

Planning & Zoning Public Hearing & Meeting
Minutes
August 18, 2008

ATTENDANCE: Chairman Heimberger, Michael Fortner, Matthew Oberholtzer, Evelyn Hansen, Commissioner James Hansen, Town Engineer Chris Rogers and Planning & Zoning Coordinator Dianna Battaglia.

Public Hearing called to order: 6:35 p.m.

Chairman Heimberger started the public hearing.

File **No. TA2008-03** – Request for text amendment to Section 255-1 of the Town Zoning Ordinance. Request to amend sign regulations to allow for a programmable sign; APPLICANT: Rodney B. Sparr, The Shops at Perryville, LLC; LOCATION: 68 Heather Lane, Perryville, MD; Tax Map 29; Parcels 307, 402,403,049,059, 670; Zoned C2 Highway Commercial.

Mr. Rogers began by stating the Town of Perryville received a request from a representative of the Perryville Outlets Plaza for a request to amend the Zoning Ordinance to allow a programmable sign. Your Zoning Ordinance allows text changes that can be proposed by anybody in the Town. So the applicant proposed a text change and as is typical with a text change in the Zoning Ordinance there are a lot of nuance to it, so Staff took the proposed text change and put it into real Ordinance language for the Planning Commission's consideration. We believe that we captured the intent of what the original request was from the applicant, the Shops at Perryville LLC letter as received from Mr. Rodney Sparr to the Town of Perryville. So I believe what you have in front of you is a proposed change to the Zoning Ordinance 8-1-08 that would permit programmable signs in the C2 zone as a Special Exception under certain conditions. So we would propose to the first amendment is a sort of an administrative amendment to say that sections 5 and 6 is an amendment to Section 265.7, it's a minor change that references the wording in Section 272. So the meat of the change is to create a new section 272 within your Zoning Ordinance, that states that signs that are illuminated by flashing or intermittent lights may be permitted as a Special Exception in the C2 district by the Board of Appeals under the following conditions:

- a. The sign is intended to be visible only from travelers on I-95.
- b. The applicant can demonstrate to the satisfaction of the Board of Appeals that the sign is not visible from any existing residential dwellings within 1,000 feet of the proposed sign.
- c. The sign provides scrolling text only which is not illuminated by flashing or intermittent lights of changing intensity to gain the attention of the passerby.
- d. All other applicable requirements of Article XV Signs are complied with.
- e. All other applicable requirements of Article IX, Part VI, Highway Corridor Overlay District are complied with, provided the proposed sign is located therein.

So right now these types of signs are not permitted in the C2 district, they are not permitted anywhere in the Town, so this proposed text will allow an applicant to come in and request an illuminated programmable sign to be placed in the C2 district as a Special Exception by the Board of Appeals. You will remember that the Special Exceptions get reviewed by the Planning Commission for a recommendation but the final decision is made by the Board of Appeals. So this is what we would call a Special Exception with conditions and it is intended to only apply to those uses that front on I-95, that have visibility from I-95. Today the two sides of I-95 at 222.

Mr. Heimberger asked purely for information, could he clarify paragraph 1 and 1c, it seems for some reason or another it seems to be conflicting.

Mr. Rogers commented that he understands that and taking another look at this again with a fresh set of eyes this morning I came up with the same potential conflict. A year from now if someone were trying to interput this, it seems to be conflicting. So the intent would be the flashing or the illumination does not change in intensity. That you can't have one of those signs that says on sale, now, now, now getting brighter and brighter, bigger and bigger, or faster and faster. That's the intent of it. If you want to try to clarify that I can come up with something at the end of the meeting that may help. If we changed, assuming that our intent is to allow flashing and illumination in the text, then, if that's our intent, then section two would say, the sign provides scrolling text only and that any flashing or illumination would not change in intensity to gain the attention of any passerby. I agree with you, I thought the same thing this morning that it seemed to be conflicting.

Mr. Fortner stated, along those same lines, basically A and B, the sign is intended to be visible only by travelers on I-95 and then we have this section that it can't be seen by residents within 1,000 feet. It seems like it should only be viewed by the people on I-95, the travelers, and then, first of all I thought 1,000 feet sounds a little low but the visibility should be limited that you should only be able to see it from 95. Or do we need to provide it with more detail.

Mr. Rogers replied that his intent was to have some sort of standard by which to judge it. Any sign that's only visible, you're never going to get a sign that is only visible from I-95 passer by, so I was trying to come up with some way of determining that other visibility would be acceptable.

Mr. Heimberger asked if this is pointing in the right direction now, the sign that is up there right now.

Mr. Rogers stated that if you want to ask the applicant later, you should, but they want to put this, if you want to talk about that specific request they want to put this on the existing sign that faces the toll plaza.

Mr. Heimberger commented he can't remember the sign and he passes by there every day.

Mr. Rogers stated if you're heading north bound you see it.

Mr. Rod Sparr, the applicant, stated that he is the general manager for the Shops of Perryville, the Perryville Outlet Center, the corporation called the Shops at Perryville LLC. He passed out copies of the sign; it is something that was done by the sign company to give you an idea, and is actually a picture of the sign itself. One point Chris, I believe, at least what I was told, was that that sign can't change more than any faster than eight (8) seconds and that is Federal Highway standard. So it's not like, and some of these signs, I'm sure you've seen them, you can have a bouncing ball, where every time that ball moves, that's a change. So this sign won't be able to do that, it's not going to have graphics, it's strictly going to be text. Because the graphics would be changing more than every eight (8) seconds and that doesn't meet Federal Highway standards. I think we're close enough that we wouldn't have a problem with it.

Mr. Heimberger asked if there was going to be a lot of text with the message. How much text do you figure is going to be sent out.

Mr. Sparr said that is a good question. Because it's so far away from I-95, the text is going to have to be bigger which is going to limit the text. He said what they are trying to do is to let people know things about maybe new stores coming, the sales going on. Right now we had an analysis done by Watchfire, who is the maker of the sign and they're telling us that the average two way traffic at that intersection is 73,000 cars a day which equates to more than 2,000,000 cars a month, with 27,000,000 cars a year. Right now we're averaging, we're just starting to average about 1,000 cars a day in the center. If we could get one or two percent more off of I-95 it would make a significant difference. If you read the Washington Post yesterday, they are describing us as a struggling outlet center, and unfortunately I wouldn't say that is an unfair assumption. It's got some challenges, it's had some challenges since my boss acquired it starting with the day after the day we settled on it and going from there. Right now, with the way the economy is, we're not going to be seeing any new stores. All the stores are thinking about right now is closing, unfortunately. The Nike store is doing significantly better than it did before we acquired it. Some of the other stores, most of the stores, if they're down, they're not down where the rest of the economy is, but they are still down and they're still at the top end of the charts. So there are some challenges there, we knew that coming in. We've been looking at this center since 2005 and tried to buy it three different times and were willing to pay a whole lot more money for it in 2005 than we did.

