Joint Public Hearing
August 10, 2010
6:00 p.m.

A Joint Public Hearing of the Elkton Town Council and Elkton Planning Commission was held to receive public comments regarding a request to rezone a portion of a parcel of land recently brought into the Elkton Town limits as a result of a boundary line agreement with Rockingham County.

The Joint Public Hearing was held at 6:10 p.m. on August 10, 2010, at the Elkton Area Community Center. Mayor Larry A. Bompiani presided. The following Council members, staff and Planning Commission members were present:

PRESENT	ABSENT
L. Bompiani, Mayor	P. Workman, Council Member
M. Dearing, Vice Mayor	
M. Isom, Council Member	
H. Armbruster, Council Member	
D. Kite, Council Member	
R. Snow, Council Member	

PRESENT	ABSENT
Reid A. Wodicka, Town Manager	Allison Morris, EACC Administrator
Lauri A. N. Sigler, Town Attorney	Timmy Turner, Public Works Director
Clairen Sipe, Town Treasurer	Kevin Whitfield, Chief of Police
Rodney Hensley, Police Lieutenant	
Diane Johnson, Recreation Director	
Denise R. Monger, Clerk of Council	

PRESENT	ABSENT
Daniel Talbot, Planning Commission Chair	Madelyn Dixon, Planning Commission
Cole McGregor, Planning Commission	
Victor Corbo, Planning Commission	
Goldie Helsley, Planning Commission	
Cathy Morrison, Planning Commission	
Margaretta Isom, Council Representative	

PUBLIC HEARING

It was noted that the meeting was properly advertised.

(A copy of the Notice is appended to the minutes and marked as "Appendix A".)

Mayor Bompiani called the meeting to order and the Clerk was asked to call the roll.

Please note that during this meeting Mr. Bonavita spoke from the audience. Therefore, some of his comments cannot be heard and have been noted as being (*Inaudible*).

Town Manager Reid Wodicka stated that the purpose of the meeting was to solicit public input regarding the rezoning of 39.872 acres, more or less, owned by BPML Properties, LLC. He noted that the rezoning is a portion of a parcel of land recently brought into the Elkton town limits as a result of a boundary line agreement with Rockingham County containing a total of 55.146 acres, more or less, and is a portion of Tax Map No. 130-(A)-L9. He noted that the parcel is located on the northern side of U.S. Route 33 (Spotswood Trail) being adjacent to Quail Run Subdivision and located on the eastern side of Route 979 (Stephens Conrad Road) near the intersection of Route 981 (Rockingham Pike).

Gary Monger, Elkton, stated that he had recently reviewed the plat and proffers for the Downey Knolls project. He noted concern regarding a road that centered between Lots 44 and 45. He inquired as to what measures would be taken to prevent traffic from traveling that road. He suggested a locked gate be put in place to deter travel. Mr. Bonavita responded that, although unnecessary pursuant to VDOT's approval of his plan, there would be a gate installed and the road would only be used for fire and rescue emergencies (*Inaudible*).

Mr. Talbot clarified that the road in question was a proposed maintenance entrance on the plat. Mr. Bonavita confirmed that the road would have a gated entrance.

Mr. Monger noted additional concerns regarding the following:

1. Provision that stated 25% of the homes being required to have brick, stucco or stone foundations had been removed from the proffers.

2. Provision that stated the evergreen buffer would surround all of the property had been changed to state that the buffer would surround business lots only.

3. 42 duplexes added to the plat, when previously all dwellings were single-family.

Mr. Monger encouraged Council to preserve the residential character of the established neighborhood and adopt the original proffers that were offered to the County.

Bobbie Rae Monger, an adjacent property owner to the project, stated that she agreed with all points made previously by Mr. Monger. She asked Council to take into

He noted his agreement with the items that the Monger's had brought to the Council's attention.

Mr. Talbot asked Mr. Miller to clarify his statement regarding the installation of a fence. Mr. Miller stated that in the original design which had been brought before the County, a divider fence was placed in between the properties. He noted that currently there was a farming fence installed in that area. He noted that the fence matter was tabled at one time and brought up a second time. He noted that he had inquired as to why the fence was not on the plat and was told the fence was on the plat. However, he stated that it was not. He noted his concern that there were a number of items from the original design that had disappeared.

