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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on July 15, 2010 in the Council Chambers of the Government Office Building, Room 301, with the following persons in attendance:

**COMMISSION MEMBERS:**

Charles "Chip" Dashiell, Chairman  
Donald B. Bounds, Vice Chairman  
Gail Bartkovich  
James W. Magill  
Glen Robinson  
Scott Rogers (Absent)  
Gary Comegys (Absent)

**CITY/COUNTY OFFICIALS:**

Maureen Lanigan, County Attorney's Office  
Mary Phillips, County Public Works Department

**PLANNING STAFF:**

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



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



Mr. Dashiell announced that the Nutters Crossing subdivision request for The Ponds at Nutters had been pulled of the agenda.



**Minutes:**

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the minutes of June 17, 2010 as submitted.



**#SP-9911-10D REVISED BUILDING COLORS – Outback Steakhouse – Avalon Plaza Shopping Center – Dickerson Lane – General Commercial District – M-20 & 20; P-177; G-24.**

Mr. Jeffrey Dixon came forward. Mrs. Gloria Smith presented the Staff Report. A Revised Final Comprehensive Development Plan for Avalon Plaza shopping center that included Building Elevations, Materials, and Colors was approved by the Planning Commission on September 25, 2003. Outback Steakhouse is now requesting permission to modify the building colors for their unit only.

Mrs. Bartkovich questioned if the property owners had been notified about changing the colors since it is not a stand alone building. She stated that she was concerned about approving this change without something from the property owners.

Mr. Bounds questioned the number of tenants. Mr. Dixon responded that there were five (5) tenants in the building.

Mrs. Bartkovich stated that this was a drastic change without an okay from the other tenants. She questioned if the Commission needed something from the owners or the other tenants. Mr. Magill stated that traditionally the support letter would come from the owner with agreement from the tenants.

Mrs. Bartkovich questioned where the owner was. Mr. Dixon responded that the owner was from the D.C. area.

Mr. Bounds questioned if he received approval from the owner. Mr. Dixon responded that he had gotten a verbal approval from the owner of the building.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the Revised Building Colors for Outback Steakhouse as submitted, subject to the submittal of a letter of approval from the shopping center owner and the shopping center tenants.



**AGRICULTURAL LAND PRESERVATION EASEMENT – Ray Ellis – Bethel Road, near Willards – M-24; P-66 & 67; G-2 – 6032 Acres.**

Mrs. Gloria Smith presented the Staff Report. An application has been filed by Ray & Barbara Ellis to sell an easement on his property on Rockawalkin Road to the Maryland Agricultural Land Preservation Foundation.

Mr. Magill questioned if the easement would be in perpetuity. Mrs. Smith responded that when the State purchases an easement it is in perpetuity. Mr. Magill questioned if there was an opt out clause. Mrs. Smith responded that there was no opt out clause.

Mrs. Bartkovich questioned Attachment #1 in the Staff Report under the Elections section where there were no reserved lots marked. Mrs. Smith responded that the State would require him to make a decision on reservation of lots before an offer is made.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Council for support of the sale of an Agricultural Land Preservation Easement on the Ellis property.

**CITY/COUNTY SUBDIVISION PLATS:**

**The Ponds at Nutters – Final – 128 Lots – Stonehaven Drive – M-48; G-22; P-171, 443, 446 & 447.**

Mr. Dashiell reiterated that the Nutters case had been taken off the agenda.



**Hidden Pond – Preliminary – 23 Lots – Walnut Tree Road – M-47; G-24; P-782.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes subdivision of 23 lots averaging .99 acres each from this 73.79 acre tract. All lots will front and have access on a new interior street. The Plat also indicates that new road area is 1.19 acres, Forest Conservation totals 25.96 acres, and open space/set aside is 47.34 acres (64 percent). At the Commission's October 16, 2008 meeting, this plat was Tabled for submission of a Revised Plat indicating the location of the boundary of the Green Infrastructure Hub and its impact on the lot layout. A Revised Plat was submitted indicating that Lots #11 through 14 and the inherent lot (containing an existing residence) were within the Green Infrastructure Hub. The Plat also indicated the location of the Forest Conservation Areas to be planted and that approximately one-half of the planting areas were within the Green Infrastructure Hub off-setting the area being utilized by the four lots. The Preliminary Plat was approved on November 20, 2008 and expired in November 2009.

