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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on September 16, 2010 in the Council Chambers of the Government Office Building, Room 301, with the following persons in attendance:

### **COMMISSION MEMBERS:**

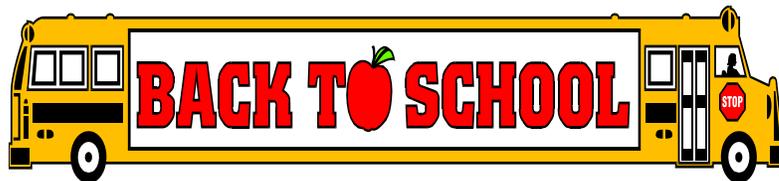
Charles "Chip" Dashiell, Chairman  
James W. Magill  
Gail Bartkovich  
Glen Robinson  
Scott Rogers  
Gary Comegys (Absent)  
Jacob Day

### **CITY/COUNTY OFFICIALS:**

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

### **PLANNING STAFF:**

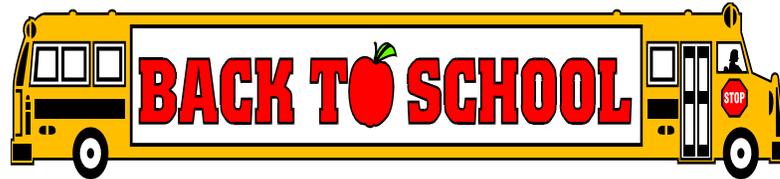
Jack Lenox, Director  
Gloria Smith, Planner  
Beverly Tull, Recording Secretary



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



Mr. Dashiell thanked everyone for attending the meeting. He welcomed Mr. Day to the Commission and explained that he had been recently appointed by the Executive and County Council to the Planning Commission to replace Mr. Bounds who had resigned. Mr. Dashiell gave a brief background on Mr. Day explaining that he was the Town Planning Manager with the Eastern Shore Land Conservancy. Mr. Day was born and raised in Salisbury and attended Bennett High School. He did his undergraduate degree at the University of Maryland and then obtained two (2) masters degrees from other schools. Mr. Dashiell stated that the Commission was happy to have Mr. Day on board

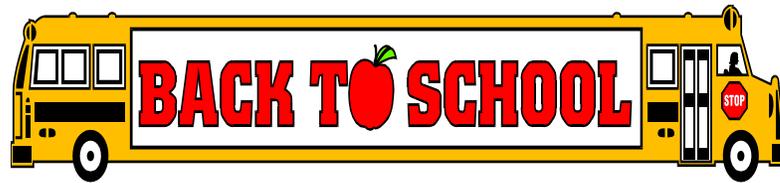


#### **COMMISSION REORGANIZATION – Election of Vice Chairman.**

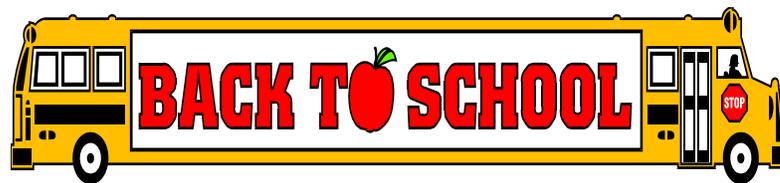
Mr. Dashiell noted that Mr. Bounds had resigned from the Commission and was the Vice Chairman so there is a need to elect a new Vice Chairman. Mr. Dashiell noted that some of the duties include running the meetings in the Chair's absence and signing plats when needed.

Mrs. Bartkovich made a motion to nominate Mr. Magill to the Vice Chairman position. Mr. Rogers seconded the motion. The Commission voted unanimously to elect Mr. Magill as the Vice Chairman.

Mr. Dashiell congratulated Mr. Magill on his appointment to the position of Vice Chairman and thanked him for his longevity and service to the community.

**Minutes:**

Upon a motion by Mrs. Bartkovich, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the minutes of August 12, 2010 meeting as submitted.

**#WP-1001**

**PALEOCHANNEL SITE PLAN – Eagle Transportation Co. –  
8580 Memory Garden Lane – Paleochannel Overlay District  
– M-19; G-14; P-25.**

Mr. Kevin Hendershot came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes installation of a new spill containment pad and canopy next to the existing fuel pumps on this site. A Site Plan has been submitted for Commission review and approval.

Mr. Hendershot stated that the containment pad is for fueling the tractor portion of the assembly. Mr. Magill suggested striking through "trailer" under the Planning Staff Concerns in the Staff Report to avoid any confusion.

Mrs. Bartkovich questioned if it was a steel plate that the truck drives across. Mr. Hendershot responded in the affirmative, explaining that there was a cast iron drain system that goes to a sump pit under the steel plate. Mrs. Bartkovich questioned where the drainage went to. Mr. Hendershot responded that there was a low area in the grass to the left of the well for surface discharge of rain water. Mrs. Bartkovich questioned what happens if there is fuel present in the discharge. Mr. Hendershot responded that the owner will be responsible to remove any fuel that shows up in the sump pit.

