

**Planning & Zoning Public Hearing  
Minutes  
January 15, 2009**

**ATTENDANCE:** Chairman Heimberger, Commissioner Hansen, Michael Fortner, Priscilla Turgon, Matt Oberholtzer, Town Planner Mary Ann Skilling, Town Administrator Denise Breder, and Planning & Zoning Coordinator Dianna Battaglia.

**Public Hearing called to order: 6:30 p.m.**

Chairman Heimberger started the public hearing.

**File No. 2008-6** – Text Amendments to add new definitions to the zoning code to provide for a new Commercial Entertainment Mixed Use Floating Zone classification; provide the terms, conditions, standards, criteria and procedures; provide for the permissible uses of land; provide zoning code modifications related to the establishment of a new Commercial Entertainment Mixed Use Floating Zone; **APPLICANT:** Town of Perryville.

Chairman Heimberger continued, the Ordinance was introduced by the Mayor and Commissioners at a meeting on Tuesday, January 6, 2009. There will be four parts to this hearing tonight. Presentation by the Town representatives, questions from the Planning Commission and Town Staff, and comments and questions from the floor. We ask when you have a comment or question to give us your name and your address please. And a yea or nay recommendation by the Planning and Zoning committee to the Mayor and Commissioners that the text amendments either be approved or not be approved and of course adopted by the Town and added to the Zoning Ordinance. We ask that you hold your comments until the allotted time. We had figured that we would be inundated by people coming to this tonight but I guess the cold has kept everybody away. This committee realizes that this action has created a myriad of pro and con discussions from our citizens and this hearing provides you a platform to air your concerns. That being said, we ask that you keep your comments to no more than five minutes. That includes any answers from the Town representatives and that way we can hear from all the concerned citizens. You will be heard. Incidentally, we have a sign in over there, if any of you have any questions, then you want to go over and sign in and we can run it that way, or we can go to the floor. But we ask that you only have one period each, so we don't have people coming up and coming up and coming up after that. We also ask that you keep your comments away from the argumentative state so we can discuss the matters in the level that is more conducive to fact finding. Please be advised that the Commission's only task, at this point, is to recommend to the Mayor and Commissioners. We do not have the final say. I will now call the meeting to order.

Ms. Skilling, Town Planner, stated the Ordinance section that has been prepared for tonight, I want to introduce the consultants to give you a summary of the amendment. They are really the architect of the actual ordinance. Frederick Sussman and Patricia Fox

of the Faux Group. Mr. Sussman is going to give you an overview of the Ordinance and provide any information and some clarity on the sections of the Ordinance.

Mr. Sussman addressed the members of the Planning Commission and citizens of Perryville, I am happy to be here with you this evening to give you some brief remarks regarding the subject of this public hearing. We're here tonight for the Planning Commission to hear and consider whether or not to recommend to the Mayor and Commissioners of Perryville the adoption of a text amendment to the Perryville Zoning Ordinance. This text amendment is embodied in Ordinance 2009-1. This was advertised as Ordinance 2008-6 in the newspaper but they are in fact one and the same. After the advertisement was run the number was changed but it is still the same ordinance and has been available on the Town website and is available at Town Hall. I think that it is important that I point out at the outset that we are not here tonight and the Planning Commission is not here tonight to talk about any specific project. What we're here to talk tonight about is a proposed ordinance that would amend the zoning code of Perryville that would allow in the future an application for a project to be made and brought forward, and as I'll explain to you if there is an application made in the future that will be the subject and we want public hearings for the Planning Commission and want public hearings for the Mayor and Commissioners at the very early stage. I just wanted to have that clarity starting out. What we're talking about here tonight is a proposed text amendment that will create within the Town of Perryville's Zoning Ordinance what we call a floating zone. That is a zoning classification that allows for flexible use of a large piece of property. It is a type of zoning tool that allows, especially with zoning regulations, to be crafted to the specifics of the particular project, taking into account the nature of the project, the type of land on which it is situated, and its compatibility with the surrounding neighborhoods and its impact upon roads and facilities. So I think it is very important that I point that out to you in the first instance. But the second thing I would like to point out to you is that what this is proposing is a floating zone called a commercial entertainment mixed use development floating zone. And essentially what that means is that this is a type of zoning tool that could be used upon application of a landowner, and is at least one hundred forty (140) acres of land, to come in and say we want to propose a mixed use commercial development that will have as its major component either a gaming facility or some other significant commercial entertainment activity that will serve as a regional draw. That essentially would be the anchor of this particular project. The floating zone would allow commercial uses, as well as potentially residential uses, as would be determined by the applicant and the Mayor and Commissioners. There are no mandates in this proposal that any particular development, any particular ratio of residential to commercial, or even that the proposed development have a residential component at all. The key factor here is that it will be an integrated compact town scale urban development mixed use development that has as its major component a gaming facility or a significant regional commercial type of entertainment facility. In terms of size, at least one hundred forty (140) acres, in terms of location to have access to major highway interchange with, essentially what we are talking about there is somewhere along I-95. There are several stages that a proposed project would have to go through before it could ever see the light of day and be eligible for building permits. And I'm going to focus you on what those stages are. The first

stage would be what we call the designation process. That's the process by which the owner of at least one hundred forty (140) acres of land, the owner or owners, would come to the Town and say we want our land to be designated as a CEMUD, Commercial Entertainment Mixed Use Development floating zone. There is a substantial application process, there are studies that have to be prepared, there are is what is called a general development plan that has to be prepared which would show at least in concept the development proposal for the entire site. Of course, because there is a significant commercial entertainment component as the anchor, that obviously is going to have to be a key part of the general development plan. Once that application is submitted it would go through a staff review process and then we'll have the first hearing before the Planning Commission at which all of you and other citizens would have the opportunity to testify and comment. The purpose of that application and that hearing would be for a determination that the site and the project, in concept, are suitable for designation for this particular zoning classification. Once there's been a hearing before the Planning Commission, there would be another hearing before the Mayor and Commissioners. Again, there would be opportunity for review and for fellow citizens to testify before the Mayor and Commissioners as to the merits of the designation and the proposed general development plan. Once the Mayor and Commissioners have held their hearing and received the recommendation from the Planning Commission, then the Mayor and Commissioners can determine that the property should be classified as a CEMUD floating zone and approve the general development plan. Before the Mayor and Commissioners could make that designation and approve the general development plan, they would have to make a number of very specific findings of fact in terms of a deliberative process similar to the process the Mayor and Commissioners would have to go through if they were adopting or considering a zoning map amendment. Let's assume for a second now that the Mayor and Commissioners have determined that the site is appropriate, the project is appropriate, then the next thing that would happen is that the applicant would come in to the Town at some point in time with what we call a preliminary site development plan, and what that means essentially a much more detailed site plan of the development or proposed development of the entire land area under the one hundred forty (140) acres. That proposed site plan again would have to be accompanied by a number of various studies, marketing type studies, traffic studies, economic studies, and things of that nature to again assure the Planning Commission and the Mayor and Commissioners that the project is viable and the design is suitable. We go through, again a very similar process, the application would be filed, it would be reviewed by Town Staff, there would be a hearing before the Planning Commission, as to the application, the proposed preliminary site plan being compliant with the various criteria that are set forth in the ordinance that this site plan would have to comply with, and then the Planning Commission, after hearing it all, would make a recommendation to the Mayor and Commissioners. The Mayor and Commissioners again then would hold another public hearing on the preliminary site design plan, and after hearing from the public, considering Planning and Zoning Commission recommendations, and staff comments, would make a determination whether or not to approve the preliminary site design plan. The Mayor and Commissioners could reject it, they could approve it, they could approve it with conditions. So there is a significant amount of flexibility on the part, ultimately, of the Mayor and Commissioners. The final part of the process before

