



City of
Salisbury
John "Jack" R. Heath, Mayor

AGENDA

REGULAR MEETING

July 6, 2023

Government Office Building
Route 50 & N. Division Street
Council Chambers, Room 301, Third Floor

6:00 P.M. - Call to Order – Shawn Jester

Board Members: Shawn Jester, Sandeep Gopalan, William Hill, Maurice Ngwaba, and D'Shawn Doughty.

MINUTES – May 4, 2023.

ADOPTION OF BOA RULES & PROCEDURES.

ZONING PUBLIC HEARINGS:

Case #SA-23-618 Parker & Associates, Inc. on behalf of Salisbury 77 LLC –
**Special Exception to Increase Density to 23.19 units per
acre – Mill Pond Village Phase III – General Commercial
District.**

* * * * *



City of
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John "Jack" R. Heath, Mayor

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on May 4, 2023, in Room 301, Government Office Building at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Shawn Jester
William Hill (Absent)
Maurice Ngwaba
Edward Torbert
Miya Horsey (Absent)
Sandeep Gopalan
D'Shawn Doughty

CITY STAFF:

Brian Soper, City Planner
Henry Eure, Senior Planner
Beverly Tull, Recording Secretary
Laura Hay, City Solicitor

* * * * *

Mr. Soper, City Planner, called the meeting to order at 6:03 p.m.

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Mr. Soper announced that there were changes to the Agenda to include the election of a Chair and Vice Chair, the election of the Open Meetings Act Representative, and that the 600 E. Church Street case had been withdrawn.

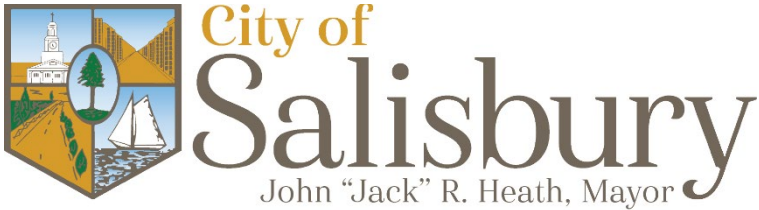
Mr. Soper explained the purpose of the newly formed Board of Appeals.

* * * * *

NOMINATION OF CHAIR:

Mr. Soper explained the importance of having someone that has experience with the zoning cases be the Chair as most of the cases will involve zoning.

Department of Infrastructure & Development
125 N. Division St., #202 Salisbury, MD 21801
410-548-3170 (fax) 410-548-3107
www.salisbury.md



Upon a motion by Mr. Torbert, seconded by Mr. Ngwaba, and duly carried, the motion to have Mr. Shawn Jester serve as the Chair. Mr. Gopalan abstained from the vote.

Mr. Jester gave a brief introduction explaining that he had served on the Board of Zoning Appeals for five (5) years. He explained that his full-time job is working for Andy Harris.

NOMINATION OF VICE CHAIR:

Mr. Soper explained that it would be beneficial to have an attorney who can serve in the absence of the Chair hold the Vice Chair position. Ms. Hay added that the Vice Chair tends to make the motions.

Upon a motion by Mr. Torbert, seconded by Mr. Ngwaba, and duly carried, Mr. Sandeep Gopalan was elected as Vice Chair. The vote was unanimous by all members present at the meeting.

Mr. Jester assumed the role of Chair and proceeded with the meeting.

NOMINATION OF OPEN MEETINGS ACT REPRESENTATIVE:

Mr. Jester explained the need for electing an Open Meetings Act Representative. Ms. Hay discussed the need for all members to take the Open Meetings Act training, which is required by the State. One member must be responsible for monitoring the meetings to make sure they adhere to the Open Meetings Act.

Upon a motion by Mr. Torbert, seconded by Mr. Gopalan, and duly carried, Mr. Ngwaba was elected as the Open Meetings Act Representative. The vote was unanimous by all members present at the meeting.

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Ms. Hay introduced herself to the Board and explained that she served as the City Attorney for the Board. Staff also introduced themselves as well as each Board member.

* * * * *

MINUTES:

Upon a motion by Mr. Gopalan, seconded by Mr. Ngwaba, and duly carried, the Board **APPROVED** the February 2, 2023 minutes as submitted.

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Mr. Eure administered the oath to anyone wishing to speak before the cases heard by the Salisbury Board of Appeals.

* * * * *

Case #SA-23-334 Cristo Vive Church – Enlargement of a Legal Nonconforming Use and a 0.7 ft. Front Yard Setback Variance and a 27.7 ft. Side Yard Setback Variance – 1308 Westchester Street – R-10 Residential District.

Mr. Frank Hawk came forward. Mr. Eure presented the Staff Report and all accompanying documentation into the record. Mr. Eure explained that the applicant requests permission to construct 5,241 sq. ft. of additions to the existing nonconforming building. The building is nonconforming, as it does not meet the minimum required rear yard setback of 75 ft. The front addition is proposed to have a front yard setback of 49 ft., 3 in. along Westchester Street. The Zoning Code requires a minimum front yard setback of 50 ft. Board approval to enlarge an existing nonconforming building and a 27.7 ft. side yard setback and a 0.7-inch front yard setback variance is requested.

Mr. Hawk explained that the church was built in 1969 to the Code standards at that time. The Church sanctuary only holds 120 people and it is full most of the time. The request to expand the building will increase the seating to 250 people. The restrooms must be brought up to Code for the increase capacity. The nursery and child area must be secured. The requested addition to the front of the building will handle the nursery and child area. The original plans were much larger but have been scaled back due to the Code requirements. The 0.7-inch setback is needed to build the nursery and toddler area. The nursery must be on the same level as the sanctuary for safety purposes. The utilities are at the front of the building so the restrooms need to stay at the front of the building. The parking area is currently gravel and grass without a buffer but the new site plan will buffer the church from the residential properties. The variance will not be detrimental to the City or the surrounding neighborhood.

Mr. Torbert questioned Mr. Hawk if there would be blacktop parking. Mr. Hawk responded in the affirmative. Mr. Eure responded that paved parking is required. Mr. Hawk added that they would connect the sidewalk to the school.

