



PLANNING COMMISSION
Public Hearing & Special Meeting
St. Charles Parish Hall
July 26, 2012

At 6:00 p.m. in the Town Hall, Vice Chairman Dennis McCoy, having established a quorum, called to order the Public Hearing and Special Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Mike Strub and Joan Natali. There were currently three (3) vacancies on the Commission. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek and Town Clerk Libby Hume. There were approximately 15 members of the public in attendance.

Town Manager Heather Arcos read the public hearing advertisement which was published in the July 14th and July 21st issues of the Eastern Shore News.

The floor was opened for public comments.

PUBLIC COMMENTS

Lenora Mitchell, 309 Tazewell Avenue

Ms. Mitchell began by stating that she was opposed to amending the zoning map and conditional use permit to accommodate the development of the Cape Charles Combined School into 17 housing units, whether the application was submitted by the property owner, Mayor Sullivan, as reported at the last Planning Commission meeting, or Echelon Resources. The proposed adaptive reuse of the building would destroy the character of the neighborhood and compromise the use of the public park by the citizens. Ms. Mitchell continued for those who were concerned about low income people living there if the targeted market did not buy in, even with HUD vouchers, those units would not be affordable to the working class people. What amenities were needed to make this property private and exclusive to attract the targeted market? Would they want to be penned in like animals with fences and gates to keep the masses away or would they want a better view for which the public would have to make concessions to accommodate? Would the health, safety and welfare of the people who walk or run in the park for exercise, or just sit in the park to enjoy nature, be compromised? It was a lot safer to conduct these activities in the park rather than in the streets or on the sidewalks which were in very bad condition in some areas. People stayed in the park at all times of the night. Would the kids' play area have to be relocated because their squeals of laughter could be heard for quite a distance away when they were having fun? What about the older youth? The only sports activities that were offered were soccer, basketball and skateboarding of which the most popular seemed to be basketball. Contrary to what the Town believed, the sport crossed racial, cultural, ethnic and generational lines. Ms. Mitchell concluded by stating that because of these questions and other concerns which had been expressed before, she opposed the changes as proposed. The proposed project started out cloaked in secrecy and deceptive practices were used to get to this point. The Mayor was disheartened and Ms. Mitchell stated that she was sad. The Town took a detour, got lost and went down the wrong road.

John Peterman, 420 Plum Street

Mr. Peterman addressed the Commissioners stating that he lived directly across from the old school. Mr. Peterman went on to state that there had been a lot of division throughout the process and he stood opposed to both the rezoning and the conditional use permit. Mr. Peterman stated that he bought his property two years ago and would not have bought it if he had known this would happen. He enjoyed the property and the Town the way it was and was opposed to this project and hoped that the Planning Commission, to the extent of its authority, would deny these requests.

Lisa Harman, 104 Madison Avenue

Mr. Harman deferred her allotted time to Mr. Tom Krawczel.

Don Riley, 538 Monroe Avenue

Mr. Riley deferred his allotted time to Mr. Tom Krawczel.

