

**Planning & Zoning Meeting  
Minutes  
November 17, 2008**

**ATTENDANCE:** Commissioner Hansen, Michael Fortner, Matthew Oberholtzer, Evelyn Hansen, Betty Thompson, Priscilla Turgon, Town Attorney Keith Baynes, Town Planner Mary Ann Skilling, and Planning & Zoning Coordinator Dianna Battaglia.

**Meeting called to order: 6:30 p.m.**

**APPROVAL OF MINUTES**

**MOTION** was made by Ms. Thompson and seconded by Ms. Hansen to approve the September 29, 2008 Planning and Zoning Public Hearing and Meeting minutes as written. **All in Favor. Motion Carried.**

**NEW BUSINESS**

**File No. SP2008-04** – Perryville Yacht Club Phase II. **PROPERTY OWNER:** DFW, LLC; **APPLICANT:** Perryville Yacht Club; **LOCATION:** 31 River Road, Perryville, MD; Tax Map 801, Parcel 721, Zoned RM, 2.72 acres. **NOTE:** **Bob Wilson decided to pull his submittal for review by the Planning Commission at this time.**

Mr. Fortner stated the first item has been tabled, Perryville Yacht Club Phase II. So we will continue to the next project on the agenda.

**File No. SP2008-05** – Woodlands Perryville. **PROPERTY OWNER:** Perryville Property Holdings, LLC; **APPLICANT:** Town Point Development; **LOCATION:** Coudon Boulevard/Route 40, Perryville, MD; Tax Map 800, Parcels 4, 622, 635, 820; Zoned C-2, 81.30 acres.

Mr. Doug Hill of Town Point Development began with a computer presentation and while this is happening I want to kind of give you a little background on what we've been up to since we last met in May. So for the last six months we have been working on design concepts for the various buildings within the district and also we have been participating in, most recently with the Town as a representative for a BRAC Tour that was sponsored by Economic Development that was held here in Perryville and it was a nice opportunity to interact with about a hundred people who came down on a Saturday from Fort Monmouth, New Jersey to the surrounding areas. We're still optimistic about the project generally. We have had some setbacks obviously, as you can see from what is in front of you. The property ownership hasn't gone the way that we would've liked necessarily. I don't consider it a fatal blow to the project, more we are at the point that it is important for us to move forward to capitalize on the opportunities that are coming. And to make the project viable you need to start our process of designing the site infrastructure and attracting prospective tenants and people can actually buy in to the

things that we're accumulating. So, that being said, we put together just a brief presentation by recommendation of Town Staff and wanted to kind of share what's been going on. It will open up here in a second....ok, so we haven't changed the name of the project, that's the first thing I should tell you. We tried to keep as many of the elements that came out in the original land plan as we could. When I originally drew the concept plan for this project I did it with keeping in mind that we didn't own those properties and may never own all the properties, as much as we would, let's say, like to clean up that whole corridor. I know the Town would very much like to see that. Unfortunately, we haven't been able to reach an agreement with those two out of the three property owners at this time. The things we have been working on, the Town Commons you'll notice on the land plan, the Town Commons did get slightly smaller, but it is still a focal point for the community and it is still sited in the same location directly across from what is now the public library area. So, we did have a small change to the plan.

Mr. Fortner asked if that is Main Street, is that kind of what Main Street will look like.

Mr. Hill replied that this is representative of what we are trying to create, with small shop retail, with offices above or possibly apartments above. The concept of what we're looking to achieve which is to have people out on the street and to put pedestrian focus on to the project. This is a building concept for office space. The office space that we are focusing our efforts on is up here, what we're kind of considering as Phase I. The visibility of the highway gives us certainly an advantage for attracting prospective tenants. This building is actually being constructed right now in a project known as Fairview Town Center near Knoxville Tennessee. Fairview is a fairly small town near Knoxville. Some of you have met Jonathan Miller, he's the architect for this project, during the charrette, and he's also the architect for Fairview Town Center. It's very nice for us because it's new and exciting but still it takes the 1940's period, the end of downtowns, like Perryville. So that's kind of the appearance of the structure that we perceive for the structures. This is a building concept drawing for Senior Living. This building was and is sited for some type of senior use, building pad number four, putting the seniors here near the center of activity, near the transportation center. That's kind of where we are with that design right now. We're not sure ultimately who the operator might be, you know whether it will be someone like a Sunrise Senior Assisted Living center or like Abbey or Singerly Manor in Elkton. We're not sure. That's kind of the look we are going for.

Ms. Turgon asked what is directly across from that building, number three.

Mr. Hill responded that building three is sited for government office space. We're not sure what government agencies we might be able to attract. We're looking around western Cecil County and I really don't see any significant presence from the State or Federal Government. I think this would be an appropriate use of the land there and I wanted to keep it more institutional or government owned, I should say on the west side of Coudon as we work through this.

Ms. Hansen stated that she does have a question about that. Is that going to be individual senior living or is it going to be like a nursing home or an assisted living type, where they live in there and someone else takes care of them individually?

Mr. Hill responded that I think it's most likely going to be assisted senior living.

Ms. Hansen replied ok, that was my question.

Mr. Hill replied I don't know.

Ms. Hansen stated sort of like a nursing home type thing.

Mr. Hill replied sort of like a nursing home type thing. We're having a market study done now to give us some direction on what we should do.

Ms. Hansen stated that she doesn't like that idea at all.

Mr. Hill asked if there is a reason.

Ms. Hansen replied yes there is, because Perryville is near the veterans VA and we do have a lot of residents that live in the community who are veterans, so that's going to take away from the people that have assisted living facilities in Town. That's going to take away from our businesses down here. They're going to take them from here and place them up there. That's my feeling on that. We're state licensed, everybody in Town, we all have to have a state license.

Mr. Hill responded that he doesn't really know how to answer that question. And I don't know if it is exactly going to be that. It could be apartments for seniors or maybe it could be assisted living. Until we have the market study done to tell us...

Commissioner Hansen responded you don't know which way it is going.

Mr. Hill said what is viable and who a buyer might be, I'm not going to operate a senior living center or apartments for seniors. It's not something that I know how to do. I'm going to look at a market study and then make an educated decision and pursue operators or tenants. How about the building? Do you at least like the building?

Mr. Fortner replied that it looks fantastic.

Mr. Hill answered that this one you have seen, a concept for residential living. I should point out that everything that is on this side of Main Street and this way didn't change. Everything on this side of Town did not change. So the residential is still sited in here and here and we're still....

Ms. Turgon asked so buildings five through....

Mr. Hill responded five through eight.

Mr. Fortner commented is residential.

Ms. Turgon said that might help if you do that to reference the spots with the proposed use while speaking.

Mr. Hill asked if he should use the site plan.

Ms. Turgon replied yes, that would be easier because then we won't have to keep flipping back and forth.

Mr. Fortner asked so the Main Street concept where you're going to have the offices, the retail on the bottom floor and offices on the top. Is that in this open space, the town square, on First and Second Street.

Mr. Hill replied yes.

Mr. Fortner asked first floor retail and second floor office.

Mr. Hill responded office or apartments.

Mr. Fortner said then these are going to be individually owned housing units.

Mr. Hill stated lots five through ten.

Mr. Fortner said four is the senior living quarters and five through eight would be individual housing units, like town homes kind of thing.

Mr. Hill responded yes.

Ms. Thompson stated in various widths, in order to make them have some individuality.

Mr. Hill replied they will be. As you can see from the office rendering, these are building envelopes, so we're kind of working from within. They will be varied in width and in depth.

Ms. Thompson asked if they will have varied facades. They are not going to all be the same.

