



TOWN COUNCIL

Work Session

Cape Charles Volunteer Fire Company

October 2, 2008

5:30 p.m.

At approximately 5:30 p.m. at the Cape Charles Volunteer Fire Company, Mayor Sullivan called to order the Work Session of Town Council. In addition to Mayor Sullivan present were Councilmen Bannon, Bennett, Burdiss, Evans and Veber. Councilman Elliott arrived at approximately 5:40 p.m. Also present were Assistant Town Manager Heather Arcos, Town Planner Tom Bonadeo and Town Clerk Libby Hume. Ms. Judy Morgan, representative for Landmark Holdings was also present along with Tom Becker, Principle Architect for Becker Morgan Group, Inc., Eugene Thayer, Engineer with MMM Design Group and M.E. Duff, Jr., President of Eastern Shore Surveyors. Commissioner Joan Natali was also present as well as three (3) members of the public.

Mayor Sullivan announced the business for the evening would be to discuss the Cape Harbor Project. Councilman Evans stated that even though he did not feel there was a conflict of interest, he recused himself from discussion.

Ms. Morgan gave her opening remarks with an overview of their intent regarding the design of the Cape Harbor Project. Knowing that the height of the development was an issue of concern to the Town Council and citizens of Cape Charles, Ms. Morgan explained that their design team kept in mind the human scale and there were no buildings along Mason Avenue over 45' tall and that no pedestrians will see any buildings that are 55' tall. Ms. Morgan went on to state that only four (4) groups of people would be able to see the 55' tall buildings: i) people that are driving over the hump; ii) people that are coming into the harbor by boat; iii) the residents of the complex; and iv) people that are across the street in elevated buildings. Ms. Morgan referred to several displays which showed computer-generated drawings of the proposed buildings and roof lines along Mason Avenue. Ms. Morgan explained that this development would not happen at the snap of a finger and the construction would be done in phases. The respective parking garage(s) would be constructed at the start of each phase. The other areas of the property would remain as open space until construction on that particular phase begins.

Councilman Bannon suggested a walk down Mason Avenue to Sullivan's so the Council could envision what the development would look like. There was some debate regarding this suggestion and Mayor Sullivan stated that the Council can take a look at the property on their own, if they so desire.

Councilman Burdiss stated that it would be difficult to get a perspective of the height on the south side of Mason Avenue when there aren't any buildings there now. Councilman Burdiss went on to state that the proposed project was so dense and so large and unlike anything else in the Town and he was still concerned regarding the 10:1 ratio with residential to commercial. Ms. Morgan stated that if the ratio was 1:1 residential to commercial, it would mean that each residence would have to support one (1) business and that was not feasible. Ms. Morgan stressed that this concept was to bring in

commercial entities that are viable, but that in order for that to happen, it needed residents to live here to support these businesses.

Councilman Veber stated that he was having difficulty envisioning the height along Mason Avenue. Ms. Morgan stated again that the proposed heights along Mason Avenue are 35' – 45' and that Councilman Burdiss' building was 32' tall. Ms. Morgan went on to explain that since the height is determined from the crown of the street and since they have to compensate for the flood plain, their 35' building would actually be 32' tall, like Councilman Burdiss'. Councilman Bannon stated that when he looks at Councilman Burdiss' building and the Blue Heron building, they match up together and in his opinion are not offensive.

Councilman Burdiss expressed his concern regarding financing in light of the current economy. Councilman Bannon also expressed his concern with the economy and the current market conditions. Ms. Morgan stated that Landmark Holdings is in a vulnerable situation with having one (1) year after receiving the necessary approvals to begin the construction. There was some discussion whether the Town Council had the power to deny this application because of the economy. Councilman Bannon stated that the decision has to be made with regards to zoning, not finances.

Councilman Bennett stated that at the last work session, the Council agreed to an average height of 35' vs. the 40' average depicted in the examples. Councilman Bennett asked whether the plans could be modified to include buildings from 25' to 45' along Mason Avenue to maintain a 35' average which would also give more articulation to the roof lines. Ms. Morgan explained that by reducing the height of some buildings to 25', the first floor height would be approximately 12' and the second floor would be approximately 8', which would not very desirable and would not be the "grand" residence that Landmark has envisioned. Ms. Morgan went to state that people want to live in nice surroundings and do not want to buy what would be considered a hotel room. Ms. Morgan asked whether 5' would make that much of a difference. Councilman Elliott stated that he could live with a maximum height of 45'. Councilman Bannon stated that he had no problem looking at the first block as depicted in the example provided.

Councilman Burdiss mentioned that at previous Public Hearings, a lot of people commented that they felt this project was too dense and too large. Ms. Morgan responded by saying that Ms. Morgan has not received any inquiries or comments from any citizens through their website. Ms. Morgan mentioned that this meeting was the first opportunity to sit down with the Council to discuss the project and answer any questions and Ms. Morgan appreciated this opportunity. Ms. Morgan went on to state that she has heard comments at previous Town Council meetings that the drawings presented were just pictures and that Landmark could change the design when doing the actual plans for construction. Ms. Morgan stressed that the depicted drawings show their intent and they have not worked this long with these designs to change them now.