Wayne Creed, 548 Monroe Avenue

Mr. Creed began by asking why we were here and why were we rezoning the school with regard for a conditional use permit. When the Mayor signed the contract, what exactly happened? The Town had a public asset, the school, which belonged to the people, the public and by signing the contract, that public asset was converted to a private asset which now belonged to Echelon Resources. Because the building was in the historic district on the National Historic Registry, Echelon was now eligible for tax credits, grants and possibly HUD. What did that mean? It meant that public assets, especially public funds and taxes, would now be privatized and given to a developer. What about the debt? The developer would take the tax credits to apply towards its debt to build this project. Mr. Creed reiterated that public assets were being privatized. Echelon had stated that they were going to spend about \$2M to renovate the school, that was why the rezoning and conditional permit were needed. What that really meant to the citizens was that Echelon technically was not going to spend any money of their own to renovate the school. The taxpayers would use their money to renovate the school. Essentially what would happen was that Echelon would get the school, which was a public asset and was now private, the tax credits and all the wealth that went with that. The Town gave Echelon a prime piece of resort property, in a resort Town overlooking the Chesapeake Bay for \$10. The Commissioners should be aware that by moving forward the Town was giving the developer something really valuable for \$10, for nothing and it was crazy. Mr. Creed went on to state that the Historic District Review Board rejected the proposal as bogus, fraudulent and just a joke. Why did they do that? The Historic District Review Board was smart, did their fiduciary duty and they were tough. They looked at the proposal and stated that it was not right and by rejecting the proposal, created a huge problem for the Town because they knew the history. This was a historical building in a historic district. In the history of that property, the park had always been there and had always been Open Space. When the Town decided to build the school, they extended the property of the park and put the school inside of that property. It had always been the school and the grounds and it was always called the school park. When the County took the property, they took the land and the building, and when they gave it back, they gave back the land and the building. It was all one parcel and was never separated. The Town could tell you that the building was not part of the park but the lawyers would figure that out anyway. This was a really big issue for the Commissioners who could listen to the staff, who were the same ones that told the Town to build a wastewater plant by the Harbor. Mr. Creed stated that he kept telling the Town not to do it because it would stink and be disgusting. Now when people were sitting at the Shanty in the middle of the night having a cocktail, they smell the wastewater plant. The citizens would be smelling it for a long time especially if the PSA went through. The logic for this project, as was for the wastewater project, was shortsighted and crazy. Mr. Creed stated that he knew the Commissioners were smart, and had done their homework, but in moving forward needed to think what was happening to Cape Charles and whether it was worth it. The Town was spending \$200K, which was being stolen from the wells, to buy the bank for a library – a library that cost \$100K per year to run and brought in barely \$6K per year. It was a huge loss. Mr. Creed stated that the library should be shut down and the \$200K should be put in to the school. The Town was giving a prime piece of property to the developer for \$10. This was money the Town should be using to renovate the school for the kids. Mr. Creed added that a good friend of his, an officer on the police force, mentioned something that Mr. Creed had written years ago was right. What he had written was “We were not going to be judged by what we were going to take with us, but would be judged by what we would leave behind for the next generation.” This was what the zoning issue was about. This was a business deal that should be rejected. Mr. Creed urged the Commissioners to look at the contract and what was going on in the Town and what was really happening. It was not in the best interest of the Town or its

citizens and certainly not in the best interest of the kids and the future. The building was a school and would always be a school and would be a school again.

Michele Macklin, 420 Plum Street

Ms. Macklin stated that she moved here two years ago and was attracted by the quiet Town where they could sit on their porch and relax. Life was good. Ms. Macklin continued to state that she did not see that life would be the same with an apartment building across the street and added that she would not have bought here if she knew this would be the case.

Dorie Southern, 104 Monroe Avenue

Ms. Southern deferred her allotted time to Mr. George Southern.

Brian Harman, 104 Madison Avenue

Mr. Harman stated that he was going to give his time to someone else but the Commissioners needed to hear what he had to say. Mr. Harman informed the Commissioners that he had been teaching here for almost 30 years and had State champions and the very best that could be. Mr. Harman stated that his opinion was that one had to do the best they could do which was what he had always taught the kids. Mr. Harman reiterated that he was going to give his time to someone else but felt the Commissioners needed to hear what he had to say and better listen to what he had to say. Mr. Harman continued to state that the kids came to play basketball, tennis and asked him to show them how to throw a foul shot, how to hit a tennis ball, how to drive a car and that was his main job. The Town should not want to destroy a school. Mr. Harman stated that his father-in-law was the chairman of the School Board for 40+ years. The kids needed somewhere to go in Cape Charles. If the school was taken away, there would be no basketball court, no tennis court, and no track for them to walk. When the citizens got old, where would they be able to walk? One could walk around Town but it was fun to walk around with a dog at the old school. Mr. Harman stated that it was also nice for him to be able to say that his children's granddad was responsible for that school and keeping that school. Mr. Harman stated that he had been doing this for 30 years and had spent many hours with the kids around here.