Mrs. Smith noted that Attachment #3 shows detail with a sump pit underneath the slab. Mr. Hendershot stated that there will be PVC pipes tied to the sump pit to carry the discharge to the discharge area.

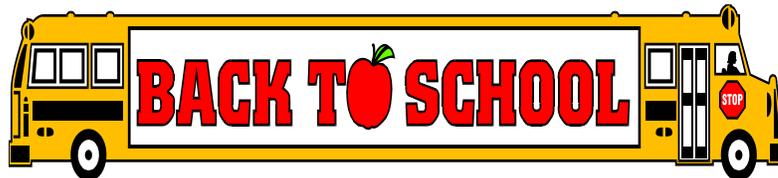
Mr. Day questioned when the existing pad was constructed. Mr. Hendershot responded that he couldn't provide that information as his company wasn't involved in the original pad. Mrs. Smith stated that the plan came from the 1992 approval so she would assume that the pad was constructed somewhere around that time.

Mr. Day questioned what degree of site disturbance will take place with the current pad. Mr. Hendershot responded that the current pad has nothing covering it and when they disrupt the pad that they will make sure it is dry to have the best possible chance to contain seepage.

Upon a motion by Mr. Magill, seconded by Mr. Rogers, and duly carried, the Commission **APPROVED** the Paleochannel Site Plan for a Containment pad and Canopy, subject to the following Conditions of Approval:

**CONDITIONS:**

1. This site shall be developed in accordance with the approved Paleochannel Site Plan and the Conditions of Approval imposed by the Wicomico County Planning Commission. Minor plan adjustments may be approved by the Wicomico County Zoning Administrator. However, a change of use shall be considered a new use and shall be reviewed and approved by the Commission.
2. This approval is subject to further review and approval by the Wicomico County Department of Public Works, if required.



**COUNTY SUBDIVISION PLATS:**

**Mill Creek – Revised Preliminary – 3 Lots – Pemberton Drive – M-37; G-11; P-417.**

Mr. Brock Parker and Mr. Robert Esham came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are proposing three (3) lots from this 10 acre parcel on the southerly side of Pemberton Drive and the northerly side of Mill Creek. The lots will front and have access on the southerly side of Pemberton Drive.

Mrs. Smith requested that the Commission handle this case as a preliminary/final instead of a revised preliminary since there are only three (3) lots.

Mr. Parker stated that the parcel was slated as Mill Creek, Section 1 but they hit some roadblocks so the current owners elected to go with this minor subdivision. With this minor subdivision, there won't be a need for road construction and it will be more environmentally friendly. Mr. Parker stated that Mrs. Phillips had raised the concern over who would maintain the set aside area. Mr. Parker stated that the set aside area could be put into an easement. Mr. Magill questioned why the set aside area should be separated from private ownership. Mr. Parker responded that Mr. Esham would like to just sell the lots and be done with the subdivision. He suggested putting the easement on the back of the lots. Mr. Magill suggested making them three individual lots that were contiguous. Mr. Rogers voiced his agreement as did Mrs. Bartkovich.

Mr. Dashiell questioned if this would need to come back to the Commission. Mrs. Phillips responded that this could be handled as an administrative matter in house.

Mr. Magill questioned the mandate for paving the bike path. Mrs. Phillips stated that there was a signed agreement for the bike path completed when West Nithsdale, Section 4 was constructed and that the paving of the bike path will be part of the construction permit process.

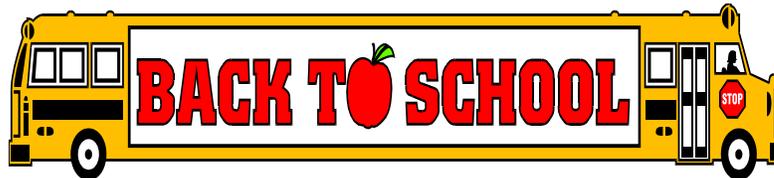
Mrs. Bartkovich questioned Mrs. Smith on which set of conditions should be used from the Staff Report, the ones from the Planning Department or the ones from the Public Works Department. Mrs. Smith responded that the Planning Department conditions should be used for the decision and that they included the Public Works Department recommended Conditions.

Upon a motion by Mr. Magill, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Preliminary/Final Plat for Esham Associates, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all requirements of the County Subdivision Regulations.
2. Health Department approval is required prior to the recordation of the Final Plat.
3. The Final Plat shall comply with all requirements of the Chesapeake Bay Critical Areas Program.
4. This subdivision shall comply with the Forest Conservation Regulations.
5. A drainage plan shall be submitted for the driveway entrances along Pemberton Drive. The developer shall be responsible for any roadway improvements as deemed necessary.
6. The developer shall provide a legal document for ensuring the Conservation/Open Space area shall remain undeveloped.

7. Stormwater management for the individual lots may be required at the time a building permit is issued due to the pending changes to the Wicomico County Stormwater Ordinance.
8. An 8 ft. bike path shall be constructed adjacent to the ROW line (within the ROW) and shall be consistent with the design/ location approved for West Nithsdale, Section 4.
9. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.
10. The property lines shall be revised to include the open space on each individual lot creating only three lots.



