



# City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on April 19, 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  
Jacob Day  
Newell Quinton

### CITY/COUNTY OFFICIALS:

Henry Eure, City Building, Permits and Inspections Department  
Gary Hales, Salisbury Public Works Department

### PLANNING STAFF:

Gloria Smith, Planner  
Keith Hall, Planner  
Beverly Tull, Recording Secretary



The meeting was called to order at 1:32 p.m. by Mr. Dashiell, Chairman.



**Minutes:**

Upon a motion by Mr. Day, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the minutes of the March 22, 2012 meeting with a correction on Page 12.



**#OP-1201 PUBLIC HEARING – ORDINANCE PERMIT – Day Care Center – Emmanuel Wesleyan Church – 217 Beaglin Park Drive – Light Business and Institutional District – M-38; G-17; P-2579.**

Mrs. Gloria Smith read the ad and administered the oath to anyone wishing to testify in this matter. Mr. Dashiell explained the public hearing procedure.

Mrs. Dana Stauffer and Rev. Tom Bunting came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. The applicant proposes establishment of a day care center in this existing church building on Beaglin Park Drive. Section 17.28.040B of the Salisbury Municipal Code requires approval of an Ordinance Permit in order to operate a Day Care Center in the Light Business and Institutional 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.

Mrs. Bartkovich questioned if the daycare center would be run seven (7) days a week. Mrs. Stauffer responded that the daycare center would be open five (5) days a week. Mrs. Bartkovich questioned the hours of operation. Mrs. Stauffer responded that the daycare center would be open from eight (8) a.m. to five (5) p.m. Mrs. Bartkovich questioned getting the children to the playground through the large parking lot. Rev. Bunting responded that there will be an area roped off for the kids to travel to the playground. There is also a side door from the building that the children can use to get to the playground. Mrs. Bartkovich questioned if there would be different sized bathrooms for the smaller children. Mrs. Stauffer responded that the bathrooms already exist and was done when the new sanctuary was built. Rev. Bunting added that there is a great need for this daycare center.

Mrs. Smith explained that in the past the City Council removed the hours of operation from the Ordinance and left it to the Child Care Administration to regulate the hours that a day care facility can be in operation.

Mr. Spies questioned if there would be any extra screening for the play area. Rev. Bunting responded that the children would be supervised when outside. Mr. Spies questioned if there would be security cameras. Rev. Bunting responded that there will be security but no cameras. If needed, cameras could be installed.

Mr. Day questioned Mrs. Smith if the landscaping and screening were only required on three (3) sides. Mrs. Smith responded that the Code states that it must be screened on all property lines but this is such a large property that Staff suggested three (3) sides of the play area. Mr. Dashiell questioned which sides should be screened. Mrs. Smith responded that the east, north, and west sides should be screened as there is a building on the south side. Mr. Rogers questioned if the entire south side should be screened or just up to the corner of the building. Mrs. Smith responded that it was up to the Commission but that an opening may want to be kept available.

Mrs. Bartkovich questioned why part of the "U" shaped area wasn't paved. Rev. Bunting responded that the part of the "U" that isn't paved is part of a right-of-way.

Mr. Rogers noted that he would like to see screening on the south side of the play area up to the corner of the building.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Mayor and City Council for approval of an Ordinance Permit for Emmanuel Wesleyan Church to operate a day care center at this location. The following Condition of Approval was also recommended:

**CONDITION:**

1. The play area shall be fenced as required by the Code and fenced on three (3) sides (east, west, and north) and on the south side up to the building.



**#SP-8702-12L      SIGN PLAN AMENDMENT/FAÇADE MODIFICATION – Shoppes at Salisbury – Dollar Tree – Tilghman Road – M-110; G-9 & 10; P-4482.**

Mr. Lou Limongi and Mr. Ben Phillips came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Lou Limongi of Redstone Construction and Ms. Samantha James of Blair Companies have submitted materials for a modification to the building façade and to the Sign Plan for the Shoppes at Salisbury shopping center.

