
MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on February 19, 2009 in the Council Chambers of the Government Office Building, Room 301, with the following persons in attendance:

COMMISSION MEMBERS:

Corinne Les Callette, Chairman
Donald B. Bounds, Vice Chairman
Gail Bartkovich
James W. Magill (Absent)
Glen Robinson
Scott Rogers
Gary Comegys

CITY/COUNTY OFFICIALS:

Mary Phillips, County Public Works Department
Ed Baker, County Attorney
Maureen Lanigan, Asst. County Attorney
Larry Dodd, Lt., Salisbury Fire Department
Henry Eure, Building, Permits, and Inspections Department
Gary Hales, Salisbury Public Works Department

PLANNING STAFF:

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



The meeting was called to order at 1:35 p.m. by Mrs. Les Callette, Chairman.



Minutes:

Upon a motion by Mr. Bounds, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the minutes of the January 15, 2009 and January 29, 2009 minutes as submitted.



#SP-0611 FINAL DEVELOPMENT PLAN SUBMISSION – EXTENSION OF TIME – VILLAGE AT SALISBURY LAKE PRD #11 – Salisbury Mall Associates, LLC – M-109, P-2505, 2518, 2520, 2581, 2582, 2581, Pad 8, Block D, and 2581, Pad 9, Block D, G-2.

Mrs. Les Callette noted that Salisbury Mall Associates, LLC had submitted a letter to withdraw this case.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Comegys, and duly carried, the Commission accepted **WITHDRAWAL** of the above noted request for an extension of time for the Final Development Plan Submission for Salisbury Mall Associates, LLC and the Village at Salisbury Lake PRD #11.



**PUBLIC HEARING CONTINUED – CHESAPEAKE BAY
CRITICAL AREA GROWTH ALLOCATION – Edward
McGuire/Barren Creek Estates – The Knolls at Barren Creek
– 7.37 acres of Growth Allocation and Map Amendment to a
Limited Development Area – M-17, P-3.**

Mr. Steve Smethurst and Mr. Phil Parker came forward. Mr. Jimmy Sharp and Mr. Frank McKenzie presented and entered the Staff Report and all accompanying documentation into the record. The applicants are requesting 6.73 acres of Growth Allocation and a Map Amendment to a Resource Conservation Area. The end result would be the creation of twelve (12) new residential lots and one (1) lot used for a stormwater management pond for a total of thirteen (13). The lots average 1.06 acres in size with access and frontage for all proposed lots being provided by a proposed interior street. The property is located within a Town Transition District with the surrounding properties also zoned Town Transition. Over half the property lies within the Chesapeake Bay Critical Area. The remaining portion lies outside and is subject to the Wicomico County Forest Conservation Act. The forest conservation plan has been submitted and approved.

Mr. McKenzie stated that Mr. Sharp would be presenting the Staff Report. At the last meeting, there was discussion about the environmental concerns of the development project. There was also discussion about the effects of the new State Law on the review of this project. The Commission requested that the Staff go back and look at the law and see if there were going to be any impacts on the review of this project. Comments have been received from the Critical Area Commission Staff which are included in the Staff Report.

Mr. Sharp stated that there were seven (7) items that the Critical Area Commission Staff brought to the Staff's attention and they were outlined in the Staff Report. He explained the comments of the Critical Area Staff and the Planning Staff's position on their comments.

Mr. Smethurst noted for the record that he represented the owners of the property.

Mr. Parker explained that there were no tidal waters on the site but that there were non-tidal wetlands. Mr. Parker explained that the stormwater management had been designed to a two (2) year post development storm. The four (4) homes along the creek will have small filtering basins at each downspout. There will be an extra forestry area at the rear of these lots. There will be very little run-off post development.

Mr. Smethurst questioned Mr. Parker on how much tree removal would take place. Mr. Parker responded that there would be very little tree removal and an increase by 0.4 acres of forested area. Mr. Parker added that this was being done in addition to the Critical Area requirements.

Mr. Smethurst stated that the letter dated October 3, 2008 from DNR mentioned that the vegetation in the area should be protected and that nothing will bother it since the forested area will be increased.

