
MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on July 21, 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 (Absent)
Tim Spies
Jacob Day

CITY/COUNTY OFFICIALS:

Mary Phillips, County Public Works Department
Henry Eure, Building, Permits, and Inspections Department
Gary Hales, City of Salisbury Public Works Department
Maureen Lanigan, Assistant County Attorney
Larry Dodd, Lt., Salisbury Fire Department

PLANNING STAFF:

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



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



Minutes:

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the minutes of the June 16, 2011 meeting with a correction on Page 2.



COUNTY SUBDIVISION PLAT:

Baker Subdivision – Preliminary/Final Plat – 2 Lots – Esham Road – M-31; G-16; P-75.

Mr. David Myers came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes subdivision of 1 lot from this 9.15 acre tract, leaving a 7.148 acre parcel of which 4.574 acres will be designated as open space. Each lot will have 50 ft. of frontage and access on Esham Road.

Mr. Myers stated that he didn't have any problems with the conditions listed in the Staff Report. He explained that he had met with the Health Department and was waiting on their approval. Mr. Myers stated that he had spoken with Mr. Sharp in the Planning Office about the forest conservation and at this time no forest conservation is required.

Mr. Spies questioned if the cross-hatching on Lot 3 indicated easements. Mr. Myers responded in the affirmative.

Upon a motion by Mr. Magill, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Preliminary/Final Subdivision Plat for the Baker Subdivision, including a **WAIVER** of the Sketch Plat Process, and subject to the following Conditions of Approval:

CONDITIONS:

1. The Final Plat shall comply with all requirements of the County Subdivision Regulations.
2. Health Department approval is required prior to the recordation of the Final Plat.
3. The Final Plat shall comply with all requirements of the Forest Conservation Program.
4. A 50 percent Open Space easement shall be provided. The Open Space easement shall be recorded with the plat.
5. Drainage and Maintenance easements shall remain as shown per the previous recorded plat.
6. The ingress/egress easement shall be defined on the plat.
7. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.



#SP-9104-11B COMPREHENSIVE DEVELOPMENT PLAN – Dairy Queen – Pecan Square Shopping Center – Nanticoke Road – Neighborhood Business District – M-37; G-18; P-415.

Mr. Kevin Parsons came forward. Mrs. Gloria Smith presented the Staff Report. Becker Morgan has submitted a Comprehensive Development Plan for a 2,240 sq. ft. restaurant to be constructed on a new outparcel to be created at Pecan Square shopping center. A Site Plan, Landscaping Plan, and Demolition Plan were submitted.

Mr. Parsons stated that the building proposed is the same as the building on North Salisbury Boulevard. The plans are currently under review by the Salisbury Public Works Department.

Mrs. Bartkovich stated that she thought this would be a good addition to that area.

Mr. Day questioned if the covenants of the shopping center stated anything about having to comply with colors or building materials. Mr. Parsons responded that he wasn't aware of anything other than the shared access. Mrs. Smith added that normally the Commission is lenient with the colors and materials for outparcels.

Upon a motion by Mr. Magill, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Dairy Queen Grill and Chill, including a **WAIVER** of the Community Impact Statement and Statement of Intent to Proceed and Financial Capability, and subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with the approved Comprehensive Development Plan. Minor Plan adjustments may be approved jointly by the Directors of the Planning and Zoning and Building, Permits, and Inspections Departments.
2. A detailed Sign Plan shall be submitted for Staff review prior to installation of signage on this site.
3. Subject to further review and approval and any Conditions imposed by the Salisbury Public Works Department.



#SP-024-11H COMPREHENSIVE DEVELOPMENT PLAN – Oak Ridge Baptist Church expansion – Gateway Crossing Shopping Center – Tilghman Road – Regional Commercial District – M-110; G-17; P-4491.

Mr. Steve Fuller came forward. Mrs. Gloria Smith presented the Staff Report. Fuller Hall and Associates has submitted a Comprehensive Development Plan for an 89,000 sq. ft. expansion to be constructed on the easterly side of Oak Ridge Baptist Church in Gateway Crossing shopping center. A Site Plan, Stormwater Management Plan, Sign, Lighting and Striping Plan, and a Landscaping Plan were submitted.