George Southern, 104 Monroe Avenue

Mr. Southern stated that the Commissioners had heard him before and there were lots of compelling arguments made tonight and people had one opinion or another. Mr. Southern stated that he would like to discuss procedure of which there should be no opinion and should be cut and dry and added that this was the third Planning Commission meeting where he had talked about procedure. In the first meeting at the fire hall, he got up and said that there was no application for what the Commission was being asked to consider which was going against the procedure. During the intermission between the public hearing and actual meeting, he was given an application which was obviously hurriedly filled out and it was more blank than filled. The Planning Commission wisely tabled the issue at that time. Procedurally, it was not time to approve it since the application did not exist. At the second meeting, which was in Council chambers, there was an application and he noted that the land owner's signature was Edwin Gaskin and the box was checked for a disclosure statement, signed and notarized, verifying ownership. Edwin Gaskin did not own this property. The box was checked indicating the \$300 fee was paid showing that the item should be attached, but there was nothing attached. At this meeting, the packet was sent out and was advertised, but no application was included for the rezoning or the conditional use and he thought that was because the Town had passed a resolution which apparently obviated the need for applications. When he arrived here tonight, there was an application that no one ever saw. Mr. Southern stated that he did not know when the Commissioners saw this but it was in the packet and was not shown to the public until they arrived here tonight. The application was a new application form which had been changed and Mr. Southern asked whether the members of the Planning Commission authorized a new application form and were aware that the form had been changed. The old form required the land owner's signature. The new form no longer had the land owner's signature, but now has owner/agent. The old form required a disclosure statement signed and

notarized verifying ownership. The new form also included that but there was no disclosure form signed and notarized verifying ownership. The new form required information about the contractor but all it stated was "TBD" – to be determined. The public was given the opportunity to comment at a public hearing on a matter that was to be determined which brought up another issue that a conditional use permit was only to be given for land that was zoned for that use. The current Open Space zoning did not allow the use of a 17 unit apartment building. Unless the Commissioners wanted the cart before the horse, there should be a public hearing for the rezoning and only if the land was rezoned should there be public hearing and decision on the conditional use. The Town Council asked the Planning Commission to consider a hypothetical. Hypothetically, if the Town Council rezoned the land then could they approve a conditional use permit that was not in the name of the owner, that did not have a complete application and that was only given to everyone moments ago? Mr. Southern stated that it was like a broken record, meeting after meeting, the Town was not following its own rules. No one could argue that the rules should be followed. Mr. Southern added that he hoped the Commissioners would do like they did the first time and table this decision tonight until the rules had been adhered to.

Deborah Bender, 300 Fulcher Street

Ms. Bender stated that she was here to talk about the rezoning of the property which was zoned Open Space and had always been tied together with the park and needed to stay that way. Giving this property away, the Town would lose the 100-year old historic school and the parking lot for grandmothers like herself to take their grandchildren to the park all to build urban apartments. The Town did not need any more apartments and in doing this, the Town was hurting its own citizens who invested their hard earned money, not tax credits the way Echelon was going to do, the very people that paid the Town staff's salaries. The Historic District Review Board unanimously voted against this building becoming apartments. Why do we have a Historic Review Board and not listen to them? Ms. Bender stated that first, she wanted to comment on how nice it was for the Town to create a new conditional use permit application to accommodate Echelon, and added what else was new. The application was a joke. Where was the plan of what Echelon was going to do? Ms. Bender stated that when she put a swimming pool in her back yard, she had to draw a picture and had to discuss it with Planner Tom Bonadeo who even threw in a fence around the top which legally she did not have to do. Ms. Bender continued to state that when she wanted to cut down a tree in her back yard, she had to draw a picture of where the tree was and where she was going to put new trees. Echelon did not have to show any pictures of anything. The Town was taking it for what Echelon said. Ms. Bender stated again that the Town did not need the apartments, did not need a conditional use permit because the Town did not need the apartments, did not need to rezone the property because the Town did not need apartments.

Veann Duvall, 110 Tazewell Avenue

Ms. Duvall deferred her allotted time to Mr. Tim Krawczel.

