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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on January 19, 2012 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 (Absent)  
Gail Bartkovich  
Scott Rogers  
Tim Spies  
Jacob Day  
Newell Quinton

**CITY/COUNTY OFFICIALS:**

Henry Eure, City Building, Permits and Inspections Department  
Maureen Lanigan, Assistant County Attorney

**PLANNING STAFF:**

Jack Lenox, Director  
Gloria Smith, Planner  
Mary Phillips, Technical Review  
Keith Hall, Planner  
Beverly Tull, Recording Secretary



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



Mr. Dashiell introduced Mr. Newell Quinton as the new Planning Commission member replacing Elder Glen Robinson who served on the Commission for 13 years. Mr. Dashiell gave a brief biography of Mr. Quinton and thanked him for serving on the Commission.



Mr. Dashiell announced that the Boylston subdivision had been withdrawn from the agenda. He added that he anticipated a new submission in the next few months.



Mr. Dashiell stated that the Commission had received a request for an extension on a Special Exception from Delmarva Power Sports. He requested to add that on the agenda in the place of Boylston if the Commission had no objections. Hearing none, the extension was added to the agenda.



Mr. Dashiell requested Ms. Lanigan brief the Commission on the new extension legislation that was recently enacted by the County Council.

Ms. Lanigan explained that the purpose of the legislation was for preliminary/final plats that are getting ready to expire. The legislation will grant an extension that lasts until December 31, 2013 without the plats coming back before the Commission. The other part of the legislation was that the approvals had to have been active prior to the legislation being done. If a plat requests approval after the date of the legislation, then this does not apply to them.



#### Minutes:

Upon a motion by Mr. Spies, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the minutes of the December 15, 2011 meeting as submitted.



#### COUNTY SUBDIVISIONS/SKETCH PLATS:

##### **Weiland Plat – Preliminary/Final – 1 Lot – Stockyard Road – M-57; G-16; P-356.**

Mr. Lee Gilliss came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of this 3.35 acre tract into two lots. Lot #1 will have frontage on Stockyard Road and will contain 1.0 acres of land and the existing dwelling. Lot #2 will be a pipestem lot with 50 ft. of frontage on Stockyard Road, and will contain 2.36 acres of land. This tract was originally two parcels that were combined by survey in 1994. The owners now have a need to resubdivide the property and one of the lots being created is a pipestem lot requiring Commission approval.

Mr. Gilliss stated that Mr. Weiland's mother needs this lot due to a family illness and the subdivision creates a pipestem.

Mrs. Bartkovich questioned if the rear setback should be larger. Mrs. Phillips responded that there may be additional setbacks around the septic reserve area but the 10 ft. rear setback is standard and will remain. Mrs. Bartkovich questioned if the lot was already perced. Mr. Gilliss responded in the affirmative.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Preliminary/Final subdivision for the Preliminary/Final Subdivision Plat for Weiland, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with the Subdivision Regulations.
2. Health Department approval is required.
3. This subdivision shall comply with the Forest Conservation Regulations
4. Road widening / dedication along Stockyard Road equal to 30 ft. from centerline is required.
5. Monumentation and coordinates are required at all perimeter boundary corners.
6. A setback from the 30 ft. road equal to 75 ft. from the centerline shall be placed on both lots. The front setback on Lot 2 shall be established by the Commission. Ten (1) feet from the rear line of Lot 1 is recommended.
7. Passerdyke Public Drainage Association note is required.
8. Provide standard drainage and maintenance easement obstruction note.
9. Subject to further review and approval by the Department of Public Works.



**Patrick's Landing, Section 1 – Preliminary Extension – 17 Lots – Pemberton Drive & Rawson Road – M-47; G-8; P-15.**

Mrs. Gloria Smith presented the Staff Report. The applicants proposed the subdivision of 17 lots from this 29-acre tract. Approximately 9.6 acres of Open Space and stormwater management are to be provided. No minor lot rights exist for this parcel. Lot #5, Block 'A' and Lot #2, Block 'B' each contain an existing residence. Lot 5A will now have frontage and access on Patrick's Court, a new cul-de-sac, and Lot 2B will have frontage and access on Rawson Road Extended. Lots #7-8 and 13-14, Block 'A' and Lot #1 and Lots #3-7, Block 'B' will have frontage and access on the extension of Rawson Road.

