



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

P.O. BOX 870

125 NORTH DIVISION STREET, ROOMS 203 & 201

SALISBURY, MARYLAND 21803-4860

410-548-4860

FAX: 410-548-4955



JAMES IRETON, JR
MAYOR

JOHN R. PICK
CITY ADMINISTRATOR

RICHARD M. POLITT, JR
COUNTY EXECUTIVE

R. WAYNE STRAUSBURG
DIRECTOR OF ADMINISTRATION

MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on September 20, 2012 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 (Absent)
Gail Bartkovich
Scott Rogers
Tim Spies (Absent)
Jacob Day (Absent)
Newell Quinton

CITY/COUNTY OFFICIALS:

Gary Hales, City Public Works Department
Brent Jett, City Public Works Department
Henry Eure, City Building, Permits, and Inspections Department
Larry Dodd, Captain, Salisbury Fire Department
Maureen Lanigan, Assistant County Attorney

PLANNING STAFF:

Gloria Smith, Planner
Keith Hall, Planner
Mary Phillips, Technical Review
Jack Lenox, Director
Beverly Tull, Recording Secretary



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

Planning & Zoning Commission
Historic District Commission
Metropolitan Planning Organization

Wicomico County Board of Appeals
Salisbury Board of Zoning Appeals
Agricultural Land Preservation Advisory Board

**Minutes:**

Upon a motion by Mrs. Bartkovich, seconded by Mr. Rogers, and duly carried, the Commission **APPROVED** the minutes of the August 23, 2012 meeting as submitted.



**#SP-9704-12Y SIGN PLAN AMENDMENT – The Commons – E. North Pointe Drive –
General Commercial District – M-29; P-78; G-6.**

Mr. Steve Hutchinson and Mr. John Marquart came forward. Mrs. Gloria Smith presented and entered the Staff Report. She summarized the report explaining that Mr. Steve Hutchinson of DDR Corp. has submitted a request to amend the Sign Plan approved for The Commons, to permit a sign with 5 ft tall letters, to permit a modification to the façade for the sign, and to permit a pylon sign panel with a blue background.

Mr. Hutchinson stated that they wanted to bring five Below in as a new tenant. The blue background is their prototype. Mr. Hutchinson added that he had a reduced sized letters option to present to the Commission but that he did not think that the tenant would sign the lease if they didn't get the blue background.

Mrs. Bartkovich questioned if the Commission had reviewed the sign for this shopping center recently. Mrs. Smith responded in the affirmative. Mrs. Bartkovich questioned if the blue would be added as a color for just this business or the shopping center. Mrs. Smith responded that in the past the Commission has approved a color for a specific tenant only and the same could be done for this tenant. Mrs. Bartkovich questioned if the color could be added for the entire shopping center. Mrs. Smith responded that if no restrictions are put on the color than it wouldn't have to come back to the Commission if future tenants proposed use of the color blue.

Mr. Rogers stated that he was not a fan of the blue but the Commission has added colors in the past.

Mr. Hutchinson stated that Five Below is an international company.

Mr. Dashiell requested to see the sign with the smaller letters. Mr. Hutchinson handed out a reduction of the sign with smaller letters. The 4 ft. letters would reduce the square footage to 140 sq. ft.

Mrs. Bartkovich questioned if there would be a change to the proposed sign on the pylon. Mr. Hutchinson responded in the negative.

Mr. Dashiell stated that the blue was a very distinctive color so it stands out but it is not consistent with the rest of the shopping center. He explained that the Commission had to be careful not to set precedence. Mr. Dashiell also explained that the Commission had to be mindful of bringing new businesses to the area. In this case, the area has been sitting vacant for quite some time. The blue color is a very bright color but it is not consistent with the other signs.

Mrs. Bartkovich questioned if they would be willing to tone down the color of blue in the sign so that it would blend better. Mr. Hutchinson responded that that tenant's had agreed to reduce the size of the sign but that he couldn't make a decision about the color without consulting with them. The sign was contingent on them signing the lease.