Mr. Hill replied no. The objective would be to blend in with what is being planned here. So when you drive down Main Street, there are some consistencies but also differentiation, so you really have a sense of the use types, whether it be office or residential or retail. Do you want to stay on the plan? Building fourteen hasn't changed its location or use. It's designated for a restaurant. Building fifteen did change in that it got slightly smaller, but it is still sited as a hotel. One of the biggest changes is right in here, what is now

sixteen. I'm going to use this plan for a minute. This is the preliminary plan that was presented in April and building twenty-one was previously here and though twenty-one was sited for a theatre and/or bowling alley, due to removing the properties and the need for the concentration of parking, we removed the theatre. Unfortunately we did eliminate the movie theatre and it is a 38,000 square foot building. That's not to say that we couldn't attract an operator here to operate a smaller venue but it is really difficult to find an operator and it's more difficult to make the numbers work for a small operator. I am optimistic that for Perryville, based on its geographic location, will at some point get a theatre. If/when things happen at the top of the hill with other entertainment, I don't know. And we could see a reconfigured plan right here if the properties come back in where the theatre is appropriate. Right now, of course there is the interest in the Aberdeen Town Center with the Ripken Stadium and the developers there, they have talked for a long time about bringing a theatre to that location and that would be a threat to Perryville. I guess that's about twelve miles from here, its closer to Constant Friendship but it's also closer to concentration of people. Movie theatres need a lot of people around them, so there are upsides to living in areas that are sparsely populated, but there is a down side that you have to drive to go to major amenities. Building sixteen has changed, I wasn't sure what to do with it. It's sited as office now but I don't know if an office would necessarily work in that location in terms of the user. I think it's possible so for right now it's sited as office. The core, and you can see from this diagram, the core in here previously there was a parking garage. We had to abbreviate the parking garage because of the properties up here. This one property comes down and it really has a severe impact to the project overall and so we provided for parking that is similar to the plan that was previously proposed but we eliminated portions of the parking. So there still is structured parking planned behind the retail which is sited for retail on the first floor and apartments above. Building seventeen and eighteen I kind of struggled with. Previously they were sited for retail with office above, and we've sited them for apartments now. They are across from other residential uses and without knowing what is going to happen with our retail mix, this retail could be the tenants that got forgotten. They're out of the way, with less concentration, which again, requires bringing these properties back in. Twenty-three and twenty-four did not change. Those are the buildings directly across from the library and we talked about different concepts there for restaurants. Also some type of artisan's facility. I did meet with the Elkton Chapter of the Maryland Council for the Arts and talked about the arts and entertainment overlay for this project and the opportunity to work with local artists. They have some pretty interesting programs actually where, through the State of Maryland council, they will work with the artists to help them with subsidizing with costs for housing when they need certain participation levels in the communities. So that's the kind of thing that we are looking for. Building twenty-one hasn't changed. It's still sited as an IKEA outlet store. Building twenty-two has changed its use. One change is that we pulled it up to the road. Another change is that we put the use that was previously an emergency response center and a police station and we've changed that to a child care facility. I hadn't really thought about the child care facility in the planning process earlier and the police station, given the conditions here, and how the police department is growing here it came to my mind and that's why I chose it for that location. Something that didn't generate a lot of traffic and it's something that had good access to Route 40, was what I had in mind when

we looked at it for the police station. The time frame for the Town I've been told is unknown with regard to their police station construction. We are now at the point where the Town has approved construction drawings for the offsite sanitary sewer and water. So we are gearing up to start down here on Route 7 and bring sanitary sewer lines up here and connecting it into the system. With that being said, the parcels that are along the road here will be accessible, or available in moving forward with the development. What I'm trying to figure out is one of the things we can meet now is child care. There is Kiddie Academy in Elkton, that is the only franchise type and there are a number of smaller day cares but one of the things I've learned is that what transferees are looking for is where can I take my kids for a child care program that they would be comfortable with.

Ms. Hansen stated that we do have one here. We have Planting Seeds right on the corner, a day care.

Ms. Turgon commented that wouldn't support the population of this.

Mr. Hill replied right, and given the proximity of the schools and the library, I think it's a good thing. Those changes are listed in the letter that was prepared as part of our submittal.

Ms. Thompson stated the entrance to the day care parking lot, the proposed entrance. Is that going to be a problem using that road going back towards the middle school.

Mr. Hill said that is a good question. That's where the entrance was sited previously and you can see that it's still there and we really haven't changed it. The entrance is there, and it's still there. I haven't changed it. I looked at that and walked down that road and looked at it. That's really the only place that I would feel comfortable recommending as the entrance.

Ms. Thompson said that she doesn't think it's a bad idea. It's just that they really restrict the use of that road. It's basically for school buses only, but I don't understand because I see cars parked all along it.

Mr. Hill said the school uses a blockade of some sort that they put up here to prevent through traffic, but that road originally was to be just for buses but it is being used by parents during sporting events and I don't know what the Town is going to say about that. We gave them the road as part of the development process to help them and to help the Town. We didn't have the plan in process so we don't have any, let's say agreement that they'll give us an entrance there, but I can only hope they would be supportive of that.

Ms. Thompson said one other question about the apartments. I see they are listed as one bedroom apartments, are there any proposed for two bedroom apartments.

Mr. Hill responded that I think there is definitely going to be a need to have a mix of one and two bedroom. Part of the, what I'm learning in the planning process like this, is that

there is so much information, so many buildings, that looking at each one individually, until you get to the Final Site Plan, it's kind of an uncertain outcome. What I mean by that is that it's hard to address and say this is going to be seventeen one-bedroom apartments, until you actually get into the building and look at the floor plates and what the market study tells us about one and two bedroom apartments, and some people might even be looking for efficiency type apartments, we really can't tell what it is going to be. I think it is a good suggestion, it's something that we have in mind, we're just not there yet.

Ms. Thompson commented that the parking garage, back at the charrette, you talked about green roofs, is that going to be able to be done there.

Mr. Hill said that we are going to have to use a green roof on the parking garage as well as on the majority of the buildings. Because, again, we haven't planned for any storm water ponds on the plans. MDE did adopt last week, what is known as Chapter 5, best management practices, and that gives us the green light to pursue all the things that we are looking for. So it's timely.

Ms. Thompson said including the parking lots that will have the special drainage.

Mr. Hill responded yes, porous pavement.

Ms. Turgon said I know the answer to this question, but with the way the economy is right now, are you still moving forward on your time line. Is your time line going to be adjusted.

Mr. Hill responded our feeling is this; we have the financial capital to proceed with the project and its plans with the installation of the utilities. You might look at it and say that is really a dangerous thing to go and spend a lot of money to put that utility system in, but as I explained to the Town Administrator, it makes the property more valuable. Because it's served by utilities, that is number one; number two, it helps the Town because I know there are problems the Town can't fix with regard to sanitary flow down at Maywood Avenue, and it shows people we're serious about the project. My partner, Mr. Saienni and I, our intent is to build this and to maintain it. Is it true that market conditions are such a daunting time to do this? Absolutely, but it is also true that the reason behind this plan, or part of the reasons behind this plan, and what will drive the financial success to the project really hasn't changed. The government hasn't abandoned their plan to reverse the BRAC commission. Cecil County is still a beautiful and relatively inexpensive place to live. And so when looking at alternatives and looking around at what's still selling, Perryville is still a very viable option for people. We believe in the project and we are being cautious, as much as we can be cautious, but if we don't get prepared now, when the opportunity does come, which is relatively predictable, we're not going to be ready. The other towns in Cecil County and even in areas like Aberdeen, you really have to question, are they going to be ready.

Ms. Turgon asked what kind of price ranges, do you have an approximate of what the housing units will be.

Mr. Hill stated I think the town houses are going to be somewhere around two hundred fifty (250), three hundred fifty (350) thousand, depending on what the configuration might be. These apartments, if you were going to calculate out for a flat condo, would probably be around one hundred fifty (150) thousand. These single family lots down in here, I don't know. I'm not sure what we're going to do there yet. I don't perceive them being a half a million dollars. I wouldn't put them that high and I don't think people can afford it. We don't want to build necessarily above the market. Ultimately, you've got to pay for all this stuff. And that's the reality behind saying maybe we can't do the Emergency Response here, but when this property comes in maybe an Emergency Response Center could be up here. That's where we are right now, kind of proceeding with caution.

Ms. Turgon stated that's what you have to do.