Mr. Gopalan questioned Mr. Hawk on the practical difficulty or hardship for the 0.7-inch variance request. Mr. Hawk responded that the need for the restrooms to be near the nursery and child area, as well as making sure the room was at least 12 ft. wide and meeting ADA requirements were the hardships that made the 0.7-inch variance a necessity.

Mr. Ngwaba thanked Mr. Eure for his analysis. He suggested that the addition of the 5,241 sq. ft. to the church might not have included exploration of all the options for design. Mr. Hawk responded that the location has to be on the same level as the sanctuary and near the restrooms.

Mr. Eure referenced Attachment #2 and discussed adjoining the nursery to the new sanctuary, making a corridor to the restroom. Mr. Hawk responded that a 2 hr. firewall was required and the rear wall of the sanctuary must have a 2 hr. firewall.

Mr. Ngwaba questioned Mr. Hawk about reviewing the plans and looking at ways to meet the setback requirements. Mr. Hawk responded that the plans that were shown were the best layout, adding that the 0.7-inch setback request was not a big deal.

Mr. Torbert questioned if the architects from Georgia specialized in church design. Mr. Hawk responded that he specializes in church design, having designed over 50 churches. Mr. Torbert questioned that if Mr. Hawk followed Mr. Eure's suggestion to move the nursery, how much of a financial impact would it make. Mr. Hawk responded that it would not be a big financial impact but that he could not relocate it because of the distraction to the sanctuary. There must be a line of sight to each room per the safety protocol. The control desk must be manned.

Mr. Gopalan questioned if the placement of the utilities was also a requirement. Mr. Hawk responded that he could not render the utilities to the other side of the building.

Mr. Doughty suggested that the nursery and toddler room at the rear of the building would be safer. Mr. Hawk stated that he could not run the utility lines to the rear of the building.

Mr. Ngwaba questioned the stair width because if they were to move one (1) foot it would not lose anything.

Mr. Gopalan questioned Ms. Hay if the Code required the Board to redesign the project. Ms. Hay responded that the Board does not redesign the project but can offer suggestions. She added that the Board discusses the factors of the variance and must do Findings of Fact of the decision. The other issue is the enlargement of the



nonconforming use.

Mr. Jester stated that he appreciated the Staff providing a recommendation and the Board can make a decision if they feel differently.

Mr. Torbert questioned the basis for the Staff's recommendation of denial. Mr. Eure responded that there are no hardships and the building would be noncompliant on three (3) sides. There are alternatives for the design.

Ms. Hay requested that the Staff Report be moved into the record. Mr. Jester stated that the Staff Report was part of the record.

Mr. Hawk questioned where it was codified that the 50 ft. setback is from the curb. Mr. Eure responded that the requirement is in the Code. Mr. Hawk stated that if it was from the lot line that it would be 8 ft.

Upon a motion by Mr. Ngwaba, seconded by Mr. Torbert, and duly carried, the Board **APPROVED** the 27.7 ft. Side Yard Setback Variance, **DENIED** the 0.7 ft. Front Yard Setback Variance, and **APPROVED** the Enlargement of a Legal Nonconforming Structure based on Section V (c) of the Staff Report and subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL:

1. The front addition may meet but not encroach any closer to Westchester Street than the allowable 50 ft. front yard setback.
2. Landscaped islands shall have a minimum 8 ft. width.
3. Provide at least two (2) van accessible parking spaces.

The Board vote was as follows:

D'Shawn Doughty	Aye
Maurice Ngwaba	Aye
Sandeep Gopalan	Nay
Ed Torbert	Aye
Shawn Jester	Aye

* * * * *

Mr. Soper explained that there are currently no zoning cases for June but haven't received any information from HCDD if they have any cases for June.



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Mr. Doughty questioned if the alternates were required to attend each meeting. Mr. Soper responded that it is preferred if all members attend each meeting. Staff has the ability to pick from the members who should sit based on the case.

There was discussion about the meeting date and time. Mr. Torbert noted that he has a conflict with the first Thursday of the month.

Mr. Soper questioned Ms. Hay if the handbook needed to be voted on. Ms. Hay responded that it did not need to be voted on but should go on a future agenda for a briefing.

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ADJOURNMENT

With no further business, the meeting was adjourned at 7:28 p.m.

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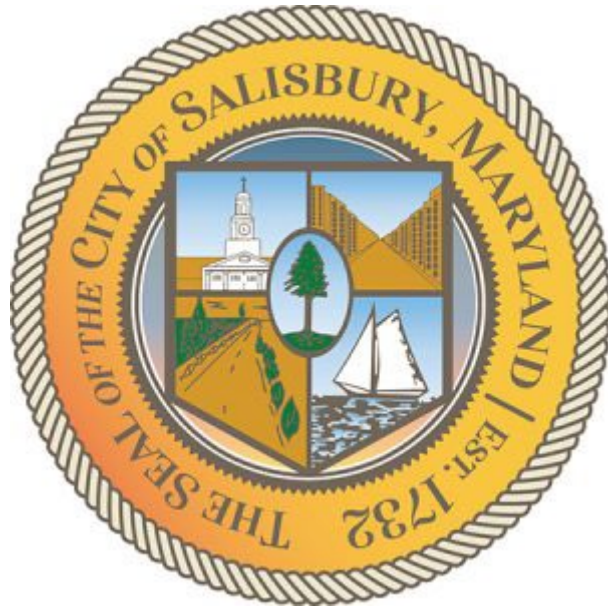
This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the City of Salisbury Department of Infrastructure and Development Department.

Shawn Jester, Chairman

Richard Baldwin, Secretary to the Board

Beverly R. Tull, Recording Secretary

SALISBURY BOARD OF APPEALS



RULES OF PROCEDURE

**Adopted: April 10, 2023
Resolution No. 3249**

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Section I: Authority.

These Rules of Procedure are promulgated under the authority vested in the Board of Appeals by Md. Code Ann., Land Use § 4-301 *et. seq.* and by Article VI, Chapter 17.12, Title 17, of the Salisbury City Code (hereinafter referred to as the "Code"). It is the intent of these Rules of Procedure to prescribe the means for the implementation of the Code.

Section II. Organization.