Mr. Rogers said to remember, as with any text change, we've had a couple of text changes recently where there was a specific application pending, and always remember that this is a text change and you have to think about new applications. You have a potential large use on the other side of I-95, so in addition to the specific request that generated this, you have to think about what other people would do given the language as it exists.

Mr. Heimberger asked you mean the proposals that are going on for the other side.

Mr. Rogers answered anywhere. Anywhere that would meet this requirement. (Mr. Rogers asked Mr. Sparr) the eight (8) seconds, do you have reference for that from the Highway Administration.

Mr. Sparr replied that he was told that by the sign company.

Mr. Fortner asked if the sign would be scrolling.

Mr. Sparr said no, that whatever the text is going to be, it's going to stay there for eight (8) seconds and then change. It's not going to be a scrolling sign that we see, for example, lottery signs where they have numbers scrolling across, it's not going to be a sign like that. It's going to be able to be changed but what this allows the sign to do, rather than, I don't know if you remember years ago when gas stations used to have to go out and change their numbers by hand, you won't have to do that. This will be done inside.

Mr. Heimberger asked if the sign will be the entire size.

Mr. Sparr replied, no, there are three signs that are existing right now. There is a space for three different tenants. The space we are looking at is four (4) feet high by sixteen (16) feet wide. From the looks of this they are about the same. But they are already there. It may look like one white board because they are all white, but you have to get up close to see there are three separate signs. I believe the sign on the left there is still for Mikasa, there are actually only two spaces right now. We're looking for the middle space of these three.

Mr. Heimberger asked Mr. Rogers if paragraph c has a problem.

Mr. Rogers stated that he didn't think about checking with the Federal Highway Administration criteria.

Mr. Heimberger replied no, that basically what I'm saying is that the sign provides for scrolling text only and we need to say something else in the Ordinance.

Mr. Rogers asked Mr. Sparr is it your application that won't have, just your needs won't have scrolling text or you're saying that the sign people said scrolling text wouldn't be permitted by Federal Highway.

Mr. Sparr responded that scrolling text would not be allowed. They can't change any more than every eight (8) seconds. The change is any change in that sign, whether it's graphics, or a ball bouncing, or the letters changing. First of all, it's seventy-five miles an hour because nobody does the speed limit. Technically it's supposed to be sixty-five. You're not going to see it anyway unless it stays permanent, not permanent but at least no more than the eight (8) seconds.

Mr. Rogers commented that you do have a good situation over there because of the tolls and the cars coming north are slowing down.

Mr. Heimberger stated so the question is do we want to leave scrolling in there, can we say stationery and/or text and/or scrolling.

Mr. Rogers replied that if they are comfortable with us checking into this I would suggest that Staff, if you are so inclined to move this off to the Mayor and Commissioners, that Staff checks comment c and make sure that its changes are appropriate in making it consistent with Federal Highway Administration guidelines.

Mr. Heimberger stated that the question that he had originally asked would you clarify and point me in the right direction.

Mr. Sparr responded that there are two signs, the front sign is this and the back of it has all the other tenants on it. It's a two sided sign, but this is all that is visible.

Mr. Heimberger said that is the new one, the one that is there.

Mr. Sparr said yes, the only difference is that we're asking to put the sign in the middle.

Mr. Heimberger said that he thought it was going to be both sides.

Mr. Sparr said the back is completely different, that's not going to change.

Mr. Fortner said there will be a screen on there, a TV screen essentially, so both sides.

Mr. Sparr answered no, just on the side facing 95. The back side will be what is there right now, which is just a list of all the tenants.

Mr. Fortner stated that what goes on the back of that is what you can see and the people on the highway, the people on 95, will see the proposed sign.

Mr. Sparr said this side will be facing 95, installed with the same frame work, and the back is all green with white lettering and lists everybody in alphabetical order.

Mr. Heimberger asked if there are going to be colors involved in it, or just normal.

Mr. Sparr answered that they are actually considering two signs; one's white and one's red.

Mr. Heimberger asked if the text itself, it that going to be changing in colors.

Mr. Sparr said that it depends on the sign.

Mr. Heimberger said but it can, that's what I'm asking.

Mr. Sparr answered yes.

Mr. Heimberger answered that it's not prohibited, he was just curious.

Mr. Rogers asked Mr. Sparr, again breaking his own rules, that as we talk about specific application, did you have time to, assuming that you had this text, were you able to see if you had the criteria of it being visible from any residential dwelling within 1,000 feet.

Mr. Sparr said that he has been around there and first of all, it's facing 95. I don't know how far 1,000 feet would be but I haven't seen any houses around it.

Mr. Fortner replied that there is nothing around there.

Mr. Sparr said you have the Stewart property on the other side, and you know that's not going to be houses.

Mr. Fortner commented that 1,000 feet wouldn't even get out of the parking lot.

Mr. Heimberger stated 1,000 feet is 3 football fields.

Mr. Rogers stated that it is facing northwest. I'm just checking, I don't want it to get to Board of Appeals and then realize that it doesn't meet the criteria.

Mr. Sparr said there aren't many houses, there are some down the hill, on St. Mark's Church Road.

Mr. Fortner responded that is correct.

Mr. Sparr said there is a 50 to 75 foot drop there.

Mr. Fortner commented if you can't see the sign now, you're not going to be able to see it.

Mr. Sparr said you can't see any homes from 95.

Mr. Fortner said he is just thinking about implications for future, there is nothing that necessarily limits the size of the screen.

Mr. Rogers stated that it would come under the Sign Ordinance.

Mr. Fortner stated the Sign Ordinance, I mean it allows this, but if someone wanted to build this whole thing as a video screen.

Mr. Rogers replied that is a good question, I think the size of that is probably non conforming and not permitted under today's Ordinance. If someone came in for a new application for a new sign in the C2 zone, permitted signs are one detached on site sign not to exceed 15 square feet in area for each 20 linear feet of street frontage however such signs shall not exceed eighty square feet in area, and then flat signs not to exceed 30 square feet in area and those are the signs that are on the buildings.

Mr. Fortner stated so someone could go right now eighty square feet and that is current, so someone could go much bigger than this, it might be more like the size of this Nike sign.

Mr. Sparr answered that is a total of eighty square feet.

Mr. Fortner said that if you went to the max.

Mr. Sparr said that's total eighty feet if you took all three of these signs.

Mr. Fortner commented so that all three of them together would be eighty feet, so that someone theoretically in the future could be allowed, they could figure out a way that they could do this whole, that would be as far as they could go on 95, these three signs together.

Mr. Sparr replied that's the way I see it.

Mr. Heimberger asked what is the maximum.

Mr. Fortner replied eighty square feet.

Mr. Heimberger said that seems ok to me.

Mr. Fortner said we have sixty four square feet, right.

Mr. Heimberger replied then we have another twenty square feet, so it couldn't be all of this.

