harbor Project.

Tom Bonadeo began by summarizing that an application was received for three (3) conditional uses for the 6.6 acres of land at the western end of Mason Avenue on the south side of the street which is in the Harbor District Zone. Tom Bonadeo stated that the three (3) requested conditional uses are as follows: i) Multi-family dwellings; ii) Hotels and Motels; iii) Maximum permitted height. Tom Bonadeo read the requirements from Sections 3.9 C.6, 3.9 C.7.c and 3.9 D.2.b of the Zoning Ordinance, stating that the application complies with the requirements. Tom Bonadeo went on to state that the Planning Commission deliberated with three (3) criteria in mind: i) The use will not adversely affect the health, safety or welfare of persons residing or working in the neighborhood or adversely affect other land uses within the particular surrounding neighborhood; ii) The use will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; iii) The use will not be in conflict with the purpose of the comprehensive plan of the Town. The Planning Commission held two (2) public hearings and after careful deliberation has recommended approval of the three (3) uses with twelve (12) conditions. Tom Bonadeo informed the Town Council that upon receiving the recommendation from the Planning Commission, the Town Council needed to hold a public hearing and act on the proposed conditional use application granting it in whole or in part, with or without modifications, or deny the proposed application. The Zoning Ordinance outlines minimum requirements and additional requirements, conditions or safeguards may be added by the Town Council as a requirement for the protection of the public interest. Permits are good for one (1) year. If not acted upon within this year, the permit can be extended or withdrawn.

Tom Bonadeo reviewed the application packet which included the Application for Conditional Use Permit, a Traffic Study which was completed during the winter months but updated using information from VDOT in May 2008. Also included in the packet was the Utility Infrastructure Summary which covered Fire Water Service, Domestic Water Service, Sanitary Sewer Service and Stormwater Management.

Tom Bonadeo went on to review the Planning Commission Staff Reports from March 4, 2008, April 1, 2008, May 6, 2008 and July 1, 2008 as well as copies of the June 3, 2008

and June 21, 2008 Public Hearing Minutes and public comments submitted in writing. Tom Bonadeo also reviewed illustrations comparing the existing buildings on the north side of Mason Avenue with the proposed building(s) on the south side of Mason Avenue.

There were many questions and much discussion with Council members and Commissioners expressing their concerns regarding the mass of the project and the view corridors. Mayor Sullivan expressed her concern stating that since she's been involved with the Town government, this is the first instance that she can recall where the Planning Commission has submitted their recommendation to the Town Council where the vote was not unanimous. There was further discussion regarding the split vote and Councilman Evans, who is also a Commissioner, stated that he saw the adversity amongst the Commission as a strength. The Commissioners all have different perspectives and are passionate and all worked very diligently to put this recommendation together. He went on to state that some disagreement is a healthy thing.

Councilman Bennett had some questions regarding the conditions recommended by the Planning Commission and asked that each condition be reviewed individually to explain how the Commissioners arrived at each condition.

CONDITION #1: Construction of the underground parking facility should be completed in less than 6 phases.

Councilman Bennett noted that the application already stated that the parking garage would be built in three (3) phases and asked why this would be placed as a condition. Planning Commission Chairperson Cela Burge responded that the Commissioners added this as a condition to ensure that the developer built the parking garage as stated in their application.

CONDITION #2: The first phase of the project shall include public access to and along the waterfront respecting the safety and welfare of the general public and the construction site.

Tom Bonadeo stated that this condition was included as protection in case the project does not get completed at least the public access will be there. Councilman Evans added that during the various meetings, quite a bit of public comment centered on the public access.

CONDITION #3: The walkway and parking on Mason Avenue shall be constructed as part of phase one respecting the safety and welfare of the general public and the construction site.

Commissioner Kuttler stated that this was intended for construction traffic so the existing parking spaces along Mason Avenue are not taken up with construction vehicles. The Commissioners would like to have the angled parking installed in the first phase of construction.

CONDITION #4: The parking along Mason Avenue shall be developed as angle parking pending the approval of VDOT.

Tom Bonadeo stated that this was included as a condition, similar to Condition #1, to ensure completion as proposed in the application.

CONDITION #5: The applicant shall employ green roof technology as proposed.

Tom Bonadeo stated that this was also included as a condition to ensure completion as proposed in the application. Tom Bonadeo explained further that due to the proximity of the bay, green roof technology helps with the water runoff and pollution to the bay.

CONDITION #6: Fire and Rescue emergency access shall be maintained in all corridors to allow 16' of vertical clearance for these vehicles.

Tom Bonadeo explained that the application proposed connectors between the buildings and this condition was included to ensure that fire and rescue vehicles would be able to access the buildings in case of emergencies.

CONDITION #7: This project is in an essential area of Cape Charles, Town Council should consider bonding the construction project to help ensure completion (awaiting legal opinion).

There was much discussion regarding this condition and it was determined, without confirmation of legal counsel, that the Town could only impose this condition on public-accessible areas. Councilman Burdiss stated that even though the Town probably could not impose a bond for the entire project, he was concerned on how the Town could protect themselves from a building being started but not completed.

CONDITION #8: Owners of all real estate parcels, including the developer shall participate fully in the Condominium Association so that maintenance is fully funded.