A. *Name.* The name of this body is the "Salisbury Board of Appeals," referred to herein as "the Board."

B. *Membership.* The Board shall consist of five members and two alternates appointed by the Mayor and confirmed by the City Council. When possible, preference shall be given in order to ensure that the Board includes at least one building professional/architect/engineer, tenant, property owner and/or attorney, as well as potential members who have a demonstrated special interest, specific knowledge, or professional or academic training in public health. Members shall be appointed for terms of three years. A member whose term has expired may continue to serve until reappointed or replaced. A Board member may be re-appointed for additional and consecutive terms.

C. *Standards of Conduct:*

1. No Board member shall allow bias or prejudice to affect the ability to exercise fairness and reason in any proceeding before the Board.
2. No Board member shall represent an applicant, appellant or member of the general public before the Board.
3. A Board member may appear before the Board on any application or appeal, but may not participate as a Board member.
4. A Board member shall note on the record, before any proceeding before the Board commences, or as soon as realized after a proceeding has commenced, that there is a conflict of interest or the appearance of a conflict of interest. If the Board member believes, as a result, that they cannot make any decision related to the proceeding in a fair and impartial manner, they shall recuse themselves from participating in the proceeding.

D. *Removal of Members.* A member of the Board may be removed by the Mayor

for:

1. Incompetence;
2. Misconduct; or

3. In the same manner as for a member of a State board or commission:
 - a. Failure to attend meetings under § 8-501 of the State Government Article; or
 - b. Conviction of a crime in accordance with § 8-502 of the State Government Article.

Prior to Removal, the Mayor shall provide to the member:

1. A written statement of charges stating the grounds for removal; and
2. An opportunity for a public hearing to contest the charges.

E. *Officers.*

1. The Board shall have as officers a Chair, Vice-Chair and Secretary. The Board shall also appoint at least one Open Meetings Act representative who shall receive all required training on the Maryland Open Meetings Act.
2. The Director of the Department of Infrastructure and Development or their designated representative shall serve as Secretary to the Board.
3. The Chair shall sit as the presiding officer of the Board. The Chair shall direct the Secretary in the preparation of the agenda and rule on any requests for postponement submitted prior to the hearing date. The Chair shall call meetings to order, rule on all points of order, administer oaths, bring to vote all matters required of Board action, and together with the Secretary, authenticate the record of meetings, actions, orders, certificates and other proceedings of the Board.
4. The Vice-Chair shall perform the duties of the Chair in the Chair's absence.
5. The Secretary shall issue all required notices of meetings, including notices to members. At the direction of the Chair, the Secretary shall prepare the agenda, distribute required documentation to Board members, record the proceedings and prepare minutes of the meetings, maintain official records and files of the Board and conduct the general correspondence of the Board. The Secretary will receive and process all applications for appeal filed with the Board.
6. Election of Officers.
 - a. The Board shall elect a Chair and Vice-Chair, as well as an Open Meetings Act representative, whose terms shall be for two years or until their successors have been elected.

- b. The Secretary of the Board shall preside over the nomination and election of the Chair. Thereafter, the Chair shall preside over the meeting and conduct and supervise the nomination and election of a Vice-Chair.
- c. Should the office of Chair become vacant for any reason, the Vice-Chair shall become the Chair for the duration of the unexpired term and the Board shall elect a new Vice-Chair to fill the unexpired term.

Section III. Meetings.

A. Open Meetings Act.

- 1. All meetings of the board shall be open to the public, except that the Board may hold closed sessions in accordance with the Maryland Open Meetings Act.
- 2. Public Attendance.
 - a. At any open session of the Board, the general public is invited to attend and observe.
 - b. Except in instances when the Board expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is otherwise authorized by law, no member of the public attending an open session may participate in the session.
- 3. Disruptive Conduct.
 - a. A person attending an open session of the Board may not engage in any conduct, including visual demonstrations such as the waving of placards, signs, or banners, that disrupts the session or that interferes with the right of members of the public to attend and observe the session.
 - b. The Chair may order any person who persists in conduct prohibited by subsection (a) of this section or who violates any other regulation concerning the conduct of the open session to be removed from the session and may request police assistance to restore order.
 - c. The Chair may recess the session while order is restored.
- 4. Recording, Photographing, and Broadcasting of Open Session.
 - a. A member of the public, including any representative of the news media, may record discussions of the Board at an open session by means of a tape recorder or any other recording device if the device does not create an excessive noise that disturbs members of the Board or other persons attending the session.
 - b. A member of the public, including any representative of the news media, may photograph or videotape the proceedings of the Board at an open session by means of any type of camera if the camera: (1) Is operated without excessively bright artificial light that disturbs

members of the Board or other persons attending the session; and (2) Does not create an excessive noise that disturbs members of the Board or other persons attending the session.

c. A representative of the news media may broadcast or televise the proceedings of the Board at an open session if the equipment used: (1) Is operated without excessively bright artificial light that disturbs members of the Board or other persons attending the session; and (2) Does not create an excessive noise that disturbs members of the Board or other persons attending the session.

d. The presiding officer may restrict the movement of a person who is using a recording device, camera, or broadcasting or television equipment if such restriction is necessary to maintain the orderly conduct of the session.

5. Recording Not Part of Record. A recording of an open session made by a member of the public, or any transcript derived from such a recording, may not be deemed a part of the record of any proceeding of the Board.

B. *Meetings.*

1. Meetings shall be held on an as-needed basis.

2. Meetings of the Board shall be convened by the Chair, or in the Chair's absence, the Vice-Chair. In the event both are absent, the regular member in attendance with the greatest seniority of service shall act as Chair.

3. The Chair or, in the Chair's absence, the acting Chair may administer oaths.

4. The Board shall record and keep minutes of its proceedings, which show the vote of each member upon each question, or, if a member is absent or fails to vote, the minutes shall indicate such fact. The Board shall keep recordings of all proceedings, records of its examinations and other official actions, all of which shall be filed immediately in the office of the Board and shall be a public record open to inspection during the hours of normal operation of the office. Copies of the minutes shall be made available to interested parties. A party who requests a copy of the recording or its transcript shall pay the cost of the recording or transcript.

