



# 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 May 17, 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  
Gail Bartkovich  
Scott Rogers  
Tim Spies  
Jacob Day  
Newell Quinton

### CITY/COUNTY OFFICIALS:

Henry Eure, City Building, Permits and Inspections Department  
Maureen Lanigan, Assistant County Attorney  
Ed Baker, County Attorney  
Mark Tilghman, City Solicitor

### PLANNING STAFF:

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



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



Mr. Dashiell introduced Chief Barbara Duncan and her special guests. Chief Duncan explained that along with Captain Simon, they are participating in a mentoring program with children from East Salisbury, Pinehurst, and Prince Street Elementary Schools. The children have been learning about City government and built a crime free city. As part of the program, the children were given tours of City buildings and departments. Chief Duncan requested that the children be allowed to ask questions of the Commission. The Commission answered questions that entailed budgetary questions, how Commission members were selected to serve, and what the Commission member's regular occupations were. Mr. Dashiell thanked Chief Duncan for visiting and encouraged the children to come again.



**Minutes:**

Upon a motion by Mr. Spies, seconded by Mr. Rogers, and duly carried, the Commission **APPROVED** the minutes of the April 19, 2012 meeting as submitted.

*Mr. Magill abstained from the vote due to his absence at the last meeting.*



**#SP-1201 PUBLIC HEARING – TEXT AMENDMENTS – SALISBURY MUNICIPAL CODE – Article VI – Board of Zoning Appeals Procedures – Section 17.12.090 and Section 17.12.120.**

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

Mrs. Gloria Smith presented and entered 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 members, procedures, and pre-hearing submission of evidence. The City Solicitor's Office has prepared a Draft Ordinance to amend two sections in Article VI – Board of Zoning Appeals - Sections 17.12.090 and 17.12.120 relating to number of members, Rules of Procedure, voting, and evidence and the addition of Section 17.12.111 relating to Pre-hearing Procedure an submission of evidence. 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. Tilghman explained that the language on Lines 49-50 that is in bold print would be eliminated regarding the alternates. Mr. Spies questioned if that language could be left in the text amendment. Mr. Rogers questioned if the alternate could be asked to serve in a full time position if a vacancy occurred. Mrs. Bartkovich stated that the alternate member is appointed for a three (3) year term so if they had to fill a permanent member's position, would the City then find a new alternate. Mr. Tilghman stated that leaving in the language would make it automatic that the alternate's vacancy would be filled. Mrs. Bartkovich questioned how the acting chairman is elected. Mr. Tilghman responded that it was covered in the Rules of Procedure.

Mrs. Bartkovich stated that she has a concern about charging for a copy of minutes from the Board of Zoning Appeals meeting. She added that the minutes should be made available online at no charge. Mrs. Bartkovich questioned who gets the five (5) copies of things that get submitted. Mrs. Smith responded that Mr. Eure receives the application and gives it to Mrs. Smith. The copies are not circulated anywhere. Mr. Lenox responded to Mrs. Bartkovich that five (5) copies are not necessary and one (1) or two (2) copies could be submitted for the pre-hearing statements.

Mrs. Bartkovich questioned how this text amendment related to the Safe Street Legislation. Mr. Lenox stated that there were a number of pieces of the legislation that the Mayor sent to the Council under neighborhood safety. One (1) issue was illegal nonconforming homes which are heard by the Board of Zoning Appeals. The question came up about the public involvement and this all ties back to what is a legal nonconforming use and what is an illegal nonconforming use. One (1) question in particular that has been discussed is when affidavits can be accepted. This text amendment is a compromise on that issue. Mrs. Bartkovich stated that she didn't understand the limitation of witnesses. Mr. Tilghman responded that it gives the Board the right not to accept repetition at the meetings. He added that a lot of this came from the Board member's frustration that they were getting a lot of evidence thrown at them and they had no legal representation because the City Solicitor was acting as the Prosecutor.

Mr. Dashiell questioned if the language should be retained regarding the alternate member. Mr. Magill suggested deleting the language after the comma. Mr. Dashiell questioned if the cost for the minutes should be deleted. The Commission was in agreement on deleting the cost of the minutes. Mr. Dashiell questioned if the Commission wanted to change the number of copies submitted to two (2). The Commission agreed.

Upon a motion by Mr. Magill, seconded by Mr. Day, 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.



