
MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on August 12, 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
Gary Comegys (Absent)

CITY/COUNTY OFFICIALS:

Maureen Lanigan, County Attorney's Office
Ed Baker, County Attorney
Joseph Arthur, County Public Works Department

PLANNING STAFF:

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



The meeting was called to order at 1:33 p.m. by Mr. Dashiell, Chairman.

**Minutes:**

Upon a motion by Mrs. Bartkovich, seconded by Mr. Bounds, and duly carried, the Commission **APPROVED** the minutes of July 15, 2010 meeting as submitted. Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the July 8, 2010 work session minutes.

**#SP-1005****WELLHEAD PROTECTION DISTRICT SITE PLAN – Royal Farm Store – 901 Snow Hill Road – General Commercial District – M-116, G-19, P-300 & 299.**

Mr. James Sechler and Mr. Duane Stambaugh came forward. Mrs. Gloria Smith presented the Staff Report. The applicants have submitted a Site Plan for redevelopment of this site with a 4,143 sq. ft. Royal Farm Store and a 1,407 sq. ft. car wash building, parking, and pump islands and canopy in the City's Wellhead Protection District. Section 17.100.040 of the Salisbury Municipal Code requires approval by the Planning Commission of a Comprehensive Site Plan for any development within the Paleochannel/Wellhead Protection District.

Mr. Magill questioned what the tank monitoring would entail. Mr. Stambaugh responded that it would monitor all dispensers and the openings and the valves. Mr. Magill questioned if the monitor would pick up any leakage in the storage area. Mr. Stambaugh responded that there are sensors under the dispenser that monitor for leakage.

Mrs. Bartkovich questioned if there was adequate handicapped spaces. Mrs. Smith responded that Mr. Eure hadn't mentioned any deficiencies in the parking so there should be enough handicapped spaces.

Mrs. Bartkovich questioned if there was a possibility for a right-turn only on Beaglin Park Drive. Mr. Sechler stated that he could work with SHA on that to see if that would be possible as well as City Public Works. He added that he wasn't sure that anything could be done due to the shopping center. Mr. Lenox suggested making that a condition that they have to discuss with City Public Works. Mr. Bounds

discussed the consolidated entrance/exit with Mrs. Bartkovich, as shown, and she withdrew her request.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Wellhead Protection Site Plan for the Royal Farm Store at 901 Snow Hill Road, subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with the approved Comprehensive Site Plan. Minor plan adjustments may be approved jointly by the Directors of the Building, Permits and Inspections and Planning and Zoning Departments.
2. All signage installed shall comply with the requirements of the Salisbury Municipal Code with respect to sign surface area, or be submitted for review and approval by the Commission.
3. This approval is subject to further review and approval by the Salisbury Public Works Department.

Mr. Rogers recused himself due to professional conflicts.



AGRICULTURAL LAND PRESERVATION EASEMENT – Martin-Ruark, LLC – Mt. Hermon Road, near Salisbury – M-39; P-233; G-22 – 123.46 Acres.

Mr. Bill Martin came forward. Mrs. Gloria Smith presented the Staff Report. An application has been filed by Martin-Ruark, LLC to sell an easement on property on Mt. Hermon Road to the Maryland Agricultural Land Preservation Foundation.

Mr. Magill questioned the forested area listed on Page 2 of the Staff Report. Mrs. Smith explained that if there are more than 25 acres then a forest stewardship plan would be needed but this parcel does not have more than 25 acres of forest land.

Mrs. Bartkovich questioned if a lot could be excluded after an easement was recorded then how would the size of the lot determined. Mrs. Smith responded that the size of the lot will be determined by the Health Department but that the State wouldn't permit a lot larger than two (2) acres.

Upon a motion by Mr. Bounds, seconded by Mrs. Bartkovich, 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 Martin-Ruark, LLC property.



CITY/COUNTY SUBDIVISION PLATS:

Salisbury Mall Associates – Prel./Final – 1 Lot – Civic & Glen Avenues – M-109, G-2, P-2518.

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of this 5.0 acre lot shown on the Preliminary Development Plans for the Village at Salisbury Lake. The area is proposed as parking for the Wicomico Youth and Civic Center.

