



**MINUTES OF  
THE PLANNING AND ZONING COMMISSION  
FEBRUARY 13, 2013**

**I.** Jeff LaBar called the meeting to order at 7:04 p.m. In attendance were, Dave Coull, Nancy Feuerle, Randy Getman, Megan Reiser, Commission Members. Chris Jakubiak, Planning and Zoning Administrator, Fran Addicott, Secretary. Absent was Tim Stafford, Commission Member.

**II. Approval of the February 13, 2013 Planning and Zoning Agenda as written.**

**MOTION:** Mr, Coull moved to approve the agenda as written. Seconded by Mr. Getman, all in favor.

**III. Approval of the January 9, 2013 minutes of the Planning and Zoning meeting.**

**MOTION:** Mrs. Reiser made a motion to approve the minutes. Seconded by Mr. Coull, all in favor.

**IV. Site Plan: Review of Gaming Room Addition: Applicant Robert Abner.**

Mr. Abner submitted a site plan for an addition to the existing Abner's Crab House. The developer's agent Mr. David Clements was present to discuss the plans for Abner's Crab House.

**MOTION:** Ms. Nelson made a motion to approve the stated notes as we have reviewed them, with the following conditions from Mr. Jakubiak's Staff Memo. On note (1) add "Reference the Declaration of Covenants", combine (1) and (2) eliminate condition (3) condition (4) should read "landscaping area shall be approximately 15 feet wide", and add (e) to read "add a tree in the new planting area". Keep (5), (6), (7), (8), (9). Add the following: (10) A Flood Elevation Certificate is required. (11) This approval also constitutes the schedule of signs the developer would comply with at such time, and (12), The Declaration of Convenants. Seconded by Mrs. Reiser, all in favor.

**V. Subdivision Final Plat: Block Q (Stream Walk Way) Richfield Station.**

The final plat approval for Richfield Station subdivision. Block Q covering 54 single-family lots. The property is zoned Residential Planned Community. Mr. Roepcke, The Agent for Richfield Station II Joint Venture, Mr. Devlin the Land Use Attorney and Mr. Woodburn the Town Engineer were present for discussion. There was a discussion and questions from the residents of Richfield Station on surface drainage easements, steep slopes, sidewalks, traffic calming devices, street cleaning, lightening at public easements.

**MOTION:** Mr. Getman made a motion to approve the following conditions 1-8 for final plat approval on Stream Walk Way. On condition (3) add Lots 1-6, 14-17 and 31-44. (4) add to the end of condition 4 Correct note 12 such that it references 30 percent, not 33 percent and if any lots are determined to be encumbered up to or over 30 percent, list those lots in the note. Add (6) Copies of the Wetland Permit should be submitted to the Town prior to execution of a Public Works Agreement, add (7) An additional Traffic Calming Device on Stream Walk Way (additional to the one shown in the current road improvements plan) shall be installed by the Town Engineer in coordination with the HOA. Its installation shall be programmed as part of the Public Works Agreement, and

finally add (8) Correct the plat such that all on lot drainage easements which are labeled "surface drainage easements" are changed to read "individual lot drainage easement" and correct note 12 so that it reads: "All individual lot drainage easements shown on the plat shall be maintained by the lot owner". Mrs. Feurle seconded. Ayes, Mr. Getman, Mrs. Feurle, Ms. Nelson, and Mr. Coull, Mrs. Reiser recused herself, Motion was passed.

Mr. Jakubiak made two minor revisions that were not adopted as conditions of the final plat approval. Please see Mr. Jakubiak's approval letters that were mailed to the Planning Commission Members and Chairman LaBar.

**VI. Subdivision Final Plat: The Heritage.**

This is the final plat for The Heritage subdivision, creating 54 residential building lots. The property is zoned Medium Density Residential. The preliminary plat was approved in April 2010. Mr. Jakubiak stated that he is satisfied that the final plat/final forest conservation plan is ready for approval and listed 5 standard conditions. Mr. Jakubiak stated that he met with Mr. Woodburn and Mr. Roepcke and resolved a lot of the issues. Mr. Woodburn summarized the public improvement elements of the project. Mr. Devlin was present to discuss the project on behalf of the applicant Mr. Roepcke. Mr. Jakubiak had the list of 5 conditions available for the Commissioned Members and for the public to review.

**MOTION:** Mr. Coull made a motion to approve the final plat for the section of The Heritage with the listed stipulations 1-5, Mrs. Feuerle seconded, all in favor.

