

**Planning & Zoning
Meeting Minutes
February 16, 2010**

ATTENDANCE: Chairman Michael Fortner, Commissioner Michelle Linkey, Matthew Oberholtzer, George Jack, Bethany Brock, 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. Oberholtzer and seconded by Ms. Linkey to approve the January 19, 2010 Planning and Zoning Meeting minutes as written. Ms. Brock and Mr. Jack abstained; not in attendance. **Three in Favor. Motion Carried.**

Old Business

File No. FP2009-02 – East Coast Liquors; **PROPERTY OWNER/APPLICANT:** Pravina C. Patel; **LOCATION:** 5279 Pulaski Highway, Perryville, MD 21903; Tax Map 800, Parcel 708 & 739; Zoned C-2, .903 acre.

Mr. Dharmesh Patel stated I am representing East Coast Liquors. I am here for the extension for all the work we still have to do. The plans were submitted a few weeks ago.

Ms. Skilling indicated they submitted their Final Plan and requirements that were made of the applicant to do. Continuing with review:

*Mary Ann Skilling, Town Planner
Project Review*

Re: East Coast Liquors Final Site Plan Approval

The following information has been provided or included on the plans as required in previous comments:

- 1. The applicant included the Town in the note for preconstruction meeting.*
- 2. An approval letter from SHA has been received.*
- 3. A signed Landscape Agreement has been received from the property owner and sent to Keith Baynes, Town Attorney, for signature. A Letter of Credit has been received.*
- 4. The waiver granted by the Planning Commission on November 17, 2008 for reduction of parking for the liquor store and retail space and reduction of landscaping to the rear of the building are included on the site plan (Sheet C-2 No. 21 and 22).*

It was stated in previous letters as a condition of occupancy that all conditions and site work were to be implemented within eighteen (18) months of the Planning Commission's approval (August 18, 2008) which would be by February 2010.

Recommendation: In as much as the weather conditions prevent construction to move forward at this time, it is my recommendation that the Planning Commission grant an extension to May 31, 2010 in which all work must be completed or the Occupancy Permit will be revoked by the Town of Perryville.

Mr. Fortner asked are there any questions of the applicant.

Mr. Jack asked what happens if it rains all of April, and then do we do another extension.

Ms. Skilling replied we may have to if we get a really, who knows with the weather now a days. But hopefully it should be, really the site work that has to be done for State Highway but paving in cold weather mostly now is a real concern. Once it gets a little warmer they can actually be paving. Do you have a contractor, do you have someone ready?

Mr. Patel responded yes, we have somebody who I'm talking to and actually it's almost done. Once I get the plan, then I'll give it to him, because they said it won't take any more of four to five weeks. It's not that big of a job.

Ms. Linkey asked do you have the person or are you just talking to him.

Mr. Patel replied no we already have him. We've got the bids and we already finalized one guy for it.

Ms. Skilling stated and the landscaping is part of that. Like I said we do have the Agreement and the Letter of Credit. Obviously you're not going to get the work done now and you're hoping to get it done soon. The winter is not a good time to do a lot of paving, obviously and this date was kind of tricky as it was. So, the May 31st deadline seems reasonable to me. They should be able to get it done and especially with the plantings. They could have them become stabilized before summer hits.

Mr. Fortner asked any more questions.

Mr. Oberholtzer questioned do you have signed contracts with the contractor?

Mr. Patel responded no, I'm waiting for the Town to actually sign off on the plans and then I can talk to him. Because if I sign the contract, then I have to give a deposit to him and I don't want to put the money down.

Mr. Oberholtzer asked so you have finalized with the one contractor then.

Mr. Patel replied yes.

Ms. Skilling commented he has to meet the requirements of State Highways because it's their design basically, it's in their right-of-way and it's on the plan.

Mr. Fortner stated I'd like to open it up to members of the public if anyone would like to talk. If not, I'd like to open up for discussion. Does anyone want to make a motion, either not to grant this extension or take the staff's recommendation of May 31st or provide your own motion?

Mr. Jack indicated well to make sure it gets done without having to need another extension, I would move it to June 30th and that way we know it would be done by then. If it's not done by then, we'll have to take action again. I'd like to see it get done. I mean, why have it come back. If we have a rainy spring and nothing gets done, and you haven't signed the contract.

