
MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on December 15, 2011 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
Tim Spies
Jacob Day

CITY/COUNTY OFFICIALS:

Mary Phillips, County Public Works Department
Henry Eure, City Building, Permits and Inspections Department
Maureen Lanigan, Assistant County Attorney
Brian Wilkins, City Public Works Department

PLANNING STAFF:

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



The meeting was called to order at 1:34 p.m. by Mr. Dashiell, Chairman.



Minutes:

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the minutes of the November 17, 2011 meeting as submitted.



Mr. Lenox explained that there are several plans out there that are about to expire. There are time limits between the preliminary and the final plans. Recordation of the final plan must be done within three (3) years of the approval. The County Council has legislation pending to amend the subdivision control ordinance to enact a two (2) year period to allow automatic extensions for a two (2) year period. This will not affect any plats that have already expired and would prevent the extensions from being heard by the Commission.



#SP-1103 PUBLIC HEARING – TEXT AMENDMENTS – SALISBURY MUNICIPAL CODE – Public Notice Procedures – Section 17.04.150 in Article III.

Mr. Dashiell asked anyone wishing to testify in this matter to stand and be sworn in. Mr. Lenox read the ad and administered the oath. Mr. Dashiell explained the public hearing procedure.

Mrs. Gloria Smith presented the Staff Report and all accompanying documentation into the record. The Salisbury City Council has been reviewing Safe Streets Legislation proposed by the Mayor, including amendments related to Salisbury Board of Zoning Appeals procedures. The City Solicitor's Office has prepared a Draft Ordinance to amend the Public Notices section of the Zoning Code – Section 17.04.150. In accordance with the requirements of Section 17.228 of the Salisbury Municipal Code, the Planning Commission must hold a Public Hearing on proposed Text Amendments to the Code. The Commission must forward a recommendation (within six months) to the City Council. The City Council must also hold a public hearing before granting final approval to Code text amendments (by Ordinance).

Mr. Lenox explained that this is part of a larger legislative package under consideration by the City Council. This addresses issues about the sign on the property and mailing notices to adjacent property owners. This legislation will have some ramifications for the Planning Commission in regards to map changes.

Mr. Spies questioned if he should recuse himself since he helped draft the legislation. Mr. Lenox responded in the negative as there was no conflict.

Mr. Magill questioned who would enforce the property owner maintaining the posting. Mr. Lenox responded that the Staff would repost the property if notified that the sign was gone.

Mrs. Bartkovich questioned the boundary line if the right-of-way for the City ends at the sidewalk. Mr. Lenox responded that the right-of-

way for the City ends at the back of the curb. The sign would be placed on private property.

Mrs. Bartkovich questioned Section B 3(c) as to why the size of the property was included. Mr. Lenox responded that there was a question as to what area meant so the language was changed to the size of the property. Mrs. Bartkovich stated that she didn't see why the size of the lot makes a difference.

Mrs. Bartkovich questioned why it wasn't stated which body was hearing the case in the listing. Mrs. Smith responded that a copy of the ad is mailed with the notice. Mr. Lenox added that the name of the Board could be added to the amendment.

Mr. Day questioned if there was any circumstance where the proposal could go before any other body than the Salisbury Board of Zoning Appeals. Mr. Lenox responded that the Planning Commission could also hear a case. Mrs. Bartkovich stated that the City Council could be the body hearing the case. Mrs. Smith questioned if the City Historic Commission could be considered as well. Mr. Lenox responded that there is a discussion as to whether the City Historic District will fall under this legislation. Mrs. Bartkovich stated that she would like to see the body listed in the legislation.

Mr. Day suggested changing D, E, and F to 3, 4, and 5 and then changing G to D in the ordinance under Notice to Adjacent Property Owners.