Mr. Rogers questioned if the tenant's would consider reducing the area of the blue background and keep the 4 ft. letters. Mr. Hutchinson responded that he would have to approach the client about that.

Mr. Dashiell questioned if the sign could be made into two (2) rows of letters. Mr. Hutchinson responded that the proposed sign is their logo.

Mrs. Bartkovich questioned Mr. Hutchinson on what needed to be done to proceed. Mr. Hutchinson responded that he would have to talk to his client to see if they would agree to reduce the sign area and the letter size.

Mr. Quinton stated that the white letters on the sign just jump out at you.

Mr. Dashiell questioned Mr. Eure if he could provide some assistance for this to proceed. Mr. Eure requested that the Commission be specific on their requirements for enforcement purposes.

Mr. Rogers suggested making the ends of the borders the same as the top and bottom.

Mr. Eure added that the Commission could offer the suggestion of blue letters on a beige background. He further suggested tabling the request to allow the applicants to come back to the next meeting with something else to review.

Mr. Dashiell stated that the Commission could table the request to give options to the tenants to consider or the sign could be approved with modifications.

Mr. Hutchinson stated that they would reduce the size of the letters and the size of the blue background.

Upon a motion by Mr. Rogers, seconded by Mr. Quinton, and duly carried, the Commission **TABLED** the Sign Plan Amendment for The Commons until the October 18, 2012 meeting to allow the applicant to consult with the tenant regarding the following options:

- a. Blue lettering on a tan background
- b. Blue lettering on a white background.
- c. A reduced blue dryvit area to accompany the 4 ft tall letters.



#SP-1203 PUBLIC HEARING (CONTINUED) – PLANNED DEVELOPMENT DISTRICT #3 – PRELIMINARY COMPREHENSIVE DEVELOPMENT PLAN – Recommendation to the City Council – Moore Property – Walston Switch Road and U.S. Route 50 – M-39; G-11; P-430.

Mr. Dashiell explained that this was a continuation of the public hearing.

Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the report explaining Stephen Marsh has submitted an application requesting classification of a tract zoned County Light Business and Institutional to a Planned Development District upon the effective date of annexation to the City. The tract is 21.65 acres in size. The site is located on the southerly side of U.S. Route 50 and the westerly side of Walston Switch Road. The applicants have submitted a Preliminary Development Plan in accordance with Section 17.108 of the Salisbury Municipal Code. The Planning Commission is required to evaluate the recommendations and proposals in the development plan to determine if the project has been designed to meet the standards of a Planned Development District. Once this review is complete, the Commission must prepare a series of "Findings" for submission to the City Council.

Mr. Rovansek stated that sidewalks were intended for interparcel connectivity. In order to get a connection from Wor Wic, a pedestrian crossing would have to be installed at the light with permission from SHA. The open space requirement

could be met if the easement that surrounds the property was included. Lot 9 has been added as a communal area. The intent of the forest conservation act has been met and Mr. Rovansek requested a reduction in what was being required. Mr. Rovansek added that there is the ability to connect on the south side of the branch to John Deere Drive if the connector is ever required.

Mrs. Bartkovich questioned if there were possibilities of reimbursements to come back to the County from the connection to the City water and sewer, as the County had partnered with the extension to Wor-Wic. Mr. Lenox responded that this was possible, and would be addressed at the annexation process.

Mr. Dashiell questioned the life safety issues of the students crossing from Wor Wic. Mrs. Bartkovich stated that the entrance to Wor Wic gets very busy when the students are going to class.

Mr. Rogers stated that 25 percent open space is adequate for this development. He questioned if it would be possible to break up the long runs of parking. Mr. Rovansek responded that he could install parking islands in the long runs of parking.