Ms. Skilling commented mid-June is still a reasonable date for planting. And some of the plantings you could do prior to finalizing the front because some of the plantings are in the front but there's a lot on the side. It's still reasonable to get it done by mid-June. You get toward the end of June, putting plants in sometimes is really questionable. That is still a reasonable time to finish and then you don't have to worry about them coming back again.

Ms. Brock asked and is the main reason for looking for an extension due to State Highways prolonged time frame to get the approval.

Ms. Skilling responded well, response-wise and action actually for the Patel's to be able to move forward with the project.

Ms. Brock asked when was State Highway's response received giving you approval.

Mr. Patel replied the second or third week in January, something like that.

Ms. Brock stated you didn't get approval from SHA before that.

Mr. Patel responded no.

Ms. Skilling commented there was discussion on, they not only had to do the walkway in front of their place, they also have to do it all the way down past All Signs and so that was the discussion. I think you were trying to get them to cut it off just for your site.

Mr. Patel replied yes we wanted to cut it off.

Ms. Skilling stated and that is sort of out of our hands somewhat because we did say that maybe that should be All Signs, but State Highways chose to make sure that was done and since it's in their right-of-way too we don't have a whole lot of control over that.

Mr. Rickin Parick indicated I currently manage the store, the store manager. I have a concern about making the path there; the sidewalk in front of All Signs because forty percent (40%) of the costs we are bearing is because of the walkway that we have to build in front of the All Signs site. And it was just wondering why do we have to do that because it's a lot of money involved and we don't have any problems with making the sidewalk in front of our building but why do we got to do it in front of some other's property.

Mr. Fortner responded that was State Highways.

Ms. Skilling commented State Highways made that approval for access. I contacted State Highways about that to see whether we could cut it off short at your property but for some reason because of the design and the way it was coming out that angle would be such that they would not be able to approve it. It is in our Highway Corridor Overlay zone but it is in their right-of-way so we try to accommodate. Any kind of redevelopment of a property, which this was, to make sure that we get sidewalks in order to connect one place to the other and your property and the next connect ultimately to the shopping center now that section at All Signs, for some reason State Highways mandated that get done.

Mr. Pamick stated it is a lot of money involved in this project and what I was thinking if we could do is we could make the sidewalk in front of our place now and maybe make the sidewalk in front of the other guys later sometime because it would distribute the cost and because we just started out one year back and we're still not making that much money because we're still losing some, trying to build our new business. We just bought it from C.K. and so we're still struggling right now. I'm just concerned that if that could happen, I'm just asking.

Ms. Skilling responded well Mr. Brad Fox from McCrone was supposed to, that would have been his responsibility to contact State Highways to make that recommendation.

Mr. Pamick replied I was just thinking if we could do that, because we didn't ask McCrone to do that as of now because as mentioned at the previous meetings, we have to do it. You guys told us so we didn't ask McCrone to do it, to ask State Highway for this particular thing.

Ms. Skilling indicated it should have been either McCrone or you who could have. I contacted State Highways. That is what they wanted. If you wanted to plead the case that should have been either your engineer or yourself or the owner, to contact SHA to try that design, but right now we have the design on the plan. If you want to do something other than that you would have to come back before the Planning Commission.

Mr. Pamick commented no what I'm saying is I wanted to make sure before I do that, that you guys don't have any problems with us doing that.

Mr. Fortner asked doing what; delaying the other portion of the sidewalk?

Mr. Parick replied yes.

Mr. Fortner stated you have to do what State Highways has directed.

Ms. Skilling indicated you're going to have to deal with State Highway.

Mr. Pamick responded I'm going to ask State Highway for this particular thing but I just wanted to make sure you guys don't have problems with that.

Ms. Skilling replied it's really not up to us totally. It's up to State Highways.

Mr. Parick commented I'm going to put this case against this.

Ms. Skilling responded you get them to change it, I will be more than happy to bring it back before the Planning Commission and say this is what they're doing, it's been switched to this, and if at such time that All Signs comes in it would be their responsibility to do their section.

