



# 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 December 20, 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 (Absent)  
Jacob Day  
Newell Quinton

### CITY/COUNTY OFFICIALS:

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

### PLANNING STAFF:

Gloria Smith, Planner  
Jimmy Sharp, Planner  
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 Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the minutes with the corrections on Page 2 and Page 8.

**#SP-1206****PUBLIC HEARING – TEXT AMENDMENTS – CHESAPEAKE BAY CRITICAL AREA ORDINANCE – Chapter 12-20 of the Salisbury Municipal Code.**

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

Mr. Mark Gradecak and Ms. Tracey Gordy came forward. Mr. Jimmy Sharp presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the Annotated Code of Maryland, Natural Resources Article 8-1809(g) requires local jurisdictions to periodically review their Programs and propose necessary amendments. These proposed updates to the language of the ordinance are a direct result of that review.

Mr. Magill questioned the increase in lot coverage. Mr. Gradecak responded that it was possible to create an apartment in an existing building such as in a garage without increasing the foundation. Mr. Magill questioned if you could build an additional building on the lot that was connected with a canopy. Mr. Gradecak responded that it would depend on how much of the lot coverage was being used.

Mrs. Bartkovich stated that she was confused as to what was being recommended as the Salisbury City Code is not done with bullets. She questioned what the Commission was to recommend. Mr. Sharp responded that the ordinance was a 98 page document so he highlighted the changes in the staff report to avoid printing a large document. Mr. Gradecak displayed the working ordinance and explained that it

would be laid out exactly like the Salisbury City Code. Mrs. Tull noted that due to copying costs, the ordinance in its entirety was not copied and sent out.

Ms. Tracey Gordy, MDP, stated that a grant had been done for this revision. A grant paid for seven (7) municipalities to be done last year and another grant paid for the remaining five (5) municipalities to be done this year. This is actually a repeal and reenactment of the Critical Area Ordinance.

Mr. Gradecak displayed his working draft of the ordinance and reiterated that it would read like the Salisbury City Code.

Ms. Gordy stated that the model ordinance was used because the law has created the loss of the ability to use individual ordinances. The use of the model ordinance also gets through the Critical Area Commission much quicker. There is no longer a need for a program document with this ordinance.

Mr. Day questioned how much municipalities were allowed to tweak the model ordinance. Ms. Gordy responded that there was very little room to tweak the ordinance. She explained that they had met with the Critical Area Commission for an entire day before starting the ordinance and were told that there would be very little room to make modifications. The City Council has seen this draft and seems to be fine with the way it is worded.

Mr. Day questioned the cause of the change to the Riverwalk section. Mr. Gradecak responded that what is being proposed has been a compromise with the Critical Area Commission.

Mrs. Bartkovich stated that the bulkhead is a wall and there is concern about runoff to the filters. Mr. Rogers questioned if there would be plantings in the buffer. Mr. Sharp responded in the affirmative. Mr. Magill questioned where the mean high tide waterline was located. Mr. Sharp responded that the mean high tide waterline is at the bulkhead.

Mr. Day questioned if it was unlikely that an amendment would be considered by the Critical Area Commission. Mr. Sharp responded that it would be unlikely that the Critical Area Commission would consider any changes.

Mr. Gradecak stated that policy has been included from discussions that have taken place with the Critical Area Commission.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission forwarded a **FAVORABLE** recommendation to the Salisbury City Council for the adoption of the text amendment to Title 12, Chapter 20 (Chesapeake Bay Critical Area Natural Resources Protection) of the Salisbury, MD Municipal Code.

**COUNTY SUBDIVISION PLAT:**

**Patrick's Landing, Section 1 – Preliminary Extension – 17 Lots – Pemberton Drive & Rawson Road – M-47; G-8; P-15.**

Mr. Steve Fuller 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. The applicants are requesting an additional one-year extension of time to submit the Final Plat. The applicants noted that they are still working on Construction Improvements Plans for the development and also noted that there has been a change in engineers for the project.

Mr. Fuller stated that the request was for an extension of the preliminary plat. He stated that they had been working on this project for three (3) or four (4) months and hope to submit the construction documents in January.

Mr. Day questioned if the access to the water could be explained. Mr. Rogers stated that he had brought this issue up before and the land is too steep for a public access. Mr. Fuller responded that there is already a family home on the river and there is no left over land to provide public access.