Mr. Hill repeated that's what you have to do and we're here and we're committed. We own the property and there's only one way home.

Mr. Fortner asked Ms. Skilling to review the comments that she has prepared and then we'll go back for questions.

Ms. Skilling commented that you can see at the beginning I put some background and some dates in here on how this project had proceeded through various phases and that's just for information. As you know, the water and sewer construction drawings on Coudon Boulevard was looked at by URS and Mayor and Commissioners actually did pass the public works agreement at their November 4<sup>th</sup> meeting, so that has been taken care of at this point.

**Background:** Previous plans for the Woodlands Mixed Use Development (MUD) plan have been reviewed previously with various changes made. The following is provided for information purposes.

- 4/21/08 – Planning Commission reviewed the General Development Plan and made a recommendation to the Mayor and Commissioners that they review and conditionally approved File No. GDP2008-01/Woodlands Perryville conditioned upon URS comment letter dated April 18, 2008
- 5/6/08 - Mayor and Commissioners reviewed the General Development Plan with conditions.
- 5/19/08 – P&Z Held a Public Hearing on Woodlands Perryville Preliminary Plan and Rezoning from R1/R2/C2 to Mixed Use Development Floating Zone (MUD). The GDP approved by the Mayor and Commissioners differed from that reviewed by the Planning Commission at their 4/21/08 meeting.
- 5/23/08 - W&S Construction Drawings along Coudon Blvd were submitted to the Town and approved by Mayor and Commissioners on November 4, 2008.
- 6/4/08 – The site plan/plat for Woodlands Perryville was reviewed by TAC.



*The Preliminary Plan being submitted for your consideration tonight differs from all other plans previously reviewed. Properties along Route 40 were eliminated (present plan acreage 81.30 acres, lots proposed 33 lots).*

### ***Planning***

1. *The preliminary plan proposes a development of mixed uses on approximately 81.30 acres on both sides of Coudon Boulevard, with frontage on both US Route 40 and Route 7. The developer has reduced the total acreage and various uses considered in the General Development Plan. Although the Planning Commission has reviewed other versions of the Woodlands Perryville plan for rezoning as a Mixed Unit Development (MUD) Floating Zone, the present plan should be reviewed as a substantially new plan.*

Ms. Skilling stated I believe there have been enough changes. A lot of the amenities that were talked about in the original General Development Plan are not there any more. And the concern that I would have is that, especially when you had the Public Hearing, a lot of these things were discussed. So that's why I thought that I really believe that you need to look at it this as a new development plan.

2. *The applicant should review the changes made to the general layout of the plan and how it provides the mix of uses that were considered in the General Development Plan previously approved.*
3. *In consideration of the MUD Floating Zone, Section 109 states that a Mixed Use District Shall:*
  - a. *Provide an attractive and varied living environment.*
  - b. *Provide a variety of building types and an overall more efficient use of land providing residential, commercial, services, and public uses within a well planned project.*
  - c. *Provide a comprehensive approach to utilities, roads, stormwater management, and landscaping.*
  - d. *Provide linkages and improvements where possible to adjoining streets and pedestrian systems.*
  - e. *Provide for design characteristics that promote integration of the development with downtown Perryville.**These items should be addressed in relation to the existing plan.*

Ms. Skilling said I'm only going through these because the criteria for a Mixed Use zone has to provide these amenities or these things to the Town in order to get that MUD zoning. These are the issues that need to be addressed in relation to the existing plans. So, the reason I'm putting these here mainly is so that when you look at this plan, at the new plan, does it still have these characteristics, the features, that are the criteria for which this zone should be given by the Mayor and Commissioners as a recommendation.

4. *It should be discussed whether the entire area shown on the Preliminary Plan is being considered for the MUD rezoning.*

Ms. Skilling said that one of the key considerations that I thought is it should be discussed as to whether the entire area shown on the Preliminary Plan is being considered for MUD rezoning. That is a question to you Doug.

Mr. Hill responded yes. The previous plan, we weren't going to, with these properties, as was discussed with previous Town employees at the time that it wasn't required. But Chris Rogers felt as though it was important that the same zoning be on all the parcels included in the plan. So the answer is yes, all the parcels that we are proposing under this plan will have the same zoning for the mixed use overlay.

5. *Signature of property owners associated with the rezoning and all appropriate agreements must be executed prior to approval of the preliminary plan.*
6. *The general design features for the non residential portion of the MUD should be defined and made a part of the rezoning opinion.*

Ms. Skilling stated I think you have shown some design features there and I think it is important that you see those design features when we go through this process. That those design features generally, as you're stating them, at least we should have some idea of what it's going to look like. So there is a clear idea of what is going to go on those pieces of property relatively in relation to what you are showing the Planning Commission.

7. *A discussion of the number of apartment units/townhouses/single family as a percentage of the overall uses in the MUD should be provided.*

Ms. Skilling stated it seems to me there is a lot more residential now on this MUD zoning than there was on the previous. Not that it is a detriment to the zoning itself, but obviously that zoning classification should provide a good fair proportion of various uses.

8. *The opportunity to enhance the HCOD is obscured by the excessive parking along Route 40. The hotel should be moved closer to Route 40 to achieve the goals of the HCOD.*

*TAC comments: What is the significance of the 500' Highway Corridor Overlay District for this proposal—which appears to present the Town of Perryville with an opportunity to create a very attractive and distinctive sense of place? It seems to be where most of the proposed parking spaces are concentrated. How does preponderance of parking along US 40 square with the New Urbanist design goal of putting parking in the rear?*

Ms. Skilling stated that when you come down Route 40 it would be nice not to have to look and see parking right there. It would be nice to be able to enhance that design and usually in design features you want those main things, like the building, to be closer to the road and not have to look at the parking as the feature of that item. I think that just has to do with the design. I know it's seems like you've always had it sort of in that general location but I know it was in TAC as well, some of those design features that seem to be more urbanized, the design urbanism type thing that you're trying to promote.

Mr. Hill asked if he could address that comment. That's something that we've struggled with, is the placement of this building, because, as Ms. Skilling has pointed out, it should be closer to the road. The issue lies with this structure, sometimes known as Ellersley Manor, and the intent was to highlight this structure. It's a historic structure and clearly identifies the history in Perryville. And we felt, and Mr. Rogers felt, that we wanted to enhance the angle of the property. We pulled it back to increase the visibility of this piece of property. So without this house being included at this point, I'm not sure what to do.

Ms. Skilling responded that it was just a consideration. I want the Planning Commission to look at these things as far as the design concept here especially because we have the Highway Corridor Overlay Zone that we're trying to maintain and update. To me it would enhance that. It would really be more enhancing of that corridor than what we have there as far as parking. The Planning Commission should look at those as a possibility of design type concepts.

9. *Sidewalks and trails should be noted on the plan and show connectivity to the Town.*

Ms. Skilling said that she thinks some of them are labeled but they're not all clear.

10. *All roadways should be labeled and road names approved by DES.*

Ms. Skilling said you have to check with Department of Emergency Service, you actually have to do that before. We need to make sure those roads, those names, have not been used in places any where else.

### ***Sensitive Areas***

1. *Special standards included in Part V, Section 311 designed to protect adverse effects of development should be addressed. In particular the steep slopes in the area of the town houses should be addressed in relation to grading and how the area adjacent to Mill Stream will be protected.*

Ms. Skilling stated if you look at the contour on the map on the back end of where the town houses are, those slopes are pretty steep and there will be grading there. And again, the biggest concern that we have is Mill Creek. There are a lot of MDE regulations out there now to make sure these things do not impact any stream. I know there are TMDL's for Mill Creek that are a concern now for total discharge there so that would be a major concern for protection of that stream.

2. *Explain how the retention of forested areas will be provided along Route 7 and Route 40 in the design of the project.*

Ms. Skilling stated that there is a lot of forested areas already there along Route 40 and Route 7. And obviously to get this development in there, a lot of that forest is going to have to be cleared, and although it may not be the best forested area, it is still a mature stand of woodland. It does provide some protection for the Town as far as sound, and if some of it could be protected and preserved, it would be helpful not to have to clear out especially along those areas along Route 7 and Route 40.