Mr. Parick replied so all we need to do is, right now, to put this case against the State Highways to ask them.

Ms. Skilling indicated I have no problem with that.

Mr. Parick stated that's what I'm saying is to make sure you guys don't have any problems with that.

Mr. Jack indicated does that not delay getting things done.

Ms. Brock commented just until the end of May at the earliest.

Mr. Parick stated we don't have any problems with making the sidewalk in front of our place right now, so we will do that. I'm just saying in front of the All Signs, because that would help us distribute the costs.

Ms. Brock indicated why don't we set a deadline today and we assume you'll get everything that's currently required done and you'll complete your case to State Highway in time and if they say yes you can do it at some other time, you can come back before the board and we'll consider an extension for just that specific issue at that point in time.

Mr. Parick responded that would be perfect.

Ms. Skilling stated but the Planning Commission now cannot make a full approval of your plan as it is, because the plan includes that walkway.

Ms. Brock commented we can approve it as is.

Mr. Jack stated as it is now we can approve it.

Ms. Skilling continued and then you could come back to amend it. Just so you understand that too because right now we're asking the Planning Commission to approve your plan as is but you're requesting to at least make the contact to SHA and then you would have to come back.

Mr. Parick responded right, we have no problems with that.

Ms. Brock commented just understand that if State Highway says no, you have to do it all, one hundred percent (100%), it's got to be done per their requirement by the deadline.

Mr. Parick replied that's what I'm going to do but I'm just trying to distribute the cost.

Mr. Fortner asked ok, are there any more questions or discussion. We already have the suggestion to the end of June.

Motion was made by Mr. Jack and seconded by Mr. Oberholtzer to grant an extension until June 30, 2010 so all work may be completed to include all requirements by State Highway Administration per plan and site landscaping or the Occupancy Permit will be revoked by the Town of Perryville. **All in Favor. Motion Passed.**

Ms. Skilling indicated this isn't on the agenda but I wanted to bring it up because it is something that is going before Mayor and Commissioners and it is a project that we've been working on for some time, and it deals with Doug Hill's project. A couple of things I wanted you to look at; we have official street names now to go before Mayor and Commissioners and I wanted to make sure that Ms. Linkey is part of this because she can convey this to Mayor and Commissioners as well. This is a letter that Doug has written to the Mayor and Commissioners. He is here to answer your questions. He is pretty much through his process, I have site plans in my office for the project and all the engineering now is with URS, and I'm reviewing site plans now. We have stormwater, it's at Cecil County DPW, they're pretty much finalizing that. Doug has submitted today an estimate of costs for sediment and erosion control plan. Once he gets that approved as I discussed once with Mayor and Commissioners, he can move forward with getting a grading permit from the County but we have a policy in the Town not to move forward with grading permit until we have all these other things checked off on our checklist for approvals. But to keep him moving forward with this project again we have these approvals almost finalized, in order to get this project moving by March which is a really key point and time frame to be able to start grading so that he can start work with getting the project moving forward. He's got a lot of sediment and erosion control traps and stormwater stuff to get in place and considerably a lot of grading for this site so he's hoping to come before Mayor and Commissioners, and the only reason he's here right now is I would like the Planning Commission, since you are all pretty much involved with the whole planning process and realizing we've been working on this for a long time

is to maybe make a recommendation so that Ms. Linkey, our liaison between Mayor and Commissioners, could at least make some kind of recommendation to Mayor and Commissioners to whether we should allow Doug to move forward for a grading permit prior to final site plan approval. If you have any questions, Mr. Hill is here to answer your questions. I don't want to prolong the discussion since this wasn't on the agenda but I wanted to bring it forth. Ms. Linkey can bring up some of the concerns that Mayor and Commissioners had but I thought it was really important that the Planning Commission, like I said, since you're pretty much attuned to the project, whether you believe it should be allowed to move forward, at least for this grading because all these other things are moving forward now. And this will come before you in March.

Mr. Fortner asked it's just Phase I, not the entire site, which is the corner up near Route 40 on the eastern portion.

Ms. Skilling answered just Phase I, correct.

Ms. Linkey questioned you want to start grading, correct?

Mr. Hill responded correct.