anybody could file for any building permits is what we call the final site development plan. Now what that again is a refinement of the preliminary site design plan. If they are not being consistent with the preliminary plan for the overall tract, if it is inconsistent, then it would have to come through a some sort of amendment process presumably of the preliminary site design plan in terms of consistency. We talk about on any of these, a very large scale project that will take many, many years to build out and to develop. It is possible for an applicant to submit a proposed final site design plan for the first part of the project, along with the preliminary site design plan and allow those to be considered together. We have built that into the proposed ordinance. That is really up to the applicant. As part of this entire process, both the preliminary site design plan application as well as the final site design plan application are going to have to have phasing schedule, telling the citizens and the Planning Commission and the Mayor and Commissioners the approximate time frame within which different parts of the project ultimately will be developed. And then the final approval of a final site design plan will incorporate some final phasing of schedules. What we also recognize is that when we have a parcel of land, or several parcels of land this large, they may be owned by different people. So, what we've done with this ordinance is to provide that there has to be some overall assurances that there will be coordinated maintenance of the entire property in the future and that there will be methods and mechanisms addressed for ensuring proper landscaping for the entire project, coordinated signage, coordinated parking and traffic control and things of that nature. A lot of these things will be taken care of and addressed in what we call the site design code. And essentially what that means is that for every project like this there will be a very detailed, I'll call it a book that sets forth all the development regulations, constraints, guidelines, and things of that nature that will apply to this particular process. Essentially it is a project specific set of design guidelines and zoning regulations. Things like height, things like setbacks, things like lot coverage, things like parking, and all the things that would typically see with a project will be built into this site design code for the particular project. And that will have to be approved, considered by the Planning Commission and ultimately approved by the Mayor and Commissioners as part of the overall project of the approval of the preliminary site design plan and then the final site design plan. The ordinance does contain a table of uses, what types of uses would be allowable within this CEMUD floating zone. When the applicant comes in to the Town with the actual application when we get to the preliminary site design plan and then the final site design plan, we will actually have to validate exactly what the uses will be in a particular project. Now I should tell you that obviously one of the uses that will be allowed is a video lottery facility. And that will be allowed as a permitted use within the project, again subject to compliance with all the requirements of the site design process. I think in a nutshell that pretty well weighs out to you what this ordinance is all about, and the general framework within which a piece of property could get designated as a CEMUD floating zone and ultimately could receive approval on a site plan for the particular project. It is only after the Mayor and Commissioners approve a viable site development plan for all or any part of the project can anybody come in for building permits. So as I have said there are numerous public hearings, there is numerous review by Staff, by agencies, by the Planning Commission, by the Mayor and Commissioners, before anybody can turn a spade, apply for a building permit, or begin any type of construction on a piece of

property that would be subject to this particular ordinance. So at that point, I think I'll close my remarks and leave it open for questions from the Planning Commission or anybody else.

Ms. Skilling asked the Planning Commission to respond to Mr. Sussman at this point and then we'll go into the economic impact.

Mr. Sussman stated that Ms. Faux is also available to respond to any questions that I may feel appropriate, since we have worked very closely as a team on this and as a joint effort.

Mr. Fortner asked with the mixed use, is there any uses that are required, for example with the two hundred slot machines, you have to have commercial, a restaurant, some sort of commercial establishment other than gaming.

Mr. Sussman replied no, it doesn't set forth any specific requirements. All there would be is a video gaming facility or other regional type commercial entertainment facility as a major component of the project. Now again, you have to remember that you as the Planning Commission and the Mayor and Commissioners will have to review any development proposal to see whether you are comfortable with the proposal as a whole. So the purpose of this is to allow as much reasonable flexibility as possible, again recognizing that what will be ultimately proposed and developed is going to be a function and part of market forces, economic, and demand. Some of which may be known now, some of which may evolve as the project begins to develop. So to answer your question, no we do not have anything like that built into it.

Mr. Fortner asked how will the city have a bargaining position if you didn't have any guidelines to the developer if we want mixed use. That doesn't mean they have a huge gambling facility and then they have like a little gift shop. That means they have a gambling facility but they also have other things. How does the Town best position itself to negotiate a mixed use development that has a variety of entertainment rather than just one use.

Mr. Sussman replied that there may not be a variety of entertainment. This is an ordinance that is intended to drive a commercial type, primarily a commercial type development, perhaps with some residential component if the site is largely appropriate, but the major component of this is a probably a video gaming facility.

Mr. Fortner said that entertainment was a wrong choice, I meant a mixed use. Other types of uses beside gaming.

Mr. Sussman stated that because you are talking about a project that has to be at least one hundred forty (140) acres in size, they do have to come in with first a preliminary site development plan that it generally is going to weigh out what uses they are contemplating within the property and that is something that you, the Planning Commission, this group, that will have to review and consider. Whether you believe that what they laid out in terms of a preliminary site design plan including proposed uses are appropriate.

Mr. Fortner said if they give us a proposal and we look at it, and say there aren't enough alternative commercial uses here will we have legal standing to refuse the plan itself and tell the developer to bring back more commercial, not just this, do we have a legal standing or it is so vague that we won't have the ability to fix it, because we're allowing gaming use in the Town.

Mr. Sussman replied well again you are allowing gaming uses plus a whole host of other uses as we put in there. And again it's primarily up to the applicant to propose what they believe will be an appropriate mix of uses at a particular point in time. And I do think that again it is up to the Planning Commission and the Mayor and Commissioners to look at that mix of uses and to look at the marketing studies that they will submit to you and the other studies that they will submit to you and to determine whether what they are proposing from an economic standpoint, from an energy standpoint, from a land use standpoint, from a transportation standpoint, and everything else makes sense and it is reasonable and will work.

Mr. Fortner stated I get concerned about the market study, where they are going to give us the market study. I would be concerned that they are going to give us the right, that the market study is going to tell us what they want to do.

Mr. Sussman replied let's remember that as part of the approval process you, the Planning Commission can recommend, and the Mayor and Commissioners can require, certain conditions upon the approval of a preliminary site development plan or final site development plan. And if, as you are going through the process, you believe that there are some issues with respect to what's being submitted I think that you do have the right to impose reasonable conditions. Now you can't arbitrarily say I don't see a Cracker Barrel in there, I want a Cracker Barrel, without anything to back it up. But if you look at the mix, you look at the study and you look at everything else and something isn't jiving, something isn't working, then you have, as the Planning Commission with information and evidence that you have before you, or the Mayor and Commissioners for that matter, you believe that there is something that is justified that is not provided for, I think that it certainly could require that by conditions. But as we see with many large projects, involved in discussion and negotiation between the Town, the Planning Commission, and Mayor and Commissioners, and the applicant, you get a project that hopefully will be a partnership and will work for everybody.

Ms. Turgon stated I just have a question, as I read this, the text that is in caps are the amendments, correct.

Mr. Sussman replied the text is in caps as well as the proposed new language.

Ms. Turgon said so if I'm reading this right it is in there that commercial entertainment mixed use development would include, or could include, hotels and residential, correct.