Mr. Parker stated that the plat had been prepared in accordance with the direction from Mr. Natelson. Mr. Natelson instructed Mr. Parker to move towards the East to make up the five (5) acres. There isn't any further impact on this piece of the property.

Mr. Bounds questioned if Mr. Natelson would have to come back to the Commission to redesign that area since some of the acreage was given to this parcel. Mr. Smith responded in the affirmative, explaining that at some point the developers would have to come in with the adjoining section for final approval showing how they subdivided off part of the property to make up this five (5) acre lot.

Mr. Bounds questioned if an area would need to be shown for stormwater management. Mrs. Smith responded in the affirmative.

Mrs. Bartkovich questioned if the stormwater management was done with the Village at Salisbury Lake for this five (5) acre parcel. Mr. Parker responded in the negative, explaining that the County would need to do their own stormwater management for this parcel. Mrs. Bartkovich questioned if the stormwater management would decrease the number of parking spaces. Mr. Parker responded in the negative. Mrs. Bartkovich questioned Mr. Baker if the plat before the Commission was the correct plat. Mr. Baker responded in the affirmative.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the Preliminary/Final Subdivision for

Salisbury Mall Associates and noted that the plat is substantially consistent with the Development Plan approved for the Village at Salisbury Lake PRD #11, subject to the following Conditions of Approval:

CONDITIONS:

1. The Final Subdivision Plat shall comply with all requirements of the Salisbury 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. This approval is subject to further review approval by the Salisbury Department of Public Works.

Mr. Dashiell recused himself due to professional conflicts.



Greenbriar – Final Extension – 70 Lots – Rockawalkin Road – M-28; G-9; P-107.

Mr. James Smith came forward. Mrs. Gloria Smith presented the Staff Report. The applicants have requested an extension of time for recordation of the Final Plat approved for Greenbriar subdivision on August 9, 2007. The Subdivision Regulations require a final plat to be recorded in the Land Records within three years of the final plat approval. A one year extension of time would allow the applicants until August 9, 2011 for recordation of the plat.

Mr. Smith stated that due to the economy, they needed to request a year's extension of time to record that final plat.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **GRANTED** a one-year extension of time for recordation of the Final Plat for Greenbriar Subdivision. **This extension will expire on August 9, 2011.**



Hunting Park Addition, Section 1 – Resubdivision – 2 Lots – Pine Bluff Road – M-47; G-12; P-687, L-2 & 3.

Mr. John Andrews, Mr. Dirk Widdowson, and Mr. Gil Allen came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose Resubdivision on these existing lots to correct a situation whereby the garage and other amenities of Lot #2A extend over the property line onto Lot #3A. If approved, Lot #2A will then be 16,213 sq. ft. in size and contain a one-story dwelling with attached garage. Lot #3A will contain a two-story dwelling and storage shed. However, Lot #3A will have only 74.19 feet of frontage along Pine Bluff Road and will be only 8,346 sq. ft. in size.

Mr. Andrews stated that this had been an existing problem for several years. He explained that they were trying to relocate the property line to fix the problem. The original builder owned both of the lots and took advantage of that. The proposal will abandon the perpetual easement and put in a right-of-way. Mr. Andrews requested approval of the resubdivision.

Mr. Bounds questioned if the Commission had the final say. Mrs. Smith responded that Public Works would have the final say.

Mrs. Bartkovich questioned if there were any critical area issues. Mrs. Smith responded that Mr. Sharp had reviewed the plat and didn't state that there were any issues.

Mrs. Bartkovich questioned the location of the new property line. Mr. Andrews pointed out the new property line on the plat. Mrs. Bartkovich questioned if the easement would stay in gravel. Mr. Widdowson responded that the easement will provide for a gravel driveway and would be a perpetual easement. Mrs. Bartkovich questioned if all the parties were in agreement. Mr. Eaton responded that all parties were in agreement.

Mr. Andrews stated that they were hoping for a reservation on Pine Bluff Road instead of a dedication. Mr. Dashiell responded that the reservation versus the dedication would have to be handled through the Public Works Department.

Mr. Widdowson stated that they were asking for an agreement about the perpetual easement. Mr. Allen stated that they would be deeding part of Lot 3 to Lot 2 so that the property line doesn't go through the garage. The easement will include the small improvements that are existing so that they won't have to be moved. Mr. Widdowson explained that the previous owner owned both properties and then transferred them to someone. The plat was drawn which established an easement which they believed covered the problem. The easement only addressed the

ingress/egress issue so this is an effort to try and clean up the plat so that the property can have a clean transfer. He added that time is of the essence.