Councilman Bennett asked Town Planner Tom Bonadeo why the Planning Commission did not address the size and density issues. Tom Bonadeo responded by stating that the Commissioners viewed the density issue in several ways and that the Commission was looking at 370 units but they did not feel that the added 55 units, totaling the requested 425 units, would make any difference regarding the approval of this project. Tom Bonadeo went on to state that the Commission took into consideration the additional

traffic from the Marina Villages of Bay Creek, South Port Industrial Park and the Harbor Development, but the Commission felt this would be offset by the roundabout proposed for the intersection of Fig Street and Randolph Avenue, the proposed at-grade crossing near Rayfield's Pharmacy and the proposed Bay Creek Parkway which will all help ease traffic in and around Cape Charles. Tom Bonadeo went on to state that the Commission struggled with the financing issue but put it aside and concentrated on the future of Cape Charles.

Commissioner Veber stated that the Planning Commission had recommended approximately 25-30 units per acre for the Harbor Development which was approved by the Town Council. Commissioner Veber went on to ask Tom Bonadeo the rationale between approval for 25-30 units per acre for the Harbor Development project in January 2008 vs. the recommendation to approve approximately 75 units per acre for the Cape Harbor Project. Tom Bonadeo responded by stating that the two (2) sites are different in that the site for the proposed Cape Harbor Project is in a more residential area vs. the Harbor Development site being mostly industrial. A large portion of the Harbor Development will be a boatel and parking area. Tom Bonadeo went on to state that the initial proposal included more residential units but the Planning Commission envisioned this project more for transients vs. residences so they reduced the number of residences.

Councilman Burdiss asked about the bonding issues stating that the Council could approve the project but require bonding for each step. Councilman Burdiss went on to state that the economic scenario presented by Ms. Morgan only happens upon the completion of the project, but especially under these economic and market conditions, there is a legitimate concern regarding the completion of any project, not just by Landmark but by any developer. Ms. Morgan stated that the benefit of this project was because it would be completed in phases and the parking garage will be completed in three (3) sets. Councilman Burdiss asked whether Landmark would be willing to voluntarily bond each step of the project in its entirety to which Ms. Morgan responded that it would be unreasonable to do so.

Councilman Bennett brought the discussion back to the height issue. Ms. Morgan summarized that what was presented shows a 55' maximum height with an average of 45' and that along Mason Avenue the maximum height would be 45' with an average of 40'. Councilman Bennett asked about the number of stories being proposed to which Ms. Morgan responded that the buildings along Mason Avenue would be three (3) to four (4) stories tall and elsewhere the buildings would be three (3) to five (5) stories tall. Ms. Morgan went on to explain that since the amount of open space was tied to the height of the buildings, if the Council were to limit the height, the buildings would have to spread out therefore reducing the amount of open space. Ms. Morgan pointed out that even though the Zoning Ordinance requires 25 % open space, the proposal is including 39% open space which could be reduced to compensate for the height of the buildings. Tom Bonadeo stated that the Planning Commission recognized the value of the 39% open space and took that into consideration when recommending the building heights up to 55'. Councilman Bennett agreed with the Planning Commission recommendations.

Councilman Burdiss asked about the timeline for construction stating that the developer has one (1) year after final approvals to start construction on the project. Ms. Morgan related that the application was submitted to the Planning Commission in February 2008 for review in March. The Planning Commission submitted their recommendations to the

Town Council in July and it was still being reviewed in October. Ms. Morgan went on to state that after the Council approves the conditional use permits, the plans then go to the Harbor Historic District Review Board for consideration before coming back to the Town Council for further approval. Ms. Morgan stated that at the present time, the project is still conceptual, but that much of the legwork had already been completed and that Landmark needs to know what is approved before they can move forward.

Mayor Sullivan asked Ms. Morgan about the condition stating that the conditional use permits were not transferrable to another developer and how that might affect the project. Ms. Morgan responded stating that Landmark would sell a portion of the land to the company running the hotel because Landmark would not be operating the hotel. Ms. Morgan went on to explain that any lender considering financing for any project like this looks at the value of the land being put up as collateral and whether it would be desirable to another buyer in case of default. If Landmark were to default on the loan payments, the lender will force a sale and the land would have more value if the conditional permits were to transfer along with the land. Councilman Burdiss agreed that by limiting the transferability of the conditional use permits, the bank loan is impacted as well.

The Town Council then concentrated on the proposed streets and walkways. Councilman Bannon asked whether the plans could be adjusted so the proposed streets and view corridors would line up with the existing streets in the Town. Ms. Morgan stated that currently the streets are not lined up in the proposal but something possibly could be done with Harbor Avenue. Ms. Morgan explained that the proposal was designed for aesthetic reasons with pedestrians in mind. Ms. Morgan distributed two (2) handouts showing alternate plans regarding the alignment of the streets and view corridors.

Mayor Sullivan asked the Council members whether they felt they had enough information to vote on this project at next week's meeting. The majority of the Council members stated that they were not ready and still needed to review the twelve (12) conditions recommended by the Planning Commission. Councilman Burdiss suggested all Council members review the twelve (12) conditions and be prepared to vote for or against each condition individually. Mayor Sullivan agreed that the conditions would be discussed individually at the next meeting.

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

Mayor Sullivan

Town Clerk