Tom Krawczel, 409 Nectarine Street

Mr. Krawczel stated that he was going to speak regarding the conditional use permit and began by talking about ethics and read an excerpt from the American Institute of Certified Planners Code of Ethics which stated that the primary obligation was to serve the public interest and owed their allegiance to a conscientiously attained concept of the public interest that was formulated through continuous and open debate. Mr. Krawczel asked whether the Town Council had allowed the Commission to have continuous and open debate regarding this issue and added that the Town Council had not and had made the decisions before the matter came to the Commission. The Town Council not only did this with the school, but now had done it with the bank building. The Town was required by law to get a permit from the Planning Commission before authorizing the purchase of the building. The Town failed to do that. Mr. Krawczel again read from the Planners' Code of Ethics which stated that the Commissioners would provide timely, adequate, clear and accurate information on planning issues to all affected persons and to governmental decision makers. Mr. Krawczel asked the Commissioners if they had gotten clear and accurate information about the

school and the special use permit. Mr. Krawczel went on to state that Mr. Panek had met nine or ten times in executive session with the developers and had given rebuttals to public comment and had even spoken as a private citizen and asked the Commissioners if Mr. Panek had given them clear, objective and accurate information. Mr. Krawczel distributed three copies of a handout to several of the Commissioners regarding some facts about the school. Mr. Krawczel stated that the purpose of a conditional use permit was to allow the Planning Commission to place reasonable conditions to fit a use into a neighborhood to mitigate the external impacts of the use. (Please see attached.) Mr. Krawczel asked the Commissioners again whether they were getting full, clear and accurate information and objective analysis and stated that the Commissioners had received very one-sided views to date. Mr. Krawczel stated that this was local government in Virginia and everyone's job as the government, Planning Commission and citizens was to look after the interest of the people.

Chad Davis, 5 Randolph Avenue

Mr. Davis stated that the most important thing that he wanted to say was that we were all friends here and were all going to live with the results and added that he wanted to encourage the Planning Commission to follow the Comprehensive Plan when considering the proposal for rezoning and the request for a conditional use permit which will facilitate the giving away of the Cape Charles Combined School building and the remainder of the school grounds. Mr. Davis suggested the Planning Commission follow its own written principles, specifically to not recommend approval of any proposal which would result in the loss to the neighborhood which, in a Town of this size, was the entire Town. The proposal would negatively affect the Town and the neighborhood by giving up the basketball court, public parking, access to the playground from the public parking, the school building and the possibility of the uses specifically covered and encouraged under the Comprehensive Plan. The beautiful central Town park was the renovated school athletic field. The building was just as much of an asset. Giving it up would result in a loss. Mr. Davis stated that he knew the Planning Commission was very familiar with the Comprehensive Plan as well as the danger of contrary precedence specifically of decision precedence and procedural precedence. Mr. Davis encouraged the Commissioners not to set legal precedence which was contrary to the Planning Commission's written principles or contrary to the Comprehensive Plan approval of which would clearly result in a profound loss to the neighborhood and the entire Town.

There were no other comments from the public nor any written comments submitted prior to the meeting.

Motion made by Joan Natali, seconded by Malcolm Hayward, and unanimously approved to close the Public Hearing portion of the meeting.

ORDER OF BUSINESS

Dennis McCoy stated that the order of business this evening was i) to discuss and make a recommendation to the Town Council regarding rezoning of the Old School Area from Open Space to R-1; and ii) to discuss and make a recommendation to the Town Council that, in the event the Town Council approved the rezoning, the Conditional Use Permit for Adaptive Reuse of the Old School Area be granted.

A. *Proposed Zoning Map Amendment*

Heather Arcos stated that the Planning Commission heard comments tonight regarding the rezoning and conditional use permit and went on to state that the Town Council adopted Resolution 20120628 to refer to the Planning Commission the proposed amendment of the zoning map and for consideration of the rezoning of the Old School Area from Open Space to R-1. The current zoning of the Old School Area as Open Space did not allow for the old School Rehabilitation (Section 3.15.B). The Open Space zone was intended for open air types of activities. The zoning district R-1 allowed, by conditional use permit, for the Old School Rehabilitation as an adaptive reuse.