### ***Recommendation***

*It is my recommendation that the items above and comments in URS's letter be addressed and required information included in a revised preliminary plan. A schedule for phasing elements of the project, a statement regarding proposed design features, a discussion of the private and public facilities and how they are to be managed should be provided prior to submission to Mayor and Commissioners.*

Ms. Skilling stated that I think you did provide, in your presentation, a schedule for phasing because it's going to be really important that we understand where things are

going to start and what is the first phase and I think you did explain that with the infrastructure, which is going to go in first. The potential building and/or site pads and a statement regarding the proposed design features. I'm really concerned about the design features for some of these areas and if we have some of those comments, I know in your plan, your original booklet that you sent in, there were design features in there. I think, at some point in time maybe Planning & Zoning should take a look at them and include some of those in the notes that these are some of the design features that the Planning Commission could look at and sort of include them as part of the plan because when you approve that, that would always be attached to that plan. So just in case if there are any changes along the way, as happens with these development plans, we would always know exactly or at least have a general idea of what the design was to be for those particular residential, commercial buildings. The other thing that has been discussed several times, Mr. Rogers had it in some of his comments and it was also in the TAC comments, a discussion of the private and public facilities and how they are going to be managed. That should be provided prior to the submission to Mayor and Commissioners. There are obviously some businesses here, some residential, and how are those things going to be managed within. I'm sure there will be a homeowners association, the residential end of it, so I'm not really sure how that will be handled and you may want to address that.

Mr. Hill asked right now.

Ms. Skilling replied if you have an idea.

Mr. Hill stated that the concept for everything on this side of the road there will be one homeowners association. And much like homeowners associations, the association will have obligations to the Town as well as to the residents and occupants of the building. One of the things that does work well with mixed use developments, is having a common homeowners association, because the burden of the maintaining the landscaping, to the level of what the businesses and retail might incur, doesn't fall entirely on the residential owners or occupants. On the opposite side of the road, when you determine what is actually going to happen with these buildings, then we kind of look at what is appropriate. If these lots are to stay like this then we would need to form some sort of small homeowners association. I don't know if these homeowners will want to be lumped in with these residents over here on this side because of the various uses. You know, they feel like this is my property and I don't have anything to do with what is going on over on that side of Coudon Boulevard. So that's kind of the answers, the intent is to establish an owners association to handle that type of thing.

Ms. Turgon asked isn't there a time limit on that as well. Whether the associations could merge, these have to be built within a period of time. I thought there was a window, and if you go outside of that window, then they do have to have their own association.

Mr. Hill answered he didn't know.

Ms. Turgon stated that she thinks that's what happened down at the water.

Mr. Hill said I'll have to check that.

Mr. Baynes stated that he is not aware of any time frame.

Mr. Hill said that it could be in the covenants.

Ms. Turgon said that down at Owens Landing, that was the deal with McMullen's Landing being a separate homeowners association than Owens II. But that's not a big issue.

Ms. Skilling responded that was a different issue. They were developed differently and there was a possibility that they could all merge to be part of one. The deal here is that a similar concept; you have homeowners association on one side and you're going to have some kind of association on the other side to deal with it and they will probably be totally different. They will be handled and managed differently with covenants to be able to handle those.

Mr. Baynes stated that the advantage here is that you are going to have one single ownership and will be able to establish those organizations. At one time, or when they feel appropriate. Again, there you have two separate ownerships, two separate projects.

Ms. Thompson asked are the streets going to be turned over to the Town, when the north side of that is done.

Mr. Hill replied yes. Main Street and Liberty Street....I'm not sure what the Town will want to do there. I presume we are going to convey this to the Town

Ms. Thompson asked are you still trying to purchase those properties.

Mr. Hill answered yes, we are. We just haven't been able to reach an agreement with these two owners. We have an agreement with this owner, but we don't touch. The property was subdivided up and is surrounded by the other piece of property, the Perryville Motel. So we're still trying. We came in May feeling good that we would be able to finalize our plan with the two property owners and process our zoning and we just haven't been able to come to an agreement. We're at a point now where, about a month and a half ago we said we have to move forward. We have to move forward, because if we don't, then we're going to miss our opportunity. We can always put these back in, and ultimately that is the hope, because frankly, it's not going to be easy to market that project when those properties are what everyone sees. It's a big deterrent to our marketing efforts and say come live at the Woodlands Perryville. So, this use is a family business and has been there a long time and she says she's ready to move but we can't make the numbers work, frankly. At some point, we have to pay for all this stuff and so we have to keep our costs in check. That's part of life.

Mr. Fortner commented on this overpass, which looks fantastic, I wonder about the feasibility of having that overpass. It looks like in the plan you have it connected to the

senior center and I could see how there would be an advantage to having that. And going over to the government office, I could see it getting used, but is it a public amenity. Is it something the Town is going to take care of. Because the idea of the school kids going across.

Mr. Hill responded that the idea is to make it pedestrian friendly. So what we designed is two towers, two freestanding towers, this one happens to be connected to the building. Each tower would be about 1,000 square feet, a 100x100 foot base, with a bridge to the senior center but there would also be access outside at ground level as well. The Town would not own the transportation center. The transportation center would be owned by the homeowners association here. The Cecil County community transit will use that as a bus stop. Currently, the bus stops here at Bobs Bar, so they will use this as a bus stop. They will be reconfiguring their schedules in 2010 and looking at means of providing transportation to and from the train station from this location.

Mr. Fortner said that it seems to be a really big expense to put that overpass in there and also, I've seen a lot of those overpasses that maybe don't work. And sometimes they smell like urine, people sleep there, and I guess right now there doesn't seem to be a lot of traffic on Coudon Boulevard right now, except for the trucks. It seems to me that if I'm going to cross the street, I'd probably just cross the street if you had good pedestrian crosswalks, instead of the tower. I know that tower is going to look spectacular, it looks great, but I don't know, it's an expense, and if you're trying to keep expenses down. And I just don't know if people are going to use it. You have to go up, then over, then down. And that's if the traffic is crazy, which it shouldn't be too crazy, maybe because trucks really can't get moving down that street.

Ms. Skilling said I just want to mention that Coudon Boulevard was put in there for one reason, for IKEA. And the concern, in going through all my stuff here, some of the concerns were that a lot of the pedestrian traffic going back and forth over there, and because of the traffic from the trucks that go in and out of there, you don't see them, but apparently the traffic study noted there was a lot of trucks that go in and out of there. So it was suggested that there be some other way or means to get across that highway. The concern was, I think from even State Highway, that pedestrian, now I'm not saying that people can't move back and forth across there, but I think the concern of the Town was to provide some access from one side of the street to the other.

Ms. Turgon asked if they are closed towers, I don't remember.

Mr. Hill answered that yes they are enclosed towers but so if you visualize like, if you take the shape of Principio, insert glass inside, so it's visible from outside to inside. So if there is someone sleeping there, for instance, which is possible, you can see them from the outside. You know, with regard to security and is it going to be safe for people to use and if people are using it on a consistent basis, then I would say yes. If people don't use it then it becomes unsafe. And the bridge itself is just designed to be a steel structure with a covered roof. It's not going to be a heated space.

Mr. Fortner stated it's going to be open air.

Mr. Hill answered open. You have extended eaves for protection from weather, but it's not a place where we want people to hang out. We talked a lot about what to do here. The truck count right now varies depending on what time of year it is. But it's better than two hundred trucks per day. Trucks are driving on that road. It's designed at a fifty mile per hour speed limit, the speed limit is thirty-five but they're driving anywhere from fifty to fifty-five.

Mr. Fortner asked they are driving to fifty. I would think they would have a hard time. They're going to have to stop in a few hundred yards and they make the turn just down there. And so trucks seem to have a hard time getting up speed and then they have a hard time stopping. So they're going to have a hard time stopping at forty, so I always had some sort of assumption that they're not going that fast. But they get up to fifty.