**Public Comments**

Greg Morris-2425 Woodland Lane

Stacey Hartwell- 7959 Stream Walk Way

John Fagan-7995 Stream Walk Way

Gretta Clark- 7952 Stream Walk Way

Jeff Krahling- 3216 Ina Chase

Tim Reiser-7951 Stream Walk Way

There being no further business, the meeting adjourned at 10:50 pm. on a motion made by Ms. Nelson, seconded by Mrs. Reiser, all in favor.

Submitted by,



Fran Addicott, Secretary

## STAFF MEMORADNUM

### Town of Chesapeake Beach Planning & Zoning

**TO:** Town of Chesapeake Beach Planning Commission  
**FROM:** Christopher Jakubiak, AICP  
Town Planning and Zoning Administrator  
**DATE:** February 12, 2013  
**RE:** **Site Plan, Abner's Addition**

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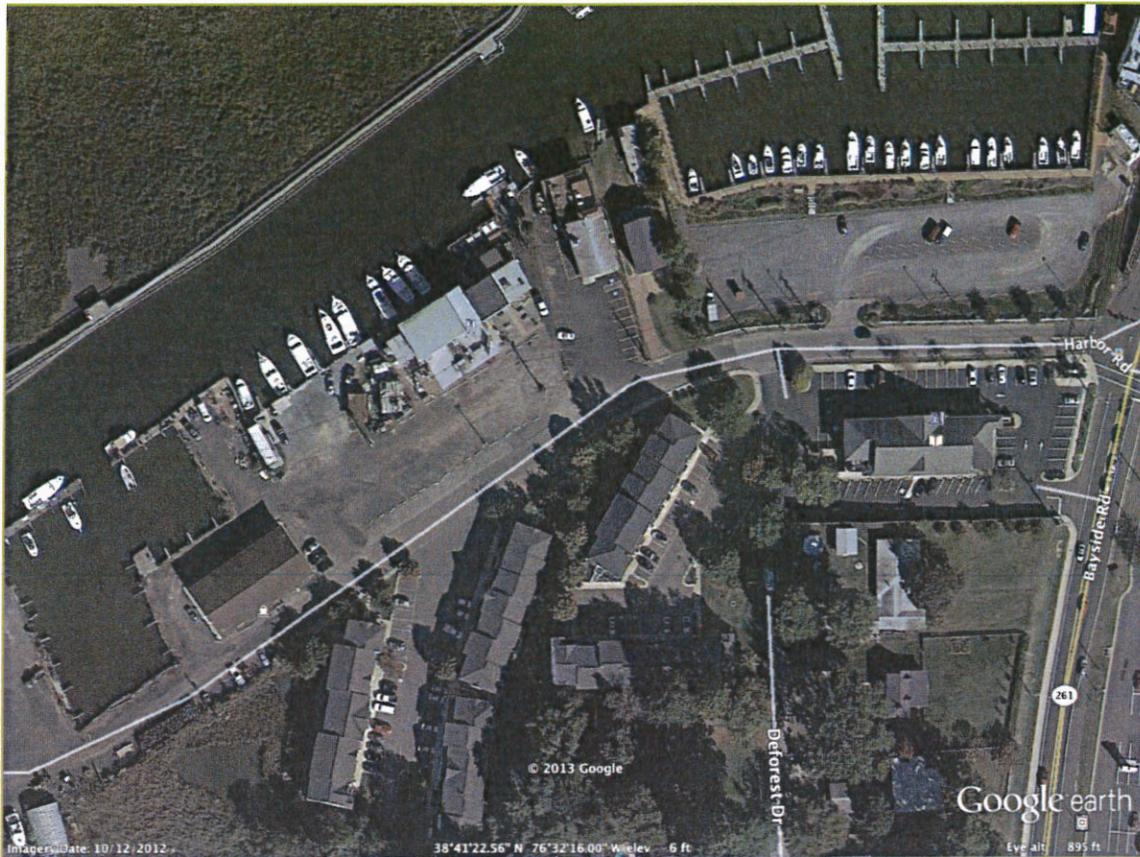
**Project Name:** Abers's Crab House & Marina Game Room Addition  
**Property Owner:** Robert Abner  
**Location:** Harbor Road  
**Area:** Lot 1: 1.44 acres  
Lot 2: 1.0 acres  
**Critical Area:** Yes, IDA and BEA  
**Zoning:** Maritime  
**Proposed Use:** Gaming Room  
**Surrounding Land Uses:** North: Fishing Creek  
South: Residential, opposite side of Harbor Road  
East: Commercial, adjacent property  
West: Marina Uses, adjacent properties

**Comprehensive  
Plan Future Recommended  
Use for this Site:** Commercial, Mixed Use

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### Property and Project Description

Mr. Robert Abner has submitted a site plan for an addition to the existing Abner Crab House (a copy of which was mailed to each of the Planning Commission members). The property is located on Harbor Road and borders Fishing Creek. It is zoned Maritime. An areal photo of the existing site is shown below.