Mike Strub stated that he was confused and thought that the rezoning had nothing to do with how the structure was to be used but was necessary to correct an error that had been with us for a long time. The property was zoned as Open Space but had a building sitting on it which was contrary to the definition of Open Space. If the Town wanted to use the building for anything, the property would have to be rezoned. Mike Strub stated that he did not understand why this issue was being debated and referred to an article that was provided by Mr. George Southern which was a University of Texas study from 2007 regarding the correlation of Open Space to increased property values. Mike Strub stated that he totally agreed that parks and open space would enhance the value of the property in the surrounding area and the Town would realize the increase in tax revenue, but as the building stood now, a 100-year old blighted building sitting in the Open Space zone, he did not think the structure would increase property values. Mike Strub asked if someone could tell him how the building in its current state could increase property values. If the building was demolished and the property was made into a beautiful expansion of the park, then property values would probably go up but the Town's ability to remain on the National Historic Registry would be jeopardized.

Malcolm Hayward agreed that the property needed to be rezoned to accommodate the fact that there was a structure on it. If the zoning was left alone, the building needed to be torn down. The rezoning was necessary for the property to be used as apartments, a community center, or other uses. Malcolm Hayward summarized this issue stating if the building remained, the property would have to be rezoned as R-1. If the building was destroyed, the property could remain as Open Space. Malcolm Hayward stated that he had not heard any public comments to tear the building down and concluded that he was very much in favor of rezoning the property.

Joan Natali stated that she read the article provided by Ms. Dorie Southern and it basically stated that anything around the park increased in value because it was around open space including the school building. If the Town did not rezone the property and left the building in Open Space, the only thing the building could be used for was a school because that was what it was. There was also a time limit of four years for a use and since the school building had not been used as a school in the last four years, it could not be used for anything by current Town law. If the property was left as Open Space, the building would just rot. To be used for anything, it would have to be rezoned. Joan Natali stated that, in her opinion, she saw a number of reasons to rezone the property to R-1.

Mike Strub stated that with all the public comments that he had heard, he could not understand the logic behind the comments to keep the property zoned as Open Space.

Dennis McCoy stated that the toughest thing with this decision was that if, after the rezoning was approved, this facility were to be designated as a community center, it would have to be funded and the Town had no funds to do so. Dennis McCoy went on to state that he questioned when he heard that the bank building was bought by the Town, the magnitude of the capital commitment between the bank building and the school was a factor of ten. The Town simply did not have the funds to renovate the school building and operate a community center and no other choices were available.

Motion made by Joan Natali, seconded by Malcolm Hayward, to recommend the Town Council to approve the rezoning of the Old School Area from Open Space to R-1. The motion was unanimously approved. Roll call vote: Hayward, yes; McCoy, yes; Natali, yes; Strub, yes.

B. *Conditional Use Permit Application – Echelon Resources, Inc.*

Malcolm Hayward stated that a number of people commented regarding the loss of the basketball court and asked whether the Town Council had discussed relocation of the basketball court. Heather Arcos responded that there had been some discussion regarding alternate locations for the basketball court, such as across the street by the skateboard park, but

no decision had been made at this time. Malcolm Hayward stated that people had spoken very passionately about the basketball court so the Town needed to give thought to relocation of the basketball court. Malcolm Hayward continued regarding Mr. Krawczel's comments and stated that he assumed that the Code Enforcement Department would ensure the proper setbacks, etc. were followed in accordance with the Town's requirements. Malcolm Hayward went on to state that the issue with the conditional use permit was i) whether the Town wanted apartments in the building or a community center and ii) should the Town give the building away or find someone else who would be willing to pay more money for it. Malcolm Hayward stated that personally, he was for a community center but not in that building because it was far too large. People talked about parking. If that was a community center people would be parking all over and on the grass. To satisfy the requirements for that building as a community center, it would require at least 100, 200 or even 300 people to use it regularly. The only way to satisfy the parking needs for that amount of people would be to take at least half of the park to use for parking for that building. A community center in that building would create a parking nightmare. In light of that, Malcolm Hayward stated that he would lean very much in favor of the developer. As to the comments regarding selling the building for more money, every tax payer would want more money for it but there were two aspects to this issue: i) how much could you get by selling the building; ii) how much could you save by giving it away. Malcolm Hayward stated that he believed the tax payers would save a significant amount of money in the long run by giving the building away. No alternatives had been heard, other than demolishing the building. Malcolm Hayward stated that his recommendation would be to approve the rezoning and the conditional use permit with a caveat to accommodate the basketball court because of the passion heard this evening and because it was something for the kids. Malcolm Hayward concluded by stating that he felt the neighborhood property values would plummet if the building were to become a community center. There would be lots of people milling around and a lot of teenagers playing around and he personally would not want to live by a community center.