Upon a motion by Mr. Magill, seconded by Mr. Rogers, and duly carried, the Commission **GRANTED** a one-year extension of time to submit the Final Plat for Patrick's Landing, Section 1, subject to the original Conditions of Approval. **This preliminary Plat approval will expire on December 23, 2013.**



**#OP-1202 PUBLIC HEARING – ORDINANCE PERMIT – Day Care Center – Feyi Okulate – 1004 South Division Street – Office Service Highway District #1.**

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

Mr. Mobalaji Okulate and Mrs. Feyi Okulate came forward. Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the report explaining that the applicant proposes establishment of a day care center in this existing building on Eastern Shore Drive. Section 17.88.030A of the Salisbury Municipal Code requires approval of an Ordinance Permit in order to operate a Day Care Center in the Office Service Highway District #1. 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. Okulate explained that his wife wanted to expand the number of children that she watches so they needed to find a place that had more accessible space than their home. He stated that they have been in contact with the landlord and believe that it is possible to create more parking. The plan is to plant shrubs along the play area to shield it from the road.

Mr. Magill questioned how they planned on addressing the lack of exercise space. Mrs. Smith stated that they would need to enlarge the fenced area to 1500 sq. ft.

Mrs. Okulate stated that she would like to start with five (5) to 10 children and then expand after the daycare was opened.

Mr. Dashiell stated that the Commission's concern is the sufficiency of the site plan, the play area, and the parking which are not accurately addressed.

Mr. Day questioned who developed attachments #3 and #4 in the staff report. Mr. Okulate responded that he had done the drawing and had gotten the plat from the realtor. Mrs. Smith stated that she had done the coloring on the drawings

as well as the numbering. Mr. Day stated that the Commission needed to see a proposed site plan.

Mrs. Barktovich stated that she would like to have something in writing from the landlord indicating support of the site plan.

Mr. Dashiell suggested that a motion be made to continue the public hearing for 60 days to get a proper site plan done and all the issues addressed.

Mr. Gary Hales, Snow Hill Road, stated that his future sister-in-law owns the property and had sent him an email stating the property was no longer for lease and only for sale. Mrs. Okulate stated that they had been made aware of this.

Mr. Okulate questioned what type of site plan needed to be submitted. Mr. Dashiell responded that something similar to the engineered drawing could be resubmitted as long as all the issues had been addressed.

Upon a motion by Mr. Magill, seconded by Mr. Rogers, and duly carried, the Commission **CONTINUED** this request for 60 days to permit re-evaluation of the request, work with Child Care Administration and this property owner regarding the play area and the parking area, and preparation of a more accurate Site plan (that more closely conforms to the survey prepared in 2008).



**#SP-8702-120      COMPREHENSIVE DEVELOPMENT PLAN – Dunkin Donuts – Tilghman Road – Shoppes at Salisbury – Regional Commercial District – M-110; P-4482; G-9.**

Mr. Brock Parker and Mr. Nick Nistazos came forward. Mrs. Gloria Smith presented the Staff Report. Parker and Associates has submitted a Comprehensive Development Plan for a 2,106 sq. ft. restaurant to be constructed on an existing outparcel at Shoppes at Salisbury shopping center. A Site/Landscaping Plan and Building Elevations were submitted.

Mr. Parker stated that the site is not big enough for phase development. He stated that they were seeking site plan approval now and will come back with a second tenant at a later time. All forest conservation will be handled with staff. Stormwater management will also be handled.

Mr. Magill questioned if the forest conservation could be done on site. Mr. Parker responded that he would need to consult with Mr. Sharp and then determine if the plantings could be done on site. He explained that he wasn't sure that he could meet the overall requirement on the site. Mr. Magill stated that he would rather see the forest conservation done on the site than paid into a fund. Mrs. Bartkovich suggested that there may be other areas in the shopping center where the forest conservation could be done.

Mrs. Bartkovich questioned if the parking was ample for both buildings. Mrs. Smith responded in the affirmative. Mrs. Bartkovich questioned if the parking was ample even for the unknown tenant. Mr. Parker responded that the parking requirements were one (1) space per 200 sq. ft. since this was a shopping center. Mrs. Bartkovich stated that there is a lot of traffic in the shopping center and questioned if there would be any foreseen traffic issues. Mrs. Smith responded that this site was further away from the intersection so she did not foresee any traffic concerns.

Mr. Dashiell questioned the signage. He questioned if the signage should be part of the motion. Mrs. Smith responded that the applicant will come back for signage and elevation approvals for the second building at a later time but the signage included for the Dunkin Donuts could be approved.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Comprehensive Development Plan for Dunkin Donuts at the Shoppes at Salisbury, 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. Any areas not developed shall be maintained in grass and kept free of trash and debris until such time as development occurs.
3. Subject to further review and approval and any Conditions imposed by the Salisbury Public Works Department.



