



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT
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COUNTY EXECUTIVE

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CITY ADMINISTRATOR

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DIRECTOR OF ADMINISTRATION

MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on April 21, 2016 in Room 301, Council Chambers of the Government Office Building, with the following persons in attendance:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
James W. Magill, Vice Chairman
Scott Rogers
Marc Kilmer
Newell Quinton
James McNaughton (Absent)
Jack Heath

CITY/COUNTY OFFICIALS:

Henry Eure, Salisbury Building, Permits, and Inspection Department
Brian Wilkins, Salisbury Public Works Department
Paul Wilber, County Attorney

PLANNING STAFF:

Jack Lenox, Director
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. Rogers, seconded by Mr. Quinton, and duly carried, the Commission **APPROVED** the minutes of the March 17, 2016 meeting as submitted.

Mr. Magill abstained due to his absence from the meeting.



#SP-1602 PUBLIC HEARING - TEXT AMENDMENT - Office and Service Residential District - To Add Apartments, up to five units, and Assisted Living Facilities - Nick Simpson.

Mr. Lenox read the ad and administered the oath. Mr. Dashiell explained the public hearing procedure.

Mr. Nick Simpson and Mr. Leonard Arvi came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. Mr. Nick Simpson of First Move Properties, LLC, has submitted a request to amend the text of the Office and Service Residential District. Specifically, he proposes the addition of "Apartments, up to five units" in the District. 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. Simpson gave a brief background on the Newtown Historic District. From Route 50 to Route 13 on N. Division Street there are 19 vacant properties. He gave a breakdown of the apartments that are on N. Division Street. There is a four (4) unit apartment building next door to their property on N. Division Street. He discussed that there is adequate parking on site. The repairs needed would be too costly to do anything with this building except apartments. Mr. Simpson noted that they had been trying to sell the building to Trinity Church for the last eight (8) months but there hasn't been any success. He added that a special exception could be required for the apartments to be done on this site.

Mr. Dashiell stated that this is a request for a text amendment. Mrs. Smith stated that there are no special exception uses in the Office, Service, Residential

District in the Code and that to include a special exception would require additional language change in the Code.

Mr. Rogers questioned what the use was before the fire. Mr. Simpson responded that there were two (2) apartments and an architectural firm on the first floor.

Mr. Kilmer questioned if there are other apartments on the same block, how this was not permitted. Mr. Eure responded that the apartments are legal nonconforming uses so this property is trying to be brought into compliance with the current Code. Mr. Kilmer questioned what would be a legal use on the property. Mr. Eure responded that a professional use, a residential two-family dwelling or an office type use would be permitted as well as light use business. Mrs. Smith noted that Attachment # 8 has a list of the permitted uses.

Mr. Dashiell noted that two (2) units would comply with the Code but four (4) units violate the density and parking requirements. Mr. Simpson stated that there is a three (3) car garage on the property as well as a total of six (6) parking spaces. There is a possibility that eight (8) spaces could go on the property and there is free parking in the lot right next to the house. Mr. Simpson added that they would like to continue investing in Salisbury but need this cash flow to do that. Mr. Dashiell stated that while the Commission appreciates that they want to continue to invest in Salisbury, the cash flow is not a consideration for the request. He added that he is struggling with the parking and the density.

Mr. Arvi stated that the prior use on the property was an office and two (2) apartments and there was plenty of parking. Mr. Simpson stated that there is a free parking lot next to the property. Mr. Eure noted that the parking lot does not offer free parking as it is owned by the Church and the City. Mr. Dashiell stated that a parking agreement would be needed.

Mr. Kilmer stated that the parking requirements do not necessarily match what is needed. He stated that the text amendment shouldn't get hung up on parking. He questioned if the zoning designation needed to be changed.

Mr. Heath stated that it was important to note that the City just adopted the Master Plan and they would be very careful about making exceptions to that plan.

Mr. Arvi stated that the property has been vacant for the last two (2) years. The City is losing the tax base on the property. There are 19 vacant properties within a half mile of this property. The repairs to this property would bring up the value.

Mr. Magill stated that he has a problem with singling out this area because it affects all the OSR zoning districts. Mr. Simpson stated that they were looking to put people in walking distance of downtown.

Mr. Brett Davis, realtor for the property, discussed feasibility. He stated that he works solely with investors. Office space downtown goes for \$8 per square foot while residential only gets \$6 per square foot. There are not many office uses in Newtown. The population density is being driven for downtown. The proposed vision for downtown requires foot traffic and it can't be done without this amendment.