Mr. Sussman replied absolutely. And it certainly is expected that there would be a hotel along with a major commercial entertainment facility because if you see as currently drafted one of the requirements is that in Phase I there be not only the entertainment facility but a hotel and a certain amount of additional square footage and land area of non residential use. And the purpose behind that was to try and ensure that at least at the outset the project would be more than just a video gaming facility, or some other major commercial entertainment use.

Ms. Turgon said but tonight to clarify this, our job is to yea or nay the text as it is here.

Mr. Sussman responded the proposed ordinance, yes. Or if there are some recommendations you have for revisions to that, that is certainly is within your perimeter as well. And Mr. Chairman, after other members of the commission have asked any questions that they may have of me, I do have a couple other comments I want to make about, or I neglected to make, regarding consistency of this proposed text amendment with the Town's Comprehensive Plan. One of the things that you and the Planning Commission need to think about as you look at this, or any other text amendment, is whether it is consistent with the Town's Comprehensive Plan. We have to recognize that we are talking about a text amendment for a proposed new floating zone. It is something that was not necessarily contemplated back ten years ago, eleven years ago, or twelve years ago when the current comprehensive plan was adopted and things have changed. But that doesn't mean that the text amendment shouldn't be consistent with the plan, even though I know you are going to, hopefully not in the too distant future, adopt a new plan. So I went through the current plan to look to see if what we're proposing here is consistent. And I found a lot of areas that I can point to and would like to just highlight for you where I think the proposed text amendment is consistent. And we'll just take a moment to go through those. On page one of the current plan one of the visions is to promote Perryville as a growth center for Cecil County. Now this proposed text amendment provides a zoning tool for a commercial entertainment mixed use development floating zone that would provide for significant economic growth for Perryville and Cecil County, certainly consistent with that notion. Again on page one it talks about framework, the last two sentences of that paragraph for that section, talk about the need to review and update the plan to reflect new development trends, shifts in the economy, etc. I think this proposed ordinance as an implementation of that plan reflects the need for additional zoning tools to accommodate new economic development opportunities that may exist now that did not exist eleven, twelve years ago. With respect to the land use objectives of the current plan, and these are contained on page twelve of the current comprehensive plan, the one goal is to preserve Perryville character and environment, and I'm kind of paraphrasing these, and any CEMUD development would need to be of town scale urban development, something that is talked about in the comprehensive plan and would have to have building designs and materials that draw from the character and indigenous materials of the Town and the region, and obviously all development must comply with current environmental laws. So I think that this heeds this framework and this authorization fulfills that goal. Another goal is to maintain neighborhood stability and property values by guiding growth. The requirements for this particular type of development as authorized by this ordinance must include appropriate

transition to abutting properties through landscaping, buffering, building locations, and things of that nature, and new development is likely to result in increased property values certainly for nearby properties, if not throughout much of the Town. A third goal is to ensure balanced growth that meets the needs and improves the quality of life for residents of Perryville. Development that is authorized by this particular ordinance would provide standard shopping, entertainment and employment opportunities for Perryville residents close to home. Carrying further, one of the objectives, land use objectives that is set forth on page twelve, is to provide for efficient use of land and high quality of site design through use of flexible development controls such as floating zones. So the current comprehensive plan recognizes a floating zone as an appropriate zoning tool to accomplish efficient use of land and high quality of site design. A development under this proposed ordinance would require the efficient use of land and high quality of site design through compact site design, town center scale and extensive site design review processes that include approval of architectural elements of building design. Another objective, a land use objective, is to maintain opportunities for a viable economic base, again development as might be authorized by this ordinance would provide a significant expansion of the Town's economic, employment and tax base. On pages thirteen and fourteen, it talks about existing land uses back about twelve years ago and recognized that existing regional commercial establishments are located along the I-95 interchange. Well, one of the requirements for development under this particular floating zone, if the legislation is approved, would be that the property would have to have access to a highway interchange. Again, carrying forward the theme that commercial development be located around the highway interchange. And finally on page seven, with respect to growth, page seventeen, with respect to growth management it recognized the fact that as of twelve years ago that the Cecil County Comprehensive Plan suggests that future growth in Perryville should take place around the I-95 corridor, and again CEMUD floating zone they're required to have access to a highway interchange. So at least for these types of reasons as well as perhaps others that we could find in the plan, I certainly would feel very comfortable in saying to you that I think that this proposed text amendment is certainly consistent with what is in the Town's current comprehensive plan, and that, I think is what we need to look at in considering whether or not you recommend its approval to the Mayor and Commissioners. Mr. Chairman, I think that concludes the comments I wanted to make.

Mr. Fortner asked with the highway interchange, could that include Route 40 and are there reasons why Route 40 could be included.

Mr. Sussman replied that it could be. But I don't know if there is any land in that area that might be suitable for this. But this again, this is not property specific. This could be applied elsewhere in the Town if there was an appropriate site and if there was an interest. Again, just as I said at the outset, that we are not talking here about any specific project. We're not talking here necessarily about any specific site.

Mr. Fortner said what if you didn't create this CEMUD, what if they just went through the MUD process, how would it be different, but what if we didn't approve this.



Mr. Sussman replied that if you didn't approve this there is no vehicle right now to allow a video gaming facility in the Town, as part of the Town's Zoning Ordinance. In meeting with the Mayor and Commissioners and thinking about what the Mayor and Commissioners were attempting to accomplish here, and also recognizing that there is a significant potential site upon which this would happen, the Mayor and Commissioners wanted to see that entire site get developed as a comprehensive mixed use commercial development with a significant commercial entertainment facility as essentially the anchor, if you will, whether it's a video gaming facility or some other type of major commercial entertainment facility. And that would be the goal of what we're trying to put together here.

Ms. Turgon said so in that case, the floating zone then they could come before us and say they want to do it on Route 40 and we could say we don't want it there, correct.

Mr. Sussman replied if you determine that is not an appropriate location.

Ms. Turgon said that is the whole purpose of having that float.

Mr. Sussman replied exactly. Because you as the Planning Commission, and the Mayor and Commissioners have to evaluate the proposed site as well as the proposed project and determine whether or not it meets all the criteria and whether or not it is appropriate for that particular location. And that's the purpose of why it floats.

Chairman Heimberger asked if there was any type of gaming involved in this other than the video lottery terminal.

Mr. Sussman replied no, that is the only type of gaming that is currently allowed by Maryland law.

Chairman Heimberger said there are gaming tables that are electronically run.

Mr. Sussman said all we're talking about here is a video lottery facility, a video lottery machine. A video lottery terminal. That's what we're talking about. And I think that it is fair to say, and I'm sure the Penn National people will tell me if I'm wrong, that not only are we looking at all of the local land use regulations but any video lottery facility that we approve anywhere in the state is going to be subject to very heavy regulations, scrutiny and oversight by state regulatory authorities as well. And if there are going to be any alcoholic beverage within any of these facilities then that will totally be subject to oversight and scrutiny by the county liquor board. So there are going to be a number of areas of scrutiny and regulations here.

Chairman Heimberger asked have there been any type of survey, if that's the proper wording, to determine what this going to bring to the Town as far as money.

Mr. Sussman replied I think we are going to hear from Dr. Bellas in a few minutes about that issue.

Ms. Skilling said just to answer your question about our next speaker, we realized that there may be some consideration of the economic impact that this is going to have to the Town. The Town and the county worked together to get some funding through the economic development in Elkton to hire Dr. Bellas from Urban Analytics, and Dr. Richard Clinch from the Jacob France Institute of University of Baltimore, in providing an economic fiscal impact on the Town and Cecil County and if you would like to see a copy of the presentation, it is in Power Point, and after he is finished talking, again, Planning Commission feel free to ask questions about the impact study. The next step would be actually to get public comments.