Mr. Parker stated that other environmental safeties were being undertaken. Recycled aggregates will be used for the roads and driveways, as well as recycled building materials and specialized HVAC systems. He added that this was similar to what the City is starting to require in new developments.

Mr. Smethurst stated that this property is in the Town-Transition zoning district and contiguous to the corporate limits of Mardela. Mr. McKenzie corrected Mr. Smethurst explaining that the property is not contiguous.

Mrs. Bartkovich stated that the County Comp Plan is being used and questioned if the plans would be the same of the Mardela Comp Plan was being used. Mr. McKenzie voiced his uncertainty.

Mr. Smethurst stated that this property was in the Town Transition district and questioned if it was in a Priority Funding Area. Mr. McKenzie responded in the affirmative. Mr. Smethurst questioned if the property was in the Priority Preservation Area. Mr. McKenzie responded in the negative. Mr. Smethurst questioned if there was something in the works for the Priority Preservation Area. Mr. McKenzie responded in the affirmative.

Mrs. Bartkovich questioned Mr. Parker the correct date of the letter included in the Staff Report. Mr. Parker responded that the correct date of the letter should be February 13, 2009.

Mrs. Bartkovich questioned the dry wells at the end of the down spouts and if they required maintenance. Mr. Parker that the dry wells very rarely require maintenance but may eventually need the filter fabric cleaned or replaced.

Mrs. Bartkovich questioned if the recycled aggregates were being accepted by the County. Mr. Parker responded in the affirmative.

Mrs. Bartkovich stated that she had a problem with the last three (3) bullets of the February 13, 2009 letter. She stated that she foresees a problem with the maintenance down the road. She questioned who would enforce what was in the Homeowners Documents. Mr. Smethurst responded that it wouldn't be difficult at the beginning but down the road what is available will be better. He added that some Homeowners Associations aren't worried about enforcement. Mrs. Bartkovich stated that the homes would be there for a long time. Mr. Smethurst stated that it would be a benefit to the homeowners that the homes are efficient. Mrs. Bartkovich stated that she had concerns that the maps are all based on the County Comp Plan and the uncertainty of what Mardela had envisioned for the land.

Mr. Lenox stated that the Town plan done in 1998 probably didn't have the growth area defined. Mrs. Bartkovich stated that the growth area would have to be defined in the new plan.

Mr. Comegys stated that the Commission was only looking at the growth allocation and a recommendation to the County Council to award that growth allocation.

Mrs. Les Callette stated that Mrs. Bartkovich was laying out the objections to the growth allocation. Mrs. Bartkovich added that she believed that the Homeowners Documents were unrealistic and that the Commission still doesn't know what Mardela had envisioned for this area.

Mr. Comegys stated that the City has started requiring energy efficient fixtures and that he was in favor of those. However, this is a finite resource because the County is only allowed a certain number of growth allocation acres. There is a cry to reduce the amount of growth in the Critical Area. Mr. Comegys stated that he didn't believe that this was the best place in Wicomico County to use the growth allocation acres.

Mr. McKenzie stated that the Staff had found a Mardela plan dated March 1996 but the maps didn't show any growth areas.

Mr. Smethurst stated that the Town Transition is a relatively new zoning district.

Mr. Lenox stated that the growth area was defined by the County in 1998 and in 2004 established zoning to meet the Comp Plan.

Mrs. Les Callette questioned if Mardela had been consulted about the growth area. Mr. Lenox responded that Mardela had the same consultant.

Mr. Smethurst stated that of all the approved growth allocations that you wouldn't find one (1) that better meets the requirements than this one. This is a small growth allocation. This is in the Town Transition zoning district, a growth area, and a Priority Funding Area and not in a Priority Preservation Area. This request is the poster child for a good growth allocation and this is smart growth.

Mr. Parker stated that all growth allocations will be on the west side of the County because that's where the Critical Area is.

Mr. Smethurst reiterated that they are only requesting the growth allocation that is really needed.

Mr. Lenox administered the oath for anyone wishing to testify in this matter. Mrs. Les Callette explained the continuation of the public hearing procedure.

