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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on August 11, 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  
Scott Rogers (Absent)  
Tim Spies (Absent)  
Jacob Day

**CITY/COUNTY OFFICIALS:**

Mary Phillips, County Public Works Department  
Maureen Lanigan, Assistant County Attorney

**PLANNING STAFF:**

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



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

**Minutes:**

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the minutes of the July 21, 2011 meeting as submitted.

**COUNTY SUBDIVISION PLAT:****Hidden Pond – Final Plat – 22 Lots – Walnut Tree Road – M-47; P-782; G-19.**

Mr. Brock Parker and Mr. Michael Eby came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes subdivision of 22 lots averaging 1.03 acres each from this 66.05 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 37.87 acres, and open space/set aside is 40.06 acres (61 percent). The Preliminary Plat was approved on August 12, 2010 with Findings of Fact adopted on September 16, 2010.

Mr. Parker explained that this was one (1) of the last clusters to come in and move through the process. He stated that the developers are trying to move forward towards construction. Several of the lots are for the developers and their family members, therefore construction would begin quickly.

Mrs. Bartkovich questioned if a dry hydrant had been requested for this subdivision by the Fire Department as there is an existing pond. Mr. Parker responded that he would be happy to accept that as a condition of approval if the Fire Department had requested a dry hydrant in the prior reviews.

Mr. Day questioned if the Findings of Fact were to be used for the Final Plat or if new Findings would have to be adopted. Mr. Lenox

responded that new Findings would be prepared based on the decision of the Commission at this meeting. If the current Findings need to be amended then the amended Findings can be on next month's agenda. Mr. Day stated that he believed that the preliminary findings are hard to read. He stated that he couldn't vote against it since it had already been approved twice.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Final Subdivision Plat for Hidden Pond, subject to the adoption of Findings of Fact and 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. The Final Plat shall comply with all requirements of the Forest Conservation Program.
4. A Homeowners Association will be required to own and maintain all common areas and stormwater management facilities.
5. Open space documents shall be required.
6. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.

***Mr. Magill opposed the motion.***

Mr. Day requested the following changes to the Findings of Fact, going by number:

- Under #2 where it states "centrally located development on the property" - the ag portion is cut up so it does develop the central portion of the lot.
- Under #3 - it would conserve space to have a more rectilinear road.
- Under #4 - need to define low intensity because cluster means higher density.
- Under #5 - "innovative" and "creative" - although this is a preferable subdivision to what has been done in the past, a rectilinear development would use less space; more connectivity uses less space; lot sizes are larger than one (1) acre; the septic systems need to go behind the homes to get a narrower street.

- Under #6 – more efficiencies could be achieved through a rectilinear design.
- Under #10 – not sure the first sentence is necessary; strike through that finding or edit it substantially.

Mrs. Bartkovich requested that under #5 regarding innovative and creative that it should be added that the homes will be occupied by the developers and their family members.



### **Raegan's Run Sketch – Sketch Plat – 18 Lots – Riverside Drive – M-47; G-16; P-65.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes the subdivision of 18 lots averaging 1.13 acres each from this property on the southerly side of Riverside Drive. 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 discussed the history of the project. He explained that Mr. A.J. Bierman is the new developer. Mr. Parker explained to Mr. Bierman that he would meet objections from the neighbors regarding this development. The plan shows a 50 ft. buffer around the property. The Critical Area portion of the property will be used as a mitigation bank. The future development area shown on the plat has a variable water table. There are 15 lots sketched in at the one (1) lot per every two (2) acre density. The back portion of the property will have single family homes. The perc tests for the first section of the development have been paid for. Drainage will be in conformance with ESD regulations. The open section roads gave no credit. Next to each driveway, there will be a bioretention area and each home will have a dry well at the downspout. The existing drainage pipe will be rerouted to Malone's Branch if at all possible. All forest conservation regulations will be complied with.

Mr. Dashiell questioned if Mr. Bierman was the current property owner. Mr. Parker responded in the negative, explaining that Mr. Bierman has the property under contract until the existing lease with the farmer is finished. Mr. Dashiell questioned if just the lots that were identified were under consideration at this Sketch Plat phase and that the future phase would come back before the Commission with a Sketch. Mr. Parker responded in the affirmative, adding that he could change what is marked as the future phase and come back to the Commission with a Sketch.

