



# City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT

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DIRECTOR OF ADMINISTRATION

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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on June 20, 2013 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  
Gail Bartkovich  
Scott Rogers  
Tim Spies  
Jacob Day  
Newell Quinton (Absent)

### CITY/COUNTY OFFICIALS:

Gary Hales, Salisbury Public Works Department  
Henry Eure, Salisbury Building, Permits, and Inspections Department  
Eric Cramer, Lt., Salisbury Fire Department  
Ed Baker, County Attorney  
Dr. Lore Chambers, Asst. City Administrator

### PLANNING STAFF:

Jack Lenox, Director  
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 Mrs. Bartkovich, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the minutes of the May 16, 2013 meeting as submitted.

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

**#SP-1305**

**PUBLIC HEARING – REZONING – MAYOR AND COUNCIL – GENERAL COMMERCIAL to R-5 RESIDENTIAL ZONING – Anne Street – M-104; P-1294-1308; M-108; P-1251.**

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

Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. She summarized the report explaining that an application has been filed by the Mayor and City Council for the rezoning of property on the northerly side of Anne Street, the easterly side of Baker Street and southerly side of Barclay Street totaling approximately 3.00 acres. The purpose of the request is to allow the redevelopment of Parcels #1294-1297 and Parcel #1300 as single-family residential units.

Mrs. Smith noted that letters received by the Planning Department had been placed at each Commission member's chair and would be stamped as Protestant's Exhibits.

Mrs. Bartkovich questioned how many parcels the City owned. Mrs. Smith responded that she believed that five (5) parcels were owned by the City. Mrs. Bartkovich questioned if the new lots would be for single family homes. Mrs. Smith responded in the affirmative. Mrs. Bartkovich questioned that there had only been five (5) new homes in the area since in the 1980's. Mrs. Smith responded in the affirmative.

Mr. Spies questioned on Attachment #2 if it was part of the residential zoning. Mrs. Smith responded that those areas questioned were already zoned residential.

Mr. Magill questioned if the Christian Shelter was shown. Mrs. Smith responded in the affirmative, explaining that the Christian Shelter is in the former Gant Shirt Company building.

Mr. Spies questioned the density. Mrs. Smith responded that there would be five (5) to eight (8) residential units per acre.

Mr. Jake Chandler, 312 W. Main Street, stated that the Commission had already received a letter in opposition to the rezoning request from GNI. He stated that he wanted to oppose the rezoning and keep the commercial zoning. The property owners were not notified of this request and found out by reading the sign on the parcel that was posted. The change in zoning doesn't benefit the current property owners. Mr. Chandler requested to retain the existing general commercial zoning and opposed the rezoning request.

Mr. Danny Morris, Parsonsburg, stated that he was an employee of GNI as well as a partial property owner of other properties included in the rezoning request. The rezoning takes away many uses on the property and only allows for a few uses. When the uses are taken away, the properties become nonconforming. Mr. Morris stated that he would rather see this project ask for a variance instead of a rezoning. Mr. Morris gave the example of Grace Church could walk away from the property and abandon the building as could the Christian Shelter and then those uses would not be permitted anymore. Mr. Morris requested the Commission to oppose the zoning change.

Mr. Brian Murfree, 407 Camden Avenue, stated that he was a member of Grace Church. He stated that if there was a drastic change then the use wouldn't be permitted. Mr. Murfree gave the example of the Christian Shelter or Grace Church burning and then no longer being a permitted use. Mr. Murfree stated that the solution would be to allow the City to zone the Linens of the Week property to for the proposed project and leave the rest of the properties alone. There is already spot zoning in the City and this rezoning request has no upside for the other property owners.

Mr. Lenox requested that Mr. Eure explain what implications there may be on the existing uses. Mr. Eure stated that the uses would become legal nonconforming that would be allowed to remain. If there was a change, then it would have to go to the Board of Zoning Appeals or revert to an R-5 Residential use. A variance cannot be requested to have R-5 Residential zoning. Spot zoning is not allowed in the City of Salisbury.

