



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

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DIRECTOR OF ADMINISTRATION

MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on July 16, 2015 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
Tim Spies
Marc Kilmer
Newell Quinton
James McNaughton

CITY/COUNTY OFFICIALS:

Henry Eure, City Building, Permits, and Inspections Department
Brian Wilkins, Salisbury Public Works Department
Rachel Harris, Assistant County Attorney
Maureen Lanigan, Deputy County Attorney

PLANNING STAFF:

Jack Lenox, Director
Gloria Smith, 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. Kilmer, seconded by Mr. Magill, and duly carried, the Commission **APPROVED** the minutes of the June 18, 2015 meeting as submitted.



#SP-1403 SIGN PLAN - 1121 S. Salisbury Blvd., represented by Selby Sign Co. - Mixed-Use Building - General Commercial District.

Mr. John Selby came forward. Mrs. Gloria Smith presented the Staff Report. Selby Sign Co., on behalf of the applicants, has submitted a Sign Plan for the Mixed-Use Building that was the former Pasco building. The proposal includes signage for the corner tenant, the remaining tenants, and the ground sign.

Mr. Selby discussed the sign design and how it ties in to the design of the building.

Mr. Spies stated that he liked the visual connection between the roof and the sign.

Mr. Magill stated it was nice to see the 911 address on a commercial sign.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Sign Plan for 1121 S. Salisbury Blvd. as submitted.



#SP-1504 COMPREHENSIVE DEVELOPMENT PLAN - Eastern Shore Psychological Center - Healthway Drive - Light Business and Institutional District.

Mr. Keith Iott, Mr. Rick Beavers, and Mr. Wayne Meyers came forward. Mrs. Gloria Smith presented the Staff Report. Mr. Keith Iott has submitted a Comprehensive Development Plan for construction of a 24,200 sq. ft. two-story building on this proposed lot. The building will house Eastern Shore Psychological Services.

Mr. Iott requested that Mr. Beavers give his background. Mr. Beavers explained that he had been in the construction business for 36 years and have done both residential and commercial projects.

Mr. Iott explained that they had begun the review process with Public Works. The stormwater outfall was installed by the previous developer. There is concern over the gravel beds that are already in place with the infiltration chambers under them. If grading is done over top of them then they won't work correctly. Mr. Iott requested some relief from that aspect.

Mr. Dashiell questioned if there were any alternatives for that. Mr. Iott deferred to Mr. Beavers. Mr. Beavers stated that there is a large top soil mound on the site. It would be ideal to keep that mound on site but it can be removed if needed. He suggested making a gravel drive in that area to make it look like a road but not have to move the soil.

Mr. Kilmer questioned how long before something was done with the topsoil if it was allowed to remain on the site. Mr. Beavers responded that he wasn't sure but it could be up to a year. Mr. Iott added that they would request to develop pavements over those areas and eliminate the visual mounds to allow the easiest and most expeditious solution as things begin to progress.

Mr. Spies questioned if there was adequate room for a recycling container. Mr. Iott responded that there is room for one (1) recycling container but they could add more if needed. Mr. Spies noted that the fencing around the dumpster can be taller than 8 ft. in height. He also questioned why a sycamore tree was used in the landscaping plan. Mr. Iott responded that they used the sycamore tree to keep the theme along Route 50 but it can be changed.

Mr. Dashiell questioned if there would be any underground fuel storage on site. Mr. Iott responded in the negative.

Mr. Magill questioned if something could be layered over the outfall areas and grass planted. Mr. Iott responded that they could layer geotextile but wasn't sure if they could get grass to grow. Mr. Magill questioned if major trees could be added along the drive in the island areas. Mr. Iott responded that there are storm drains in that area that could be placed under the pavement so that trees could be added.

Mr. Spies suggested purchasing wildflower perennial seeds for the undeveloped area. It will grow and requires little maintenance. The developer agreed to pursue the idea of wildflowers.

Mr. Dashiell requested that the grading be addressed. Mr. Beavers discussed grading the small areas. He requested a time frame to move the large top soil pile and suggested at least 12 months. Mr. Beavers explained that they will stabilize the newly graded areas where the wildflower seeds will be spread. Mr. Iott added that they would layer geotextile and then layer 4 to 6 inches of gravel which will bring it up to grade for paving.

Dr. McNaughton requested that the top soil mound be stabilized.

