
MINUTES

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

COMMISSION MEMBERS:

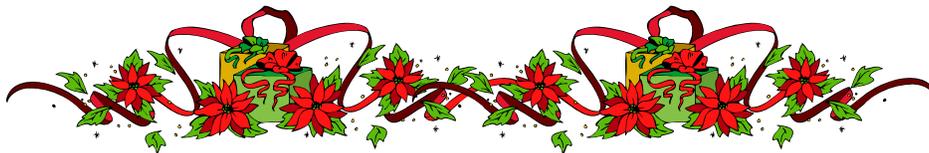
Charles "Chip" Dashiell, Chairman
James W. Magill (Absent)
Gail Bartkovich
Glen Robinson
Scott Rogers
Gary Comegys (Absent)
Jacob Day

CITY/COUNTY OFFICIALS:

Maureen Lanigan, Assistant County Attorney
Bill Holland, City of Salisbury, Director; Building, Housing and Zoning
Steve Smith, City of Salisbury Building Inspector
Ed Torbert, Wicomico County Chief Fire Protection Specialist
Kevin Wright, Fire Safety Inspector

PLANNING STAFF:

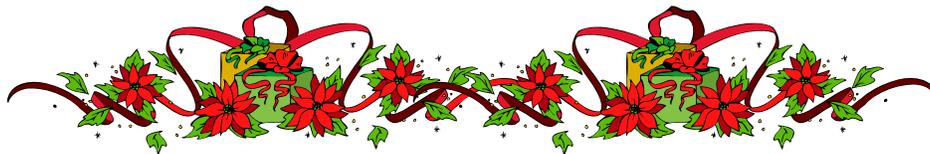
Jack Lenox, Director
Gloria Smith, Planner
Robin Ayele, Planner
Melinda Lewis, Recording Secretary



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

**Minutes:**

Upon a motion by Mrs. Bartkovich, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the minutes of the November 18, 2010 meeting with a correction on Page 5.

**Public Hearing/Ordinance Permit:****Word of Life Center Church – 504 Delaware Avenue – M-104, G-19, P-1867.**

Reverend Roosevelt Toussaint came forward. Mrs. Gloria Smith entered the Staff Report and accompanying documents into the record. The applicant proposes continued operation of a Church in this existing building on Delaware Avenue. Section 17.72.040K of the Salisbury Municipal Code requires approval of an Ordinance Permit in order to operate a Church in the Industrial District. The Planning Commission is required to review the request at a public hearing and make a recommendation to the City Council. The City Council will then review the request at a public hearing. Only the City Council can grant approval of an Ordinance Permit.

Mr. Toussaint first stated that he was pleased that staff had changed their recommendation to "Favorable." He elaborated that he and the landlord had made many changes to the building and were in contact with the city departments to get the building up to code. He cited that of the 18 violations from the Fire Safety Division, all violations had been addressed and only 2 or 3 remained. He asked that the inspections be done in the next 2 or 3 days. He also stated that the church had been serving the community and specifically the Haitian immigrants to this area since 1994 when they were incorporated. He added that they are also a non-profit 501(c)3 organization. He said while they might be able to meet at another location, most of the congregation would not attend because of the language barrier or other circumstances. He said the church's goal is not only to spread the word of God but it also helps ensure Haitians assimilate into American Society by providing classes on English, computers, culture and other subjects of this country.

Mrs. Bartkovich asked if the building was owned or leased by the church and if they had permission from the landlord for the additional parking requirements. Mr. Toussaint stated that they lease for a very reasonable rate and that the landlord has actively assisted with making the building code compliant. Ms. Bartkovich then asked Mrs. Smith if it was advisable to have a letter from the landlord approving of the additional parking for use by the church. Mrs. Smith stated that the letter could be one of the conditions for approval. Mr. Eure stated that he spoke with the property owner and that the property owner had provided the information on the additional parking area.

Mrs. Bartkovich then asked if services were still being held in the building. Mr. Toussaint responded that most of the life safety issues have been addressed. Mrs. Bartkovich asked of staff if the City Council had to hold a hearing on this which Mrs. Smith responded that she was correct.

Ms. Shanie Shields stated that she did not see why parking spaces were an issue since at many other churches, she has seen parking on both sides of the street. This could also be acceptable on Delaware Avenue. She also stated that she was happy that staff had changed their recommendation to "Favorable."