Mr. Lenox questioned if the internal road would be a City street. Mr. Rovansek responded that it would be up to the City to decide if the internal street was a City street. Mr. Aines stated that the road would be developed to city standards but would still be a private road. Mr. Lenox stated that if the Commission wanted an internal walking system that it needed to be included in the decision. Mr. Aines stated that the subdivision would come back with each site for approval. Mr. Lenox stated that the Commission could put in the decision that each site plan should show pedestrian access. Mr. Rogers added that he would like to see inter-parcel connectivity.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Preliminary Comprehensive Development Plan for the Moore Property and forwarded a **FAVORABLE** recommendation to the Mayor and City Council for adoption of the Planned Development District (#3) upon annexation of the property to the City of Salisbury, subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with Final Comprehensive Development Plans approved by the Salisbury Planning Commission for each of the lots or development sites.
2. The site shall be maintained and kept free of trash and debris until such time as development occurs.

3. Construction improvement plans shall be submitted to the Salisbury Department of Public Works for review and approval for street construction, utility construction, stormwater management and other required improvements.
4. Forest Conservation Plans shall be submitted to the Wicomico County Planning and Zoning Staff for review and approval.
5. Each site shall show interparcel connectivity on their Site Plan when submitted for review and approval by the Salisbury Planning Commission.
6. Development of this project is subject to further review and approval by the Salisbury Public Works Department as required by the Code.



#WP-1201

COMPREHENSIVE SITE PLAN – Peninsula Internal Medicine – Building Addition – 31575 Winterplace Parkway – Lt. Business & Institutional District – M-39; G-10; P-720.

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose construction of a 5,696 sq. ft. addition to this existing medical office building. The LB1 District requires Planning Commission review and approval.

Mr. Parker stated that the owner wants to double the size of the existing facility. A minimal amount of woods would be removed. Lot 7 sewage area will be expanded. Street trees along the front of the property will be installed.

Mrs. Bartkovich questioned if this was two (2) different lots then didn't the lot line have to be eliminated. Mrs. Phillips responded that the resubdivision was being done administratively.

Upon a motion by Mr. Rogers, seconded by Mr. Quinton, and duly carried, the Commission **APPROVED** the Site Plan for 31575 Winterplace Parkway LLC for expansion of the existing medical office building, subject to the following Conditions of Approval:

CONDITIONS:

1. This site shall be developed in accordance with the approved Site Plan. Minor plan adjustments may be approved by the Wicomico County Zoning Administrator. A change of use may require further review and approval by either the Zoning Administrator or the Planning Commission.
2. The Final Plan shall comply with all requirements of the Forest Conservation Program.

3. Landscaping shall be provided in accordance with the Conditions of Approval of the Special Exception for Winterplace Executive Park (as amended).
4. Any additional signage and any site lighting shall be provided in accordance with the Conditions of Approval of the Special Exception for Winterplace Executive Park (as amended).
5. This approval is subject to further review and approval by the Wicomico County Department of Public Works, if required.



#SP-1202 COMPREHENSIVE SITE PLAN – King Farms – Retail Sales & Bulk Storage – Ocean Gateway – C-1 Select Commercial District - M-38; G-7; P-199 & 268.

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose redevelopment of this site as a Home and Garden Market (retail sales and bulk storage). The Select Commercial District requires Planning Commission review and approval of a Site Plan.

Mr. Parker stated that the bulk storage is for mulch, stone and garden stone and it all will be enclosed. The retail sales portion will include knick knacks and produce like a farmers market. The forest conservation will be along the rear of the property. The access to the septic reserve area will have to be done by directional drilling. The front of the property will be landscaped. There is an existing curbcut so there shouldn't be any issues with SHA. Mr. Parker added that he was trying to get access to the property from the railroad as well.

Mr. Dashiell requested that Mr. Parker clarify the access to the septic reserve area. Mr. Parker responded that he hoped to hug the branch to get to the septic reserve area. Mr. Dashiell questioned if vehicular access was needed. Mr. Parker responded that vehicular access is available to that area now.