The addition will be 1,610 square feet in size and limited to one-story, though it will include a stairway and an elevator shaft to the existing second floor of the building. It will expand the existing gaming room. The project also includes a new entrance canopy on the main dining room of the restaurant.

To meet the increased demand for parking, the applicant proposes to use the adjoining property, which he owns. The site plan shows that he would improve the parking lot on this property to accommodate 22 spaces. He would add three additional spaces along the curb in front of the gaming room addition. As a condition of development approval, the applicant has proposed that the building on the adjoining lot will not be occupied and will be razed within three years. At that time the parking lot would be expanded.

The applicant has provided architectural building elevations for review by the Planning Commission, which are included with the memo. I am recommending conditional approval of the site plan. The effect of the conditions would be to reduce the number of parking spaces somewhat, require an approach to Critical Area mitigation, and to bring the site into greater compliance with minimum site landscaping standards. The assessment is below.

## Review Findings

The most pertinent findings relate the Critical Area, buffer mitigation requirements and parking lot landscaping requirements.

### **Critical Area**

The proposed addition is in the Chesapeake Bay Critical Area, zoned Intensely Developed Area or IDA. The addition is also within the designed 100-foot buffer area, known as the BEA or Buffer Exempt Area. Development and redevelopment is allowed in the BEA, however the impacts have to be mitigated. The Zoning Ordinance requires that development or redevelopment projects within the BEA provide two forms of. This applies even when a new building is built on existing impervious surface areas, as is the case here.

For the first type of mitigation, the developer must provide a buffer yard. A buffer yard would be a strip of planted area at least 15 feet wide and at least 49 feet long (885 square feet in total along the edge of the water). This requirement cannot be met on the principal building site because of the presence of existing buildings. Therefore, this mitigation must be achieved through an add-on to the second type of mitigation (see below) or through the use of offsets such as enhanced stormwater management.

In the second type of mitigation, the developer must either plant an area twice the size of the footprint of the development activity or pay a fee in-lieu-of the mitigation. Since the building footprint is 1,610 square feet, the developer would be responsible for planting an area of 3,220 square feet (2 x 1,610sf). If the developer demonstrates to the satisfaction of the Planning & Zoning Commission that it cannot provide this amount of mitigation on site then the developer shall pay a fee-in-lieu into the Town's existing mitigation fund. The amount would total \$4,025.00 (\$1.25 x 3,220sf). This amount, plus \$1,106.25 (\$1.25 x 885sf) which is the amount of fees-in-lieu to cover the first buffer yard mitigation requirement, would have to be paid to the Town before a zoning permit could be issued.

The forgoing discussion has addressed the proposed addition, not the parking area on the adjoining lot. Mitigation for the parking lot will be required; even though the area is already covered in impervious surfaces. In the future as the parking area is expanded, a buffer yard will need to be established. It will need to be at least 15 feet wide and cover the width of the parcel at the water's edge.

### **Landscaping**

Further, the Zoning Ordinance requires landscaping of all parking lots that are subject to site plan review. For parking lots big enough for 25 spaces, at least five percent of the total parking lot area must be dedicated to tree planting. Since the developer's plan is to convert the entire property into a parking lot (upon demolition of the building), the lot will eventually have more than 25 spaces. Upon improvement of the full site, an area of about 700 square feet will need to be landscaped with trees to meet this requirement. Other requirements apply as noted below.

The requirements also state that a landscaping strip of at least 5 feet wide shall extend along the perimeter of the parking lot and that trees shall be placed within this strip. At least one tree for every 40 feet of lot perimeter is required. A perimeter-landscaping strip should be located along the side property line and along the frontage with Harbor Road. The proposed site plan does not provide for this. Note that the developer of the property along Harbor Road, just east of the project, met this requirement with a 15-20 foot wide planted area (see the areal photo).