Mr. Ed Torbert stated that some life safety issues were still outstanding and the commission should keep that in consideration. He elaborated that panic hardware on doors was not installed and hand rails were not available in stairways. Mrs. Bartkovich asked Mr. Torbert if the building was able to be used at this time. Mr. Torbert responded that he would not recommend the building be occupied at this time. Mr. Toussaint reiterated that the fire walls and fire-rated doors had been installed and could be in compliance in a matter of days. Mr. Torbert stated that his point is that they are not through the inspection process at this time. Mrs. Bartkovich and Mr. Dashiell agreed that this should be addressed as a condition of approval. Mrs. Bartkovich asked how soon inspections would be done. Mr. Torbert stated that he is willing to schedule as soon as contacted.

Mrs. Bartkovich then asked if the city building department had any issues with the building. Mr. Holland stated that the church is trying to comply and has made progress but can not issue a Certificate of Occupancy until the City Council approves the Ordinance Permit. Mrs. Bartkovich asked staff about the approximate time frame for approval from the city council. Mr. Lenox noted generally it takes two public notices two weeks ahead of a meeting and three meetings at a minimum. City Council likes to make the initial comments, set a hearing, and then adoption.

Mr. St. Fleur addressed the Commission. He thanked all the city departments and inspectors for bringing the building up to code. He expressed his love for the city and residents of the city and this country. He asked that the church be given temporary operation permission. He stated that the building would be ready for

inspection tomorrow and would like to keep the people in church and off the streets. His goal is to make good citizens and promote good things in the community.

Elder Daniel Appleby stated that he was a local pastor and new to the community. He would like to speak on the value of this church in particular. He explained that the Reverend Toussaint has served as an interpreter for the public schools here in the county. The church helps the Haitian population learn English, and helped the Haitian people after the earthquake as many had family in that country.

Mr. Robinson stated that the church says they can comply in a couple of days. The Commission shouldn't prohibit their operation. Mrs. Bartkovich stated that the Commission's responsibility in this case is a "yes" or "no" to the City Council. Mr. Dashiell stated that he wanted to be clear to the applicants that the Commission's purpose or role in this instance is only to recommend or not, to the City Council.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Day, and duly carried, the Commission **GRANTED** a Favorable Recommendation with conditions as listed below.

CONDITIONS:

1. The applicant submits a revised formal site plan showing the parking concerns have been addressed.
2. The property owner submits a letter approving the parking arrangement.
3. An approval or inspection report stating/showing that all life safety issues have been corrected and/or addressed from the City of Salisbury Building, Housing and Zoning Department and the County Fire Safety Division.



EAST PARK –SIGN PLAN AMENDMENT REQUEST:

Easter Seals – Belmont Avenue –Light Business and Institutional District- M-121, G-14, P-2580.

Mr. John Selby and Ms. Pam Ruther came forward. Mrs. Gloria Smith presented the Staff Report. Easter Seals leases space in Building 5 in East Park Professional Center and wishes to install a sign containing their red logo seal.

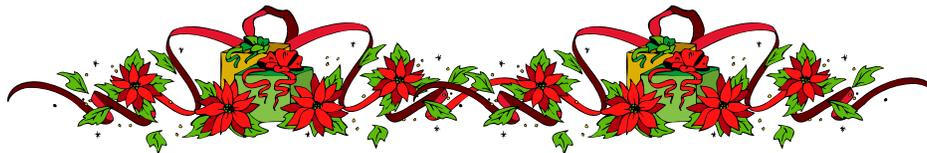
Mr. Selby stated that this request is for two signs, one for each entrance and they are leasing two units. One sign faces east and the other faces Route 50.

Mrs. Bartkovich asked if the signs were within the square footage permitted. Mrs. Smith responded that the signs appear to meet what the sign plan envisioned.

Ms. Ruther stated that Easter Seals serves over 500 children and that 20 percent of the families they serve are not literate. The logo makes the office easier to locate and the color helps make the logo more recognizable.

Mrs. Bartkovich asked if there was a sign there already. Ms. Ruther stated that the temporary sign they have placed there is made of posterboard and is not holding up in the weather.

Upon a motion by Mr. Day, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the revised Sign Plan for East Park Professional Center – Easter Seals.