Mr. Hill stated they do, they go faster than the speed limit.

Mr. Fortner said they are just starting, because they turn off of Route 40, with stopping, and then getting going. And get their momentum going.

Mr. Hill stated the distance from here to here is probably 5, 6,000 feet and stopping is maybe 1500 feet. I don't know what the acceleration times of a truck is but I know that they get going pretty fast.

Ms. Turgon stated that Wilmington has, I've seen it on the DART buses, they have a big campaign right now that twenty miles an hour you'll injure a pedestrian, you hit a pedestrian at twenty-five, you kill them. So, that's a vehicle, a car. Hopefully, if you get the population there that you want, then I think we have to keep it in there.

Mr. Hill stated that we have provided for this landscape buffer at forty feet with trails through it. And the intent is to keep people from crossing the road. We talked a lot about it with Cecil County during the traffic scoping meeting, during the design charrette. Of course, the Town participated and no one felt as though they wanted a traffic light there. And no one wanted to see a traffic circle there. And so, a bridge was really the only option. The bridge has to be eighteen feet high for truck clearance and I'm not exactly sure the width of the bridge yet because I'm not certain about our road way improvements: how long is the deceleration lane going to be; is that going to cause us to shift this building here. Those kinds of details we're going to be dealing with, we're not there yet. So, I appreciate your concern over the bridge, and believe me I share those concerns; is it going to be safe, are people going to use it, or is it just going to look good.

Commissioner Hansen asked what about a handicap person.

Mr. Hill responded that's why you have an elevator inside. There is an elevator inside the towers and stairs inside the tower. I'm glad you brought that up actually, because since the charrette we've built this project, we've put these building envelopes with three

dimensional models and we took the existing grades because we want to try to keep this to two and a half (2 ½) maximum slopes. We made some adjustments even in this plan in terms of the number of stories to the buildings just because of concerns over scale. Having a three story building next to a two story building where there was just too much change in grade, that sort of thing. But one of the objectives for the project is to be a full access community. Full access meaning not looking at say ten percent (10%) of the houses need to be handicap accessible, but all of the housing, all of the buildings, all of the offices, all of the retail space. It's not just people that are in wheelchairs but its maybe people who are on crutches temporarily, people that have a stroller and children. People that maybe have some kind of physical ailment, you know that they can't get around as well as others. So that is a concern, it's also something I think will make the project more attractive to prospective purchasers and tenants.

Mr. Fortner asked if there were any more questions.

Ms. Thompson stated did I understand you to say that you are going to have elevators in the towers.

Mr. Hill responded yes. Otherwise, some people wouldn't be able to use it.

Commissioner Hansen commented you can't deprive the handicap.

Mr. Hill replied no. Fortunately, based on the density in Cecil County and Perryville, we are eligible for some grant programs that will help us to pay for the bridge, both through MTA and also USDA.

Mr. Fortner asked if you need a recommendation that we can pass this Preliminary Plan. Are there any more questions.

Ms. Skilling stated that I think your decision has to be made, you have to make recommendations to Mayor and Commissioners now as to whether this Preliminary Plan obviously meets some of the standards that we discussed and some recommendation to them for the Mayor and Commissioners to actually give this zoning. Now, the questions that have come up is once you do that, you're going to get this back because they're going to have to address some of these issues to the Planning Commission with the Preliminary Plan. That's going to have a lot more detail to it because there are a lot of things that have to be put on this Preliminary Plan to really be approved. They haven't addressed a lot of those issues and really have not checked off or added to the plan a lot of the check list things that need to be on the plan, as well as Sediment Erosion control and all the other things that we think that need to at least be in place. Also, Mr. Hill has done a traffic impact study which is important to this plan. So the recommendation, the question that needs to be answered, and I've talked to Mr. Baynes about this, is whether, when this comes back to you, you will hold another public hearing for the changes that have been made to the plan, because I believe the plan has changed substantially enough, that what was presented to the public then is different to what the plan is now. And



whether you have a public hearing again to cover this when this comes back to you from Mayor & Commissioners.

Mr. Fortner said that when it comes back to us, isn't that going to be a public hearing automatically, or a different kind of public hearing.

Ms. Skilling responded a public hearing for this, the preliminary plan based on this new plan, that would be a public hearing. Then after that public hearing then obviously that, based on the recommendation from that public hearing, then it goes back to Mayor and Commissioners and they have to have a public hearing as well. Which I think we can probably fit it in, we can probably get it through, there are a lot of public hearings coming up, we can probably get it in the next meeting in December. Really, at this point it's a recommendation to Mayor and Commissioners.

Mr. Fortner said so we're going to have a recommendation that is going to go to Mayor and Commissioners but it's going to come back to us for a public hearing. Was this a public hearing, or it was not a public hearing.

Ms. Skilling replied no.

Mr. Fortner said but it is open to the public.

Ms. Skilling said that this was just a regular planning commission meeting to review this new site plan. But because it has substantially changed, it differs from what was presented in a public hearing, the last time was a public hearing, and I believe, and you can ask Mr. Baynes too, I believe it differs enough that what was presented at that public hearing is different than from what is being presented here. I recommend another public hearing be held for this particular plan and we can do that at the next Planning Commission meeting.

Ms. Turgon stated also with the recommendation Mr. Hill should address all your comments and comments from URS.

Ms. Skilling replied there are comments in here too as part of the record from URS regarding the engineering and they need to be addressed at that time.

Mr. Fortner asked for someone to make a motion for recommendation.

Ms. Turgon said she wants to make sure she says it correctly. The recommendation is that we are asking Woodlands to resubmit to address our.....

Ms. Skilling said that you are making a recommendation that the Preliminary Plan as presented and the comments be presented to the Mayor and Commissioners with the conditions being that these items in both my comments and URS comments are addressed and that the Mayor and Commissioners would, based on this, decide whether the zoning would be granted for this project, the Mixed Use zoning. Right now, this is still zoned C-

1. So we are trying to get it zoned, all the properties, that was one of the questions, the entire parcel under the MUD zoning. And the only way that can happen is for Mayor and Commissioners to do that. So you've reviewed it as a Planning body and based on what you think is relevant for the MUD, you're going to make this recommendation to them that they grant that MUD zoning to this project and then when you get it back then you will really have a project now, a Preliminary Plan with the MUD zoning to really be able to address these specific guidelines. Does that make sense.

Mr. Fortner replied yes. And so at the next Commissioners meeting they would take or not take our recommendation, they will grant the MUD.

Ms. Skilling stated that is correct.

Mr. Fortner said we're making, we're going to propose, I'm assuming, to give them a recommendation to approve the project for MUD zoning.

Ms. Skilling said that as you reviewed it, it met the criteria for that zone.

Mr. Fortner said they met the criteria and for them to provide information based on the comments provided.

Ms. Turgon said to address the comments provided.

Mr. Hill asked why are we holding to Mayor and Commissioners. This body has to make a recommendation based on the requirements of the MUD zoning and the design and the recommendation to approve the zoning for the plan this is ultimately presented. Not this plan, because we know based on Ms. Skilling's comments and URS comments, we have a little work to do. Why would we go to Mayor and Commissioners and then come back for a public hearing, why didn't we just have a public hearing now.

Mr. Baynes stated that it is the way the Ordinance is written.

Ms. Skilling said and you have not gotten any zoning on this. The MUD zoning has not been approved for this plan and the only body that can do that are the Mayor and Commissioners.

Mr. Fortner said so when you do the public hearing....

Ms. Skilling said you make the recommendation on the planning, because this is the planning body, they are the group that decides whether it met the criteria of the MUD zoning. You know, if that is the recommendation that is made, the Mayor and Commissioners are going to look at that based on the planning body, because that is what their responsibilities are, and they are going to make conditions, and once it goes to Mayor and Commissioners, of course they can also put conditions on it. But I think they look a lot to the Planning Commission for recommendation because they are the body that has the knowledge of the planning aspects.

Mr. Hill said so then the public hearing for Mayor and Commissioners, they will review the recommendations of this body, the Town's recommendations, and do they cast a vote on the zoning.