Mr. Magill questioned what the two (2) right-of-ways that are shown on the plat are servicing. Mr. Parker responded that the right-of-ways will be researched and see if they access anything, and if they do, then access will be provided through the development.

Mrs. Bartkovich questioned the right-of-way dedication and where it would be located as well if it would appear on the plat. Mr. Parker responded that the lots across the road from this property have a larger dedicated frontage than these lots have. There should be room to get the acceleration/deceleration lane in and it will be put on the plat.

Mr. Day stated that Block B, Lots 6-8 have the septic in the front yard and questioned if they could be flipped. Mr. Parker responded that Lot 6 will come off the cul-de-sac but that he would try to put the perc in the rear yards for Lots 7 and 8.

Mrs. Bartkovich questioned if any sand mound systems were being anticipated. Mr. Parker responded that he believed that roughly half of the systems would be sand mounds. Mrs. Bartkovich explained that she didn't like sand mound systems in the front yard.

Mr. Bob Eaton, 5259 Silver Run Lane, stated that he had concerns that a full site plan wasn't available so a full analysis couldn't be done. He requested that the Commission require the developer to come back with a full sketch so that a complete analysis could be done and that he would discuss his concerns once the full submittal was reviewed.

Mr. Jim Anthenelli, James Landing, stated that he would also like to see a full sketch so that the complete layout could be reviewed. James Landing Road is about 50 ft. from the proposed entrance to this subdivision. He stated that he would like to see the entrance moved closer to Silver Run Lane. He further questioned how the ingress/egress lane would be accomplished. This development will impact the properties across the street. Mr. Parker responded that it appears that the property across the street has a 30 ft. dedicated right-of-way already. He added that the road would be widened as the County sees fit.

Mr. Paul Carey, Riverside Drive, voiced his concerns about the acceleration/deceleration lane extending into his front yard as well as concerns regarding access to Riverside Drive.

Mr. Kevin Adams, Sharps Point Road, questioned when the perc tests would take place. Mr. Parker responded that the perc tests would be done shortly after the crops were harvested and the issue of the fall planting

season was decided. Mr. Adams questioned the perc tests not being done in the wet season. Mr. Parker responded that the water tables have to be done in the wet season but the perc tests can be done anytime during the year. Mr. Adams stated that he has had water go across Sharps Point Road. Mr. Adams questioned if Mr. Bierman was proposing any apartments or townhouses. Mr. Parker responded in the negative, adding that those types of units were permitted with other exceptions. Mr. Parker added that water and sewer would be needed for any multi-family units.

Mr. Parker stated that they already have three (3) full years of water table data therefore the Health Department has ample water table data. The Critical Area portions of the property do not have any percs.

Mr. Robert Leone, Riverside Drive, stated that he had water in his basement at the time of the meeting. Riverside Drive is not 20 ft. wide. It is a highly traveled road, especially during the weekend. There is only 17 ft. of roadway in front of his property. Any increased traffic on Riverside Drive is dangerous and irresponsible. Riverside Drive is not a major road and would need to be enlarged substantially to handle all the additional traffic. Mr. Leone added that a full plan should be submitted.

Mr. Bill Erwin, 5214 Dove Point Lane, stated that they used to dredge the river and bring it up to Malone's Branch and that due to this use, Malone's Branch no longer drains like it used to.

Mr. Parker stated that the Sketch Plat is not binding and that he didn't want to be locked in. He explained that if he came back to the Commission with a Sketch Plat on the entire property that it doesn't mean that the preliminary plat will show the same design. There is not a vote on the Sketch Plat process. Mr. Parker added that it would probably be five (5) to 10 years before anything was brought back to the Commission on this property. In regards to the roadway width, the County and the developer can't take the neighbor's property so it will fall on the developer to put the acceleration/deceleration lane in on his own property. There are only two (2) possible locations for the entrance to this development and it was designed to keep headlights away from anyone's front door on the opposite side of the road.

Mrs. Bartkovich questioned Ms. Lanigan on what the Subdivision Regulations state about showing a Sketch Plat. Mr. Day added that it doesn't reference phases but by the Code it would require that everything be shown in each phase. He added that it would make sense to show Phase II on this Sketch Plat.

Mr. Parker explained that the developer got this property through a foreclosure process.

Mr. Day stated that it may make more sense to push Road A towards the Leone property.

