Public Hearing Minutes January 16, 2024

As reviewed, approved, and accepted by the Town Council on February 6, 2024

Mayor Charles Hendricks called the Public Hearing to order at 7:32 p.m. The meeting was held using video conferencing. Council Members Tom Burke, Amy Koval, and Christina Pellegrino were present. Council Member Charles Bradsher was absent. Also, present were Town Clerk Mary Burke, Assistant Clerk James Schneider, Assistant Clerk Joy Jackson, and Planning Commission Chair Eric Wenger. There were approximately 9 residents and guests present. The Notice of Hearing was posted on the Town website, at the Town Hall, and at the Post Office.

**Mayor Hendricks read a statement to explain the reasoning for proposing an ordinance amending the Laytonsville Zoning Ordinance by adding sections 110.00 and 111.00 to impose a temporary moratorium upon the review and consideration of commercial applications and permits and to require the town Planning Commission to initiate a review of the Comprehensive Plan and zoning regulations regarding such commercial land uses and to report to the Mayor and Council regarding its recommendations.**

Mayor Hendricks read the opening statement as follows:

 I now call to order a continuation of the public hearing begun on December 5, 2023, before the Laytonsville Town Council on a draft ordinance I introduced at the November 7 meeting of the Town Council. This ordinance would, if adopted, impose a moratorium of six months’ duration on the review of applications for commercial development of any type in the town’s Commercial (C1) and Commercial-Historic (CH) zones. The ordinance would also require the town’s Planning Commission to review the town’s Comprehensive Plan and to report to the Town Council within 120 days its recommendations for any amendments to the town’s zoning ordinance or other land-use regulations it deems appropriate.

The “Whereas” clauses of the draft ordinance explain its rationale, and they relate to challenges the town has faced as it has experienced rapid population growth and increased traffic. Town citizens have become aware that current zoning regulations have not been updated to accord with the visions and goals of the town’s 2014 Comprehensive Plan. That plan highlighted Laytonsville’s unique historic character and its vision of remaining “a community of modest proportions.”

At its December 12, 2023, meeting, the Town Council concluded that it wished to receive additional testimony about the impact of the proposed moratorium across the whole town, as testimony at the December 5 hearing had focused on a single development proposal submitted earlier that year. So the Council kept the hearing record open and announced a new Zoom session to be held today. I explained the Council’s rationale for continuing the public hearing at the end of the December 12 meeting, and the town announced on its website that the purpose of the continued hearing was “to obtain more information about the impact of the moratorium across the whole town.”

The Council has received several written submissions, which will be read by their authors or, if the authors prefer or are not present, by the town clerk. Following the presentation of this written testimony, those on this Zoom session will be invited to present comments on the draft ordinance orally. To meet the needs of the Town Council, this testimony should address the impact on the town generally that commenters believe the adoption of the draft ordinance would have and not focus on any individual property. I very much hope that those who testify this evening will attempt to provide their understanding of how the proposed moratorium ordinance will impact town planning and development in Laytonsville generally.

I would now like to ask Town Clerk Mary Burke to introduce the first written testimony that the town received.

Recognized Speakers:

Town Clerk Burke read the written testimony from Chris Bresnan of 21327 Birdie Lane as follows:

To Mayor Hendricks and the Laytonsville Town Council,

As I read through the “Temporary Moratorium Upon the Review and Consideration of Commercial Applications and Permits” and its requirement to initiate a review of the Comprehensive Plan by the Town Planning commission, I couldn't help but be moved by its insightful recognition of Laytonsville’s identity, character and small-town value not only to its residents but to the surrounding areas.

This is why I support the moratorium wholeheartedly.

Laytonsville truly is a priceless and very desirable small town. With a review of the Comprehensive Plan due and underway, I see no reason to rush or allow outside pressures to influence any deviations from our core vision of preserving Laytonsville’s small-town charm and character for the future.

Until there has been sufficient time to review, reflect and succinctly identify exactly what types of new commercial developments will best ensure the preservation of that character, I support the Moratorium on all applications and permitting of any proposed or future commercial development.

Thank you for your consideration,

Chris Bresnan 21327 Birdie Lane Laytonsville Md 20882

Town Clerk Burke read the written testimony from Jim Ruspi of 7111 Brink Road as follows:

Comments By Resident Jim Ruspi Related To Commercial Development In Laytonsville

Mayor, Town Council and Planning Commission,

Last year I had the opportunity to express my comments and concerns about the proposed Moratorium on commercial development in Laytonsville.  Since the Council has held another public hearing and has kept the Record open, I am taking the opportunity to provide written testimony that I would like the Council to consider at the January 16, 2024 Open Hearing.  Some of what I am saying will be redundant.  I am sorry about that but this proposed action needs to be rejected.

The action being proposed by the Mayor is a drastic departure from the historical nature of the Town operations.  In the past, the Town created various Commissions and a Board in order to conduct business.  When various matters came before the Town, they were distributed to the appropriate department for consideration and action.  That is not being done with this proposed Moratorium on commercial development.