Mr. Fortner stated, maybe, I was thinking of the Nike sign.

Mr. Heimberger asked if there was anything from the floor.

Mr. Sparr stated that he has with him today Ms. Sandy Turner from Cecil County Department of Economic Development, who is in support of this.

Ms. Turner stated that she really doesn't need to say anything. I think Mr. Sparr has said it all. We've just heard that it would be a good thing for the center and we have been very supportive of them, so whatever the Town decides, she thinks it would be good thing for the Town.

Mr. Fortner made a motion to accept the Ordinance change but to check with Federal Highway Administration about their regulation about scrolling text and make it conform to that.

Mr. Heimberger stated and to made the changes in 1c.

Mr. Fortner responded and 1c changes to make, to make it conform with Federal Highway Administration, whatever that is.

Mr. Rogers asked if you are speaking of the suggestions that I came up with, to address as far as they are concerned also.

Mr. Heimberger asked which concern was that.

Mr. Rogers replied the conflict between flashing and illumination.

Mr. Heimberger responded yes.

Mr. Rogers stated that in addition to checking with the Federal Highway Administration, that 1c would read that the sign provides scrolling text only and that any flashing or illumination would not change in intensity to gain the attention of passersby.

Mr. Fortner responded ok.

Mr. Rogers commented that he would also check that it is consistent with the Federal Highway Administration.

Mr. Fortner stated that it would not allow for flashing as in different intensity.

Mr. Heimberger responded also scrolling or stationery.

Mr. Rogers stated he would check with State Highway and do whatever is required.

Mr. Heimberger said that in other words, it says here sign provides for scrolling text only, it's not scrolling, so shouldn't it say scrolling and/or stationery text.

Mr. Rogers stated but if scrolling is not permitted by Federal Highway Administration, then I wouldn't want to have a potential conflict, it may made things confusing.

Mr. Heimberger said that you're going to find out first.

MOTION was made by Mr. Fortner and seconded by Ms. Hansen to accept the Ordinance change as presented with changes made to 1c to be consistent with the Federal Highway Administration standards. **All in Favor. Motion Passed.**

A copy of the draft proposal for Ordinance No.: 2008-2 is as follows for reference.
(Changes by Mr. Rogers are noted).

ORDINANCE NO. 2008-02

MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE

An Ordinance amending portions of Chapter 84 of the Code of Perryville, entitled Comprehensive Zoning Ordinance and Maps of the Town of Perryville to allow programmable signs in the Highway Commercial District (C-2) by Special Exception with conditions.

***WHEREAS**, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Commissioners of the Town of Perryville have the authority to enact a Zoning Ordinance and zoning maps to provide for land use regulation within the Town of Perryville; and,*

WHEREAS, by Ordinance 2005-1 adopted January 20, 2005 the Mayor and Commissioners of the Town of Perryville adopted a new Zoning Ordinance and Zoning Maps to implement the approved Comprehensive Plan; and,

WHEREAS, the Mayor and Commissioners of the Town of Perryville wish to amend applicable sections of the above Ordinance to allow programmable signs in the Highway Commercial District (C-2) by Special Exception with conditions.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Mayor and Commissioners of the Town of Perryville that the Town of Perryville Zoning Ordinance is hereby amended as follows:

1. Article XV Signs, Section 265.7 is hereby amended to read:

Subsections 5 and 6 do not apply to temporary signs erected in connection with the observance of holidays **or to signs erected in accordance with Section 272.**

2. Article XV Signs, Section 272 is hereby amended to read:

Section 272

1. **Signs that are illuminated by flashing or intermittent lights may be permitted as a Special Exception in the C2 District by the Board of Appeals under the following conditions:**

- a. The sign is intended to be visible only from travelers on Interstate 95.
- b. The applicant can demonstrate to the satisfaction of the Board of Appeals that the sign is not visible from any existing residential dwellings within 1,000 feet of the proposed sign.
- c. The sign provides scrolling text only, ~~which is not illuminated by flashing or intermittent lights of changing~~ and any illumination by flashing or intermittent lighting does not change in intensity to gain the attention of the passerby.
- d. All other applicable requirements of Article XV, Signs are complied with.
- e. All other applicable requirements of Article IX, Part VI, Highway Corridor Overlay District are complied with, provided the proposed sign is located therein.
- f. The applicant can demonstrate that the proposed sign is consistent with the requirements of the Maryland Transportation Authority.

BE IT FURTHER ORDAINED AND RESOLVED that in all other respects Chapter 84 of the Code of Perryville, entitled Comprehensive Zoning Ordinance and Maps of the Town of Perryville, remains unchanged and in full force and effect; and,

BE IT FURTHER ORDAINED AND RESOLVED that this Ordinance shall become effective upon the expiration of twenty (20) calendar days following approval by the Mayor and Commissioners.

(Note: Changes were done by Chris Rogers per meeting discussion, and has sent a letter to Maryland Transportation Authority dated August 21st for their review.)

Planning & Zoning Meeting

Mr. Heimberger stated we will continue with the normal Planning & Zoning meeting, called to order and asked for approval of the minutes from the July 21st meeting.

APPROVAL OF MINUTES

MOTION was made by Evelyn Hansen and seconded by Matthew Oberholtzer to approve the July 21, 2008 Planning and Zoning Meeting minutes as written. **All in Favor; Motion Carried.**

NEW BUSINESS

File No. ZC2008-04- East Coast Liquors permitted use in Highway Corridor Overlay District. **PROPERTY OWNER & APPLICANT:** Pravina C. Patel; **LOCATION:** 5279 Pulaski Highway, Perryville, MD (aka Ferrari's/Giant Liquors); Tax Map 29, Parcel 708, Zoned C-2.

Mr. Heimberger asked for the applicant to step forward and state your name.

Mr. William Riddle replied he is here on behalf of East Coast Liquors. You're very familiar I'm sure with what used to be known as the Giant Discount Liquors building out on Route 40 and what my client is hoping to do is to potentially open another package good store there and what it has always been known for. And when we started out, we first looked to the Liquor Board to make sure a liquor license was available or if we could even retain a liquor license through the Cecil County Liquor Board, based on conditions. Of course the conditions are the Fire Marshal, having it inspected by the Liquor Board, things of that nature but the main thing that they came up with and the one thing left in this whole process was getting approval from the Town. Such as getting an occupancy permit approved from the Town so that's of course what we're here for. One of the thoughts we had first of all was that it's always been an ongoing liquor store. There was a time period when Steven Wright had taken over a lease and unfortunately, based on his wrangling through the court systems it had been shut down because he filed for bankruptcy. He was able to maneuver his way through the bankruptcy courts for several years and then Mr. Patel, who is the owner of the property, the landlord, and he could never take possession. Recently, just this year, he was able to, the bankruptcy case concluded, he was able to retake possession and it was at that point when he started looking for a tenant and begin to lease it out. On July 7, 2008 we received a letter from the Town Commissioners of Perryville outlining certain things that we needed to do. And there were concerns in that letter such as dumpsters need to be located on a pad and need to be screened from view, and I ask that you take a look at it now. They have put appropriate fencing around that dumpster, it's on a pad in the back area of the property, on the back left area. An oil tank and utility equipment on the side of the building there was a desire for it to be screened from view and they were able to screen that from view by placing fencing around that as well. The Parking lot was resurfaced and made sure there was adequate parking and handicap spaces provided. If you look at the sidewalk where the parking area is, they put in handicap access. The parking lot was recently recoated, resurfaced, and new parking lines were placed there. It was a tremendous expense to put all new paving down but he was able to at least do that, to make it appropriate with the adequate parking spaces. The Ferrari's bar sign that was there, that has been completely removed and just a generic awning is there now. The entire building has been repainted, and it has a uniform look. It's almost the same color as a lot of the other new buildings in Perryville Station that is next to it, to try to give it a uniform look

