

The Commissioners of St. Michaels

Special Public Session

January 26, 2010

4:00 p.m. – Public Working Session

Present:

Commissioners Michael Brady, Joanne Clark, Robert Snyder, Donna Hunt and Phillip Dinkel, Town Manager Cheril Thomas, Town Attorney Jefferson Blomquist, Administrative Clerk Sabrenia Yohn, and 14 members of the public.

Call to Order:

President Brady called to order the public working session of the Commissioners of St. Michaels at 3:55 p.m. in the meeting room of the Edgar M. Bosley, Jr. Municipal Building (Town Office), 300 Mill Street, St. Michaels, Maryland. The Pledge of Allegiance was recited. President Brady then called for a motion to move into closed session pursuant to Maryland Code, State Government Article Section 10-508 (a) (7), to consult with counsel concerning legal matters associated with a request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application (“Application”) filed by TND Development, Inc. and Miles Point Property, LLC (“Applicant”). The land that is the subject of the Application is identified on Talbot County Tax Map 23 as Parcel 111, and is generally bordered by Perry Cabin Drive, Yacht Club Road, MD Route 33, and the Miles River, and encompasses approximately 72 acres. Commissioner Dinkel made the motion as stated by President Brady to move into closed session. Commissioner Snyder seconded the motion which passed on a vote of 5-0 in favor at 4:00 p.m.

At 4:30 p.m., the Commissioners returned from the closed session and President Brady called for a motion to return to the special public session. Commissioner Clark made the motion to return to the public session. Commissioner Hunt seconded the motion, which passed with no opposition.

Deliberation and Direct Findings on the request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application (“Application”) filed by TND Development, Inc. and Miles Point Property, LLC (“Applicant”). The land that is the subject of the Application is identified on Talbot County Tax Map 23 as Parcel 111, and is generally bordered by Perry Cabin Drive, Yacht Club Road, MD Route 33, and the Miles River, and encompasses approximately 72 acres:

President Brady announced that on January 13 and 14, 2010, the Commissioners held public hearings on the request for TND Overlay Zone Designation for Miles Point III-150 238 Lot/247 Unit TND Overlay Zone Application (“Application”) filed by TND Development, Inc. and Miles Point Property, LLC (“Applicant”).

Mrs. Yohn read the following exhibits into the record which had been added since the last public hearing:

- Exhibit #74 - Letter from Drew Koslow to the Commissioners of St. Michaels dated January 14, 2010
- Exhibit #75 - Letter from Thomas Alspach to Cheril Thomas, Town Manager, dated January 20, 2010 in response to Exhibit #67

- Exhibit #76 - Letter from McCrone to the Commissioners of St. Michaels dated January 22, 2010 re: Miles Point III-150: Response to Letter from Mr. Phil Jones titled "Statement for the Miles Point TND Public Hearing" [exhibit #71]
- Exhibit #77 - Letter from Richard A. DeTar, Esq. to the Commissioners of St. Michaels dated January 22, 2010 in response to Mr. Alspach's January 20, 2010 letter [exhibit #75]
- Exhibit #78 - Letter from Phillip Jones to the Commissioners of St. Michaels dated January 25, 2010 re: Motion to Strike Letters of January 22, 2010 from McCrone, Inc. and Miles and Stockbridge P.C. regarding the Application of TND Development, Inc. and Miles Point Properties, LLC for TND Overlay Zone Designation for Miles Point III-150 238 Lot – 247 Unit TND Sketch Plan
- Exhibit #79 - Affidavit of Robert G. Bathurst, P.E., M.S., dated January 21, 2010.

President Brady the Commissioners had two issues to review, the first being a Motion to Quash. President Brady asked Town Attorney Jeff Blomquist to provide a summary. Attorney Blomquist said the Motion is comprised of three letters, the first dated December 12, 2009 from Mr. Alspach in which he contends that neither the Planning Commission nor the Commissioners have a right under the Zoning Code to consider this application. Mr. Blomquist said the second letter is Mr. DeTar's letter in response dated December 29, 2009 and finally Mr. Alspach's reply of January 12, 2010 to Mr. DeTar's response. Mr. Blomquist said the Commissioners have looked at the June 4, 2008 Decision of Judge Ernest in the Circuit Court of Talbot County, in which Judge Ernest said was that the matter must come back before the Town for hearings in accordance with the Town's Charter and ordinance if the Town was considering anything other than the 279 sketch plan and design code submitted then. Attorney Blomquist said since the Commissioners were now considering at 238 Lot-247 unit plan, the Planning Commission and the Commissioners were obligated to hold the current hearings, and going forward with the hearings is not in violation of anything that is in Section 343.2 (b) (3) (g) of the Code. Mr. Blomquist said that his recommendation would be to deny the motion as the Commissioners had done at the commencement of this hearing. President Brady asked if the Commissioners wished to take issue with the Motion to Quash. There were no comments from the Commissioners. President Brady said that as there were no further comments, the Commissioners would note that the motion was made, and move to accept the documents into the record, but make no determination on it at this time.