Mr. Limongi stated that the façade change falls under the criteria that the Dollar Tree requests. They don't have any store frontages with a gable roof. Currently in the shopping center, a lot of money is being spent on maintenance with the existing design. There are many problems with leaking in the EFIS (Exterior Finishing Insulation System). Dollar Tree will be an end user so it won't make the appearance be off-balance. The existing color scheme is being used.

Mr. Day questioned if there was a photograph of the smaller gables. Mr. Limongi responded in the negative. Mrs. Smith displayed a picture of the end of the building.

Mrs. Bartkovich stated that if you visit the Dollar Tree located near Kohl's or in Fruitland, there aren't any raised panels. Mr. Limongi responded that they were trying to make the Dollar Tree stand out. Mrs. Bartkovich questioned if there would be an awning. Mr. Limongi responded in the affirmative.

Mrs. Bartkovich stated that she didn't like the rectangular area with the rest of the building. Mr. Rogers stated that he would like to see the building as a whole for aesthetic purposes. Mr. Day commented that the style is different than what exists.

Mr. Day questioned if there was any way to improve upon the design to alleviate the maintenance issues. Mr. Limongi responded that all the gables would need to be removed. Over the last several years, several repairs have been done. The tenants want their brands on the façade.

Mr. Rogers questioned what would be done in place of the existing façade. Mr. Limongi responded that nothing was planned yet but in other shopping centers that they manage the gables are being eliminated.

Mr. Dashiell noted that Mr. Limongi had stated that in the next seven (7) to eight (8) years the entire façade will change.

Mr. Day stated that he wasn't comfortable with the tenant requiring a certain façade.

Mr. Limongi reiterated that the entire look of the shopping center will change down the road.

Mrs. Bartkovich questioned if there would be small doors on the front of the unit. Mr. Limongi responded that the entire front of the building for that tenant would change and the doors will be eliminated. He added that he didn't realize that he would have to do anything with the façade, that he thought this was just a sign issue. Mrs. Bartkovich questioned what part of the façade the Commission was approving. Mrs. Smith responded that the only change was really to the top of the façade.

Mr. Spies questioned if there was a feeling on what would happen to the façade in the next seven (7) to eight (8) years. Mr. Limongi responded that he wasn't positive what changes would be made, just that the façade would be different. He added that he anticipated getting rid of the canopies.

Mr. Rogers stated that he would feel more comfortable if this was going to be setting the tone for the future changes to the façade.

Mrs. Bartkovich questioned if a peak could be installed over the Dollar Tree unit. Mr. Limongi responded that it could be done but it would be taken out in seven (7) or eight (8) years when the façade changes are done.

Mr. Phillips stated that this type of façade is what people are getting away from. The new trend is to inter-mix the façade.

Mr. Limongi reiterated that this tenant is on the very end of the building.

Mr. Rogers suggested raising the height of the arch within the EFIS. Mr. Limongi stated that that could be done.

Upon a motion by Mr. Rogers, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Sign Plan Amendment and Façade Modification, as submitted, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The gable element shall be extended in height and contain a second line or reveal line in the dryvit in a peak design.
2. A revised elevation shall be submitted to the Planning Staff for the Commission's case file.



**#SP-9704-12X      SIGN PLAN AMENDMENT MODIFICATION TO PYLON SIGN – 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 the Staff Report. Mr. Steve Hutchinson of DDR Corp. has submitted a request to amend the Sign Plan approved for The Commons, to enlarge the existing ground sign at the site.

Mr. Hutchinson stated that they were challenged to lease the spaces near Target with no road frontage other than the pylon sign. He added that they are in negotiations with three (3) major tenants who want road frontage signs.

Mr. Dashiell questioned if the existing sign would come down and a new sign built. Mr. Marquart responded that the existing sign would be rebuilt from the Best Buy sign up and the Home Depot and Target would require a temporary banner sign while the new sign was under construction.

Mr. Spies questioned the visibility from the north bound lane on Route 13 of the bottom signs. Mr. Marquart responded that he had not heard anything negative. Mr. Spies questioned if the sign was increased in height to 10 ft. would it move over the tops of vehicles. Mr. Hutchinson responded that it would provide additional safety. Mr. Rogers added that the entire sign would have to be replaced if the height was increased.