Mike Strub stated that he hoped all the Planning Commissioners would keep an open mind and that the Commissioners were in a discussion phase at this time and added that he had several comments to make and that he actually had no idea of which way he would vote until the full and forthright discussion of his points were concluded. Mike Strub stated that the public was invited to be here at this time, but the meeting was for the Commissioners to fully discuss the issues at hand and added the following points for discussion: i) In the materials included in the meeting packet, it showed that the Historic District Review Board had rejected making a recommendation regarding the conditional use permit. He read the draft minutes of the Historic District Review Board meeting hoping to find a reason for the Board's decision but no reason was stated. The draft minutes stated that one of the Board members wanted to see the building restored but had issues with the building being made into apartments and that it would change the nature of the park but the reasons were not articulated. Mike Strub asked Heather Arcos and Bob Panek why the Historic District Review Board made the decision that they did.

Bob Panek stated that the charge to the Historic District Review Board, under the zoning ordinance, was not to approve the plan as they usually did for renovations, but a special requirement of the zoning ordinance required the Board to report, in cases of a conditional use permit, in the context of the purpose of the historic district. There was not a significant amount of discussion regarding this issue other than what was included in the draft minutes.

Mike Strub continued to state that the draft minutes noted a time in the past where the Town regretted disposing of another school building and wondered if this has something to do with the Board's decision. Mike Strub added that without more information, all he could do was guess at the Board's motivation in making this decision.

Heather Arcos stated that the Historic District Review Board wanted to see the restoration of the building but they did not agree with the use of the building as apartments.

Dennis McCoy stated that in reading the draft minutes, it appeared that one of the issues was that the Board did not have a plan to review yet.

Heather Arcos stated that this case was unique in that in the past, the Board had never had to file a report for conditional use of a property within the historic district and if the rezoning and conditional use permit were approved and the property conveyed, the Historic District Review Board's regular process would still happen. The Board was tasked with reviewing how the proposed use would fit into the historic guidelines. Heather Arcos referred to the Staff Report which outlined additional points that the Commissioners needed to consider such as i) the use was compatible with the permitted uses in the R-1 zone; ii) the plan would meet the table of parking standards; iii) the new utility services would be placed underground; iv) the structure was a contributing structure to the National Historic District; and v) the Historic District Review Board agreed with a historic restoration of the building but not with the use as apartments.

Bob Panek added that what he heard at the meeting was that the use as apartments might affect the nature of the park.

Mike Strub stated that at the last Planning Commission meeting, Mr. John David McCormack gave a presentation, which was followed up by another presentation by Mr. McCormack at the Palace Theatre and everyone in attendance had the opportunity to ask questions. Mike Strub stated that he was looking for Mr. McCormack's business card and was told that Mr. McCormack had forgotten to bring any with him so he asked Mr. McCormack to write down his contact information. The contact information contained Mr. McCormack's name, phone number and email address which was a generic Gmail address with no indication of a company. Mike Strub stated that he asked Mr. McCormack if he was an employee of Echelon Resources and was told no and that he was the owner of Waukeshaw Development. Mike Strub initially heard the company name as Walker Shaw Development and was not able to find any information regarding the company on the internet. Mike Strub went on to state that the only thing he could find on John David McCormack on the internet was a real estate closing on June 20th. Mike Strub noted that the conditional use permit was signed by John David McCormack, Echelon Resources, and asked who he was and how could he do this.

Bob Panek responded that John David McCormack had represented himself as a partner with Edwin Gaskin in Echelon Resources and typically they would form an LLC to do a specific project.

Mike Strub asked whether he could see a copy of the Dunn & Bradstreet report on Echelon Resources which was typically one of the first things that was done to see how good a company was. Bob Panek responded that the Town did not have a copy of the Dunn & Bradstreet report.

