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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on October 20, 2011 in the Council Chambers of the Government Office Building, Room 301, with the following persons in attendance:

**COMMISSION MEMBERS:**

Charles "Chip" Dashiell, Chairman  
James W. Magill  
Gail Bartkovich  
Glen Robinson (Absent)  
Scott Rogers  
Tim Spies  
Jacob Day

**CITY/COUNTY OFFICIALS:**

Mary Phillips, County Public Works Department  
Gary Hales, City Public Works Department

**PLANNING STAFF:**

Jack Lenox, Director  
Gloria Smith, Planner  
Keith Hall, Planner  
Beverly Tull, Recording Secretary



The meeting was called to order at 1:30 p.m. by Mr. Dashiell, Chairman.



Mr. Dashiell congratulated Mr. Day on his recent commission as a Second Lieutenant in the Army National Guard.



### Minutes:

Upon a motion by Mrs. Bartkovich, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the minutes of the September 15, 2011 meeting with the correction on page 5.



### CAPITAL IMPROVEMENTS PROJECT REVIEW – FY2013-2017.

Mrs. Gloria Smith presented the Capital Improvements Project Staff Report. The Planning Department has received the summary of Proposed Capital Improvement requests from various county departments for FY2013-2017. Mrs. Smith gave a brief description of each request.

Mr. Magill questioned if it was normal for the Board of Education to light the practice fields as requested in the CIP. Mrs. Smith responded that she wasn't sure of the answer to that question.

Mrs. Bartkovich stated that she believed that the recaulking of the skylights at the Health Department was a maintenance issue and not a CIP project. She added that the CIP projects should have the life span of the bond that will pay for them. Mrs. Bartkovich also stated that she didn't believe that Shore Transit should mix their operational budget in with the CIP request. Mrs. Smith noted that regarding the skylights, it could be argued that by recaulking them, you extend the life of the building.

Mrs. Bartkovich questioned Mr. Lenox if the Commission's role was to approve the requests with the indication that they are in compliance with the Comprehensive Plan. Mr. Lenox responded in the affirmative.

Mr. Day questioned if the Commission's approval was for new projects and projects that were relisted. Mr. Lenox responded that Mr. Day was only acting on the new projects being discussed, and not anything that a previous Commission had reviewed.

Mr. Dashiell stated that the Commission's role was limited to conformity with the Comprehensive Plan.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Capital Improvements Projects as submitted as to their location and use. The projects are in accordance with the goals, objectives, and policies of various Chapters of the Wicomico County Comprehensive Plan as adopted in February 1998.



#### COUNTY SUBDIVISION PLAT/SKETCH PLATS:

**Tim Mar Acres, Lot 4C – Revised Preliminary – 3 Lots – John Deere Drive – M-39; G-10; P-38.**

Mr. Brock Parker and Mr. Palmer Gillis came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are proposing three (3) lots from this 7.5 acre parcel on the southerly side of John Deere Drive. The lots average 1.72 acres each and will front and have access on a new cul-de-sac extending from John Deere Drive – Mid Atlantic Lane. A separate parcel will be provided for an existing stormwater management pond.

Mr. Parker stated that at the last meeting there was an extensive discussion about the right-of-way. A request was made and approved by County Public Works to reduce the width of the right-of-way; therefore, the revised preliminary plat is here for review and approval.

Mr. Gillis stated that a 40 ft. road bed is normal for this type of project. Mr. Parker added that the Code is written so you can't reduce the width of the road bed.

Mrs. Bartkovich questioned if the same number of parking spaces were being required. Mr. Parker responded in the affirmative.