Discussion continued regarding the location and types of buildings; the live/work units, retail, the apartments and the round-a-bout using the site map for the project.

Ms. Skilling commented the public works agreement and all the other things on Coudon Boulevard, is still out there to be signed, so once Mr. Hill starts he has that public works agreement that would have to be...

Ms. Linkey interrupted so once he starts grading that's when that time starts.

Mr. Hill explained they have put in a request for recovery of some bond funding, for approval at the State level, and seeking approval from other agencies for the off-site utilities and that would actually happen sooner than the twenty-four (24) months because the bonds have to close within 2010.

Ms. Skilling stated so basically we're just trying to move forward with this type of grading for Phase I and that's all at this point.

Ms. Linkey asked do they have to have sediment and erosion control for grading.

Ms. Skilling replied you have to have sediment and erosion control approved by Soil Conservation, Cecil County DPW, and the bond in place. Mr. Hill just sent me a copy of the bond. There is the cost estimate and the bond would have to be in place, I forget what the cost is.

Mr. Hill stated there are two. One is for erosion and sediment control which is tied to the mass grading; that's cutting down the trees, putting the basins in, stabilizing the site.

That was done; it goes through the erosion sediment control plan. The building phase, which is part of stormwater management, that's the Phase I, and the plan was approved today by Cecil County Department of Public Works and that is a million three something.

Ms. Skilling stated so there's two parts to that, but the main thing is you can't do any grading until you have that sediment and erosion control in place, just like we had to do for Penn. They had to have it in place prior to them doing anything. The County approves those grading permits and they usually approve it once the bonds are in place because what happens, and these were some of the concerns Mayor and Commissioners had, that if they come in and grade and what if the developer walks then what do we have. We have a site that's stabilized or we have the bond that we can pull and we get it stabilized. You would have sediment traps in place and hopefully at that point it would take care of any concerns or problems with runoff as the main concern. They have to be in place actually. So the concerns, I think the Mayor and Commissioners had is mainly what happens if. And that was the biggest thing. As far as Forest Conservation is concerned that was another concern. Because that whole Mill Creek bottom basically is nothing there and is going to be left natural to regenerate, that is a big issue of forest conservation area and they exceed the requirements.

Mr. Hill indicated our Forest Conservation Plan has gone through and as far as erosion and sediment control, we had it approved last summer and then in October or at the meeting in November I asked permission to start work in this phase and the Mayor and Commissioners had concerns with us grading the site and our approval process is such that we are much closer now, the stormwater management was approved today, so it's a matter of erosion and sediment control that the Town is looking at. Because it's an informal process for erosion and sediment control, because we want to get started on clearing, before the leaves come out, we really need to get started.

Ms. Skilling commented so in discussion that's where we are and ready to move forward and I especially asked Mr. Hill to come before you because again you have been involved with this since the get-go and I think it would be important to help Ms. Linkey, if that's the way you want to go, for the Mayor and Commissioners, and I think it helps everybody to be on the same page.

Ms. Linkey asked when did we have this, was it November.

Mr. Hill replied in November and then I came back in December.

Ms. Linkey stated my biggest concern was that they start grading and doing all these things and then it takes them forever to get, it takes a long time to get all these things done, then you have this graded land with nothing, and it's much more visible than it is up at Penn's site. That one was already on the fast track although we did grant an exception for that one, it's not necessarily the same thing. I just didn't want it to be sitting there with nothing for a really long time so that was my major concern which is why I voted against it.

Mr. Fortner questioned so now they're hoping to get started in March.

Ms. Skilling stated the good thing about it in March, rather than in the winter, if they would have granted approval then, they would have had to grade it and then stabilize it and the cost of stabilizing something is pretty costly. So now they can grade it although they're still going to have to stabilize it somewhat, but grass can come up pretty quickly if it's warm; if it's cold you have a real problem. Now the timing is much better to be able to stabilize it where you have to within thirty (30) days when actually moving earth.