The Zoning Ordinance also states that the Planning Commission may waive or modify the parking landscaping requirements when two conditions are met: (1) for an interim use of a specified duration and/or where appropriate due to the location, size, and surrounding area or configuration of the lot and (2) when such waiver or modification will have no deleterious effects on the existing or planned development of adjacent properties.

### **Parking**

The developer will meet the parking requirements of the ordinance even with the reductions in the proposed number that would result through adherence to the conditions pertaining to landscaping noted below. The exception is bicycle parking. The site plan will need to be revised to show a bike parking rack.

### **Recommendation**

I recommend approval with the conditions listed below, which are minimally necessary to ensure the promotion of harmonious development, the prevention of harmful effects of land use incompatibilities, the prevention of environmental harm, and that the purposes of the zoning district can be met.

I am recommending the Planning Commission waive some of the landscaping requirements and modify others. The modification is necessary given the configuration of the lot, its access limitations, the existing development pattern, and the evident environmental conditions on this site.

I also believe given the developer's future plans, the parking lot will be expanded upon the demolition of the building. This will provide the developer an opportunity to adhere to the overall purpose of the landscaping standards set forth in the Town Zoning Ordinance. The improvements that should be made to the site plan to bring it into conformance with the Zoning Ordinance, including the Critical Area sections:

1. Place a note on the plan that requires the applicant, to remove the existing building on the parking lot site within 3 years of the date of site plan approval upon approval of a demolition permit by the Town. At such time, should the site be improved to expand the parking area, a buffer yard meeting the minimum requirements of 15 feet in depth shall be planted along full length of the water's edge. The developer will have the option then of meeting the required parking lot landscaping standards by either adding to the minimum depth of the required buffer yard, or by

reconstituting the parking lot by installing a perimeter planting strip along the side lot line and planting an area of approximately 700 square feet in internal landscaping featuring trees, or by doing a combination of these things. If the building is not replaced immediately upon demolition with an expanded parking lot, it shall be replaced with a landscaped open space until such time as parking is expanded.

2. A note shall be placed on the site plan that restricts the use of the adjoining parking lot property to only parking and open space and stipulates that no use and occupancy permit will be issued and no zoning permit for any use contrary to this condition will be issued by the Town as long as the parking on the site is required by Abner's Crab House and Game Room facilities.
3. The Applicant shall submit a revised site plan sheet showing the location of lighting for review and approval by the Town Planner. The Town Planner prior to issuance of a zoning permit shall approve the lighting fixtures, poles, pole heights, and locations for the lights.
4. On the revised site plan, the applicant shall include the following revisions: (a) Make all the parking spaces 9 feet wide as required by Code. (b) Improve the intersection of the adjoining new parking lot with Harbor Road through use of curbing and landscaping. (c) Provide that all handicapped parking spaces are compliant with the federal ADA and the Maryland accessibility code and/or regulations. (d) Incorporate a landscape screening hedgerow and/or approved fence in the space between the public right-of-way of Harbor Road and the edge of the parking lot, which landscaping area shall be at least 15 feet wide. This will necessitate the removal of the proposed parking spaces located closest to Harbor Road: in the southeast and southwest corners of the parking lot
5. The site plan does not yet meet the requirements that parking for bicycles be provided. The plan should therefore be amended to locate a bike parking facility per the Town Zoning Ordinance.
6. All new signage shall be not be internally lighted and the total area of the signs on the building shall not exceed 100 square feet.
7. The Applicant's final site plan approval is contingent on a review by the Town's Engineer to ensure the applicant has satisfactorily addressed engineering standards related to grading and utility plans, sediment and erosion control, design of stormwater management facilities, and provision of water and sewer facilities.
8. The developer resolves all stormwater management regulations and obtained approval from Calvert County Public Works Department and complies with all applicable federal, state, and local regulations.
9. All references to the "applicant" or "developer" shall include the owner, the applicant, and any developer and their respective successor and/or assigns.