5. The Board, in its discretion, for any reasonable purpose stated, may decide to continue a public hearing to any other reasonable time, place or location it deems advisable. The appellant/applicant, as well as all other interested parties who registered at the initial hearing, shall be notified in person or in writing of the date, time and place of the continuance meeting.

C. *Order of Business.*

1. The Chair, or the Chair's assigns, may call each case to be heard by the Board.

2. The Chair shall administer oaths.
3. The Chair shall, at the Chair's discretion, take such steps as necessary to ensure the proper and orderly conduct of meetings. In order to afford all persons an opportunity to be heard on an appeal or other agenda item, the Chair may impose reasonable time limits upon comments.
4. Each party has the following rights at a hearing:
 - a. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - b. To introduce documentary and physical evidence;
 - c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and
 - d. To represent themselves or to be represented by anyone of their choice who is lawfully permitted to do so.

D. Quorum and Voting.

1. Three members shall constitute a quorum. The Chair shall be counted in reaching a quorum. A member of the Board shall recuse themselves from participating in a matter in which the member may have a conflict of interest or an appearance of a conflict of interest. If a majority of the Board does not approve the application or find in the favor of the appellant, the Board's inability to reach a decision by majority vote shall result in denial of the application or appeal.
2. Questions put to a vote are decided by a majority of the members present and voting; however, no decision shall be made in the absence of a quorum.
3. A tie vote by the Board shall be interpreted as a defeat of the motion upon which the vote was taken.
4. The Secretary shall record the name of the Board member making each motion and the name of the member who seconds the motion.
5. Each motion shall contain a statement of the findings of fact and grounds forming the basis of the Board's action or decision, and the full text of said motion and record of members' votes shall be incorporated in the minutes of the Board.

6. The official date of the Board's decision shall be that date shown on the Notice of Decision sent to the applicant and/or their representative.
7. No application requesting the same relief previously ruled upon by the Board shall be heard by the Board for a period of one (1) year following the date of the decision.

E. *Appeals.* Any applicant, appellant or interested person aggrieved by a decision of the Board shall have the right to appeal that decision to the Circuit Court for Wicomico County. Any appeal shall be noted in the Circuit Court within 30 days of the Board's decision

Section IV. Amendments.

These Rules of Procedure, and any part thereof, may be amended by the Board, subject to approval by the City Council.



STAFF REPORT

MEETING OF JULY 6, 2023

Case No. 202300618
Applicant: Parker & Associates, Inc. for Salisbury 77, LLC
Property Owner: Salisbury 77, LLC
Location: East side of Jasmine Drive, North of Mill Pond Village Shopping Center
Map: #0101, Grid #0018, Parcel #5489, Lot 4A
Zoning: General Commercial
Request: Special Exception – Density Increase

I. SUMMARY OF REQUEST:

The applicant proposes to construct an eighty (80) unit apartment building on the existing lot. A Special Exception is requested to increase the density above the inherently permitted 12 units per acre.

II. ACCESS TO THE SITE AREA:

The site has frontage along the currently unimproved Jasmine Drive. The site is proposed to be accessed from Phase II of the existing Mill Pond Village Apartments.

III. DESCRIPTION OF PROPERTY:

The site consists of an unimproved 3.45 acre lot located on the east side of East Naylor Mill Road. **(Attachment 1)**

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

Nearby properties are a mixture of residential and commercial uses. Notable uses include Mill Pond Village Shopping Center and Apartments, Hertrich Automobile Sales and Body Shop, JoJo's Family Restaurant, and Hampton Inn.

V. EVALUATION:

- (a) Discussion:** The applicants are proposing to construct a third phase of Mill Pond Village Apartments on a separate lot. The new four (4) story, eighty (80) unit apartment building on the existing 3.45 acre unimproved lot results in a



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density of 22.85 units per acre. Section 17.168.040A indicates that density of apartment complexes can be increased to up to 30 units per acre, provided that certain criteria and factors are considered by the Board. The combined overall density of all three (3) phases of Mill Pond Village Apartments is slightly over the inherently allowed density of 12 units per acre. **(Attachments 2, 3, & 4)**

- (b) **Impact:** Staff believes the proposed construction will have a minimal impact on adjacent properties, as the currently unimproved property will be improved with the new apartment building.
- (c) **Relationship to Criteria:** In addition to the criteria discussed above pertaining to increased density, Section 17.232.020B. of the Salisbury Municipal Code contains the criteria the Board should consider when approving special exceptions. Staff finds that this request complies with the Special Exception criteria as follows:

- [1] **The proposal will be consistent with the Metro Core Plan, the objectives of the Zoning Ordinance and any other applicable policy or plan adopted by the Planning Commission or City Council for development of the area affected.**

The site is currently unimproved, but the proposed use is permitted inherently by Section 17.36.020A.1. of the City's Zoning Code. A Preliminary Comprehensive Development Plan was approved by the Planning Commission in May of 2023. The use of the property is compatible with the City's Zoning Code and Metro Core Plan.

- [2] **The location, size, design and operating characteristics under the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.**

The proposed redevelopment is not expected to have any adverse effects on neighboring properties.

- [3] **The design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.**

The proposed construction will be attractive and complimentary to the existing Mill Pond Village Apartments. Extensive landscaping is proposed for the site, including along Jasmine Drive.



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- [4] The proposal will not be detrimental to or endanger the public health, security, general welfare or morals.**

Staff does not find that the proposed increase in density will have a negative effect on any of these items.

- [5] The proposal will not impair an adequate supply of light or air to adjacent property or overcrowd the land or create any undue concentration of population or substantially increase the congestion of the streets or create hazardous traffic conditions or increase the danger of fire or otherwise endanger the public safety.**

The proposed building exceeds minimum setback requirements, so impacts on surrounding properties will be reduced.

- [6] The proposal will not adversely affect transportation or unduly burden water, sewer, school, park, stormwater management or other public facilities.**

The proposed density increase should have minimal impacts on transportation, water, sewer, stormwater management or other public facilities.

- [7] The proposal will preserve or protect environmental or historical assets of particular interest to the community.**

The existing lot is nondescript, and has no notable assets.

- [8] The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property value for speculative purposes.**

The applicant has a long history of developing attractive multi-family dwellings in the City, including the existing Mill Pond Village Apartments.