Mr. Bob Van Meter, 9438 Athol Road, stated that he had previously questioned if the homes were to be owner occupied and had received no response. He stated that in 1997 he bought four (4) acres of land that is contiguous to the town of Mardela Springs and along the creek. In 1999, he was denied the ability to put up a gazebo because he's not allowed to put up a second dwelling on the four (4) acres of land. Mr. Van Meter added that he was concerned about the residual septic capacity on the lots.

Mrs. Dana Maloney, 9343 Athol Road, questioned if the homes would be similar to the other homes and lots in the area. She further questioned if the new Comp Plan would require a 1000 ft. buffer and if the applicants would be required to meet that requirement.

Mr. Jerry Marshall, Athol Road, stated that he owned 2.1 acres that buffers the creek of which he can't use one (1) acre for anything. The creek needs to be left the way it is. The entrance road to the development on Athol Road is dangerous due to the amount of traffic on Athol Road which includes a great deal of heavy trucks. The Mill Branch Road intersection is less than 100 ft. away.

Mr. David Kenney, 24790 Porter Mill Road, Hebron, stated that he owns two (2) farms on Mill Branch Road and has concerns about the Mill Branch Stream and what will be added with a new development disturbing an existing farm. The addition of 12 new septic systems to land that has been farmed adds nutrients and phosphorus to the stream. Mill Branch Road is very narrow and will need to be widened and improved. He submitted ***Opponent's Exhibit A*** into the record as a petition with

petition with signatures of several neighbors and a map showing their property locations.

Mr. Jeff Ryan, 9344 Athol Road, stated that he owned 16 acres across the road from the proposed development. The land on his farm is tidal. He discussed all the wildlife and fish that live on this property and how this development would harm these animals. He requested that the growth allocation be denied.

Mr. Randy Beers, 9272 Athol Road, stated that he owned 22 acres and can't do anything on his property. He stated that the property in question use to be one (1) piece before it was subdivided for the house to be on one (1) acre and the remainder parcel to become the current property in question. He questioned who would fix the systems when they fail because he believed the tax payers would end up being responsible.

Mr. Fred Marshall, 9219 Mill Branch Road, stated that the branch runs behind his property and that a Homeowners Association won't work. The LDA area should remain LDA area. He added that he didn't see how this development would work.

Mrs. Judith Stribling, Friends of the Nanticoke, discussed House Bill 1253. She stated that it was time to decide if the Commission has to approve something just because it meets the local criteria. The Nanticoke River depends on the upper headwater streams and watersheds. She added that this case is the poster child for denial of a growth allocation.

Mr. John Groutt, 4551 Cooper Road and representing WET, stated that the Village Down River project was a natural for a growth allocation but this parcel is not. He requested denial of the growth allocation.

Mrs. Les Callette questioned if the homes would be owner occupied. Mr. Parker responded that the builder is planning to have the homes for sale.

Mrs. Les Callette questioned if the buffer was being changed from 100 ft. to 1000 ft. Mr. Sharp responded in the negative. He added that there would be a change in the newly created parcels in the RCA area to a 200 ft. buffer. Mr. Lenox added that until there is an adopted plan that Staff won't know what is being included in the buffer change. He added that the Staff would need to look at Mardela's plan to see if they want to grow.

Mr. Bounds stated that if Mardela presented a growth area that he didn't believe that this area would be included. This isn't compatible with the neighborhood. The surrounding area is small farmettes.

Mr. Rogers questioned if the Commission could wait to see what Mardela's Comp Plan looks like as far as growth areas. Mr. Bounds responded that that wouldn't be prudent. Mr. Lenox stated that the reason the State Law changed last year was because the Town and County don't have to agree.

Mr. Comegys stated that the CBCA Program states there should be a 1:20 density and there is an opportunity to allow a bonus or adhere to the standard. The neighbors are protective of the creek. This is a discretionary request. Mr. Comegys stated that the growth allocation should be denied.

Mr. Rogers stated that he was hesitant to do anything until he heard from the Town.

Mrs. Bartkovich requested a letter from the Town of Mardela Springs on their view point of this request.

