

IN THE ST. MARY'S COUNTY BOARD OF APPEALS

ZAAP NUMBER 18-132-00021

LEONARDTOWN 7-ELEVEN APPEAL

THIRD ELECTION DISTRICT

DATE HEARD: JULY 30, NOVEMBER 12, DECEMBER 10, & DECEMBER 17, 2020

ORDERED BY:

**Mr. Hayden, Mr. Brown,
Ms. Delahay, Mr. Miedzinski, and Mr. Richardson**

ENVIRONMENTAL PLANNER: STACY CLEMENTS

DATE SIGNED: February 11, 2021

Pleadings

7-Eleven, Inc. appealed the February 10, 2020 Planning Commission decision to deny the Concept Plan for a proposed 7-Eleven convenience store.

Public Notification

The hearing notice was advertised in *The Enterprise*, a newspaper of general circulation in St. Mary's County, on July 17, 2020 and July 24, 2020. The hearing notice was also posted on the Property. The file contains the certification of mailing to all adjoining landowners, including those located across a street. Each person designated in the application as owning land that is located within two hundred feet of the Subject Property was notified by mail, sent to the address furnished with the application. The agenda was also posted on the St. Mary's County website on July 22, 2020. Therefore, the Board finds and concludes that there has been compliance with the notice requirements.

Public Hearing

Public hearings were conducted at 6:30 p.m. on July 30, November 12, December 10, and December 17, 2020 at the St. Mary's County Governmental Center, 41770 Baldrige Street, Leonardtown, Maryland. All persons desiring to be heard were heard after being duly sworn, the proceedings were recorded electronically, and the following was presented.

The Property and Procedural History

The Joseph and Margaret Lorraine Goddard Trustee owns the Subject Property, a 5.4-acre property located at Tax Map 41, Grid 13, Parcel 52 at 24175 Point Lookout Road, Leonardtown, Maryland and is leasing a portion of the property to the Appellant to construct a 3,065 square foot convenience store and 4,402 square foot fuel sales canopy. The Subject Property is located in the Corridor Mixed Use ("CMX") zoning district in the Leonardtown Development District.

The St. Mary's County Comprehensive Zoning Ordinance

Pursuant to § 60.6.4 of the St. Mary's County Comprehensive Zoning Ordinance ("CZO")

4. In order to approve the concept plan, the Planning commission shall make findings that the proposed development:

- a. Is consistent with the Comprehensive Plan and applicable functional plans;
- b. May be served by adequate public facilities as required by Section 70.2.2;
- c. Is consistent with the County Annual Growth Policy, including any required phasing plans;
- d. Will promote the health, safety, and welfare of the general public;
- e. Adequately developed recreational and other community amenities are provided in accordance with the Comprehensive Plan and the Comprehensive Zoning Ordinance;
- f. Is consistent with Chapter 62 design objectives.

The Evidence Submitted at the Hearing by the Appellants

The Appellants submitted the following evidence:

- The Leonardtown Development District is intended to be developed intensely, and the proposed commercial uses—a convenience store (Use # 48) with fuel sales (Use # 60)—are permitted in the CMX.
- Concept Site Plan approval does not require that the proposed development “shall” be served by adequate public facilities (“APF”); rather, CZO § 60.6.4 only requires that the proposed development “may” be served by APF.
- Concerning lighting, the light fixtures will use LED bulbs, and light levels at the property lines will not illuminate in excess of 0.5 foot-candle. Ex. 4, Att. 2. Moreover, beyond the site, zero lumens are emitted.
- The Property is approximately 400 feet from Leonardtown Middle School, the surrounding homes are approximately 100 feet from the property line of the proposed site, the property