Ms. Skilling said that when it goes back to the Mayor and Commissioners from this body, the recommendation goes to the Mayor and Commissioners, the Mayor and Commissioners will only, at that point, grant the MUD zoning with conditions. Whatever those other conditions, they might put more conditions on it. Then it will come back to this group and we will schedule a public hearing, at that time, if the Mayor and Commissioners decide to grant the zoning, because now what we have is a Preliminary Plan with a now tentative MUD overlay zone and now the public hearing will address all those conditions, the Planning Commission can get straight on all the conditions, we'll be able to have all this information, and you'll have a plan that really will be a Preliminary Plan with all the checks and balances it needs to meet on our list. There is a list of all these items you have to have for Preliminary. This body can then, at that point, indicate that it's met the criteria, the Mayor and Commissioners will hold a meeting, and then basically you can proceed after the Mayor and Commissioners have their public hearing. And if it's granted, proceed with development plans, the final site plan.

Ms. Turgon said because it's changed enough and all this is around the fact that this has changed enough that really we are considering a new site plan.

Ms. Skilling stated it's almost like starting over.

Ms. Turgon replied starting over, ok. Uses have changed, configurations have changed.

Ms. Skilling stated I think it has changed enough, amenities have been changed, uses have been taken out, roadways have moved, you know parcels changed, that it should be considered a new development plan.

Mr. Hill said so this is responding to Mayor and Commissioners from this body.

Ms. Skilling said that is correct. And once the Mayor and Commissioners have their public hearing that allows you to move on to your final site plan.

Mr. Fortner said ok, so let's try the recommendation again.

Ms. Turgon made a motion of recommendation to Mayor and Commissioners that we approve....

Mr. Baynes stated the wording of the recommendation of approval of the Preliminary Plan to Mayor and Commissioners should be conditioned upon comments from Ms. Skilling and URS, for their consideration to grant the MUD zoning.

**MOTION** was made by Ms. Turgon and seconded by Ms. Thompson to recommend approval to the Mayor and Commissioners of File SP2008-05 Woodlands Perryville Preliminary Plan, conditioned upon comments from Ms. Skilling and URS, for their consideration in granting MUD zoning. **All in Favor; Motion Carried.**

Mr. Fortner stated we will continue to the next item on the agenda.

**File No. SP2008-06** – East Coast Liquors. **PROPERTY OWNER/APPLICANT:** Pravina C. Patel; **LOCATION:** 5279 Pulaski Highway, Perryville, MD; Tax Map 800, Parcel 708; Zoned C-2, .828 acre.

Mr. Brad Fox, of McCrone Inc. began and I am here on behalf of the owner, C.K. Patel regarding Preliminary Plan review for the East Coast Liquor site. A little background before we take a look at this plan. The building was constructed in 1970 and the site was purchased by Mr. Patel in 1985. The building was closed for a period of time, longer than a year, and in February 2008 the Town of Perryville notified Mr. Patel that the site must be updated to meet current standards before he could reopen. In August 2008 Mr. Patel received comments from both URS and Maryland State Highway Administration and he was granted an occupancy permit based on the conditions that the final site plan be approved by April 2009, and the site work be completed by February 2010. And these requirements are why we are here, to present this plan to you this evening. Going on with the review of the plan, the intent is to maintain the existing building as it stands today and then add additional retail space in the area that was the former bar and the area in back that was a warehouse. This allows, while it may not be retail, in the future it allows Mr. Patel the flexibility for what he proposes. In addition, the parking lot will be restriped to comply with the Town of Perryville's standards, minimum width and parking lot size. Also we will comply with State Highway Administration requirements for the ingress and egress to the site, and provide landscaping per Perryville requirements. Currently the site plan has been submitted to State Highway and Cecil County Soil Conservation district for their review and to the Cecil County Department of Public Works for storm water management review. To summarize, Mr. Patel is trying to utilize the existing building in the existing location, comply with the conditions of his occupancy permit, meet the current requirements of the Town of Perryville, and also provide a safer, State Highway improved entrance. There are some design waivers on the plan, and I'll go ahead and read those now. First design waiver is to allow for forty-four (44) relocated existing parking spaces in lieu of the required fifty-four (54) spaces as specified by Article XVI, Section 274. To allow the existing offsite vegetation located at the rear of the site to provide the required perimeter landscaping as specified by Article XVIII, Part 3, Sections 301 through 304. To waive the required perimeter landscaping as specified by Article XVIII, Part 3, Sections 301 through 304 along the eastern property line due to the close proximity of the existing buildings. And to allow the existing sign to remain at the approximate maximum height of thirty-eight (38) feet exceeding the allowable height of twenty-five (25) feet as specified by Article XV, Section 266.4. At this time, do you have any questions.

Ms. Turgon asked is the building, are you able, is it operational now.

Mr. Fox responded yes.

Ms. Turgon said and the signs are not. Those signs that are up, are they approved signs, those banners.

Mr. Patel stated that those signs have been there for a long time.

Ms. Turgon asked the ones on the building.

Mr. Fox asked if she was inquiring about the temporary banners.

Ms. Turgon stated yes.

Mr. Fox said the Town does allow for temporary banners, does that fall under current standards. I'm not familiar with your sign ordinance.

Ms. Turgon asked if we approved these.

Ms. Battaglia stated I didn't get any kind of request for any kind of temporary sign.

Ms. Turgon stated that I think they look bad, on the buildings, those big banners that are on the side.

Ms. Battaglia stated we do allow for them, on a temporary basis, like a grand opening or something for two weeks. But we do require a zoning certificate for anything you put up so we know about it, so we know how long you are allowed to have it up. So if you do have any banners, we need to have a permit for that.

Mr. Fortner asked Ms. Skilling for her comments.

Ms. Skilling stated that she reviewed the project and there were some issues, and one of the issues is signage on this project.

*I've reviewed the site plan provided by McCrone regarding the re-establishment of a liquor package store within the existing building along with three proposed retail units. Based on the information provided and a review of the regulations pertaining to Highway Corridor Overlay District (HCOD), signage and parking, I offer the following for Planning Commission consideration:*

**1. Non-conforming signs**

*Section 270, 1 of the Zoning Ordinance states:*

*No person may engage in any activity that causes increase in the extend of nonconformity of a nonconforming sign.....no non conforming sign may be*

*enlarged or altered in such a manner as to aggravate the nonconforming condition.*

*According to our records, a sign permit was not issued for the changes to the existing sign. Since there will be additional retail stores on the site requiring signage, a discussion on how the signage will be altered to provide for these sites. It is my recommendation that a master signage plan (according to Section 256) be submitted that shows how all (existing and proposed) businesses will be displayed when occupied.*

Ms. Skilling asked are you going to have additional signage put up for the other retail businesses.

Mr. Patel said that when I have potential tenants that have been approved, I will have additional signs put up in between the poles, not outside of the poles.

Ms. Skilling stated that based on what we have already there the height is beyond, it's non conforming because of height. It was never permitted that we can tell and it would be my recommendation since you're going to have other pads, and you're going to have other retail businesses there, that maybe the sign, that we should have a master signage plan as required just to what's going to go there and that the sign should conform to that plan. Because you're going to have other businesses there and it would be nice to be able to have a conforming sign there because what's there now is non conforming. The height is wrong and I don't know how you are going to address additional signs for any kind of additional retail there. That's just my recommendation based on what we have already for that signage there. It is non conforming now and that is the big issue.

2. **C2 Zoning District** - Retail Store as defined in the ordinance – stores selling one kind or various kinds of goods, as distinct from services, such as, but limited to, drug stores, grocery stores, department stores, camera shops, book stores, and record shops.

*Table of Permissible Uses, Section 2110 Retail Sales, 2.111 indicates the following is permitted:*

*“....automobile parts, supplies, and tire stores; drug stores, and **food and beverage**, super market.”*

*I believe this reference can be applied to a liquor package store, and therefore the C2 Zoning District would be appropriate for this use.*

Ms. Skilling stated that she has discussed this with Ms. Breder and looked at the Table of Permissible Uses. The only reason I'm bringing this up is I don't want to have to redo this issue because of this being non-conforming for this building. It does cover this type of use in the C-2 zone. I believe this reference can be applied to a liquor package store, it's not explicit but it seems to fit in that category.