Furthermore, Section 17.168.040A. of the City's Zoning Code identifies criteria the Board should consider when approving a special exception request to increase density. Staff finds that this request complies with the Special Exception criteria as follows:



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- [i] The additional ten-foot setback required for each story above three is provided in any combination to provide distance and separation from lower profile development.**

The building exceeds the minimum setback of 40 ft. from all property lines.

- [ii] Open space is increased to forty (40) percent of the net project area.**

Open space for the property will be 50.43%. The combined open space for all phases will be 59.27%.

- [iii] Arrangement of buildings on the site can be designed to minimize the effect of shadows, interference with light and air and intrusion on privacy of adjoining residential yards.**

The proposed setbacks exceed the required minimum of 40 ft., reducing the impact on neighboring properties.

- [iv] Additional landscaping and screening is provided around parking areas, where the board deems necessary, and adjoining residential development.**

The landscaping plan indicates that extensive landscaping will be provided throughout the site. Flowering trees and roses are proposed along Jasmine Drive, which will increase curb appeal.

Additionally, Section 17.168.040B. indicates that the Board shall consider the following factors:

- [i] The topography of the site and whether it can be used to soften the impact of any increased building height in relation to the surrounding area.**

The site's topography does not lend itself to lessening the impact of the building's height of approximately 50 ft. However, the applicants have increased the building's setback as much as possible, and added extensive landscaping to improve appearance. In the General Commercial District, the allowable building height is 50 ft., and nearby,



the existing four-story apartment building at Addison Court and Hampton Inn are similar in height to the proposed building.

- [ii] Existing and proposed streets and traffic patterns relative to the amount of traffic to be generated by the increased density and whether it can easily be accommodated without being detrimental to surrounding residential area.**

Vehicular traffic of the eighty (80) units can be accommodated by the existing streets in the area.

- [iii] Whether the site is further separated from residential areas by streets or nonresidential uses or the site adjoins or is immediately across the street from a public pond, lake or park.**

With the exception of the existing first two (2) phases of Mill Pond Village Apartments, the property is surrounded by commercial uses.

- [iv] Provision of recreational facilities in relation to maximum density of people to be served.**

An outdoor recreational area is proposed for the southern end of the property. Additionally, residents will have access to the existing amenities located in Phases one (1) and two (2).

- [v] How the criteria have been used in designing the site to achieve maximum results in integration of greater building height and density without harsh contrast in relation to surrounding development.**

The applicants are proposing an attractive building to complement the existing Mill Pond Village Apartments. Providing additional landscaping will improve the appearance of the site and neighborhood in general.

VI. STAFF COMMENTS:

This proposed increase in density will have minimal effects on the neighborhood and surrounding properties. The applicants have taken great care to design a building and site that is attractive and also harmonious with nearby development, as is evidenced by the Planning Commission granting Preliminary Comprehensive Development Plan earlier this year.



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VII. RECOMMENDATION:

Based on the criteria for approval as discussed above in this Staff Report, Section V (c), the Planning Staff recommends **Approval** of the Special Exception request to increase the density to 22.85 units per acre.



528 RIVERSIDE DRIVE
SALISBURY, MD 21801
PHONE: 410-749-1023
FAX: 410-749-1012
WWW.PARKERANDASSOCIATES.ORG

LAND SURVEYING CIVIL ENGINEERING • LAND PLANNING FORESTRY SERVICES

City of Salisbury
Department of Infrastructure & Development
City of Salisbury
125 N. Division Street
Salisbury, MD 21801

05/30/2023

Attn: Henry Eure
Ref: Mill Pond Village Phase III Special Exception

Dear Mr. Eure,

Attached hereto, please find our proposed special exception site plan for the Mill Pond Village Phase III apartment project. It is the intent of this submittal to respectfully seek a special exception for an increase in density, in accordance with section 17.168.040 of the zoning code, so that we may finalize engineering and development plans based upon the confidence that this is acceptable to the Board. This project was recently unanimously approved by the Planning Commission.

This project proposes one eighty (80) unit, elevator served apartment building to be accessed through the existing Mill Pond Village apartment project. It is the intent of this project to designate this as an expansion to the Mill Pond Village apartment project. The current Zoning for this property is General Commercial. According to the Zoning Code 17.168 for apartments the construction standards and regulations fall under Zone R-5A, which permits a density of 12 units per acre.

During the development of the first two sections of Mill Pond Village, a special exception for increased density was granted that permitted a project wide density of 13.47 units/acre. During the development of phase 2, one complete 24 unit building was sacrificed in lieu of a second pool and additional open space. Therefore, Mill Pond Village phases one and two provided a realized density of 12.81 units/acre. In order to permit this project to proceed as planned, we respectfully request that the existing special exception be expanded/modified and applied to this (third) phase of the project and slightly increased to permit a project wide density of 13.72 units/acre, as shown on the plans.

I fully realize that the zoning code make additional requirements and sets additional criteria for the approval of a special exception as follows:

A. In all districts where apartment development is permitted, the board of zoning appeals may approve an increase in height or density up to a maximum of thirty (30) units per acre after

consideration of the following criteria in addition to satisfying the requirements of [chapter 17.232](#) pertaining to special exceptions:

1. The additional ten-foot setback required for each story above three is provided in any combination to provide distance and separation from lower profile residential development.

- We have provided a 40' setback from this four-story bldg., adding an additional 10' to the code required 30'

2. Open space is increased to forty (40) percent of the net project area.

- Open Space provided across all three sections will be 59.27%

3. Arrangement of buildings on the site can be designed to minimize the effect of shadows, interference with light and air and intrusion on privacy of adjoining residential yards.

- There are no adjoining residential yards. However, the bldg., being in the center of the property is still in conformance with the intent of this criterion.

4. Additional landscaping and screening is provided around parking areas, where the board deems necessary, and adjoining residential development.

- Again, this property does not adjoin residential. However, significant landscaping has been provided as the intent of the code strives to achieve.

B. In determining whether an increase in height or density should be approved, the board shall consider such factors as:

1. The topography of the site and whether it can be used to soften the impact of any increased building height in relation to the surrounding area;

- Given the surrounding developments, this proposed four-story building is not out of character with the neighborhood. The existing sections of Mill Pond are three-story buildings. Further there is a five-story hotel located two properties to the east from this site.

