

**Planning & Zoning  
Meeting Minutes  
May 18, 2009**

**ATTENDANCE:** Michael Fortner, Matt Oberholtzer, Bethany Brock, Pete Reich, Town Planner Mary Ann Skilling, and Planning & Zoning Coordinator Dianna Battaglia.

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

**APPROVAL OF MINUTES**

**MOTION** was made by Mr. Reich and seconded by Ms. Brock to approve the April 20, 2009 Planning and Zoning Public Hearing and Meeting minutes as written. **Four (4) in Favor. Motion Carried.**

**NEW BUSINESS**

**File No. ZC2009-01** – Proposed use as Bar, Pub or Tavern; **PROPERTY OWNER:** Pravina C. Patel; **APPLICANT:** Justin J. Prince; **LOCATION:** 5279 Pulaski Highway, Perryville, MD 21903; Tax Map 800, Parcel 708 & 739; Zoned C-2, .903 acre.

Mr. Fortner asked the applicant or representative to come forward please.

Mr. Justin Prince stated basically you have the packet and I can read it all the way through or we can start out with questions. However you prefer on the proposal. I guess I'll read it from what I wrote. Basically, it is a proposal for a bar, pub or tavern at 5279 Pulaski Highway, Unit B, which is located here in Perryville, Maryland. As we all know, C.K. Patel holds ownership of the property known as East Coast Liquors Incorporated, which is located at 5279 Pulaski Highway in the Town of Perryville. The site is occupied by four (4) interconnected building units that vary in square footages which includes East Coast Liquors as Unit A, a vacant unit to the east of the current liquor store would be known as B, and the two other units located at the rear of building is known as C and D. The units B, C and D have been vacant since 2005. The vacant unit B would be used as the bar, pub or tavern, leaving units C and D vacant for a storage space for East Coast Liquors and for the proposed bar, pub or tavern. Proposed space, unit B is a grand total of two thousand four hundred ninety-six (2,496) square feet.

Mr. Fortner interrupted that we all have a copy of your proposal and you don't need to read through it all. If you could point out a few of the finer points and a summation and then we'll have questions for you.

Mr. Prince continued as you have seen on the proposal of course the construction, all the licensed contractors. At the time when I wrote the proposal I didn't have all the license

numbers. If there is an issue with that I can go ahead and research these companies and get the actual license numbers. As you've seen on page three, which is the rest of the construction. Are there any other concerns with the proposal? Any questions on the proposal shall I say?

Mr. Fortner stated give us basically your business plan.

Mr. Prince indicated basically the business plan is we of course analyzed the situation with the parking. The plan would be to enforce a strict dress code to help utilize for the parking. No backwards ball caps, no white tee shirts. We're looking for basically a clientele that would come into our establishment that would actually want to pay to be there, verses some other bars in the area where there is no cover charge. Some would say I would rather go somewhere there is no cover charge and the drinks are cheaper but where they would come to our bar, where the drinks might be a little more expensive and there is a cover charge, to help kind of narrow down the selection and the types of people we will be able to attract or want in our establishment. We would set a minimum of five dollars (\$5.00) plus cover charge to both Friday and Saturday nights whether we had entertainment or not. The reason like I said would be to help basically with the parking and help kind of narrow down, with a right to refuse, customer base quite a bit. Like I said with the attire, no cut off sleeves, no backwards ball caps, no work boots, and basically like I said, the right to refuse in order to turn away business and also help with the parking. Basically for the future, Dhurmesh Patel, who is representing C.K. Patel and East Coast Liquors as well, what we would like to do we had discussed the last time we were here with East Coast Liquors and C.K. Patel along with Brad Fox's meeting, we talked about the exterior of the building. What we would like to do is to match the existing new projects in the area, like Food Lion has the stucco on the outside with the brick at the bottom. I'm not saying do an exact, their way with the brick at the bottom, but I would like to stucco the building for the near future and match, like I said, new businesses in the area. The other thing is the back room which is also known as unit D, what we would like to do is to take the false wall out for the future and possibly do some gaming back there. What I mean by gaming is future pool tables, maybe some arcade machines. Almost like a David Busters type setting, kind of fun and play type thing. You come to the bar, you get some drinks, hang out and then also have some billiards back there and then I'd also like to host billiard and pool leagues and that way you get the same crowd in there on Mondays, Tuesdays for different leagues. There is one league for Monday night which is APA and they usually host anywhere about six to nine teams in the area here as it is now, and Tuesday night, which is that league as well. But that is all heresay, but I just figured to get some type of the same crowd in there for Monday and Tuesday but like I said that is all in the future. Then possibly maybe in the next year or two years, Rich Donahoo and I discussed the possibility of doing a kitchen. There is that unit C, the first half is already divided with a wall and a door and that area would be perfect for a good sized kitchen. And then in the future possibly building a kitchen. I'm not saying a full blown kitchen but maybe deep fryers, something for like French fries, onion rings and stuff like that and possibly an oven machine for pizza. Rich is the owner of Franks Pizza in Aberdeen and his specialty in Italian food such as cheese steaks, pizza, calzones, etc. we could serve that kind of food with his expertise. Like I said that is