Upon a motion by Mr. Magill, seconded by Mr. Kilmer, and duly carried, the Commission **APPROVED** the Comprehensive Development Plan for Healthway Drive, LLC for Eastern Shore Psychological Center, 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 approved Final Comprehensive Development Plan that complies with all Code requirements. Minor Plan adjustments may be approved jointly by the Directors of the Building, Permits and Inspections and the Planning and Zoning Departments.
2. This approval is subject to further review and approval by the Salisbury Public Works Department.
3. The remainder of the property shall be graded, with the gravel areas being shaped and additional gravel added as needed, and the topsoil mound seeded with wildflowers, and maintained until it is developed.



CITY/COUNTY SUBDIVISIONS:

Salisbury Regional Health Center – Subdivision – 2 Lots – Healthway Drive, LLC – Healthway Drive – M-108; G-11; P-2604.

Mrs. Gloria Smith presented the Staff Report. The applicant proposes subdivision of the Lot 3A, Block 'F' of the Salisbury Regional Health Center plat. Lot 3A will consist of 4.639 acres and is not proposed for development. Lot 3B will consist of 2.012 acres and is proposed for development with the Eastern Shore Psychological Services building. Both lots will have frontage and access on Healthway Drive. Lots 3A will also have frontage on but no access to U.S. Route 50.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Preliminary/Final Subdivision Plat for Healthway Drive LLC/Salisbury Regional Health Center, subject to the following Conditions of Approval:

CONDITIONS:

1. The Final Resubdivision 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. A Revised Forest Conservation Plan shall be submitted for review and approval by the Planning Staff.
4. The Plat shall be titled "Salisbury Regional Health Center".

5. This approval is subject to further review and approval by the Salisbury Public Works Department.



Morgan's Ridge- Resubdivision - 3 Parcels - Morgan's Ridge Drive - M-21; G-12; P-70.

Mr. John Seipp, Mr. Harold Scrimgeour, and Mr. David Vandervossen came forward. Mr. Jack Lenox presented the Staff Report (Planning Office Exhibit E). At the meeting of June 18, 2015, the Commission initiated a review of a plan that (if acted upon favorably) would have authorized the subdivision of the Open Space-Forest Conservation area of Parcel II in Morgan's Ridge Subdivision (Attachment I). This plan showed fifty (50') feet of fee simple frontage that would have necessitated the cooperative involvement of the Morgan's Ridge Homeowners Association, Inc. The Commission was advised at the table, through the applicant and his attorney, that the requested plan was actually a different "Corrected Plat". (See enclosed Draft minutes.) The Commission tabled action in order to allow for review and formulation of a staff report.

Mr. Seipp handed out attachments that went with his July 2, 2015 letter that was included in the Staff Report (Applicant's Exhibit F – Deed; Applicant's Exhibit G – Judgments; Applicant's Exhibit H – Code Excerpts; Applicant's Exhibit I – Assessment information). He had Mr. Scrimgeour introduce himself for the record. In response to questions from Mr. Seipp, Mr. Scrimgeour explained that he had misspoke last month and that he obtained his surveyor's license in January 2006. There is an easement on the subject property and that the purpose of the easement was for ingress/egress to the property. This parcel is a forest conservation easement. The width that was needed to access this property is a 12 ft. wide access. The timber is approximately 13 to 15 years old. The deed Exhibit F) is filed in Land Records and that the parcel has a separate Tax ID number (Exhibit I). Mr. Scrimgeour noted that he had been paying taxes on the property since January 9, 2007. Mid Atlantic Title did the settlement and there were no issues raised at the time of settlement. Mr. Seipp questioned the corrected plat. Mr. Scrimgeour explained that in Wicomico County a lot means a buildable piece of property but this is an ag lot because it can only be in forest. If the parcel is greater than 20 acres, it is exempt.

Mr. Scrimgeour read from the Subdivision Regulations. Mr. Seipp stated that a parcel greater in size than 20 acres is not intended for development. Mr. Scrimgeour continued reading from the Subdivision Regulations. He stated that he interprets from the regulations that the Planning Commission has the right to grant a waiver of less than 100 ft. of road frontage. In response to further questions from Mr. Seipp he responded that Morgans Ridge Drive has more width than most roads in Wicomico County. He stated that he was familiar with the cluster regulations and that this subdivision was reviewed by the Commission in 2001. He handed out copies of the staff report and decision letter (Applicant's Exhibit J). Mr. Scrimgeour noted that the approval letter was dated in 2002 and was for 24 lots and that the remaining lands were not listed as lots. The cluster regulations allow for the remaining lot to be sold but that it must remain in ag use. Mr. Scrimgeour read further from the Subdivision Regulations and stated that he didn't anticipate any issues with the 50 ft. right-of-way because it was larger than what is needed for forestry. He added that he wasn't putting anything on the land other than forestry. Mr.