The applicants are requesting an additional one-year extension of time to submit the Final Plat. The applicants noted that they are still working to address concerns of the Critical Areas Commission and additional time is needed to address their responses. Recent Legislation adopted by the County Council extended all pending subdivisions for two years. The applicant's had submitted a letter requesting this extension prior to the expiration date of their approval and prior to adoption of the Legislation.

Mrs. Bartkovich questioned if the extension expired in 2012 if the new legislation would kick the expiration date to 2013. Ms. Lanigan responded in the negative, explaining that this subdivision didn't fall under the new legislation.

Mr. Day questioned the date of the legislation. Ms. Lanigan responded that the legislation was signed on January 10, 2012.

Upon a motion by Mr. Day, seconded by Mr. Spies, and duly carried, the Commission **GRANTED** the requested one-year extension of time to submit the Final Plat for Patrick's Landing, Section 1. **This extension will expire on December 23, 2012.**



**Boylston – Preliminary/Final – 11 Lots – Siloam Road – M-46; G-24; P-175.**

The Commission accepted **WITHDRAWAL** of the above noted request.



**#WP-0904**

**EXTENSION OF TIME TO EXERCISE APPROVAL – SPECIAL EXCEPTION – Sales of Motorcycles and ATV's – Beaver Run Business Center – Light Business & Institutional District – M-39; G-6; P-264; L-16AA.**

Mrs. Gloria Smith presented the Staff Report. The applicant is requesting an additional extension of time to exercise the Special Exception and a Site Plan approval granted to Delmarva Power Sports for construction of

a 20,000 sq. ft. Motorcycle and ATV sales facility on this site in 2009. Section 225-13F of the Wicomico County Code allows the Commission to grant a six-month extension of time to exercise the approval.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Rogers, and duly carried, the Commission **GRANTED** a six-month extension of time to exercise the Special Exception and Site Plan Approval for Delmarva Power Sports in Beaver Run Business Center – Lot #16AA, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The site shall be developed in accordance with the approved Site and Landscaping Plan.
2. All plant materials larger than six (6) inches in diameter shall be retained along the Route 50 frontage of the site.
3. This development is subject to any applicable Conditions of Approval imposed by the Wicomico Board of Appeals in 1988 or 1994.
4. Subject to further review and approval, if required, by the Wicomico County Department of Public Works.
5. **This extension will expire on July 23, 2012.**



**#SP-9103-11F      SIGN PLAN AMENDMENT – Aydelotte Commons – 1496 Still Meadow Blvd. – The Villages at Aydelotte Farm PRD #7 – M-29 & 39; G-24 & 6; P-312 & 219.**

Mr. Kirk Kinnamon and Mr. Buddy Chatham came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Kirk Kinnamon and Mr. Buddy Chatham/Fit Physique Gym have submitted a request for the for reconsideration of the ruling made at the December 15 meeting regarding the small box sign permitted at Aydelotte Commons Shopping Center.

Mr. Kinnamon explained that this sign amendment wasn't done to buck the system. This sign is more visible from the parking lot. He requested that the Commission grant the sign amendment.

Mr. Chatham stated that having to change the sign now would be a financial hardship to him.

Mrs. Bartkovich stated that the sign doesn't look as nice as the other signs on the building. She stated that she prefers the dark red with the white letters. Mr. Kinnamon stated that they wanted the bubble to stand out. He added that they wanted people to know that Buddy Chatham owned the gym.

Mr. Spies stated that since this would represent a significant expense on the owner's part, was there a way that the Commission could give a time frame for him to change the sign if that was the outcome. Mr. Eure responded that the Commission could put a time frame on having the sign changed. Mr. Spies questioned the cost to change the sign. Mr. Kinnamon responded that it would cost approximately \$400 to change the sign.

Mr. Day stated that he wasn't sure that the sign was significant enough to ask a small business owner to change the sign. He added that there were a lot bigger issues in the County than changing the sign.