Mr. Widdowson questioned if they could get a 5 ft. reservation instead of a 5 ft. dedication. Mr. Arthur responded that the setback would need to be 30 ft. from the centerline. Mr. Bounds suggested adding to Condition #4 that it would be handled through Public Works.

Mr. Widdowson questioned why Health Department approval was necessary. Mrs. Smith responded that the Health Department has to sign all plats.

Mr. Magill questioned deleting the perpetual easement except 9 ft. on Lot 2A. Mr. Widdowson responded that they wanted to extinguish the original easement and create a new one that would need to be entered into by all parties.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the Resubdivision for Hunting Park, Addition #1, Lots 2 and 3 based on Section 200-3F of the Subdivision Regulations, and subject to the following Conditions of Approval:

CONDITIONS:

1. The Final Plat shall comply with the County Subdivision Regulations and is subject to further review by the County Department of Public Works
2. Health Department approval is required prior to the recordation of the Final Plat.
3. Critical Area review and approval will be required prior to recordation of a Final Plat.
4. A road widening reservation or dedication along Riverside Drive shall be provided in accordance with Wicomico County Public Works requirements. A Public Works Agreement shall be required due to the steps and sidewalk that are currently constructed within the right of way of Riverside Drive.
5. Lot #2A shall be denied direct vehicular access to Riverside Drive.
6. The remaining brick wall on Lot 3A must be placed in an easement or removed from the lot. The easement shall be recorded in the Land Records of Wicomico County.



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

Mr. Brock Parker and Mr. Steve Smethurst 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. The Commission Tabled this plat at the July 15 meeting to allow the applicants to be represented by their attorney.

Mr. Smethurst questioned Mrs. Smith if the map that he showed her, *Applicant's Exhibit D*, was the area from the County Zoning Map showing the proposed subdivision. Mrs. Smith responded in the affirmative. In response to Mr. Smethurst, Mrs. Smith confirmed that the surrounding area on the map was zoned R-20, there is no A-1 zoning in the Metro Core, and the A-1 Cluster provisions do not apply in the Metro Core. Mr. Smethurst questioned if the list that he produced, *Applicant's Exhibit E*, was a list of all the cluster subdivisions. Mrs. Smith responded that the list that he had produced covered cluster subdivisions from 2005-2010 but that three (3) of them needed to be removed because they weren't cluster subdivisions. The three (2) subdivisions that should be removed from the list are The Plantations, Oakwood Estates, and the Mudd Sketch. The rest of the list consists of the cluster subdivisions in the A-1 zoning district.

Mr. Smethurst questioned if there was an actual definition in the Code of innovative and creative. Mrs. Smith responded in the negative stating that she has used the definitions provided by the Encarta dictionary. Mr. Smethurst questioned if they were more or less operative definitions. Mrs. Smith responded in the affirmative. In response to questions by Mr. Smethurst, Mrs. Smith responded that the only changes that had taken place regarding technology of land development were with

the Health Department or stormwater regulations through Public Works and these changes could affect the land developer, that the developer had complied with the Health Department requirements, and that she would defer to Public Works regarding stormwater management.

Mr. Parker stated that there were minor revisions from what was originally approved. There is only one (1) road now allowing for 0.4 acres of less paving. The plantings have been increased. The revised plan was submitted for the record as **Applicant's Exhibit F**. There will be 19.35 acres of seedlings planted and it will be protected by the forest conservation law. The wooded area of the property will be doubled.

Mr. Smethurst questioned if the Health Department had confirmed the percs. Mr. Parker responded in the affirmative. He explained that the Health Department wanted to auger five (5) more holes but that the perc tests were good and have been approved.