Mr. Parker added that there is still some work to be done to finish this project.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Site Plan for the King Farms Home Garden & Market for redevelopment of this site, subject to the following Conditions of Approval:

CONDITIONS:

1. This site shall be developed in accordance with the approved Site Plan. Minor plan adjustments may be approved by the Wicomico County Zoning Administrator.
2. A change of use may be considered a new use requiring review and approval by the Zoning Administrator or the Planning Commission.
3. The Final Plan shall comply with all requirements of the Forest Conservation Program.
4. Health Department approval is required.
5. Any signage shall be in accordance with Section 225-127 of the Code or approved by the Wicomico County Board of Appeals.
6. Site lighting shall be in accordance with the Wicomico County Code.
7. This approval is subject to further review and approval by the Wicomico County Department of Public Works.

**COUNTY SUBDIVISION PLATS:****Six Chix – Final – 7 Lots – Powellville Road – M-61; G-18; P-82.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose resubdivision of 3 existing lots into 6 lots from this 51.88 acre tract. The purpose of the subdivision is to provide individual lots for the existing residence and the existing mobile residences located here. All lots will front and have access on a new interior street, Six Chix Lane.

Mr. Parker stated that the existing single family home and three (3) trailers are all on the same lot. Mr. Shockley wants to provide fee simple lots for each dwelling. Mr. Parker added that this subdivision clears up a nonconforming use.

Mr. Dashiell stated that this was a very interesting delineation of lots. Mr. Parker stated that the Health Department determined the lot lines and sizes because of the location of the percs.

Mrs. Bartkovich questioned if the Health Department was requiring septic areas for each lot. Mr. Parker responded in the affirmative.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Final Plat for Six Chix 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. A deed of Open Space shall be required.
5. A deed for the road bed will be required to be submitted prior to recordation of the final plat.
6. Drainage and maintenance easements shall be provided.
7. Lots shall become members of the Homeowner Association, which maintains the stormwater management areas, drainage and maintenance easements and forest conservation easements. Lots shall be subject to a Maintenance and Inspection Agreement for Private Stormwater Management Facilities.
8. The private lane named Henny Penny Lane shall be abandoned and Lots shall be addressed to Six Chix Lane.
9. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.

**Tim Mar Acres – Final – 3 Lots – Mid Atlantic Drive – M-38; G-10; P-p/o38.**

Mr. Brock Parker and Mr. Palmer Gillis came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are proposing three (3) lots from this 7.5 acre parcel on the southerly side of John Deere Drive. The lots average 1.72 acres each and will front and have access on a new cul-de-sac extending from John Deere Drive – Mid Atlantic Lane. A separate parcel will be provided for an existing stormwater management pond.

Mr. Parker stated that the construction drawings are being prepared.

Mrs. Bartkovich stated that she was glad that the road issue had been resolved.

Upon a motion by Mr. Rogers, seconded by Mr. Quinton, and duly carried, the Commission **APPROVED** the Final Subdivision Plat for Milford Street 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. This subdivision shall comply with the Forest Conservation Regulations.
4. Lots should be renumbered 4E, 4F and 4G.
5. Drainage and maintenance easements shall be provided on Lot 4E where construction plans show bioretention areas.
6. Lots shall become members of the Property Owners Association, which maintains the stormwater management facility, drainage and maintenance easements and forest conservation easements. Lots shall be subject to the Maintenance and Inspection Agreement for Private Stormwater Management Facilities.
7. A drainage easement shall be provided for the underground pipe which is proposed crossing Lot 4G (Lot 15 as submitted).
8. City of Salisbury Approval for City utility services is required.
9. Provide reference to recorded Annexation agreement with the City of Salisbury.
10. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.

**Nichols Estate, Section 1 – Preliminary/Final – 5 Lots – Stage Road – M-20; G-12; P-206.**

Mr. Brock Parker and Mr. Chris Gilkerson came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are proposing Resubdivision of two lots to create five (5) lots from this 8.0 acre parcel on the easterly side of Stage Road. The lots average 1.60 acres each and will front and have access on Stage Road. Lots 1A and 1B front on the County maintained portion and Lots 1C, 2A and 2B front on the Town of Delmar maintained portion of Stage Road.