Dr. Dean Bellas stated I am with Urban Analytics, in Virginia. My colleague Mr. Richard Clinch at University of Baltimore could not be here this evening and extends his apologies. This is a very interesting assignment. Our firm was engaged by Cecil County and the Town of Perryville to look at the economic and fiscal impacts of this proposed development project. We were instructed to look at, not just the proposed video lottery terminal facility but also conceptually look at the possible land uses that could be fully developed at this site. Before I get into the findings of our study, I just want to talk a little bit about in general terms what economic impact studies are and what fiscal impact studies are so that everyone is on the same footing. Economic impact studies: the purpose is to measure to calculate to a locality, whether that locality is a county, a city, a town, or a state, economic impacts that result from increased capital investment dollars in your community. So in the most basic sense of the concept, when you go to a local restaurant and spend money on a meal, you are contributing to the local economy. You are giving money to the restaurateur who in turn buys the food, prepares the food, hires employees, pays rent, pays electricity, utility bills and whatnot. And this economic impact has a multiplier affect with the local economy and so for every one dollar (\$1.) that you spend in the local economy there is a ripple effect that ripples through to other local businesses in the community. The federal government through the Bureau of Economic Analysis pairs very detailed datasets on the economic effect, on the multiplier effect of spending in every single county in the country. They don't do it at the town level or at the city level, there are some other studies where they do that, but it's primarily at the county level. So for every one dollar (\$1.) in construction spending or every one dollar in the annual operations of some public facilities, whether it's a video lottery terminal facility or if it's a restaurant, or an office building, there is a ripple effect that goes through the economy and that ripple effect increases the amount of payroll being paid to workers in the community plus it also adds new jobs. The fiscal impact analysis is a little bit separate. It's an analysis that looks specifically at the local level. How much potential tax revenue in non taxed revenue like fee revenue that a potential project will generate and what the town, the county, or the city have to provide in local public services, in order to support that. So when we think about revenues, we think about real estate taxes, personal property taxes, sales taxes, meals and whatnot. But there is also a whole host of other types of revenues that towns and cities and counties collect. And they range for everything from marriage license fees, or animal, dog license fees, to charges for services for the very services that the municipality can charge for. On the other side of that analysis is the local municipality, whether it's the town, the county, or

the city that provides those services: police, fire, public works, public education, parks and recreation, general government administration services. So what we tried to do was we tried to estimate the potential tax revenue that the proposed development would generate once it is fully built and occupied, and then look at what we think the town or the county will have to spend on public services in order to provide the same level of services that the current residents and businesses in the Town currently enjoy. When we do this type of analysis we're always looking at a large range of variables and almost always we have to step back and look at this at the conceptual first. Because there are so many variables involved in development of land that any set of variables can have an effect on the ultimate outcome of the fiscal impact and the economic impact. So when we look at these and we prepare these studies, these studies are never really cast in stone. They are very fluid, they are very flexible, their purpose is to give you a good sense of what could be generated from this project and how these revenues could best be of benefit to the local town or the county. So, having said that, I'm going to go straight to the findings of the study, which would be on page nineteen (19) and hopefully you will be able to see this, the screen isn't that big. There will be a report coming out. We prepared a series of power point slides for tonight but we will be preparing a report that will document everything that we find in the analysis. What we were asked to look at and I'm going to talk tonight only about the fiscal impact to the Town, we were asked to look at the fiscal impact of the county as well as the economic impact to the county, but since this is a Town Planning Commission meeting I thought I would just concentrate on the Town's impacts. We were asked to look at not only the proposed video lottery terminal facility but also any potential land uses that would be developed at the site. In order to do that, we have to have a building program to run through the model. At this stage of the game it is very preliminary, at this stage of the planning process, everything is a little preliminary because we're still conceptual. There are many things that need to be considered in terms of how you want to develop the site, and what are the best potential uses for the site, but we have come up with a, the applicant has come up with a conceptual building program that he has asked us to work through the model. Before I get into the findings, I forget to say one thing, I do apologize. Let me just tell you what the goal of the impact analysis is and what we did. We looked at the audited financial statements of the Town of Perryville. These are your statements that your offsite auditor prepares. The auditor comes in, looks at your books, and determines how much revenues came in to the Town last year 2008 and what the Town spent on town services. So we looked at every single line item on the revenue side and the expenditure side and then we followed up with a series of interviews to different department heads both in the Town and in the county to really understand and get a better understanding of how the Town provides services to not just the residents of the Town but also the local businesses in the Town. Having said that, we developed a very, we have a fiscal impact model that we would recalibrate. In every town we go in to, whether it's in Maryland, West Virginia, Virginia, DC, Kansas, wherever we have been. So we have a very detailed set of local data that reflects how the Town of Perryville spends its money and how it collects its money. How it collects revenues through the various sources of revenues and how it actually provides services. The fiscal impact that are being proposed for the project is intended on how the Town generates revenues and how it provides public services. So the fiscal impact of a video lottery terminal facility in the Town of Perryville would be

different if that facility was located in Baltimore or on the Eastern Shore or any other county or town in the state of Maryland. So these findings are very unique to the Town of Perryville. And they are at this stage preliminary findings, we will have a little more data analysis that we need to do, but I am confident to stand here tonight and to give you these draft findings and I'll be more than happy to answer any questions you may have. So, we separated this fiscal impact enough so we have, one, what's the impact of the video lottery terminal facility on the Town. Two, what is the fiscal impact of the potential non-residential land uses that would be proposed to be built on this site conceptually. And three, to look at the state legislation in terms of what the state feels the Town and the county will receive from having a gaming facility here in the Town. This slide we have here on page nineteen (19) is the findings. So what we have here is for the video lottery terminal. After talking to the applicant and learning more about what they are proposing, we broke up this analysis in what I call three phases. Phase I being building the facility with initially fifteen hundred (1,500) slot machines in the facility. Phase II that fifteen hundred base of slot machines grows to two thousand (2,000) slot machines, and Phase III that grows to twenty five hundred (2,500) slot machines. We did it this way because in any type of fiscal impact analysis, you always want to look at the best case scenario, the realistic case scenario, and the worst case scenario. It's hard to do that at this stage because everything is so preliminary and this is all very new, not just to the Town of Perryville and to Cecil County, but all the counties in Maryland who are, the other counties in Maryland who are designated to have these types of facilities. So, what we did is we looked at the first one, Phase I, what we did we looked at all the Town revenues and all the Town public services that are provided and we feel that at the full build out of fifteen hundred, in a facility that contain fifteen hundred slot machines, looking at the real estate taxes on the property, looking at all the other sources of revenues that would be generated by the workers in that facility, that at completion of fifteen hundred slot machines, the Town would expect to generate about five hundred nineteen thousand dollars (\$519,000.) in annual revenues. So after it's built out and its actually operating and its generating revenues, it's an ongoing establishment, we have estimated based on your financial statements and how that money is generated in the Town that this facility could generate five hundred twenty thousand dollars (\$520,000.) in revenues to the Town. Conversely, the Town has to provide some public services. The way the model is set up, it's not set up to actually look at the amount of services that be provided, but it's to look at who has access to those services. So I could move to Perryville and live here for the rest of my life and never have to call the police department or never have to call the fire department, or the ambulance service, or I could live here and never come down to Town Hall. So it's not whether I actually use those services or not, but it is do I have access to the services and that's part of what makes most communities a desirable place to live. It's what type of public services do you offer and do you want, and people move to your town for a variety of reasons, one of them being it's a great place to live. So we've calculated that. Although you'll receive about five hundred twenty thousand dollars (\$520,000.) in annual revenues, there is a cost. And that cost right now we've estimated at roughly three hundred twenty five thousand dollars (\$325,000.) a year. So the cost to provide everything from public safety services, public works services, parks and recreation services, the cost of running the Town Hall and general government administration, we've estimated that cost to be about three hundred twenty five thousand