Mr. Day stated that he thought the proportions on the sign were odd and that this request is preferable. He questioned if any landscaping would be moved. Mr. Marquart responded that they were going to try to preserve and protect the existing landscaping. Any landscaping that is damaged will be replaced. Mr. Day stated that this area could be more attractive. Mr. Marquart stated that they could entertain some additional landscaping.

Upon a motion by Mr. Day, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Sign Plan Amendment, as submitted, subject to the following Conditions of Approval:

**CONDITIONS:**

1. No secondary ground sign will be permitted on any street frontage for this shopping center.
2. The base of the sign shall be landscaped with low-growing flowering and evergreen shrubs.

**AGRICULTURAL LAND PRESERVATION EASEMENT – Kevin W. Bailey – West Street, near Pittsville – M-31; P-348; G-12 – 60.2 Acres.**

Mr. Kevin Bailey came forward. Mrs. Gloria Smith presented the Staff Report. An application has been filed by Kevin W. Bailey to sell an easement on his property on West Street near Pittsville to the Maryland Agricultural Land Preservation Foundation.

Mr. Day questioned Mrs. Smith if the proposed growth area changed in the upcoming plan. Mrs. Smith responded that Pittsville didn't do a MGE (Municipal Growth Element).

Upon a motion by Mr. Spies, seconded by Mr. Day, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Council for support of the sale of an Agricultural Land Preservation Easement on the Bailey property based on compliance with the County Comprehensive Plan.

**AGRICULTURAL LAND PRESERVATION EASEMENT – William & Teresa McCain – Union Church Road, near Salisbury – M-58; G-18; P-115; 50.0 Acres.**

Mrs. Gloria Smith presented the Staff Report. An application has been filed by William & Teresa McCain to sell an easement on their property on Union Church Road to the Maryland Agricultural Land Preservation Foundation.

Upon a motion by Mr. Day, seconded by Mr. Rogers, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Council for

support of the sale of an Agricultural Land Preservation Easement on the McCain property based on compliance with the County Comprehensive Plan.



**AGRICULTURAL LAND PRESERVATION EASEMENT – James R. McGrath – Milton Mill Road, near Fruitland – M-58; P-231, 234 & 261; G-21 – 164.38 Acres.**

Mrs. Gloria Smith presented the Staff Report. An application has been filed by James R. McGrath to sell an easement on his property on Milton Mill Road to the Maryland Agricultural Land Preservation Foundation.

Upon a motion by Mr. Spies, seconded by Mr. Day, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Council for support of the sale of an Agricultural Land Preservation Easement on the McGrath property based on compliance with the County Comprehensive Plan.



**CITY SUBDIVISION:**

**Pecan Square – Preliminary/Final Plat – 1 Lot – Nanticoke Road – M-37; P-415; G-18.**

Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of this 0.9 acre lot from Lot #1AAA in Pecan Square shopping center. The proposed lot will be developed as a Dunkin Donuts.

Mr. Spies questioned if this lot would just be for Dunkin Donuts or for Dairy Queen along with Dunkin Donuts. Mrs. Smith responded that Dairy Queen is on Lot 4 and that was the fifth lot so it came in under the minor criteria that were approved in-house.

Mr. Day questioned Mrs. Smith if she could explain the difference between Lot 1AAA and Lot 1AAAA. Mrs. Smith stated that Lot 1AAAA is actually the shopping center itself including the Food Lion building. Lot 2 is vacant. Lot 3 is vacant. Lot 1B contains the Bank of Delmar. Lot 4 is where the Dairy Queen will go. Lot 5 is where Dunkin Donuts will go. Mr. Day stated that Lot 1AAA encompasses Lot 1AAAA and the parking areas and an additional acreage. Mrs. Smith responded that what was Lot 1AAA was 9.56 acres and now that Lot 5 is being taken out of, then it is being

reduced to 8.66 acres and the other 0.90 acres is Lot 5. Mr. Day stated which creates Lot 1AAAA.