Mr. Parker stated that the boundary survey had been completed and the existing dwellings have been defined. In regards to the junk yard use located nearby, the forest conservation area has been made a buffer and the remainder of the forest conservation area is along the creek.

Upon a motion by Mr. Rogers, seconded by Mr. Quinton, and duly carried, the Commission **APPROVED** the Preliminary/Final Plat for Resubdivision of the Nichols Estate, 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. This subdivision shall comply with the Forest Conservation Regulations.
4. The Corporate limit line of Delmar shall be shown on the plat.
5. The existing drainage and maintenance easements shall be retained.
6. The front building setback for Lot 1C shall be behind the Sewage Reserve Area as shown. The 40 ft. front building setback line as shown does not leave adequate width for the construction of a dwelling when considering side yard setbacks and the existing drainage easement. A note should be placed on the plat requiring a drainage site plan for Lot 1C, prior to the issuance of a building permit, to ensure that the outfall of the existing ditch is not compromised by construction of a dwelling.
7. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.

**Kaywood, Section 12 – Preliminary – 14 Lots – Crawford Drive – M-39; G-19; P-407 & 410.**

Mr. Brock Parker came forward.

Mr. Dashiell stated for the record that Mr. and Mrs. Murray had sent in a letter requesting postponement of this case. Mr. Parker requested to move forward with the case.

Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of 14 lots averaging .80 acres from this tract. All lots will front and have access on Crawford Drive, which will be extended to Kaywood Drive utilizing a future street created in 1968 on the plat of Kaywood, Section 4.

Mr. Parker explained that the sketch plat showed two (2) cul-de-sacs. Interconnectivity is why there is a connected thru street which will be connected to the main street coming through the subdivision. The Murray's lot has always abutted a future street. The drainage problems that they have should be addressed with this section of the subdivision. There are catch basins included to drain the existing problems as well as any future drainage problems. The existing lots will have a 50 ft. buffer. The sewage areas will all back up to the buffer. There will be more woods than are actually shown. The size and configurations of the lots will be similar to what exists in the other sections of the neighborhood. This section will be a part of the Kaywood

Homeowners Association. New stormwater management will be brought in with this section.

Mr. Rogers questioned if Lots 13 and 14 could have the septic reserve area put behind the dwelling. Mr. Parker responded the Lots 13 and 14 will set back off the road due to the location of the percs. All lots have been through the perc process.

Mr. Dashiell questioned if there was adequate drainage protection for the Murray's. Mr. Parker responded in the affirmative, adding that it would handle the drainage issues.

Mr. Dashiell questioned if there was adequate protection for the bird sanctuary. Mr. Parker responded in the affirmative.

Mr. Dashiell questioned who would maintain the conservation area and if it would be the Homeowners Association. Mr. Parker responded in the affirmative.

Mrs. Bartkovich questioned Mr. Lenox on if the tier maps have any impact on this development down the road. Mr. Lenox responded that he did not believe that the tier maps would impact this development. This is a County designated growth area.

Mr. Lee Townsend, owner of the property, stated that he holds the mortgage on this property and nothing would be done until he was paid. The land is highly sandy behind the Murray property.

Mr. Matt Jones, Kaywood Homeowners Association, questioned where the drainage would go to. Mr. Parker responded that the drainage would go toward the pond. Mr. Jones questioned if there was an option for an extension to Gunby Road. Mr. Parker responded that the extension would go through Crawford Drive but there is an option to extend to Gunby's Mill Drive. Mr. Jones questioned if there would be increased maintenance responsibility. Mr. Parker responded that this would become part of the existing maintenance.