Mr. Fuller requested a waiver of the Community Impact Statement and Statement of Intent to Proceed and Financial Capability. The Church is capable of handling the construction costs. They have done a capital campaign to raise several million dollars for this expansion. If the Kmart building is sold, the proceeds will also go to this development. The stormwater management will be handled under the new regulations. There will be grass in the parking lots. The plan being reviewed includes the future building and its parking requirements. The building materials will be dryvit and a lot of glass. The sign has been recently constructed and installed.

Mr. Magill suggested that the parking requirements needed to be reviewed and updated.

Mrs. Bartkovich questioned how this was a wellhead protection site. Mrs. Smith stated that there were areas that feed the wells at the City Park. Mrs. Bartkovich questioned if these areas would be paved over. Mrs. Smith responded that these areas had already been paved over. Mr. Spies added that these wellhead protection areas extend out to Wor-Wic.

Mr. Spies questioned if there was an increase in waste disposal if the new disposal area would go in the same place. Mr. Fuller responded that if the Church felt the need to increase the waste disposal area that they will increase the trash pick-up. Mr. Spies questioned if there would be a food facility. Mr. Fuller responded that there would be a café but the Church wasn't planning on serving food.

Mr. John Groutt, representing WET, stated that he was pleased to hear Mr. Magill's comments regarding reviewing the parking standards, especially since this is a wellhead protection area. He requested that the review of the parking standards be fast tracked for both the City and County. Mr. Groutt questioned if the aquifer was sealed. He stated that the runoff in the parking lot would have a lot of pollution and questioned if it could be protected. He further questioned if the islands could be lowered instead of raised and if more bioretention ponds could be included to catch the runoff. Mr. Fuller responded that all the proposed parking is draining to a bioswale. The roof drainage also goes into a swale. Both bioretention ponds are contained and the treated water goes to the ponds.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Revised Comprehensive Development Plan and a Wellhead Protection Site Plan for Oak Ridge Baptist Church, as submitted, including a **WAIVER** of the Community Impact Statement and Statement of Intent to Proceed and Financial Capability, and subject to the following Conditions of Approval:

CONDITIONS:

1. This site shall be developed in accordance with the Revised Comprehensive Development Plan. Minor plan adjustments may be approved by the Directors of the Building, Permits and Inspections and the Planning and Zoning Departments.
2. Areas not proposed for development at this time shall be maintained in grass and kept free of litter until the time of development.

3. A Revised Comprehensive Development Plan shall be submitted for the future building construction demonstrating that adequate parking can be provided for the shopping center.
4. This approval is subject to further review and approval by the Salisbury Public Works Department.



**FRUITLAND – BADGER – GRAYDON LANE ANNEXATION – Zoning Recommendation
-0.20 +/- Acres; M-803; P-165; G-12.**

Mr. Andy Mitchell came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Andrew Mitchell, Attorney for the City of Fruitland, has submitted the Badger – Graydon Lane annexation on the easterly side of Fruitland for review by the Planning Commission. The property is located off the southerly side of Graydon Lane, and consists of approximately 0.8 acres of land area adjoining the existing corporate limits of the City. The Badger property is partially within the City of Fruitland.

Mr. Mitchell stated that this was the only property of the four (4) being heard today that didn't receive utilities.

Mrs. Bartkovich questioned if the property was completely annexed, if they would be required to hook up to City water and sewer. Mr. Mitchell responded not in this case. He explained that the closest water and sewer is on Division Street. Mrs. Bartkovich questioned if the annexation was being done without the consent of the property owner. Mr. Mitchell responded in the affirmative. Mrs. Bartkovich stated that if the well and septic were to fail that the property owner would have the expense of paying for the hook up to City services. Mr. Mitchell responded in the affirmative. Mrs. Bartkovich questioned if the property taxes are on the entire property or only the portion included in the City limits. Mr. Mitchell responded that one (1) of the reasons for annexing this property is to clear up the tax bills so that the entire property is included.

Mr. Mitchell explained that the Badger and Gravenor properties were detached by a body of water and these annexations would clean up a lot of the City boundaries.

Mr. Dashiell stated that the Commission needed to make sure that the zoning was the same and that the recommendation in the Staff Report was for R-1A residential zoning.

Mrs. Bartkovich questioned if the Commission didn't approve the zoning if that would institute the five (5) year rule for zoning. Ms. Lanigan responded that the recommendation would have to go before the County Council and if the Council didn't approve the zoning than the five (5) year rule would be go into effect.

Mr. Mitchell stated that everyone has this parcel as residential therefore the five (5) year rule wouldn't kick in.