and they even used the same blue to outline. The overhang roof, there was concern about possibly dressing that up, but the position that my client has is that it is working functionally. Both the landlord and the tenant says it works, it properly functions, if there is a need to address it with a different color or something such as a metal roof, to try to be consistent with the stores right down the street, they would do that but ask for the time to do that. They believe there is adequate lighting that has been completed now, there is lighting both on the poles outside as well as on the sides of the building and of course there has been a sign that has been installed. One of the main issues that just came up is that on Friday I was faxed a letter from Chris Rogers outlining the issues regarding having the liquor store there. One, there was a concern about there being a nonconforming use. I don't think it was addressed as a nonconforming use where you can't have a package store in the C2 District; that is clearly allowed under retail use under the Zoning Ordinance. I think what came in was the fact that it hadn't been used in so long so the Town is looking at it as a new construction. That brings us, I think, to one of the main issues why we are here before you tonight, and that is based on a letter that I received from Mr. Rogers and also the recommendations from the State Highway Administration. It appears that what would be recommended would be something consistent with what has been done just where the Food Lion is, that new area, where there are sidewalks, curbing, entrance and exit areas and that is a tremendous expense. That is an engineering expense, it's something that my client wasn't prepared to do; neither the landlord or the tenant were prepared for that type of an expense. They were hoping that they could, based on hard work, clean up the outside, paint it, do what is necessary, and my concern is that it's never going to be able to be used based on the need to engineer the front, put in a sidewalk, put in the curbing, put in the landscaping and things of that nature. I just believe it is a tremendous cost that they have to do based on the State Highway recommendations in nature of the storm drain plans, computations submitted, the existing shoulder must be cored to determine if it's traffic bearing and if not, to remove and replace, and my concerns are how can all these improvements get done. So, what I'm kind of proposing tonight is to be allowed so that my client can have an occupancy permit to be able to use the store and begin working. The only way he is going to be able to meet these requirements is to have some type of income generated from the building essentially, and what we're hoping is the Liquor Board, the Cecil County Liquor Board always puts conditions a lot of times on licenses. You could put conditions on the license to be abided by my client and we have no objections to putting any type of condition this board may put on the liquor license, and we would take that to the Liquor Board such as if we were to have an occupancy permit and we would be asking for a minimum of a period of time, I'm going to suggest two years, you may want to say less for us to comply with all of the necessary requirements that the State Highway has suggested and that Mr. Rogers has suggested in his letter to the Town Administrator. The reason for that time period is to have time to (a), recoup the funds that have been expensed on upgrading the property to it's present condition, and (2), be able to save up the money to hire the engineer and costs and things of that nature. My concern is that if we are unable, if my client, is unable to find the money to occupy the building to begin any type of business, it's just going to sit there. If it's not new construction it's just going to sit there, whether it's a package store, whether it's a restaurant, whether it's anything you lay under the C2 district it can never be utilized unless this landscaping and

engineering work is done. It just can't be utilized. There is concern that if you give us an occupancy permit or give my client the occupancy permit, then how do you know if it will get done. I think the only way that we can do that is to make it conditioned on the liquor license, where the liquor license would be pulled in the event that it's not done in whatever time frame this Board so allows. I think that that is a possible alternative so that everything can work together consistently and actually get something useful done with that building and I think the Liquor Board would gladly go along with that, and go along with that being a reasonable request. Clearly, their condition of a license is in getting an occupancy permit, and the conditions of the occupancy permit are to do this engineering work done, to have this landscaping project completed in a certain period of time. That would give them the absolute right to pull the liquor license so I think that can be accomplished. That's what we're here for tonight.

Mr. Rogers began by stating that we have a letter dated August 15th. I think that before I start into the comments in our letter, the suggestions that Mr. Riddle was talking about that came from Town Staff were in a letter and they were just suggestions. The letter was clear that a plan needed to be submitted to the Planning Commission and so that was just Staff trying to say that here are some suggestions that would get you on the right track and these are the type of issues that the Planning Commission is going to be looking at. Now to our August 15th letter:

1. *The parcel is zoned Highway Commercial (C2) District and is also subject to the Highway Corridor Overlay District (HCOB).*
2. *The proposed use as a liquor package store is subject to the requirements of the C2 District. Liquor Package Stores are not listed in the Table of Permissible Uses in the Zoning Ordinance.*

For informational purposes, liquor package stores are not listed in your table of permissible uses. It has been my experience that package stores, and liquor stores, or alcohol beverage sales are something that is typically listed. I'm not suggesting that this should not be an allowable use in a C2 zone, I'm bringing it to our attention that this is another thing that we ought to take care of in our, if we ever get to a point where we are making a series of changes to the Zoning Ordinance. I think you could justify this use, it's a typical use that's allowed in the C2 zone, in a typical C2 district, there are other general categories of uses that this could fall under; general retail sales, high volume traffic uses, those types of uses are listed in the C2 district as permitted. I would recommend that when we get into making wholesale changes, if we get to that point, that we include some reference to a package store, just to make it easier on everybody.

3. *Section 87.3.b of the Zoning Ordinance regarding Nonconforming Situations, states:*
Discontinuance. No building, structure or premise where a nonconforming use has ceased for one (1) year or more shall again be put to a nonconforming use except by the Board of Appeals, according to Article III of this chapter.

Developments in the C-2 zone must comply with various requirements in the Town Zoning Ordinance relative to landscaping along roadways and parking lots and internal landscaping specific to parking lots. The absence of this landscaping while the business was in operation constituted a non-conforming use. It is our understanding that the business has been closed for over one year, and as such, Per Section 87.3.b above, all use of the land must now conform with the Zoning Ordinance. To assure compliance with the Zoning Ordinance, we recommend that a Site Plan be submitted in accordance with the typical requirements of the Zoning Ordinance that address the required landscaping and parking.