Mr. David Insley, President of the Mardela Springs Town Council, stated that the County did the last Comp Plan and the Towns had no say in it. The Mardela Springs Comp Plan won't be ready before the summer.

Mrs. Les Callette stated that she had concerns over the environmental impacts. This area is designated as a Green Infrastructure Hub. There will be some trees cut on this property. The animals that run on this land will be affected as will the wildlife in the forested area. She added that there would be an impact on the creek which will eventually have an impact on other waters in our County and into the Chesapeake Bay.

Mrs. Bartkovich stated that the County stated that this area was okay for growth but the Town of Mardela didn't.

Upon a motion by Mr. Comegys, seconded by Mr. Bounds, and duly carried, the Commission forwarded an **UNFAVORABLE** recommendation to the Wicomico County Council for the Preliminary Growth Allocation for ten (10) lots totaling 6.73 acres for Edward McGuire/Barren Creek Estates for The Knolls at Barren Creek.



#SP-0711-09A SIGN PLAN APPROVAL – Victoria Park at Sassafras Meadows – Seniors Apartments – 875 Victoria Park Drive e- R-10A Residential District – M-29, P-229, G-19.

Mr. Andrew Hanson came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Andrew Hanson has submitted a request for a Sign Plan approval for the senior apartments – Victoria Park at Sassafras Meadows. The Code requires Commission approval of a Sign Plan as a part of the Comprehensive Development Plan process.

Mr. Comegys noted that it was a very attractive sign.

Mrs. Bartkovich questioned what type of material would be used with the wording. Mr. Hanson responded that the sign would be made out of composite wood.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the proposed ground sign for Victoria Park at Sassafras Meadows as submitted.



COUNTY SUBDIVISION PLATS:

Rewastico Village, Sec. 3 – Sketch – 34 Lots – Millman Drive.

Mr. John Andrews and Mr. Corey Kennington came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes subdivision of 34 lots averaging 2.37 acres from this property bounded to the south by Quantico Road. Access to the lots would be provided by extension of Millman Drive and a future cul-de-sac.

sac. The land area within Wicomico County is zoned A-1 Agricultural Rural.

Mrs. Smith also noted the concerns of a lot owner in Section 1 regarding their lots backing up to the rear yards of new lots and requesting screening/buffering.

Mr. Andrews stated that the plan shows the stormwater management being near Route 347 and that area can be buffered. The developer is working with the Health Department on six (6) lots for perc and there should be comments in April.

Mr. Bounds questioned if the stormwater pond would be wet. Mr. Andrews responded in the affirmative.

Mrs. Bartkovich questioned if a permit would be needed from State Highway to have an entrance on Route 347. Mr. Andrews responded in the affirmative. Mrs. Bartkovich questioned if the forest conservation has already been approved. Mr. Andrews responded in the affirmative, adding that it had been done for the entire development in Section 1.

Mr. Comegys questioned if there was any way to match the future street to Quantico Creek Road. Mr. Andrews responded that it was hard to align the two (2) entrances and hard to drain.

Mrs. Les Callette questioned the rule on separation between the roads. Mrs. Phillips stated that there could be no less than 125 ft. between roads. Mr. Comegys stated that the SHA will want an alignment because of the conflicting movements. Mr. Andrews stated that if they move the intersection, then they can't get a deceleration lane.

Mrs. Bartkovich questioned access to the cemetery site. Mr. Andrews responded that there would be a 15 ft. easement or the property line may be redefined.

Mrs. Les Callette questioned the size of Lots 26 and 27. Mr. Andrews responded that the lots sizes of Lots 26 and 27 were about 4.5 acres. He stated that they could plant it in a buffer area and make it part of the forest conservation area. Mrs. Les Callette questioned if they were the only two (2) lots above two (2) acres in size. Mr. Andrews responded that Lots 23 and 24 were above two (2) acres in size but would be reduced due to the road and stormwater management. Mrs. Les Callette questioned if there would be denied access to Lots 21 and 22 from Quantico Road. Mr. Andrews responded in the affirmative. Mrs. Les Callette questioned if Section 1 was built out. Mr. Kennington responded that Section 1 was approximately 70 percent built out.