3. *The plan as submitted has reconfigured the entrance to provide a right in and right out configuration and renovation of the remaining two entrances per SHA standards. A copy of the final approval and access permit from SHA must be provided to the Town.*
4. **Article IX, Park VI Highway Corridor Overlay District (HCOD)**  
**Section 151 – Waivers of Corridor Requirements States:**  
*The Planning Commission may waive one or more of the specific requirements of the Special Overlay District upon a showing by the applicant that these corridor regulations impose an undue hardship due to the peculiar configuration, topography, or location of the tract, or that the proposed project demonstrates the use of highly innovative architectural, site planning, or land use techniques. The Commission may approve any waiver to the minimum extent necessary to allow the project to be constructed. The applicant for any such waiver shall have the burden of showing that the proposed project, with such waiver granted, will be as good as or better than a project developed in compliance with the District regulations in terms of environmental protection, aesthetic enhancement, land use compatibility, and traffic considerations. The grant or denial of a waiver by the Commission pursuant to this section may be appealed to the Board of Appeals.*

*It is my recommendation that the Bufferyard on the eastern edge of the property be reduced to provide only shrub along the edge of the parking lot due to the close proximity of the property line. It is also recommended that the requested waiver be given for the rear bufferyard since the existing forested area serves that purpose. A planting agreement must be executed prior to final approval.*

Ms. Skilling stated that on the east side of the property be reduced. There is actually in the buffer yard to the right, there could at least be some shrubs on the front part there. It's very narrow, I agree, but there is no way you could put a buffer there and it would exist against that building. Because of the setbacks and the building is pretty much close to the property line. But they could do some buffering on the front part, just from the street back to the building. There's about ten (10) feet in there. So you could do shrub in there. It is my recommendation that you wouldn't have to follow the buffering, which is a lot more, combinations of tree and shrub. It is also recommended that the requested waiver be given for the rear buffer yard. It's already forested. I went out there and there are trees all along the back and it wouldn't really benefit to put any additional trees in there because there is a whole tree line along the back of that property. And it actually provides some good, it's really good water benefit quality to leave it all there. Also, there will have to be executed a planting agreement for all the buffering with the Town prior to final site plan approval.

5. *Parking - The total parking spaces required are 54. The total parking spaces provided are 44. This must be addressed in relation to the present use and future uses of the retail space. The applicant is requesting a design waiver per Article XVI, Section 274.*

*Based on the plan submitted, efforts have been taken to comply with the recommendations offered by the Zoning Administrator and URS's letter dated August 18, 2008.*

Ms. Skilling stated according to the Ordinance you can put a waiver on these based on, it's really a swapping effort in the Ordinance as it is addressed. What they indicate is that if one of the uses is used part time during the day and something at night. Right now you don't even have the three of those pads being used, it's only the store, one section being used. So it would appear that the forty-four (44) parking spaces is more than adequate for what is there right now. You have that option.

Ms. Turgon stated not that that really enhances, if you increase it.

Ms. Skilling replied that if he increases it we may have to look. What I would recommend is once these other pads are rented and we know the uses of them, I think you would be better able to figure out whether this number, the forty-four (44) would be adequate to support the retail that is going to go in that building and might have to come back to address the issue of the difference of the fifty-four (54) verses forty-four (44) parking spaces. That would be my recommendation that they would, at some point in time, when those places are, when we know what the uses are, that they come back. I believe they have taken efforts to comply with the recommendations offered by the Zoning Administrator in the letter. Based on all the information we have, I think the waiver is acceptable in this case and they have done a lot more on the site plan. The buffers will provide some water quality there and we'll find out, did you submit something for storm water?

Mr. Fox replied yes.

Ms. Skilling said they may allow that as being a water quality benefit here because it's a redevelopment. All those plans have to be also submitted to the Town, Sediment Erosion, storm water, and State Highway, and we will eventually require the cost of the plantings, you should submit all of the costs to the Town and that we can do a planting agreement.

Mr. Fox asked if that would be during the final submittal. Are you finished with your comments and can I respond at this time.

Ms. Skilling replied sure.

Mr. Fox said that regarding the parking it was the intent that if the retail use did come in and they were open from nine to five, the liquor store is open later and it's busier after work hours, we then have four spaces used during normal business hours and you do get cross parking as far as the space used. At this time we are unable to determine what kind of retail use will come in therefore we can't spell that out. Regarding the signage, you said an increase in non-conforming. If we don't increase the height or the size or anything, and Mr. Patel said he is to add additional signs to conform to the current standards and he would utilize the same poles, is that what you are saying?

Ms. Skilling said that is really is up to the Planning Commission, but the sign doesn't, right now, meet the standards for height. The sign is the non-conforming issue by way of



height. It does meet the dimensional. I believe there was a letter sent from the Town Administrator, that dimensionally, but the height primarily is non-conforming. The concern being that you have to add three different retail uses on that sign, how do you do that and how do you make it meet the requirements beside the original sign really had no permit to go up anyway. And that's where we run into that thing that if you read the Ordinance it does say if it were a permitted, if you had it permitted prior to, it would be a permitted non-conforming use. But it wasn't permitted, so now we have a non-conforming use that never had a permit. But it is up to the Planning Commission to make that decision on whether the sign should have a master sign plan. It does say in that overlay district that would bring it into conformity and make the site completely, basically pretty much in conformity now.

Ms. Turgon asked how much is it out of conformity.

Ms. Skilling replied it is the height.

Ms. Turgon asked but by how much.

Ms. Skilling asked how high is it, I'm sorry, I don't even remember now. What is the difference, do you have it.

Mr. Fox distributed a picture showing the height of the sign.

Ms. Turgon asked what is it supposed to be.

Mr. Fox said the rod here that my coworker is holding is twenty-five (25) feet, and that is the requirement.

Ms. Turgon asked is that where it's supposed to be.

Mr. Fortner said the maximum height.

Mr. Fox replied it should be twenty-five (25) feet to meet the Ordinance.

Ms. Skilling said that she thinks it said on the plan there.

Mr. Fox said twenty-five (25) feet.

Mr. Fortner stated so all this addendum stuff, all this outside stuff, there is a Yuengling sign that is somehow attached to the side. Would that be permitted?

Ms. Skilling replied I don't think so. There are two things, if I look at this sign. Why would it be so difficult to lower that and make it conform. Because now you still use those poles to put your other pads in there, the other signage, on there. And this becomes part of everything and now you have it conforming. I don't know Mr. Patel, that is

something that you can address with the Planning Commission. That would be my question, is why it couldn't easily be made lower.

Ms. Turgon said especially since we are working on our Comp Plan and the look we want to have along Route 40 and all that. It's a trade off and I think this is outside of that look that we want and it would be my recommendation not to grant that sign waiver.

Ms. Skilling said it would be the one thing that would make, if you did it, would make everything be in conformity with the highway corridor overlay district. If the sign could be lowered, to the approximate height and then you would still be able to put the other signs for the other retail sales.

Mr. Patel asked if the square footage is fine, the size, but only the height is wrong.

Ms. Skilling said yes, that is what the Planning Commission is saying.

Mr. Fortner asked if there were any more comments you would like to make.

Mr. Fox replied regarding the sign, would you still want us to come in with a master signage plan.

Ms. Skilling said that it depends on what the recommendation is from the Planning Commission if you can bring it in conformity by lowering it, if the Planning Commission believes that could help. It would conform then, the lowering of the sign would make it conform.

Ms. Turgon asked if that requires them to come back before us again.

Ms. Skilling replied well it would be part of the final approved site plan that would be considered. This isn't the final site plan. You have to get all the sediment erosion control, storm water, and we have to get SHA's comments on the entrance. And that permit hasn't been issued yet.