irrelevant for the next year or two, it's just planning. If there are any questions you'd like to ask.

Mr. Fortner stated I'll turn it over to staff. Ms. Skilling do you want to make a report or have any comments on this.

Ms. Skilling replied you have a copy of the staff report. Originally the parking for this site was determined based on retail, which is what was to be in that building. There were going to be three retail stores with the liquor store and because of that the parking requirement was a lot higher when we originally did the parking. As a matter of fact, it came out to be fifty-four (54) spaces for the total site. At that point the Planning Commission choose to give a waiver for forty-four (44) spaces considering that potentially the liquor store would not be open the same times as the retail. So the waiver was given for forty-four (44) spaces. Now when you go back and calculate for the bar/pub parking requirements it's based on the number of seats. And based on the information received from the applicant of what is going to be on the site, it appears there are going to be twenty (20) seats in the booths, fifteen (15) stools, that gives you thirty-five (35) total seats. When you break it all down the fact is it comes out to be nineteen point five (19.5) spaces are required and based on those two uses, which is now the liquor store and the bar/pub the two really only needed thirty-eight (38) parking spaces. So the forty-four (44), there would still be some excess at this point. The concern I guess still is the movement of people in and out and the liquor store probably would not be open the same times as this proposed facility would be functioning. I guess the liquor store closes at nine o'clock. Is that correct?

Mr. Prince responded for the liquor store that is correct. That is their summer hours. In the winter they close at eight o'clock. So that's only for seasonal. Weekdays they close at eight o'clock and Friday and Saturday it's nine.

Ms. Skilling stated the other things that needs to be done prior to opening of, if the Planning Commission so desires an approval of this, there are improvements to the entrance to this site that are being made. State Highways has required ingress and egress and reshaping that whole front entrance and exit to that property and that will have to be done. I think that right now there is some consideration of reducing some of the site that Mr. Patel was required to make and that hasn't been finalized yet by SHA but prior to opening that would have to be done. And then also the plantings. If it gets to be summer time then it's not going to be a good time. It'll have to be done prior to, and we'll have to write a letter. It definitely should be done by the end of the season which is the end of this year. He's missed the spring season for planting right now and if the weather stays like this it might be ok. But he can't do any planting obviously until he does the road improvements. So prior to any kind of allowance those things had to be done before any pub could be opened.

Mr. Fortner asked for questions from the board.

Mr. Reich stated you mentioned in your proposal, I read “it will contain 5 booths equaling out to 20 seats including 15 bar stools”. So his proposal says to me twenty seats.

Mr. Prince commented that is not correct. It is a grand total of thirty-five (35) seats.

Mr. Reich indicated so what you should have had here “5 booths equaling out to 20 seats and 15 bar stools”. Now I see where you get thirty-five (35), I didn’t see that before. Does that part of the building have any windows in it?

Mr. Prince replied no it does not. There is an emergency exit on the second half at the side where I have it labeled as the dance floor area. There is an existing door right now between unit A and B which I will be closing off. That way the liquor store doesn’t have access between the units A and B. Where you see the separation between the bar area and the dance floor area there is an existing door there which will be staying as another emergency exit.

Mr. Reich asked didn’t that at one time have windows all the way across the front of it.

Mr. Prince said that was on the other side, the East Coast Liquors on the left side which is unit A.

Ms. Skilling stated so the exit that you are talking about on the side, that is the emergency exit you are talking about on the far right which would be the east side of the building.

Mr. Prince replied right.

Ms. Skilling said that is the only exit you have for emergency.

Mr. Prince responded there is another door down here that is unit C, and there is another door here as well. They are all break away doors so if somebody has to get out, if there is a fire or something they can get out. Whoever designed the building did a good job of the exits because there are definitely a couple there.