GATEWAY CROSSING –SIGN PLAN AMENDMENT REQUEST:

Oak Ridge Baptist Church – 361 Tilghman Road –Regional Commercial District- M-110, G-16 & 17, P-2449.

Mr. John Selby and Mr. Mark Reynolds came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose installation of a new sign on the new building elevation for their portion of this shopping center.

Mr. Selby stated that this request is for one large sign that has 176 feet of frontage. The church occupies four tenant spaces and this sign is considerably smaller in allowable space than if there were four individual tenant signs. He added that each letter is individually lighted and the tree leaves are raised, creating a softer look to the sign with shadows and eliminated the “haloed” effect that a lighted box creates. Mr. Reynolds said that this was in the “master plan” for the center and the church was excited to dress up the center.

Mr. Eure asked the Commission to clarify if they were approving one (1) or four (4) signs. Mr. Selby added that it would help the building department assess the fees for the sign.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the revised Sign Plan – One New Wall Sign for Oak Ridge Baptist Church.



CITY/COUNTY SUBDIVISION PLATS:

Davis White Farm- Preliminary Plat Approval – 29 Lots – Davis Road – M-23, G-9, P-45, 86.

Mr. Steve Smethurst, Mr. Mark Sanson and Mr. Darryl Volney came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes to subdivide 29 lots from a 115 acre parcel. Average proposed lot size is approximately 1.5 acres. All newly created lots will have access to and frontage on the proposed interior street. The plat proposes 5.19 acres of roads and 72.19 acres of common area.

Mr. Smethurst stated that a change in ownership interest in K&M Associates resulted in the lapse of approvals. He made the following points in support of the subdivision;

- Only one other airpark on the Eastern Shore; Kentmore on Kent Island
- Small market for this type of home
- Kentmore homeowners hardly see planes take off or land
- No requirement to keep a plane at homes in the subdivision
- Airstrip is existing
- Because of the small volume of air traffic, there is no control tower and also no one running into anyone else
- As discussed in previous hearings, no conflict with nearby Salisbury/Wicomico Regional Airport

Mrs. Bartkovich inquired if the concerns of Pittsville Fire Department had been addressed, namely the problem with the cul-de-sacs in the development. Mr. Volney, an engineer with Messick and Associates, stated that there was now a connection between the cul-de-sacs across a small portion of the taxiway essentially eliminating the need for fire trucks or large vehicles to turn around in emergency situations.

Mrs. Bartkovich then proceeded to ask about compliance with stormwater regulations for the development. Mr. Volney stated that County Public Works had issued a waiver for the development and would have to comply and do comply with the previous regulations.

Mr. Dashiell inquired about attachment #3 showing 3 taxiways, and a 4th which shows no development on the drawings, just lots #22-29. Mr. Smethurst explained that the Health Dept has not perked those lots yet and the Health Department would ultimately determine the number of lots. This development will be done in phases and that taxiway is proposed to serve those lots.

Mr. Day asked if the airfield was currently in use and if numbers of landings and/or takeoffs were recorded. Mr. Smethurst responded that he was not aware of any logs but there are very few take-offs or landings at the airfield presently. Mr. Day inquired if there were statistics for the Kent Island subdivision, particularly the number of take-offs and landings per household. Mr. Smethurst replied that there is no control tower and no logs at that subdivision.

Mrs. Bartkovich asked if the airstrip was made of grass. Mr. Sanson said, "Yes." He further elaborated that the development is restricted to single-engine airplanes, landing and take-offs during daylight hours only. He also explained that ultra lite aircraft were also not allowed.

Mr. John Grout stated that the development should not be approved because it is located far outside the metro core, does not preserve the predominantly rural area, and is located in an inappropriate location according to the Code. He also stated that a row of houses lining an airstrip is not "innovative." He cited the Code and stated the "more efficient use of land, minimizing operating costs of delivery of services" should be considered. There should be no waiver or special provisions from stormwater regulations because protecting the bay requires they comply with the current code.