Mike Strub went on to state that in his experience with conditional use permits, the adjacent property owners had signed their support of a project before a decision was made and this application only had the list of adjacent property owners. With the comments heard regarding this issue, he wanted to hear from the adjacent property owners regarding their thoughts. Mike Strub continued with his last point and referred to page four of the contract regarding the subdivision of the property and added that he remembered a previous meeting where Tom Bonadeo stated that lots could only be combined to make fewer parcels vs. subdividing property. Bob Panek explained that the subdivision process did not mean that a property was being divided into numerous lots, but pertained to both the dividing and combining of properties and pointed out on the subdivision plot which showed the vacating of some property

lines and the establishment of new property lines and assured that no new lots were being created.

Mike Strub mentioned that at the July 10th meeting Tom Bonadeo had stated that nothing was going to change from that meeting so he was able to do his research and study the information regarding this issue, but he came to the meeting this evening and received a new application. Heather Arcos stated that the information contained in the application had not changed, but the application itself was updated due to comments received from the public at the last meeting. The prior application did not have a separate area for the applicant, just the owner. This new application had an area for both the applicant and the owner.

Joan Natali asked for clarification of what would happen next if the Planning Commission was to recommend approval and the Town Council approved the conditional use permit for adaptive reuse. Would the developer have to comply with the zoning ordinance and building code and would the plans be reviewed by the Code Official and Historic District Review Board? Heather Arcos responded that, yes, the plans would have to go through the normal approval process.

Joan Natali went on to state that this was actually the start of a series of processes to comply with the Town Ordinances and the staff, Board members and public would get to see plans especially of the exterior of the building and the Historic District Review Board would get to comment on the plans as they normally do. Heather Arcos responded in the affirmative.

Joan Natali continued by referring to comments heard earlier regarding imposing additional conditions on the approval of the conditional use permit regarding additional setbacks, parking requirements, boat parking and garbage, etc. and asked why should this property be treated any differently than every other property in the Town and asked if the Town could do that. Bob Panek responded that the Planning Commission could recommend to the Town Council specific conditions for the conditional use permit and added that there was adequate space on the property to meet the table of parking requirements. If the Commissioners felt it was inadequate, they could make a recommendation to the Council. Joan Natali stated that the Commissioners needed a rationale and justification to ask for anything additional.

Joan Natali questioned the requirement that the utilities be underground and asked whether there was a current code requirement for underground utilities. Bob Panek stated that was included in the Staff Report and the only utility not currently underground was electrical. The same site plan review requirements would pertain to Echelon Resources as to other developers, such as South Port Investors. Heather Arcos stated that the requirement could be in the building code and added that this would be checked.

Malcolm Hayward stated that he assumed that Echelon Resources was a company that was funded since no bond was required but asked what would happen if they started the project but went “belly up” before the project could be completed. Bob Panek stated that Echelon’s lender had an interest in the property and if anything were to happen to the developer, the lender would seize the property and sell it so it could be completed. Heather Arcos added that if the lender were to take the property and sell it, it must be completed for the same use, which would transfer with the deed.

Bob Panek reiterated that under the Echelon banner, an LLC would be created for this specific project which was common practice. Dennis McCoy agreed that it was common practice in a number of industries/projects.

Dennis McCoy asked if there were any additional questions, issues or comments.

Malcolm Hayward stated that he would like to add a recommendation to relocate the basketball court.

Mike Strub stated that he did not want to delay the process but for his peace of mind, wanted more information regarding i) the Historic District Review Board's view on this issue; ii) the perception of John David McCormack to understand his status/relationship with Echelon Resources; iii) input from adjacent property owners regarding their support of the project; and iv) time to inspect the new conditional use permit application vs. the original application.

Motion made by Malcolm Hayward, seconded by Joan Natali, to recommend, if the Town Council approved the rezoning of the Old School Area, the approval of the Conditional Use Permit Application submitted by Echelon Resources, Inc. with the condition that the basketball court be relocated. The motion was approved by majority vote. Roll call vote: Hayward, yes; McCoy, yes; Natali, yes; Strub, no.

Motion made by Joan Natali, seconded by Mike Strub, and unanimously approved to adjourn the Planning Commission Special Meeting.