Mr. Parker stated that this plat is nearly identical to the previously approved Preliminary Plat. The extra road has been eliminated and the perc tests are complete. The construction drawings have been submitted to Public Works. As part of the construction process, Walnut Tree Road will be widened. The Development Plan has been approved. The new stormwater management regulations came in and an Administrative Waiver was obtained. The Preliminary Plat expired during this time so a new Preliminary Plat approval is needed.

Mr. Bounds questioned if this plat fell under the new or the old stormwater regulations. Mr. Parker responded that the plat was under the old stormwater regulations.

Mrs. Bartkovich questioned the location of the stream that was mentioned. Mr. Parker showed Mrs. Bartkovich where the stream was located on the plat.

Mr. Parker stated that they would plant the area between the subdivision and Campground Road and it would all be in forest conservation. Mrs. Smith stated that this is the design that Randall Arendt advocated when he presented his seminar here several years ago.

Mr. Magill questioned where this property was in the Comprehensive Plan. Mrs. Smith responded that this property was located just outside the Metro Core line.

Mr. Michael Pretl, Riverton Wharf, in Riverton Maryland came forward. He stated that he was there as Counsel and was speaking on behalf of the Wicomico Environmental Trust and also on behalf of a number of the residents of the immediately surrounding area, identified as Kelsey Burton & Andy Travers, Tracy Wilkinson, Wilmore & Shirley Butler, Frederick Pusey, Kevin & Jessica Renshaw and Mr. Ray Sprague who is here. He submitted Protestant's Exhibit B, Entry of Appearance, and Protestant's Exhibit C, Review Criteria for Cluster Subdivisions and handed out copies to the Commission and Mr. Lenox. When this matter came before the Commission several years ago it was opposed by the Wicomico Environmental Trust. He stated that they have had a number of subsequent developments in the law, mainly a number of lawsuits that have gone forward, which have clarified the application of the County Zoning Laws to the so called cluster development. Their primary challenge, although certainly not their only challenge is to the number of lots that are being proposed here. While 23 lots is not a large amount, Mr. Lenox suggested in a report in August of 2008 that only 4 lots were allowable in this area because it's in A-1 zoning and the A-1 zoning permits 1 lot per 15 acres and under 73 acres only 4.8 or 4 lots would be allowed. The only exception to that is the so-called density bonus. There was not a single word in any of the materials that has been read or any of the testimony here today that suggested that they are seeking a density bonus. Mr. Pretl stated that he strenuously urged that a density bonus is inappropriate for this location and this development.

Mr. Pretl continued that quite candidly, this is one of a series of cases which we are attempting to rectify if you will, or clarify the law with respect to the application of density bonus. Wicomico County, among State Planners, has a reputation for being one of the easiest counties because we have 1:15 density, whereas

many of the counties on the Shore and other rural areas have 1:20, 1:25 or 1:30 densities. The 1:15 density is the easiest. The developer community in Wicomico County assumes that 1:15 doesn't exist and the rule is 1:3 and that any place in the County can be developed at the 1:3 density.

Mr. Pretl stated that Mr. Parker came in saying that that he had the right to 23 lots because it's 73 acres. That is not the law. The law is very clear that in order to get the 1:3 treatment it is in fact a bonus. It is not automatic and it's not part of the law that these developers are automatically entitled to. They have to satisfy the requirements of the Zoning Code with respect to Cluster Bonus and those requirements are the requirements of Section 225-51 and 225-52 of the Zoning Code. They have to show that the development is innovative and creative, that it encourages efficient use of the land, and that it enhances the rural character of the County. Mr. Pretl stated that he would submit that this development does none of those things. It certainly has not been suggested that any of those things are the result of this development.