Project / Data

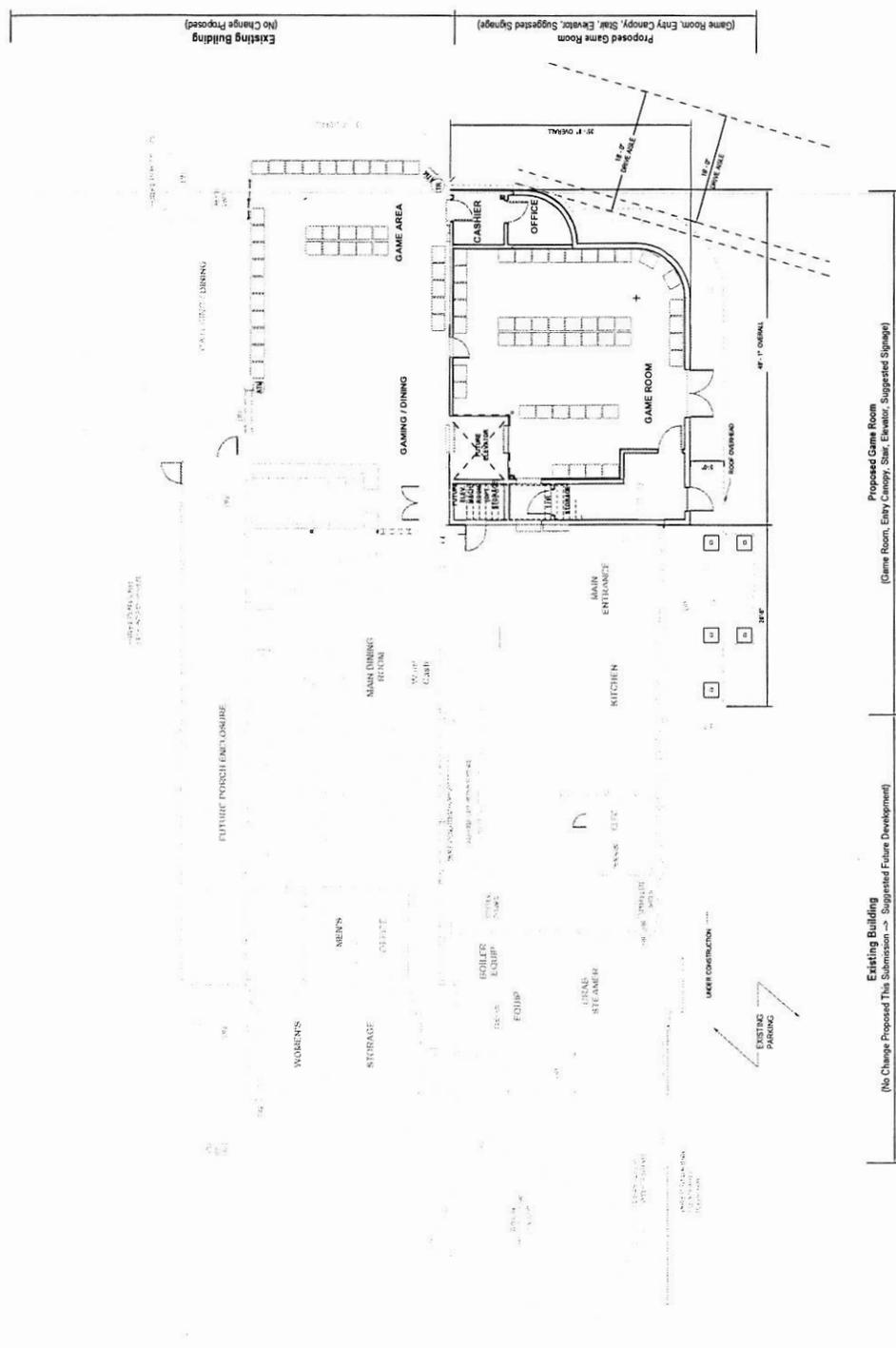
OCCUPANCY	
RESTAURANT	35
BAR	25
OFFICE	10
CONFERENCE ROOM	10
MEETING ROOM	10
RECEPTION	10
STORAGE	10
TOTAL	110

(Calculated by loads and supported (SAP) on 4000  
 Columns) (1) and (2) are not in Section and Column, and number of lighting  
 fixtures shown.

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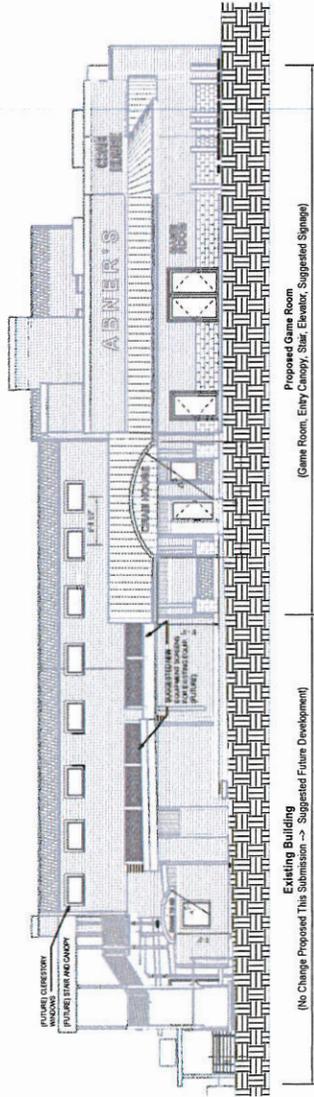
(Calculated by loads and supported (SAP) on 4000  
 Columns) (1) and (2) are not in Section and Column, and number of lighting  
 fixtures shown.