(\$325,000.). The net fiscal impact to the Town would be a surplus of one hundred ninety five thousand (\$195,000.) a year. That's at the build out, if you developed a facility with fifteen hundred slots in it. If we go to what I call Phase II and we mandate the facility that would support two thousand slot machines, we think the total revenues to the Town would be roughly six hundred fifty six thousand dollars (\$656,000.), public services would increase a little bit because there are more workers associated with the additional slot machines and more services that have to be provided by the Town. The Town's cost of public services would increase to about four hundred forty five thousand dollars (\$445,000.) a year. The net fiscal impact would be about two hundred and ten thousand dollars (\$210,000.) a year to the Town. That's money that would be coming in to the coffers of the Town. The last phase, Phase III, assuming that the facility is built and all twenty five hundred (2,500) slot machines are in the facility, and all the workers required to operate that facility and the facility is large enough to support this, we estimate that the total tax revenue to the Town from all sources will be about roughly seven hundred eighty one thousand dollars (\$781,000.), your cost to provide services would increase to about five hundred twenty six thousand dollars (\$526,000.) a year, the net fiscal impact would grow to about two hundred fifty four thousand (\$254,000.) a year. So we have a range. We have a range of the net fiscal impact of the Town at full build out ranging from one hundred ninety five thousand dollars (\$195,000.) a year to about two hundred fifty four thousand (\$254,000.). This is net tax revenue coming into the Town of Perryville which you would then, your elected officials would, how they choose to use that money in conjunction with the interests of the Town is something for you to decide. The second thing we looked at is the non-gaming advantages of that, are proposed for this site. Again, as I mentioned, I was given a conceptual building program of what would go on this site, in addition you've heard about a hotel going on this site, well there are other conceptual land uses that could potentially go on this site based on the way the site is laid out and based on the vision that the developer has for that site, in terms of site planning and what he wants to see there. And those land uses range anything from a multiplex cinema to office buildings, retail stores, restaurants, different types of restaurants, and whatnot. And there is a table in this set of slides that talks a little bit about the proposed preliminary plan and that is what the planner ran through the model. So if that plan were to be fully built out and that is roughly six hundred twenty thousand (620,000) square feet of various types of land uses ranging from again the hotel, to restaurants and retail stores and a cinema plex and whatnot. At full build out we've estimated that the total tax revenues to the Town would be one point four million dollars (\$1,400,000.) and that is estimated on an annual basis. In turn the Town would have to provide roughly one point two million dollars (\$1,200,000.) in expenses a year; that comes up to one million one hundred eighty two thousand five hundred seventy dollars (\$1,182,570.). The net fiscal impact to the Town from those non-gaming type uses, those non-residential land uses, would be almost two hundred seventy thousand dollars (\$270,000.) a year. So you have a site here that if you developed it to its full potential working with local architects, civil engineers and urban planners in developing a site that would really esthetically be very pleasing but at the same time but also add to the amenities that are currently provided to the Town of Perryville. You could receive two hundred seventy thousand dollars (\$270,000.) a year from the commercial component and anywhere from one hundred ninety five thousand dollars (\$195,000.) a year to two hundred fifty four thousand

(\$254,000.) from the slots, from the net tax revenues generated from the slot machines, the gaming facility. The last thing we were asked to look at is what would be the share of actual gaming revenue, gaming tax revenues that would be returned to both the county and the Town from the operation of this facility. Well this is something that the state legislature has; their goal is of course to have money be distributed back to the Town for the towns and counties to have these facilities. The Department of Legislative Services conducted a study to try to estimate what potential gaming revenues could be. Now at this stage of the game it's still again very preliminary because all land development, whether it's a gaming facility or it's a multiplex theatre or it's a supermarket, all land uses are subject to market forces. Everyone is aware of the current shape of our economy now but when times are good we kind of forget that there is always a period of time when times are bad. So we're at a point in the cycle now that has everyone a little bit concerned about the current economy, where is the current economy going, but looking back over time and looking at the economy in the United States, the economy in Maryland, the economy of Cecil County and the Town, we all know this is cyclical in nature. So when you look at these economic fiscal impact studies you have to try to make an estimate, a projection of revenues based on the best available data you have. Based on the best available data that has been proposed out there and what has been given to me to analyze and looking at, again the revenues and expensing structure of the Town, looking at what is proposed, and this is what the state is doing too in terms of gaming revenues. We've tried to come up with these estimates. The state has come up with an estimate for potential tax, gaming tax revenues that would come back to Cecil County and the Town of Perryville and that ranges from four point nine million dollars (\$4,900,000.) a year if there is fifteen hundred (1,500) slots machines in the facility up to ten point six million dollars (\$10,600,000.) a year if the facility is built with the full contingent of twenty five hundred (2,500) slots machines. Based on those numbers and based on the distribution that's been agreed to between the county and the Town, where the split is roughly sixty five percent (65%), it is sixty five percent (65%) to the county and thirty five percent (35%) to the Town, the Town's potential share of gaming tax revenue could run from one point seven million dollars (\$1,700,000.) a year up to three point seven million dollars (\$3,700,000.) a year. This is based on the study that the Department of Legislative Services has conducted. What will be the actual revenues coming to the Town? We don't know that yet because again we'll still at the conceptual stage of this proposed facility. What I always say to all of my clients whether my clients are towns and counties in the public sector or clients in the private sector is you come back in three, four, five years after the facility is built and run my analysis again and look at what I currently have here as a conceptual analysis which is kind of like the base line analysis and then go back and look at the actual revenues that are coming into the Town. So I'll conclude by saying that at full build out, fully built and fully occupied, fully tenanted, no matter what the land uses are, whether an office building is built then that office building is fully leased up, it's not vacant. At full build out and occupancy you're looking at somewhere about a half million dollars (\$500,000.) a year in tax revenues coming to the Town and you're also looking at an additional one point seven to three point seven million dollars (\$1,700,000 – \$3,700,000.) a year in gaming revenues that are going to be returned to the Town from the state. So thank you for your patience. I'll be very happy to answer any questions. I had prepared thirty two (32) pages of slides for

tonight but obviously we didn't go through all thirty two pages of slides but my contact information is in the back with the power point slide that we have and I'll answer any questions you may have tonight.

Chairman Heimberger said generally speaking with any business the major outlay of dollars is for salary. Now when you do your model are you saying that we are going to increase the amount of jobs that are going to be in Perryville.

Dr. Bellas responded that what I'm saying is that we build all these facilities, that they need to have workers. These are net new jobs to the Town or to the county. We don't really; the facilities have to have workers in them, just like this facility has workers in them. But where they live, whether these workers decide to live in the Town, become residents of the Town, or live in the county, or live in Delaware and drive to work every day, what we're saying is these are net new jobs by place of employment, so we've estimated based on the six hundred twenty thousand (620,000) square feet that's proposed for this site, how many workers need to be on that site to support all of those land uses.