Mr. Spies questioned if this unit was the center of the building. Mr. Kinnamon responded in the affirmative. Mr. Spies stated that he agreed with Mr. Day. He added that he would like to see the business succeed over changing the sign.

Mr. Rogers stated that this sign is more legible. He added that he would be willing to reconsider and allowing this sign.

Mrs. Bartkovich questioned if this sign was allowed would it be for this business only. Mr. Dashiell responded in the affirmative.

Mr. Spies questioned the date that the sign was installed. Mr. Kinnamon responded that the sign was installed sometime around October. Mr. Eure added that the sign was installed without a permit but the permit has since been obtained.

Upon a motion by Mr. Rogers, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Sign Plan Amendment as submitted for this tenant only.



Mr. Lenox explained that he might have to step out for a meeting with Mr. Pollitt but that he would return.

Mr. Lenox explained that since the last meeting there had been a consolidation with elements of the Public Works Department. Mrs. Phillips is now part of the Planning Department. The reorganization includes all the downtown functions including fire protection, the building inspectors, the electrical board, and parts of the engineering functions with Mrs. Phillips. Mr. Redden is still the Acting Public Works Director over Solid Waste and Roads. The County has been looking at staff reductions with this consolidation. Staff will continue to work and thrive with the reorganization and staff reduction.



### **Commission Discussion – Draft County Comprehensive Plan.**

Mr. Hall explained that Worcester County does permit package treatment plants in the A-2 District.

Mr. Hall stated that at the last meeting the Commission had seen another version of the PPA map. Staff has incorporated the area east of Old Railroad Road and north of Route 50 into the PPA due to two (2) large easements located in that area, large-contiguous lots, the soils highly productive crop yields. Version 7 of the PPA map is the current version for the Commission to consider. The areas in yellow, green or red on the map represent the entirety of the proposed PPA, Version 7. The areas in white on the map are zoned A-1. The light grey areas represent growth areas (both municipal and county designated) and the dark grey areas are the eight (8) incorporated areas of the County.

Mrs. Bartkovich questioned what the colors meant. Mr. Hall explained that the green areas are protected or publically owned lands, yellow areas are the undeveloped areas, and the red areas are the developed / underdeveloped areas within the proposed PPA. The size of the A-1 District is 185,500 acres. The proposed PPA is approximately 50,000 acres or 26 percent of the A-1 area.

Mr. Day inquired about the total acreage / size of the County. Mr. Hall responded that the total area of the County is 377 square miles or roughly 241,000 acres.

Mr. Hall stated that the preservation goal is 80 percent of the undeveloped area within the PPA. Mr. Dashiell questioned if the 80 percent was in the green and yellow areas. Mr. Hall responded in the affirmative.

Mr. Hall stated that the developed / underdeveloped areas are approximately 7,000 acres and the remaining 43,000 acres are considered undeveloped. Approximately 34,250 acres would represent the 80 percent preservation goal for the 43,000 acres that are undeveloped.

Mr. Hall explained that the forest conservation easements can be moved so they were not included in the preservation counts.

The preservation goal is 34,250 acres. As a result of ongoing preservation and conservation efforts, as well as publicly-owned lands considered protected, a total of 15,716 acres have been preserved. Approximately 18,500 acres is the deficit that needs to be preserved to meet the expectations of the PPA goals.

Mr. Hall stated that if the Commissioners are in agreement about the proposed delineation of the PPA, Staff recommends further discussion about potential incentives to be considered as part of this planning effort. He added that since the Commission is in the process of delineating the extent of the proposed PPA and the supporting text has not yet been developed, it would be best if the map was not uploaded to the County's website at this time because of the potential for misinterpretation of the PPA. Mr. Hall proceeded to emphasize the importance of the delineation of a PPA being defensible and based on sound practices directed towards preserving agricultural efforts.

Mr. Dashiell stated that the owners of the land in yellow will be the ones asking the most questions.

Mr. Hall stated that the majority of the questions will come from the undeveloped areas in yellow. Mr. Dashiell questioned the acreage. Mr. Hall responded that the acreage of the areas in yellow and green accounted for approximately 43,000 acres of undeveloped and protected/preserved/public owned lands. Mr. Dashiell questioned the yellow acreage. Mr. Hall responded that the yellow area was approximately 27,000 acres.