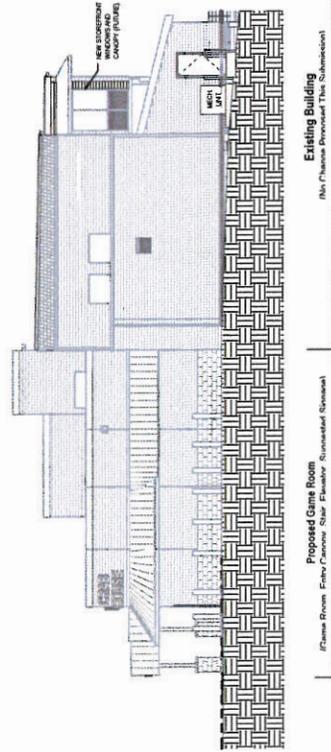
Site Coordination - FIRST FLOOR PLAN - New Gaming  
 1/18" = 1'-0"

Existing Building (No Change Proposed This Submission -> Suggested Future Development)

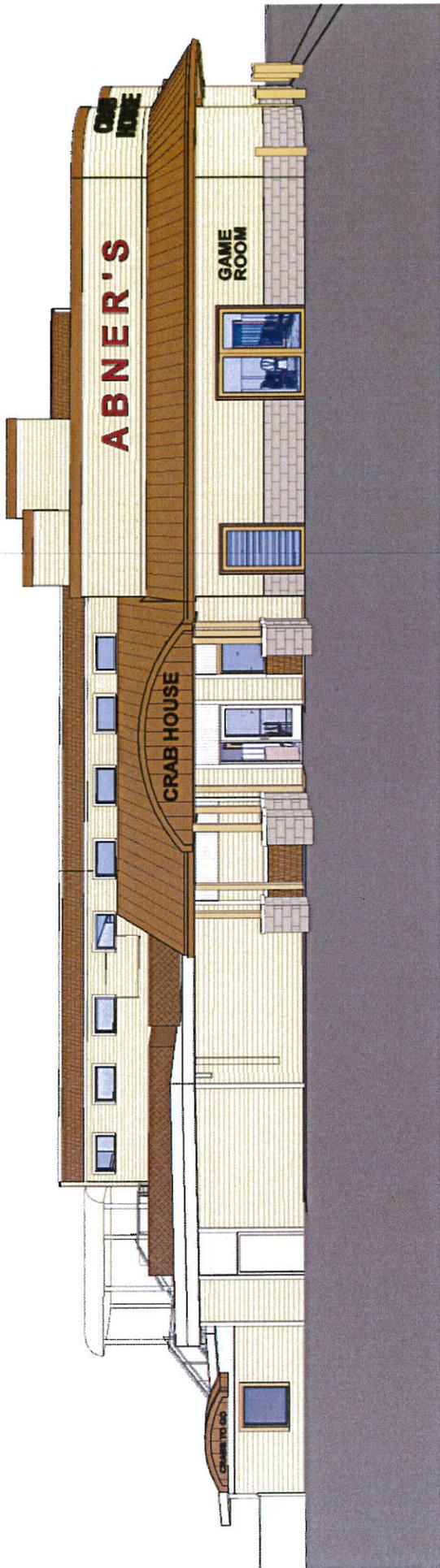
Proposed Game Room (Game Room, Entry Canopy, Stair, Elevator, Suggested Signage)



