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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on January 15, 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  
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 1:36 p.m. by Mrs. Les Callette, Chairman.



**Minutes:**

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the minutes of the November 20, 2008 and December 18, 2008 minutes with the corrections to the minutes noted by Mrs. Bartkovich.



**PUBLIC HEARING – 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. Jack Lenox read the ad and administered the oath. Mrs. Les Callette explained the public hearing procedure.

Mr. Brock Parker and Mr. Ed MaGuire 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. (Attachment 2) 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. Parker explained that the Planning Staff had helped with this process. There have been several reviews with the Critical Area Staff and the plans that should be approved are now with them again. There is a fee simple buffer between the back of the lots and the creek which will be owned by the Homeowners Association. The lot sizes have been minimized and are as close to the Health Department requirement as possible. There aren't any plans to remove any of the forestation on the property. One area in the fee simple area near the creek may need to have a small portion of trees cut. The entire property is zoned Town-Transition. The intent is to change the RCA to LDA to get the leniency for development. All proposed lots will have access to the interior street. The outfall pipe will be stabilized but it is out of the Critical Area portion of the property.

Mr. Magill questioned the density for the Town-Transition district. Mr. McKenzie responded that there is a minimum of a 20,000 sq. ft. lot in the Town-Transition if it has a septic system and if there is public water and sewer available then the lot can be 8,000 sq. ft.

Mrs. Bartkovich questioned if there was another subdivision named Barren Creek and voiced her concern over confusion for emergency service responses. Mr. Parker responded that The Knolls at Barren Creek was approved by Mr. Dave Mathers in Public Works after about 15 tries for a name for the development. He added that he would contact Mr. Mathers regarding any confusion of the name similarity.

Mrs. Bartkovich questioned if there would be screening for the surrounding properties. Mr. Parker responded that they could provide buffers if needed. Mrs. Bartkovich questioned if a buffer was required for the ag properties. Mr. McKenzie responded in the affirmative, explaining that a 50 ft. buffer would be required. Mr. Parker added that this area is zoned Town-Transition and doesn't require the buffer.

Mr. Bounds stated that the surrounding area is farms or farmettes. Mr. Parker stated that this property was approximately one-third of a mile from the heart of Mardela. Mr. MaGuire added that there was another subdivision down the

road. Mr. Parker stated that this subdivision would comply with the Zoning Code if it was not in the Critical Areas. Mr. Bounds stated that he wasn't sure that Mardela wanted to expand or be zoned Town-Transition.

Mrs. Les Callette questioned the width of the entrance. Mr. Parker responded that the entrance was 36 ft. and the road was about 800 ft. long. Mrs. Les Callette questioned if there would be any buffering along the rear of the property. Mr. Parker responded that there wasn't a buffer along the rear of the property at this time. He added that the property had been perced and the designing and engineering had been completed.

Mr. Woody Maloney, 9333 Athol Road, stated that the stormwater management was at the highest point of this property. The entrance on Athol Road is questionable due to the traffic and speed issues already on Athol Road. The entrance should be located on Mill Branch Road. The lots will need high nitrogen septic systems. Mr. Maloney also questioned the need for development when there are so many houses on the market now.

Mr. Randy Beers, 9272 Athol Road, stated that they were here in 2005 for the exact same plat and it was turned down. Approximately half of this land is in the Critical Area and trees are going to be cut down. The creek does rise and fall and the County has to dig it out monthly. The land is actually on the east side of Athol Road. Surrounding subdivision such as The Plantations and White Tail has homes for sale now. There isn't any need for another subdivision in this area. The letter from DNR states that there are three (3) endangered species on this land and they will be disturbed by development. Mr. Parker stated that Lot 6 had a tree line that may have to be cut but more than likely won't be touched. Mr. Beers stated that Lots 2 through 5 would have septic systems in the rear yards which could pollute Mill Branch Creek.

Mr. Bob VanMeter, 9438 Athol Road, stated that he had concerns over the entrance on Athol Road, over the density, and if these homes would be rentals due to the nuisance problems that rentals bring with them.

Mr. John Groutt, WET, stated that he was aware that the Green Infrastructure Hubbs are advisory and not regulatory but that this property was in Hubb 505 that had a rating of 0 which is the most important. This is the only Hubb in the State of Maryland with a 0 rating. There is information in the Wicomico Parks and Recreation Plan that states that there are 123 rare species occurrences in this area. If the land is destroyed then it will take out a huge chunk of the Hubb. Mr. Groutt requested denial of the Growth Allocation.

Mr. David Insley, President of the Town Council of Mardela Springs, stated that the town boundaries are next door to this property. The minimum lot size is

one (1) acre. Mr. Insley stated that the Town of Mardela Springs is against this many houses.