Mr. Smethurst questioned Mr. Parker where he had gotten the aerial photo of the site. Mr. Parker responded that that aerial photo came from Google Earth. The aerial depicts the land use and ground cover. In response to Mr. Smethurst, Mr. Parker responded that the purpose was to show the level of development in the area, the date on the map was March 2007 and the proposed subdivision had been labeled on the aerial. Mr. Smethurst questioned if the development was east of Walnut Tree Road. Mr. Parker responded in the affirmative. Mr. Smethurst questioned if there was continuous development along Campground Road. Mr. Parker responded in the affirmative. Mr. Smethurst entered **Applicant's Exhibit M** as the Google Earth aerial photograph. Mr. Smethurst displayed photographs of the homes in the area to Mr. Parker and entered them as **Applicant's Exhibit G**. Mr. Parker confirmed that they were photographs of the homes in the area.

Mr. Smethurst questioned what the open space set aside would be. Mr. Parker responded that 61 percent of the site would be in open space and if you included the pond then it would be 64 percent of the site.

Mr. Dashiell questioned Mr. Baker if there was to be cross examination. Mr. Baker responded in the negative, explaining that it was not standard practice to have cross examination.

Applicant's Exhibit H was entered into the record as Petitions from neighbors stating that they had no objection to the subdivision. Mr. Smethurst entered **Applicant's Exhibit I** into the record as a petition from Mr. Wilmore Butler stating that he had no objection to the subdivision. **Applicant's Exhibit J** was a letter of support from Mr. George White.

Mrs. Smith noted for the record that there was added information from Mr. Smethurst at the Commissioner's seats regarding this case. **Applicant's Exhibit L** was entered into the record as the memorandum from Mr. Smethurst.

Mr. Mike Pretl, representing WET and other members of the neighborhood, stated that in July he had looked at the files briefly and asked to protest further development into the County. The Zoning Law permits a 1:15 density in the ag district. There is no indication for a cluster development. The developers assumed that they were entitled to a 1:3 density and there is nothing in the files that indicates justification for a cluster except Mr. Lenox stated that they were entitled to four (4) lots. The evidence doesn't justify a cluster subdivision. The assumption was the attorney was going to ask for a cluster at this meeting.

The revised report is an advocacy piece for the developer and it is inappropriate for Staff to make arguments in favor of a cluster subdivision. This is the 13th hour change. There is a lot of suspicion in the community at large that the government exists for developers and big business. The Staff made itself advocate for the developer. The staff report should be stricken from the record.

Mr. Pretl stated that he had received at 10:35 am this morning a 12 page memo from Mr. Smethurst in response to the comments made at the last meeting which he found appalling. Mr. Pretl requested that the Commission deny the application. He stated that he deserved the time to respond to Mr. Smethurst's memorandum. The arguments weren't based on the Comprehensive Plan but on nonconformity of the Zoning Law. There are references that apply to Whiton and not Hidden Pond in Mr. Smethurst's brief. Mr. Pretl stated that he never argued the Comprehensive Plan should be a factor here. The Comprehensive Plan is a guide to the County Council. Mr. Smethurst is basing his agreement here the same as he did in the Whiton case. Section 51 does apply in this case. Innovative and creative do apply and nothing looks new. This subdivision looks like several other subdivisions in Wicomico County. The property is right outside the Metro Core line. There are existing approved subdivisions that may never be built. This is an encroachment of the Metro Core into the County. There is no basis to grant a cluster treatment of a subdivision here. Mr. Pretl stated that he normally wouldn't get involved but was told that he had to appeal at the preliminary stage when he appealed Deer Creek. Mr. Pretl stated that if the Commission accepts the argument that they are making, then Wicomico County has a 1:3 density and not a 1:15 density in the ag district. The County has been criticized by the State because of the 1:3 density. This is sprawl and shouldn't continue. Mr. Pretl requested that the Commission draw a halt to sprawl. He added that Section 225-3 also must be considered.

Mr. John Groutt, Cooper Road and representing WET, stated that the photographs are interesting because it doesn't say when the homes were built and how many of them are on 15 acre lots. Many of the homes showed in the pictures are

inside the Metro Core. The Metro Core lines stops across the road. Sprawl needs to stop. He discussed the developments that have to be taken off the list from 2005-2010. Mr. Groutt stated that development can be done at the 1:15 density. He suggested sticking this development in the Metro Core. Mr. Groutt stated that there are no identified rare species but this Hub is one of the most important Hubs in the State of Maryland and there are 20 endangered species in the area. He stated that this development would cut into a very important GI Hub.

Ms. Tracy Wilkinson, 4884 Campground Road, stated that she was not in support of this development. She entered her letter into the record as ***Protestant's Exhibit K*** and read the letter for the record.