Scrimgeour stated that the Homeowners Association doesn't like the forestry. Regarding the status of Tucker Homes, Mr. Scrimgeour responded that Tucker Homes has millions of dollars of judgments against them and are in bankruptcy, therefore it would not be likely that they could convey the land. Mr. Seipp questioned Mr. Scrimgeour about Option B listed in the Staff Report which has a provision to not acquire additional land. Mr. Scrimgeour stated that he had already made the majority of the changes to the plan listed under Option B. Mr. Seipp questioned if he would be able to make all the changes listed under Option B. Mr. Scrimgeour responded that he would need to make some slight modifications to the list under Option B but they were acceptable.

Mr. Scrimgeour stated that he had owned this property for six (6) years before any of this became an issue. The corrected plat has been drafted and follows the Subdivision Regulations.

Mr. Magill questioned what generated the subdivision. Mr. Scrimgeour responded that Tucker Homes wanted to transfer the property and the attorney said it was a transferrable piece of land. Mr. Magill stated that the original plan didn't show three (3) separate parcels so why was it subdivided. Mr. Seipp stated that this parcel is over 20 acres and is not subdividable therefore it isn't subject to the subdivision laws. The only thing this parcel does not have is the 100 ft. of frontage. Mr. Magill stated that his issue is that it is not consistent with the original plan.

Mr. Dashiell questioned if the County Attorney wanted to address this, and questioned if this issue was that a fee simple title was required and can't be waived. Ms. Harris responded in the affirmative. Ms. Harris explained that frontage means fee simple per our Code. The Commission can reduce the frontage to 50 ft.

Dr. McNaughton questioned if there was any precedent where this had been done. Ms. Harris responded that there is precedent where it has been denied. Mrs. Smith stated that she found a plat from the early 1980's where the plat was denied when proposed with only a 25 ft. wide easement for access. The plat was approved when it was modified to provide a 50 ft. wide fee-simple access. Mr. Seipp questioned if that was an ag lot. Mrs. Smith responded that it was a building lot. Ms. Harris stated that 50 ft. of frontage is required even on an ag lot.

Mr. Van der Vossen stated that the plat that was presented is still page 2 of 2 and not page 1. He stated that they believe that Mr. Scrimgeour knew what he was doing when he purchased the property. If the court case goes through, both parties lose their parcels. However, if this is resolved then the court case will go away.

Mr. Seipp stated that the Code clearly defines a lot which is something to be built on. This is an ag parcel. This is a division of ag land that can be conveyed under the cluster development, it meets the intent of the Code, and maintains a forestry practice which can't be done if the property can't be accessed. Mr. Seipp stated that it was appropriate to consider the situation and this meets the intent of the Code. If the property is used appropriately it can't be challenged and it is just as good as fee simple. He stated that his client will comply with the nine (9) terms that the Staff listed in the staff report. Mr. Seipp stated that he didn't know how the

Commission could deny this because the Code doesn't say fee simple frontage. The Commission can approve no frontage.

Dr. McNaughton questioned that Mr. Scrimgeour wanted access to the parcel to manage the forestry. Mr. Scrimgeour responded in the affirmative. Dr. McNaughton questioned if the forestry needed to be thinned out. Mr. Scrimgeour responded in the affirmative. Dr. McNaughton questioned why he couldn't own the land. Mr. Seipp responded that the parcel is landlocked if there is nothing on record for access. If the Commission approves this, the court issues will go away. Dr. McNaughton stated that there are other ways of getting to this other than clear ownership. Mr. Seipp stated that if his client doesn't get this access that he could lose \$30,000 on this piece of property.

Mr. Dashiell stated that the issues in regard to the lot will be resolved outside of this Commission. The Commission is here to assure that there is the required road frontage, and apparently that isn't possible to achieve.

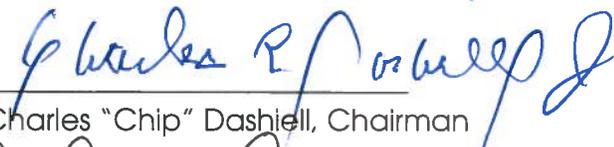
Upon a motion by Mr. Magill, seconded by Dr. McNaughton, and duly carried, the Commission **DENIED** the resubdivision of Morgan's Ridge due to the lack of required fee simple lot frontage, subject to the adoption of detailed Findings of Fact as well as the reasons discussed in the Staff Report.

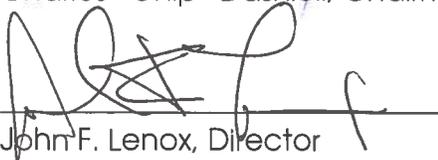


There being no further business, the Commission meeting was adjourned at 3:08 p.m. by Mr. Dashiell.



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