Mrs. Phillips noted for the record that Section 11 of Kaywood has a separate Homeowners Association which is specific for the six (6) homes and it was set up to include this expansion.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Preliminary Plat for Kaywood, Section 12, 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. This subdivision shall comply with the Forest Conservation Regulations as administered by the Planning Office.
4. Construction Improvements plans approved by the Department of Public Works shall be required.
5. This section shall become members of the Kaywood, Section 11 Homeowners Association. Association shall be responsible for maintenance of the Forest Conservation areas and Stormwater pond and drainage ditches.
6. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.

**Raegan's Run, Section 1 – Preliminary – 18 Lots – Riverside Drive – M-47; G-16; P-65.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of 18 lots as Section 1 of Raegan's Run subdivision. All lots will front and have access on interior cul-de-sac streets.

Mr. Parker stated that the main objective is to perform the engineering to ensure what's shown can be provided. All disturbances are being done outside the critical area. The percs have been completed. The plat shows the total yield and the future street. There will be a critical area bank and it will be planted. There is still work to be done on the access.

Mr. Jim Anthenelli, James Landing Road, stated that this discussion only involved Phase I. He stated that he lived on James Landing Road which was only 100 ft. away from the proposed entrance. Mr. Anthenelli stated that he has concerns about traffic through a narrow ingress/egress. The road is already burdened. Mr. Anthenelli requested denial of this subdivision until all the ingress/egress issues are addressed.

Mr. Robert Leone, 27839 Riverside Drive, stated that he had issues with the ingress/egress to this subdivision and onto Riverside Drive. Riverside Drive is a secondary road. It can not support this development. This particular section of Riverside Drive is used for recreation. The Commission can not allow Riverside Drive to turn into another Quantico Road. The road is only 18 ft. 4 inches wide in this area. Mr. Leone stated that he was surprised that the land would perc. During the last big rain, it looked like a swimming pool on this property. There are two (2) tidal creeks and

anything going into the creeks will be harmful. Mr. Leone requested denial of the subdivision.

Mr. Paul Carey, Riverside Drive, stated that he understood that the developer could do this a section at a time but requested to see the entire development. This section of the road is fertile ground for the Maryland State Police and the Wicomico County Sheriff's Department. He requested that the Commission not let this become a dense development.

Mr. Kevin Adams, Sharps Point Road, stated that when the tractors were doing the percs on this property, they got stuck. He added that he was concerned that the septic tanks would float up and onto his property.

Mr. Parker stated that the project was proposed years ago by Mr. Tucker. The Health Department has been out extensively. There are areas of high water tables on the property. The sites shown on the plat the Health Department will sign off on. As far as the concerns regarding Riverside Drive, the issues will be taken up with the Public Works Department once there is a preliminary plat that will allow for funding to be secured. The engineering on the road can not be done until there is a confidence for approval. Section 2 was shown before. The soils are fluctuating in this area. Mr. Parker added that the Commission had the ability to say that only a certain number of lots would be permitted.

Mr. Wayne Foltz, interested party, questioned if the County could condemn the needed property to obtain the ingress/egress into this subdivision. Mr. Dashiell responded that condemnation of property was premature because the applicant was only requesting a preliminary approval and must go through the Public Works Department for approval for the road.

Mr. John Groutt, Cooper Road, stated that the preliminary approval would come back to haunt if it was given at this meeting.

Mr. Robert Leone, Riverside Drive, questioned Mr. Parker where the chemical and septic would leach to. Mr. Parker responded that the septic fields within the hatched areas shown on the plat would hold the chemicals and septic. All existing sewage areas go to the same place. Mr. Parker added that all sewage areas are designed per COMAR regulations.

Mrs. Bartkovich questioned what type of septic system had been approved. Mr. Parker responded that sand mound systems have been approved. He added that he has to put trust in the Health Department regarding what type of systems to install. Mr. Parker added that he would be installing 2 ft. of sand and pipe.

Mrs. Bartkovich questioned how many private properties he would need to get land from. Mr. Parker responded that it would depend on where the lengths for the accel/decel lanes would go and where the entrance would be located.

