

Minutes of the August 27, 2008 Planning Commission

Meeting called to order at 6:08 P.M. by Chairman Toby Gearhart. Planning Commission members Martin Sokolich, Margaret Haven, and Jeff Garrett were present. The following were also in attendance: Kathy Smith, Commissioner; Joe Mangini, Town Manager; Missy Vanskiver, Asst. Clerk; Jack Hall, Town Attorney; Betty Jean Mumford; Dale Mumford; Archie Carroll; Cecilia Acocella; Lisa Wielgosz; Robert Wielgosz; Marie Jarrell; Nettie Mae Goad; Paul Aspell; Irene Aspell; Zeb Brodie; Donald Braden; Roberta Kaub; Cathy Schwab; Rick Schwab; Sarah Whitby; Elsie Ebling; Kevin Thomas; Brenda Anthony; Delores Reep; Billy Reep; Betty Diaz; George Diaz; Dan Divilio, Times-Record; Bobby Walls; Linda Walls; Shawn McMahon; Alexander Brodie; Marion Jones; Tony Herrold; Letitia Casanova; and Nancy Gearhart.

Approval of the Minutes

A motion to approve the minutes of July 16, 2008, including the addition to the paragraph regarding the Cow Barn discussion, was made by Martin, seconded by Jeff, unanimously approved.

Old Business

Cyber Ridge Game Room – Toby stated that this issue was tabled at the last meeting because more information was needed from Alexander Brodie. Donald Braden introduced himself as the attorney for the Brodie Family and asked if this was any type of hearing, evidentiary or otherwise. Jack Hall stated that the Planning Commission is about to make a decision on the application because they have the say on what is to be done, so it is kind of evidentiary. Mr. Braden said that Mr. Brodie applied for, and was issued a building permit, specifically for this use, and that the appeal period has run for that building permit. Mr. Brodie has expended approximately \$330,000 (\$50,000 in construction costs, \$280,000 in computer and related costs, based on the issuance of that building permit. Toby said Mr. Brodie does not have a building permit; it was never brought before Planning and Zoning. Mr. Braden said he and the Brodie family were present to answer any questions, but that they had not received any notice of a public hearing. Toby stated that this meeting is the regular Planning Commission meeting, and that the first item on the agenda, which was tabled at the previous meeting, is being considered; this is not a court. He also said that Mr. Brodie is here tonight to make his presentation, and the Planning Commission will consider, based on the Zoning Ordinance, what they are going to do. Toby stated that Mr. Brodie does not have a permit, it was a misunderstanding between the Town Manager and Zeb Brodie, and it will be considered tonight whether or not one will be issued. Alexander Brodie asked about the type of permit. Martin said a permit to operate the internet café. Jack Hall told Mr. Braden that if his issue is that Mr. Brodie has a permit and can open, they will be in court under an order to cease and desist, because the Planning Commission has to approve the use. Mr. Braden said his point is that there is no notice of what this is about tonight. Martin stated that when Mr. Brodie was at the meeting last month there was not sufficient information to make a decision. The matter was tabled, but he knew he would be on the agenda this month. The Planning and Zoning agendas are posted on the website each month. Martin said he didn't see how it can be contended that there was no notice.

Toby gave on brief overview of the Cyberridge situation. He said that the Town Manager gave approval, but he did not have the legal right to do so. Toby also said that approval isn't just given without going to the Planning Commission, and it was questionable judgment on Joe's part.

Martin asked about the building plans submitted and the number and location of parking spaces reserved for Cyberridge. Alexander said he didn't know; he saw the plans for the interior. Martin said he recalled seeing the plans for the interior, but didn't recall seeing any exterior plans. Martin referenced the article in the newspaper and asked about the anticipation of between 50-80 people in attendance on tournament weekends. He asked if there was enough an allocation of space in the building to accommodate those people, from what hours, and at which locations. Alexander said that number has been reduced to a maximum of 50 people. The hours would be anywhere from 9am to 10pm, not to extend past 11pm. Martin stated that he assumed the truck docks would

not be usable for parking. Alexander explained the parking areas and spaces. He said that there is no other use behind Cyberidge, he doesn't foresee a conflict with the day care center, and that most of the traffic for Cyberidge would be via East Bell Street. There was some discussion concerning parking.