Chairman Heimberger asked Perryville workers. In other words the Town of Perryville is going to hire these people or is, that is what I'm trying to figure out.

Dr. Bellas replied no, there are actually two stages here. The workers that we've estimated in this analysis are the workers that are going to work on this site.

Chairman Heimberger replied that I understand. My question though, is that when you're saying it's going to cost the Town of Perryville x number of dollars, of what percentage of that is salary. We're already paying these people.

Dr. Bellas responded that you are paying the salaries of your current employees. And to the extent that you decide to hire more Town workers, more police officers, or more administrative personnel in the Town, those salaries are factored into these estimated expenditures. So I've taken your current, what we call level of service, the type of services you currently provide to the residents and businesses of the Town and we've taken that, and we extend that forward, we held it constant at two thousand eight (2008) dollars and we hold it constant looking into the future. So what does that mean; that means you have a Town Administrator, Denise. In the future Denise needs to have two co-administrators or more support staff. You're increasing; you can do one of two things. You can either increase the amount of Town staff where you have, based on the same way you're providing services now to the residents, or you can decide I want to provide more services to our residents and actually hire more Town workers than you currently offer.

Chairman Heimberger said that is what I'm trying to get at. It's an additional amount of employees, not current employees. Now has anybody taken into consideration that forty miles up the road there is a gaming place and its tax free.

Dr. Bellas replied we looked at, that question is really a question for the economic impact side of this and obviously we did not discuss tonight. There is constant called an economic public substitution and in its very simplest definition of that is that why do I need to buy a product or a good or a service if I can buy it somewhere else either at a better price or a better quality or whatnot. We've looked at, we're cognizant of the facility in Delaware Park, and that is what I assume you are referring to. We're cognizant of the fact that there are going to be up to four other locations in the state of Maryland, so these facilities, this facility, and I think part of it is reflected in the study that Department of Legislative Services conducted, is that because you're going to have all these five facilities in the state that the potential amount of gross and in revenues generated from the video lottery facility may not be as high as if there is only one for the entire state. So all that has been taken into consideration and again it's our best estimate based on the current data that we have now, and this develops like everything in life, is subject to change. But we feel confident that having taken into consideration the facility in Delaware Park and the other facilities in Maryland, that these revenues that we have projected based on what is proposed to be built seem plausible. They seem to be feasible.

Chairman Heimberger asked does anyone want to go next.

Mr. Sussman stated I just would just like to clarify one point. I may have made a statement in response to one of the questions about whether a facility, a project under this ordinance could be located along Route 40. And I think I said that it could be, but upon reflection I would probably have to take that back. The reason I say that is because one of the criteria for designation is that the land will or has or will have access to a highway interchange. I don't believe that there are any interchanges along Route 40, that is not a controlled access road. So I think for that reason a site along Route 40 probably would not qualify.

Ms. Skilling commented if there are no more questions of Dr. Bellas, no questions from the Planning Commission, Chairman can open up the meeting for public comment.

Chairman Heimberger asked for questions from the members of the public and asked each speaker to come to the podium.

Ms. Georgia Galicki of 605 Aiken Avenue stated that one of the questions I have is after the initial fifteen hundred (1,500) slots are open and are operational the building is built and people are coming in and starting to use the machines, how long after that does the Town start to get their money. Do we get our money: you open up on Monday and at the end of the week we're generating income, or is there an offset for you all to recoup your investment in the casino before we start seeing our money.

Dr. Bellas replied that I can answer part of that but the other part may be better answered by the operator. The first part of your question is a logistics question. If the facility is up and running, it's open for business, it's generating revenues, that's the process by of course they make remittance of tax payments to the state, is a state issue. So applicants come to the state, applicants come to the town is a logistics question. But I have not read



anywhere, and at least the information I have that there is going to be a delayed period of time to pull back funds to recoup any initial investment but I'm not that familiar with the actual logistics that the state legislature has come up with. If the applicant knows that, maybe they could answer that.

Steve Snyder from Penn National Gaming, responded every dollar that goes into the slot machines goes to the state first, it doesn't go to the operator. On a daily basis, the cash is swept, it's collected by the state. The state will remit its portion to the Town and the Town will receive its portion of the local share from the first dollar, but the actual timing is yet to be worked out by the lottery commission.

Ms. Galicki replied so what you are saying is that you may negotiate with the state to have an offset before you actually have to start....

Mr. Snyder responded we can't. It's in the law. The law requires that the state collect each dollar of revenue that is produced by the slot machines at the end of each day and remits back to the operator its share of the cost, its share of the revenue, and to the communities, their shares based on whatever mechanism they establish.

Mr. Dwight Thomey, Attorney, stated I'm here, I'm a resident technically of Elkton now, but I'm here in my capacity representing Penn National Gaming. We have a presentation we would like to give to the Commission. Penn National has been conversing, has had meetings with the public, has been conversing with the Mayor and Commissioners for some time and obviously are interested, very interested in the Perryville site but also we're trying to make a determination as to whether or not they are going to pull the trigger and actually make an application here in the next month or two. And the Town has been very good about working with the process of developing a methodology whereby we could get permitted for a gaming facility, because obviously it wouldn't make any sense to spend a huge amount of money they need to spend to file the application with the state if the Town Zoning Ordinance wouldn't allow for a facility of this nature in any event. We have reviewed the proposed ordinance and we had submitted some comments back and forth to Mr. Sussman and the Mayor and Commissioners and we were advised that we should probably come here this evening and at least give you our comments. And I want to tell you that our comments are primarily addressing those concerns we have with the language as to whether or not Penn National can actually get permitted for their site within the, what we believe is going to be a limited time frame the state is going to give to various applicants to get their zoning permits, their building permits, to get up and started. There is no secret that the state of Maryland is very interested in this all getting moving and the revenues start flowing in because as you just heard, as the revenues come in and they grab all the money and then pay back out to whatever is left to the operator and the locals. So there is going to be a tight time frame and our concern that we're going, the concerns that we addressed in our comments that we will give you so you have something to work from, basically raise issues that cause concern about whether or not Penn National is going to be able to actually get a permit to build on this site and meet both state requirements and the Town's requirements, because we have to meet those. So that's what those are about and

again they primarily address our concerns about some of the provisions in the ordinance that might prevent Penn National from being able to get the permit from the Town to go ahead and start building with the time frame within the time frame we would need to build. And I would like to emphasize to you as Mr. Sussman said earlier there is going to be an overall general plan that you're going to have, that you're going to approve and then we're going to work forth on specifically what Penn National is going to be doing on their site. So you're going to know what the proposal is for the other mix of uses throughout the site and generally where they are going to be. And you're going to be able to keep applying that as everything else develops over time. But in all candor, typically the way these things develop is you get your anchor first. You get somebody there that generates traffic interest, gets the utilities in the ground, etc. and then the other things start coming along over time. So we want to make sure that Penn National can go ahead and get permitted for their site within a timely fashion and meet your requirements as well as state requirements and then you'll have this general plan that you'll be able to work off of over the years, you or your successors, as the rest of the development occurs. Because a site of this size could frankly take fifteen, twenty years to develop out, it wouldn't surprise me at all. That's typically how long these kinds of things take. We don't want all of this to suddenly all pop up over night and the Town wouldn't be prepared or the county wouldn't be prepared for it, nobody would. You want it to occur in an orderly fashion. So, we just want you to keep that in mind. I will present the specific comments so that you have something to work with as you are doing the difficult task of trying to make your recommendations to the Mayor and Commissioners. And certainly we are available, I'm available, my colleagues at Penn National have been making themselves very available for any questions that you might have as you go through that process. And we again want to thank you for allowing us to be a part of this whole process.