Mr. Magill questioned if the maintenance of the stormwater management pond was covered in the HOA documents. Mr. Parker responded that it would be once the HOA documents were done. Mr. Gillis added that when this property was originally developed it consisted of two (2) parcels. The stormwater was based on those two (2) parcels so there is a large pond that is bigger than it needs to be. The stormwater management pond will be by the lots and documented.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, the Commission **APPROVED** the Revised Preliminary Plat for Milford Street Associates, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all requirements of the County Subdivision Regulations.
2. Health Department approval is required prior to the recordation of the Final Plat.
3. This subdivision shall comply with the Forest Conservation Regulations.
4. All lots shall be members of the Property Owners Association.
5. The developer shall reconstruct the paved portion of Mid Atlantic Lane (entrance to Farm Credit) in accordance with the previously approved construction plans showing a road width of 40 ft. curb to curb and a ROW of 50 ft. Improvements Construction Plans for the extension of the road shall be approved prior to the submittal of a Final Plat.
6. The entrance onto John Deere Drive is subject to State Highway Administration approval.
7. The lots shall be renumbered to avoid repeating lot number from the existing lots in Tim Mar Business Park.
8. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.



**Cotton Patch – Extension – 96 Lots – Pemberton Drive – M-37; G-17; P-145.**

Mr. Steve Fuller came forward. Mrs. Gloria Smith presented the Staff Report. The applicants request a one-year extension of time for recording of the approved Final Plat for Cotton Patch (formerly Ponds at Pemberton) subdivision.

Mrs. Bartkovich noted that the Council is looking at changing the length of the extension period. Mr. Lenox noted for the record that this was a City subdivision.

Mr. Magill questioned the subdivision across the street from this property that is for sale as an approved subdivision and what the difference was between that project and this project as far as extensions are concerned. Mrs. Smith questioned Mr. Fuller if the approval was kept alive if this project would be grandfathered from the new stormwater regulations. Mr. Fuller responded that he has been told that this project will be eligible for the waiver from the new stormwater regulations.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **GRANTED** the one-year extension of time to record the Final Plat for Cotton Patch. **This extension will expire on October 24, 2012.**



**Essex Ridge, Sec. 5 – Extension to record Final – 32 Lots – Northumberland Drive.**

Mr. Bill Turner came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are requesting an additional one year extension of time for recordation of the Final Plat for Essex Ridge, Section 5. The developer has indicated that financing is not available at this time and it is not prudent to move forward until some recovery occurs, but they do plan to move forward with this project.

Mr. Turner explained that they do intend to move forward with the project once the financing can go through. The Bank would like to see at least half of the lots for each section pre-sold before they will give financing which hasn't been done in the past.

Mr. Pretl added that Wicomico Environmental Trust didn't object to any of the extensions on Essex Ridge.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **GRANTED** a one-year extension of time for recordation of the Final Plat for Essex Ridge, Section 5. **This extension will expire on February 19, 2013.**



**Essex Ridge, Sec. 6 – Preliminary Extension – 17 Lots – Downing Road – M-21; P-77; G-12.**

Mr. Bill Turner came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are requesting an additional one year extension of time for submission of the Final Plat for Essex Ridge, Section 6. The developer has indicated that financing is not available at this time and it is not prudent to move forward until some recovery occurs, but they do plan to move forward with this project.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **GRANTED** a one-year extension of time for recordation of the Final Plat for Essex Ridge, Section 6. **This extension will expire on January 10, 2013.**



**Essex Ridge, Section 7 – Preliminary – Extension – 57 Lots – Carioca Road – M-21; G-12; P-57, 77, 111, 114.**

Mr. Bill Turner came forward. Mrs. Gloria Smith presented the Staff Report. The applicants received Preliminary Plat approval for a proposed subdivision of 57 lots from this 497.34 acre tract with a density of one unit per 8.73 acres in October 2008. All lots will front and have access on new interior streets and Carioca Road will be extended to serve as alternate access to the development. The average lot size is approximately  $\frac{3}{4}$  acre and contiguous open space of 252.95 acres would be provided. The applicants are requesting a one-year extension of time to submit the Final Plat for Section 7. The developer has indicated that financing is not available at this time and it is not prudent to move forward until some recovery occurs, but they do plan to move forward with this project.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **GRANTED** a one-year extension of time for recordation of the Final Plat for Essex Ridge, Section 7. **This extension will expire on October 22, 2012.**



#### **Raegan's Run Sketch – Sketch Plat – 33 Lots – Riverside Drive – M-47; G-16; P-65.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Sketch Plat Report. The applicant proposes the subdivision of 33 lots averaging 1.60 acres each from this property on the southerly side of Riverside Drive. The average lot size for Phase 1 is 0.87 acres and the proposed average lot size for Phase 2 is 1.83 acres. All new lots will have frontage on a new interior street or cul-de-sacs. The land area is in a Town Transition zoning district just northwest of the City of Fruitland.