2. Existing and proposed streets and traffic patterns relative to the amount of traffic to be generated by the increased density and whether it can easily be accommodated without being detrimental to surrounding residential area;

- The primary access to this building will be through the existing sections of Mill Pond, which are private streets. Further, Naylor Mill Road, upon which the main entrance to the project is located, is a very high-capacity road. No detrimental impacts are foreseen.

3. Whether the site is further separated from residential areas by streets or nonresidential uses or the site adjoins or is immediately across the street from a public pond, lake or park;

- Again, there are no residentially zoned property in the vicinity of this project. Further, this project has significant parks and pools and open space areas to keep the residents happy on site.

4. *Provision of recreational facilities in relation to maximum density of people to be served;*

- Mill Pond Village is one of the most well-appointed apartment communities in Salisbury. It has walking trails, both an indoor AND an outdoor pool, a playground, and a multipurpose court. Additionally, this section proposes an additional open space area and a large dog park to enhance those provisions.

5. *How the criteria have been used in designing the site to achieve maximum results in integration of greater building height and density without harsh contrast in relation to surrounding development.*

- Given the surrounding developments, this proposed four-story building is not out of character with the neighborhood. The existing sections of Mill Pond are three-story buildings. Further there is a five-story hotel located two properties to the east from this site. We have provided significant landscaping along Jasmine Drive to soften the street views of this project as well.

C. *After consideration of the criteria and factors for review, the board shall approve such increase in building height and density as it considers will have the least impact on and be the least detrimental to the surrounding area.*

- Given that the board previously saw fit to approve a special exception for the increase in density for phases 1 and 2, we respectfully request that it also be granted to or applied to this third and final phase of the project. We simply ask for the previous special exception for 13.47 u/ac be amended, applied to, and/or granted for this third phase, to bring the total density for all three sections to 13.72 u/ac.

If I may be of further service to you whatsoever, please do not hesitate to ask. Thank you for your help on this matter

Sincerely,

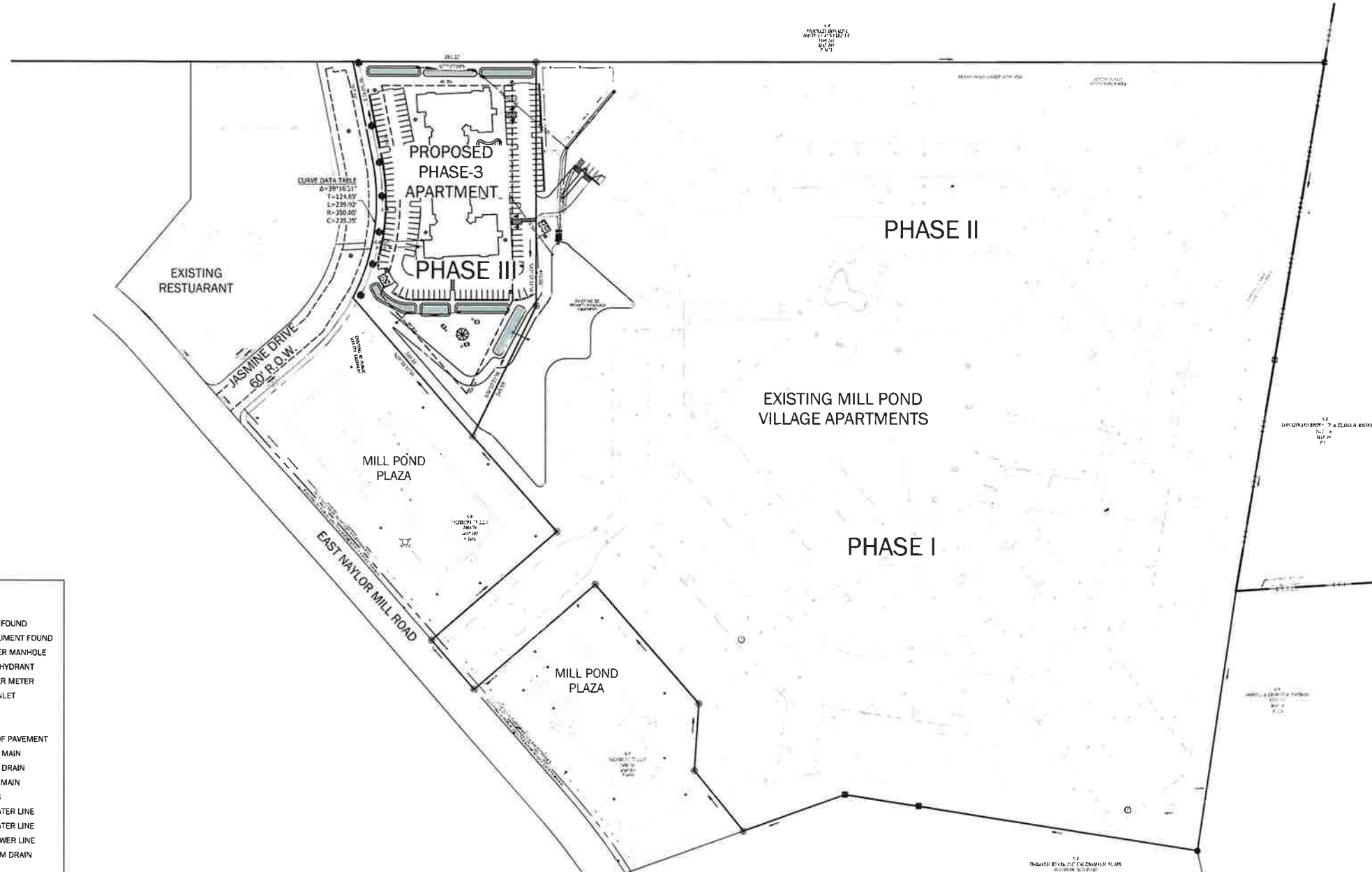
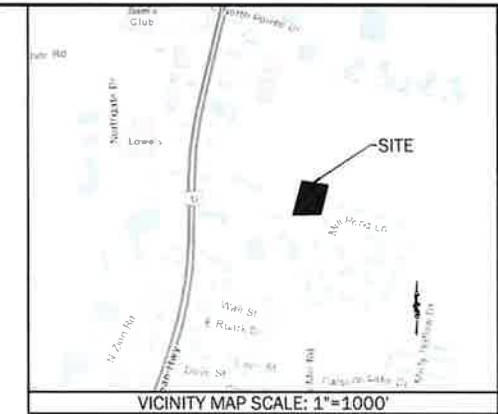


