



# 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 October 18, 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  
Jacob Day (Absent)  
Newell Quinton

### CITY/COUNTY OFFICIALS:

Gary Hales, City Public Works Department  
Joseph Arthur, County Roads Department  
Larry Dodd, Captain, Salisbury Fire Department  
Maureen Lanigan, Assistant County Attorney

### PLANNING STAFF:

Gloria Smith, Planner  
Mary Phillips, Technical Review  
Jack Lenox, Director  
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. Quentin, and duly carried, the Commission **APPROVED** the minutes of the September 20, 2012 meeting as submitted.

*Mr. Magill abstained from voting on the minutes due to his absence at the last meeting.*



**#SP-9704-12Y      SIGN PLAN AMENDMENT – The Commons – E. North Pointe Drive – General Commercial District – M-29; P-78; G-6.**

Mr. Steve Hutchinson and Mr. Steve Smethurst came forward. Mrs. Gloria Smith presented and entered the Staff Report. She summarized the report explaining that Mr. Steve Hutchinson of DDR Corp. has submitted a modified request to amend the Sign Plan approved for The Commons, to permit a sign with 4 ft tall letters, to permit a modification to the façade for the sign, and to permit a blue awning over the store entrances.

Mr. Smethurst explained that they had approached the tenant who had agreed to reduce the size of the letters as well as the blue background but wouldn't deviate from their logo anymore. This is a lousy location for the store so they need something to make them stand out. This tenant leasing the space is crucial to the shopping center owners. Without tenants beside them, five Below will not lease the space. Famous Footwear is coming back to the shopping center if five Below signs. Mr. Smethurst added that blue was an original color when the shopping center was first approved.

Mrs. Bartkovich stated that the addition of the blue awning changes the look of the façade and that she liked it better than the previous design.

Mr. Rogers questioned the physical delineation between the blue and the drivet. Mr. Hutchinson stated that he wasn't sure where the delineation was. Mr. Rogers suggested a scored line in the drivet to provide delineation.

Mr. Dashiell stated that the awning compliments the façade and makes the appearance more consistent. He stated that he appreciated reducing the size of the letters and agreed that this is not the best location in the shopping center.

Upon a motion by Mr. Rogers, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the modified Sign Plan Amendment for Five Below including the awning and the pylon sign panel as submitted.



**#SP-9506-12F**      **REVISED SIGN PLAN –Tiger Express – 1801 Autumn Grove Court – Autumn Grove & Punkin Courts – Regional Commercial District – M-110; G-12; P-2451; L-1.**

Mr. Bill Gordy came forward. Mrs. Gloria Smith presented the Staff Report. She summarized the report explaining that a Revised Sign Plan for the TigerMart convenience store located in Autumn Grove Business Center has been resubmitted for Commission review and approval.

Mr. Gordy stated that the opportunity that he is seeking is to install a message board to appeal to gasoline customers to come into the store. Of all the stores, this store has the lowest percentage of customers. The sign will have no impact on the surrounding area and will not be visible from Route 50.

Mr. Magill questioned if this would be a variable sign. Mr. Gordy responded in the affirmative.

Mr. Spies questioned how many signs per minute would go on the sign. Mr. Gordy responded that he wasn't sure. Mr. Spies stated that there are loose standards regarding the length of time each sign stays up but the Commission had discussed six (6) seconds per message. Mr. Gordy stated that he did not have a problem with each message staying up a minimum of six (6) seconds.

Mr. Spies questioned if there was audible messaging at the gas pumps. Mr. Gordy responded in the affirmative.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the proposed message board for Tiger Express with a minimum of a six (6) second interval between message changes, as submitted.



**#SP-0601-12B**      **REVISED FINAL COMPREHENSIVE DEVELOPMENT PLAN – THE ORCHARD – Division Street Associates, LLC, represented by Davis, Bowen & Friedel – South Division Street – LBI and R-8A Residential District – M-48; P-211, 214, 215, 425; G-8.**

Mr. Jerry Friedel and Mr. John DeRiggi came forward. Mrs. Gloria Smith presented the Staff Report. Davis, Bowen & Friedel, on behalf of the applicants, has submitted a Revised Final Comprehensive Development Plan for 11,000 sq. ft. of office/retail space and 415 apartment units on this property on South Division Street. The applicants are providing an informational update and will discuss modification of Condition #8 regarding installation of an 8 ft. tall masonry wall along the northerly and easterly property lines. The plan now proposes installation of a 6 ft. tall vinyl fence.