Mr. Arvi stated that as investors they want to pursue investment in Salisbury.

Mr. Lenox stated that the applicants had suggested the idea of considering this request by special exception. The Commission could consider this as there are other lots in this zoning district that would be affected. Mr. Dashiell questioned if the special exception would be considered at a later time. Mr. Lenox responded in the affirmative, adding that the Commission could make a recommendation on the special exception idea and if the Council proceeds then they could consider it.

Mr. Magill stated that he would consider a special exception.

Mr. Kilmer stated that he was in favor of a zoning change.

Mr. Dashiell questioned if the Commission could take action on the text amendment and add the special exception. Mrs. Smith responded that instead of sending an unfavorable recommendation they could recommend apartments as a use permitted by special exception.

Mr. Eure noted that a special exception would go before the Board of Zoning Appeals and not the Planning Commission. He suggested including a caveat for site plan approval from the Commission. Mr. Lenox added that in this case the request would also have to go to the Historic District Commission for approval.

Mr. Eure questioned if this would include the density requirements as addressed by the apartment standards. Mr. Lenox responded that the density would remain as it is.

Upon a motion by Mr. Magill, seconded by Mr. Rogers, and duly carried, the Commission forwarded an **UNFAVORABLE** recommendation to the Mayor and Council for the proposed amendment that would permit up to five apartment units in the Office and Service Residential Districts. However, the Commission forwarded a **FAVORABLE** recommendation to the Mayor and City Council for approval of an alternative amendment as follows:

AMEND SECTION 17.84 BY ADDING THE FOLLOWING:**17.84.025 USES PERMITTED BY SPECIAL EXCEPTION.****USES PERMITTED BY SPECIAL EXCEPTION SHALL BE AS FOLLOWS:**

- A. APARTMENTS, UP TO FOUR UNITS, IN ACCORDANCE WITH SECTION 17.168.030.C.2 AND SUBMISSION OF A SITE PLAN FOR REVIEW AND APPROVAL BY THE PLANNING AND ZONING COMMISSION.**

Mr. Heath opposed the motion.



#SP-1603 PALEOCHANNEL/WELLHEAD PROTECTION SITE PLAN APPROVAL - Lidl US Operations, LLC, rep. by Bohler Engineering - 36,185 sq. ft. Grocery Store - 2625 N. Salisbury Blvd. - M-101; P-5476; G-5.

Mr. Chris Mondoro and Mr. Chris Carmean came forward. Mrs. Gloria Smith presented the Staff Report. Bohler Engineering has submitted a Paleochannel/Wellhead Protection Site Plan, on behalf of Lidl US Operations, LLC.

Mr. Mondoro stated that there would be a lot of improvements on site. There will be stormwater management. There will not be excessive water use or hazardous materials on site. The landscape islands will be modified. Mr. Mondoro stated that they would prefer to leave flush curb along the front of the building to promote accessibility. He stated that they were working with the adjoining property owner for accessibility. He discussed the cross-access that is being worked on.

Mr. Magill questioned if they would be modifying the existing building. Mr. Mondoro responded in the negative, explaining that they would be tearing it down and building a new structure.

Mr. Rogers questioned if there would be sustainability in the building. Mr. Carmean responded that they have not announced anything. He discussed Lidl being one of the biggest grocery chains in Europe. There are not any stores built in the United State yet but they are being worked on. The first store to open will be down south. Lidl is a middle sized store with great prices. Mr. Carmean added that they are not affiliated with Aldi which is another German grocery chain who owns Trader Joe's.

Mr. Heath questioned if there was a standard store. Mr. Carmean displayed a plan and stated that they have standard stores everywhere.

Mr. Dashiell stated that it was exciting that they were picking the Eastern Shore to bring one of their stores to. Mr. Carmean stated that they are a little

further along in some of the southern states but they look forward to opening a store in Salisbury.

Upon a motion by Mr. Magill, seconded by Mr. Heath, and duly carried, the Commission **APPROVED** the Paleochannel/Wellhead Protection Site Plan for Lidl US Operations, LLC, subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with the approved Paleochannel/Wellhead Protection Site Plan. Minor plan adjustments may be approved jointly by the Building, Permits and Inspections and Planning and Zoning Departments.
2. Sufficient radius shall be provided for at the northwest corner of the site, to allow for the future establishment of a public street along the northerly property line.
3. The plan should include provisions for future access to the future commercial drive, a cross-connection to the Lord Salisbury Shopping Center, and landscape/sidewalk enhancements along the future street.
4. Site modifications are subject to further review and approval by the Salisbury Department of Public Works.