Toby stated that it was his understanding that Alexander was 19, and he asked about his business experience. Alexander said that he has taken business management classes, but this would be his first business. Jeff asked if the maximum number of people was per the fire marshal. Alexander said he has not been notified by the fire marshal as to the maximum capacity. Toby said that approval from the fire marshal is required. Margaret asked if there was a checklist available to people looking to open a business; it would be helpful for people to have that information. Alexander said he needed that last month, but didn't get it; Margaret said most of the information they gave him was done verbally.

Toby said he had questions regarding the statements made in the newspaper article. He said that Alexander said that it would be a family enterprise, yet at the last meeting Alexander spoke about the strict rating system due to the content of the games. Alexander said there wouldn't be any games with pornography at Cyberidge. Toby asked why access to the game center would be restricted by age. Alexander said the age restrictions are in place because all games are rated by ESRB. Toby asked how many security officers will be available to enforce these age restrictions; Alexander answered two. Mr. Braden asked Alexander to explain what would be regulated in addition to pornography, and explain the various levels of ratings. Alexander said games are rated based violence, gore, nudity, pornography, drug use, etc. Alexander also explained the process of signing in/logging on and how everything will be regulated. There was discussion concerning age restrictions and regulations. Alexander gave an overview of Cyberidge's layout. There was discussion about the set-up of each station, and the use of headphones at each station.

Toby said he had another question, but this question was summed up better by another town resident, Dr. Al Witkofsky. Toby read Dr. Witkofsky's letter into the record. ([Attachment A](#)).

Billy Reep asked if Windows XP would be used as the basic program; Alexander said yes. Mr. Reep asked if Alexander knew that Microsoft no longer supports Windows XP. Alexander said that they will be able to monitor the activity within Cyberidge. Mr. Reep asked if anyone can get around that system; Alexander said he didn't believe so and stated that they are doing the best they possibly can. Mr. Reep also had a question about the parking lot, and how that could be monitored. Alexander stated that the parking lots would be monitored by video cameras. Mr. Reep asked what would be used for age verification. Alexander said parents would be used for age verification, and stated that is the one circumstance he can't get around.

Kathy Smith asked about the room full of 47" televisions. Alexander said mature-rated games will not be permitted on those TVs; the permitted games will be similar to a Bugs Bunny cartoon.

Robert Wielgosz, a resident of North Maple Avenue, stated that he is grateful to see something like Cyberidge come to this community, but is mainly concerned about the traffic. He is also concerned about security – inside and outside; he said he's seen similar businesses fail due to security issues. There was discussion concerning traffic. Kevin Thomas stated that the sharp bend onto Maple Avenue is a hazard. Martin stated the Chief of Police stated at the last meeting that when New Roads was operational at that location there were three shifts of people coming in and out of their call center day and night. Cecilia Acocella, whose driveway abuts Bell Street, stated her concerns about traffic in that area. She also stated her concerns about having a business of this nature in town, a business that doesn't encourage healthy, outdoor activities.

Toby said there are old factories in town, built before there was such a thing as zoning, that exist in the middle of what are now residential neighborhoods. The Zoning Ordinance, as in this case, protects the surrounding community. It is in those areas where the Planning Commission has the obligation to deny something, or set special conditions. The Planning Commission is not against business, they want things that are beneficial to the community; and there are many issues to consider.

Roberta Kaub stated that originally she wasn't in favor of this business, but now she is. However, she does have concerns – such as lighting, parking, and loitering. Alexander said that they will address loitering as much as possible, but in the end it's technically a police issue. Mrs. Kaub stated that it does give the kids something else to do, and that if parents don't like it, don't let their kids go. Ceil Acocella asked if there would be a bathroom at this location, because she has a problem with public urination on her property; Alexander said yes, there will be a bathroom. Toby said he wanted to go back to the police issue, stating that this project will impact the police, and generally developers are charged an impact fee based on the services they will be affecting. Shawn McMahon asked if there is 24 hour police coverage. Marie Jarrell stated that sometimes police coverage can be limited. Nancy Gearhart stated that the town does have 24 hour coverage, but that Alexander shouldn't count on any additional assistance, citing some of the issues at the skate park. Sarah Whitby expressed her concerns about security, and referred to a similar business on Kent Island and the problems they had. There was discussion concerning security, police coverage, and the anticipated clientele.