Vice Chairman Dennis McCoy

Town Clerk

Town of Cape Charles: Special Use Permit for Old Cape Charles School

Background: The Planning Commission is considering conversion of Old School into 17 apartments. The Code of Virginia and the Town Code require a special use permit to consider the impact of the proposed use on surrounding uses and establish reasonable conditions to mitigate any adverse impacts.

Site Characteristics:

- The School Building abuts Madison Avenue on the north for about 125 feet and Plum Street on the west for about 110 feet. The Town Park is on the south and east.
- A popular recreational facility, a children's playground built and maintained by the Town's Women's Club, is about 30 feet from the northwest corner of the Building.
- A second facility, a modest sized basketball court filled most days with children and young teens, is about 60 feet from the west side of the building.
- The building is about 50 feet from Madison Avenue for a distance of 125 feet.
- A sidewalk borders Plum Street to within 50 feet of the corner with Madison. There are no sidewalks on Madison.

Pertinent Facts:

- Zoning regulations establish standards for parking — one space per bedroom is a typical standard, resulting in a requirement of 17 parking spaces.
- The four homes on the east side of Plum Street (three bedrooms each) need at least two on-street parking spaces per house — there is no alley in the rear. The lots also are narrow...parking is tight.
- The Town typically requires the construction of sidewalks adjacent to streets with new development...this significant change in use can be considered "new residential development". Therefore, the extension of sidewalks is a reasonable standard.
- Most houses in Town, including multi-family, have limited side yards...typically 5-7 feet. A side yard standard of 10 feet is reasonable.

Recommended Special Use Permit Conditions:

1. **Restricted Parking:** The developer shall, in each rental agreement for each residential unit, limit the occupants to no more than one vehicle per bedroom parked on site or within 500 feet of the old school building. Further, no tenant shall park on the east side of Plum Street or the north side of Madison Avenue, that is, in front of homes and land owned by others.
2. **Parking:** The Town depends on the existing parking area to the north of the School Building to serve the Town Park, Children's Playground and basketball courts. These spaces will remain available for use by the general public. The owner will prohibit tenants, by rental contract, from parking in these areas.
3. **Parking:** The future tenants will rely upon on-street parking on the side of Madison and Plum Streets adjoining the property, approximately 12 parking spaces. The developer will also develop an interior parking lot on between the edge of the building and Madison Street to accommodate at least 8 on-site, front end parking spaces. Such spaces will be appropriately landscaped and will allow for a sidewalk between the rear of the spaces and Madison.
4. **Boat Parking:** The owner will prohibit, by rental parking, the parking of tenant boats or similar towed vehicles, on public streets adjacent to the school. Tenants will be required to make separate, off street parking arrangements for such towed trailers.
5. **Side yards:** The Town residents use and enjoy the land surrounding the building, including the existing children's playground and basketball courts. These uses shall remain, unless the Town decides on a different use. The extent of the residential use of the building shall be 10 feet from the south and west sides of the building.

6. Side and Rear Yard Fences: At the edge of the 10 foot side and rear yard along the interior lands abutting the Town Park, the developer shall establish and maintain a six foot high black aluminum fence similar to the one currently surrounding the Town Park. This fence shall be gated at the edge of the sidewalks on Plum and Madison to control ingress and egress. No other gates shall be permitted adjoining the Central Park.
7. Sidewalks: The developer will construct a sidewalk, built to Town standards, extending from the end of the sidewalk on Plum to the corner of Plum and Madison and along the entire length of Madison from the corner with Plum, past the existing school building, past the basketball courts and past the tennis courts the adjoining community trail entrance to the Town Park on Plum Street.
8. Lighting: The developer will put and maintain motion sensor lighting along the building to light the sidewalks, side and rear yards.
9. Garbage disposal: The developer will design and construct a fenced dumpster area accessible to tenants and approved by the Town's Public Works Director.
10. Expiration of Special Use Permit: The developer shall have one year from the date of approval of the special use permit to fulfill each of the eight (8) conditions listed above. If any of the conditions are not fulfilled, the special use permit shall lapse and the permitted use of the property shall revert to its former use, that is, Town Open Space and Community Use.