#SP-8912-16D REVISED COMPREHENSIVE DEVELOPMENT PLAN APPROVAL - Homes on Johnson Pond (Joseph House Village PRD #5) - Homes for America, Inc., Osprey Property Co., and Village of Hope - 63 Apartment Units - 1001 Lake Street - M104; G-2; P-1732.

Mr. Tim Metzger, Mr. Jim Fineran, and Mr. Andrew Hanson came forward. Mrs. Gloria Smith presented the Staff Report. Davis, Bowen & Friedel has submitted a Revised Comprehensive Development Plan for construction of 63 apartments as Phase II of Joseph House Village PRD #5. Tax Credits and associated loan funds are being provided by the Maryland Department of Housing and Community Development. The new units will serve persons who earn between 30% and 60% of area median income. The Community will offer a preference to applicants who have completed a Transitional Housing Program.

Mr. Fineran gave a briefing on the history and mission of the Village of Hope. He stated that they accept women who are homeless and their children. The women start a two (2) year program to make them independent. There is two (2) phases to homelessness. The first phase is giving them a place to live and to educate them and get them back to being healthy, productive members of society. The proposed housing will be the second phase which will put them in housing once they have graduated the program.

Mr. Hanson stated that he was approached by the Village of Hope to help with the housing. He explained that they had secured State and Federal funding to do this project. This project will build workforce housing, not subsidized housing. The residents will be made to pay rent.

Mr. Metzner stated that they were proposing modification to the original comprehensive plan. The project needed to be brought up to today's standards. Stormwater management is proposed. Water and sewer will be approved by the City. There will be landscaping provided. The plan is to maintain as many existing trees as possible. The entrance will be off of Lake Street.

Mr. Hanson stated that they wish to create a subdivision giving the Village of Hope their own parcel.

Mr. Magill stated that the structure doesn't complement the neighborhood at all. Mr. Metzner stated that they have consolidated the units and increased the open space. Mr. Hanson stated that Lake Street is a challenging area. There are many abandoned units. There will be a good sized berm along Lake Street. The building will be set back 45 ft. from Lake Street. This will also give the development a better sense of control. The buildings will only be accessible by a key fob.

Mr. Dashiell stated that the development will have a cottage arrangement.

Mr. Kilmer stated that he wasn't sure that you would want this to match the neighborhood. This idea is not unprecedented. Westbrooke Commons on West Road didn't fit the character of the neighborhood but is an improvement to the area. This project would not be disruptive and he stated that he saw it as a positive.

Mr. Rogers questioned how the impervious surface compares to what was proposed originally. Mr. Metzner responded that there is an increase in impervious surface for the additional parking and the stormwater management. Mr. Rogers questioned if they could have done a plan similar to what was originally proposed. Mr. Metzner responded in the negative because they have more stormwater management regulations to comply with.

Mr. Hanson stated that the funding has to be done cost effectively.

Mr. Dashiell questioned if the two (2) buildings that contain the 14 units were two-story. Mr. Metzner responded in the negative, stating that they are three-story. Mr. Dashiell questioned if they were architecturally compatible. Mr. Fineran responded that the roof will match but that is the only compatible part of the building. Mr. Fineran added that this project is important to the future of the Village of Hope and this will be a tremendous improvement to the neighborhood.

Upon a motion by Mr. Rogers, seconded by Mr. Kilmer, and duly carried, the Commission **APPROVED** the Revised Comprehensive Development Plan for Homes at Johnson Pond at the Villages at Joseph House PRD # 5, 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 Revised Comprehensive Development Plan. Minor Plan adjustments may be approved jointly by the Directors of the Department of Building, Housing and Zoning and Planning and Zoning.
2. Areas that are not immediately developed should have sufficient ground cover, and be maintained free of trash and debris.
3. Subject to further review and approval by the Salisbury Public Works Department.

Mr. Magill opposed the motion.



#WP-0803-16A COMPREHENSIVE SITE PLAN APPROVAL – Warehouse and Office – Spicer Properties, LLC, rep. by Parker & Associates – Beaver Run Business Park – M-39; G_6; P-264; L-8AA.

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. Parker and Associates has submitted a Site Plan, on behalf of Brian Spicer for construction of an 8,000 sq. ft. warehouse with a 2,000 sq. ft. office and a 4,160 sq. ft. future warehouse expansion on this site.