Toby asked if Alexander could address these concerns in writing, that the Planning Commission needs a thorough proposal, or a business plan. Alexander stated that he needs to know all the information wanted by the Planning Commission. Martin stated that Alexander needs to address the hours of operation, restrictions on caffeine, specific parking arrangements, ingress and egress through the neighborhood, the peace and orderliness of the area, outdoor security, and the game ratings. Margaret stated that she had a concern about sidewalks and buffering areas. Alexander asked if those homes were built before the industrial building existed. Toby said no, but that was before there was a Planning Commission. Margaret stated that when there is an industrial zone abutting a residential zone, generally there's very careful zoning about what is permitted. Alexander asked if it would be an issue if the entire industrial center were to be completely rented out and there was traffic from 75+ employees. Toby again stated that a business proposal is needed. Mr. Braden has lighting, parking, security, hours, and caffeine. Margaret added sidewalks; Joe added staffing. Mr. Braden stated that as far as game content, Alexander has stated that he intends to police this very carefully. It needs to be understood that there will be more policing of game content at Cyberidge than at other locations. Mr. Braden also proposed working with the town's attorney to try to come up with some concept in writing that answers all the questions, and binds the Brodie family so there is something in writing that has some enforceability. Mr. Braden suggested putting everything in writing and sending it to the Planning Commission for approval.

Betty Diaz asked about the effect of the business on her property, if she were to sell her property. Mr. Braden said they are not able to answer that; they are only able to answer questions about this project. Toby asked if there were any other public comments. Nancy Gearhart stated that people may think she's old-fashioned, and she and a lot of other people in town are and they are proud of it. She stated that Ridgely is a nice, little rural town; those qualities are easily lost so they need to be protected. She said that bringing in games that have to be rated because of their content does not mix well, and doesn't belong in Ridgely. Alexander asked if she would feel the same about a store that rents movies. Nancy said that if Cyberidge is going to be a family-oriented business, then get rid of the offensive games and all games would be games anyone could play. Shawn McMahon stated that Cyberidge would lose 75% of their customers that way. Nancy said the two things the town needs are Economic Development and activities for the youth. She said Economic Development needs to be handled carefully – don't take just anything. Nancy asked what Ridgely doesn't have now that existed 30 or 40 years ago. Attendees offered answers including: sports for the handicapped, a bowling alley, and a movie theater. Mr. Braden stated that the philosophical and legal debates don't really involve him and the Brodie family; they left the meeting at 7:30. There was some additional discussion. A motion to table the issue was made by Jeff, seconded by Martin, unanimously approved.

204 E. Sixth Street/Subway Shopping Center - Privacy Fence – Toby provided an overview of the issue, and stated that the privacy fence and landscaping between the Ridgely Cemetery and the Subway Shopping Center was a condition of construction. Joe stated that the plans include 240' of 6' vinyl privacy fence west of the existing chain link fence. Mr. Brodie said that he will follow the guidelines of the Planning Commission and

the Ridgely Police Department. Joe recommended obtaining information about the state right-of-way to help determine any setbacks. There was discussion concerning visibility issues, landscaping, and the design of the new fence. Nettie Mae Goad, Marie Jarrell, and Marion Jones left at 8:02.

Cow Barn Update – Joe said that he met with Archie Carroll, Shane Johnston, and Pete Johnston, trying to come to a resolution for that property. A DRRA was prepared by Shane and Pete Johnston, and reviewed by Jack Hall; there are still some issues to be resolved.

Subway/Building Permit Application (Sign) – A building permit for a wall cabinet sign for Subway was reviewed. A motion to approve the permit application was made by Margaret, seconded by Jeff, unanimously approved.

Permit Application (Home Day Care) – A permit application for a Certificate of Occupancy for a home daycare at 2 Robin’s Court was formally approved with a motion by Margaret, seconded by Martin, unanimously approved.

Building Permit Application/Revision – The Planning Commission reviewed the building permit application revisions for 109 Maple Avenue. A motion to approve the design review and revisions was made by Martin, seconded by Margaret, unanimously approved.

Ordinance #252 (Airport Technology/Industrial Zone/I-3) – There was no minimum front yard depth indicated on Ordinance #252. Jack Hall said that the Planning Commission should make a recommendation to the Town Commissioners that #4 of Section 29.5 should be amended to include the word “front”. A motion to make that recommendation to the Town Commissioners was made by Martin, seconded by Margaret, unanimously approved.

Town Manager’s Report

Joe reviewed the letter sent to the County Commissioners about the sewer allocation for Phase II of the Tech Park. There was some discussion.