Mrs. Danna Maloney, 9333 Athol Road, stated that an increased number of homes pose an increased problem on the water especially during drought seasons. She also questioned if the owners would pay a County Impact Fee or Tax to the Town of Mardela Springs to help offset the cost of services.

Mr. David Robinson, 9363 Athol Road, stated that his property adjoins this development. He stated that he didn't see how this many homes wouldn't impact the area. He stated that he had to purchase almost five (5) acres of land in order to get a small septic system. He stated that he also had to pay a forest conservation fee to put in his driveway and had to install a silk fence while he was building his house.

Ms. Henriette Den Ouden, 2916 Whitehaven Road, stated that she was a concerned citizen that didn't think that the RCA should be changed.

Ms. Pat Marshall, 9219 Mill Branch Road, stated that there was severe overcrowding in the schools that would service this subdivision.

Ms. Judith Stribling, Friends of the Nanticoke, stated that she didn't think that this met the criteria of the Critical Area application. She questioned a 300 ft. buffer not being done for the creek. This is a critical time for Wicomico County to decide how to handle Growth Allocations while the Code is being redone and a new House Bill #1253 are being instituted. The plans don't reflect the new MDE stormwater management standards. Ms. Stribling requested denial of the request.

Mrs. Bartkovich questioned the comment about the project being turned down in 2005 since she wasn't a member of the Commission at that time. Mr. Parker responded that a Sketch Plat was heard in 2005 and wasn't voted on. Mr. Lenox added that the same issues being raised today were the same issues being raised in 2005 with the Sketch process.

Mr. Comegys stated that he needed to do some research on the House Bill #1253 and the Critical Areas Laws in order to vote on this project. He stated that he was concerned over the Growth Allocation and the Green Infrastructure Hubb. Mr. Comegys added that he would like to have additional time to digest all the public comments and study the materials before making a decision.

Mr. Parker stated that the new Critical Area Laws wouldn't apply to this plan. Mr. McKenzie responded that this project would have to adhere to the new Critical Area Laws. Mr. Parker stated that the plan was in compliance with the Critical Area Staff comments. Mr. McKenzie stated that the applicants had received preliminary

comments but when this development came in for subdivision review that the Critical Area Commission would then do a full review and send back comments. Mr. Parker stated that this is residentially zoned farmland. He stated that he didn't understand the postponement of the decision based on the comments of the concerned citizens. The stormwater management must comply with the new standards. The design is in compliance with COMAR for the septic systems. The Green Infrastructure is a non-regulatory item. The site will be left with more trees than it started with and there will be 13 lots on 14 acres with a large open space area. The creek isn't being disturbed so the endangered species aren't being disturbed. Mr. Parker added that this land had been farmed.

Mr. Magill stated that he had trouble supporting this change because of the location of the creek and the location of the property.

Mrs. Les Callette stated that she couldn't ignore the Green Infrastructure Hub even though it isn't a regulatory document because disturbance of the land will move the endangered or rare species and change the Hub.

Mr. Bounds stated that he had a problem with the development because it doesn't match the existing farms or farmettes. He asked Mr. McKenzie if this proposal would comply with the new Critical Area laws. Mr. Sharp responded that Staff hasn't had time to review the new House Bill #1253 yet. Mr. McKenzie added that the Commission would be able to revisit this again with the subdivision process.

Mr. Comegys questioned if the Commission was required to grant the Growth Allocation if the applicant met the requirements or if the Commission could protect those acres for a project that might better benefit from the Growth Allocation. Mr. Baker responded that the Commission wasn't making a decision, only a recommendation. Mr. Comegys questioned the entitlement.

Upon a motion by Mr. Comegys, seconded by Mr. Bounds, and duly carried, the Commission **CONTINUED** the Public Hearing for the Preliminary Growth Allocation for ten (10) lots totaling 7.37 acres



### **CITY/COUNTY SUBDIVISION PLATS:**

**Retrievers Run – Preliminary Extension – 17 Lots – Esham & Bob Smith Roads.**

Ms. Stacey Hart came forward. Mrs. Gloria Smith presented the Staff Report. The applicant's are requesting a one year extension of time for submission of the Development Plan and Final Plat for Retrievers Run. The engineer has indicated that the Construction Plans were corrected and resubmitted for Department of Public Works in November 2008. At this point, they do not anticipate receiving approval in time to submit the Development Plan and Final Plat prior to expiration of the Preliminary Plat on March 4, 2009.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **GRANTED** an additional one-year extension of time for submission of the Final Plat for Retrievers Run. **This extension will expire on March 4, 2010.**

**Oak Ridge Baptist Church – Change of Condition – Tilghman Road – Gateway Crossing.**

Mr. Matt Drew and Mr. John McClellan came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose modification of the condition of approval to delay relocation of the easterly entrance until construction is proposed on the easterly end of the shopping center. This will likely occur when future church campus construction occurs.