Mr. Reich commented the line dividing the so called C and D units, is that a permanent wall?

Mr. Prince replied that wall is a permanent wall, it is a block wall.

Mr. Reich asked so where are your emergency exits from your gaming area?

Mr. Prince responded that actually there is a door since this was going to be for a future retail there is a door here which I didn’t label. There are actually two doors at the back of the building which I didn’t label because I was more concerned with the bar area at this time. Yes there are two doors for exit out.

Mr. Reich said and the door that you have into the bar right now, is it a solid door, or glass?

Mr. Prince answered there is a small strip of glass at the top but it is a solid steel door. And then as you see in the layout to scale there is an ID check station with a countertop that is approximately six (6) foot by probably two and a half (2 ½) feet and in that area there is another door in there that is also a steel door that allows the people to get into that area, to the bar area. So there are two existing doors when you come in as an entry. There is an ID check station right there that has a countertop. This can be the area where the bouncer or the ID man would be at this station.

Mr. Fortner asked Ms. Skilling there is nothing in the zoning code about a dance floor in terms of parking requirements. You have a facility that is proposing thirty-five (35) seats essentially but yet most of it is open area.

Ms. Skilling replied it doesn't really cover a dance area. If you look at the area it's pretty cramped. But, and I guess the concerns are, yes that really is not a lot of parking if you consider this area, so controls are going to have to be there. Because it's right on Route 40 and I think that is a concern, even with State Highways, with coming in and out of that site. But we don't have anything for a dance floor. It should only function for the number of the spaces based on the number of seating provided. Do you have the capacity of this area based on fire regulations?

Mr. Prince stated as of right now I haven't called or made an appointment for the Fire Marshal to come in and actually give me an occupancy number of persons for the building at any one time.

Ms. Skilling indicated every building has a maximum capacity and it is based on square footage.

Mr. Prince commented I'm just trying to take steps here. I haven't even really applied for the license yet through the county. I've spoken to a woman up there numerous times and she said the first thing was to get a separate address for units A and B and we handled that and we have a separate address and the next thing was the approval.

Ms. Skilling asked Mr. Prince could you address that with the Planning Commission about why you want that separate address.

Mr. Prince replied because there is already an existing liquor license on the property, unit A which is East Coast Liquors. The county requires a separate address in order to obtain more than one liquor license on the site. They can't do two liquor licenses on the same one address. So they required a separate address and really that was the first step of this whole project.

Ms. Skilling stated and you will notice my last comments in the C-2 zone it is a permitted use but in the other areas it would be permitted as a special exception. So it is permitted

here mainly because of distance to churches, schools, and they do meet that requirement for the distance.

Mr. Fortner asked if there were any questions from the board?

Ms. Brock stated going back to parking, when you were here before when East Coast Liquors came in for their final, you had mentioned getting permission from All Signs to park in their parking lot. Is that still an option that is open to you?

Mr. Prince replied I talked to the owner of All Signs and the first time I spoke with the gentleman, he was very busy and he was doing signs and I don't exactly recall, but he said we would have to talk again and he said yea, yea you know. And then when I called him the second time to talk to him, he said he had talked to his lawyer since the last time I talked to you and he had advised me not to give you approval for the parking due to the fact of the liability issue. If somebody slips and falls you know, it's on me. With C.K. Patel doing the State Highway requirements for the sidewalk, since it is going to go down to the Food Lion and that being a public shopping center and Food Lion I think being open twenty-four (24) hours a day. Is that correct?

Ms. Skilling responded I don't think it is twenty-four (24).

Mr. Prince stated it's not open twenty-four hours, but it being lit twenty-four hours a day, if it really does become an issue, I don't know if there is an approval there but possible overflow into that parking lot, I'm not sure how that works just yet. But being the fact that C.K. is going to put the sidewalk all the way to the Food Lion for that shopping center it could be possible maybe. I'm not saying fifty (50) cars could park there but if there was maybe a group of five (5) or something it may be possible to have an overflow into that unit's parking or at Perryville Crossing's parking lot. I don't want to get into that because I know that is a separate issue.

Ms. Skilling stated you have to get approval from the property owner who still owns all that property to allow that to happen after hours. But the other concern I have is one requirement is what you have and already you have up to forty-four parking spaces but if you double that, eighty-eight people in this facility and that is what I would be concerned about. The numbers of people that potentially go in there, if you are using another parking lot is the number going to go over. You really need to have the Fire Marshal determine what is the maximum going to be allowed. You need to know that for your safety as well as making sure that parking is available before you can look at any other uses. For that site it looks like eighty-eight people would be a lot in that area.