Mr. Friedel stated that a lot of construction is taking place on site. Phase I consists of eight (8) buildings and a clubhouse. Mr. Bill Hearn and his family still own the property that is labeled Phase II.

Mr. DeRiggi explained that his company, GMH, is based out of Philadelphia and owns and operates many residential housing developments. They specialize in off campus apartments for student housing. They also do military base housing. The company doesn't view what they do as student housing but as high end apartments that are catered to students. No one is excluded if they can pay the rent. There are very specific rules and regulations and if the tenant does not conform, then they are evicted. There will be 15 staff on site seven (7) days a week. GMH also owns conventional apartments and shopping centers.

Mr. Friedel explained that the park areas have changed slightly. Along Dykes Road there is a park but also a stormwater management pond. There is about an acre increase in open space. The light fixtures have changed. There are two (2) ground level signs, one (1) on South Division Street and one (1) on the Dykes Road side of the property. The footprints of the building are slightly smaller than what was shown on the plans. The Clubhouse will be quite a facility. Phase II is not being changed. The proposed masonry wall was to go down the north and east property line. Telewire is no longer a neighbor to this development. Mr. Hearn purchased the property. Mr. Friedel handed out pictures of the north property line. There is a

significant amount of vegetation along the property line near Beaver Tree Service. Further in the property, a lot of the trees are evergreen. The purpose for the wall was to create an attractive visual screen between The Orchard and the residential county lots and prevent students from walking through the residential area. The proposal is to change condition #8 from an 8 ft. masonry structure to an 8 ft. vinyl fence.

GMH held a meeting at the sales trailer on site and had put out a flyer about the meeting the week before. The neighbors were notified. The vinyl fence is attractive. The neighbors preferred the vinyl fence over the masonry wall was what the consensus was at the meeting. The masonry wall gives more of a sound shield. The townhomes will give more of a sound buffer. Vegetation will be increased. This is not a super highway. If the masonry wall was constructed, it would have to be shifted to get a solid foundation and would take the appearance of the Berlin Wall. This would take away from both developments. The condition also doesn't list a time frame on construction of the wall. GMH doesn't own the property where the wall is to be constructed and really doesn't want to building on someone else's property. However, GMH is willing to comply with the condition of the Comprehensive Development Plan. The neighbors have requested an 8 ft. fence. GMH would like to construct the fence from the Telewire site to the commercial site and then the rest of the fence with the future development.

Mr. Magill suggested wood with beams and vinyl dropped in as an option for the fence. Mr. Friedel stated that they would prefer to put in more vegetation.

Mr. DeRiggi stated that they were okay with the 8 ft. height but they were trying not to disturb the natural berm. The masonry wall is not aesthetically pleasing. The vinyl fence is more pleasing and could be easily taken down and replaced if needed. He added that they would be putting in heavy vegetation.

Mrs. Bartkovich questioned if the vinyl fence came in 8 ft. Mr. Friedel responded in the affirmative. Mr. DeRiggi stated that the buildings would be stone and beige. Mrs. Bartkovich stated that the fence should be a different color so that it blends with the buildings.

Mr. Spies stated that a colored fence would be more appropriate and more subtle.

Mr. Friedel displayed a picture of a vinyl fence that was installed along Marley Manor as an example.

Mr. Dashiell explained that the Commission was trying to protect the neighbors. This is still a student housing development and at times there will still be noise. The vinyl fence would not be as sound protective as the masonry wall.

Mr. DeRiggi stated that the 8 ft. handles the size issue. He stated that he wasn't sure how much noise there would be with a large area between the buildings and the neighborhood.

Mr. Dashiell stated that the Commission would like to hear from the neighbors.

Mr. Friedel stated that the townhomes would be built eventually. Once the density is completed, the townhomes will be the noise barrier.

Mr. Spies questioned if there was a way to maintain the masonry wall but put a decorative cap on it. Mr. DeRiggi responded that there would still be cinderblock for 7 ft.

Mr. Dashiell stated that this issue could be solved by getting something in writing from the neighborhood that they are agreeable to the vinyl fence.

Mr. Friedel stated that trying to get a consensus of 30 people is nearly impossible.

Mr. DeRiggi stated that they delivered 25 letters about the meeting that they held and only five (5) homeowners showed up to the meeting. All five (5) homeowners said that they would prefer the vinyl fence.

Mr. Dashiell reiterated that something needed to be gotten from the homeowners in writing stating that they were agreeable to the vinyl fence.

Mr. Spies suggested sending a self-addressed stamped envelope for the homeowners to return their thoughts. He added that he hoped that there was adequate bike parking on the site as the City is actively pursuing alternate travel methods. Mr. DeRiggi responded that there is ample space for biking and that the units are large enough for bike storage.

Mr. Friedel questioned if the wall was a condition of occupancy. Mr. Lenox questioned what alternative there would be. Mr. Friedel responded that the wall could be constructed within six (6) months of occupancy. Mrs. Bartkovich questioned if occupancy was planned for Fall 2013. Mr. DeRiggi responded that occupancy is planned for the first or second week of August 2013 and that he needs to satisfy the occupancy requirements.

Mr. Dashiell reiterated that the Commission would like to have input as to the neighbors feelings regarding the wall before a decision is made. Mr. Lenox noted that a temporary occupancy could be done while the fence was being installed but it may lead to financial issues.

Mrs. Bartkovich stated that the City of Salisbury requires that the trash receptacle be enclosed. Mr. Spies questioned if there was a recycling component. Mr. DeRiggi responded that the trash receptacle is enclosed and there is a recycling component.

Mr. Magill requested that something be done to intermittently break up the wall.

Mr. DeRiggi stated that he would send the letter out to the neighbors at the beginning of the following week to get their input and then come back to the Commission for review.

Mr. Dashiell noted that the Commission would consider this an information meeting and no action would be taken until the neighbors were heard from.

*Mr. Rogers recused himself due to professional conflicts.*



#### CITY/COUNTY SUBDIVISION PLATS

**Cotton Patch – Extension to Record Final – 96 Lots – Pemberton Drive – M-37; G-17; P-145.**

Mrs. Gloria Smith presented the Staff Report. The applicants request a one-year extension of time for recording of the approved Final Plat for Cotton Patch (formerly Ponds at Pemberton) subdivision.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **GRANTED** the one-year extension of time to record the Final Plat for Cotton Patch. This time for recording the Final Plat will expire on **October 24, 2013.**

**Nelson Resubdivision – 3 Lots – Riverside Drive Ext. – M-47; G-14; P-p/o 156.**

Mr. Doug Jones and Mr. David Duke came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose resubdivision of three existing lots. Existing Lot 1A will be reduced from 13.64 acres to 8.64 acres in size and will become a pipestem lot with 50 ft. of frontage on Riverside Drive Ext. Lot 2 will increase from 1.26 to 3.68 acres in size. Lot 3 will increase from 1.27 to 3.85 acres in size. All lots will continue to front and have access on Riverside Drive Ext.

Mr. Jones stated that this is a family subdivision and this is being done as estate planning. Everyone involved is family. He added that the existing driveway is being included as part of the flag.

Mr. Magill questioned the potential for change of ownership. Mr. Jones responded that there is a perc situation in this area. There is no talk of further subdivision.

Mrs. Phillips added that any more than three (3) lots would require a road and the acreage doesn't allow for more lots.

Upon a motion by Mr. Magill, seconded by Mr. Spies, and duly carried, the Commission **APPROVED** the Nelson Resubdivision, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all requirements of the County Subdivision Regulations.
2. Health Department approval is required prior to the recordation of the Final Plat.
3. This subdivision shall comply with the Forest Conservation Regulations as administered by the Planning Office.
4. No disturbance of land shall occur on any of the lots without the issuance of a Critical Area Certificate of Compliance.
5. The building setback line for Lot 1AA shall be 50 ft. from the rear of Lots 2 and 3 as shown on the Plat.
6. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.



**Berryfield, Sec. 2 – Preliminary – 24 Lots – off Stockyard Road – M-57; G-22; P-337.**

Mr. Brock Parker and Mr. Brent Malone came forward. Mrs. Gloria Smith presented the Staff Report. The applicants propose subdivision of 24 lots averaging 1.85 acres from this tract. All lots will front and have access on an extension of Berryfield Court.

Mr. Parker explained that this is an extension of the project approved a few years back. There are nine (9) or ten (10) lots in the first section that will be developed before this. This will be developed similar to Beaver Run and all lots will be commercial. Each lot will have to do some stormwater management. All lots are perced.

Mr. Magill stated that he didn't see the access to Route 13 that was listed in the conditions of approval. Mr. Parker explained that there was forest conservation on it and that it extends to Route 13.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Preliminary Subdivision Plat for Berryfield, Section 2, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with the Subdivision Regulations.
2. Health Department approval is required.
3. This subdivision shall comply with the Forest Conservation Regulations as administered by the Planning Office.
4. Adequate Drainage and Maintenance Easements for the Storm Water Management will be required. Easements will be required on all lots which abut existing ditches.
5. Improvements Construction Plans shall be submitted and approved prior to the submission of the Final Plat.
6. A setback line equal to 75' from the centerline of the private road shall be placed on Lots 21, 22 and 23.
7. Lots 11 and 13 are denied direct vehicular access to US Route 13. A note shall be placed on the plat.
8. Lots shall become a part of the Property Owners Association.
9. Label Parcels which contain the Stormwater Management Facilities and note

- that they will be owned and maintained by the property owners association.
10. Parcel 211, property of SHA adjacent to Lot 13 shall be shown.
  11. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.



**Esham Associates – Rev. Final – Change Condition – 3 Lots – Pemberton Drive – M-37; G-11; P-417 & 346.**

Mr. John Seipp, Mr. Matt Drew, and Dr. Robert Esham came forward. Mrs. Gloria Smith presented the Staff Report. The applicants received Revised Preliminary/Final Plat approval in June 2011 for three (3) lots from this 10 acre parcel on the southerly side of Pemberton Drive and the northerly side of Mill Creek. The lots will front and have access on the southerly side of Pemberton Drive. Recently, Matt Drew, P.E. and John Seipp met with Planning and Zoning and Public Works personnel to discuss the requirements of Condition #7 that a bike lane be constructed along the frontage of these lots. The applicant proposes maintaining the bike lane easement but making a “payment in lieu” of construction of the lane. A specific project was discussed for utilizing the funding. A recordable document retaining the bike lane easement but relinquishing the construction requirement would be provided.

Mr. Seipp handed out information packets. This is a three (3) lot subdivision on Pemberton Drive. The lots are still unsold. It is not a good idea to have a bike lane along this property. The property is surrounded by two (2) treacherous areas of Pemberton Drive. It is not feasible for a bike lane without road work being done. The neighbors on either side of this property have signed letters stating that they are not in favor of a bike lane. Mr. Seipp explained that he had approached Mr. Lenox and Mr. Redden about doing a payment in lieu for the bike lane. There is an agreement with the County to pay for improvements along Civic Avenue in lieu of a bike lane along these lots on Pemberton Drive. There is a written agreement that also allows the County to build the bike lane in the future along these lots if it is needed.

Mrs. Phillips read a statement from Mr. Arthur regarding the bike lane.

Mr. Drew stated that the work that has been done on bike lanes has been on common paths of travel. He stated that the idea is to make cycling a viable alternative to urban commuting. Areas where connectivity is available are being pursued. Civic Avenue was just resurfaced so now is a good time to make the

bike lane happen if approval can be obtained at this meeting. He added that he was in support of this payment in lieu for the bike lane.

Upon a motion by Mr. Magill, seconded by Mrs. Bartkovich, and duly carried, the Commission **APPROVED** the Revised Preliminary Plat for Esham Associates, subject to the following Conditions of Approval:

**CONDITIONS:**

1. The Final Plat shall comply with all requirements 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 Chesapeake Bay Critical Areas Program.
4. This subdivision shall comply with the Forest Conservation Regulations.
5. A drainage plan shall be submitted for the driveway entrances along Pemberton Drive. The developer shall be responsible for any roadway improvements as deemed necessary.
6. Stormwater management for the individual lots may be required at the time a building permit is issued due to the pending changes to the Wicomico County Stormwater Ordinance.
7. A recordable document maintaining the bike lane easement but making a "payment in lieu" of construction of the lane shall be submitted for County Legal Department review and approval and recordation with the Final plat.
8. This approval is subject to further review and approval and conditions imposed by the County Department of Public Works.



**Rivermere – Change of Condition– 1 Lot – Cooper Road – M-55; G-12; P-163.**

Upon a motion by Mrs. Bartkovich, seconded by Mr. Spies, and duly carried, the Commission **POSTPONED** this case until the November 15, 2012 meeting to allow the applicant to be present at the meeting.



**COMPREHENSIVE PLAN UPDATE**

Mr. Jack Lenox stated that the County Council had adopted the change to the subdivision definition and continued their discussion regarding the Tier Maps. Staff will continue working with the Council on Tier Maps. The County has met the deadline on the definition required by the State and will continue to meet with the County Council.



There being no further business, the Commission meeting was adjourned at 3:12 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