**Fieldstone Manor – Final Plat – 6 Lots – Mt. Hermon Church Road – M-49; P-59 & 116; G-2.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of 6 lots from this 12.89 acre tract. Lot #4 contains an existing residence and has frontage and access to Mt. Hermon Road. Lots #5-9 will have frontage and access on the new cul-de-sac.

Mrs. Smith noted that there is no application form for subdivisions and that the plat is the application.

Mr. Parker stated that they had been working on this piece of property for six (6) or seven (7) years. The lots had to be fronted on an interior street. This property was an ideal candidate for the TDR program. The stormwater is done with an infiltration pond. There is a large dip on Mt. Hermon Church Road on the curve that the County asked this developer to handle the stormwater from. There will be plugging installed underneath the roadway in order to handle the ponding on this curve which will cover the drainage issue for the County.

Mr. Magill stated that what is being utilized looks good. He stated that he generally has a problem with TDR's being transferred to the wrong districts.

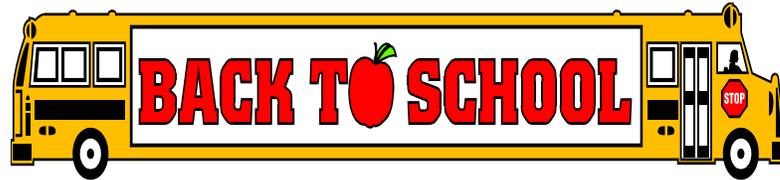
Mr. Day stated that the A-1 zoning is almost coincidental with the surrounding development but that that was a good use of the TDR program. He stated that in the future he could foresee this area being rezoned. Mr. Day stated that he had an issue with the language in the TDR program as he believed that this development exceeded the 1:3 density. Mrs. Smith responded that with the TDR's that this development does comply with the 1:3 density.

Mr. Pretl, representing WET, stated that they have no objection to the proposal. He requested that WET receive a copy of the Findings of Fact on every cluster development that the Commission reviews.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Final Plat for Fieldstone Manor and **ADOPTED** the Findings of Fact as presented, 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 shall be provided for the stormwater management system in conformance with applicable State requirements.
5. Transfer of Development Rights is required and all associated documents must be submitted for review and approval prior to recordation of the Final Plat.
6. Lots 5 and 9 shall be denied direct vehicular access to Mt. Hermon Church Road
7. A Homeowners Association will be required to own and maintain all common areas and stormwater management facilities.
8. A Public Works Agreement will be required for the installation of the storm drain within Mt. Hermon Church Road.
9. This Property is within the Airport Overlay District and is subject to the restrictions of the Horizontal Surface.
10. The Forest Conservation Easement amendment must be completed prior to recordation of the Final Plat.
11. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.



#### **ADMINISTRATIVE MATTER:**

#### **Hidden Pond – Findings of Fact – 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 Findings of Fact for Hidden Pond.

Mrs. Bartkovich questioned if this was the same information as what the Commission reviewed last month. Mrs. Smith responded that the Findings were almost word for word what the Commission saw last month. She added that the Legal Department had reviewed the Findings.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **ADOPTED** the Findings of Fact for Hidden Pond subdivision as presented.

*Mr. Magill opposed this motion.*

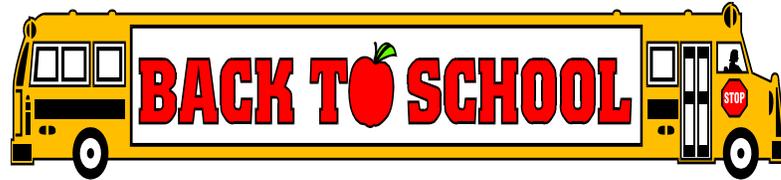
*Mr. Day recused himself from the discussion and decision since he wasn't a member of the Commission for the original hearing.*



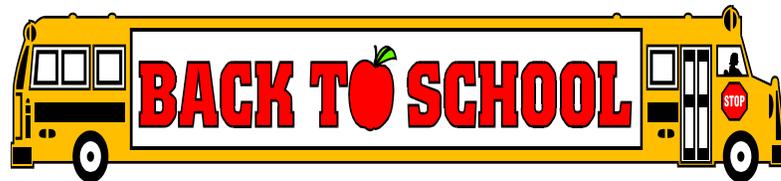
Mr. Lenox noted that the Commission had received at their places the bound, adopted City Comprehensive Plan as well as the Draft County Comprehensive Plan. The Draft County Comprehensive Plan should be available on the website either today or tomorrow and discs are available in the Planning Department at no charge. At a future meeting, discussion will take place about scheduling meetings and public input on the Plan.

Mrs. Bartkovich noted that she would inform the Council that the Comp Plan would be available online.

Mr. Day questioned if the maps were separate on the digital copy being put online. Mr. Lenox stated that each section would be a separate pdf file online including each map.



There being no further business, the Commission meeting was adjourned at 2:30 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