Mrs. Sue Ellen Smith, 401 N. Division Street, questioned if the sign posting would be required for the Salisbury Board of Zoning Appeals and the City Historic Commission under the City Planning and Zoning umbrella. Mr. Lenox responded that NSCC staffs the City Historic Commission. The question has recently come up as to whether the procedures are the same as for the Salisbury Board of Zoning Appeals. The procedures should be the same if they are falling under this title. This is a question that has to be resolved at the City Council. Mrs. Sue Ellen Smith questioned if the sign didn't remain posted for whatever reason shouldn't the ordinance discuss the signage staying up. The sign should be posted for a period of time. Mr. Dashiell stated that the intention is to make the property owner responsible. Mrs. Sue Ellen Smith questioned if there were any consequences should the sign not stay up. Mr. Lenox responded that the issue is the placement of blame but a citation could be issued if blame can be determined.

Mrs. Kay Gibson, 103 E. Isabella Street, commented that there are signs that disappeared. Specifically there was an issue with a property on

Poplar Hill Avenue where the sign kept disappearing. The signs were either being taken down or the notice was being removed from the sign. There is a need for someone to be responsible. She stated that she appreciates this part of the legislation.

Mr. Day questioned the consequences of the citation for removing a sign. Mr. Eure responded that his office can issue a citation at \$500/day but that the boundaries are not clear about how this would work.

Mrs. Bartkovich questioned Mr. Eure if that was something that needed to be added. Mr. Eure responded that it might make enforcement easier if a time was determined on how long the sign could be gone before a citation was issued. Mr. Spies stated that this had been discussed. There has also been discussion about including notification of the neighborhood association president as well as the 200 ft. adjacent property owners being notified. He stated that this could fall under C in the Notice to Adjacent Property Owners and added as #6. Mr. Rogers suggested adding to C #1.

Mr. Day questioned if there was a database of the neighborhood association presidents and how would the applicant or appellant get that. Mr. Spies responded that the applicant or appellant could contact the City Clerk's office to obtain the database. Mr. Lenox explained that Staff would do the notifications, but there's a clause that the hearing can proceed even if there is a technical difficulty with the notices. Staff is reliant on the Tax Records, which often change.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Magill, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Mayor and City Council for the Text Amendments to the Salisbury Municipal Code as amended. The amendments recommended by the Commission would provide further consistency between the newspaper advertisements and the posting information on the properties. The amendments include the notification of neighborhood or homeowner associations; in section 17.04.150.C.2 the addition of item f – the name of the government body conducting the proceeding, renumbering of items D, E, and F as items 3, 4, and 5 and re-lettering item G as item D.



#SP-0210-11B SIGN PLAN – Salisbury Steak Restaurant at The Fountains Conference Center – Lot #1A – 1800 Sweetbay Drive – Regional Commercial District – M-110; G-6; P-4487; L-1A.

Mr. John Selby and Mr. Ottis Gus Traintis came forward. Mrs. Gloria Smith presented the Staff Report. Selby Sign Co., on behalf of the applicant, has submitted a request for a Sign Plan approval for modified wall signage for the restaurant within The Fountains Conference Center.

Mr. Selby stated that Mr. Traintis was at the meeting representing the owners. The new signage matches most of what exists now. The only addition to the sign is Salisbury Steak.

Mr. Spies questioned if Sign E was being removed from the present location or just changed. Mr. Selby responded that it will remain.

Mrs. Bartkovich questioned if the sign colors were the same as before. Mrs. Smith responded that the proposed sign colors were not from the previous approvals. Mrs. Bartkovich questioned that the colors would need to be added with this approval. Mrs. Smith responded in the affirmative.

Mr. Spies stated that Sign E is a very busy sign. Mr. Traintis stated that they had done a lot of work inside the building. There are a lot of birds throughout the inside of the restaurant so the name may change in the future. Mr. Eure stated that they could change the name without coming back to the Commission if the signs were the same size and color.

Upon a motion by Mr. Magill, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Sign Plan modifications requested for The Fountains Conference Center restaurant as submitted, including the existing colors on the "Lagoon Bar & Grill" sign.