We assume that the reference to the Board of Appeals in Section 87.3.b. refers to the potential to obtain a Variance from the requirements. We would defer to the Town Attorney on the appropriate mechanism for the Board of Appeals consideration.

The fact that the use existed on that property without meeting those conditions when the business was open constituted a non conforming use. Just like that sign that we were talking about; that sign exists, it existed at the time the Zoning Ordinance was being adopted, but it was a non conforming use. When a non conforming use ceases to exist for more than one year, any new use of that property has to be in conformity with the Zoning Ordinance. I'm not even getting into the Highway Corridor Overlay District, this is basic non conforming issues. So it is our position that the use of that property, when it was open, was a non conforming use. Now that it has been closed for more than a year, it has to be in conformity with the Zoning Ordinance. So we're suggesting that a site plan be submitted showing typical landscaping plan, typical parking lot plan, typical interior parking lot plan, just like you would get for any new use. We'll talk about the administration of it at the end, but that is the goal we need to get to, is in considering this as a new use. We're not going to say that the building has to move or anything like that but we're dealing mainly with the buffer yards and other things that we can deal with.

4. *Assuming that the existing free-standing sign is to be retained, the above-mentioned Site Plan should also demonstrate compliance with Article XV, Signs, of the Zoning Ordinance.*

They should demonstrate that the sign is consistent with the new Zoning Ordinance.

5. *As mentioned above, the subject parcel is also located in the Highway Corridor Overlay District (HCOD) which provides for additional requirements to address buffering, access and architectural treatments.*

Regarding the HCOD, Section 145.3.a of the Zoning Ordinance states:

"Any alteration of existing conditions of the land, uses or structures within the Highway Corridor Overlay District requiring a permit from the Town

from the date of enactment of this section shall henceforth be done as provided for by this section or by other sections of this Article.”

In addition to the non-conforming provisions mentioned above, these HCOD provisions also allow the Planning Commission to require landscaping to address the intent of the HCOD and other basic requirements of the Zoning Ordinance.

There are several references regarding possibly combining entrances, about taking up pavement, redoing channelization; so because of all that we sent the plan to the State Highway Administration.

6. *Given the HCOD language above concerning traffic, entrances and channelization, we sought comments from the State Highway Administration (SHA) on the subject application. The SHA's response is attached for reference. We recommend that the required Site Plan mentioned above, address the requirements of SHA.*

This addresses the State Highway Administration letter which was dated August 11th, addressed to me, from Steven Foster, and signed by Wilbur King, Butch King, who is a local State Highway access permit person, so they are suggesting that there be a whole slue of changes to the access to the site. Specifically, I'll just comment on some of the major ones, that the existing westernmost entrance be reconstructed as a directional out only, the existing eastern entrance be an in only, and that the middle entrance be eliminated. So these are the types of things that are the goals of the Highway Corridor Overlay district. That in addition to the non conforming issue, when a new use comes in, or a reuse, that we can look at redoing the entrances. So that's what we did by sending this to State Highway. We recommend that the site plan that we're suggesting show consistency with these State Highway comments.

7. *Given the architectural requirements of the HCOD (Section 150), the applicant and the Planning Commission should discuss to what extent the existing building does or does not meet these requirements.*

Now, how to get this done. If this were a new site, and a new use, we'd get a site plan, you'd approve the plan as a final site plan, it would most likely be conditioned as they all are. The Chairman of the Planning Commission wouldn't sign the site plan until the State Highway permit was in hand. As a condition of that permit, the State Highway would've required bonding of the entrance permit so that would be guaranteed; prior to the Chairman signing the plan, we would get a landscape agreement signed, which has a bonding for the landscaping, so that would be theoretically guaranteed, so that is one way to do this. Before Town Staff issues the occupancy permit, that they get full final site plan approval with all the normal bells and whistles. Everything is guaranteed like we would normally before the permit is issued. If you want to try to accommodate what Mr. Riddle was requesting, we can look into that. We think that may be viable, if you want to make that decision. That we could look into that, that you would allow Staff to issue the

occupancy permit with a clear condition that it be tied to the liquor license. That was kind of our suggestion at the beginning of the night. We don't even know if the Liquor Board would do that, we would want to confirm that for you but that may be a viable way, if you are inclined to allow the business to open before all of these things are buttoned up and guaranteed like you would on a normal site, or on a new site. I would defer to the Planning Commission on that last, sort of administrative issue.

Mr. Heimberger stated that what he is hearing is that we need a Site Plan. And with that site plan we would have something to hold on to especially with the Liquor Board or whatever the Town finds. We know what some of the changes are, and what some of the recommendations are, but I personally have no problem with it. When you're asking for a period of time, is that, can things be done within that period of time or do we have to wait for two years to start.

Mr. Riddle replied that he was saying that they would have it done inside that period of time.

Mr. Heimberger reiterated inside.

Mr. Riddle replied that you give us a period of time and we would have it done. I was just thinking that with engineers it might take three to six months for a site plan and everything be done. I was just thinking three to six months just to get the plan of what the State Highway is asking for and then after that we would have to deal with the contractors but after that, everything would have to be completed within x number of months, what you have set forth, or we lose our liquor license. It would essentially shut down our business. One other thing I wanted to say was that to clarify that, we go before the Liquor Board on the 26th of August, just to fill them in with an update, where we are with everything, and obviously that is a time when we could ask, either me or Chris or whoever can ask, we could get you that answer.

Ms. Hansen asked if he had the time for that meeting.

Mr. Riddle replied they are all scheduled at 9:30. It is at 9:00 a.m., usually they are all at the same time.

Mr. Fortner asked if the applicant had submitted the drawings/photos.

Mr. Riddle replied yes. I didn't know, he dropped them by the other day. They are an update of the site.

Mr. Heimberger asked Mr. Rogers if these are recommendations from State Highway, or are they requirements.

Mr. Rogers stated that they are recommendations that will turn into requirements once they get a plan. So these are, sort of. We asked them what they would like to see done at that site. If we told them that we're not going to approve anything until those

recommendations are met, then they would turn into requirements. So, I was honest with State Highway. I said that we've got the Highway Corridor Overlay District, we have this non conforming issue, if we asked you what you would like to see done on this site, what would you like to see done, that's what they came back with. They are very happy to play that role. That is their goal too, is to consolidate entrances and to clean up Route 40.

Mr. Fortner said that we don't know that they will. You said a time line of six months they need a site plan here. If they go through the normal process and we give them a certificate of occupancy to get up and running to operate the way they want, and to allow them a series of bench marks, that within six months to have a final site plan approved and then they would have two years to basically implement the site plan, to that effect. Like new subdivisions, it looks pretty good, to meet our goal. Do you know if that's feasible or not.