Also the Commission must, under the Code, implement the so-called Resource Conservation provisions of the Code to preserve areas primarily agricultural and maintain the land base for agriculture activity. Several of the people who called about their opposition to this are involved in agriculture in the immediate area. Mr. Pretl stated that he had spoken to a woman who has chicken barns there. She stated she has used them actively in the past and she intends to use them in the future as soon as the economy improves. She felt strongly that she would be precluded from doing so if this development goes forward.

The development is outside the Metro Core. It might be right outside the Metro Core but it encroaches the Zoning regulations requiring the Commission to apply the standards and apply the maps in the Comprehensive Plan. This area may be extended into the Comprehensive Plan. We will probably oppose it if there is an attempt to do so, but right now it is zoned agricultural. It is permitted and can only be developed with 1 unit per 15 acres and they need to show that there are good and sufficient reasons that they must meet the burden of proof to show that they are entitled to the so-called density bonus and they haven't even suggested that in any of the testimony or the hearings here today. There were a number of reports that were submitted two years ago.

The Health Department said that these lots are too small. Because of the high water table, the Health Department says that the lots should probably be a 2 acre minimum. Recreation and Parks talked about it being 1000 ft. from the sensitive Stock Creek. The Department of Education said all four schools in the area are either at capacity or over capacity. Mr. Pretl stated that he hadn't heard any testimony indicating that they complied with the provisions of the Code that require that there be sufficient infrastructure in place. The Department of Natural Resources reported that

there are forest interior dwelling species and birds on site and there wasn't any reference to that or any recognition that that is a concern.

There's not a single word either in the applicant's presentation or in the Department's response that addresses the issues which the Code says must form the basis for consideration of all Zoning changes such as this. These considerations of 225-3 apply not only to the so-called Cluster Bonus but apply to every case that comes before you seeking rezoning. The requirements are rather substantial. They are intended to protect the environment. Mr. Baker made it very clear in a memorandum to the Commission two years ago that those intent provisions do govern the deliberations and decisions of this Commission and that the regulations were designed to preserve open space, to protect the Chesapeake Bay, to lessen the congestion in streets and to preserve agriculture. Neighbors are concerned about congestion on the rather small roads there. There are in subsections C and D of Section 225-3, some of which were recited in the memorandum, many environmental protections that this Commission that is required under the Code to take into consideration in every case. Mr. Pretl read subsection E of 225-3 *the statement of intent and visions contained in this section shall provide the basis for consideration of all Zoning forms of action as may be required of Staff, the Planning & Zoning Commission, and the Board of Appeals by this Chapter.* The Staff has not taken into account any of the factors that are set forth in subsections 225-3 C and D and Mr. Pretl asked that the Commission to do so in their decision.

Many of these same issues were taken to Court and the Court has ruled in our favor. The Court has ruled that these intent provisions do apply. Mr. Pretl stated that he had personally handled two cases, one involving Deer Creek where the Commission granted the application and the Whiton case in which the Commission turned it down. In both of those cases, they went on appeal to the Circuit Court and in both of those cases the Court has agreed with our interpretation. In the Deer Creek case, the Court accepted our argument that in fact Findings of Fact must be made by the Commission to address all these issues and that case was remanded back for Findings of Fact. Unfortunately, when it went back to the Board of Appeals, the Board of Appeals refused to remand it back to the Commission to permit those Findings to be made by the Commission and now have taken a second appeal to the Court. Basically the County Attorney told the Board of Appeals that they didn't have to pay any attention to what the judge said because the judge didn't know what he was talking about. A second appeal is being taken back to Court and hopefully Judge Jackson will straighten out the County's position on that and will in fact bring the case back. Unfortunately, that case has been here as some of you long timers on the Commission know for 4 years now and it just goes on and on and on because the Commission did not in the first instance apply the law properly and the County Attorney has consistently taken the position that the law need not be applied and the Court's have the final say in those things. The Court's have disagreed with the County's position and have sent them back. The applicant must show conformance with the Comprehensive Plan which

certainly was not done in this case. They conceded that it was outside the Metro Core. The Deer Creek case was the case where we did not appeal the denial or the approval of the preliminary plan. I wouldn't even be here today on what is merely a preliminary plan except that the County Attorney took the position in that case that since we failed to appeal within 15 days of the approval of the preliminary plan that we were therefore out of luck, that we couldn't make the argument. Now the Judge disagreed with Mr. Tilghman and ruled or permitted us to go forward but as long as the County takes that position and I'm on notice of that position, I would have no choice but to appeal approval of this preliminary plan should the Commission so do to the Board of Appeals and I'm here to make the same arguments there that I made with the Deer Creek case.