Mr. Lenox questioned if a church was permitted in the R-5 Residential zoning district. Mr. Eure responded in the affirmative, adding that it would be a nonconforming use by special exception.

Mr. Dashiell questioned if accessory uses were permitted. Mr. Eure responded that accessory uses would be permitted as an accessory to the main use. Mr. Dashiell questioned if another church could go in within a year and if it was longer than a year then it would need a special exception. Mr. Eure responded in the affirmative.

Mr. Spies questioned if a special exception was not obtained then the property would have to change to a use permitted under the R-5 Residential district. Mr. Eure responded in the affirmative.

Mrs. Bartkovich questioned why five (5) single family structures were being planned instead of apartment buildings. Mr. Spies stated that the land was going to be donated to an organization like Habitat for Humanity that builds single family homes. Mrs. Bartkovich questioned if a floating zone could be done for these properties. Mr. Eure responded that a floating zone would require a text amendment. Mrs. Bartkovich stated that the five (5) properties are the minority in this rezoning request.

Mr. Magill questioned if the rezoning could be limited to the properties that are outlined on Attachment #2 that do not front on Baker or Barclay Streets. Mr. Dashiell questioned how restrictive the Commission could be. Mr. Lenox stated that the smaller the area, the more questions you get. This triangle is out of context with the area. The area has become more residential. In 1983, the General Commercial area shrunk. Mr. Lenox stated that if the Commission feels it is more acceptable to only rezone certain parcels, then Staff will try to make the record as clear as it can with findings. Mr. Dashiell stated that it sounded like the Commission could make the change to only use the City parcels to keep everyone happy. Mr. Lenox stated that he would have to defer to the Commission for a decision.

Mr. Rogers requested that Mrs. Smith clarify the density as to whether the City wanted to put five (5) units on three (3) acres. Mr. Lenox stated that the three (3) acres is the entire rezoning area and the density is 1:1,000.

Mr. Spies suggested that apartments could be put over retail space, which would be a service to the neighborhood.

Dr. Lore Chambers, Assistant City Administrator, stated that there has been a lot of revitalization in this area. Salisbury Neighborhood Housing has done several homes in this neighborhood. Habitat for Humanity has done nine (9) homes in this area so far. The City is looking to help Habitat with their revitalization efforts in this area.

Mr. Lenox stated that the initiative on this came from the City. He questioned Mr. Spies on whether the City Council would like more time on this request. Mr. Spies responded that as a Council member, he would like to have more time to review and discuss some options. Mr. Lenox stated that the Commission could continue

the public hearing to the July meeting. Mr. Spies stated that he would like to hear more from the property owners on how the rezoning affects them.

Mr. Magill questioned if semi-detached homes would be permitted. Mr. Eure responded that semi-detached homes would not be permitted. He added that Habitat prefers to build single family homes.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **CONTINUED** the public hearing for reclassification of zone from city general commercial to R-5 residential until the July 18, 2013 meeting.



**#SP-0513-13B      REVISED CERTIFICATE OF DESIGN & SITE PLAN – CONCEPTUAL APPROVAL – Osprey Property Co., LP, represented by Becker Morgan Group – Fitzwater Street – Riverfront Redevelopment Multi-Use District #2 – M-106; G-12; P-1109.**

Mr. Kevin Parsons and Mr. Andrew Hanson came forward. Mrs. Gloria Smith presented the Staff Report. She summarized the report explaining that Becker Morgan Group, on behalf of Osprey Property Company, LP, has submitted a Revised Site Plan for development of this site with apartments and studio for the arts. The submission package included a Site Plan, Landscaping Plan and Building Elevations.

