



GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

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DEPARTMENT OF PLANNING AND NATURAL RESOURCES

Report on Petition to Amend Official Zoning Map No. STZ-6

Application No. ZAT-22-16

Petition of Lionel Warrell requesting a use variance for the R-2 (Residential- Low Density- One and Two Family) zoned Parcel No. Remainder 30C Estate Elizabeth, No. 8i Great Northside Quarter, St. Thomas.

PROJECT PROFILE

Owner/applicant: Lionel Warrell as per Warranty Deed dated February 29, 2008, Document No. 2008004527.

Acreage: The property consists of 1.251 acres as described on Drawing No. D9-8106-T008.

Current Use: The property has been informally used as a lookout. The applicant's storage container sits upon it.

Proposed Use: The applicant's intent is to develop a scenic lookout with a restaurant/bar and gift shop.

Surrounding Uses/Zones: The property is surrounded by residentially used property on all sides, and to the east is the pre-existing, non-conforming Mafolie Hotel & Restaurant. Surrounding properties are zoned R-1 (Residential-Low Density) and R-2.

Infrastructure: Water needs will be supplied by public water line and cistern. Wastewater will be handled by public sewer line but there are also plans to have a wastewater treatment plant.

Public Response: Prior to and after the Department's October 19, 2022, public hearing, 18 letters were received. Five letters expressed support while 13 letters expressed opposition and concerns. There were 27 attendees and seven expressed concerns during the public hearing. The opposition/concerns received are summarized below:

1. There are already three lookouts for tourists within one mile of property in question offering same views as applicant's property (Mafolie Hotel, Drake's Seat, and on Valdemar Hill/Skyline Drive). A short ride from there is Sib's Restaurant and Mountain Top.
2. Skyline Drive overlook is clear example of the damage to residential quality of life from placing an overlook and retail

activities on a small parcel of land between residential homes on a main roadway. Regarding Drake's seat, there's a reason vendors banned from that area.

3. This venture will not enhance tourist experience.
4. Application did not state restaurant and bar. Says will operate modular bar then later develop the concept. Application seeking to allow modular structure (trailer) until he can build concept. Proposal for 24-seat restaurant and 12-seat bar is greater increase over initial proposal for "snack bar and scenic lookout."
5. Will contaminate the existing historical nature of area. Peace and tranquility of neighborhood should be respected by maintaining existing zoning. Estates Mafolie and Elizabeth are tranquil and peaceful residential neighborhoods. The two establishments (Mafolie hotel and Sibs restaurant) are all area needs and can sustain. Lookout point from hotel is already established.
6. Mafolie and Sibs were poorly planned, are plagued by inadequate patron parking, lack adequate potable water supply and adequate sewage systems. These businesses create noise pollution and cause traffic and automobile accidents on a regular basis. These two current businesses and their growth negatively impact the neighborhood's quality of life. Granting subject request would further negatively impact neighborhood's quality of life.
7. Plan "daytime use only" but concerned that may extend to nighttime activities.
8. No public sewer or water line in area.
9. If planning to run 6" sewer main to treatment in Subbase, will Mafolie be required to utilize it?
10. Milo drive is a private estate road. Thirteen properties with existing dwellings, that can only be accessed by one-way estate road, and other undeveloped properties will be impacted by proposal.
11. Driveway permit will never allow this design. First driveway on a curve. Plans indicate vehicle backing onto the public right-of-way for turnaround. Eleven parking spaces backing into main road down a one-way road during daytime hours, safaris backing into blind drive and delivery trucks. Tourists currently disembark safaris into traffic. Opposite site parking is one massive driveway area.
12. Current roadway past Mafolie hotel has double parking causing significant traffic delays for homeowners and

- creating major risk for vehicular and safari taxi turnarounds in the corner then onto main road, risking further accidents with cars, pedestrians, and tourists.
13. Road already experiences heavy traffic congestion- every weekday there is a line of cars backed up to Sibilly school up to Pinnacle driveway. Mafolie roadway operating at maximum capacity for vehicular traffic.
 14. Applicant's conceptual plan has no plans for modular structure and parking. No timeline included for future expansion.
 15. Cost of footings/foundations/floodwalls are significant and unaffordable.
 16. Concerned with only 18 parking spaces for 24-seat restaurant and 12-seat bar.
 17. Designers failed to consider 50 ft. ROW and mandatory utility easements. Design is not 30 ft. from centerline of gut.
 18. After Irma and Maria, the amount of water that passed through property makes it unlikely that even a home can be built.
 19. Gut cuts property into two triangles. Once all setbacks taken into consideration, only two small building areas. Lot basically unbuildable except for a small home.
 20. If anything were to compromise the critical drainage (of the gut), a huge hole will be punched in Savan by debris flows. Structural changes to drainage could put at risk several homes directly below Remainder 30C.
 21. What are plans for storing waste, diesel, etc.?
 22. Generator requires containment structure for noise/fuels.
 23. Those that voiced support are not neighbors.
 24. Property values would be negatively impacted.
 25. Nearby Pinnacle Condominium not a "commercial entity." Declaration and By Laws provide unit can only be used as single-family residence. Rentals are for a period of no less than one year to a single family and lease reviewed/approved by Board. Condos will be subjected to noise, smells, and music from "open air" commercial operations.
 26. On property sits unsecured cargo trailer that was blown down hill in 2017 and dragged back. Disheveled broken down trailer on property is complete eyesore for neighborhood, community, and tourists to see.
 27. Track record for lack of honesty supports idea property will be used for any permitted use under commercial zoning.