Mr. Comegys stated that he was interested to see alternatives to relocating the driveway due to the Verizon pedestal. He added that he still believed it to be in the best interest to realign the entrances.

Mr. Magill suggested making the exit line up with Punkin Court and relocating the entrance.

Mr. McClellan stated that the location of the pedestal is just past the existing entrance.

Mr. Drew explained that they had worked several ways and end up with the island in the middle of the roadway. He added that at this time the Church hadn't decided what the lots would be used for.

Mr. McClellan stated that Oak Ridge has some conceptual drawings for a 2200 seat sanctuary. Last year, Oak Ridge had a 20 percent growth in their congregation. Mr. McClellan stated that he believed in the next couple years that the Commission would see Oak Ridge come in with a site plan. The Verizon pedestal controls not only some of the SHA traffic signals, but also four (4) of the major feeds.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **AMENDED** Condition #6 of the Preliminary/Final Plat approval for Gateway Crossing/Shoppers World, as follows:

6. Once the construction commences at the easterly end of the shopping center, either on Lots #1A, 10 or 11, the entrance shall be modified to accommodate the traffic flow.



**#SP-0701-09C REVISED SIGN PLAN – CHESAPEAKE SHIPBUILDERS – Additional Wall Signage – 710 Fitzwater Street – Riverfront Redevelopment Multi-Use District #2 – M-106, G-21, P-1109.**

Mrs. Tracey Martin and Mr. Tony Severn came forward. Mrs. Gloria Smith presented the Staff Report. Chesapeake Shipbuilding Corp. has submitted a Revised Sign Plan consisting of two additional wall signs. The signs are to be installed on the river side of the pre-engineered buildings constructed on the site in 2007.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the Revised Sign Plan for the additional wall signs for Chesapeake Shipbuilders as submitted.



**#SP-0901                    SITE PLAN APPROVAL – Blind Industries – 2240 Northwood Drive – Training Facility Construction – Industrial Park District – M-100, P-24, G-24.**

Mr. Bryan Adkins, Ms. Amy Krause, and Ms. Danielle Earl came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Bryan Adkins has submitted a Site Plan for construction of training facility at the existing Blind Industries site. Section 17.80 of the Salisbury Municipal Code requires Planning Commission review and approval of each site plan for conformance with the overall scheme and objectives of the plans approved for the Northwood Industrial Park.

Mr. Adkins stated that they had saved the pine trees but would have to cut down one (1) gum tree. There will also be four (4) parking spaces at the front of the building.

Mr. Magill questioned if the shift encroached the side yard setback. Mr. Adkins responded in the negative.

Mr. Comegys questioned the occupancy of the building on any given day. Ms. Krause responded that the house is targeted for senior adults with one (1) to two (2) people there during the day to learn to be self-sufficient. If there is a large group meeting then there maybe 15 to 20 people there. Mr. Comegys questioned if they had contacted the Fire Department for the alarm codes. Mr. Adkins explained that since Beracah was building the home that Mr. Eure had stated that the plans had to go to an architect. Iott Architects delivered the plans at the beginning of the meeting with some comments. These comments will have to go back to Beracah to be redrawn with the corrections and then back to Iott for a letter that can be submitted with the plans to the Buildings, Permits, and Inspections Department in order to get a building permit. The house will have two (2) stoves in it so there will be adequate fire protection and signage in the home.

Mr. Rogers questioned if they had concerned putting the house on slabs to eliminate having a ramp and steps. Mr. Adkins responded that he wasn't a fan of slabs but they could look into it and that it would save Blind Industries some money if slabs were done.

Mr. Bounds stated that Blind Industries does a tremendous service for the community.

Mr. Adkins stated that they had provided for landscaping on three (3) sides and that the Lions Club that he was a member of had volunteered to do the labor for the landscaping.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the Revised Site Plan for Maryland Workshop for the Blind, subject to the following Conditions of Approval:

### CONDITIONS:

1. Foundation landscaping shall be provided along the front and southerly side of the proposed structure.
2. Forest Conservation exemption forms, if required, shall be obtained from the Planning Office.
3. This unit shall not be occupied overnight as a residence.
4. Subject to further review and approval by the City Department of Public Works.



Mr. Lenox stated that the Commission's calendars would be full for the next few months. In order to meet the 60 day requirement for the cluster regulations, that another meeting needed to be scheduled. Mr. Lenox suggested January 29, 2009 at 1:30 p.m. to take action on the cluster issue. He added that he would make sure that a notice went out to interested parties to advise them of the meeting date. He also reminded the Commission that there would be a meeting about the County Comprehensive Plan on February 5, 2009 and the City Comprehensive Plan on February 12, 2009. The regular February meeting will be held on February 19, 2009.



There being no further business, the Commission meeting was adjourned at 3:40 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.

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Corinne Les Callette, Chairman

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John F. Lenox, Director

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Beverly Tull, Recording Secretary