Mr. Kevin Adams questioned if the developer was from this area. Mr. Parker responded that Mr. Bierman is from across the Bay but owns a warehouse on Connelly Mill Road. He added that he wasn't aware of any other developments that Mr. Bierman owned in the County.

Mr. Dashiell suggested that a Sketch Plat be presented on the reserved area.

Mrs. Smith explained that the Sketch Plat process is done every other month therefore this wouldn't come back to the Commission until the October meeting if Mr. Parker were to resubmit a complete Sketch Plat before September 1, 2011.

The Commission advised the applicant to proceed with a complete Sketch Plat submittal.



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

Mr. Hall and Mr. Lenox came forward. Mr. Hall discussed the Phase II WIP. The numbers were to be received by August 15<sup>th</sup>; however, due to a delay of the Environmental Protection Agency (EPA) to provide the final allocations to the Maryland Department of the Environment by August 1, 2011, a two (2) week extension was approved. The final allocations will be provided to the County by September 1, 2011. The next meeting of the Core Planning Team will not be scheduled until after the aforementioned date unless a member of the Team requests a meeting prior to receiving the numbers from the State.

There is a public stakeholder meeting scheduled on Tuesday, August 30, 2011 at 6:30 p.m. in the Danang Room of the Wicomico Youth and Civic Center. DNR will be running the meeting with assistance of Planning Staff. Attendance by the Core Team members is voluntary; however, County Staff will be participating. This meeting is specifically open to the public and will discuss

TMDL's. Mrs. Bartkovich requested the information on this meeting so that she could announce it at the Council meeting on Tuesday, August 16, 2011.

Mr. Day questioned what impact this will have on the Comp Plan, specifically the Salisbury Comp Plan and the Draft County Comp Plan. Mr. Hall responded that Dr. Rich Eskin came down on July 21<sup>st</sup> and instructed the attendees at that meeting to demonstrate a good faith effort out to implement strategies and programs directed at meeting the 2020 targets. It's now a wait and see approach to see what impact this will have on the Comp Plans. Implementation strategies and milestones must be developed for each jurisdiction and the County. Mr. Day questioned if this could lead to significant changes in the Zoning Code. Mr. Hall stated that there could be a potential for changes to the Zoning Code, but it is too premature to determine any potential impacts at this point.

Mr. Hall discussed the Draft Plan and the Draft Land Use Plan. He explained that Staff had been working on housekeeping items related to non-conforming areas. He discussed an area by the Industrial Park near Northwood Drive and the Bypass. Maps were dispersed to the Commission members showing the proposed changes to this area. The Commission agreed to the proposed changes to this area.

Mr. Hall circulated a map of the area of Old Ocean City Road from the Bypass to east of Zion Church Road and up to the railroad right-of-way. He explained that this area is currently zoned A-1; however, it should be designated as Mixed Use Residential land use, which is consistent with LB-2 zoning. Mrs. Bartkovich questioned if this would allow the current commercial businesses in this area to expand. Mr. Lenox responded that this proposed change in zoning would be less restrictive if the businesses wanted to expand. Mr. Day stated that the Hobbs Road to Zion Church Road area is getting more commercial businesses.

Mr. Lenox explained that these changes would be included in the updated draft plan that will be distributed to the public.

Mr. Day questioned the status of the PPA and if it could be discussed at the next meeting as he had some thoughts that he'd like to bring up. Mrs. Bartkovich questioned if the numbers were available that weren't available the last time it was discussed. Mr. Hall responded that there is a refined presentation regarding the PPA that is more visual.

Mr. Day questioned what the impact and scale of impact as well as the potential was to get the County recertified by MALPH. Mr. Dashiell added that there needed to be a further conversation on this as there appears

to be a sentiment that the County does need to see certification. He added that he was curious to see what the State said would be required for the certification.

Mr. Dashiell questioned if it was too early for a timeline for the Comp Plan. Mr. Lenox responded that the discussion needed to go month to month until the Commission is ready to schedule a public hearing which would begin the 60 day review period.

Mrs. Bartkovich stated that there shouldn't be a public hearing around the holiday time so after the first of the year may be a good target time. Mr. Hall reiterated that when the Commission was comfortable the public hearing could be scheduled.



There being no further business, the Commission meeting was adjourned at 3:19 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