Mr. Fortner asked if there are any more questions from the board before I close public comment.

Ms. Brock commented State Highway, as to what they are requiring for the parcel, for you and the liquor store. Are you willing to wait to open the bar until all those improvements, is it in litigation. They are trying to not extend the sidewalk all the way

up to the Food Lion and are you willing to wait to open the bar until that is settled in court or rather it is done and the landscaping is complete.

Mr. Prince replied I'm not exactly sure because this is all new to me. I don't want to comment and say yes I want to wait and technically I've been waiting trying to get this proposal going since I first spoke to Ms. Battaglia back in February. And just trying to get it through so that way I can do the improvements. Now I don't know with the list of contractors how long it is going to take to do the improvements to this unit. It may be a couple of months. If I can go ahead and get an approval for building this so that way I can do the construction while C.K. Patel gets his transaction going with doing the sidewalk and the required SHA things and we can kill two birds with one stone and once my construction is done and his is done and if there is an issue with opening then we'll have to deal with that when it comes. Then if it's a must, then I will have to wait.

Mr. Reich asked just for curiosity, originally when you came in here we were going to have two retail establishments, in C and D, right?

Mr. Prince responded when I originally came in here the first time it was just basically unit B. And there was talk with Ms. Battaglia because I really didn't have a proposal, the only thing I had was a scale and originally it was basically what I have said, it was going to be a future pool tables, possibly two at the time, and basically what it is now everything is pretty much the same, I don't really think I've changed anything. Except for that wall instead of using that whole room I think it was only going to be twenty four by twenty four (24x24), instead of fifty-four by twenty-four (54x24).

Mr. Reich stated but originally the forty-four (44) spaces, tell me if I'm wrong because I'm confused here. The forty-four spaces were based on having two retail establishments here correct? Or three, counting the liquor store.

Ms. Battaglia commented it was to be three retail and the liquor store. When the owner of the building wanted to get the liquor store in there and he said it was going to be a liquor store and three retail spaces. That was when it first came in, and then Mr. Prince came in wanting to rent the space, which added more confusion to the original plan.

Mr. Reich said so we don't have the two, that's gone.

Ms. Skilling replied yes, right now the areas that are going to be retail basically are going to be absorbed by the future pub/restaurant/bar. So, originally with the retail and the liquor store it was fifty-four (54) parking spaces required and then the Planning Commission choose to allow a waiver to forty-four (44) for that site and that's one of the reasons we made Mr. Prince come back because the original plan was just for that particular four based on what was approved already. So now because of the change in the use, the number of parking also changed.

Mr. Fortner asked is there a member of the public who would like to speak. (None) I'm not going to support this proposal. I don't think that this is a good facility for this use.

We opened up the parking requirement to allow flexibility and to allow for good retail shops to open there and this is a dramatic change in use from that. It was a bar before. It wasn't a good bar. It was a problem in the community and the business plan that has been presented isn't a change from that so I don't see any reason to think that this would be a different type of bar from the bar that was there before. It's not a good shared use with the liquor store in my opinion because when you get a shared use, you go to a restaurant and you go in a shop, or if I work here and then there is a restaurant nearby, but a bar and then go to the liquor store or go to the liquor store and then go to the bar. You don't have a very good shared dynamics there that would be important for shared parking. I don't think the comparisons to a DB or an ESPN is a good comparison for this. This is nothing like those facilities. Those facilities are restaurants, family style restaurants that serve alcohol and this will just serve alcohol and it might at some point have some pool tables. The parking is a problem too. They are going by a strict definition of having seats and they provide the seats to meet the parking requirement but most of their facility isn't seats. It's a dance floor and a stage and then they want to make it even bigger and have pool tables. If you just had a restaurant people need to sit down in a restaurant, but when you have a bar facility you don't need to be sitting down to drink. And so the parking requirement may not be sufficient, and I don't think it is a really good site. There are no windows at this site. The proposals that they have to make this a more upscale place or to even limit the clientele, I don't see that as enforceable through the zoning or through the city. We can't force them to charge a cover. We can't go back and say well you're not charging a cover. We can't force them for a dress code, or no work boots. Even if I thought that was a good proposal for a business, which I don't, it wouldn't be enforceable, even if we wanted to. So it doesn't help us regulate the parking situation there at all and also even if we take the good intentions of this proposal, once we allow this use to go into this facility if they go under and a new person comes on we don't have near as much flexibility with them as well. And so as the business goes, the alcohol use is still there at that facility and another business person comes along and it is still there and we don't get any type of leverage on that. And also I really think we ought to encourage other business proposals that are more restaurants that serve alcohol and we recently heard something a few years ago that Ercole's on the corner, they have a restaurant, a successful restaurant, and they wanted to expand it to serve alcohol there and that is a good proposal. Those are the kinds of goals I think we ought to review and I don't think we ought to consider a strict bar where all you do is you tap some kegs, serve some alcohol, and that's your business plan. I think it is a great responsibility to operate a bar and I don't see it as a draw. I don't see how it competes with other people in the area, the people over at the Grist Mill, or MacGregor's in Havre de Grace. A facility that you want to go to that is interesting. This is a cinder block room. I don't see this as an interesting facility to go to. I don't think it will be a different bar than the one that was there before so I'm not in support of the change of use.