Mrs. Bartkovich stated that she had a concern about annexing a property without the consent of the property owner. Mr. Mitchell stated that this has been done before. Mrs. Bartkovich responded that the statue that this is being done under expires on September 30, 2011 and she can't support the annexation.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the City of Fruitland for **R-1A, Prime Residential** zoning of the Badger property upon the annexation of the property to the City of Fruitland. The Commission found the proposed zoning consistent with the current County zoning classification of Town Transition.

Mrs. Bartkovich opposed the motion.



**FRUITLAND – BYRD – DISHAROON ROAD ANNEXATION – Zoning Recommendation
– 3.0 Acres; M-57, P-89, G-11.**

Mr. Andy Mitchell came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Andrew Mitchell, Attorney for the City of Fruitland, has submitted the Byrd – Disharoon Road annexation on the southwest side of Fruitland for review by the Planning Commission. The property is located off the northerly side of Disharoon Road, and consists of approximately 3.0 acres of land area adjoining the existing corporate limits of the City. The Byrd property is partially within the City of Fruitland.

Mr. Mitchell stated that there was no change in density, the County sees it as non-residential and the City sees it as commercial, therefore, there isn't a substantial difference.

Mrs. Bartkovich questioned if the owner had consented to the annexation. Mr. Mitchell responded in the negative explaining that he had sent the owner a letter but there hadn't been any response. This property has City services.

Mr. Magill questioned if there was any other zoning classification in Fruitland that might be considered. Mr. Mitchell responded in the negative. He explained that the property faces Route 13. The general business is what is being proposed for this property.

Mr. Day questioned if sending the zoning recommendation to the Council was a requirement. Mrs. Smith responded in the affirmative, explaining that Fruitland's general commercial is not consistent with the County Town-Transition zoning.

Mr. Dashiell stated that there could be a potential change in the use of the property.

Mr. Mitchell stated that the City of Fruitland would probably be willing to annex this property under the five (5) year rule.

Mr. Day questioned if going before the Council was required. Mr. Lenox responded that going before the Council was not required because they can wait out the annexation under the five (5) year rule. The determining districts are not the same. Mr. Day stated that this would allow a new owner to develop the property in a general commercial manner without the special exception.

Mr. Mitchell stated that if a more intense general commercial use was to be proposed and it didn't go before the Council that the new development wouldn't be able to proceed.

Mr. Spies questioned how this would affect the tax liability for the property owner. Mr. Mitchell responded the property owner would be responsible for the City taxes. He added that there was no indication that this property would be further developed.

Ms. Lanigan stated that the Commission couldn't waive the requirement to go before the Council but can send a recommendation to the Council that the proposed zoning is okay.

Upon a motion by Mr. Magill, seconded by Mr. Robinson, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the City of Fruitland for **C-3 General Business** zoning of the Byrd property upon the annexation of the property to the City of Fruitland. The Commission found that the proposed zoning classification is not consistent with the current County zoning classification of Town Transition and recommended that the zoning classification be reviewed and approved by the Wicomico County Council.



FRUITLAND – GRAVENOR – GRAYDON LANE ANNEXATION – Zoning Recommendation – 0.499 +/- Acres; M-803; P-164; G-12.

Mr. Andy Mitchell came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Andrew Mitchell, Attorney for the City of Fruitland, has submitted the Gravenor-Graydon Lane annexation on the easterly side of Fruitland for review by the Planning Commission. The property is located on the southerly side of Graydon Lane, and consists of approximately .999 acres of land area adjoining the existing corporate limits of the City. The Gravenor property is partially within the City of Fruitland.

Mr. Mitchell stated that this property receives City services. The house is in the City and the shed is in the County.

Mr. Magill questioned if the adjoining property septic were to fail if the City could by eminent domain provide an easement. Mr. Mitchell responded that it would require a pump station. He added that the County may let the City go through Graydon Lane to provide services. He added that there is a possibility that the City could annex the road in the future.

Mrs. Bartkovich questioned that the road was not being annexed. Mr. Mitchell responded that they were not annexing the road at this time. He added that the City would probably annex the road if they didn't have to come back to the Commission.

Upon a motion by Mr. Magill, seconded by Mr. Robinson, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the City of Fruitland for **R-1A Prime Residential** zoning of the Gravenor property upon annexation of the property to the City of Fruitland. The Commission found the

proposed zoning consistent with the current County zoning classification of Town Transition.