What developers say they will or will not do often differs greatly after they have rezoning approval.

Analysis:

During the Department's public hearing, Mr. Lionel Warrell, Mr. Wynstan Benjamin, and Mr. Jon Euwema testified the proposal is for the construction of a 65-foot long bridgeway across the gut for use as a lookout, gift shop, bar, and restaurant; and 18 off-street parking spaces. This is Mr. Warrell's third attempt at a zoning map amendment for the property (Two previous attempts were in 2015 and 2017, applications ZAT-15-4 from R-2 to B-3 and ZAT-17-2 from R-2 to C). The open-air structure would be for daytime use only and have a generator room to minimize noise. The 18 off-street parking spaces are an attempt to address the traffic congestion that currently occurs.

In analyzing the applicant's request, the Department considered four items: 1. the property's characteristics, 2. the pattern of the area's land use, 3. the character of the immediate and surrounding areas, and 4. the overwhelmingly negative response by adjacent property owners.

1. The property is essentially a gut. The outer perimeters of the property, that may be developed, is limited by Virgin Islands Code, T. 12, Ch. 3 §123 (a) which states that "No landowner or other person shall, except as provided in this chapter, encourage, procure, cause or aid in the cutting or injury of any tree or vegetation within 30 feet of the center of any natural watercourse, or within 25 feet of the edge of such watercourse, whichever is greater." The bridge structure will require an Army Corps of Engineer permit and the design plans must be certified by a structural engineer. New development at this plot may also impact suitable habitat for the critically endangered Virgin Islands Tree Boa. A wastewater treatment plant would not be permitted due to the property being a gut.
2. The pattern of the area's land use. The Estate Elizabeth/Mafolie area has had seven zoning map amendment attempts over the last fifty years. Four were granted use variances for offices; low impact uses in comparison to retail, restaurant, and bar.
3. The character of the immediate and surrounding areas. The area is exclusively residential, ranging from single-family to multi-family development. The immediate exception is the nearby pre-existing, non-conforming Mafolie Hotel and Restaurant, which has been in existence since 1961. It was

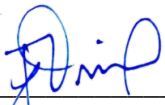
noted that the Mafolie Hotel is also used as a lookout and has limited parking. The hotel experiences congestion along the main road.

- 4. The response by adjacent property owners. The department gauged the petition’s benefit to the community by the neighbors’ reactions. The adjacent property owners were not receptive to the retail, restaurant and bar uses and it is recognized they can pose as detriments to dominantly residential neighborhoods. The impact on traffic, parking, and the incompatibility of uses (*residential vs. non-residential*) can cause a lessening in the desirability of the area, causing primarily residential neighborhoods to shift to non-residential in character.

In conclusion, the appropriateness of the request was evaluated; and the department finds that the presence of the gut, the proximity to an exclusively residential neighborhood, and the current traffic and parking issues of the area does not comport with the development of the site for retail, restaurant, and bar. They are not seen as compatible with the general development of the area and the establishment of a scenic lookout serving food and offering retail does not address a specific community need nor does it meet one for the immediate or surrounding areas. Section 238a of the Zoning Code states that a use which, “...would not substantially conflict with the permitted uses in the zoning district, the Legislature...may grant a variance for that specific use of the subject property...” In analyzing the request, the department has determined the restaurant/bar and gift shop uses would substantially conflict with the permitted uses of the R-2 zoning district and the area’s established character. It would not follow the intent of Section 238a of the Zoning Code and the department recommends denial.

Recommendation:

The Department of Planning and Natural Resources recommends that the request for a use variance to allow restaurant/bar and gift shop on the R-2 (Residential-Low Density-One and Two Family) zoned Parcel No. Remainder 30C Estate Elizabeth, No. 8i Great Northside Quarter, St. Thomas be denied.



 Jean-Pierre L. Oriol
 Commissioner

17-Mar-2023

 Date