Mr. Comegys questioned if this was one (1) of the developments where the developers set aside the entire forest conservation for the project when they began. Mrs. Les Callette responded in the affirmative.

Mr. Rogers questioned if they would be selectively clearing Lots 1 through 14. Mr. Andrews responded in the affirmative.

Mr. Comegys questioned if there was no problems with buffers on Lots 6 through 9 due to the existing property owners opposition to having backing lots to their property. Mr. Andrews responded that they could put the buffers on Lots 6 through 9 but the sewage disposal areas were where the buffer could go. Mr. Kennington added that the other part of the subdivision has backing lots. Mr. Lenox suggested working with the adjacent property owners to plant on their property if all the plantings couldn't fit on the lots in question.

Mr. John Groutt, Cooper Road, stated that the hydric soils have nothing to do with limiting development.

The Commission advised the applicants to proceed with a Preliminary Plat submittal.



Cooper Landing, Section 5 – Final – Extension – 3 Lots – Cooper Landing Drive.

Mr. Phil Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicant's are requesting a one year extension of time to record the Final Plat approved in March 2006 for Cooper Landing, Section 5. The applicants expect to complete construction of the roadway in about one month and plan to record the Plat following completion of the road. In the event weather prevents completion of the roadway before expiration of the Final Plat approval, an extension is requested.

Mr. Parker stated that cable boxes in the roadway have been the hold up of getting the plat recorded.

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 Cooper Landing, Section 5. **This extension will expire on March 23, 2010.**



Layfield Woods Subdivision – Preliminary – 16 Lots – Melson Road.

Mr. Kevin Parsons and Mr. Tim Ramia came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes subdivision of 16 lots averaging 1.38 acre each from parcel 63. The Plat indicates that 24.23 acres of open space are provided, 24.23 acres of forest conservation are provided on-site and 7.29 acres are proposed off-site, 4.69 acres of stormwater management are proposed, and 1.86 acres of new roadways. Interior cul-de-sacs will be created to serve all lots.

Mr. Parsons stated that they had been before the Commission in October 2008. The forest conservation has been taken off the lots and an off-site planting plan has been submitted to Mr. Sharp in the Planning Office. After the final forestation, both on and off site, is complete there will be approximately 38 acres for development.

Mr. Comegys questioned why the lots sizes on Lots 15 and 14 were so substantial. Mr. Parsons responded that the lot sizes had to get larger to accommodate the Health Department requirements on lots 15 and 14.

Mr. Ramia stated that the homes and septic systems were kept in their original location but the Health Department dictated the size of the lots.

Mr. Parsons stated that the forestation on the lots isn't enforceable.

Mrs. Bartkovich questioned if it was a 2:1 ratio on the forestation. Mr. Parsons responded in the affirmative.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Preliminary Plat for Layfield Woods Subdivision, 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. Construction Improvements Plans shall be submitted for approval to the Public Works Department. Adequate drainage and maintenance easements shall be provided.
5. Lots 20 and 21 do not have the required road frontage. Lot lines should be revised to meet this requirement.
6. A Homeowners Association shall be created to maintain the stormwater management facility, drainage and maintenance easements and forest conservation easements.
7. The 50 percent set-aside must be established by plat and document.
8. A note referring to the Right to Farm Chapter of the Wicomico County Code shall be placed on the final plat.
9. Additional right-of-way shall be dedicated to the County 30 feet from the centerline of Melson Road along the entire frontage of this property.
10. A Development Plan must be submitted prior to scheduling of the Final Plat.
11. This approval is subject to further review by the County Department of Public Works.



Upon a motion by Mr. Comegys, seconded by Mr. Bounds, and duly carried, the Commission went into closed session at 3:30 p.m. to receive legal advice from the County Attorney. The closed session ended at 3:45 p.m.



There being no further business, the Commission meeting was adjourned at 3:46 p.m. by Mrs. Les Callette.



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.

Corinne Les Callette, Chairman

John F. Lenox, Director

Beverly Tull, Recording Secretary