Mr. Smethurst rebutted first stating that it was a "ludicrous" proposition suggesting an airstrip should be located in the Metro Core. He stated that this is not a new airstrip and not a new activity. The applicants are applying to utilize the existing non-conforming use of the property. He continued by asking Mr. Sanson if K&M Associates is only developing the portions of the property that will perk. Mr. Sanson responded affirmatively. Mr. Smethurst concluded that the "innovative" requirement is subjective and differs from person to person including the county staff who have failed to provide examples or elaborate on this requirement.

Mr. Day commented that his perspective on the “innovative” and “creative” requirements mostly refers to characteristics atypical in residential subdivision design and cited a few examples. He also stated that while the idea of an airpark was innovative, the subdivision has not met the “innovative” or “creative” requirements. He continued that the subdivision raised a lot of issues that need discussion including more discussion on the use of “innovative” and “creative” by the Commission itself. He agreed with Mr. Smethurst that the airpark would not be appropriate in the Metro Core. Mr. Day requested that the applicants provide testimonies from others who live in and around this type of neighborhood to determine the impact on neighbors. Mr. Smethurst stated that the questions Mr. Day was raising were raised at the Board of Appeals Hearing and will be raised again when the applicants have to appear before the Board of Appeals to apply for the special exception for the Airpark.

Mr. Lenox reminded the Commission that a Finding of Fact was necessary if the subdivision was denied but requested the Planning Commission do a Finding of Fact even if they decide to approve the subdivision. This subdivision in particular has been controversial and any facts cited in the motion would be helpful in the event of an appeal of the Commission’s decision. Mrs. Bartkovich suggested Finding of Facts be entered as Condition 15. Staff and commission agreed that would be appropriate.

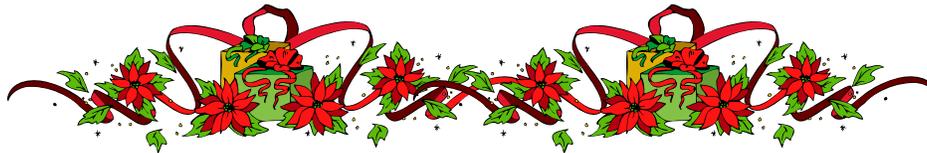
Mr. Grout reminded Planning Commission that the Board of Appeals would be hearing the case about airstrip activity and would not be approving the subdivision. He also reiterated his previous point of special cluster zoning’s purpose. Mr. Smethurst responded that the use as an airstrip is already approved, the Board of Appeals will get into the “nitty gritty” of the Airpark and design.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Rogers, and duly carried, the Commission **Approved** the Preliminary Plat subject to the following 15 conditions for Davis White Farm.

CONDITIONS:

1. The Final Plat shall comply with the 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 shall be submitted for review and approval by the Public Works Department.
5. Adequate drainage and maintenance easements shall be provided.
6. A Homeowners Association shall be created to own and maintain the stormwater management facilities, drainage and maintenance easements and forest conservation easements.

7. Lot numbers, block letters, street names and the subdivision name shall be approved by the Public Works Department.
8. Development of this site shall be in accordance with any Conditions of Approval as adopted by the Wicomico County Board of Appeals when the request for Modification of a Nonconforming Special Exception – Private Airfield is reheard by the Board.
9. The fifty percent (50%) set aside shall be established by plat and deed.
10. A note referring to Chapter 186, Right-to-Farm of the Wicomico County Code shall be included on the plat.
11. Additional road right-of-way shall be dedicated and road improvements made to Davis Road and Gumboro Road.
12. A Development Plan must be submitted in accordance with the Wicomico County Zoning Code.
13. The airport is subject to the requirements of the Federal Aviation Administration and the Maryland Aviation Administration.
14. This approval is subject to further review and conditions as required by the Wicomico County Department of Public Works.
15. This approval is subject to adoption of Findings of Facts to support the Commission's decision to be presented and heard at a later meeting.



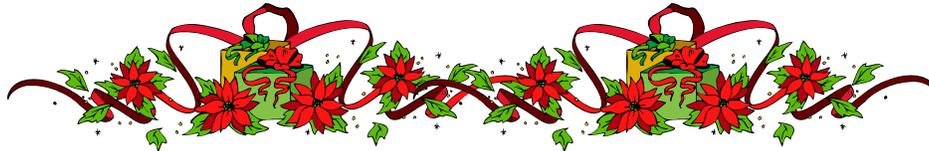
Patrick's Landing – Extension – 17 Lots – Pemberton Drive & Rawson Rd – M-47, G-8, P-15.