Mr. Reich commented I have the same thing. One is I'm really worried about not having the Fire Marshal tell us or have it in this proposal how many people that building is supposed to hold from a fire standpoint, even having the folks from the Fire House up there to look at it. The reason I asked about windows or glass doors. My step dad told me one time when I was very young, twenty-one and just started drinking, don't ever go



in a bar that doesn't have any windows for obvious reasons. They tend to have knife fights and everything else. And I agree with Mr. Fortner about the parking as well. We've got thirty-five seats and you're going to have a five-person band, or a three-person band or whatever and that's more parking. I've been in lots of bars where they play pool and you stand around, you don't have to sit down, and you sit your beer on the table and you play pool. Or you sit at the arcade or whatever or actually it was more gambling but it doesn't matter, you just sit there and play things. So I'm feeling the same way. I'm really extremely leery of this.

Mr. Fortner asked are there other comments or any additional questions.

Mr. Oberholtzer stated I don't think it is our place to tell people how they should manage their business within the constraints of what is allowed in Planning and Zoning ordinances and regulations and if it met the requirements that are set forth then I really don't see a problem with that. That said, I don't think that they have met a lot of the requirements. I don't think there has really been a substantial change between what we saw the last time they were here verses what they are presenting here now. I guess there is slightly more detail but we're not really sure exactly how many people are going to be occupying that place. Not only sitting down obviously and I would like to see something more, a stamped plan engineered with figures derived from the Fire Marshal and a planning study or whatever. Some sort of more firm plan of what they actually plan on doing beyond what was presented here. I think that is a good start but I don't really think that is adequate to base a decision on at this point in time.

Ms. Brock indicated I tend to agree with Mr. Oberholtzer but don't necessarily think it would be derogatory for the Town to have a new establishment that is primarily drinking based and not so much restaurant based. That being said, it does seem like, I understand, you want it to be classier. You don't want it to be a dive bar. And you've got some ideas of how to maybe trying to control that a little bit which I think is great. With the plan that you've presented, I'd be hesitant to or be willing to approve anything more than what is shaded in on the right side there. You know, a future kitchen, future gaming area, good ideas possibly, but I'm hesitant to approve two white boxes on the site plan. Is there going to be seating in there? Is there going to be one pool table? Is there going to be two? How big is the kitchen going to be? Is it going to be half a kitchen and some seating? Is it going to add seating? Not that you couldn't come down the road when you're closer to actually being able to start that and come in for approval for unit D at a later date with a little bit more detail. Is that going to effect your allocations, water and sewer allocations. If that is going to bring fifty more people for a billiard league then how much more parking is that going to need. I think you are pushing it a little. You might be ok on the parking as it stands now for the shaded area but I am a little bit hesitant. The road improvements haven't been done, it's right off the highway, and if you're going to have traffic coming in and out and you're going to be blocking traffic and people are going to want to get into the site and the parking lot is filled. I guess I want a little bit more clarification on, like they were saying, more figures, some more numbers, a little bit more that is more concrete with official numbers to go by. If the Fire Marshal says you can only have twenty-five people in there that is one thing. If he says you can

have a hundred people that is different. What are you going to do? You don't want to open a bar that you can have a hundred people in but you only have the parking for forty. That's not profitable to you. I think under certain situations I might or would consider approving it, but I think I want a little more clarification at this point and would only want to approve the shaded area tonight.