Upon a motion by Mr. Day, seconded by Mr. Rogers, and duly carried, the Commission **APPROVED** the Preliminary/Final Plat for RWB Investments for Pecan Square, subject to the following Conditions of Approval:

#### **CONDITIONS:**

1. The Final Subdivision Plat shall comply with all requirements of the Salisbury 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. The appropriate cross easement agreements permitting access to this parcel across the shopping center parking lot shall be recorded in the Land Records of Wicomico County.
5. This approval is subject to further review approval by the Salisbury Department of Public Works.



#### **Commission Discussion – Draft County Comprehensive Plan.**

Mr. Keith Hall came before the Commissioners to present the monthly briefing about the Draft County Comprehensive Plan. One of the major concerns that should be in front of this body is about the septic system bill. Last month staff briefed the Commission about the major aspects of the preliminary septic bill approved by the State Senate; however, it had not been in front of the House at that time. During the House review of the bill, additional amendments were made to the Senate version, and approved by the House.

Mr. Hall explained some of the differences between the Senate and House versions of the bill. The House version of the bill, which was ultimately approved, removed and / or modified certain aspects of the Senate version of the septic bill such as revising the bill to enable a county to amend their definition of a minor subdivision no later than December 31, 2012. As a result of this revision, counties may modify their definition of a minor subdivision to no more than seven (7) lots. Currently, the County definition of a minor subdivision is limited to three (3) inherent lots. Any revision of the definition requires an amendment to the Subdivision regulations in Section 200 of the County Code, which would be presented to the Council for their consideration, as well as public hearing prior to any formal action to amend the Code.

Another major component to the approved bill is the grandfathering of subdivision plan. If a preliminary plan has been submitted for review to this body prior to October 1, 2012, they will not be subjected to the provisions contained in the septic bill requirements provided the preliminary plat is approved no later than October 1, 2016. As approved, this bill will have a significant impact on the rural property owners located in the A-1 Zoning District. As a result of the grandfathering provision, the potential exists for more preliminary plans being submitted to the Commission prior to the October 1, 2012. Moreover, the grandfather provision mandates the date of the preliminary plan approval to October 1, 2016.

Mr. Hall explained the transferring of development rights provisions contained in the approved septic bill. This provision of the bill enables a local jurisdiction the authority to enact a local law or ordinance to transfer up to seven (7) development rights from a sending parcel in the Tier IV area provided that the sending and receiving parcels are used for agricultural activities as defined by the bill. Tier IV would be both a receiving and sending area. The receiving parcel, used for agricultural activities, is limited to a total of 15 lots that shall be clustered on the property. Also, development rights can not be transferred from a property used for agricultural activities in a Tier III area to a property used for agricultural activities in a Tier IV area.

Some of the procedural aspects that need to be addresses related to the adoption of the Tier map are not well defined in the bill. Therefore, it was recommended that the County Legal Department attend the next Commission meeting to respond to legal questions about this bill.

There have been on-going discussions that it might be more advantageous to update the current 1998 Plan. Mr. Hall stated it would not be advantageous to proceed with updating the currently adopted Plan because of the inconsistencies between the existing Land Use Plan and the Tier map. Therefore, it is more advantageous to proceed forward with the new Plan. Mr. Hall emphasized that we have a Draft Plan that has had extensive public input, has had extensive direction from the Commission and from Staff's recommendations. Therefore, it is possible to achieve the deadline requirement to adopt the Tier map into the Draft Plan no later than December 31, 2012. Mr. Hall stated the plan approval process is rather time consuming. It requires a 60-day Clearinghouse Review of the Plan by nine (9) State agencies, a public hearing by the Commission and a subsequent motion to forward it to the County Council. In addition, the Council is required to hold a public hearing prior to making a legislative action for adoption. We have been working on the Plan aggressively for the better part of four (4) years. We have been in front of the Commission for approximately over a year at monthly meetings. It is time for consideration that once the final touches are put on the Plan that we receive direction from the Commission to move forward to commence discussions about the Draft Plan with the County Council.

Additional impacts resulting from the septic bill include the requirement of the Commission to hold at least one (1) public hearing prior to recommending approval of a major subdivision in a Tier III area. Also, the bill requires the review of a residential major subdivision by the Planning Commission shall include information about the cost of providing local government services, as well as any potential environmental impacts. At this time, it is unclear if the State will provide a format or report template that must be followed.