Mr. Parker explained that at the last meeting the plat showed a gray area for the back portion of the property. The new sketch shows what may be reasonable but would be several years down the road for the back section of this property. The developers are currently only concerned with Section 1.

Mr. Day questioned Mr. Parker if there had been a discussion with the neighbors about this property. Mr. Parker responded that when he started this job that community outreach was done due to the problems with the previous proposed development. Some of the concerns of the neighbors may be addressed by showing all of the lots on this Sketch. Mr. Day questioned

if Road A and Riverside Drive had been realigned. Mr. Parker responded in the negative, explaining that he tried to align it with the two (2) lots across the street while avoiding putting headlights in their front window.

Mrs. Sandy Waller, Silver Run Lane, stated that she had concerns over the density and what was being asked of the environment. The volume of traffic that is on Riverside Drive and will be added with this development is also a concern. The wastewater treatment doesn't promote good will. Malone's Branch is a very tender area and the number of homes being proposed would put an undue burden on the environment and Malone's Branch. These proposed home would also put an impact on the school system. Mrs. Waller questioned why a 1:20 density couldn't be applied to this development.

Mr. Lenox responded that this property wasn't in the Critical Area like the area across the road so the 1:20 density doesn't apply. Mrs. Waller questioned what she could do to change that. Mr. Lenox responded with a definition of the Critical Area. He further explained that adding this property into the Critical Area would take convincing the State of Maryland that the Critical Area designation needed to be on this property and then going through the County Executive and the County Council if the State agreed to extend the Critical Area.

Mr. Mike Pretl, WET, stated that he had been approached by a number of people in the area with the previous development that were opposed but haven't heard from any of those individuals regarding this development. He stated that he would be contacting them to see if they were in opposition to this development and requested that WET be included as an interested party.

The Commission advised the applicant's to proceed with a Preliminary Plat submission.



**ADMINISTRATIVE MATTER:**

**Hidden Pond – Findings of Fact – 22 Lots – Walnut Tree Road – M-47; G-19; P-782.**

Mr. Lenox explained that Findings of Fact were drafted for the last meeting. A written statement was received at the last meeting from Mr. Pretl so the decision was continued until this agenda. Staff has tried to address the written statement of concerns from Mr. Pretl. Mr. Baker couldn't be at the meeting today but has reviewed the changes. In Finding #10, the objected to language has been struck. Mr. Lenox advised that the Staff recommends that the Commission adopt the revised Findings of Fact.

Mr. Day stated that he had made his opinions clear at the August meeting. He further stated that he wasn't sure that he understood the change made in Finding #10. Mr. Lenox clarified that the line about "compliance with Section 225-3 of the Code is not a requirement" and that it was removed. Mr. Day stated that he still couldn't support the Findings.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Spies, and duly carried, the Commission **ADOPTED** the Findings of Fact as submitted.

*Mr. Magill and Mr. Day opposed the motion.*

*Mr. Rogers abstained.*



#### **COMMISSION DISCUSSION – DRAFT COUNTY COMPREHENSIVE PLAN.**

Mr. Keith Hall and Mr. Jack Lenox came forward. Mr. Lenox explained that there is a Draft County Comprehensive Plan. The question is when will the Commission feel comfortable sending out the Draft to start the 60 day review period. After the review period, there will need to be a public hearing and then the Commission can take a vote at a later meeting to send to the County Council.

The purpose of the PPA is to try and direct funding for agricultural preservation efforts. The State discourages fragmentation if they are going to provide funding. The County Executive recommends the County get recertified in the Ag Program. Prior to any discussions with the State regarding the recertification of the Ag Preservation Program, the County must adopt the PPA element. The two-tiered approach has been discussed in the past.