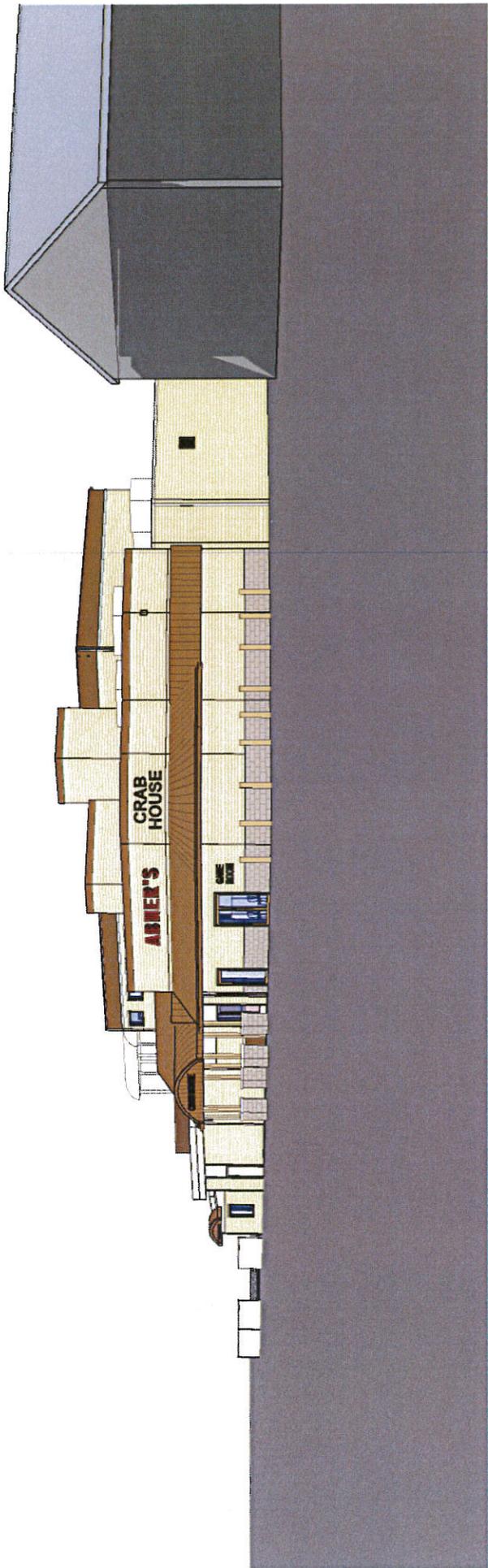
1 FRONT (ENTRY) ELEVATION - New Gaming Addition  
1/8" = 1'-0"



2 RIGHT ELEVATION - New Gaming Addition  
1/8" = 1'-0"







TO: Planning Commission  
FROM: Christopher Jakubiak, Town Planning and Zoning Administrator  
DATE: Feb. 13, 2013  
Re: Addendum to Staff Report on Abner's Crab House Game Room  
Addition

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## Introduction

As described in the staff memorandum, the applicant intends to meet his parking requirements for the game room addition through use of the adjoining lot (formerly Vic's on the Bay). The Town will need to officially enshrine this through a Declaration of Covenants. Therefore I am recommending the following language be part of the conditions of site plan approval.

A **Declaration of Covenants** will state (1) that the property is to be used exclusively for the parking required by the Abners Crab House and Game Room in perpetuity or until it is determined by the Town of Chesapeake Beach through appropriate zoning action that such parking use is no longer required or that the Abners Crab House and Game Room facility has ceased to exist and thus the parking area is no longer required; (2) that the applicant will demolish the existing building on the property within three years of the date of the Planning Commission approval of the site plan for the Abner Crab House Game Room Addition, and (3) that upon demolition of the building, the property will be improved in substantial conformance with a concept plan submitted to and approved by the Planning Commission which plan shall show the full use of the site as a parking lot with required critical area buffer yards and other landscaping requirements as determined by the necessary to comply with the Zoning Ordinance. This Declaration will formally place encumbrances on the property and therefor shall be recorded in the land records of Calvert County and shall run with the land and shall apply to the applicant and his successors and assigns. A copy of the Declaration of Covenants shall be submitted to the Town Zoning Administrator as a condition of final site plan approval.

## MEMORADNUM

TO: Town of Chesapeake Beach Planning Commission  
FROM: Christopher Jakubiak, AICP  
Town Planning and Zoning Administrator  
DATE: February 13, 2013  
RE: **Final Plat, The Heritage**

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### Background

This is the final plat for The Heritage subdivision, creating 51 residential building lots. The property is zoned Medium Density Residential. The preliminary plat was approved in April 2010. A copy of that plat along with the preliminary/final forest conservation plan is available.

Final Plat approval is required before lots can be sold or built on. The Planning Commission may approve the plat tonight as is or it may approve it with conditions. Alternatively, the Planning Commission may deny approval, if it finds that the final plat does not comply with the Subdivision Regulations.