Mayor Bompiani summarized the citizen's concerns as follows:

1) Evergreen buffer around the area.
2) Increased duplex lots.
3) Façade of the buildings.
4) Road access being closed.

Mr. Bonavita stated that the evergreen buffer in one of the commercial areas had been removed due to (*Inaudible*) reasonable request and would not affect people on the other side. He noted that there was a buffer around the rest of the property. He noted that there was never a proffer that a fence would be installed along the properties on the left. He noted that he may have told Mrs. Monger there would be a fence installed along the creek, but noted that had forgot about it. Mrs. Monger confirmed that she was informed a fence would be installed. Mr. Bonavita noted that he could place that item in the proffers.

Mr. Bonavita again stated that there never was a proffer to install a fence on the other side, only an evergreen buffer. There was a difference of opinion on the matter between Mr. Bonavita and Mr. Miller. Mr. Bonavita noted that a fence installed in that area would be very unattractive and not add any beauty to the neighborhood. He noted that the only animals in that general area would be pets and thought unnecessary to install another fence. Mr. Miller again noted his concern regarding the possibility of people and traffic traveling in that area and noted additional measures should be taken to secure it. Mr. Bonavita noted that the fence would take away from the aesthetics of the project and was not needed since another fence was already there.

Mayor Bompiani stated that Council would take all of the matters discussed under advisement.

Vice Mayor Dearing inquired as to why the façade and flat roof requirements were removed from the proffers. Mr. Bonavita responded that the restriction could create design issues for certain businesses. He noted specifically, a restaurant to be developed

consideration the people who met with the County and Mr. Bonavita regarding the project. She asked that Council provide the community and neighbors with a plan that would benefit everyone. She noted that the expense of such projects should be paid by the developer and not the Town. She encouraged Council to approve the same proffers offered to the County.

Mrs. Monger inquired if gates and locks would be installed on the roads adjacent to her property and Mr. Monger's property which would be Mt. Hermon and Stephen Conrad roads, respectively. She also inquired if a provision stating such would be provided in the proffers. (*Inaudible*).

Mrs. Monger inquired as to the tax consideration regarding the project and asked for a better explanation on the matter. Town Attorney Sigler responded that all of the real estate property would be taxed. She noted that the project would be developed in phases. Mr. Bonavita noted that when a subdivision was developed under the current economic conditions (*Inaudible*) 4 possibly five lots that would be served by that road. He noted that those lots would be recorded as separate lots and as the subdivision progressed and more was developed, additional lots would be recorded.

Vice Mayor Dearing stated that the Council had never stated Mr. Bonavita would be provided the consideration of developing the Downey Knolls project in phases. Mr. Bonavita affirmed that statement and noted that the County does allow that to take place. He noted that a discussion had taken place on the matter when R-8 zoning was discussed. However, he noted that his project would be zoned R-4.

Town Attorney Sigler stated that an R-8 zoning required a master plan/site plan. She noted that currently the Town's code did not allow the development of the R-8 in sections. Whereas, she noted that a subdivision under the Town's code could be developed in different sections. She noted that a preliminary plat could be provided for the entire subdivision and then each section recorded as developed.

Mr. Talbot inquired of a time line as far as when the different phases would be developed. Mr. Bonavita responded that he was unsure since the economy was the main factor in determining the development of the project.

Mrs. Monger inquired if the Downey Knolls project was eligible for a certain land use program if the property was rezoned to R-4. Town Attorney Sigler responded that she was not aware of any land use tax for residential or business properties. Mr. Bonavita spoke (*Inaudible*).

David Miller, Elkton, stated that he was also an adjoining landowner. He noted concerns with some of the proffers. He noted that a divider fence to be erected in between the properties for safety reasons had been omitted from the proffers and the plat.

which had a very slight slope to the roof, but was not visible since the walls were higher by a few feet than the roof. He noted that if certain restrictions were in place, that type of proposed building design would not be approved. He noted that some restrictions and the addition of duplexes were re-evaluated for the project. He noted that duplexes were added after he had received several requests to include them. He felt that to go from businesses to duplexes to single-family homes was a good transition.

