



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 June 18, 2015 in Room 301, Council Chambers of the Government Office Building, with the following persons in attendance:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman (Absent)
James W. Magill, Vice Chairman
Scott Rogers
Tim Spies (Absent)
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
Mary Phillips, Technical Review
Beverly Tull, Recording Secretary



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



Minutes:

Upon a motion by Dr. McNaughton, seconded by Mr. Quinton, and duly carried, the Commission **APPROVED** the minutes of the May 21, 2015 meeting as submitted.



#SP-8702-15N REVISED SIGN PLANS – Shoppes at Salisbury, Salisbury Marketplace, and Pecan Square shopping centers – To permit Western Union signage on light poles in the parking lots – #SP-8702-15N, SP-8911-15H, SP-9210-15G.

Mrs. Gloria Smith presented the Staff Report. US Conversions has been authorized to represent Western Union at several Food Lion locations in Salisbury. The applicant has submitted a design for a proposed sign to be placed on two light poles in the Food Lion parking areas of the Shoppes at Salisbury, Salisbury Marketplace and Pecan Square shopping centers. The Code requires submission of a Sign Plan for shopping centers for Planning Commission approval and Commission approval of modifications to the approved Plan.

Mr. Magill stated that there were a lot of other places and options for signs. Mrs. Smith suggested that the signs could be put in the windows. Mr. Eure suggested that they could use a tenant panel on the pylon sign as well.

Upon a motion by Mr. Rogers, seconded by Mr. Quinton, and duly carried, the Commission **DENIED** all of the requests. The proposed signs do not qualify as "Instructional" signage and the Commission members felt that their approval would set a precedent for requests for numerous similar signs.



COUNTY SUBDIVISIONS:

Woodlawn – Resubdivision – 2 Lots – Highland Avenue – M-11; G-24, P-8.

Mr. Chris Gilkerson came forward. Mrs. Gloria Smith presented the Staff Report. The applicant proposes re-subdivision of part of Lot 10 and Lot 11 in Woodlawn Subdivision, Block 1. Lot 10A will have frontage on Highland Avenue and a 20 ft. alley. Lot 11A will have frontage on Highland Avenue and Maple Street. A pool and deck on Lot 10A are to be removed.

Mr. Gilkerson stated that it was his goal to create a new building lot for a new construction home. The Town of Delmar can handle the water and sewer with an urban services agreement.

Upon a motion by Mr. Rogers, seconded by Dr. McNaughton, and duly carried, the Commission **APPROVED** the Preliminary/Final Re-subdivision Plat for Woodlawn Subdivision, Block 1, subject to the following Conditions of Approval:

CONDITIONS:

1. The Final Plat shall comply with the County Subdivision Regulations and is subject to further review by the County Department of Public Works.
2. Health Department approval is required prior to the recordation of the Final Plat.
3. This plat shall comply with the requirements of the Forest Conservation Act.
4. A 20 ft. radius shall be dedicated at the corner of Highland Avenue and Maple Street.
5. Lot 11A is a corner lot and requires a 30 ft. building setback from each street.
6. The well locations shall be shown on the Final plat.



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. Mrs. Gloria Smith presented the Staff Report. The applicant proposes resubdivision of the Open Space-Forest Conservation area of Parcel II in Morgan's Ridge subdivision, including the establishment of frontage on Morgan's Ridge Drive.

Responding to questions from Mr. Seipp, Mr. Scrimgeour identified his company name as Delmarva Farms, LLC and explained that he owned the land in question in Morgan's Ridge. Mr. Seipp handed out a copy of the Deed to the land (Applicant's Exhibit B). Mr. Scrimgeour read from the Deed regarding the access to the property, explained that the land was forested, and explained that there was a 50 ft. right-of-way for forestry. He explained that there was a long term management agreement and that the land can't be developed because it is under a forest conservation easement. Mr. Scrimgeour explained that the Deed was recorded, that Mid-Atlantic Title completed the Deed transfer, and that there were no issues at that time. Stevenson Environmental did the plat in 2002.

Mr. Scrimgeour explained that he acquired the forest conservation block and the area was described with courses and distances. He explained that he was not aware of an issue until 2012 when he got a phone call on a Friday afternoon and was issued a stop work order.

Mr. Magill questioned what work was being done. Mr. Scrimgeour explained that he was preparing an access road, and where the access road was located. Mr. Scrimgeour stated that he received a letter from Ms. Lanigan regarding the violation with the notification of the possibility of one thousand dollar a day fines.

Mr. Seipp questioned the forestry easement. Mr. Scrimgeour explained the forest management plan that is in place. He explained that there is an existing court case going on that started shortly after the letter was sent from Ms. Lanigan and it has not yet been settled. The plat in question was submitted because he is trying to avoid going to Circuit Court.