**#SP-0403-11E PRELIMINARY COMPREHENSIVE DEVELOPMENT PLAN –
Woodbrooke Medical Lots #9 & 10 – Woodbrooke Drive – Light
Bus. & Institutional District – M-110; G-21; P-2247.**

Mr. Brock Parker and Mr. Palmer Gillis came forward. Mrs. Gloria Smith presented the Staff Report. Parker & Associates, on behalf of the applicant, has submitted a Preliminary Comprehensive Development Plan for construction of Buildings A & B on Lots #10 & 9 at Woodbrooke Medical. The proposed buildings are 8,550 sq. ft. (Building A) and 8,500 sq. ft. (Building B). A combined Site Plan (for both properties) was submitted for Commission review and a Forest Conservation Relocation Plan was also submitted for County Council review and approval.

Mr. Parker stated that other than the forest conservation, this is a straight forward plan. The plan keeps with the upscale development that Woodbrooke is. The forest conservation is due to the need for a drainage outlet. This plan was designed under the new stormwater management regulations. Mr. Parker added that they were trying to do as much on site as possible but were still shy about 0.2 acres.

Mr. Magill questioned Mr. Parker that they couldn't find 0.25 acres of bushes to put on the site. Mr. Parker responded that they were pretty full on-site but would rather spend the money on the site than anywhere else. Mr. Gillis added that on May 4, 2010 they got a new set of rules to adhere to. Mr. Magill questioned if there were areas in the common space on-site, possibly in the circle. Mr. Gillis responded that the circle will be landscaped but that there is concern about visibility in the circle if trees were to be planted.

Mr. Spies questioned if there was any room for recycling bins in the dumpster area. Mr. Gillis responded that it will be up to each owner to do recycling. Mr. Spies questioned if the pads would be large enough to handle recycling bins. Mr. Parker responded in the affirmative.

Mr. Day questioned if there was a materials list. Mr. Gillis responded that the building would be more brick and less dryvit, taking on more of a residential look similar to East Park Professional.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Preliminary Comprehensive Development Plan for G2 Properties/Woodbrooke Medical Lots #9 & 10, subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with an approved Final Comprehensive Development Plan. Minor plan adjustments may be approved jointly by the Directors of the Building, Permits and Inspections and Planning and Zoning Departments.
2. In the event the buildings are converted to Condominium ownership, the Condominium Documents must be reviewed and approved by the Salisbury Planning Commission in accordance with Code requirements.
3. Approval of the Forest Conservation Relocation shall be obtained from the Wicomico County Council.
4. Subject to further review and approval by the Salisbury Public Works Department.



#SP-9103-11F SIGN PLAN AMENDMENT – Aydelotte Commons – 1496 Still Meadow Blvd. – The Villages at Aydelotte Farm PRD #7 – M-29 & 39; G-24 & 6; P-312 & 219.

Mr. Greg Steere came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Steere and Dr. Debbie Steele-Moore have submitted a Sign Plan amendment request for the Aydelotte Commons Shopping Center at 1496 Still Meadow Boulevard. A small box sign (less than 6 sq. ft.) is proposed in conjunction with the individual channel letter sign.

Mr. Steere stated that he had no objections to the box sign. Unit F will not have a box sign. Dr. Steele-Moore has the end unit. He added that he wasn't aware that the fitness center had not obtained a permit for their sign.

Mrs. Bartkovich stated that she didn't like the Buddy Chatham sign because it didn't mesh in the shopping center. She questioned if the 911 address was going to be on the building for every tenant and not just the gym.

Mr. Steere explained that the numbering above the gym was the 911 address for entire building and each tenant had a unit letter.

Mr. Rogers stated that the red background with white letters is much more appealing.

Mr. Eure stated that Pretty Paws received approval and a permit but the gym didn't get permit and a letter has been sent this week advising them that they needed a permit.