Many years ago, the Town created a Planning Commission to review and take action on zoning issues.  The Planning Commission is composed of a Chair and 5 Commissioners and one Alternate Commissioner.  The original Chair has been in that position since its inception and has conducted matters in front of the Planning Commission in an exemplary manner.  I have attended many Planning Commission meetings and have a high opinion of the Commissioners’ performance.  The decisions the Planning Commission makes are done with the facts surrounding the issue.  The decisions are made with knowledge of the appropriate ordnances and with total fairness to those involved.  Now, this proposed moratorium is being proposed in an entirely different manner.  Unlike previous matters that have been considered by the Planning Commission, the authority of the Planning Commission has been circumvented.  The Planning Commission has not been able to proceed in its normal manner.

The Moratorium on commercial development was proposed without support of the Planning Commission.  If the Town passes this amendment to the zoning ordinance, only one property will be affected, i.e., Hope Builders.  The proposed moratorium is unfair and unreasonable given the facts of the matter.

The proposal states that the Planning Commission should not do its job until the moratorium has been ended.  It further states that the Planning Commission needs to review and develop a new Comprehensive Plan for the Town.  This requirement has already been given to the Planning Commission many months ago.  The Chair of the Planning Commission has begun reviewing the obligation to update the Comprehensive Plan.  Typically, such a revision takes about one year to complete.  The last time the Town created the Comprehensive Plan was in 2014.    Even with diligent work by the Planning Commission, it was necessary for the Town to enter into a contract to have a  planning consultant  assist the Planning Commission.

The Town does not need to create a moratorium.  Instead, it needs to let the Planning Commission function as it has these many years without interference.

The Town does not need to create a moratorium which will penalize the owner of one property.

The Town does not and should not take responsibility and authority away from one of the legal entities which has been legally created through its Charter and adopted ordinances.

Usurping a legal body’s responsibilities jeopardizes the functioning of the Town and places more power into the hands of fewer residents.

I request that the Town not proceed with the creation of this moratorium.  Instead, allow the Planning Commission to function as it has done in the past.

James Ruspi, Resident 7111 Brink Road

Council Member Tom Burke read his written testimony as follows:

I am in favor of a six-month moratorium on commercial development and permitting in the town of Laytonsville. I would like to explain my reasons and describe how I would like to see them addressed.

Laytonsville is a unique small town. Fundamentally, I believe that we have to do whatever we can to maintain the town’s historic character for the sake of everyone who lives and does business within the town’s borders. There are not many municipalities left in Montgomery County that have been able to maintain their historic character, but, somehow, Laytonsville has done so. Unquestionably, this is a big part of what draws people to this town and makes them want to live here and raise families here.

This is due in no small part to the fact that we have a town government and a body of zoning regulations that have controlled development closely through the decades. A lot of people in that government have worked hard over those decades to bring us to this point. The cooperation that we saw in the development of Laytonsville Preserve is an example of how much work is required and how successful the town’s involvement can be. Our government, however, as we all know, is tiny, with very limited resources. This makes it more and more difficult for the town to withstand the development pressures that have changed so much of the rest of the county. Our Comprehensive Plan is currently up for review, in line with county and state requirements. Our zoning regulations, however, have not been reviewed or updated in any substantial ways for many more years than that. I believe that the whole process of administering Laytonsville’s zoning, as well as the details of the regulations need to be brought up to date, not only in order to be current with modern standards, but to protect the town from liability and make the process more clear-cut for those who wish to start businesses within the town, as well as to improve communication and understanding with our residents.

I have been on the Town Council for eight years. I have seen the town government go through many contortions in attempting to deal with the existing business properties in the town, as well as with new businesses. Hardly any building or development in the town in those eight years has gone without at least some argument and/or threats of litigation. There are unresolved issues that defy resolution and take up time and resources and leave the town open to all kinds of accusations, as well as substantial lawyer fees. I support the moratorium because I feel that recent events have shown that we keep running into problems and we are overdue for a re-set, not only of our town’s goals, but of the tools we use to reach them. I think we can expect that such matters will only get worst in the future and I would like to see the town get started right away to get in front of whatever situations may arise by making our stipulations more exact where necessary and less prone to being ignored or misinterpreted. The next ordeal for the town, the government, and the residents could arrive tomorrow.

These are the steps that I would like to see taken:

**A. Harmonize our zoning classifications with the Montgomery County classifications.**

Currently, Laytonsville has two zoning commercial classifications, C-1 for buildings that house business operations in the commercial portions of the town, and CH for buildings in the historic portion of the town.

Montgomery County has at least four classifications (among many) that could be regarded as comparable to Laytonsville’s requirements, as follows;

                1. C-1 Convenience Commercial

                2. C-2 General Commercial

                3. C-4 Limited Commercial

                4. O-M Office Building - Moderate Density

Also, it’s worth noting that, the county’s zones make only general reference to the businesses permitted in certain zones, while Laytonsville attempts to specify every kind of business that could or should be located in town, as well as those permitted as “Special Exceptions”. This approach is dated and has left the town vulnerable to charges of discrimination, as well as adding a level of complication to the process.