Mr. Parsons explained that the project was under review by Salisbury Public Works. He added that they are working with MDE for review as well as the Critical Area Commission. There have been issues with the critical area which are being worked on. There are also a few issues with the riverwalk. The neighbor to the west is a shipyard. An extension of the riverwalk to where the developer believes it should be extended is included in the plan.

Mr. Dashiell stated that the proposed buildings are beautiful and a big improvement over what is there.

Mr. Magill questioned if they had considered extending the walk to tie into the walk at the west side of the Wicomico Building. Mr. Parsons responded that they decided to raise the buildings up to help with flooding issues. There is an area along the water that has been lost where the buffers and the wetlands have completely failed. The shipyard has built a bulkhead. The extension of the riverwalk may make sense on the marina property. Mr. Magill stated that there aren't depressed

curbs for handicapped accessibility. Mr. Parsons responded that there will be depressed curbs.

Mr. Spies questioned if foliage could be added to the landscaping plan. Mr. Parsons responded in the affirmative, adding that there is a plan that shows the plantings. Mr. Spies questioned if the artist renderings were close to what the actual buildings would look like. Mr. Hanson responded in the affirmative, explaining that there may be a difference in the color but the renderings showed the actual design of the buildings. Mr. Spies stated that there had been discussions about incorporating designs from the City but he didn't see any of the styles included in the plan. Mr. Hanson requested that Mr. Spies resend the information that he was referring to so that he could review it and make adjustments if needed. Mr. Spies stated that there was no nautical theme to the design. Mr. Hanson stated that there are cupolas on the buildings and more blues and yellows will be used than what is shown on the color rendering.

Mr. Rogers questioned what the energy saver features were that were being used. Mr. Hanson stated that they were following enterprise green communities as well as energy star. There will be beefed up insulation, LED street lights, energy star appliances, and affordable HVAC, just to name a few.

Mrs. Bartkovich questioned if elevators were required on anything over three (3) floors. Mr. Hanson responded that elevators were not required. He added that the fourth floor will have lofts. Mrs. Bartkovich questioned the fire lanes on the east and west side of the building and if the Fire Department had to get a ladder on the river side of the buildings, how would they do it. Mr. Parsons responded that they had a meeting with someone from the Fire Department early on in the project and had plans with hose layouts. Mrs. Bartkovich reiterated that she had concerns about getting a ladder truck to the river side of the buildings if there was an emergency. Mrs. Bartkovich stated that the shipbuilding company was getting ready to put up another large building so the landscaping might need to be beefed up along that property line.

Mr. Spies questioned if there would be recycling. Mr. Hanson responded that the dumpster enclosure was designed to handle recycling as well.

Mr. Dashiell questioned if the dumpster location was in the best place. Mr. Hanson responded that the site is a challenge but that the dumpsters were located in the best place.

Mr. Lenox questioned if the fence was going to join to anything. Mr. Parsons responded that there is a rectangle that bounds the City parking lot where the fence will adjoin. On the shipbuilding side of the property, there isn't anywhere for the fence to adjoin. There will not be fencing along the river. Mr. Lenox stated that there were issues with protecting the shipbuilding property as well as the City property. He requested that they discuss the on-site management. Mr. Hanson stated that there would be an on-site lease office that would be staffed. It is encouraged to have the

manager live on-site. There is also part-time help that will help with the artistic people. The maintenance person is preferred to live on-site as well. Habitat America manages several projects and does background checks on anyone who lives in the development.

Mr. Spies stated that security is an issue in this neighborhood and encouraged Mr. Hanson to contact the Salisbury City Police about concerns on this site to get advice. Mr. Hanson agreed that he would contact Chief Duncan and added that they had some plans in place for security.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission granted Concept Certificate of Design and Site Plan **APPROVAL** for River's Edge, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The site shall be developed in accordance with an approved Revised Site Plan.
2. Chesapeake Bay Critical Area Commission approval shall be obtained for the project. A Certificate of Compliance shall be obtained prior to any site disturbance.
3. An easement shall be dedicated to the City of Salisbury for the Riverwalk. Management issues shall be determined/resolved with the City of Salisbury.
4. Subject to further review and approval by the Salisbury Public Works Department.