Mr. Rogers replied that it is feasible. The Town has occupancy permits, and they have temporary occupancy permits, and I can tell you that once a business opens, temporary occupancy permits don't mean much, because it's hard to say that it's just temporary. So we're trying to shy away from the traditional tools of revoking the occupancy permit because that's not strong, that doesn't work. I think a series of other bench marks that are tied to the liquor license which is, you know if they continue to operate. Let's say that we can work it out with the Liquor Board, that these conditions are part of the liquor license, if they continue to operate without that liquor license, if it's revoked, then that's a clear, I don't know all the legal aspects, but that appears to be a lot stronger than our local occupancy permit.

Mr. Fortner asked so it would be attached to the conditions of the alcohol permit.

Mr. Rogers replied if allowed by the Liquor Board.

Mr. Fortner stated so we would attach the conditions, they would have to have a site plan within six months and then, assuming the Liquor Board would allow it, then the Liquor Board would pull their permit.

Mr. Rogers replied that is what is on the table and I think that is viable. If we can work it out with the Liquor Board that is a pretty strong tool. If you are of the mind to allow the business to get started before the improvements are guaranteed, then that is a way to go. Keep in mind that the landscaping that we're talking about, those pictures are nice and we appreciate the applicant submitting those, but as was done at the shopping center the landscaping starts on the other side of the right of way line. That curbing and those islands that exist there are within the right of way, so we're talking about a whole site reconstruction. The landscaping that would be required per your Ordinance would not be allowed to occur in those existing grass areas.

Mr. Fortner stated that they would have to expand.

Mr. Rogers said they would have to go inwards toward the building.

Mr. Fortner said they would have to take up some of the cement.

Mr. Rogers replied yes, the paving.

Mr. Heimberger said we sort of have the cart before the horse. There's a lot of work that needs to be done and we're not even sure if that's even going to be acceptable.

Mr. Rogers said that we haven't seen a site plan so I can't, we can't comment on what is acceptable for your Ordinance.

Mr. Heimberger answered that he understands, but I'm saying that he's already spent a lot of money doing some things that might not be acceptable once the site plan is done. Supposed for sake of argument, we say ok and the Liquor Board says no, then what would happen.

Mr. Riddle replied that we are fine with that. Then we would be right back where we are today; that we have to do the site plan, we have to do the work to get the occupancy. As I see it, the only way that I can get Mr. Patel an occupancy permit is to tie conditions to the liquor license. Other than that, I think I'm stuck with...he has to do all the work that has been outlined anyway. So, that's the only way we can trust that they would be done, and I'm trying to convince you that it's a viable alternative and if it doesn't work then we're right back where we started from.

Mr. Fortner stated that in our recommendation where it would state that, it would say if the Liquor Board allows.

Mr. Rogers replied yes.

Mr. Fortner said and if it doesn't it would just be an update.

Mr. Rogers asked if he could try to articulate a motion for you to consider. If you are of the mind to allow the business to open, because of the preexisting use and the guys are getting the business operating, that you would say that, you would direct the Town Staff to, that it would be permissible to issue the occupancy permit conditioned upon the applicant receiving final site plan approval, but from the Planning Commission, within eight months of this date, and said improvements shown on that site plan being completed within eighteen months of this date, and that those conditions be a condition of the occupancy, of the liquor license, as approved by the Liquor Board.

Mr. Heimberger said but we don't know if the Liquor Board is going to say yes or no.

Ms. Hansen said she will attend the meeting.

Mr. Rogers replied that if the Liquor Board does not attach those conditions to the liquor license then the site plan would need to be approved prior to the issuance of the occupancy permit.

Mr. Heimberger asked and the Liquor Board is meeting when.

Mr. Riddle replied August 26th.

Mr. Heimberger asked if we could make this the 23rd, depending on approval of the Liquor Board.

Mr. Rogers said the staff would not issue the occupancy permit until they had it verified by the Liquor Board that they can make those conditions. If it's deferred until September then we're not going to be issuing the occupancy permit until we know 100 percent sure that the Liquor Board is on board with the conditions that I just outlined. If they do not agree to bear that burden on the license then it is site plan approval prior to the issuance of the occupancy permit.

Chairman Heimberger responded that we don't know where we're at. Normally it's a yes or no answer.

Ms. Hansen stated that she will attend the meeting.

Mr. Fortner stated that he would make a motion that certificate of occupancy be issued pending the approval of conditions that six months a site plan is received...

Mr. Rogers said that six months is a little tight.

Mr. Fortner asked what would be the norm.

Mr. Rogers replied eight months.

Mr. Fortner said that within eight months they will; we are putting conditions for our time line. To have site plan approval by eight months and that are completed within two years, the improvements be completed within two years, twenty four months of the date, basically it would be the date of their hearing, later this month.

Mr. Rogers said he had said eighteen months from today. It's up to you, if you want to make it longer I'm sure the applicant would love that. But, I think two years to get the improvements done is more than enough and that's why I suggested eighteen months from today.

Mr. Fortner stated eighteen, and does that complete....

Mr. Rogers stated and that staff verify with the Liquor Board that those conditions can be conditions of the liquor license.

Mr. Fortner repeated to verify these conditions can be part of the conditions of the liquor license, and if not, then they have to submit for site plan approval before they get a certificate of occupancy.

Mr. Heimberger asked if the overlay would come from the site plan or do we make those conditions now.

Mr. Rogers asked if he meant the Highway Corridor Overlay.

Chairman Heimberger replied yes.

Mr. Rogers stated that would all be flushed out with the site plan.

Ms. Hansen seconded the motion.

MOTION was made by Mr. Fortner and seconded by Ms. Hansen to allow the applicant to receive occupancy permit with conditions to be placed as part of their liquor license: final site plan approval within eight months of today's date, and all work required by the approved site plan to be completed within eighteen months of today's date. Town Staff to verify with Cecil County Liquor Board as to if they are willing to allow conditions on their liquor license. **All in Favor. Motion Passed.**

Mr. Riddle replied thank you and he would be in close contact with us, and I will contact the Liquor Board tomorrow.

Chairman Heimberger stated that the next part of the meeting is the work session, regarding text amendment options for townhouses in the R2 district and allow development to submit plans using PUD (Planned Unit Development), or to allow townhouses in the R2 district but with less density.