Brock E. Parker, PE, RLS, QP
528 Riverside Drive
Salisbury, MD 21801
Phone: 410-749-1023
Fax: 410-749-1012



MILL POND VILLAGE, PHASE THREE

SPECIAL EXCEPTION PLAN
SALISBURY, MARYLAND 21801



SHEET INDEX	
SHEET-1	TITLE SHEET
SHEET-2	SITE PLAN
SHEET-3	LANDSCAPE/ LIGHTING PLAN
SHEET-4	DETAILS

PHASE III PARKING TABULATION	
** PARKING TABULATION THIS PHASE ONLY	
REQUIRED APARTMENTS	1.5 SPACES PER DWELLING UNIT x 20%
TOTAL REQUIRED	80 UNITS x 1.5 = 120
120 x 20%	= 24.4 SPACES
TOTAL PROVIDED	145 SPACES (1 SURPLUS)

MINIMUM REQUIREMENTS	
CITY OF SALISBURY MD	
FOR DENSITY INCREASE BY SPECIAL EXCEPTION	
ZONE GENERAL COMMERCIAL R 5A	
(PER 17 168 030 SECTION C)	
MINIMUM LOT AREA	= 10 000 SF
MINIMUM FRONT LOT WIDTH	= 60 FT
MINIMUM CORNER LOT WIDTH	= 75 FT
4 STORY BUILDING	MINIMUM SETBACKS
FRONT	40
SIDE	40
REAR	40
OPEN SPACE REQUIRED	40%
ADDITIONAL LANDSCAPE BUFFERING AROUND PARKING AREAS	

PROVIDED LAND SUMMARY	
CITY OF SALISBURY MD	
FOR DENSITY INCREASE BY SPECIAL EXCEPTION	
ZONE GENERAL COMMERCIAL R 5A	
(PER 17 168 030 SECTION C)	
4 STORY BUILDING	MINIMUM SETBACKS
FRONT	40
SIDE	40
REAR	40
OPEN SPACE	
APPROVED FROM PHASE 1 & 2	
NUMBER OF UNITS 480 APPROVED (456 BUILT)	
ACREAGE OF SITE 30.61 ACRES	
OPEN SPACE 23.55 ACRES (SIGN)	
DENSITY 13.47 UNITS/AC APPROVED (12.81 BUILT)	
PHASE III	
PROPOSED UNITS 80 (4 STORY BUILDING)	
ACREAGE OF SITE 3.45 ACRES	
1.71 AC PROPOSED IMPERVIOUS WITHIN PARCEL-4A (50.43% OPEN SPACE)	
0.54 AC PROPOSED ADDITIONAL IMPERVIOUS WITHIN PHASE 2 & 3	
TOTAL OPEN SPACE 23.15 ACRES	
TOTAL PERCENT 23.15/39.06 = 59.27% OPEN SPACE	
PROPOSED DENSITY 456+80= 536/39.06 ACRES = 13.72 UNITS/ACRE	

PROPOSED PHASE III ESTIMATED WATER & SEWER USAGE	
(FROM DESIGN GUIDELINE FOR SEWER/FACILITIES)	
ONE BEDROOM APTS	20 x 1 PERSON = 20
TWO BEDROOM APTS	44 x 2 PEOPLE = 88
THREE BEDROOM APTS	16 x 3 PEOPLE = 48
TOTAL ESTIMATED PEOPLE FOR THE COMPLEX	= 156
RES. DETAILED GPD AT 60 GPD PER PERSON	= 9 360 GPD
60 x 156	= 9 360 GPD
TOTAL PROJECT USAGE	= 9 360 GPD
TOTAL EDU'S FOR PROJECT AT 200 GPD PER EDU	= 38 EDU'S
9 360 / 250	

LEGEND	
	IRON ROD & CAP FOUND
	CONCRETE MONUMENT FOUND
	PROPOSED SEWER MANHOLE
	PROPOSED FIRE HYDRANT
	PROPOSED WATER METER
	PROPOSED WR INLET
	PROPERTY LINE
	EXISTING CURB
	EXISTING EDGE OF PAVEMENT
	EXISTING SEWER MAIN
	EXISTING STORM DRAIN
	EXISTING WATER MAIN
	EXISTING WOODS
	PROPOSED 6" WATER LINE
	PROPOSED 4" WATER LINE
	PROPOSED 8" SEWER LINE
	PROPOSED STORM DRAIN
	PROPOSED CURB
	PROPOSED EDGE OF PAVEMENT
	PROPOSED PAVEMENT
	PROPOSED CONCRETE SIDEWALK

GENERAL NOTES

- THE PROPERTY SHOWN HEREON IS OWNED BY SALISBURY 77 LLC
C/O SACHS EQUITIES
155 EAST 95TH STREET
NEW YORK, NY 10022
REFERENCES: DEED - 1466/74
- TOTAL AREA OF PROPERTY: 3.45+ ACRES
- THE ZONING OF THIS PROPERTY: GENERAL COMMERCIAL
- THIS PROPERTY IS SHOWN ON F.R.M. COMMUNITY PANEL #2404500112C, (PANEL 112 OF 375) AND 2404500116E, (PANEL 116 OF 375), DATED 08/17/2015, AS BEING IN FLOOD ZONE X, AREA OF MINIMAL FLOODING.
- THE ADDRESS OF THE PROPERTY IS LOT-4A EAST NAYLOR MILL ROAD, SALISBURY MD 21801.
- THERE IS NO OBSERVED EVIDENCE OF CEMETERIES ON SITE.
- THERE IS NO OBSERVED EVIDENCE OF AN ENCROACHMENT.
- AN INGRESS/EGRESS BLANKET EASEMENT WILL ENCOMPASS THE ENTIRE PROPERTY OF MILL POND VILLAGE FOR THE BENEFIT OF ALL PARCELS TO MAINTAIN ACCESS TO ALL PARCELS.