Mr. Smethurst responded to Ms. Wilkinson's letter stating that there was a 600 ft. buffer between her property and this property that would be in forest. There is a Right to Farm law and as long as her property is in ag use then her taxes can't go up. Mr. Smethurst stated that he had 30 some people supporting this development in the neighborhood. Regarding the GI Hub that Mr. Groutt mentioned, there is no evidence that this property is even in the GI Hub. There is hardly any forest land on the property now. There will be more uninterrupted forest cover after the property is developed. The GI Hub covers a large area and there wasn't any evidence that supported endangered species on this site. There is a letter from DNR stating that there aren't any endangered species on the site. The Metro Core has nothing to do with if this should be approved. If this was in the Metro Core then it wouldn't be a case like this. The law states that it is a permitted use in the A-1 district as long as it meets the requirements. These are no legitimate arguments for the Commission. The existing law states that the developer is entitled to a cluster if it meets the requirements and this does meet the requirements. The Metro Core is a red heron. The initial Sketch Plat review stated that this was a cluster development from the July 2008 meeting. In August 2008, there is a letter from Mr. Lenox to Mr. Parker about cluster developments. Requesting a subdivision approval for a 1:15 or a 1:3 development depends on if you can meet the requirements.

Mr. Smethurst stated that regarding the Staff Report, he didn't understand what Mr. Pretl thought the Staff should do. The Staff stated what the criterion was and if it had been met. The Staff is the objective presenter to the Commission and then the Commission evaluates what is being recommended.

Mr. Smethurst stated that it became apparent that people were not aware of what was being done. Mr. Smethurst suggested that the developer show the neighbors a plan and that if the neighbors had no problem with what was being presented to have them sign a form in support of the development. The memo was outlined on the basis of the comments from the July meeting made by Mr. Pretl. One of the things that Mr. Pretl objected to was small developments. The terms small, innovative and creative are not criteria. Mr. Smethurst stated that the Circuit Court is

not the binding decision until the Court of Special Appeals rules on the case of Whiton. Each case stands on its own merits. Mr. Smethurst stated that he was making arguments to be able to protect his client's position if it is needed for an appeal. The Whiton case was 500 acres and in this case there's no wide spread of forest cover on or near the parcel.

Section 225-3 doesn't apply to subdivision proceedings because it is not a zoning action and the argument was made for the record. The Staff has concluded that innovative and creative has been adhered to. There is a lot of development on Campground Road outside the Metro Core line. This subdivision would enhance the rural environment. There is no level of control in a 1:15 development but there is in the 1:3 cluster development. Mr. Pretl's comment about the County shouldn't be involved in appeals isn't accurate because if this subdivision is approved and Mr. Pretl appeals, the County Attorney does nothing and the applicant's attorney defends the case. That comment should not be taken into consideration. The criterion has been met. There are not any trees being cut. There are plantings being done. The cluster development is the innovative and creative design. This isn't a cookie cutter, grid type subdivision. Mr. Smethurst requested approval of the subdivision.

Mr. Baker stated that whoever has the burden of proof must preserve the record.

Mr. Pretl stated that he objected for the record.

Mrs. Bartkovich stated at the last meeting, Mr. Pretl suggested that she should recuse herself because her son-in-law had lots out in this area. She stated that she had ridden out to the area and her son-in-law owns no property on the street and his signs are only on Siloam Road. She submitted for the record the Maryland Real Property listing of Siloam Road to show that her son-in-law didn't own any property in the area.

Mrs. Bartkovich noted that currently the land is planted in corn. She questioned when the trees would be planted. Mr. Parker responded that the trees would be planted after the roads were done but that the County would require a bond and that bond can't be released until the plantings are done. He added that the plantings are usually done when the construction loan is taken out.

Mr. Rogers questioned Mr. Parker if there was going to be five (5) different kinds of pine trees. Mr. Parker responded that there would be a mixture of seedlings.

Mr. Pretl stated that he had made three (3) specific requests of the Commission which included striking the Staff Report; allowing him time to respond to Mr. Smethurst's memo; and the question of Mr. Smethurst's conduct in approaching his

clients. Mr. Baker responded that the attorney ethics question is not a question for the Commission to consider. Mr. Dashiell stated that Mr. Pretl had heard the determination from the Commission's Counsel.