Mr. Rogers stated that as he thinks what they decided at the last meeting, we agreed to draft some draft changes to the Zoning Ordinance, which would explicitly allow, making no question that townhouses are permitted in the R2 but to create such conditions where they weren't allowed with the same intensity as they would be in the R3 zone. So I know there was some debate over whether townhouses should be in the R2 or not and we agreed to draft some language that would be the mechanism for furthering discussion. So this language in front of you, you don't need to get into the specific code language, there is a summary on the second page, this would, the draft changes that are in front of you, this is not a formal public hearing and anything you do that changes the Ordinance would need to be advertised and there would have to be a public hearing like we just had. So this is just a pre formalization of it, of the draft changes. But the changes that we were considering would be that townhouses would clearly be permitted in the R2 district. I'm not going to reiterate words where the language that it permits in some places and doesn't mention it in others, but there would be no more than 4 units in one building block, the lots would have to be 24 foot wide which would create a 2400 square foot minimum lot

size, assuming a 100 foot deep lot which is the typical requirement for a townhouse, 20 foot front yard setback, that there is a change in the setback and changes in the façade for every two units. Right now the R3 requires changes in the façade every three units. If you don't know, if you can envision what that is, that is trying to get out, instead of having one, sort of model façade, that there needs to be some offset in the units. Right now in the R3 zone you have to have that offset every three units. This is kind of making it more restrictive, if you will, by having that offset every two units. Again, we're doing this to make it less intense than the R3 because these R2 zones are located within the single family detached neighborhoods. So that's how we got here. And there would be a maximum of seven (7) units per acre. That doesn't mean that every acre has to have seven (7) units on it, just overall intensity, across the whole gross acreage. That you can not have more than seven (7) units per acre. That there would be a buffer yard C between the townhouse development in any zone with a single family dwelling and all of these requirements would also apply to the Residential Marine property. Now, once we got into the zoning text on townhouses, we found other inconsistencies. It still mentioned the CM1 zone, it mentioned the CM zone. The Zoning Ordinance talks about townhouses being permitted in the CM zone (commercial marine) and that zoning doesn't even exist. That was eliminated at the eleventh hour at the Zoning Ordinance hearings. So we're taking advantage of this opportunity to clean up the Zoning Ordinance, but the main implication there is that things we are talking about applying to the R2 zone would also apply to the RM zone because it's also a more intense zone and you're trying to not make the waterfront as intense as a R3 zone. There aren't a whole lot of RM zones left as we've discussed with the other proposal, but we thought that if we're just changing the R2 and there is an inconsistency with the commercial marine zone, we thought we should apply these changes to the residential marine zoning at the same time, if that makes sense. So, this was sort of the middle ground that we talked about; you could do nothing to the R2 zone and Staff would most likely apply the bulk requirements of the R3 district. Does everybody remember how we got here. That there are two places in the Ordinance that allows townhouses in the R2 but when you get to the specific lot sizes and setbacks, the densities, it doesn't list it. So it's confusing to Staff as to what criteria to apply. But we would struggle through it if we did nothing. The Town may be exposed to litigation in the future if anybody really wanted to challenge what we were doing. The other general example would be just to apply the R3 requirements to the R2, then the other general option was to explicitly not permit and change the Ordinance that it would be clear that townhouses were not permitted in the R2.

Mr. Fortner stated unless they did a PUD. He stated he thought that was an option. That there were two options; one, that we would allow it but less dense, and the other was that we wouldn't allow it but would allow it with a condition of a PUD that they would go through. Delete townhouses in the R2 but allow them to use PUD so it would go through similar to what Frenchtown did.

Mr. Rogers continued but the intent of a PUD is to have a mix of uses and I think townhouses are already permitted in the PUD, so I think we talked about that option already existed.

Ms. Battaglia stated that the Planning Commission does have the minutes from the last meeting and that included the discussion of the various options that were offered.

Mr. Fortner responded yes, they have it.

Mr. Rogers stated that PUD's are already permitted in the R2 zone; and multi family dwellings, attached or detached, one and two family units, townhouses and garden type apartments are already permitted in the PUD. So I think we were talking about that is an option that they could apply for today. I wouldn't suggest that because this really isn't a PUD, you know, it was a typical townhouse development. It wasn't a mix of uses, there weren't other amenities there, it was a townhouse development, it wasn't a PUD. So even though I think technically that is an option, if townhouses by right were eliminated in the R2 zone they could still try for a PUD, but it doesn't feel like a PUD and it really doesn't meet the requirements.

Mr. Fortner asked even if they did like....assuming that Frenchtown Road is a PUD and that's how they got townhouses in the R2, that the old Zoning Ordinance didn't allow that but they allowed a PUD in there but that wasn't really what a PUD is. I like that in that it has an extra level of review and public input in it similar to the Woodlands project.

Mr. Rogers stated that it's a rezoning. It's a floating zone similar to what the Woodlands is doing. They would need Concept approval from you, they would need Concept approval from the Mayor and Commissioners, they need Preliminary Plan approval from you and they would need Preliminary Plan rezoning approval from the Commissioners. So it certainly has a heightened level, it's a much more intense process. It's a rezoning, it's not just a normal development.

Mr. Oberholtzer stated that in looking through the minutes from last month, the options were to eliminate townhouses in the R2 but allow development using PUD, or to go with the proposal that Town Staff developed. And that seemed to be where we were.

Mr. Fortner stated that we were split down the middle.

Mr. Oberholtzer commented that those are the options that we were to decide upon.

Mr. Rogers stated that I guess what this is, is now you have the text for the third option.

Mr. Fortner asked so the way it is now with a PUD, they wouldn't necessarily have to go with the type that is in R3, they wouldn't necessarily go with this, this is new, this is a less dense. So if someone were to try for a PUD under the current Zoning code, then they would be, we would approve the lot for density of a R3 assuming the Board and Commissioners approve that. I think we would be able to negotiate a less dense plan.

Mr. Rogers stated yet in a PUD....

Mr. Oberholtzer interrupted and asked wasn't the Frenchtown development brought about by the way of a PUD as well.

Mr. Rogers answered yes, under the old Ordinance and even though that exists like that I wouldn't....in retrospect that's really not a PUD, in my eyes as a planner.

Mr. Oberholtzer stated that it seems to be, at least in my personal opinion, it seems to allow a fair amount of flexibility for determining whether a certain area could go either way, whether you have townhouses, or duplexes, or I think a lot more flexibility, regardless of whether it's a mixed use. It meets the criteria of a PUD as described in the Town documents.

Mr. Rogers stated that you are correct. Specifically, for a PUD, it says the setback, lot size, and lot dimensions, lot coverage, height and yard requirements in a PUD shall be established for each individual project by the Planning Commission. So that's the typical nature of a PUD; it's very flexible. You can get some here, and you can get some there; smaller lots here but in return you get more open space, or something like that, because it's not as established and rigid as your typical development that is permitted in the Ordinance.

Mr. Oberholtzer stated that we should decide on one course of action to recommend.

Mr. Amato stated that what you were supposed to do tonight, what he's trying to say is you were supposed to make a decision tonight or just talk about it.

Mr. Rogers said that you can't make a decision on any specific text.

Mr. Oberholtzer said that is why he's trying to decide on one course of action to recommend for the public hearing.

Mr. Rogers stated that Staff needs direction on: do you think that the existing language is ok, that we do nothing.

Mr. Oberholtzer stated that he doesn't think that is even an option.

Mr. Rogers replied ok, let's throw that one out. There is direct language that would explicitly permit townhouse in the R2 under certain conditions, so that's on the table. Or do you think that we keep it as it is and assume that any townhouses in the R2 zone are only going to be permitted in a PUD.

Mr. Fortner replied that don't we have the strength to get rid of, because it's allowed in some places.