The second reason why we are here is that in the Deer Creek case, we weren't even permitted to testify at that time. Mr. Tilghman took the position that we weren't entitled to testify. We were not in fact permitted to testify in that case and then when the case came up before the Commission for final approval, some six or eight months later, every single member of the Commission said maybe we shouldn't have granted it but we gave them the preliminary approval therefore we feel that since they spent money we feel duty bound to give them the final approval and that was the major basis of my appeal of that case. We continue to feel that that was inappropriate and that the County Attorney, Mr. Baker has said that preliminary approval doesn't have anything to do with final approval. We have no choice but to take a stand in this case. We will file an appeal and we will continue to press to get some of these matters clarified.

Mr. Pretl suggested that the Commission get it right the first time, that you take a hard look at the provisions of the Code which apply to cluster bonus', that is the provisions of 225-51 and 52, that you take a hard look at the provisions of 225-3, which govern all zoning forms of action and that you will have no choice but to deny the preliminary plat in this case. A couple other points to make are that the State Department of Planning has withheld funding or reduced the funding for open space money because of the poor record of the County in dealing with these cluster issues. If there does need to be an appeal in this case, we should have the entire record that should go up and frankly in looking at the files that the Planning Department has, I don't find any of the materials that Mr. Groutt submitted 2 years ago or any of the extensive materials that Dr. DiGiovanna submitted 2 years ago in this case. One of the reasons, one of the strong reasons, why Judge Davis has reversed the Hebron plan and in response to our challenge was that he found the record completely insufficient, that the record was unclear, that there were materials that should have been in the record that weren't in there, and that there were things in the record that shouldn't have been in there. Mr. Pretl stated that he thought it was important that the Commission get it right and that he would have no choice but to complain if the record doesn't contain all the materials that were submitted during the earlier hearing. Mr. Lenox I know that when we argued the Whiton case here a year or two ago, I asked specifically whether the entire record of all the Whiton applications which had been 5 or 6 in nature over

that period of 5 years were part of the record and I think you indicated at that time that they were, it turned out when we finally got that case to the Board of Appeals most of that wasn't in there and I complained to the Board and they didn't do anything about it but we will complain here and I'm preserving the record by making the point here that we do expect that the entire record should be submitted. We should, for the fee that we pay for the appeal, receive a copy of the entire file.

Also with all due respect, Mr. Pretl respectfully moved that Mrs. Bartkovich recuse herself from consideration or from participation in the decision of this case. Two years ago it was pointed out to Mrs. Bartkovich that her son-in-law, Mr. Rinnier, had property right down the street from this that is subject to the same sort of development. Should this matter go up on appeal Mr. Pretl stated that he would certainly feel obligated to bring that to the attention of the Court. Should the application be turned down and appealed by the developer, Mr. Pretl stated that the same points would probably be raised. In an effort to avoid some of those issues, it was suggested by Mr. Pretl that Mrs. Bartkovich disqualify herself from consideration of this matter. There will be other issues on the merits of the case which we haven't gotten into because we haven't had a chance to review all the evidence in the case but we may need to take the matter up on either the procedural issues or the substantive issues or both but we would respectfully suggest that the Commission can avoid the delay, the expense and the trouble of all parties by denying the preliminary plat and requiring that the applicant meet the burden of proof required under Sections 225-51, 225-52, 225-27 and 225-3 of the Zoning Code.

