

Mountain Lakes Environmental Commission Continuation Meeting Minutes January 16, 2013

Attendees: B. Albergo, J. Bay, M. Gossett, A. Rankin, M. Vyff, J. Horan, K. Sheikh, T. Carr

Members of the Public: 15

Public Comment: None

Waterview Opposition

Jackie read a draft memo that was prepared with the assistance of Sandy Batty, Lynn Uhrig, and Margaret Gossett. The memo outlined opposition to the proposed rezoning on 4 fronts:

- Reduction in the buffer from 200 to 50 feet: Buffer is necessary to shield ML residents from noise, light and air pollution. Substantial traffic is anticipated.
- Degradation of the aesthetic environment of eastern end of ML. Destruction of trees and hill barrier will allow for full view of a strip mall.
- Potential harm to the shared aquifer due to increase in impermeable surface within a key recharge area.

The EC strongly urges the Borough Council to oppose this plan at the upcoming Parsippany Planning Board meeting on Feb 11, 2013.

The public voiced overall support for the memo and suggested the following changes:

- Increase importance of aquifer information as this is believed to be the most critical issue. Margaret had proof that the aquifer was shared but not proof that Parsippany's potential pollution will impact ML's drinking water. Believed that the geology is in our favor in that pollution will flow east thereby not impacting ML's water supply. Margaret agreed to continue to investigate.
- Include details about where this plan violates Parsippany's Master Plan and current laws. Specifically, a.) Not being a good neighbor to surrounding communities; b.) No egress to Intervale Road; c.) well head protection exemption; d.) retaining wall heights in excess of current zoning; e.) 75% impermeable coverage up from 45% in current zoning; f.) current zoning anti-big box and pro environmental buffer to protect residents; g.) Parsippany's Environmental Committee is opposed to this project but cannot comment until they are requested to do so by their Borough Council.
- Traffic estimates at 70,288 car trips/week was deemed to be not credible. Jackie agreed to re-investigate the source.

Borough Manager Robert Tovo was in attendance and reported that the Council had had discussions with our Planning Bd Attorney, Peter Henry, and was advised that there is little Borough Council can do to oppose this development. He urged us to work behind the scenes with Parsippany opposition to strengthen and support their efforts. When questioned about the access to Intervale Road issue, he believes that there would be little Mtn Lakes could do to prevent access onto Intervale as it is a public road.

On the issue of the EIS, Jackie reported that it is too soon in the process for the developer to be asked to provide such a report. These documents are prepared at the Site Plan stage and we are only at concept plan.

On the issue of legal opposition, John Horan reported that the best thing to do was for Parsippany to file a legal opposition to the application.

Action Items:

- EC to revise memo based upon feedback and present to Council on the 28th. Mr. Tovo will brief Council the next day and asked for talking points. Margaret to provide.
- EC to work with Parsippany opposition at an upcoming meeting on January 19th.

Attachment No. 1

Read by Gretchen Fry:

I'm so happy our fellow Laker and friend, Paul Selver, wrote out his thoughts for us to consider...

••<|| Sent from my iPhone ||>••

Begin forwarded message:

From: "Selver, Paul" <PSelver@KRAMERLEVIN.com>
Date: January 9, 2013, 9:28:42 AM EST
To: "info4fry@gmail.com" <info4fry@gmail.com>
Cc: Ellen Roller and Paul Selver <selver@optonline.net>
Subject: Parsippany Development

Gretchen –

If this were New York (and New Jersey law may be different), they would have had to do the EIS on the entire project prior to approval of any rezoning. By breaking it up in this way, they are in effect segmenting the project's review so as to avoid full disclosure of the extent of the potential changes being proposed. For example, it may be that the rezoning could also lead to a number of other possible development scenarios which would have adverse environmental consequences even without implementing their proposal. Shouldn't the public have a full understanding of the implications of all of them before the rezoning is finally considered.

It is no answer to say that a specific development proposal will be considered in the next stage because (i) there is already a specific proposal to consider now, without which the Board would not be dealing with a rezoning and, in any event, (ii) it might be too late in that the effects of whatever would be developed might not be that significant when compared with alternative development scenarios for the site as rezoned (in other words, there may not be a need for an EIS for the second approval, so, by not doing one now, the town evades its responsibility to prepare one).

What this tells me is that (i) someone should go to the ML Borough Board and Planning Board and ask them to have the Borough intervene in this proceeding and oppose the rezoning and (ii) you guys should hire a lawyer and a planner – you need both – the lawyer to position your case, and the planner put in expert evidence on traffic and other matters so that a reviewing court (and I assume that any approval would be litigated) has a basis in the administrative record for overturning the decision.

For names of lawyers, I would start with the lawyer for the ML Planning Board (whose name I forget just now but you can get by calling Sandy Batty). He's a smart guy and, while I believe he would not be willing to represent individuals in ML, he should know someone who is capable of representing you and would not have any conflicts. Other possible legal resources are Mary Ann Brennan (office right next to King's - the smartest of the lawyers who appeared before the Planning Board while I was on it) and Tom Ryan and John Pendleton (your neighbor), both of whom are lawyers with larger New Jersey firms.

For a planner, I would start with the firm that does ML's planning work (again, I forget the name and, again, Sandy should know it).

Good Luck – This sounds like a ridiculous project.

Paul

Paul D. Selver

Goals:

Vote to have an expert witness testify at the February 11 meeting to testify on Water Issues. Another witness to talk about

Have him review zone change and testify to harm for ML and Parsippany. Should he look at harm to ML only or the harm to ML and Parsippany. Consider calling in regional and break it down to ML and Parsippany. Should we talk about Quality or Quantity.

Wi

Sandy guide EC and explain the rights of commissioners if it comes up. Deliver water research documents. Questions for Sandy Do we need an attorney to qualify Richard Plambeck's

credentials? Ask him if he has testified.

Need to convince Khizar that it will be too late to take position. Three ways to convince – written research, maps, statement from Richard...public pressure. Get Sandy Batty to come to EC meeting when Margaret goes to Sandy's house to pick up Charter.

1) Environmental reasons for EC to go to Council to ask them to intervene.

2) ask

Put pressure on the Council to take action according to Blair