I have reviewed the final plat and an earlier version of it. I provided a list of comments and questions to the developer by letter dated January 8, 2013. I am satisfied that the final plat is ready for approval and would recommend that action with the following conditions.

### Recommended Conditions for Final Plat Approval

1. Provide six Mylar, 11 blueprint (paper) copies, and one digital version of the final plat as approved and once signed by the Town.
2. Reimburse the Town for the costs of recording the plat in the Land Records of Calvert County, if the Town does the recordation
3. Add a note on the final that shall read: "The following lots are encumbered in part by the presence of Forest Retention Area easements areas which prevent in perpetuity any and all construction and clearing activity within the easement area. The removal of vegetation or the placement of structures in a Forest Retention Area easements shall be a violation of Town ordinance".
4. For each lot in which the total lot area covered by any and all easements comprise 30 percent or more of the lot area, the developer shall record in the Land Records of Calvert County, upon plat recordation, separate Declarations of Covenants that shall run with the land and shall describe the encumbrances and limitations on any residential development in those areas, namely that no construction shall be permitted including decks, patios, sheds, pools, and further that in any forest retention area no clearing of vegetation shall be permitted.

5. The following note shall be placed on the plat: In addition to permitting requirements, earth work performed in conjunction with either mass grading or individual lot grading shall be inspected by a third party Maryland certified professional geotechnical engineer as determined necessary during the work to certify upon completion of the work to the Town of Chesapeake Beach and its Town Engineer that all earth work and grading was performed in substantial accordance with the approved plans and permits. If lot grading takes place either separately or in addition to mass grading, that separate work shall require its own third party certification of that work to the Town Engineer by the responsible permit holder. Prior to issuance of a Certificate of Occupancy for a specific home constructed on a lot, the required certification(s), as applicable, shall be provided to the Town Engineer or designee. Certification of road construction and utilities shall be provided as required under the Public Works Agreement(s) executed for said work.

## MEMORADNUM

TO: Town of Chesapeake Beach Planning Commission  
FROM: Christopher Jakubiak, AICP  
Town Planning and Zoning Administrator  
DATE: February 13, 2013  
RE: **Final Plat, Block Q, Stream Walk Way – Richfield Stn.**

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### Background

This is the final plat for Richfield Station subdivision, Block Q. It creates 51 residential building lots. The property is zoned Residential Planned Community. The preliminary Plat was approved.

Final Plat approval is required before lots can be sold or built on. The Planning Commission may approve the plat tonight as is or it may approve it with conditions. Alternatively, the Planning Commission may deny approval, if it finds that the final plat does not comply with the Subdivision Regulations.

I have reviewed the final plat and an earlier version of it. I provided a list of comments and questions to the developer by letter dated January 5, 2013. I am satisfied that the final plat is ready for approval and would recommend that action with the following conditions.

### Recommended Conditions for Final Plat Approval

1. Provide six Mylar, 11 blueprint (paper) copies, and one digital version of the final plat as approved and once signed by the Town.
2. Reimburse the Town for the costs of recording the plat in the Land Records of Calvert County, if the Town does the recordation
3. Add a note on the final that shall read: "The following lots are encumbered in part by the presence of Forest Retention Area easements areas which prevent in perpetuity any and all construction and clearing activity within the easement area. The removal of vegetation or the placement of structures in a Forest Retention Area easements shall be a violation of Town ordinance".
4. For each lot in which the total lot area covered by any and all easements comprise 30 percent or more of the lot area, the developer shall record in the Land Records of Calvert County, upon plat recordation, separate Declarations of Covenants that shall run with the land and shall describe the encumbrances and limitations on any residential development in those areas, namely that no construction shall be permitted including decks, patios, sheds, pools, and further that in any forest retention area no clearing of vegetation shall be permitted.

5. The following note shall be placed on the plat: In addition to permitting requirements, earth work performed in conjunction with either mass grading or individual lot grading shall be inspected by a third party Maryland certified professional geotechnical engineer as determined necessary during the work to certify upon completion of the work to the Town of Chesapeake Beach and its Town Engineer that all earth work and grading was performed in substantial accordance with the approved plans and permits. If lot grading takes place either separately or in addition to mass grading, that separate work shall require its own third party certification of that work to the Town Engineer by the responsible permit holder. Prior to issuance of a Certificate of Occupancy for a specific home constructed on a lot, the required certification(s), as applicable, shall be provided to the Town Engineer or designee. Certification of road construction and utilities shall be provided as required under the Public Works Agreement(s) executed for said work.