President Brady said the second issue was that the Commissioners also had before them a Motion to Strike (Exhibit #78) from Intervener Phillip Jones, which was filed after the record closing date (January 22, 2010). Responding to requests from Commissioners Snyder and Hunt for clarification, Attorney Blomquist recommended that the Commissioners accept the submission as part of the record, but because it was received after the deadline, it should not be considered as evidence and the Commissioners would need to decide how much weight it should be given in their deliberations. President Brady then called for a motion to accept Exhibits 74-79 into the record, with the caveat that Mr. Jones' submission would be considered a Motion to Strike and not evidence, as it was received after the record closed. Commissioner Snyder made the motion as stated by President Brady. Commissioner Dinkel seconded the motion which passed on a roll call vote of 5-0 in favor. President Brady then called for a motion to accept or deny Mr. Jones' Motion to Strike. Commissioner Snyder made a motion to deny Mr. Jones' motion. Commissioner Brady seconded the motion which passed on a roll call vote of 5-0 in favor.

Attorney Blomquist said that today's proceedings are a deliberation session for the Commissioners to ask questions and air concerns, and that he was charged with providing a written decision which the Commissioners could adopt or reject at a future meeting.

The Commissioners then proceeded to review and discuss the seven criteria for determining whether the Applicant had complied with all requirements for a TND designation. The Commissioners discussed whether stormwater ponds should be considered open space. Attorney Blomquist confirmed with Commissioners that they did not want to count ponds as open space or to allow piers or bridges on or over them. He added that the applicant meets the 20 percent requirement for open space without including the ponds. The Commissioners agreed that the Applicant met the criteria as a mixed use cluster development, and that the TND is compatible with the Town's Comprehensive Plan. The Commissioners also agreed on a central mailbox concept for the development, and that there should be no parking on Perry Cabin Drive. The Commissioners were in agreement that environmental stewardship was more important than density and directed Mr. Blomquist to include clarification of this point in the draft decision. Other conditions included:

- the Applicant providing access to Yacht Club road from the development;
- the Applicant pursuing connectivity of the development to the Town through the Inn at Perry Cabin and across Route 33 with the State Highway Administration;
- that screening of the development should be in place prior to final subdivision; and
- the Applicant would continue buffer along Yacht Club Road but not on the Miles River portion so as to not block the view

The Commissioners took a ten-minute break at 7:00 p.m. and resumed the meeting at 7:10 p.m.

President Brady expressed some concerns about the stormwater management concept plan, based on testimony at the public hearing. Attorney Blomquist said the stormwater phase of this project would come later. The Commissioners agreed that the sketch plan and design code meet the technical requirements. There was a discussion of some length regarding the size of the project. President Brady said the proposed business zone may be too large for the development and was concerned about the number of units and the length of time involved in developing the entire project. Commissioner Hunt raised the issue of density and the number of buildings. Commissioner Snyder commented that the concept plan shows the individual lots, not houses and therefore the final build out of the project in reality will not appear to have anymore density than properties in Town. Commissioner Dinkel asked if the construction phase would include a rinsing area and process for construction vehicles to minimize dirt and debris coming out of the development and onto Route 33. Attorney Blomquist said that now would be the time to include this as a condition. The Commissioners also discussed access roads, an acceleration/deceleration lane, and a reduction in the speed limit possibly to the 20-25 mph level.

President Brady asked if the Commissioners had any other conditions. Commissioner Clark said all of her conditions were satisfied and she would like to see a draft to review for changes.

President Brady said that the Commissioners would discuss the draft decision, including revisions from tonight's meeting, at their meeting on February 10, 2010 at 4:00 p.m., and that the vote on the decision would be at the February 24, 2010 legislative session.

Announcement of Future Meetings and Events:

President Brady announced future meetings and events as follows:

- January 27, 2010 – 6:30 p.m. – Town Office – Regular Legislative Session
- February 10, 2010 – 4:00 p.m. – Town Office – Special Working Session – Final Deliberations and Decision on Miles Point III-150 TND Overlay Zone Application

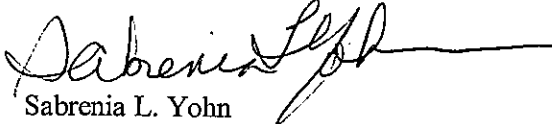
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- February 10, 2010 – 5:00 p.m. – Town Office – Regular Public Session
- February 17, 2010 – 5:30 p.m. – Town Office – Special working session with the St. Michaels Planning Commission to discuss the Community Legacy Plan and the Comprehensive Plan
- February 24, 2010 – 4:00 p.m. – Town Office – Closed Session
- February 24, 2010 – 5:00 p.m. – Town Office – Regular Public Session

Adjournment:

President Brady adjourned the meeting at 7:40 p.m.

Respectfully submitted,



Sabrenia L. Yohn
Administrative Clerk

Attachments:

- Exhibit List for Miles Point III-150 Sketch Plan for TND Zone Overlay