**COMMISSIONER JACOB DAY**

Mr. Day thanked everyone for bearing with him over the past months. He stated that while his heart is with the Commission, he will not continue to serve due to his recent election to the City Council. Mr. Spies will continue to represent the City Council on the Commission. Mr. Day stated that it had been wonderful working with everyone and wished everyone well. Mr. Dashiell thanked Mr. Day for his dedication and stated that the Commission looked forward to working with him in the future.



**#SP-0215-12A      REVISED FINAL COMPREHENSIVE DEVELOPMENT PLAN – Ocean Aisle Apartments – Beaglin Park Drive – Robertson Farm PDD #1 (Beaglin Crossing) – M-121; P2582; G-12.**

Mr. Brock Parker, Mr. Keith Fisher, and Mr. Blair Rinnier came forward. Mrs. Gloria Smith presented the Staff Report. She summarized the report explaining that Parker & Associates, on behalf of the applicant, has submitted a Revised Final Plan for Ocean Aisle Apartments. The Plan proposes elimination of the access to Old Ocean City Road and the elimination of 50 parking spaces.

Mr. Rinnier stated that they had eliminated the rear entrance to Old Ocean City and reduced the parking. By reducing the parking, there will be less asphalt and plenty of parking will still be available.

Mr. Parker stated that the locations for reduced parking were strategically placed. This allows for room for shade trees in the parking lots and more trees along the garages. Space was left in the open space areas to construct additional parking if it is needed in the future.

Mr. Dashiell questioned the reason for eliminating the entrance on Old Ocean City Road. Mr. Rinnier responded that the entrance on Old Ocean City Road was eliminated for site control. The single entrance will be by the management office so there will be visibility for people coming and going out of the development.

Mr. Spies questioned how many stories the buildings would be. Mr. Rinnier responded that the buildings were three-story garden apartment buildings. Mr. Spies questioned if there was adequate room for emergency vehicles. Mr. Rinnier responded in the affirmative. Mr. Parker added that there was a good turning radius for the emergency vehicles as well.

Mr. Rinnier added that this development would be similar to Marley Manor.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Revised Final Development Plan, including modification of the parking requirement, for Ocean Aisle Apartments as submitted.

*Mrs. Bartkovich recused herself explaining that Mr. Rinnier was her son-in-law and although the Ethics Commission said there was no conflict of interest, she would not participate in this case to avoid any appearance of conflict.*



**CITY/COUNTY SUBDIVISION PLATS:****Grapefruit Three, LLC – Resubdivision – 1 Lot – E. North Pointe Drive – M-29; G-6; P-78.**

Mr. Brock Parker came forward. Mrs. Gloria Smith presented the Staff Report. She summarized the report explaining that the applicant proposes resubdivision of two parcels into one parcel and dedication of road right-of-way to the City of Salisbury. Parcel A is 11.84 acres in size and vacant; Parcel B is 12.06 acres in size and also vacant. The roadway dedication is 592.70 ft. in length and totals .57 acres for the extension of East North Pointe Drive.

Mr. Parker stated that this resubdivision is an agreement between two (2) neighbors. Addison Court is constructing the road to their primary entrance.

Mr. Magill questioned why 592.70 ft. Mr. Parker responded that originally three (3) projects were going to each build one-third of the road. Now Addison Court is going to build the road to their property.

Mr. Spies questioned if the roadway was going to be built. Mr. Parker responded in the affirmative, adding that Addison Court is ready to start building.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Resubdivision Plat for Grapefruit Three, LLC, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all requirements of the Salisbury Municipal Code Title 16, Subdivision Regulations.
2. Health Department approval is required prior to the recordation of the Final Plat.
3. This plat shall comply with all requirements of the Forest Conservation Act with necessary submittals completed prior to Final Plat approval.
4. The subdivision shall be retitled "J. Roland Dashiell & Sons, Inc. and Linwood D. Shockley Subdivision".
5. This approval is subject to further review and conditions imposed by the Salisbury Department of Public Works.