Mr. Prince replied that is all I want anyway that's why you said, that is why it is for future expansion. That is all I want this evening anyway is the right side, the shaded area and that is why it's future improvements, the kitchen, and that's why I didn't get more details. And the reason why the kitchen isn't going to be done right away and I don't know if anybody in here has ever priced out a commercial kitchen but it is a hundred thousand dollars (\$100,000.) plus and right now what we basically want to do is we want to get in there, see what kind of clientele we get, see what kind of numbers we got and then go from there. See if it's even profitable to even open a kitchen. And I know that it's not written in stone and you have to see that. But our business plan is pretty solid. Unfortunately it's not written down to where you guys can see it word for word and I didn't kind of explain it a hundred percent or anything like that but Rich Donohoo being the owner and a successful business owner of Frank's Pizza in Aberdeen and then myself being a successful business owner in the gaming industry for basically my family has been doing it for over twenty-five years and I've been doing it since 1995 so doing the gaming industry I'm pretty solid on that and I know that this site isn't going to be a Dave & Busters but if we can kind of bring an area in where there is going to be some type of gaming, something to do other than drink at the bar, and some entertainment, some fun, it's a great change because there is nothing around this area where you can actually go play pool without hitting somebody in the back at the bar stool, it would be a separate unit, a separate area, which of course is going to have to be filled or be responsible with another employee controlling that area. I haven't even discussed anything with employees and how many but I know I'm going to definitely have to have the lot attended on the weekend and definitely going to have to have a door man. I'm going to have to have two bartenders on and a manager, either myself or Mr. Donohoo for the evening to oversee everything. Basically our business plan isn't written in this proposal down to a tee because things are going to change. I don't want to sit here and say this is going to happen and then something happens which changes the proposal. Things are going to change as time goes on. Basically what I'm trying to seek here is basically first thing to be able to go to construction for the proposed plan and possibly of course whatever happens with C.K. Patel with the SHA which doesn't really have anything to do with myself or Mr. Donohoo, that's all based on that.

Mr. Oberholtzer stated I just want to make sure I understand and basically what we're approving here is just the address designation change or has that already been approved. So we would be approving this use then.

Ms. Skilling replied the address change has not been approved. We can't approve it until we get the use changed and this is what you are looking at is to have this use for this which was approved retail and now it's going to be a bar/pub. So it is really a change in use.

Ms. Brock asked for the shaded area only.

Mr. Prince responded for the shaded area at this time.

Mr. Fortner asked do we have any possibilities of a motion. You mentioned more information so maybe we can consider tabling the proposal. Put it off for more info. I think we do have a responsibility to control the use and regulate this use based on this condition. You open up this bar and then this owner goes away and another owner can come and these businesses have not acted responsibly in the past. They are a detriment to the community, cause a lot of extra work for the police force, it's right on that highway.

Mr. Oberholtzer said you can't hold people accountable as a rule for what other people have done in the past.

Mr. Fortner said but the thing is they haven't presented a different type of business for this plan from what was there in the past. It's the same thing.

Mr. Oberholtzer said I've seen businesses like Ferraris.

Mr. Fortner responded their business plan is to open a bar and serve liquor. It's pretty simple and not very original or creative business plan to open a bar to serve liquor. It's not very interesting.

Mr. Oberholtzer commented are we here to rule on creativity.

Mr. Prince asked is the Rendezvous or the Grist Mill interesting?

Mr. Fortner responded the Grist Mill is a restaurant and they have an interesting business plan.

(Various members of the public continued commenting.)

Mr. Reich interrupted excuse me public comment is done. This is not an argument.

Mr. Dhurmesh Patel continued arguing I'm just saying it's something that can't always compare to what was there before. It now has a new owner. Everything has changed. You can't prevent something because something might happen. There's no need to.

Mr. Fortner responded we've heard you. The Grist Mill for example, they don't bring them in with alcohol, they serve alcohol, but they bring them in with the good food. And this place, not only is it not a good facility to have this type of place, it's right on the road, it's the only place that only serves alcohol right next door to a liquor store. It doesn't provide much else. I don't think you could get a good kitchen in there without windows or ventilation. I've heard about issues in the past and I would be surprised if it

could ever be converted to a restaurant. At best it could probably be a retail; that's what the parking waiver was for was for a retail in this store and this is a different type of use and that's going to be my position. If we're going to table it I don't know how that holds up the occupancy, we could table it and see what the Fire Marshal says about it. I don't know how that would change my view. But if it is a factor to other people then we could try that route. There's enough votes here. We only have four; we could wind up with a tie.