Mr. Day questioned if the PPA is to have the 2009 recommendations of the Planning & Zoning Commission to the Wicomico

County Council attached to it. Mr. Lenox responded in the affirmative, adding that it needs to be determined by the Commission if the current zoning is sufficient.

Mrs. Bartkovich stated that the 2009 recommendation is a zoning recommendation. She questioned how a zoning recommendation would be included in a policy document. Mr. Lenox responded that the question is if the Commission wants to include the 2009 recommendation in the Draft Comprehensive Plan. He added that new zoning was adopted six months after the adoption of the Comprehensive Plan in 1998. The PPA Element would be consistent with the Comprehensive Plan and would give guidance with what the zoning should be.

Mr. Day stated that any language should be included in the goals section that the County hopes to achieve.

Mr. Lenox stated that there could be a density range or inclusion of language stating the zoning density in the Ag-Rural Zoning District needs to be reviewed and consideration should be given to modify the current density to make the A-1 Zoning District more restrictive / less permissive.

Mrs. Bartkovich questioned if a final number was ever determined for the 80 percent that is supposed to be preserved. Mr. Hall reviewed the process to determine the preservation goal of 80 percent of the undeveloped land in the proposed PPA. As drafted, Mr. Hall stated the current preservation goal is equal to 68,000 acres. The overall size of the proposed PPA is 128,000 acres delineated, which 44,000 acres have been developed. He then stated that 80 percent of the remaining undeveloped land translated to approximately 67,500 acres. Within the PPA, the total protected and preserved lands accounts for roughly 30,000 acres. Therefore, the County would need to preserve an additional 37,500 acres to meet the goal.

Mr. Hall explained that Staff had conducted analysis of other Counties that have the PPA and some of those Counties only use their Rural Legacy areas for the PPA. Currently, in Wicomico County there are roughly 500 farms in ag use.

Mr. Day stated that there will still be development in the PPA.

Mrs. Bartkovich questioned if there was a suggestion that the Council didn't approve and it was put in the goals section, what it would be applied to. Mr. Lenox responded that the suggestion would be applied to all of the PPA but a smaller area could be done.

Mr. Dashiell questioned how the PPA was decided on the map. Mr. Hall responded that the PPA was mainly determined by the Parks and Recreation Plan. The PPA shown on the map also includes easements; however, based on discussions with the Commissioners modifications have been made such as included the Allen area and decreasing the proposed PPA outside of the eastern edge of the Metro Core boundary.

Mr. Magill questioned if we shouldn't concentrate on the areas where the County would get the most bang for the buck.

Mr. Lenox cautioned that if the PPA gets too specific it could exclude people that want to be included.

Mrs. Bartkovich questioned if the area on the east side of the County is not conducive to septic. Mr. Hall responded that he would have to defer that question to Mr. Dennis DiCintio at the Health Department, and the Department looks at it on a case by case basis.

Mr. Day questioned why the southwest portion of the County wasn't included. Mr. Hall responded that the southwest portion of the County has extensive wetlands, as well as areas designated within the Town Transition zoning district, and having State holdings. Mr. Day questioned if the southeast portion of the County was included. Mr. Hall responded that the southeast portion of the County generally has development potential and has extensive State holdings.

Mr. Day stated that he was struggling with how effective the PPA was going to be.

Mr. Lenox stated that the advantage of getting recertified is that the ag transfer tax amount increases. There is also a question if MALPF funds can be obtained if the property is not in the PPA.

Mr. Hall stated that there also needed to be consistency with Plan Maryland.

Mr. Lenox took the 2009 recommendation from the Rural Areas Planning Committee and discussed each point. There seems to be consensus that a maximum lot size is okay.

Ms. Joan Strange from the Coastal Association of Realtors mentioned the approach taken by Worcester County, and that recent changes were supported by her organization. A review of the Worcester County

approach was recommended. It was determined that this discussion would continue at the next meeting.



There being no further business, the Commission meeting was adjourned at 2:50 p.m. by Mr. Dashiell.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning, and Community Development Office.

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Charles "Chip" Dashiell, Chairman

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John F. Lenox, Director

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Beverly R. Tull, Recording Secretary