Mrs. Bartkovich questioned if the County would need additional right-of-way. Mrs. Phillips responded that the right-of-way will be needed but it will be determined by where the entrance to the subdivision is located. Mr. Parker added that the developer will not approach the property owners for right-of-way acquisition until there is a preliminary approval. The solution that had been proposed with Mr. Tucker's sketch is no longer feasible so it will have to be reworked.

Mr. Eric Johnston stated that he had water running down onto his property.

Mr. Dashiell stated that there are issues related to the Health Department in regards to the water table. He stated that additional information may be needed from the Health Department. Mr. Dashiell suggested that the public was requesting to limit the number of lots in Phase II so that they would know exactly how many lots the entire subdivision would have. The access issues are already addressed in the conditions of approval. Mr. Parker stated that the sewage issues must be approved by the Health Department or there won't be a project. In most projects, the percs are not even done at the preliminary approval stage but in this case the percs are completed.

Mr. Quinton stated that additional information may be helpful in this case. Mr. Rogers and Mrs. Bartkovich agreed.

Mr. Dashiell noted that the additional information needed was as follows:

- Access to the property
- Road limitations – specifically for bikers and joggers that use the roadway for recreational purposes and how to ensure that the access and safety concerns are addressed
- Information on the water table – specifically having someone from the Health Department at the next meeting to answer questions or provide more information
- Specificity of Phase II – Mr. Parker stated that he wasn't sure what he could provide for Phase II other than a statement from the developer

Mr. Dashiell stated that this is only a preliminary approval and not the final approval. There will be additional time to hear this project and to make further comment.

Mr. Lenox stated that they were not simply asking Mr. Parker to say that he has approved percs but for more of a global overview. In regards to access, the developer should contact the property owners who would need to give land for the

right-of-way. Additional information is also needed for the intentions for the last section of the development.

Mr. Parker stated that he could make contact with the neighbors about access as well as providing data from the Health Department regarding the percs.

Mr. Dashiell stated that the Commission relies on the experts at the Public Works Department and the Health Department in reviewing what is acceptable on a subdivision.

Mrs. Phillips noted that October 1st, 2012 is the drop dead date for House Bill 236. Anything in the tiers will have to conform after that date. Mr. Parker stated that he understood that preliminary approval would solidify grandfathering of this project. Mr. Lenox stated that the action being taken is under the subdivision control at this time.

Mr. Parker stated that the conditions include Health Department and Public Works approval and access. Mr. Dashiell stated that those issues could be considered at the final approval.

Mr. Dashiell stated that he would like to go into closed session to consult with Counsel. *Upon a motion by Mrs. Bartkovich, seconded by Mr. Rogers, and duly carried, the Commission went into closed session.*

The Commission resumed in regular session.

Ms. Lanigan stated that Senate Bill 236 grandfathering provision stated that the subdivision only had to be submitted by October 1, 2012 and this has been submitted, therefore it will be grandfathered. The subdivision must be approved by October 1, 2016.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **TABLED** the Preliminary Plat for Raegan's Run, Section 1, until the October 18, 2012 meeting to allow the applicant time to gather additional requested information and to have a representative of the Health Department at the meeting to discuss groundwater levels and protection for this area.



Rivermere – Concept Plan – 1 Lot – Cooper Road – M-55; G-12; P-163.

Mr. Steve Smethurst came forward. Mrs. Gloria Smith presented the Staff Report. The applicant has requested redesignation of Lot C from an “area ... to be conveyed to Richard F. Hazel” to a saleable building lot of 0.65 acres in size.