**Layfield Woods – Development Plan – 16 Lots – Melson Road – M-21; G-5; P-63.**

Mr. Kevin Parsons and Mr. Tim Ramia came forward. Mrs. Gloria Smith presented the Staff Report. She summarized the report explaining that Becker

Morgan Group has submitted a Development Plan for Layfield Woods subdivision for review by the Planning Commission. The submittal includes a Community Impact Statement, an Environmental Assessment, and a Market Analysis for the proposed subdivision. The Wicomico County Zoning Code requires Development Plan approval prior to approval of a Final Plat for an A-1 Cluster subdivision.

Mr. Parsons stated that this was the same plan that the Commission had reviewed for sketch and preliminary. All final comments from all the agencies have been included. This plat is ready to record and move forward.

Mr. Spies stated that he was happy to see the forest conservation along the roadway. Mr. Ramia stated that the subdivision would be pretty much hidden from the roadway. He added that he planned on building starter homes. Mr. Spies questioned if Mr. Ramia had considered building a playground. Mr. Ramia responded in the negative, explaining that this would be a wooded subdivision so the entire subdivision was the type of playground that he had as a child.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Development Plan, including the Community Impact Statement and Environmental Statement, as submitted.



#### **Layfield Woods – Final – 16 Lots – Melson Road – M-21; G-5; P-63.**

Mr. Kevin Parsons and Mr. Tim Ramia came forward. Mrs. Gloria Smith presented the Staff Report. She summarized the report explaining that the applicant proposes subdivision of 16 lots averaging 1.38 acres each from parcel 63. The Plat indicates that 24.46 acres of open space area provided, 22.39 acres of forest conservation are provided on-site and 7.88 acres are proposed off-site, and 1.85 acres of new roadways. Interior cul-de-sacs will be created to serve all lots. The existing farm house and agricultural operations were previously subdivided off on a 14.71 acre parcel.

Mr. Parsons stated that the additional right-of-way was done with the subdivision of the home lot.

Mr. Spies questioned if there were existing drainage ditches on the property. Mr. Ramia responded that there is a drainage ditch that the drainage will flow to.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Final Subdivision Plat for Layfield Woods, subject to the adoption of Findings of Fact and the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all regulations 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. Adequate drainage and maintenance easements must be provided.
5. Lot 9 shall have the front Building setback at the point where the lot is 100' wide.
6. A Homeowners Association shall be created to maintain the stormwater management facilities, drainage and maintenance easements and forest conservation easements.
7. Open Space documents and Long term Forest Conservation easements must be recorded with the plat.
8. A note referring to the Right to Farm Chapter of the County Code shall be placed on the final plat.
9. Additional right-of-way shall be dedicated to the County thirty (30) foot from the centerline of Melson Road along the entire frontage of this property.
10. A deed for the road beds is required prior to recordation of the plat.
11. Monumentation at perimeter boundary points and interior street curve points is required.
12. This approval is subject to further review by the County Department of Public Works.

**DISCUSSION – County Comprehensive Plan.**

Mr. Lenox came forward. He stated that there has been no change on the status of the septic law or the tier maps. Mr. Pollitt is hopeful to make progress on these issues. Mr. Hall and Ms. Tate have been working on the Parks and Recreation Plan. There was a meeting held on June 19, 2013. The Plan has been formatted into the Comprehensive Plan as well. The last draft of the Comprehensive Plan was from the summer of 2010. That draft is currently being updated. The goal is to get the latest draft to the Commission this summer. Mr. Lenox added that he hoped to have a full Commission by the July meeting.



There being no further business, the Commission meeting was adjourned at 3:27 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