Public Comments

Nancy asked how Subway received their Certificate of Occupancy before the fence was installed. Joe stated that there was no specific date as to when the fence had to be installed. Jack Hall stated that a judge would say that it has to be built within a reasonable time.

Margaret read a letter ([Attachment B](#)) to be included in the minutes, regarding the handling of the Cyberidge matter. Toby said he agreed with the concerns mentioned in Margaret’s letter. There was some discussion.

Adjournment

A motion to adjourn was made by Martin, seconded by Toby. Meeting adjourned at 8:47.

Sincerely,
Missy Vanskiver
Asst. Clerk

ATTACHMENT A

August 20, 2008

The Planning Commission
Town of Ridgely

Received
AUG 27 2008
MSV

Dear Chair and Members:

Please accept my apologies for not being present at the Planning Commission meeting. A prior commitment has prevented me from attending the meeting. The purpose of this letter is to first voice my personal opposition to the Cyber Ridge gaming lounge. And, second, to use my professional expertise, as a physiological psychologist, to refute statements reportedly made by the owner of Cyber Ridge.

Some years ago, a Commissioner of Ridgely, our historic village, said at a Commissioners' Meeting, "We don't want to look like Glen Bernie." I think we can all agree with that statement. Ridgely is a small town, a rural town, a quiet town. This is one of the few places that you can find middle America on the eastern seaboard. I believe that most of us are very comfortable with that identity.

It is difficult to argue that a video gaming lounge, open all night, with a caffeine bar fits into our identity. How does a gaming lounge mesh with Rails To Trails and with our proposed historical center? Further, can Ridgely support the business? It seems from the advertising for the lounge that gamers may be coming from out of town and even from across the Bay. Is that what we want for our town? Is that what we want in our residential neighborhoods? Is that what we want for 24 hours a day? I do not. I am certain the citizens do not. I hope the Commission does not.

I urge you to view with caution any arguments that our young people are in need of recreational opportunities. As a parent, I can testify that Ridgely has plenty of healthy, wholesome, and safe recreation for our youth. We have soccer, football, and little league. There are scouting and 4-H. There are Martin Sutton Park, Adkins Arboretum, and Tuckahoe State Park. Caroline County Recreation and Parks provides our children with a multitude of athletic, artistic, and educational programs. And Chesapeake College also offers many sports and educational camps for children. No, our children do not need a gaming lounge.

Please consider the practical matter of the increased traffic on Bell Street. An occasional truck, making deliveries at the business park, with the associated jobs and revenue, has little impact and should be a minor concern. But, the substantial increase in automobile traffic generated by the lounge on such a narrow street with no sidewalks in a residential neighborhood is unacceptable.

Now, please allow me to refute the statements reportedly made by the owner of the lounge, Mr. Steven Brodie

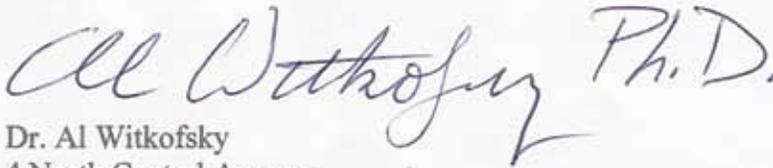
Mr. Brodie is quoted in the Times-Record (August 13, 2008) saying that media reports linking video games to real life violence are questionable. In addition, he said that the concerns of one of our citizens, Nancy Gearhart, were unfounded. However, a review of the scientific literature reveals just the opposite. Numerous studies have reported a significant link between violent video games and increases in aggressive behavior, increases in aggressive thoughts, increases in aggressive emotions, and increases in physiological arousal. Also, violent video games are linked to decreases in prosocial

behavior. For those that are interested, Craig Anderson and Brad Bushman have published an extensive review of the above mentioned findings (*Psychological Science*, Vol. 12, September 2001).

A second factor that may be of concern to the Commission and the citizens of Ridgely is that Cyber Ridge will have a caffeine bar. Caffeine is a well known physiological stimulant and the scientific literature shows a relationship between caffeine consumption and aggressive behavior. First, animal research has revealed even low doses of caffeine cause aggressive behavior. Second, many studies show that adolescents who consume high doses of caffeine are likely to engage in daily cigarette use, demonstrate aggressive behavior, and be diagnosed with attention deficit/hyperactivity behaviors. One can only guess at the implications of combining the video games with the caffeine bar. Could that possibly be good for our town?

I could spend pages citing all of the published reports linking video games to aggressive behavior but I dare not take your time or prolong the meeting. Let me close with the hope that the Commission will find that the video lounge should not be part of Ridgely, and Ridgely will continue to be special.