Mr. Smethurst stated that he was representing his family as he was an owner of the property. Rivermere is everything to the north and west of this property. It is a 300 acre subdivision with eight (8) lots. The lots are called parcels. Lot A is a private road that leads to the Robert Withy house. There is a central circle that the roads come off of and go to the parcels. It was deliberate that all parcels were given numbers and non-Rivermere lots were given letters. The redesign of Cooper Road was not planned when Rivermere was planned. The redesign of the road created Lot C. The community circle provides the only access to Cooper Road. Lot C is not part of Rivermere as a subdivision and is not subject to their homeowners association. MDE said that they wanted the driveways for Parcels 7, 8 and possibly 16 to come out to the county road to give less non-tidal disturbance. The County has no intention of abandoning the road. There is no just reason to wait for that if it can be proven that a house can be put on this lot. The lot has already been perced. The County owns the road bed. The only thing that a variance might be needed for is a setback from the existing road.

Mrs. Bartkovich stated that if the parcel doesn't have access then it is a landlocked parcel. Mr. Smethurst responded that there isn't anything that suggests that this lot is denied access to Cooper Road.

Mr. John Groutt, Cooper Road, stated that he read very carefully the recommendation of Staff. Mr. Smethurst is putting the cart before the horse. The County doesn't have the money to pay for moving the road. This is a 0.65 acre lot in an ag zone. The lot is located on a curve. The curve is too sharp. Mr. Groutt requested that the Commission immediately recommend to the County Executive and the County Council not to abandon the road. The only gain is to one (1) individual. This is a tiny lot in a community area to be planted in shrubbery. If anything was approved on a 0.65 acre lot in an ag area that should be 15 acres would be a travesty. The Staff Report notes that the 50 percent set aside can not be achieved. This should be a landscaped piece of land that should be left as it is.

Ms. Lanigan stated that Lot C is part of a recorded subdivision plat. The Commission could change the condition on vehicular access to Cooper Road if it so chooses. The 50 percent set aside is not an issue. Abandoning the road has to go through the County Executive and then to County Council for a public hearing.

Mrs. Phillips stated that Mr. Smethurst's property line would only leave a crescent area of buildable space.

Mr. Smethurst stated that he was not asking the County to spend any money and build a road. He was suggesting that when the new road is put in and the old road is abandoned that part of the old road go to this lot and the other part go to the Hazel Foundation property. A temporary setback variance will be needed to proceed with what is being proposed. This is a legal, existing lot. The 1:15 density does not apply because this is an existing lot. Lot C is not part of Rivermere subdivision. Mr. Smethurst stated that he was asking for the Commission to say that there was no reason for the County to abandon the road and build a new road. He added that he should be allowed to proceed with the development plan and get the variance if needed. There is no plausible basis that denied access should apply to Lot C. He stated that he hated to go to the Circuit Court to get this through.

Mr. Dashiell stated that this wasn't the Commission's doing and it was done with the original subdivision plat. Mr. Smethurst stated that this is a consequence of relocating the road.

Mrs. Bartkovich stated that this is really a landlocked parcel because there is no legal way to access the lot. Mrs. Phillips stated that on the recorded plat it was stated that this would be absorbed into the Richard Hazel property when it was transferred. Mrs. Bartkovich added that there is no access to a County road. Mr. Smethurst stated that he was under no requirement to deed the property to Mr. Hazel.

Mr. Dashiell stated that there was denied vehicular access to Cooper Road. Mr. Smethurst requested that the condition be modified to allow Lot C to be a buildable lot. Mrs. Bartkovich questioned if the Commission had that authority. Ms. Lanigan responded that the Commission can change the condition of approval. She added that the first step would be to reclassify Lot C to a buildable lot and then to give it access.

Mr. Dashiell suggested tabling the request to get additional information. Discussion followed regarding submission of a preliminary plat and a request to modify the Conditions imposed on Rivermere.

Ms. Lanigan stated that there needed to be something submitted that could be acted on so a preliminary plat would allow for action. Mrs. Phillips added that the actual property line needed to be shown on the plat.

Mr. Dashiell stated that Mr. Smethurst needed to come back with a format submittal that the Commission could act on.

Mr. Smethurst stated that he would resubmit and request that the access restriction be eliminated.



There being no further business, the Commission meeting was adjourned at 5:26 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 R. Tull, Recording Secretary