Extensive discussion followed regarding the road frontage condition in the staff report and their interpretation that the Commission could waive the road frontage requirement. He explained that this parcel could be viewed as an existing parcel and under the Subdivision Code it could be an ag parcel. Mr. Scrimgeour explained that he was seeking a variance of the fee simple requirement and that the 50 ft. right-of-way is sufficient to handle any needs of the parcel.

In response to Mr. Magill, Mr. Scrimgeour read from COMAR regulations and discussed the forest management plan and future timbering of the property.

Mr. Rogers questioned when the aerial photograph was taken. Mr. Scrimgeour responded that the aerial was taken in 2013.

Mr. Dave Vandervossen, President of the Morgan's Ridge Homeowners Association, stated that they did have a default judgment against them but that does not prevent them from transferring the necessary property. He explained the issues with Tucker Homes and ownership of the parcels. He added that the homeowners do not want to see the land clear cut and not reforested. Mr. Vandervossen requested that the subdivision request be denied or the 50 ft. that is required be upheld.

Additional discussion followed regarding Mr. Scrimgeour's ability to harvest timber here, and types of trees that could or couldn't be harvested in a buffer.

Mr. Lenox requested that Ms. Harris give an overview of what is before the Commission. Mr. Magill added that she should also discuss the sale of the land.

Ms. Harris gave the history of this subdivision. She explained that this is in Circuit Court due to property being transferred without following the appropriate procedure and against the developer's original intent which was for the open space area to be transferred to the Homeowners Association. The case is pending in court because the County has to enforce its subdivision requirements and Delmarva Farms and the Homeowner's Association cannot come to an agreement in order to have the required fifty feet of road frontage transferred. The Law Department recommends the fee simple requirement be enforced to prevent issues with road frontage. She stated that if Mr. Scrimgeour is going to own the 29.5 acres then he should own the road frontage. Delmarva Farms' argument as to the forest conservation area being considered an agricultural parcel is not correct because the open space area was a requirement for the development. All the covenants and restrictions are still required for the development.

Dr. McNaughton questioned what happened in 2006. Ms. Harris responded that Mr. Tucker sold the forest conservation area to Mr. Scrimgeour and the remainder to the Homeowners Association and this split was done without Planning Commission approval. She explained that the next best alternative is to find a way to make it fit within the County regulations.

Mr. Kilmer questioned that they wanted Mr. Scrimgeour to own the road frontage. Ms. Harris responded that it prevents problems arising between disputing neighbors over ownership of the right of way, while a fee simple ownership provides less potential issues. Mr. Kilmer questioned why the right-of-way was not sufficient. Mrs. Phillips responded that the Subdivision Regulations require road frontage.

Mr. Lenox stated that the plan before the Commission does not require the transfer and that the parties must reach an agreement. It is between the property owners to reach an equitable agreement, if not, then the judge will decide the case.

Mr. Seipp stated that the plat in the package was discussed with the Staff and the homeowners for a possible settlement. The plan that was presented today is a different plan. He further stated that he disagreed with Ms. Harris and read from Chapter 200-3-E which allows an ag remnant parcel not for development purposes to have the Commission approval less than 100 ft. of road frontage. He argued that this parcel is completely appropriate for a forestry parcel and the plat can be approved per Code.

Mrs. Phillips stated that at the meeting held with the applicant, Staff explained that the resubdivision plat was what would be considered and given a favorable recommendation.

Dr. McNaughton stated that the timelines and schedules are way too encumbered for the Commission to take in. He stated that there are too many accusations back and forth for the Commission to consider taking any action.

Mr. Kilmer echoed Dr. McNaughton's statements and suggested tabling the issue.

Mr. Lenox stated that he agreed with Dr. McNaughton on how it is unreasonable to ask the Commission to make a decision when they are not sure what is being asked. It is the practice of staff to provide a detailed report and recommendation to the Commission in advance of a meeting. Consideration of the alternative plan which has been presented at the table would require a detailed legal argument. He suggested that the plat could be withdrawn and the applicant could return next month with a plan that they want reviewed.

Mr. Seipp agreed that they would return at the July meeting with a resubmittal.

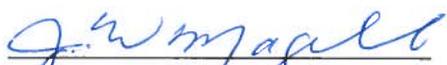
Upon a motion by Dr. McNaughton, seconded by Mr. Kilmer, and duly carried, the Commission **TABLED**, until the July 16 meeting, the Final Resubdivision Plat for Morgan's Ridge.



There being no further business, the Commission meeting was adjourned at 3:12 p.m. by Mr. Magill.



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.


James Magill, Vice Chairman


John F. Lenox, Director


Beverly R. Tull, Recording Secretary