Mr. Oberholtzer asked wouldn't the Fire Marshal and everyone have to look at this anyway if this were approved by us, at any point.

Ms. Skilling responded yes they would have to look at that.

Mr. Oberholtzer said they could come back and we could approve whatever based on what they say.

Ms. Skilling stated I just want to say one thing, especially for the two new members of the Planning Commission, and you are probably aware of this but the original approval of this property when the liquor store opened Mr. Patel had a chance to come in for the uses on this property and he choose to come in for the use of a liquor store and retail on this site. The plan was approved for those uses with the parking so there was that plan and that was approved for that site for those uses. And what you are saying Mr. Fortner is true, they are trying to approve a different use right now based on what is being proposed for that site. So there is an approved plan already for the original uses. This plan is recommending or trying to approve a new use for this site, for the pads that were already approved for retail. So that is a consideration that the Planning Commission has to look at. You've made some valid points; everyone has, so it's just a matter of getting together everybody's opinion on the change of use whether it is a good change of use because it has already been approved for retail.

Mr. Fortner asked are there any more comments or questions. Or would someone like to make a motion.

Motion was made by Mr. Reich that we don't approve this change of use. The use was originally to retail and that is what the Zoning Board approved the first time and I don't think I want to approve this. I move that we don't approve this use.

Mr. Fortner said I would second that but I'm not going to as Chairman of the commission, or could I?

Ms. Skilling replied it shouldn't be you.

Motion was made by Mr. Oberholtzer to table the proposal pending more information is received from the Fire Marshal, pending more complete detailed plans of the bar/tavern or pub use and to further discuss and resolve the parking situation. Until we nail down how many people are really going to be in there I don't think we can really make a

decision one way or the other about any parking issues. I would like to table it at least pending an evaluation from the Fire Marshal and more complete engineering drawings.

Ms. Brock stated the Fire Marshal only benefits you. You don't want to pour a ton of money into this space only to find out that you can have one hundred and fifty people in here but you only have parking for forty-four and then there's all this wasted space, you know I could have a ton of people in here. So I definitely see Mr. Oberholtzer's point on that because it only benefits you in the end. I'm interested in the State Highway Administration issues and I would like that to play out. I would rather not see people coming in and out of there without those road improvements being done. Where they get started up and then they've got to do the road improvements and how do people get in and out with the road construction going on and if there is any way that can come to a head with the property owner and State Highway Administration could come to some kind of agreement. I know they are currently trying to work that out and if we could get that out of the way at least that would somewhat effect the parking and at least we could have occupancy information. And at least it doesn't close the door on you either.

Mr. Reich asked so are you seconding his motion?

Ms. Brock replied yes with the added condition of getting the final determination from the State Highway Administration if they are going to be willing to budge on the sidewalk all the way down to the Food Lion.

Mr. Fortner commented so the second is to table it until State Highway works out the sidewalk requirement, because they want him to put the sidewalk all the way down to the Food Lion sidewalk and he doesn't want to.

Mr. Reich indicated additional engineering drawing, and Fire Marshal approval.

Modified Motion: **Motion** made by Mr. Oberholtzer and seconded by Ms. Brock to table proposal pending additional information is received to include Fire Marshal comments regarding number of persons allowed in unit, further discussion if there is adequate parking provided, engineered drawings for the unit, and resolution of State Highway Administration requirements for a sidewalk. **All (4) in Favor. Motion passed.**

#### **Discussion of CEMUD:**

Ms. Skilling gave a brief summary of the current status of the Commercial Entertainment Mixed Use Development, known as the Chesapeake Lighthouse project. The rezoning has been approved by Mayor and Commissioners and final vote is to take place at the June 2<sup>nd</sup> meeting. Preliminary Subdivision Plan and Preliminary Plan for Phase I have been submitted for the gaming facility, Hollywood Casino Perryville, and will be forwarded to the Planning Commission for review and public hearing at the June 15<sup>th</sup> meeting.

**Motion** was made by Mr. Reich and seconded by Mr. Oberholtzer to close the meeting at 7:45 pm. **All in Favor. Motion Carried.**

Respectfully Submitted,

Dianna M. Battaglia  
Planning & Zoning Coordinator