Mr. Parker stated that the 2008 plans that were approved for the Toy Box have been modified for this request. The plans show the rears of the site with a chain link fence with slats. Mr. Spicer has requested to not put the slats in the fence. The warehouse is shown in two (2) phases. There is landscaping on the westerly side. There is a stormwater ditch and then a stormwater pond. Mr. Parker requested that those two (2) spots be sufficient stormwater for the site. Mrs. Smith stated that the planting of the trees was the recommendation of the Zoning Administrator when he reviewed the plans.

Mr. Magill questioned if it was possible to move some of the landscaping from the front of the building out near the street. Mr. Parker responded in the affirmative. Mr. Magill suggested using black vinyl chain link fence.

Mr. Dashiell questioned planting trees along the westerly property line. Mr. Parker responded that they could plant five (5) to six (6) trees.

Mr. Magill questioned if the remaining area to the east would be further developed. Mr. Parker responded in the negative, explaining that there have been several failed perc tests.

Mr. Dashiell questioned if they needed to address the retention of the trees along the easterly property line. Mrs. Smith responded that it wasn't included in the recommendation but could be made a condition of approval.

Upon a motion by Mr. Magill, seconded by Mr. Heath, and duly carried, the Commission **APPROVED** the Comprehensive Site Plan for the proposed warehouse and office in Beaver Run Business Center – Lot #8AA, subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with the approved Site and Landscaping Plan.
2. This development is subject to any applicable Conditions of Approval imposed by the Wicomico Board of Appeals in 1988 or 1994.
3. Trees at a 50 ft. spacing shall be added to the required landscaping area along the westerly side of the warehouse building.
4. Subject to further review and approval, if required, by the Wicomico County Public Works Department.



AGRICULTURAL LAND PRESERVATION EASEMENT APPLICATION – Hurley Farms – Waller Road – 61.6 Acres – M-10; G-24; P-10.

Mrs. Gloria Smith presented the Staff Report. An application has been filed by Robert W. Hurley to sell an easement on his property on Waller Road to the Maryland Agricultural Land Preservation Foundation.

Upon a motion by Mr. Magill, seconded by Mr. Quinton, 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 Hurley property based on compliance with the County Comprehensive Plan.



AGRICULTURAL LAND PRESERVATION EASEMENT APPLICATION - Michael Stephens - Coulbourn Mill Road - 112.33 Acres - M-69; G-2; P-7.

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

Upon a motion by Mr. Magill, seconded by Mr. Quinton, 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 Stephens property based on compliance with the County Comprehensive Plan.



AGRICULTURAL LAND PRESERVATION EASEMENT APPLICATION - Philip Wells - Cherry Walk Road - 54.38 Acres - M-26; G-16; P-105.

Mrs. Gloria Smith presented the Staff Report. An application has been filed by Philip Wells to sell an easement on his property on Cherry Walk Road to the Maryland Agricultural Land Preservation Foundation.

Upon a motion by Mr. Magill, seconded by Mr. Quinton, 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 Wells property based on compliance with the County Comprehensive Plan.



Mr. Keith Hall and Mr. Jack Lenox came forward. Mr. Lenox enlightened the Commission that there was a friendly grocery war going on in the north end of town with Lidl being in competition with Aldi. Aldi is looking at the property at Dagsboro Road and Route 13 and pursuing annexation to the City of Salisbury to build a store there. On the east part of the City, water and sewer is being extended under Route 50 to serve Beaver Run Elementary. The Tri County Council building has been annexed into the City of Salisbury.



Mr. Hall discussed the Municipal Growth Element (MGE) contained in the City Comprehensive Plan, which was adopted in 2010. Without this Element, the City is prohibited from annexing lands. He presented two proposed amendments as corrective actions to the MGE. The first proposed amendment is designating the land use of three properties located at the northeast intersection of U.S. Route 13 North and Dagsboro Road. Currently, the MGE has the subject properties designated as Low Density Residential land use, which is a mapping mistake. The proposed land use designation for the three properties is Commercial. The proposed land use is consistent with County Zoning. The other corrective action is incorporating the Beaver Run Business Park into the MGE. The proposed designated land use is Mixed Use, which is consistent with the County's LB-1 Zoning District. Mr. Hall discussed the process of amendments to the City Comprehensive Plan, which includes 60-day State review prior to any action of the Planning Commission. Upon completion of the 60-day State Review, the Planning Commission will hold a public hearing tentatively in July. Contingent upon a favorable recommendation, the last step in the amendment process is for the City Council to review and act on the proposed amendments at a public hearing.



There being no further business, the Commission meeting was adjourned at 3:47 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