Ms. Skilling stated that Penn National has submitted comments for the Planning Commission to consider as part of the record. So if anyone would like a copy, there are copies here that you can look at. Is there anyone else who would like to speak?

Eric Morsicato of 18C Owens Landing Court, commented that actually you are talking three to four million dollars in additional revenue on the high end, but what I wanted to know, it's more a finance question to the Town. What is the general fund budget right now? Just generally speaking.

Ms. Breder, Town Administrator, answered I don't have the budget with me but I think it's around six million, general fund total.

Mr. Morsicato said that includes public works, right. I'm talking more in terms of just general fund because public works is a fixed account. What I'm trying to get to is.....

Ms. Breder said you are thinking water and sewer.

Mr. Morsicato replied, yes I'm thinking of water and sewer, but just the general fund itself.

Ms. Breder stated it's about six million. I'd have to look.

Mr. Bellas commented I have 2008. Your operating fund, the general fund for operating was twelve four point five and that does not include all the other enterprise funds.

Mr. Morsicato stated that I guess what I'm saying is that looking at it, kind of the low end of around two million, if you look at ranges, and then the high end could be up to five or six million dollars, you adding again probably forty to ninety percent of your budget, your general fund budget, and that is a tremendous benefit to the Town. Any way you look at it. I mean if you look at the low end it's a tremendous benefit, and maybe the Mayor and Commissioners could look at lowering taxes, maybe they could look at more programs, and for those that gamble too much, maybe we could even add a gambling place for people to not gamble anymore. But those are the types of things I think that are important. But the other thing I wanted to say is looking at the past, you're talking about the comprehensive plan before, and we kind of, the Town kind of put the cart before the horse. We did a rezoning and a new plan. We only finished that about three or four years ago and that was a five or six year process. Is the Town working on a comprehensive plan now? They are working on the comprehensive plan but the whole theory behind the comprehensive plan was to set up these floating zones and I'm sure the zoning board is aware of this, but the idea was to develop those areas, just like we did with the Hill property, I think you've done a charrette now or something on that property. But if you remember, there was a lot of give and take in that. And I read over these regulations and they don't change much with that. I think you are going to have a lot of input in the process just like you did on that property. I think it's exciting. I think it's something that is needed by the Town. I'm looking at that just from the position of the revenue that it is bringing in and it really goes along with what the comprehensive plan has said and I think there's been maybe four or five different commissions that have kind of pushed the same thing for a long time. I must say we pushed the video gaming machines, electronic video gaming machines but they wanted development in that court and that development brings in a maximum amount of revenue with a smaller amount of services then you will have with, for instance, even with residential uses where you will have, which doesn't hit Perryville but it does hit the county, where you will have a lot of expenses in education and human services. Anyway, that is all I have to say.

Chairman Heimberger asked is the Town aware of these comments from Penn National, I assume the Town is aware. (Penn National comments are attached for reference.)

Ms. Skilling these comments, yes we just received them today, this afternoon at four o'clock. So I know you probably have not had a chance to look at them. A lot of the things are variations of the text, probably text changes, and I think some of these were discussed with Mayor and Commissioners so it is up to you if you want to read through them. I know I have looked at some and discussed some of them with the Mayor and Commissioners so I don't know whether you want to take them and have a chance to look at them.

Chairman Heimberger replied we certainly should read them.

Ms. Skilling said they are possibilities of changes to the text that they are recommending and in that case we would have to go on and we were to have a meeting next Tuesday evening if you would like we could continue this, not close the meeting but keep it open and discuss. Give you time to review the additional information that has been provided and have a meeting Tuesday night to finalize it and make a motion.

Chairman Heimberger stated I don't see any other way, there is no way we can review it now.

Ms. Skilling replied because you just got that. It really doesn't give you any opportunity to and it's pretty lengthy in discussion.

Chairman Heimberger asked who has read them.

Ms. Skilling said we looked at it this afternoon briefly, obviously, but some of these issues have been discussed in meetings with the Mayor and Commissioners but these are now being presented formally to you and to be followed through with the Mayor and Commissioners, but you are to make recommendation based on what comments are being presented here, whether you think that these text amendments should be added, should not be added, this is the decision that is being asked of you, to review them and potentially make a recommendation.

Ms. Turgon said my comment would be that these are modifications that Penn National is requesting and our job is to create an amendment, or create a commercial entertainment mixed use development zone and not necessarily for Penn National. Whatever we create has to be a zoning ordinance for anyone, not necessarily what works best for them.

Ms. Skilling responded the ordinance that was developed took into a lot of consideration of, I believe, I know, that what a lot of the Mayor and Commissioners thought would be, staff made some comments of what we think, and you have gone through the process already of a MUD (mixed use development) so knowing all those things, those considerations were formulated and really the final crafting of this, a lot of those comments were put into the existing CEMUD. So what you have before you and what you've reviewed, knowing that we do have an existing MUD and the kinds of things we have to deal with. It is really your decision but you really should, I guess you owe it to the individuals who presented this information, at least to review it.

Mr. Thomey stated if I may, a number of them, particularly a couple of them early on, I think some of them we've already discussed with the Mayor and Commissioners and they may be ok with some of the changes and some of them I'm sure they are going to want your input from. But when we looked at the ordinance we were not so worried about the general concept of how you are going to go through it. I think there has been fairly much agreement on that to a large degree but there was a lot of concern about the fact that this particular portion of this CEMUD, if Penn National is going to make their application to

go forward they are going to be driven by forces beyond their control to operate and get up and running pretty quickly. And they are going to be required by the State of Maryland to make a very, very sizeable investment in the very immediate future and unfortunately neither the Town nor the parties involved had a lot of time to work with this. As you know this statute was passed at a referendum in November. They just within the last month created the commission at the state level and that commission is as we speak spewing out regulations that we are going to have to comply with. And so what we've tried to do, based upon the information that we got, is to come back to the Town and say these are some of the concerns we have based upon what we're hearing from the State as to what we're going to have to do. Frankly, if the State had come out with regulations that said, look you have three years, don't worry about it, you don't have to put any money at risk until then, a lot of those concerns probably wouldn't be in there. But that's not what we're hearing. What we're hearing is there is going to be a very, very sizeable deposit that has to be made by the first of February and by mid April we better be able to show them where we're getting permits. That doesn't give the Town or the applicants or the property owners much time to work with. We are very pleased with the fact that the Town has been trying to do the best to work along with us and try to make this a process that works for the Town and works for the people who are going to be making this investment, within a very tight time frame that the State has allowed us to work with them.

Ms. Turgon said I guess I would want to see that the State has put those time restrictions on them. What is the time line that you are actually working under?

Ms. Skilling stated we should defer this to Mr. Sussman on this and let him speak to this issue because at this point we are at a point where we need to know whether the Planning Commission has enough information.