From a City standpoint, the City is not significantly impacted by the requirements of this bill. Their Plan is adopted. The areas within the City are solely served by public sewerage and water, which is consistent with the Tier I designation.

Mrs. Bartkovich questioned if the adoption of the Comprehensive Plan was by an ordinance or by resolution. Mr. Hall responded that it was legislative action adopted by ordinance, which Mr. Baker will be consulted to confirm. Mrs. Bartkovich questioned that it would be 60 days to take effect unless it was emergency legislation which is 30 days. If we have to deal with this time frame, how will we hold the necessary public hearings because summer time is not a good time for public hearings? Mr. Hall responded that he would defer to Mr. Baker. Through the City's adoption, it was through resolution. If the County should not be able to adopt these tiers prior to the end of this calendar year, whether it is through a function of the Comprehensive Plan or whether it is through a function of legislation, the worse case scenario would be that the Commission would not be able to approve any major subdivisions in the Tier III area.

Mr. Day questioned if Mardela Springs would fall under Tier II. Mr. Hall responded that Mardela Springs would fall under Tier III because they do not have a public sewerage system; however, it would not negate their ability to provide major subdivisions. Therefore, it should not negate their zoning.

Mr. Hall stated that the A-1 zone would only permit minor subdivisions on individual sewage systems. Unless the County changes their definition of a minor, you are limited to three (3) lots at a maximum provided you have not used up your inherent lot rights.

Mr. Erik Fisher stated that the other way to do a major subdivision in the Tier IV area is if the base zoning in the County will produce an effective density of 1:20 as certified by MDP.

Mr. Day questioned that if the County was not to change the base zoning in the A-1 district and the effective allowable density is more restrictive than base zoning, what is the purpose of maintaining the base zoning. Mr. Hall responded that there is a provision that if you at least achieve an overall cumulative zoning density of 1 dwelling unit per 20 acres in the Tier IV designated area, major subdivisions may be permitted.

Mr. Day questioned if when using TDR's, lands in the Tier I, II, and III were restricted from being receiving areas. Mr. Hall responded that as he understands, and is still waiting on final determination, you can't transfer from Tier III to Tier IV.

Mr. Hall stated that we can request through MDP to do an analysis to determine what ultimate density we would need to achieve the overall cumulative average of 1:20 in our Tier IV area.

Mr. Day questioned if the Commission could grant final approval for a major subdivision that complies with our current zoning in the Tier IV if preliminary approval existed October 1, 2012. Mr. Hall requested clarification if he meant minor subdivision in the Tier IV because you couldn't do a major unless you had a cumulative average density of 1:20 in the Tier IV. Mr. Hall stated that you don't have to give approval. If a preliminary plat has been submitted to the Commission by October 1, 2012, zoning in the A-1 still prevails and the criteria for a minor subdivision would not be applicable. It would have to receive preliminary approval by October 1, 2016. It is merely a submission at this point.

Mrs. Bartkovich questioned if that meant that they didn't have to come back for final approval. Mr. Hall responded that it depends on the plat. Mrs. Bartkovich stated that there are times when there are issues that need to be resolved prior to final approval.

Mr. Day stated that only Sketch Plats don't get a vote. Preliminary plats are voted on.

Mr. Dashiell stated that the Commission would like Mr. Baker at the next meeting to explain this and offer legal advice as to how to proceed.

Mr. Day questioned how this would impact the Priority Preservation Area (PPA). Mr. Hall responded the State, through this bill, has essentially resolved the zoning density issue in the A-1 Zoning District. There may be discussions about the TDR's. The PPA could potentially serve as a sending area and the remainder of the A-1 or Tier IV as the receiving area. Mr. Day stated that the PPA targets very limited funding options.



There being no further business, the Commission meeting was adjourned at 3:41 p.m. by Mr. Magill.



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

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Charles "Chip" Dashiell, Chairman

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John F. Lenox, Director

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Beverly R. Tull, Recording Secretary