Mrs. Bartkovich questioned if the letter specified what sign had to be changed to. Mr. Eure responded in the affirmative, explained that he had given direction on what needs to be done.

Mr. Spies questioned if they had considered making the second line a little larger and dropping it down a little. Mr. Steere responded that he couldn't answer that question.

Mrs. Bartkovich questioned if the Commission needed to be specific so that the Gym sign did not get approval. Mr. Eure responded that the Commission needed to be specific.

Mr. Dashiell questioned Mr. Eure if there needed to be a recommended sign size. Mr. Eure responded that the sign being proposed is the typical size.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Sign Plan Amendment for Aydelotte Commons, to permit signs as follows:

- A. A single row of individual channel letters not exceeding 24 inches in height or 75 percent of the width of the storefront. **OR**
- B. A single row of individual channel letters and a minor box sign. The box sign shall not exceed 8 inches in height and the combined height of the channel letters and the box sign shall not exceed 24 inches. A logo may be included in front or in back of the channel letters provided the logo does not exceed the letter height and the length of the sign, including the logo, does not exceed 75 percent of the storefront width.
- C. The gabled-end units may utilize two rows of individual channel letters not exceeding 12 inches in height per row and not exceeding 50 percent of the storefront width.

- D. The approved letter color is red. The color combination for the minor box signs or logo signs shall be white letters or design on a red background.



COUNTY SUBDIVISION/SKETCH PLAT:

Nithsdale, Section 13 – Preliminary/Final – 5 Lots – North Nithsdale Drive – M-37; G-20; P-293.

Mr. Steve Fuller and Mr. John Marshall came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of 5 lots from this 64 acre parcel. All lots will front and have access on the easterly side of North Nithsdale Drive.

Mr. Fuller stated that he had received Mr. Wigley's letter and would locate their well and comply with the buffer from the well. He added that he didn't think that the 20 ft. buffer from that property line would be an issue. Mr. Fuller stated that he had concerns about Condition #7 regarding the future street. There isn't a future street proposed and would like to not have to provide a future street across the farm property. Mr. Marshall intends to farm the property at this time.

Mrs. Bartkovich questioned if there had been a discussion about an emergency access to N. Nithsdale Drive. Mr. Rogers stated that there had been a discussion about a street to Scotland Parkway.

Mr. Lenox stated that the prior discussion is not applicable because it was a totally different project.

Mr. Day questioned if he could assume that this was remnant of comments made on a previous plan. Mrs. Smith responded in the affirmative.

Mrs. Phillips stated that Mr. Redden asked that the condition be added back in for the future street purposes. Mr. Fuller stated that if they provided that future street that the road would be built through the Critical Area. With the current County standards, this would only allow for one (1) lot or maybe two (2) due to the Critical Area requirements.

Mrs. Bartkovich questioned if the paper street would still have an impact. The street would be the responsibility of the Homeowners Association. Mrs. Phillips stated that they were asking for a reservation of the future street. The Homeowners Association would have to maintain the area and it would be like a pipestem. Mr. Day stated that providing access wouldn't be a concern from a public safety standpoint. Mr. Rogers voiced his agreement.

Mr. John Groutt, representing WET, questioned if there was a reason why the developer chose the Critical Area rather than through the space left in farming. Mr. Fuller responded that N. Nithsdale Drive is already constructed and Pemberton Drive is a major collector road so they would have only been able to have three (3) lots. The area along Pemberton Drive is already being farmed. Mr. Groutt stated that approximately 1.5 acres will be cleared. Mr. Fuller stated that the trees were planted under the ag program and they are all pine trees. Mr. Groutt stated that the water quality needs to be considered.

Mr. John Marshall stated that Nithsdale is still considered very valuable and that these lots will help pay for the farm. The land that is being proposed for development is all unusable farmland and all the Critical Area requirements are being met.