Mr. Rogers stated that it's allowed by right in the R2 zone. So, we would recommend, you're right, if the PUD option is the way to go then that's all we need to know. We will craft the language that would make things as consistent as they can be.

Mr. Fortner agreed with that.

Ms. Hansen also agreed.

Mr. Oberholtzer stated that it would allow a lot of flexibility for both the Town and the interested developers.

Mr. Fortner stated that there would have to be a special condition for Mayor and Commissioners, and go to us and there would be an extra level of review. Ultimately, the Commissioners would decide, so the Planning Commission kind of puts a little bit. Kind of like, well so this would be something that essentially we would sort of be advisory on that.

Mr. Rogers replied but you are the land use expert so that's why it says the setbacks and lot sizes. The Mayor and Commissioners aren't going to know that. The way it should work is that you guys really work out the land decision and then you would bump it up as a recommendation. That's kind of how the mixed use development occurred and then the Commissioners get into the utilities and public amenities that they think is necessary to serve the PUD, so that's kind of their role. Our role down here would be the mix of uses, is that correct, configuration of the roads and the open space, are they correct.

Mr. Fortner asked if there is something we can call it different then. I guess we would have to change it in the Zoning Ordinance to call it something else.

Mr. Rogers replied that he doesn't think....

Mr. Fortner asked is there a defined PUD or something with mixed use.

Mr. Rogers stated that a PUD does not require a mix of dwelling types, but it does allow a lot of flexibility. I think you will find that keeping it called a PUD, that implies a lot of flexibility in the lot sizes.

Mr. Fortner stated they could be different, or varying lot sizes, you could have some bigger lots, smaller ones, so you could have, essentially it would be a little bit of a mixed income in that you could have someone buying a larger town home and you could have someone buying a smaller town home, and you would have sort of have a mix there or something, and with the facades, you could make every one distinct instead of a uniform kind of look.

Mr. Rogers replied it's possible, yes.

Mr. Fortner stated that you are trying to do right here where you say that every two have to look different.

Mr. Rogers stated that it just means that they need to be staggered and there needs to be some changes in the façade but it's not intended to be a complete architectural change.

Mr. Fortner said a PUD can say that is a mixed use, we're doing different types of housing types, maybe different facades, different sizes, allowing more space.

Mr. Rogers said yes.

Mr. Oberholtzer stated that his main concern is that he doesn't want to just open up R2 to townhouses in general and I think to have that option there is good and there is a good amount of flexibility.

Mr. Fortner stated also like what's going on....

Mr. Oberholtzer stated that with a PUD, I think that suits the purpose of trying to accomplish that.

Mr. Fortner said another thing you can do with the flexibility is, like you said, doing a townhouse, they could do like they are planning at Woodlands, is where it looks like a single family house but it's really maybe two, three, or four units and sort of looks like they really were putting one big house but it's really four different houses, that we would have more flexibility in that kind of development. If they want to put in a proposal like that, they could have houses that look like, kind of the character of the Town but they're really townhouses, or something.

Mr. Rogers replied yes.

Mr. Fortner said that he likes the PUD for that reason, because we have more control of what the neighborhood will look like. Instead of if it was just townhouses only and then we would be going to get a proposal for townhouses, whereas if we have PUD zoning we could do things that are a little bit more creative, different types of housing, different types, and still meet the goal of being a town home but they don't necessarily have to look like the traditional town homes that could fit in the community there and we would have better control over the way that looks.

Mr. Oberholtzer said that it seems to me that the community would like that as well and maybe they wouldn't be affected by them.

Mr. Rogers said it does do that.

Mr. Fortner said in a new community there is a lot of sorting out to do with the community, because a lot of people don't like it. And the more review we have, and time to get people to like it.

Mr. Oberholtzer said that it would give an opportunity to get people to like it before they move forward.

Mr. Amato asked if you need any verbiage from us; community verbiage from us.

Mr. Rogers stated that he guesses just by consensus would be good enough. If you are all happy with a PUD approach, we'll come back to you with formal language.

Mr. Oberholtzer asked if there were any comments from the floor.

Mr. Malesh stated that he thought that would give a lot of control. It seems like that's the whole secret, is working together to get something done. Instead of everyone saying that not in my backyard, but if something is going to be there, working through it and having some input in the project is a positive thing for everybody in the Town.

Mr. Amato stated that nobody wants it in their backyard.

Mr. Malesh replied that nobody wants it in their backyard and that's the problem.

Mr. Amato stated that he has a question; he's looking at the Planned Unit Development and it says on page 72, actually at the top of the next page, it says there would be five (5) dwelling units per acre.

Mr. Rogers answered, essentially yes.

Mr. Amato asked if that can be modified per development.

Mr. Rogers replied no, that is not the type; that's not within the realm of the flexibility that he was talking about. That's clear language, that's not flexible, but the lot sizes and the setbacks and the lot coverage and even the height shall be established for each individual project. That density is not flexible.

Mr. Amato said so when it says five dwelling units per acre, does that mean buildable per acre for the whole property including landscaping.

Mr. Rogers said that would be gross acreage.

Mr. Corbino stated that on an eight (8) acre parcel, that could possibly have up to forty (40) units.

Mr. Malesh said that they would have to use the PUD too and all that's going to be considered.

Mr. Corbino asked that is current today.

Mr. Rogers replied yes. It doesn't have any net outs, if you recall. It doesn't say net out wet lands and slopes, it is gross acreage.

Mr. Corbino said so the four units per building, does that fall into the PUD or is that a different category that we talked about earlier tonight.

Mr. Rogers said we'll have to work that out and see if that type of language is appropriate here.

Mr. Corbino stated that one of the gentleman had mentioned about putting different size units. You have to be very careful about that, you don't want to have homes that are \$400,000 and then put \$200,000 homes in the same community because it effects what's happening out there. So to look at a 24 foot wide at the end, and have a 18 foot wide building, it's going to bring a different clientele into that housing, so you have to, you kind of have to keep a uniform look. Like if you were imagining, you don't want all the houses to look like this row of chairs, you want some setbacks, different elevations, you just have to be very careful with that.

Mr. Oberholtzer said it would be more of the intensity of the development. We are very aware of that.

Mr. Corbino replied that is correct.

Mr. Rogers responded, again a PUD is intended to allow as much flexibility. As with anything, the goal is to try to not to be too flexible where anything goes, but enough specific language where you guide it within the overall perimeters. There is enough flexibility internal that the Planning Commission can sort of get what they want.

Mr. Malesh stated that he likes it. It'll be a good thing for the developer and the Planning Commission working together. I think it will be a good thing for everybody.

Motion was made by Evelyn Hansen and seconded by Matt Oberholtzer to adjourn the meeting at 7:55pm. **All in Favor; Motion Carried.**

Respectfully Submitted,

Dianna Battaglia
Planning & Zoning Coordinator