**#SP-9104-12C      SIGN PLAN APPROVAL – Dunkin Donuts – Pecan Square Shopping Center – Nanticoke Road – Neighborhood Business District – M-37; G-18; P-415.**

Mr. Steve McGee came forward. Mrs. Gloria Smith presented the Staff Report. Vista Design, Inc. has submitted the Sign Plan proposed for the Dunkin Donuts approved for Pecan Square on Nanticoke Road.

Mr. Day questioned the background color on Attachment #6. Mr. McGee responded that the background color is dark brown. Mr. Day questioned the color of the EFIS. Mr. McGee responded that the EFIS will be sandstone.

Mrs. Bartkovich questioned if all the signs were on the building so there would be no freestanding signs. Mr. McGee responded that the only freestanding sign would be the menu board. There are no other directional signs. Mr. Eure noted that in the past the Commission has approved the menu board. Mrs. Bartkovich questioned if the menu board could be approved in-house. Mr. Eure

responded that it would be up to the Commission if they wanted Staff to approve the menu board. Mrs. Smith added that the menu board is usually part of the sign package but that she couldn't think of anyone that the Commission had denied. Mrs. Bartkovich stated that she was okay with letting the Staff approve the menu board in-house.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Sign Plan for Dunkin Donuts at Pecan Square, as submitted, subject to the menu board being submitted for Staff approval and inclusion in the Commission's case file.



**#SP-8713-12GG      SIGN PLAN APPROVAL – Men's Wearhouse – Centre at Salisbury Mall – Pad A – M-119; P-237; G-15.**

Mr. Greg Feld came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Greg Feld of KC Sign Company has submitted a request for Signage to be placed on the building on Pad "A" at the Centre at Salisbury. The Comprehensive Development Plan approval granted by the Commission in May 2005 for construction of this building and the cinema, required submission of color chips and sign dimension/information for the sign faces and boxes for review by the Commission.

Mr. Day questioned if the 32 sq. ft. banner would be allowed for a period of time. Mr. Eure responded that the Zoning Code allows one (1) 32 sq. ft. banner for a period of 14 days. He added that he can only enforce this by a complaint basis due to staffing shortages.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Sign Plan for Men's Wearhouse for Pad 'A' at the Centre at Salisbury Mall, as submitted, including the proposed awnings.



**Whaley's Run – Corrected Plat – 3 Lots – Mt. Hermon Church Road – M-49; G-3; P-1.**

Mr. Henry Hanna and Mr. David Davis came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes dissolution of the 27 lots approved as Whaley's Run, Section 2. The Corrected Plat will remove the road right-of-way and Lot 2, Block B of the subdivision. This land area will provide road frontage for the farm, which will remain in agricultural production. The dissolution of Whaley's Run, Section 2 will also alter the restricted access to Lot 2A, Block A, eliminate the front

setback requirement for this lot as it will no longer be a corner lot, and remove the vegetative buffer along Mt. Hermon Church Road.

Mr. Magill questioned how this would affect any future development potential. Mr. Hanna responded that the new owner would have to start at the Sketch Plat phase to do any development on this property.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Corrected Plat for Whaley's Run, Section 1, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Corrected Plat shall comply with the County Subdivision Regulations and is subject to further review by the County Department of Public Works.
2. Health Department approval is required prior to the recordation of the Corrected Plat.
3. The property line adjoining Parcel #217 shall be corrected or follow the proper public procurement process for the necessary land exchange (requiring a public hearing before the Wicomico County Council).



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

Mr. Keith Hall and Mr. Jack Lenox came before the Commissioners to present the monthly briefing about the Draft County Comprehensive Plan. Mr. Hall explained that the Maryland Department of Planning is in the process of providing additional information related to the Septic Bill; however, at this point there is still a lot of uncertainty about specific components of the Bill. He noted that Mr. Baker and Miss Lanigan are present to answer the Commission's questions.

The Maryland Department of Planning is preparing a guidance document which should be available at the Planning Director's meeting on May 24, 2012. Mr. Hall stated that he is hopeful that the guidance document provides answers on how the Septic Bill will work. The Septic Bill does contain language that states that a Tier Map has to be adopted no later than December 31, 2012, which does not leave a lot of time to complete the steps necessary for adoption.