Mr. Baker stated that it had become a habit to bring the spur of the moment memos to the Commission. He stated that it was up to the Commission on whether they wanted to give Mr. Pretl time to respond to Mr. Smethurst's memo. He added that there were no major differences than when the case was opened in 2007.

Mrs. Bartkovich stated that it was her opinion that the Commission should listen to the advice of Mr. Baker.

Mrs. Bartkovich questioned if Findings of Fact were needed regardless of how the Commission voted. Mr. Baker responded that it would be his suggestion to do Findings of Fact regardless of how the Commission voted. The Staff is performing a roll when they do the Staff analysis and there is no need for striking the Staff Report. He added that the Commission could provide input to the Staff on if they believe that the criterion has been met.

Mr. Bounds stated that the Staff Report is the basic findings. Mr. Baker stated that the Staff would need to bring a set of Findings back to the Commission to be voted on.

Mr. Dashiell questioned if it was the notion of the Commission to approve the subdivision if specific Findings of Fact were needed at the next meeting. Mr. Baker responded that it would be his preference to have specific Findings of Fact on the next agenda.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission granted a **Preliminary Approval** to the Preliminary Plat for Hidden Ponds Subdivision pending adoption of Findings of Fact, based on the analysis provided in the Staff Report, the testimony and evidence presented at the meeting, and 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. The Final Plat shall comply with all requirements of the Forest Conservation Program.
4. Adequate Drainage and Maintenance Easements for the Storm Water Management will be required. Stormwater management area must be excluded from the open space calculations. Open space limits shall be defined by metes

- and bounds on the final plat. Outfall for the Stormwater management facility is required.
5. US Geological Quad maps indicate that the extension of Stock Creek crosses this property. This creek is classified as a blue line stream. Location of this stream should be located and identified. A 50' flood protection setback is required along this stream.
 6. A Homeowners Association will be required to own and maintain all common areas and stormwater management facilities.
 7. Improvements Construction Plans shall be submitted to and approved by the Public Works Department prior to the submission of the Final Plat.
 8. An MDE water appropriation permit shall be required.
 9. Open space documents shall be required.
 10. Street names shall be approved by the 911 Addressing Coordinator.
 11. 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. Dashiell thanked Mr. Bounds and Mr. Robinson for being at the meeting today and for their expertise and their background. He added that all the previously stated well wishes continue for both gentlemen.



DISCUSSION: Chesapeake Bay Critical Area – County Program Updates.

Mr. Jimmy Sharp came forward. He stated that the 2004 through 2006 updates to the Critical Areas Program has been being implemented since they came out, however, have not been updated into the plan. Mr. Sharp reviewed that changes that had come out and what they meant.

Mr. Lenox stated noted that the changes that Mr. Sharp was reviewing were State requirements. Eventually, a public hearing will be held and a recommendation sent to the County Council to have the Program updated with these changes.

Mr. Sharp noted the following changes in the Critical Area Program:

- Under forest the 1 acre has been reduced to 10,000 sq. ft. and a variance would be needed
- Under lot coverage gravel driveways and pervious surfaces have been excluded so that anything man-made is considered lot coverage
- Under development standards the density changes allow for private wetlands to be included as long as there are 8 acres of uplands. It also allows for an additional dwelling as long as it doesn't exceed 900 sq. ft. in total area.
- Under Growth Allocation the wording was changed from should to shall. It also outlines more detail of the requirements.
- Under Variances the major change is that there are no more after the fact variances allowed. The violation must be corrected before applying for a permit.
- Under the Amendments section there are clarifications for Wicomico County.
- Under Legal Provisions language was added that there can be exceptions to the law to reasonably accommodate disabled citizens.
- The Variance language is currently under discussion with the Critical Area Commission.

Mrs. Bartkovich questioned if the violation was going to be \$10,000 in the State Law. Mr. Sharp responded that it could be \$10,000. Mrs. Bartkovich requested that the change in violation fees be put in capital letters. Mr. Sharp responded that the charge for violations was still being discussed and when it was finalized that it would be noted in capital letters.



DISCUSSION: County Comprehensive Plan.