Mr. Day questioned total acreage in Wicomico County that is preserved. Mr. Hall deferred to Mrs. Smith. Mrs. Smith responded that she didn't have the total acreage in Wicomico County because there may be lands that Staff wasn't aware of that were in easements.

Mr. Day questioned if the Nature Conservancy puts easements on their lands. Mrs. Smith responded that she wasn't sure if easements were put on the Nature Conservancy lands. Mr. Keith Lackey, MDP, stated that although he wasn't positive, he believed that they can be included as an area in preservation.

Mr. Hall stated he had included The Nature Conservancy as a private holder as most of their lands are in the Nassawango Watershed. He further explained that proposed PPA does not contain any land owned by The Nature Conservancy.

Mr. Day questioned if greater than 50 percent of the preserved lands within the County are in the PPA. Mr. Hall responded in the affirmative. Mr. Day questioned how this compared to other counties on the Eastern Shore or in Maryland. Mr. Hall responded that he didn't believe that it would be a fair comparison because there is no criteria / mandate in HB – 2 (2006) requiring a certain percentage of preserved land to be included within a PPA.

Mr. Dashiell tried to clarify Mr. Day's point that there are some Nature Conservancy lands that were not shown because they were not in the PPA. Mr. Hall responded that there is 4,500 acres owned by the Nature Conservancy that are not included because they didn't have prime ag soils. He added these properties are located in the Nassawango Watershed, which does not contain prime ag soils. The areas delineated in the proposed PPA were areas that had prime soils for agricultural purposes. The key is to preserve the best land.

Mr. Spies questioned how the proposed areas sat on the wildlife corridors. Mr. Hall responded that the Rural Legacy Area had been included as well as Rewastico and Barren Creek areas. He also added that one of the Tier II water bodies were included. Barren Creek is a tier II water body. Mr. Day added that the GI Plan has no regulatory tools.

Mr. Keith Lackey, MDP, stated that he believes that the County and the State will agree on the preservation areas with PlanMaryland but the questions will be with the funding methods.

Mr. Dashiell questioned Mr. Hall what would happen if a person owned a tract of land in the yellow and wanted to develop it. Mr. Hall handed out the recommendation from the Planning Commission to the County Council on Clusters from 2009. He explained that the recommendation was to remove the 1:3 and in the PPA the density would become 1:15. Mr. Dashiell questioned that the person who owns land in the yellow would be able to

develop at the 1:15 density. Mr. Hall responded in the affirmative, adding that outside the PPA in the A-1 District they would still have the option of the 1:3 density as well as the 1:15.

Mr. Day questioned if some of the land in the red area could still be developed. Mr. Hall responded that there could still be some development in the red areas. Mr. Day questioned if there could be a case where development was prohibited. Mr. Hall responded that there could be a case where development was reduced. Mr. Day stated that design standards needed to be considered if a two-tier approach is being considered for zoning. He added that the design standards would be less important in the 1:15 density area.

Mr. Dashiell recognized Secretary Hall from the Maryland Department of Planning. Secretary Hall stated that he just stopped in to say hello. Mr. Dashiell introduced the Planning Commission members to Secretary Hall.

Mr. Dashiell questioned if there was a consensus from the Commission to remove the 1:3 cluster in the PPA and let it remain outside the PPA. There was consensus.

Mr. Dashiell discussed the maximum lot size of two (2) acres with all lots being contiguous in the PPA but not outside the PPA. Mrs. Bartkovich stated that this was needed if the two-tier approach was going to be used. Mr. Day stated that design standards would apply both inside and outside the PPA. Mr. Hall questioned if the design standards would be for all areas currently zoned A-1. Mr. Day responded in the affirmative. Mr. Lenox explained that density was a big issue and contiguous wasn't the issue. There didn't seem to be a consensus that the County should be full of farmettes. Mr. Dashiell questioned if contiguous should be applied in the entire A-1 District. Mr. Lenox responded that it seemed to be perceived well the last time.