Mr. Sussman stated I had a discussion yesterday afternoon with the people at the State Lottery Commission who are working on this particular issue because the issue just came up in another meeting we had with the Mayor and Commissioners the other night with representatives from Penn National and the Stewart family. The Mayor and Commissioners were concerned about what the time line is and what I was advised yesterday afternoon is that as we've been told there needs to be an application filed I believe by February 1<sup>st</sup> or the 2<sup>nd</sup>. A supplemental application with additional information by April 15<sup>th</sup> and part of that application process the applicant will need to tell the lottery commission what the process is that the applicant will have to go through to get final zoning approval. I also was told that the lottery commission may and most likely will make awards of licenses to applicants before they obtain final zoning approval. But no license will actually be issued until final zoning approval is granted. So that is what I was told yesterday afternoon by representatives from the lottery commission.

Chairman Heimberger stated so you see, we've got a rock and a hard place, basically that's what it boils down to.

Mr. Sussman replied well I think it fair to say that the Mayor and Commissioners need to be in a position to take some final action on this particular legislation to authorize, at least the creation of CEMUD floating zone at its meeting on the 29<sup>th</sup>. I think it is on Penn National, the applicants they are going to have to make a sizeable investment in making an application fee and they would like to at least have the assurance that there is a zoning mechanism in place to be able to get approval for a video lottery facility. Now, they certainly would like as much assurance as possible that they will be able to get the ultimate approvals and as they do indicate that this is something that involves not only them, Penn National that would be operating the video lottery facility and controlling approximately a thirty acre site, but their ability to have that facility is tied into a larger project. A project on land that is primarily, as of right now, still fully owned by Principio Iron Company owned by the Stewart family. And there's going to have to be an application for a CEMUD floating zone filed by certainly Principio Iron as the owner and if at that time Penn National has exercised his option to the thirty acres, then they would have to join in that application. And before Penn National can actually come in for its final site design plan for its thirty acres, there is going to have to be a whole project site will have to go through the process for designation and preliminary site design plan, etc. So they are one piece in a much bigger puzzle. I think that is fair to say and that is a significant business concern of theirs and they are looking for as much assurance as they reasonably can get as quickly as they can get it before they make significant financial investments that they will be able to carry out the project in the way that they envision they need to.

Mr. Fortner stated I guess my recommendation is that we don't lose track of the big picture of what this ordinance is. We're familiar with the ordinance. We should go ahead and have a public hearing on the ordinance and give a recommendation. We are an advisory committee on this. We should give a recommendation based on best knowledge that we have reviewing this and then maybe approve the ordinance with recommendation that staff and Mayor and Commissioners further review this to make sure there are no pieces that would be detrimental to the Town. Just reading over it, it seems like its technical wordy stuff to me. But it should have a full legal review from our legal staff and then a recommendation from legal staff to the Mayor and Commissioners about how it would impact the Town. So my recommendation would be to continue with the public hearing.

Ms. Turgon agreed that is my feeling as well, if I'm understanding Mr. Fortner correctly. Is to make a recommendation on what we have before us and then if we want to have some language that somehow the Town review. Because everyone came here tonight and we studied this, we were prepared, and we had our questions. And I'm thinking that this is a curve ball at eight o'clock. You know, we were not prepared to review all of that. But this still gets you going where you want to go. We need a CEMUD.

Mr. Fortner said that what I'm suggesting is that we proceed, that we give them a recommendation and let the process continue, and these comments need to be reviewed by staff and then, we're advisors to the Mayor and Commissioners and the Mayor and Commissioners will need to also be very familiar with the comments, and they will make

the final decision whether it's going to, whether its not appropriate or whether it is. I think we should just proceed with the public hearing and not lose track of the bigger picture. Most of this is just little technical things. Our recommendation will be based on further review of this, if we give a recommendation for it. And to be further reviewed by Town staff and Mayor and Commissioners.

Chairman Heimberger asked who actually sat down and went over this.

Ms. Skilling replied some of these comments were actually discussed in a meeting with Mayor and Commissioners, and many of what you are seeing here have already been discussed and they are just being brought up again and again some of these are very minor changes based on what Penn National wants to see in the ordinance. I think you need to look, and I agree, at the bigger picture. What you reviewed, the CEMUD. Do you think that the CEMUD, based on the planning, based on the comprehensive plan, is consistent with all these things, and do you feel that these things would help direct the Town in a way that will allow them with a lot of standards that are already put in this MUD to achieve what the Town likes to. Are these, the information that is being presented here, yes the information that they are asking about, we have looked at them, the Mayor and Commissioners have looked at them, and we can do that if you want to make them a condition we can look at this and discuss it. Actually we can attach this to your motion that these be looked at by staff, or go on to Mayor and Commissioners for their consideration. That would be the best thing.

Chairman Heimberger stated I have a motion, do I have a second?

Mr. Fortner said you need to make a motion right now, I was just saying we should continue. Whether we make a motion to recommend. We're going to recommend or not recommend this, not this. I don't want to lose track of the bigger picture, just recommend that for review. We will focus on this and we defer this for further review.

Ms. Skilling said or you can just do this as a condition to the attached and be the consideration for Mayor and Commissioners during their review.

Ms. Turgon said obviously we are not doing the approval.

Ms. Skilling replied not an approval, no.

Chairman Heimberger said we are at that point, is what I'm getting at.

Ms. Skilling replied that is correct, you are at that point unless there are any more comments from the public.

Mr. Sussman stated I would just like to comment for a second about your process. As I see it you really have two alternatives. Number one, you can continue the public hearing Tuesday night if you want to take an in-depth review of Penn National comments in light of the ordinance. That is one option. The other option is, as Ms. Skilling has been

suggested to you, to look and consider the ordinance and you're looking at the bigger picture from a planning perspective as to the purpose and intent of the ordinance. We've taken a quick look at the recommendations from Penn National, some of them are relatively minor, some of them go to the issue of how do you deal with the parcel, what we'll call Phase I of which a video gaming facility will be located in relationship to the rest of the site in terms of how closely is it tied to development of the rest of the site. Some of the suggestions again as I have said are relatively minor. I don't think any of them really affect the overall purpose and intent of this particular floating zone. So, if you were to decide that you think your review of the proposed ordinance shows that the ordinance as drafted is appropriate, you certainly could recommend to the Mayor and Commissioners favorably that ordinance and as we said, that the Mayor and Commissioners consider the recommendations of Penn National and incorporate such of them as the Mayor and Commissioners deem appropriate and don't change the overall fundamental purpose and intent of the ordinance. I don't think any of them do, from my hard, quick review, but if there was something that did change the overall purpose and intent then that may be a little bit different issue. Like I said, my review, our review, I don't think reflects that. I think a lot of it is, some of it is tweaking, some of it does try and deal with the issue of how do you address the gaming facility operators need to have some assurance to be able to move forward in a relatively unconditioned basis recognizing that this is going to be a project that is going to go over many, many years and how do you balance it in the interim but that still doesn't change the overall purpose and intent of this ordinance.

Chairman Heimberger asked if there is anything else.

Ms. Skilling stated that it is up to you for a motion and if you could please speak into the microphone so we make sure the motion correct.

**Motion** was made by Mr. Fortner and seconded by Ms. Turgon to recommend to the Mayor and Commissioners to approve the commercial entertainment mixed use floating zone with attachment of Penn National comments that was submitted today that will be reviewed by Town staff and Town legal counsel for further consideration by the Mayor and Commissioners at their public hearing. **All In Favor. Motion Passed.**

**Motion** was made by Mr. Fortner and seconded by Ms. Turgon to close the public hearing at 8:20 pm. **All in Favor; Motion Carried.**

Respectfully Submitted,

Dianna M. Battaglia  
Planning & Zoning Coordinator