Mr. Lenox stated that Mr. Hall was going to go over the updates that were discussed at the last meeting. There has been a lot of work done on the maps. The Commission should be receiving the entire document at the September meeting. There will be a lot of public input needed and the Commission will have to instruct the Staff on how they want to accomplish that. The draft will include the WRE.

Mr. Hall stated that he was in the process of preparing the Land Use Plan as part of the Comprehensive Plan. The Land Use Plan must incorporate the land use plans of the eight (8) municipalities. The gap between Willards and Pittsville is

currently zoned Village Conservation in the Land Use Plan but will be reflected as a growth area for Wicomico County. There is a chance that the Staff will recommend getting rid of the Town Transition designation and making it R-20 zoning.

Mr. Hall discussed the Sharptown map. Since there is no conservation land use designation, the land will become ag resource in the County Plan. The map of Mardela Springs was discussed and they've chosen to decrease their growth area. The areas outside are Town Transition so the lands will be defined as low-density residential. The more concerning area is Main Street to Barren Creek where the lots average about 40 acres. This area will be reflected as ag resource. There isn't anything official yet so these designations are subject to change. Mr. Lenox stated that they'd look at the County Zoning Map to bring forth to the public hearing. Mr. Hall continued that the Knolls at Barren Creek will be a conflict area. The town of Mardela wants to delete that area from their growth area. If you follow the 2004 Zoning there will be isolated incidents like this. The Land Use Plan and the Comprehensive Plan will be hitting the streets simultaneously.

Mr. Magill questioned if the County could take the initiative to say that they didn't want the area of the Knolls at Barren Creek. Mr. Lenox responded that he along with Mrs. Tracey Gordy had met with the Mardela Commissioners and they voted to exclude the Knolls at Barren Creek from their growth area. Mr. Magill stated that the area was disassociated with the Town itself so it made sense to not include it. Mr. Hall stated that Mardela stated that nothing north of Route 50 would be in their growth area. Mr. Lenox added that this would involve a down zoning. Mr. Dashiell questioned why the Town didn't initiate the change. Mr. Lenox responded that the Town said that they had no intention of crossing over to the Knolls at Barren Creek.

Mrs. Bartkovich questioned if the issue of the zoning is the final decision of the County Council. Mr. Lenox responded in the affirmative. Mrs. Bartkovich stated that the issue of down zoning is very controversial and that she wasn't sure that it was something that the Commission wanted to get into. She added that she would rather have more input before the issue of down zoning was raised.

Mr. Hall discussed the Hebron map. There are areas that are consistent but there are some areas of concern. The mixed use area and area to the south are not in the County's growth area. The mixed use area zoned Town Transition would be low density residential. The Waller Landing area is in the Town of Hebron however the uses being proposed are inconsistent and Hebron is unable to provide services. Mr. Hall stated that the area would be designated as a comment area. Mr. Lenox stated that it was a procedural point that they were trying to balance. When the State law says conformance with the local plan does it mean the County Comprehensive Plan or Hebron's Plan. The County Plan needs to acknowledge that the area is in the Town of Hebron but state that it isn't consistent with the County Plan. When Hebron

solves their utilities problem and can be included in the Water and Sewer Plan then the comment could be done to handle the Comprehensive Plan.

Mr. Hall discussed the Delmar map. There are three (3) issues of inconsistency. The ag area at the north east side of the map is currently zoned Town Transition but the Land Use Plan will show that area as low density residential. The area north of Leonard's Mill Pond would have the most appropriate zoning under Industrial. The area north of that contains three (3) wooded lots in an Industrial zoning district with frontage on the railroad tracks. The Land Use Plan will reflect this area to be Industrial as well. Mr. Lenox stated that the County couldn't zone something conservation.

Mr. Hall added that Salisbury will not be included because it is already consistent.

Mr. Hall discussed Fruitland. Overall, the area is consistent. The area along Route 13 will be designated mixed use without residential.

Mr. Lenox stated that essentially anything that you didn't see stays as it is.



Mr. Lenox stated that the two (2) documents at the Commission seats are part of the Mayor's Safe Street's initiative. A public hearing will have to be scheduled on these issues in a larger room on a separate date than a regular meeting.



There being no further business, the Commission meeting was adjourned at 4:53 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.

Charles "Chip" Dashiell, Chairman

John F. Lenox, Director

Beverly Tull, Recording Secretary