Ms. Strand questioned if the two-tier approach would have the separate district names. Mr. Hall responded that with the two-tier approach there would be separate district names.

Mr. Dashiell asked if there was consensus regarding the maximum lot size and the lots being contiguous. There was consensus. Mr. Hall stated that Staff would work on the definitions.

Mr. Dashiell discussed the 1:10 density with a maximum lot size of one (1) acre and that the lots would be contiguous outside the PPA in the A-1 District. Mr. Lenox stated that this is not valid at this time.

Mr. Dashiell discussed the effective date. Mr. Hall responded that there is no merit to the effective date as this was from the 2009 recommendation. Mr. Lenox stated that what is approved would be grandfathered and the effective date would be filled when the Code is changed. There will not be any back-dating. There was Commission consensus.

Mr. Dashiell discussed the TDR/PDR program. Mr. Lenox stated that the County is trying to promote the program and get recertified. He added that like many jurisdictions across the nation, the County hasn't been able to figure out how to make the TDR work. Mr. Day suggested identifying/articulating ways to work on the TDR/PDR program. He added that he was comfortable eliminating it. Mr. Hall advised the Commission of the importance of this planning tool. The market will rebound and this could have an impact on another document. Mrs. Bartkovich questioned the cost for a TDR. Mr. Lenox explained that family property is now done as a private transaction. When the Comprehensive Water and Sewer Plan was adopted it has a place for package treatment plants and they will have to use transferable development rights. Mr. Day stated that they would have to buy development rights from land in the sending area. Mr. Lenox stated that for TDR purposes it does not mean that the density is reduced. There is plenty of sending area but not plenty of receiving area. Mr. Hall stated that to use the treatment plant there has to be added density from the receiving area. Mr. Lenox added that there would be a bill at the State level on this at some point.

Mr. Dashiell discussed recommendation #5 which involved pursuing an effective TDR/PDR program. It was noted that this would remain in the PPA element of the Comprehensive Plan.

Mr. Dashiell discussed recommendation #6 which regarded the three (3) inherent minor lots. Mr. Lenox explained that this is a supply of lots that will run out over time. The inherent lot rights should remain. Mrs. Bartkovich stated that it became a big deal when eliminating the inherent minor lots was discussed before. Mr. Spies requested a clarification on what a minor lot was. Mr. Lenox explained that many years ago someone could build as many homes as they could get septic. When zoning came into effect, a three (3) inherent minor lot provision was put into place. Mr. Hall questioned if this would apply to both tiers. The Commission advised Mr. Hall to leave the inherent lots in both tiers.

Mr. Hall stated that the Commission had already discussed the definitions of contiguous, adjacent, and cluster.

Mr. Hall discussed recommendation #8 regarding rural roads and possible alternative standards. Mr. Lenox stated that the rural roads and alternative standards were optional. Since the new stormwater regulations have taken effect, there are options in the rural areas. The Commission advised that this recommendation should be kept.

Mr. Quinton questioned what was meant in terms of maximum lot sizes and density. Mr. Hall responded that a reduction in the maximum lot size is one method to preserve more open space. Mr. Rogers added that the perceived density is greater but the actual density is about the same. Mr. Quinton questioned how you get the contiguous. Mr. Lenox responded that the density would be a 1:15 ratio, not the lot size being 15 acres.

Mr. Hall stated that the direction as we move forward is to look for ways to incentivise the PPA.

Mr. Quinton requested that the two (2) levels of density be further explained. Mr. Hall explained the two (2) tier approach.

Mr. Day questioned what incentive the landowner would have to develop at the 1:15 density in the new A-1 District. Mr. Lenox explained that from 1998 when the cluster was enacted everything was a cluster. When the cluster is not an automatic approval it makes the developers back off and go to the growth area. The issue of clusters will continue but they won't be allowed in the priority area.

Mr. Hall stated that Staff is aware that septic system regulations will be introduced into the 2012 session of Maryland's General Assembly, but isn't sure what those regulations will be.

Mr. Lenox stated that by the end of the legislative session there will be changes coming down from the State level.

Mr. Hall stated that there would be discussion next month of the ag related uses within the ag district.



There being no further business, the Commission meeting was adjourned at 3:46 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