Mr. William Wilson, 5711 Nithsdale Drive, stated that this area is all wooded. He questioned if it would be part of the Nithsdale Homeowners Association and conform to the covenants of Nithsdale. Mr. Fuller responded in the affirmative.

Mr. Wilson questioned if there would be a landscape buffer against the current lots. Mr. Fuller stated that trees would be planted. Mr. Wilson questioned the 20 ft. drainage/maintenance easement. Mr. Fuller replied that the easement would be for the farming operation for future outfall for stormwater and it would be underground. Mr. Wilson stated where the easement comes out is a stormwater drain that empties to Rockawalkin Creek and at certain points it floods. He stated that there was concern for what would go into the creek. Mr. Fuller stated that the easement would be for the use of the landowner and would run with the property. Mr. Wilson stated that he was very opposed to the connecting road. There are already issues with high speed. He added that he was also opposed to a road connecting to N. Nithsdale Drive.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Preliminary/Final subdivision for Nithsdale, Section 13, 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 Critical Area Program and Certificates of Compliance shall be obtained as the lots are developed.
4. This subdivision shall comply with the requirements of the Forest Conservation Program.
5. Development on the individual lots is subject to the Stormwater Management Regulations.
6. All lots shall become a part of the Nithsdale Homeowners Association.
7. A 20 ft. planted buffer shall be provided along Nithsdale, Section 7, Block 'G' and also along Lot 47, Block 'A' in Nithsdale, Section 11.
8. This approval is subject to further review and approval by the County Department of Public Works.

**Knolls at Barren Creek, Section 2 – Sketch Plat – 3 Lots – Mill Branch Road – M-17; G-6; P-186.**

Mr. Brock Parker and Mr. John McIntyre came forward. Mrs. Gloria Smith presented the Sketch Plat Report. The applicant proposes the subdivision of 3 lots averaging 3.56 acres each from this property on the northerly side of Mill Branch Road. All new lots will have frontage on Mill Branch Road. The land area is in the TT- Town Transition zoning district just south of Mardela Springs.

Mr. Parker stated that there was extensive history to this property. The current proposal is the only feasible style that can be done. The principal dwellings are outside the Critical Area. The lots that front on Athol Road satisfy the Critical Area regulations. The property is zoned Town Transition which allows for a liberal residential development. Mr. Parker added that they were trying to address the environmental concerns as well as the neighbors concerns.

Mrs. Bartkovich questioned if the TT was in the County Zoning. Mr. Lenox responded in the affirmative.

Mr. Magill stated that the North arrows don't match with the site maps.

Mr. Jerrold Marshall, 9393 Athol Road, stated that he was concerned about the TT zoning. The Town of Mardela Springs deleted that portion from their TT because it was too ambitious. Mill Branch Creek is perennial nontidal and has direct drainage to Barren Creek which then goes to the Nanticoke River and eventually dumps into the Chesapeake Bay. The goal is to stop pollution to the Bay. The plat impinges into the RCA/LDA areas of the Critical Area and anyone who does anything will have to come to the County. Stormwater management is an issue. There is already flooding at Mill Branch intersection when there are heavy rains. There is a letter from the Critical Area Commission recommending that this project not happen. Mr. Marshall requested denial of this project.

Mr. Woody Maloney, 9333 Athol Road, stated that Mill Branch Creek is really tidal regardless of what's said. The house in the south corner's sewage would get to Mill Branch Creek within 24 hours. He discussed the letter from the Critical Area Commission from 2010 which stated that they were against any development on this property.

Mr. John Groutt, representing WET and the Friends of the Nanticoke, stated that he agreed with the previous speakers. The entire area is in a GI Hub that has the highest score in the State. This area is surrounded by ag lands. This area also has a high failure rate for septic systems. The sensitive areas must be protected. He read information from Judge Jackson's decision regarding the Commission's discretion. Furthermore, he stated that the infrastructure isn't there. Mr. Groutt added that Lot 4 was completely in the RCA and he wasn't sure how a house would get on that lot. There have already been lots subdivided out of this property. The WIP is being developed and this development goes against all the BMP's. If this development is approved, it will have to be subsidized by every member of this County to protect the water. Mr. Groutt requested that the Commission discourage development of this property.