**B. A review of lots and buildings in town as to whether they are correctly zoned in accordance with their usage.** Most of the residential and commercial classification decisions in the town were made back in the 1990’s, with only minor changes since then. 1990 was a long time ago.

**C. Make sure that no purchase of land or buildings within the town (commercial or residential) can be made unless and until the prospective buyer accepts and certifies a full understanding and agreement with the town’s zoning requirements.** In the past, we have heard claims that “the real estate agent didn’t tell me that”, or that "changes will lower the value of properties" or that we are "restricting owners unfairly". When such disagreements arise, it is a short step to expensive litigation which is a terrible waste of the town’s limited resources. The town needs to get in front of such predicaments.

**D. Carefully review and consider the town’s position on re-development of existing commercial lots within the town, perhaps even solicit development proposals for the commercial portions of the town.** At the very least, have an outline for the future of these lots that anticipates what the town’s needs and requirements should be, in the event of such re-development. Certainly, this is the very premise of a “Comprehensive Plan", but I am suggesting a more pro-active and granular approach in consultation with current owners and with the public. Likewise, a Comprehensive Plan that addresses the town’s plans and aspirations doesn’t necessarily address the tools needed to achieve those goals, and over these years, I’ve seen too many situations where the process seems to fail. We know that properties will change hands eventually and we should be prepared for it, in the context of the 21st century.

Undoubtably, these suggestions will create some controversy, but we have to start somewhere. This is another reason for the moratorium. It takes a lot of effort and discussion to even start to agree on what needs to be done, as well as how it should be done. I’m prepared to be told that I’m wrong, misinformed, etc... Back in my business days, I was often the guy who put out the “first draft”, knowing that it would get shredded for various reasons, but, it got the project started. I hope that this set of ideas will do the same.

Tom Burke, Town Councilperson

Mayor Hendricks opened the floor for any oral testimony. There being none, he stated that there is a very important role for each of the town’s bodies to cooperate in updating the zoning provisions of the town. He then asked for members of the Town Council to make any desired comments.

Council Member Koval asked if this moratorium is enacted, would it impede the Planning Commission from moving forward with its Comprehensive Plan.

Mayor Hendricks replied that it’s quite the opposite. It would provide encouragement and incentive to continue working on the updated Comprehensive Plan. He further stated that he has looked into outside consultation for proceeding with the development of the updated Comprehensive Plan and will share two potential names with the Planning Commission. He said that the next Town Council Meeting will be held on February 6th, where there will be a discussion and consideration of this proposed ordinance. He thanked those who provided valuable testimony this evening. He asked for further public comment.

Mr. Chris Bresnan of 21327 Birdie Lane spoke to thank Council Member Burke for his testimony which helped him understand Laytonsville’s zoning classifications compared to Montomery County’s classifications, especially regarding commercial development.

Mayor Hendricks stated that it would be worthwhile to explore Montgomery County’s classifications for commercial properties.

Council Member Burke stated that these are very complex regulations, and he feels that the whole Town Council would benefit from a Montgomery County briefing of zoning regulations in order to align to the town’s ordinances.

Council Member Pellegrino stated that she feels that our zoning needs updating but feels that Montgomery County may not be the best jurisdiction to model. She said that perhaps another small historic Maryland town would be good to investigate.

Council Member Koval stated that people look at us as a small historic town and having ordinances that support that is needed.

Mayor Hendricks stated that urban communities evolve, and zoning regulations need to be amended to reflect the community and its economic needs.

Planning Commission Chair Wenger stated that it is great to hear all the different views, which Laytonsville does very well. He further said that additional consultation would be appreciated due to zoning complexities. Historically the Planning Commission was looking to preserve the center of town as a commercial area. Businesses change overtime, and the commercial businesses in the center of town are rather limited due to water and septic restrictions. It is important to look at this as well. In the town’s vision, the joining of the modern and the historic is mentioned. There is a lot more to look at regarding commercial zoning. He feels that Laytonsville is in favor of more controlled growth than Montgomery County zoning would permit. He pointed out that the county has zoning amendments that are not aligned with Laytonsville’s vision. He agrees that looking at other Maryland small towns similar to Laytonsville would be more beneficial.

Council Member Koval said that Barnesville, Brookeville, and Poolesville all do their own zoning and could be looked at, with Poolesville being a larger town.

Council Member Pellegrino stated that whether the moratorium happens or not, it is not about taking away power from the Planning Commission. She explained that we need all members of the Planning Commission to work with the mayor and Town Council. We need to continue to give our commissions and board the tools to continue their great work.

Mayor Hendricks said a six-month moratorium gives us a limited time to do the work that needs to be done.

Mayor Hendricks asked if there were any additional comments. There being none, he closedthe public hearing at 8:25 p.m.

Respectfully submitted,

James Schneider

Assistant Clerk

January 16, 2024