Motion was made by Ms. Brock and seconded by Mr. Oberholtzer to recommend to Mayor and Commissioners to issue a Zoning Certificate for erosion and sediment control for Phase I. **All in Favor. Motion Passed.**

Ms. Skilling indicated there is a training session that all of you are supposed to have before July. I can offer it in two ways, and I don't know if you've heard about this. The Maryland Department of Planning decided to mandate that all Planning Commission members had to be trained in planning type issues: what a Comprehensive Plan is, why you do planning, what are your responsibilities under 66B. I'm sure, Mr. Fortner, you had some training. If you remember awhile ago when we did the Comp Plan and we had people come here to do training. I know Ms. Turgon was part of that. So supposedly it doesn't matter whether you had any training prior. You still have to go through this new training. You can do it one of two ways; I can do it in little sessions before or after each meeting and you can go online and just answer the questions, or you can do it yourself and go online and read each section and then answer the questions. Or I can make copies for you and you can look at it, answer the questions and send it back.

Mr. Fortner asked so this is an on-line quiz, it's a training course.

Ms. Skilling stated it's a multiple choice type thing. It's like an open book test.

Ms. Battaglia indicated it says it's a six (6) hour reading exercise, with some questions at the end of each chapter.

Mr. Fortner commented so they want us to read and they want us to answer some questions.

Ms. Skilling stated it deals with your planning responsibilities which is under 66B. So you could read that, but then they added a lot of other things that's not under the law, per se, it's just from a planning perspective. We have the module here. If you want I can make you a copy or a disk, we could do it that way, and if you have questions or when we have our meetings, I can try to answer your questions, but it's something you can read. We used to have, actually University of Maryland used to do it, and I did it with this Planning Commission several years ago and at North East, and Chesapeake City, and we did the training, Maryland Department of Planning did the training. But it used to be really simple but now it's gotten to be complicated, but it is like an open book test

basically. We have to have some kind of training, so what I'm asking is how do you want to do it, because by July we're supposed to have this training.

Ms. Battaglia indicated it is also required for the Board of Appeals members too. So we had thought we could just do our own training, taking the information they want you to know about, do it at a regular meeting and then all we have to do is write a letter to them saying that all of you have had the training and they issue a certificate.

Mr. Fortner questioned as opposed to taking the test.

Ms. Skilling said we still have to verify that you've had some training.

Ms. Battaglia stated the Town has to give them evidence that yes we did supply you with the information.

Ms. Linkey indicated I think that's the way we want to go. You tell us what we need to know and then you verify it.

Ms. Skilling commented that's the approach I was going to do. It will be good for Board of Appeals too, but I don't like the idea that they've put stuff online and when you read it and you have questions, who do you ask. It's better to have interaction. We can talk about it because we, the Board of Appeals really provides, they have to have documentation, they have to have it recorded, it's a lot more legality to Board of Appeals because there's an appeal process too. Of course there's an appeal process here but that's much more, it could go to the courts. So that's why I think it's important for the Planning Commission to be here as well as the Board of Appeals too so we can address all those kinds of issues. So do you want to try to schedule something at one of your meetings, and hopefully we won't have a whole lot of stuff coming up. I know Woodlands is coming up and right now Woodlands is probably the biggest one with just Phase I. And hopefully some of the other things won't come in and we could do it at one work session. I know work sessions are getting pretty bad with Mayor and Commissioners so what would you like to do. Or we could do it right after a meeting like this. Take an hour, hour and a half should definitely be enough time.

Ms. Battaglia asked Ms. Brock what is North East doing.

Ms. Brock replied we printed out the module and gave it to them. We already had the questions printed out and everyone decided to do it when they have time individually. I just prefer to do it after our meeting so that anyone who wanted to do it on their own time could choose to or not. It's very straightforward.

Ms. Skilling stated the thing that I found is people have questions and they can't quite, because some of the issues get pretty deep.

Mr. Jack commented I would prefer having it after one of our meetings because we're already going to be here.

Ms. Skilling indicated we'll have the things here, answer the questions that night and get it all done and I'll verify it. I'll make sure I have a letter to them saying this is what we're going to do, this is how we're going to do it and make sure we get everybody that way. If it's not the next meeting depending on what comes in, maybe at the April meeting.

Motion was made by Mr. Jack and seconded by Mr. Oberholtzer to adjourn the meeting at 7:10 pm. **All in Favor. Motion Carried.**

Respectfully Submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator