
MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on March 19, 2009 in the Council Chambers of the Government Office Building, Room 301, with the following persons in attendance:

COMMISSION MEMBERS:

Corinne Les Callette, Chairman
Donald B. Bounds, Vice Chairman
Gail Bartkovich (Absent)
James W. Magill
Glen Robinson
Scott Rogers
Gary Comegys (Absent)

CITY/COUNTY OFFICIALS:

Mary Phillips, County Public Works Department
Ed Baker, County Attorney
Henry Eure, Building, Permits, and Inspections Department
Gary Hales, Salisbury Public Works Department

PLANNING STAFF:

Gloria Smith, Planner
Beverly Tull, Recording Secretary



The meeting was called to order at 1:36 p.m. by Mrs. Les Callette,
Chairman.

**Minutes:**

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the minutes of the February 19, 2009 minutes with the correction on Page 6.



#SP-0902 PUBLIC HEARING – TEXT AMENDMENT – SALISBURY MUNICIPAL CODE – To amend the text of Section 17.08.030C relative to development provisions when a zoning district boundary line crosses a lot.

Mrs. Les Callette read the ad. Mrs. Tull administered the oath to anyone wishing to testify in this matter. Mrs. Les Callette explained the public hearing procedure.

Mrs. Gloria Smith presented and entered the Staff Report and all accompanying documentation into the record. The Planning Staff has been asked to review the language of the Salisbury Municipal Code with respect to Section 17.08.030 - Interpretation of District Boundaries. Specifically, the language of Section 17.08.030C was reviewed regarding the "60/40 Rule" regarding uses on a property when a district boundary line crosses the property.

Mrs. Smith noted that some of the properties had been spot checked when the aerial maps or zoning maps were unclear.

Mr. Magill suggested deleting the first "existing" word in the text amendment so that it read *a lot of record that was existing as of May 23,*

Mr. Bounds questioned if the wording could be changed to state *contained over 60 percent*. Mr. Eure responded that the wording states at least 60 percent of the lot and that the Zoning Department has always understood it to mean 60 percent or more of the lot. Mrs. Les Callette stated that the 60 percent was noted three (3) times in the wording. Mr. Bounds stated that the wording should be left as it is with Mr. Magill's deletion of the first "existing".

Mrs. Les Callette clarified that for a public hearing such as regarding a text amendment that the ad was published in The Daily Times twice and noted the dates that it was published. She explained that it is now easier to find the legal ads in The Daily Times than it used to be. When a text amendment public hearing is held that applies to the entire City, the property is not posted.

Mr. Creston Long, 1016 Lorecrop Drive, thanked the Planning Staff for the recommendation in the Staff Report. He stated that the text amendment was intended for existing split zoned properties. Mr. Long stated that a special exception on a 60/40 property should be considered a back door rezoning. A commercial project should be done in a commercial zoning district. Mr. Long encouraged the Commission to support the Staff's recommendation.

Mr. Alex Grier, N. Clairmont Drive, questioned if consideration was given to striking the provision all together. Mrs. Smith responded that it was not considered because the instructions to the staff were to review and recommend modifications. Mr. Grier questioned how many of the lots were being used for a commercial use. Mrs. Smith responded that a lot by lot analysis was not completed but that a number of the lots were developed residentially. Mr. Grier stated that he agreed with Mr. Long and that the Staff had made an appropriate recommendation.

Mr. Mike Valista, stated that the residential neighborhoods need to be protected. A residential lot was what started this process. There needs to be buffers that protect the residential neighborhoods. This amendment needs to be passed.

Mr. Magill stated that the special exception allows the City to act on each project and gives them some flexibility.

Mr. Bounds stated that with a 60/40 split zoning that the residential property would need to be buffered. Mr. Eure stated that there are some standards to buffer the residential neighborhoods but they are limited. The extent of the special exception would be left to the discretion of the Salisbury Board of Zoning Appeals and they can increase the buffer if they choose.

Mrs. Les Callette stated that the residential neighborhoods needed to be protected. The Salisbury Board of Zoning Appeals can determine what should or should not be through the special exception process.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission forwarded a **FAVORABLE** recommendation the Mayor and Salisbury City Council for the following:

AMEND SECTION 17.08.030C BY ADDING THE FOLLOWING:

- C. When a zoning district boundary line crosses ~~a lot~~ **AN EXISTING LOT OF RECORD THAT WAS EXISTING AS OF MAY 23, 1983** and sixty (60) percent of the lot is in one zoning district and forty (40) percent is in another zoning district, a special exception may be granted to use the entire property for uses allowed in the zoning district that applies to the sixty (60) percent portion of the lot. In addition to the sixty (60) percent requirement, the following restrictions shall apply:



#SP-0611-09A FINAL DEVELOPMENT PLAN, PHASE I – VILLAGE AT SALISBURY LAKE PRD #11 – Salisbury Mall Associates, LLC – M-109, P-2520, Lot 1.

Mr. Mike Dzaman and Mr. Jon Natelson came forward. Mrs. Gloria Smith presented the Staff Report. The applicants have submitted a Final Comprehensive Development Plan for development of Phase I of the Village at Salisbury Lake PRD #11. The Site Plan depicts the proposed development of the parcel, including the building location, parking area, and fuel islands and canopy for a convenience store. A Landscaping Plan with a planting legend, Building Elevations, a Subdivision Plat, a Declaration for Shared Facilities, and a memo regarding the Phasing and Amenities Sequence were also submitted.

Mr. Dzaman stated that they were in agreement with the comments in the Staff Report. The plan was at scale but there was a glitch when it was transmitted electronically so it didn't print out to scale. The parking standards will be corrected and the traffic analysis is being reviewed.

Mr. Dzaman continued that the sewer impact issue was a Public Works issue and they hoped that they would not be required to deal with the sewer issues when they were putting up a 5,000 sq. ft. building after they had torn down a 600,000 sq. ft. building.

Mr. Rogers stated that the building couldn't go over the easement. Mr. Natelson stated that they knew that they couldn't put their building over an easement but that they had to discuss the location of the building with Fuller Hall and Associates or consider moving the easement.

Mr. Magill stated that the plan that was at the Commission's seat didn't match the plan that was in the Staff Report because there weren't any fuel pumps shown. Mrs. Smith stated that on the preliminary plan islands weren't shown but they are shown on the new plan.

Mr. Rogers stated that it was a shame that the most prominent location on the site was being used for a convenience store. Mr. Natelson questioned Mr. Rogers if he had any suggestions for alternatives to a convenience store. Mr. Rogers stated that something better than a WaWa or Valero would be more appropriate to that location. Mr. Natelson responded that there wasn't a signed contract for the property but that it needed to be put to the best use possible. Mr. Dzaman added that building elevations were included in the package.

Mr. Rogers stated that he would prefer to see something more inviting with parking in the rear of the building and suggested the use of an 'L' shaped building.

Mr. Bounds stated that the Commission didn't have the right to deny gas pumps. Mrs. Smith stated that on the preliminary plan this area was designated as commercial development and a convenience store was shown.

Mr. Magill stated that if an 'L' shaped building was considered that the parking should be considered at the rear of the building as well as the pumps.

Mrs. Les Callette stated that she was disappointed that the fuel pumps were shown because it will be a traffic hazard. A traffic analysis is needed as requested by Public Works. Mr. Dzaman questioned if the traffic analysis would be needed at final plan approval. Mrs. Les Callette responded in the affirmative because Public Works was requesting it and the 13 comments should be part of the approval process. She added that she was upset that the plan had not been recorded in Land Records. Mr. Natelson stated that they were surprised to learn that the plat hadn't been recorded because they thought it had been. Mrs. Smith stated that the Court rejected the paper copy and that mylars were needed to record the plat. Mr. Natelson stated that they would get the mylars done so the plat could be recorded.

Mrs. Les Callette stated that there shouldn't be any approvals given today due to the list of issues in the Staff Report. She stated that a barrier was needed for the right-in/right-out entrance shown. Mr. Hales stated that there were several ways to put up a barrier for the right-in/right-out entrance. Mrs. Les Callette stated that she wanted the barrier to be as strict as possible due to Beaglin Park Drive and Glen Avenue being a dangerous corner.

Mr. Natelson questioned if the sewer study could be removed as a condition. Mrs. Les Callette stated that the sewer study should be left in and all issues should be worked out with Public Works and that they could have two (2) months to get everything done and come back to the Commission which would include drawings that were to scale.

Mr. Dzaman questioned if the Commission could require a complete sewer study and Public Works say that it wasn't needed. Mr. Magill stated that these types of issues should be handled administratively through correspondence. Mrs. Smith stated that if Public Works concludes that a sewer study should be done at the next phase than a memo can be included in the case file to cover that. Mr. Magill stated that there should be a threshold established on a time line.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **TABLED** the Final Development Plan for Phase I of the Village at Salisbury Lake PRD #11 for 60 days. A new plan shall be submitted by May 1, 2009 for scheduling at the May 21, 2009 Commission meeting. The new plan shall be drawn to scale as required by the Salisbury Municipal Code; utilize the Salisbury Municipal Code parking standards; and address all Salisbury Public Works issues. In addition, the required mylar copies of the Preliminary Development Plan shall be provided to the Salisbury Planning Department for recordation in the Wicomico County Land Records as required by the Code.



#SP-9105-08J SIGN PLAN APPROVAL – Checkers, represented by Selby Sign Co. – 800Q South Salisbury Blvd. – General Commercial District – M-115, P-469, G-2.

Mr. John Selby and Mr. Clifford Pulliam came forward. Mrs. Gloria Smith presented the Staff Report. John Selby of Selby Sign Company has submitted a

Sign Plan for the Checkers Drive-In under construction on the South Salisbury Plaza shopping center site. The Plan depicts the proposed wall signs, directional signs, clearance signs, and menu boards. A Site Plan with sign locations was also submitted.

Mr. Rogers questioned where the pre-fabbed building came from. Mr. Pulliam responded that the building was shipped from South Carolina.

Upon a motion by Mr. Bounds, seconded by Mr. Robinson, and duly carried, the Commission **APPROVED** the Sign Plan for Checkers as submitted.



COUNTY SUBDIVISION PLAT:

Stone Bridge, Sec. 1 – Preliminary Extension – 11 Lots – Rum Ridge Road.

Mr. Jack Plummer and Mr. Glynn Bridge came forward. Mrs. Gloria Smith presented the Staff Report. The applicants are requesting a one year extension of time for submission of the Final Plat for Stone Bridge. The Department of Public Works noted that the Construction Drawings, which require approval prior to the submission of the Final Plat, have not been received.

Mr. Plummer stated that he believed that the Development Plan being approved was part of the approval process and that the Preliminary Plat wouldn't expire until the date of the Development Plan approval. Mr. Plummer handed out several correspondences that demonstrated how he came to the conclusion that he had until May 2009 to get a preliminary plat extension. He discussed the road issues that also had played a part in not getting the Development Plan heard and approved until a later date than the Preliminary Plat.

Mrs. Les Callette questioned if construction drawings had been submitted. Mr. Plummer responded that the construction drawings were pretty much done but the economy was bad so building anything at this time would be economic suicide. He added that the ability to proceed was not there now.

Mrs. Les Callette stated that the Staff Report spells out the Commission's job and that the Preliminary Plat was null and void if an extension or Final

Plat was not submitted within one (1) year. She added that Mr. Plummer should have contacted the Planning Office if he was unsure about the date of expiration.

Mr. Bounds questioned what the next step would be. Mrs. Smith stated that she believed that the applicants could begin at the Preliminary Plat phase.

Mrs. Les Callette questioned Mr. Baker if the Commission could grant an exception to Chapter 200 Section 220-10 and if the Commission were to turn down the extension request from what phase would the applicant need to begin the process again. Mr. Baker responded that he would have to research to see if the Commission could grant the exception but he believed that the applicant could begin at the Preliminary Plat submission phase.

Mr. Baker researched in the Code and advised the Commission that the time frame could not be waived and that the extension would have had to have been filed prior to the expiration date. He added that the applicant could begin the process at the Preliminary Plat phase.

Mr. Plummer reiterated to Mr. Baker how he came to the conclusion that he had until May 2009 to get the extension. Mr. Baker explained that the correspondence didn't change the date the Preliminary Plat was approved. The Development Plan is a zoning issue so it doesn't waive the subdivision regulations. Mr. Baker advised Mr. Plummer to begin at the Preliminary Plat stage.

Mr. John Groutt, WET, stated that there was concerns about waivers or exceptions being granted and that if one (1) was granted than they all should be granted. He added that he believed that the applicant should have to go back to the Sketch Plat phase to begin the process. Mr. Groutt reiterated the previous concerns of WET regarding if the lots were contiguous and the open space issues. He further requested that the Commission follow the Staff's recommendation to deny the extension request.

Mr. Bounds stated that he believed having the applicant resubmit a Preliminary Plat would be sufficient. Mr. Rogers concurred.

Upon a motion by Mr. Bounds, seconded by Mr. Magill, and duly carried, the Commission **DENIED** the requested Preliminary Plat Extension for Stone Bridge, Section 1 due to the expiration of the Preliminary approval in January, 2009. Based on direction from the County Legal Staff, the Commission determined that the applicant could restart the plat approval process at the Preliminary Plat submission phase.



There being no further business, the Commission meeting was adjourned at 3:12 p.m. by Mrs. Les Callette.



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.

Corinne Les Callette, Chairman

John F. Lenox, Director

Beverly Tull, Recording Secretary