**#SP-9112-12AA REVISED COMPREHENSIVE DEVELOPMENT PLAN – Buffalo Wild Wings – Building Elevations, Outdoor Seating, and Signs - N. Salisbury Blvd. – North Pointe Plaza II - General Commercial District – M-29; P-507; G-5.**

Mr. John Kornick and Mr. Bobby Pancake came forward. Mrs. Gloria Smith presented the Staff Report. Mr. John Kornick of K2 Consulting Engineers has submitted a Revised Comprehensive Development Plan for Buffalo Wild Wings in the vacant unit of the Dollar Tree building in North Point Plaza, Phase II. The Site Plan and Floor Plan depicting proposed interior development and exterior development of an outside patio, landscaping, and signage was submitted.

Mrs. Smith modified the recommendation regarding the signage for the rear of the building explaining the existing signage for Dollar Tree.

Mr. Kornick stated that they were in agreement with the conditions of approval listed in the staff report. He explained that they were aware of the sanitary issues. The building will be located approximately 300 ft. from Route 13 so the signage needs to be done to make people aware of where they area located.

Mr. Magill questioned if they could elaborate on the ground mount sign. Mr. Kornick responded that there is a ground mount sign already in place with a spot for their tenant sign.

Mr. Kornick questioned Mr. Eure if they could apply for their demo permit for the interior of the building now. Mr. Eure responded in the affirmative.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Revised Comprehensive Development Plan for Buffalo Wild Wings, 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 Revised Comprehensive Development Plan. Minor plan adjustments may be

approved jointly by the Directors of the Building, Permits and Inspections and Planning and Zoning Departments.

2. This project is subject to further review and approval by the Salisbury and Wicomico County Departments of Public Works.



**#SP-9303-12E      REVISED SIGN PLAN APPROVAL – Lotus Plaza Shopping Center – 2420 North Salisbury Blvd. – General Commercial District – M-29; G-11; P-164.**

Mr. John Hays came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Youssef Hafez has submitted a request for a Revised Sign Plan approval for Lotus Plaza shopping center to modify the list of approved colors for the wall signage at the center.

Mr. Hays explained that this was the corporate H & R Block sign which requires white or black letters. The sign was ordered and is in and waiting for approval to install.

Mrs. Bartkovich stated that there was already white in the shopping center on some of the signs. Mrs. Smith responded that the request would prevent them from having to come back to the Commission if the colors were added to the Sign Plan.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **APPROVED** the Revised Sign Plan as submitted for Lotus Plaza Shopping Center. The approved wall sign colors will now include red, blue, green, white and black.



**#SP-1202-12A      REVISED BUILDING ELEVATION – Party City Shopping Center – 2640 North Salisbury Blvd. – General Commercial District – M-29; G-5; P-495.**

Mrs. Gloria Smith presented the Staff Report. The applicants have submitted a Revised Building Elevation proposing raising of the parapet wall on the unit planned for Flaming Grill & Buffet to accommodate the proposed sign.

Mr. Day stated that what was being requested made the shopping center look less attractive.

Mr. Rogers stated that he didn't like what was being requested.

Mrs. Bartkovich stated that she had asked Mr. Blair Rinnier about this project and he stated that he wasn't involved in it. She further questioned if the landlord was agreeable to the request. Mrs. Smith responded that she was not sure if the landlord was agreeable to the request.

Mr. Rogers stated that he didn't see where this request had anything to do with the rest of the building.

Mr. Magill suggested that something similar to Staples be proposed to the applicants. Mr. Rogers stated that the Commission shouldn't direct the applicants in any way.

Mr. Dashiell suggested tabling the request. Mrs. Bartkovich questioned if there needed to be a time frame for tabling the request.

Mr. Day suggested continuing the case to ask for a representative to be present at the meeting and to have something similar to Staples and matching colors be submitted. Mrs. Smith responded that the proposed colors were acceptable but the applicants were asking to raise the wall to get the sign up higher.

Mr. Rogers stated that there were several problems with this shopping center. The reds in the signs do not match. Mrs. Smith responded that Staples is on a different parcel.

Mr. Day stated that he believed that it would be helpful to hear from the landlord.

Upon a motion by Mr. Magill, seconded by Mr. Day, and duly carried, the Commission **TABLED** the Revised Building Elevation until the January 17, 2013 meeting to allow a representative to be present at the meeting to discuss the following issues:

1. Submit confirmation in writing from the landlord that they support the request
2. The sign shall be no higher than the existing Staples sign
3. The sign should be consistent with the Building and the Sign Elevations approved at the July 19, 2012 meeting



There being no further business, the Commission meeting was adjourned at 3:09 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