Mr. Baker stated that until he knew what the Septic Bill meant, he didn't want to speculate about the process until he had talks with Staff. As part of the adoption process, the Commission and the County Council will have to hold the public hearings. The Comprehensive Plan is a guidance document and not a regulatory

document. The Tier Map does have to be adopted and could be incorporated into the Comp Plan. The following issues will need to be decided on:

- Major/minor subdivisions
- Changing the definitions of major subdivision and minor subdivision
- Whether to define the number of lots as long as it can be adopted by December 31, 2012
- Legislative process that is required because it takes 60 days to become effective
- Whether to adopt all the Tiers or only Tiers I, III, and IV
- Densities in regards to the lots by right which will more than likely require guidance from the State

Mrs. Bartkovich questioned if MDP would need a 60 day review period since they will need to review what is going to be adopted. Mr. Hall responded that he did not foresee this process needing to go through a Clearinghouse Review; however, staff will be working with MDP on this planning effort. Mrs. Bartkovich added that she was worried about the timeline and that the Commission may need to meet more than once a month to get this accomplished. She added that whatever is going to be adopted would need to be done by October 16, 2012 in order to have the 60 days for it to take effect before December 31, 2012.

Mr. Hall stated that the mapping component of this task is straight forward. The definitions or potential revisions to the County's Subdivision Regulations will require additional discussions and direction from the Commission.

Mr. Lenox stated that there is a Maryland Association of Counties (MACo) session on June 1. He reminded the Commission that the Septic Bill also applies to the City, as well as the County. The impacts on the City are unknown at this time.

Mr. Baker stated that the Tier I area is the municipal areas. If two (2) jurisdictions come up with two (2) different plans, then MDE determines the plan that will be implemented.

Mr. Hall stated that Urban Service Districts are also Tier I areas.

Mr. Day questioned Mr. Hall if the municipalities were able to or required to project the mapping exercise into areas identified in their municipal growth element or only areas that are in their current municipal boundaries. Mr. Hall responded that he believed that it was a combination of the municipal growth element and the current boundaries; therefore, it would be Tier I and Tier III, unless there are areas within the municipal growth boundary that are also in the 10-Year Water and Sewer Plan, which would qualify as Tier II areas. Mr. Day questioned if there would be some areas of conflict. Mr. Hall responded that he couldn't think of an area off the top of his head. Mr. Day stated that there would be a conflict in Hebron and Mr. Hall

agreed and commented that it is likely that conflict would be the only discrepancy county-wide.

Mr. Lenox questioned what the implications would be for a city or town if they did not meet the December deadline. Mr. Hall responded that he didn't want to speculate on that without further guidance or direction from the Maryland Department of Planning's Guidance Document.

Mr. Hall stated that this would not be incorporated as part of the Comp Plan update because of the deadline. The timing simply does not permit it. If this were to move forward as part of the Plan update, the Plan would have already had to start the adoption process 60 days ago. Therefore, this will be a stand-alone product, Tier Map, with discussion from the Commission, as well as from the Council and then changes will need to be made to the Subdivisions Regulations and the Zoning Code. Mrs. Bartkovich added that the Subdivision Regulations needed to be updated due to their age.

Mr. Lenox stated that the amendments to the Subdivision Regulations will deal with the major/minor subdivisions.

Mr. Lenox stated that the Land Use Plan is in good shape.

Mr. Hall stated that the Draft Guidance Document will be available at the next meeting. He also stated the Guidance Document will not be finalized before August, but the Draft should give some direction on how to proceed.

Mr. Day stated that he was having trouble seeing how to make the timeline that has been described. Mr. Lenox stated that all the local governments will require a lot of guidance and not necessarily wait for the document to be complete. This is going to be evolving. The Department staff will start to formulate some options knowing that we have to move quickly. Mr. Lenox added that because of the approaching deadline, the Commission may need to have special meetings as we proceed. As staff receives supplemental information regarding this Bill, the information will be disseminated to the Commission. Additional meetings will be scheduled as needed. Mr. Baker's guidance will be available.



Mrs. Bartkovich noted that the MACo Conference is in August. The Planning Commission would meet on August 16<sup>th</sup> which is during the MACo Conference. She requested that the date be changed for August. Mr. Lenox responded that Staff will send out alternate dates, but to plan on not meeting August 16<sup>th</sup>.



There being no further business, the Commission meeting was adjourned at 2:56 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.

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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