Mr. Parker stated that the first time running through this process, this body did get it right. The preliminary plat was heard two (2) or three (3) times. The Development Plan was also heard and approved. During that whole process, all of these same cookie cutter arguments that Mr. Pretl brings up at every single cluster hearing were presented. The packets were added into the record. The arguments were made by both sides and all these issues were ironed out before this body voted yes previously. This preliminary plat was granted to an identical project. In fact, this project is more amenable to that project that was originally approved years ago. All of these same arguments – the infrastructure hub, the innovative and creative, the soils, the rural character, the preservation of ag land, the efficient use of space and materials were discussed. We came back and presented the information that was requested and the plan was approved. The project was being weighed on the merits of the project itself.

The Court cases that have gone through, the Whiton and Deer Creek were procedural as far as Deer Creek and in the Whiton case, it was more of do you have to grant those approvals. That argument wasn't made here. The argument made for this project was tell us why you should approve this project and we came back with further information and told you why you should approve this project and you voted in the affirmative and approved the project. Basically it is the same project

that you approved previously. The lot sizes are approved by the Health Department. They perced it and we've designed it accordingly. The construction drawings, the road is shown exactly as it will be improved. We've gotten very few comments from the County as far as the actual design of the project. And as far as the schools, the trash, the police, the ability to serve, the area of environmental assessment – all those things were submitted, reviewed and approved at the Comprehensive Development Plan phase and that was approved by this body. Mr. Pretl made the same exact argument that he just made now at the Development Plan phase. You reviewed the project based on the merits of the project and it was approved in light of that. With all of that being said, the project is reviewed under its own merits. It was approved twice. We are asking for a reaffirmation of that original approval.

Mr. Pretl said number one, Mr. Parker is incorrect that I never testified and I've not been involved in this case previously. Dr. Groutt and Dr. DiGiovanna gave some evidence at the time. But number two, and most importantly, as of the time this came before Commission there was an argument apparently and an assumption that the Commission had no discretion, and that the Commission had to grant a cluster bonus any time it was asked for. Mrs. Les Callette took that position that she was concerned that Mr. Smethurst and others made the argument over and over again that that it wasn't discretionary on the part of the Commission. Mr. Smethurst made that same argument in Court in the Whiton case just last year. But fortunately between 2008 and today, the law has been clarified by the Courts and the Commission does have discretion. He has made that contention for years and the Court completely threw that out and we're on our way to the Court of Special Appeals where I assume he will try to make that argument again that the intent of the law is not relevant. The intent of the law is very clear here and the reason that he had to make that argument was because if you apply the intent of the law both under 225-51 and 52 and 225-3, you have to look at all those other factors. The Court made it very clear both in the Whiton case and the Deer Creek case and also in the Hebron case that Findings of Fact are essential. And we attack the application of the ordinance because, both the Zoning Ordinance and the Subdivision Ordinance, say that if you rule against the developer, you have to make Findings of Fact. If you rule in favor of the developer, you do not have to make Findings of Fact, which we argued is unconstitutional. It's a denial of due process and it says that the Commission exists for the benefit of the developers not for the benefit of the public interest. The Court agreed with our position, both Judge Jackson in the Deer Creek and Judge Davis in the Hebron case, that any contested case requires Findings of Fact. Mr. Pretl respectfully suggested that regardless of which way you go with this case, you need to write Findings of Fact saying why this development complies with those provisions of the law we cited. If you don't then we're going to go right back to Court and we're going to say that they haven't made the Findings of Fact. On the other hand, if you do make the Findings of Fact then we can judge whether the burden of proof has been met and if the development should go forward as a cluster and should go forward as consistent with the environmental concerns that are listed in Section 225-3 of the Code.

Mr. Parker stated that both of the cases that Mr. Pretl mentioned are still under appeal. The cases haven't been closed and we still have one more round of appeals to go. Mr. Parker added that he wouldn't let a couple threats of a lawsuit towards the County sway the Commission in reversing the decision that was made based on the information that you had at the time as well as the information at the present.