Sincerely,

A handwritten signature in cursive script that reads "Al Witkofsky Ph.D." The signature is written in dark ink and is positioned above the typed name and address.

Dr. Al Witkofsky
4 North Central Avenue
Ridgely, MD

Assistant Professor
Department of Psychology
Salisbury University

ATTACHMENT B

To: Ridgely Planning Commission
From: Margaret Haven
Date: Tuesday, August 26, 2008

To be entered in the minutes of Aug. 27th, 2008:

The Zoning Ordinances indicate to me that our Town Manager overstepped his authority in the matter of Cyberidge. As Planning Administrator, he is to direct people through the proper channels and when appropriate, to the Planning Commission. In this case, the Town Manager took it upon himself to approve a commercial business in an (I-1 Industrial zone, which is not within his power to approve. (See Zoning Ordinances C1,9.4 (P.61), C2,10.4 (p.55), # 242, 10.)

The manner in which our Town Manager handled Cyberidge has caused undue pressure on the Planning Commission and possibly unnecessary time and expense to the planned Cyberidge.

At the July 16th meeting the Planning Commission officially received word of this business for the first time by way of a verbal presentation by the potential owner, Mr. Steve Alexander Brodie. He had already advertised, put up a sign, purchased and stocked equipment and was setting up his business. When asked, both the Town Manager and the owner of the building, Mr. Zeb Brodie, said this plan had been in the works for 3 months prior to this meeting, and indeed there apparently were plans submitted to the Town Manager which he in turn did not submit to the Planning Commission for review. Only after I asked to see the plans were they brought out to us. They were not reviewed at this time given the timing and circumstances.

After hearing Steve Brodie's business plan, zoning codes and some guidelines were reviewed with him and he was invited to return with a revised and more complete plan for us to consider. The feasibility of this particular business being allowed in the I-1 location requested is yet to be determined as I write.

Note:

1. The subject of an internet café (Cyberidge) or the fact that Mr. Steve Alexander Brodie was going to speak was not on the agenda.
2. No reference to this business was made in our summery letter from the Town Manager just prior to the July 16th meeting, except his suggestion that we read an enclosed public 'Grand Opening' flyer which had been distributed by Cyberidge.
3. Our Town Manager at the July 16th meeting then advised/requested the Planning Commission to decide on the spot to either tell the owner of Cyberidge that yes, the business is permissible or no, it is not. To make that determination without necessary information at our disposal and without due consideration would have been irresponsible. To suggest we make such a last minute decision left me to speculate why he handled this issue as he did.

Regarding the timing of this issue: The Planning Commission has an official standing policy that proposed plans, any information relative to these plans and requests to be on the agenda are to be received by Planning members 1 week prior to our monthly meeting. This allows us to carefully review them, consider the impact of the business, review our zoning ordinances and be prepared

to discuss the proposal with knowledgeable authority. In addition, the items for consideration must be on our written agenda.

This policy has not been followed closely, but we have to this point been agreeable to receiving information at least several days prior to the meeting on issues that we expect to work on.

In any case of emergency it is understandable that we may make an exception and deal with an issue put on the table the last minute. However, the Town Manager's practice of presenting issues to the Planning Commission which he expects to be heard the last minute, and the practice of the Planning Commission to allow them has become a fairly standard practice, particularly with Mr. Zeb Brodie's businesses. It puts an undue burden on the planners who are expected to review all aspects of the issue during our meeting time, on the people who are legitimately on the agenda and have to wait through all of this for their time, and on the person who expects his/her last minute issue to be heard and decided upon when in fact it perhaps cannot be done.

I find this practice unacceptable. Prioritizing issues not on the agenda does not follow official Rules of Order, and to allow it is to put the Planning Commission in jeopardy not only professionally but legally.

1.) We have an obligation to the people who attend the meeting and are legitimately on the agenda to deal with their issues first.

2.) We have an obligation to deliberately review plans and relevant ordinances so we can make knowledgeable decisions.

Therefore I again stress that we follow the proper protocol in our Planning Commission meetings.

As to the issue of our Town Manager's actions:

I feel it is important to note the Town Manager's timing in his presentation of Cyberidge to the Planning Commission and his independent action in this instance of Cyberidge, so that the Planning Commission's proper and responsible actions in this matter are clear.

Margaret Haven
Planning Commission Member