Councilman Evans stated that this condition was included since there will be many entities involved in this project (i.e., hotel, commercial and residential) and the Commissioners wanted to ensure that every entity with ownership in this property participated in the Condo Association regarding funding for the routine maintenance. Tom Bonadeo stated that this issue stemmed from the underground parking garage which is to be shared by all entities/owners. Tom Bonadeo went on to explain that in Bay Creek, the developer pays the Condominium / Homeowners' Association payments for a particular lot until the lot is sold.

CONDITION #9: Construction traffic should be routed on Mason Avenue and all construction parking should be on-site.

Tom Bonadeo explained that the concern was in regards to construction vehicles being parked on Mason Avenue and construction traffic not being allowed to travel down the residential streets with the objective being to control construction debris, especially the amount of soil that would be displaced just for the underground parking garages. The Commissioners felt that it would be better to have the developer create a separate construction entrance, as done by the developer of Bay Creek, to keep traffic out of the residential areas of the Town.

CONDITION #10: Delivery loading/unloading spaces shall not be on Mason Avenue.

Tom Bonadeo explained that the Commissioners wanted to make sure that it was understood that delivery vehicles (i.e., UPS, tractor trailers, etc.) would not stop in the middle of Mason Avenue to make deliveries. Commissioner Andie Morgan reiterated that the Zoning Ordinance specifically states that there will be no loading areas on Mason Avenue but the site plan shows three (3) loading areas proposed on Mason Avenue.

CONDITION #11: These conditions run with the land.

Tom Bonadeo stated that the Commissioners wanted to make sure that any potential buyers would be aware that these conditions do run with the land.

CONDITION #12: North and South Corridors shall remain unobstructed except for public amenities, art and landscaping.

Tom Bonadeo stated that for public safety, the Commissioners felt that these corridors should remain unobstructed to ensure space for emergency vehicles to enter and exit. Commissioner Natali added that this would also facilitate and maintain the view sheds to the harbor.

Commissioner Kuttler informed the Town Council that there were two (2) areas where the Planning Commission could not reach a consensus – height and density. The Zoning Ordinance does not address density and there are two (2) different districts, commercial / residential and harbor, across the street from each other. Commissioner Kuttler stated that by right, a building could be 40' high. Commissioner Kuttler went on to explain that by taking into consideration the minimum requirements for habitable space, the fact that residential can be no more than 50% of the first floor, maintaining the view sheds and proper access for emergency vehicles the calculations for this site would allow for approximately 370 units. By allowing varied heights, one would have a better skyline vs. a 40' building straight across, which is allowed by right.

Commissioners Andie Morgan and Karen Davis explained their reasons for voting against approving the conditional use application as proposed.

Mayor Sullivan asked Chairwoman Burge how she would have voted if she were able to vote. Chairwoman Burge responded that she would like to allow the other Commissioners a chance to speak before she made any further comments.

Commissioners Cobb, Kuttler and Natali explained their reasons for voting in favor of the conditional use application. Councilman Evans stated that he recused himself from the Planning Commission discussion so did not think he should state how he would have voted. Mayor Sullivan requested Councilman Evans to share his opinion and how he would have voted. Councilman Evans responded by stating that he would have voted in favor of approving the conditional use application.

Chairwoman Burge stated that she believes in the guidance documents and proceeded to explain her thoughts to the Town Council. Chairwoman Burge concluded by stating that she would not have voted in favor of approving the application as proposed but would have voted in favor of the following: i) 55' height for the hotel; ii) 45' articulated heights; iii) the view sheds as discussed; and iv) the conditions as discussed.

Tom Bonadeo summarized that the Town Council needed to hold a Public Hearing, which has already been scheduled, and act on the conditional use permits granting the application in whole or in part, with or without modifications, or denying the application.

Chairwoman Burge thanked Mayor Sullivan and the Town Council for inviting the Planning Commission to meet to discuss the issues regarding the proposed Cape Harbor Project.

Councilman Bennett asked Mayor Sullivan whether he could ask the applicant a couple of questions to which Mayor Sullivan invited Ms. Judy Morgan, Landmark Holdings US, LLC to come forward. Councilman Bennett referenced the diagram showing the emergency access routes throughout the site and stated that it appeared that the route went through trees and the fountain and asked Ms. Morgan whether the access was intended to be for vehicular or pedestrian access. Ms. Morgan responded that the emergency access routes did go over some small bushes but in talking to representatives from the fire department, it would pose no problems. Councilman Bennett went on to state that the underground collection of runoff is a concern and requested some written information regarding the type of system being proposed, installation information and the amount of space required. Mayor Sullivan stated that she would like to see this information as well.

Tom Bonadeo stated that he had distributed a report from Intermodal Engineering regarding their traffic study and if the Town Council had any questions or needed clarification, to please email him and he would get the answers.

Motion made by Commissioner Davis, seconded by Commissioner Natali and unanimously approved to adjourn the Planning Commission Work Session.

Motion made by Councilman Bannon, seconded by Councilman Burdiss and unanimously approved to adjourn the Council Work Session.

Mayor Sullivan

Chairwoman Burge

Town Clerk