Vice Mayor Dearing stated that when the project was initially presented to the Rockingham County Board of Supervisors, the plan called for 55 and older residents to occupy single-family dwellings. He noted, at that time, there was no discussion of duplexes being added to the project. Mr. Bonavita agreed with that statement and noted that a duplex was a single family home that was attached.

Mr. Talbot inquired of the Town Attorney if the County would have considered a duplex a single family dwelling. Town Attorney Sigler stated that she did not have the definitions from the Rockingham County code and could legally give an opinion at that time. However, Mr. Bonavita stated that the answer would be no. He noted that he would have to change the master plan which he intended to do, but didn't want to execute the same process in the County as he would have to do in the Town. Mr. Talbot clarified that Mr. Bonavita would have had to return to the County with a revised master plan and proffers list to add the duplexes.

Mr. Talbot asked Mr. Bonavita to address the materials of construction for the buildings. Mr. Talbot noted that the roof was a design issue, but the materials of construction were entirely different. Mr. Bonavita responded that issue would be addressed in the covenants for the subdivision. He noted there would be two sets of covenants, one for a business setting and one for residential. He noted the covenants would state that whatever the finish of the front of the building, the back would have to be of equal quality.

Mr. Talbot inquired if there was a reason why the items of concern that had been discussed at the public hearing couldn't be proffered. He noted that the proffers list would be the Town's legal document. He noted that the covenants did not offer any legal remedies to the Town and was mainly for the subdivision as guidelines. He noted that if the items were listed in the proffers, it would be very clear to all parties what his intentions were. Mr. Bonavita noted that he would not have a problem with doing that. He noted that he was only trying to simplify the process.

Mr. Bonavita stated that he would not mandate that the finish of each building. He noted that whatever the quality of the front of the building would have to be equaled in the back of the building. He noted that each plan had to be approved. He noted that without the proper language in the proffers addressing the issue, other types of finishes could be used such as cinderblock, metal, etc… Mr. Bonavita stated that he had no issue with the suggestion.

Council member Isom inquired about the fence issue. Mr. Bonavita responded that he forgot about the fence in the back. He was of the opinion that there was no need for a double fence, but if cattle broke through one fence there would be an additional fence for security. However, he did not want to install a farm fence in between residential areas. He noted that the area would not be improved beautification wise by an additional fence.

Council member Kite inquired about a quarry and what plans had been developed regarding that area. Mr. Bonavita responded that his intentions were to fill in that area, grade it and plant grass. He noted that a picnic pavilion would be created in that area along with a walking trail.

Mr. Talbot wished to clarify the issue of duplexes being added to the project. He inquired as to how the number of duplexes and their specific design was decided upon. (*Inaudible*). Mr. Bonavita noted that he thought the number of duplexes would be sufficient. He noted that it was a possibility in the future, if he received more requests for single-family dwellings that he would return to the Planning Commission and request to have some of the lot lines vacated in order to meet that demand. He noted that he would be willing to proffer that no additional duplexes would be requested other than 42.

Vice Mayor Dearing stated that Mr. Bonavita could ask for additional duplexes in the future especially if the demand called for such. Mr. Bonavita responded that such a request would need to be approved by the Council. Town Attorney Sigler stated that since the project would not be zoned R-8 there was no master plan to approve and he would not be allowed the 10% change as permitted under the R-8 zoning. She noted that Mr. Bonavita would need approval from the Council to ask for more duplexes and have the lots changed.

Mr. Talbot stated he was in favor of proffering the maximum number of duplexes that would be allowed for the project. Mr. Bonavita stated he did not have a problem with that. Mr. Bonavita noted that some of the lots did not meet the Town's requirements. He noted that the addition of duplexes resolved that issue since the lot sizes would be smaller. He noted that would still afford him the opportunity if, in the future, there was a bigger demand for single-family homes as opposed to duplexes, to return to the Council for approval to vacate some of the property lines making larger lots.

Mayor Bompiani inquired as to how many single-family lots were available. Mr. Bonavita responded there were 44.

The Planning Commission moved to one of the community rooms in order to discuss the issues at the hearing.

As there were no additional comments, the public hearing was closed. No vote to adjourn was taken at that time. A 5 minute recess was taken.