Mr. King Burnett, 8579 Riggins Road, stated that this is one of the most rural areas in the County. It is surrounded by large farms and woods. There are multiple ordinances to protect this area. Mr. Burnett requested that the developer reconsider this project based on the comments heard at this meeting.

Mr. McIntyre stated that he met with the Town of Mardela Springs and offered to put this property in the Open Space Program and they refused him. This has been an on-going process.

Mr. Jerry Marshall stated that they had met with Mr. McIntyre and that it was a cordial meeting but that the money isn't there to fund a park at the price at \$450,000.

Mr. Woody Maloney suggested keeping the property in ag production as it was done when it was purchased.

The applicants were advised to proceed with a preliminary plat submittal, giving consideration to the comments received.



Commission Discussion – Draft County Comprehensive Plan.

Mr. Keith Hall and Mr. Jack Lenox came forward. As part of a continued discussion from the November meeting of the Planning & Zoning Commission, Mr. Hall provided an overview of Worcester County's Consolidated Development Rights Subdivision permitted in the A-2 and E-1 Zoning Districts. He explained how it was similar to a TDR. Development rights may be transferred between contiguous parcels which are under the same ownership as of the effective date of section § ZS 1-309. The density permitted in their A-2 Zoning District is equal to the total of the gross number of divisions remaining for each parcel with a maximum density not to exceed twenty lots. Mr. Hall stated the subdivision development rights from a transferring parcel used to calculate the gross number of divisions shall meet the definition of a lot. Therefore, the lot from the transferring parcel shall not have less than 2,500 square feet of buildable lot area and reasonably capable of supporting a conventional septic system.

Mr. Day questioned if package treatment systems were allowed. Mr. Hall responded that Staff would conduct additional research regarding the use of package treatment plants in the A-2 Zoning District.

Mr. Magill questioned Mr. Hall regarding how the transfers worked. Mr. Hall explained the system of transferring rights in Worcester County. Mr. Magill questioned if all transferable rights had to be done in the A-2 District.

Mr. Hall responded that the transferable rights could go to the A-2 District or the E-1 District.

Mr. Day questioned the minimum lot size in the receiving parcel. Mr. Hall responded the minimum lot size is no less than 40,000 square feet and not to exceed 90,000 square feet within a Consolidated Development Rights Subdivision located in the A-2 District.

Mr. Hall discussed the revised PPA map version 4A. Mr. Hall displayed the new version of the draft PPA delineation and discussed the difference between the previous and current draft versions of the working maps. He pointed out the reduction of the area proposed to be within the PPA located in the NW portion of the County. This area was reduced because the soils are conducive to prime agriculture, as well as their ability to support septic systems for residential dwellings. Additionally, he noted there is an area South of Hebron where the existing development pattern rationalized the need to eliminate this area from the proposed PPA. There is also an area near the Villages of Nanticoke and Tyaskin that has been removed because the lots size will no meet the minimum requirements to be eligible for the purchase of an agricultural easement. As compared to the previous version of the PPA map presented to the Commission in November (Version 4), the SE portion of the County didn't have any other considerations for elimination of lands. Mr. Hall explained that Staff was seeking approval of the Commission to move forward with the analytical work. Mr. Day questioned if the Wetipquin area was where the County might want to target preservation funds. Mr. Hall responded that the Wetipquin area could be a prime preservation area based on the prime agricultural soils.

The Commissioners reached a general consensus to proceed with the analysis based on the area delineated on the PPA version 4a map.



There being no further business, the Commission meeting was adjourned at 4:46 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