Mr. Pretl stated that the Deer Creek case is on appeal by him because Judge Jackson said on March 25, 2009 that the matter was being reversed and sent back because neither the Planning Commission nor the Board of Appeals had made sufficient Findings of Fact to comply with the Maryland Law. When the case went back to the Board of Appeals, I immediately moved to remand it back to the Commission so the Commission, which is the only body that could make Findings of Fact, could reconsider it and the Board of Appeals was told by the lawyer that they didn't need to do that because the Judge was wrong, the Judge didn't know what he was talking about. Now the case is going back before Judge Jackson. They're not appealing Judge Jackson's ruling, I'm appealing the Board of Appeals refusal to comply with Judge Jackson's ruling.

Mr. Pretl stated that the Court has interpreted the Ordinance that we would argue that interpretation. Frankly, you don't need to follow it but if you don't then we're going to go back to Judge Jackson and say look what you said here, they're not complying with what you say is the appropriate interpretation of the law.

Mrs. Bartkovich questioned Mr. Parker that he had been dealing with the owners of the property and if Blair Rinnier was involved in this property in any way, shape or form. Mr. Parker responded that he had been dealing with the owners and that Mr. Rinnier was not involved in this project. Mrs. Bartkovich noted that if Mr. Rinnier is involved in a property that she does recuse myself but if he owns other properties in some other area of the County or near to this there is no reason she has to. She questioned Miss Lanigan if that was correct. Ms. Lanigan said that there was no need for her recusal.

Mr. Pretl said he would reserve the right to argue that there is a possible influence and whether the Court will agree with him, he didn't know, but was preserving the record by merely making the motion.

Mr. Parker questioned if there was a way to get previous statements and testimony entered into this record. Mr. Dashiell stated that he would think that that would be a part of the record from whatever previous meetings there had been but didn't know if that would be included in any appeal of this decision. Mr. Lenox stated that he would agree to say that the documents that were previously

submitted certainly should be in the file. He deferred to Miss Lanigan about what is included in the record when a particular decision is appealed.

Mr. Magill said that he felt that the line in the sand is Campground Road. He added that he was inclined to deny subject to the Findings of Fact. Mr. Bounds questioned subject to the Findings of Fact supporting the denial. Mr. Magill responded in the affirmative.

Mr. Dashiell stated that Findings of Fact were needed regardless of the decision.

Mr. Bounds said a few months ago the Development Plan was approved by this Commission. The Development Plan contains a lot of the same things that are needed to be proved but that also pertain to the preliminary plan? Mrs. Smith stated that we outlined in the August Staff Report that the density, and all the other materials that were submitted related to forest conservation, protection measures, density, and all those things that are outlined in the Code as part of the Development Plan requirements. Mr. Parker added that the Impact Statement included the information which had the police, the fire, the trash, the schools, and all those things as well as the Environmental Assessment which was the stormwater and all the other green infrastructure hubs. Mr. Bounds stated that he did agree that they needed to keep things in the Metro Core but a few months ago all those things were in place for the Development Plan approval and the Preliminary Plan approval.

Mr. Lenox noted that as a procedural issue, if this came back in any form in August, the composition of the Board may look very different. He suggested keeping that in mind when you decide if additional information is necessary. Mr. Dashiell asked if Mr. Lenox was suggesting that it was better to make the decision today then it would be to postpone it or it may be wise to simply wait until the composition of the Commission is different. Mr. Lenox said that he was saying if you do half the vote today and half the vote next month that is putting those who are not here today in a very awkward position. Mr. Bounds stated that they would be voting on the Findings that they weren't really privy to the information leading up the Findings. Mr. Lenox said that if the Commission would like additional information from Staff and the Counsel, they could table the vote until next month and perhaps get some guidance from the County Attorney's office about the impact of the case law that Mr. Pretl referenced as far as whether your criteria for consideration is any different now than it was last time.

Mr. Dashiell said he wondered if it's not wise to table the decision until the next meeting. Mr. Bounds stated that he believed that that would be the smartest thing to do. Mr. Magill agreed. Mr. Lenox added that it would also give the applicant opportunity for legal counsel to be present.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **TABLED** the Preliminary Plat for Hidden Ponds until the August 12, 2010 Commission meeting.