Mr. Fortner stated that it seems to me that we want them to come back because we want to know how it's going to look. We don't want to jerry-rig this thing; there's going to be three other businesses potentially going in there. They have something there that they could use for advertising specials, like a little bulletin board. I'd like to see how they are all going to configure that to make it work. I would like to see something that conforms with some of the newer developments like the Happy Harry's store and where the Food Lion is, that shopping center there. So I would like to see something to make them look at that kind of uniform conformances.

Ms. Thompson said that would eliminate the size of this.

Mr. Fortner replied yes, most certainly.

Ms. Skilling stated that I think what the Planning Commission is saying that it would be nice to be able to make it look like other signage along Route 40, like other businesses there like at the Food Lion and across the street and some of the other businesses. So by lowering it you could almost make this with some kind of, it would fit into your design here for what's going on in the front.

Mr. Baynes said that in answer to your question, I think they do want to see a master signage plan then.

Mr. Fortner said we want to see how they are going to configure this, use the poles, that's one option they could use to keep the poles, lower it and then how are you going to fit those other three signs on there. Plus anything else they want, like the little bulletin board to advertise specials. Any questions or comments.

Commissioner Hansen asked about the sidewalk, wasn't that supposed to be done at front.

Ms. Skilling replied that is part of the site plan.

Ms. Battaglia stated that it would be part of State Highway Administration, when they look at it and what they are going to recommend.

Mr. Fortner asked if there were any more questions or comments from the commissioners. I think it's looking really good, what you are doing and I like the kind of the concept of hiding the parking with the shrubbery and it's going to make it really nice. It fits the goal of hiding the parking which just makes it look nicer.

Ms. Skilling said that you also have a pad for your dumpster and enclosed, and also the oil tank was another improvement made. It has taken in consideration some of the recommendations that were made for that occupancy permit.

Mr. Fortner said an improved sign plan, if you want to use these poles or installing something new there, sort of like you see with some of the newer developments, it would be a huge improvement. Maybe you can make this work as well.

Mr. Patel said that he was trying to keep costs down, but he will do the sign.

Mr. Fortner asked if there were any other comments or questions. Do I hear a motion. Are we going to approve this as a preliminary plan with your comments.

Ms. Skilling replied that when they come back after they address all the comments in here, the sediment erosion control, storm water, and SHA's comments and access permit in the final site plan.

Mr. Baynes said that they should also be doing what was suggested in the waivers, the parking and the buffer.

Mr. Fortner commented the parking.

Mr. Baynes said that you are going to consider granting the parking from fifty-four to forty-four now, and then like Ms. Skilling said, the limited buffer along the east edge from just the roadway back to the building, and nothing in the back because it already has a lot of the forestation already.

Ms. Skilling said so you will be granting waivers to those buffer requirements.

Mr. Fortner stated ok, now would someone make a motion.

Ms. Turgon stated I will make a motion that our recommendation is to approve, or to recommend.

Mr. Fortner said we are not recommending.

Ms. Skilling said that first of all you need to address the waivers to the buffers.

Ms. Turgon replied we recommend the waivers should be granted.

Mr. Baynes said that you are the one who can grant or deny.

Ms. Turgon said that we grant the waiver to the eastern edge buffer.

Ms. Skilling said with the exception of some shrubbery on the front part.

Ms. Turgon said with the exception of some shrubbery on the front of the eastern edge of the building, and also that we grant the waiver of reducing the parking from fifty-four to forty-four.

Ms. Skilling said before you get to that, the waiver for the landscaping on the rear of the property.

Ms. Turgon said the requirements on the rear of the property be waived due to the existing forested area, and that we are also requesting they come back with a master signage plan. So we are asking Mr. Patel, we're saying that we approve the plan as submitted with these revisions and they will come back with a final site plan.

Mr. Fortner said that we're not recommending this, we're approving, or are we recommending.

Ms. Skilling replied that you are recommending the preliminary plan based on what you said, that the final site plan will come back with all conditions.

Mr. Baynes said you are the approving authority.

Mr. Fortner said that we are not recommending to Mayor and Commissioners.

Mr. Baynes said don't get confused with the last project, you are approving.

Ms. Turgon said we are recommending approval of the site plan.

Mr. Fortner said not recommending, we are approving.

Mr. Baynes said you are going to see a final site plan. Right now, you are approving, and maybe that should be a separate item, you're to approve those two waivers, the buffers and the parking, and then I guess also recommending that as part of the final site plan, I guess you're going to recommend that they submit the parking and a master signage plan.

Ms. Turgon said and the master signage plan to conform with the existing regulations, the highway corridor overlay district for height requirements.

**Motion** was made by Ms. Turgon and seconded by Mr. Oberholtzer that waiver is granted for forty-four parking spaces instead of the required fifty-four, waiver is granted to allow the existing vegetation located at the rear to provide the required perimeter landscaping, waiver is granted for required vegetation on the eastern part of the site but to consist of shrubbery from the street to the front of the building only, and a master signage plan be submitted with the final site plan. **All in Favor; Motion Carried.**

## **DISCUSSION**

Mr. Fortner stated the next item is an update on the Comprehensive Plan regarding revisions and current status. Do you want to talk about it or did you just want us to read the notes.

Ms. Skilling stated I just wanted to update everyone on the Comprehensive Plan. One of my first duties when I came on board was to make sure the comp plan was updated and all the revisions were put in there and it would be sent out to ninety day review. The ninety day review really is sending out to agencies, counties, other adjoining jurisdictions, for their review and comment. And that is an important thing to get out for the Town because now it has been sitting around for a year. So I'm still making some of those comments/revisions and I will, where I've made substantial changes, which is not very often but there are some comments I have made. I'm going to make copies of those pages and you do have copies of the Comprehensive Plan, and they'll correspond to those pages and you will see those changes, in lieu of redoing the whole plan because it's a lot of paper. You'll be able to see where I've made the changes. Now, just be aware when it comes back from the ninety day review, it will come back before you and we'll have to hold a public hearing at that time. We'll have to address the comments from all the agencies, and the Planning Commission will have to decide whether they want to change based on some of those comments. They are recommendations. They aren't blanket changes that you have to make but they are recommendations and you will get it from

MDE, Maryland Department of Planning, Department of Natural Resources, they will all have comments on it. So, once you get it back you'll have a public hearing and that will be other options to change things at that point. And after the public hearing, we will, we have to make recommendations to Mayor and Commissioners to adopt the Comprehensive Plan and they will hold a public hearing as well.

Ms. Turgon asked what is the time frame.

Ms. Skilling said that once that all happens, once the Mayor and Commissioners have their public hearing, they adopt it and I think there is a time frame in which it becomes law. That becomes your new plan.

Mr. Baynes said twenty, twenty-one days.

Ms. Skilling said she thinks it is twenty-one days, I can't remember the actual date.

Ms. Turgon asked when do you think that will play out, like best case.

Ms. Skilling replied you get ninety days, so if I get it out by the end of this month, you are talking December, January, February, I'm talking early April, maybe May. We will be making some other changes in there too, in the Comp Plan, based on new things that are happening in Town. And that you will be aware of that pretty soon, of what is going on. So I just wanted to update you and let you would know where it stands and hopefully I get that out. My goal is to get it out by the end of this month so hopefully we won't have any more plans come through here.

Mr. Fortner said that I hope you plan to take a lot of that stuff out. The version I saw is, you think you'll take a lot of that out, some of those maps.

Ms. Skilling said she's looking to go through there and probably take out some of the redundant maps. I like some of the graphics though because I think the graphics do help people understand in the Comp Plan but I think we could take some of it out. Yes, and I'm going to try to pull some of those out that I don't think are relevant. But some of them we're going to have to have in there, some of the issues, and I'll be talking to you about some of your comments, because you made some pretty clear comments.

Mr. Fortner asked if there was anything else to discuss.

**Motion** was made by Ms. Thompson and seconded by Ms. Hansen to adjourn the meeting at 8:40pm. **All in Favor; Motion Carried.**

Respectfully Submitted,

Dianna Battaglia  
Planning & Zoning Coordinator