Mr. John Andrews came forward. Mrs. Gloria Smith presented the Staff Report. The applicants proposed the subdivision of 17 lots from this 29-acre tract. Approximately 9.6 acres of Open Space and stormwater management are to be provided. No minor lot rights exist for this parcel. Lot #5, Block 'A' and Lot #2, Block 'B' each contain an existing residence. Lot 5A will now have frontage and access on Patrick's Court, a new cul-de-sac, and Lot 2B will have frontage and access on Rawson Road Extended. Lots #7-8 and 13-14, Block 'A' and Lot #1 and Lots #3-7, Block 'B' will have frontage and access on the extension of Rawson Road.

The applicants are requesting a one-year extension of time to submit the Final Plat. The applicants noted that the plat has been reviewed three times by the Critical Areas Commission. Due to concerns raised by the Critical Area Commission, additional time is needed to complete the Construction Improvements Plans and generate the Final Plat.

Mr. Andrews attested to the complications in dealing with buffers and plantings in order to comply with Critical Areas Commission. He explained that the request for extension was to complete the design.

Upon a motion by Mr. Robinson, seconded by Mr. Day, and duly carried, the Commission **GRANTED** a one-year extension to the Final Plat for Patrick's Landing. **This extension will expire on December 23, 2011.**



Essex Ridge, Sec. 5 – Extension – 32 Lots – Northumberland Drive – M-21; G-12; P-77, 115.

Mr. Bill Turner and Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicant's are requesting an additional one year extension of time for recordation of the Final Plat for Essex Ridge, Section 5. The engineers have indicated that they are in the process of receiving final approvals from affected agencies.

Upon a motion by Mrs. Bartkovich, seconded by Mr. Robinson, and duly carried, the Commission **GRANTED** a one-year extension to the Preliminary Plat for Essex Ridge, Section 5. **This extension will expire on February 19, 2012.**



Essex Ridge, Sec. 6 – Extension – 17 Lots – Northumberland Drive – M-21; G-12; P-77.

Mr. Bill Turner and Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. The applicant's are requesting a one year extension of time for submission of the Final Plat for Essex Ridge, Section 6. The engineers have indicated that the final septic evaluations are being completed by the Health Department. The Construction Improvements Plans were submitted to Wicomico County Public Works and the comments are being addressed. This section includes construction of the service road and design of the road has taken longer than expected. This process will not be completed prior to the expiration of the current extension on January 10, 2011.

Upon a motion by Mr. Day, seconded by Mr. Rogers, and duly carried, the Commission **GRANTED** a one-year extension to the Preliminary Plat for Essex Ridge, Section 6. **This extension will expire on January 12, 2012.**



DRAFT COUNTY COMPREHENSIVE PLAN DISCUSSION AND WORK SCHEDULE:

Mr. Lenox and Mrs. Ayele came forward. Mr. Lenox stated that they were updating the Planning Commission on the proposed schedule since the last Planning Commission meeting. Mr. Lenox informed the Commission on the media staff was using to inform the public on the update of the Plan and on the meeting schedule itself. Mr. Lenox presented a flyer showing the next meeting dates, the first one scheduled for January 25, 2011. Mrs. Bartkovich asked if the flyers could be disseminated; Mr. Lenox responded that they were ready for the public. Mr. Dashiell and Mrs. Bartkovich asked if this was available on the internet because it was not apparent on the flyer. It was suggested that the flyer include the website or internet information. Mrs. Ayele advised that she would incorporate the change. Mr. Lenox encouraged the Commission members to attend and advised that they would not be in official capacity but the public would probably try to influence or question them on the subject matter. The attending Commission members may also be asked to speak at these events. Mr. Day recommended that the tone of the events be kept conversational and Mr. Lenox agreed and stated that was the intent. Mr. Lenox also assured the Planning Commission that the staff would like to be able to address the public issues as much as possible and did not want to wait until the hearings are held.



There being no further business, the Commission meeting was adjourned at 3:30 p.m. by Mr. Dashiell.



This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the Salisbury-Wicomico County Department of Planning, Zoning, and Community Development Office.

Charles "Chip" Dashiell, Chairman

John F. Lenox, Director

Melinda Lewis, Recording Secretary