Mrs. Bartkovich opposed the motion.



FRUITLAND – HOPPER – EAST MAIN STREET ANNEXATION – Zoning Recommendation – 0.32 +/- Acres; M-805, P-749, G-20.

Mr. Andy Mitchell came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Andrew Mitchell, Attorney for the City of Fruitland, has submitted the Hopper-East Main Street annexation on the southeast side of Fruitland for review by the Planning Commission. The property is located on the southerly side of East Main Street, and consists of approximately .64 acres of land area adjoining the existing corporate limits of the City. The Hopper property is partially within the City of Fruitland.

Mr. Mitchell stated that the house is in the City and receiving full water and sewer utilities.

Mrs. Bartkovich questioned why Fruitland was not picking up Parcel 55. Mr. Mitchell responded that the survey had not been completed yet. There are approximately 12 to 15 additional parcels that are partially in the City limits. Parcel 54 is out of the City limits so there wouldn't be a way to serve them with utilities.

Mr. Spies questioned if Parcel 54 had been approached about annexation. Mr. Mitchell responded in the negative because there wasn't time with the restraints of the article that these annexations are being completed under.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the City of Fruitland for **R-1A Prime Residential** zoning of the Hopper property upon annexation of the property to the City of Fruitland. The Commission found the proposed zoning consistent with the current County zoning classification of R-15 Residential.

Mrs. Bartkovich opposed the motion.



Commission Discussion – Draft County Comprehensive Plan.

Mr. Hall and Mr. Lenox came forward. Mr. Lenox stated that there wasn't a lot to discuss at this meeting. The meeting in August is a week early and there will be a full presentation on that agenda. Mr. McKenzie has been working on the mapping.

Mr. Lenox informed the Commission of the recent staffing changes. The Planning Office lost two positions. In the last two (2) years, the Planning Office has lost a quarter of its staff. In the recent staffing changes, the support role of long range planning was lost as well as an administrative position.

Mr. Hall explained that the Phase II WIP has been taking a front seat due to time constraints. He gave a brief overview of the Phase II WIP. The EPA lost a lawsuit with the Chesapeake Bay Foundation. The Bay is being put on what's known as a "pollution diet". The EPA will give a number for nitrogen and phosphorus loads that must be met. A team has been created to work on the WIP and has had a few meetings in the last two (2) months. The County's portion will be heavily focused on septic systems. Stormwater management also applies but not as much as the incorporated areas. The core planning team has representatives from each municipality as well as outside agencies. The team is currently waiting on allocation numbers, but 2012-2013 milestones are being asked for from the State no later than September 30, 2011. The two-year milestones will contain the best management practice(s) to implement in an effort to reduce nitrogen and phosphorus loads.

Mr. Hall explained that he had requested that the State come down and explain the Phase II WIP to the town and city representatives and core planning team. Dr. Rich Eskin, MDE, will be present at a meeting tonight to explain what the Phase II WIP is and what is expected from the jurisdictions. A deadline of November 1, 2011 is required to have the Phase II WIP submitted to the State. The core planning team is waiting on a lot of information in order to meet this deadline. A letter from the EPA dated December 29, 2010 states that no action to reduce nutrient loads may lead to consequences, which have been outlined in the EPA letter. The core planning team is hoping to have more information from the State prior to an upcoming meeting to occur in August or September. The core planning team is working to document existing programs and policies. Subsequently, the legislators of each jurisdiction will need to work closely with their core planning team representative

to determine the best strategy to proceed with this planning effort. There is no indication as to what the cost involved will be to implement the majority of the State approved BMPs for each of the sectors. Mr. Hall added that Mr. Kevin Keenan from Soil Conservation is leading the Ag work group.

Mr. Hall stated that there is a web page on the MDE website that he will send the link to the Commission members.

Mr. Lenox emphasized the Phase II WIP deals with a geographic area and not the County or the municipalities separately.

Mr. John Groutt stated that there weren't any environmentalists in the work group and wondered why because other counties have them included in the work group. Mr. Hall stated that the only county that he is aware of having an environmentalist included in the work group was Dorchester County. He added that the meetings are open to the public, but everything has been very accelerated pace of completion due to the State mandated deadline.

Mr. Lenox reiterated that the meeting with Dr. Eskin was for the planning team, local legislators, and whoever else that would like to attend.



There being no further business, the Commission meeting was adjourned at 3:20 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