**Steeplechase, Sec. 7 – Final – 63 Lots – Equestrian Drive- M-37; G-21; P-348.**

Mr. Robert Messick came forward. Mrs. Gloria Smith presented the Staff Report. The applicants received Preliminary Plat approval for a proposed subdivision of 151 lots from this 102.0 acre tract in January 2005. A Final Plat for 34 lots on 21.26 acres of the site was approved in April 2005. The Subdivision Regulations, Section 200-10-B-(3) require the Final Plat(s) for a phased subdivision to be submitted within 5 years of the initial Preliminary Plat approval. The Preliminary Plat for the 151 lots received an extension in October 2009 and will expire in January 2011. The applicants are requesting approval of a Final Plat for Steeplechase, Section 7 for 63 lots averaging 24,025 sq. ft. on 80+ acres. The Plat indicates that 8.31 acres are reserved for stormwater management and storm drainage easements and 6.15 acres are used for road and utility purposes and new streets. All lots front and have access on new interior streets.

Mr. Magill questioned if there was a package sewage treatment plant. Mr. Messick responded in the negative, explaining that there was a package water plant but that the septics were on the individual lots.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Final Subdivision for Steeplechase, Section 7, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations.
2. Health Department approval is required prior to recordation of the Final Plat.
3. The plat must comply with the requirements of the Forest Conservation Act.
4. This approval is subject to further review and approval by the Wicomico County Department of Public Works.
5. The existing Homeowner's Association documents shall be amended to include Section 7, including a landscaping buffer along Crooked Oak Lane which will be located on individual lots.

6. All proposed lots shall have denied direct vehicular access to Crooked Oak Lane and Pemberton Drive.
7. Expansion of the existing water system and service district will require both state and local approval, including an amendment to the County's Water and Sewer Plan, if not already addressed for this section.



**#SP-9209-10D CONDOMINIUM SITE PLAN AND DOCUMENTS – CENTRE SQUARE – General Commercial District – M-101; G-16; P-5464.**

Mr. Russ Dashiell and Dr. Chandra came forward. Mrs. Gloria Smith presented the Staff Report. The applicant's have submitted a Condominium Site Plan and Documents for conversion of this shopping center to a condominium. Materials submitted included Building elevations for the proposed structures.

Mr. Russ Dashiell stated that he had relied on Mr. Wilber for the Condominium Documents language. He stated that the configuration would be three (3) sets of two (2) units and nine units total. A letter was submitted to Mrs. Smith regarding the parking and there are 65 parking spaces on site, with 23 spaces being at the rear of the building. Mr. Russ Dashiell requested approval of the Condominium Site Plan and Documents.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the Condominium Site Plan and Documents for Centre Square, subject to the following Conditions of Approval:

**CONDITIONS:**

1. This Condominium Site Plan approval is subject to approval of the Condominium Documents by the City Solicitor's office.



Mr. Dashiell thanked Mr. Bounds and Mr. Robinson for their dedication to the Commission and the citizens of Wicomico County. He stated that they had given an incredible amount of service to the community with Mr. Bounds having 27 years and Mr. Robinson having close to 15 years on the Commission. An extraordinary

legacy will be left for the other Commission members to try and fill. Mr. Dashiell stated that the Commission would miss them both and that he hoped that the Commission could call on their knowledge in the future.



### **SALISBURY COMPREHENSIVE PLAN – Final Adoption.**

Mr. Lenox stated that the Commission adopted the City Comprehensive Plan in April. On Monday, July 12, 2010, the City Council gave a unanimous vote to adopt the City Comprehensive Plan. The Mayor will sign the resolution soon adopting the Plan as well. Mr. Lenox gave a brief update on the minor changes that had taken place since the Commission had adopted the Plan in April which were noted on the Errata Sheet each member had at their place. He explained that most of the discussion was regarding clarification. Mr. Lenox recommended that the Commission adopt the Plan as amended so that the City Council and the Commission adopt the same Plan.

Upon a motion by Mr. Magill, seconded by Mr. Bounds, and duly carried, the Commission **ADOPTED** the amended Salisbury Comprehensive Plan.



There being no further business, the Commission meeting was adjourned at 2:53 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 Tull, Recording Secretary