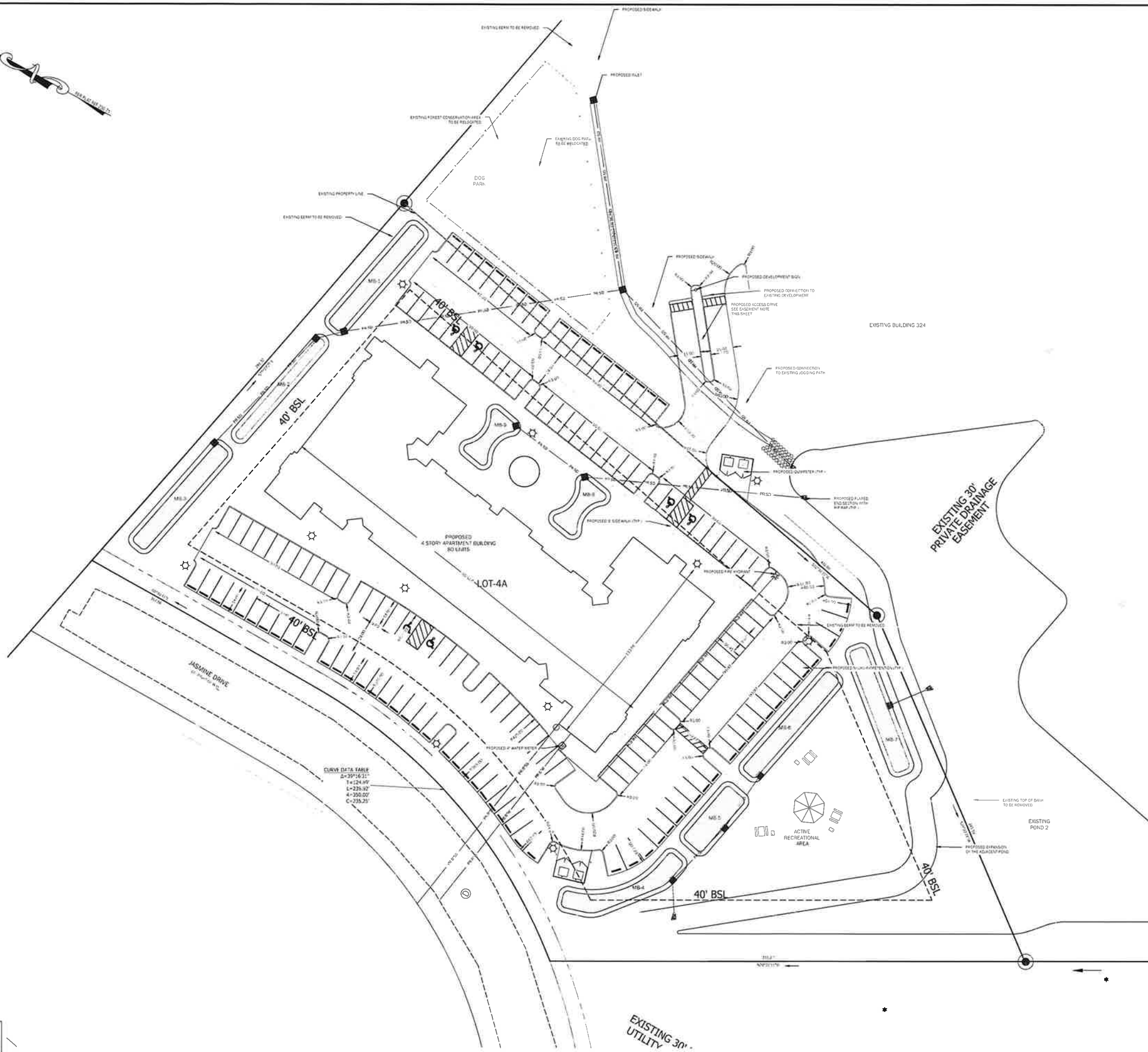
SHEET 1



REVISIONS	DATE	BY	TITLE

TITLE SHEET
MILL POND VILLAGE - PHASE III
Road Name EAST NAYLOR MILL ROAD
For SALISBURY 77, LLC
CITY OF SALISBURY, WICOMICO COUNTY, MARYLAND
DATE: 03/20/2023
SCALE: 1"=40'
PROJECT: 19-06-01354-1-15 COMMERCIAL ONE





EASEMENT NOTE:
 SHARED PARKING, ACCESS, UTILITY, AMENITY, STORMWATER (etc) EASEMENTS
 SHALL BE RECORDED TO PERMIT SHARING OF INFRASTRUCTURE AND AMENITIES
 BETWEEN ALL PHASES OF THIS PROJECT

SHEET 2																					
<p>GRAPHIC SCALE 1 inch = 30 feet</p>																					
<table border="1"> <tr> <td>DATE</td> <td>03/20/2023</td> <td>PROJECT</td> <td>5489</td> </tr> <tr> <td>BY</td> <td>JOL</td> <td>SCALE</td> <td>1/8"</td> </tr> <tr> <td>CHECKED</td> <td>MAV</td> <td>DATE</td> <td>03/20/2023</td> </tr> </table>	DATE	03/20/2023	PROJECT	5489	BY	JOL	SCALE	1/8"	CHECKED	MAV	DATE	03/20/2023	<table border="1"> <tr> <td>PROJECT</td> <td>INC. SITE</td> </tr> <tr> <td colspan="2" style="text-align: center;">SITE PLAN</td> </tr> <tr> <td colspan="2" style="text-align: center;">MILL POND VILLAGE - PHASE III</td> </tr> <tr> <td colspan="2" style="text-align: center;"> Road Name: EAST MAYLOR MILL ROAD For: SALISBURY 77, LLC CITY OF SALISBURY, WICOMICO COUNTY, MARYLAND </td> </tr> </table>	PROJECT	INC. SITE	SITE PLAN		MILL POND VILLAGE - PHASE III		Road Name: EAST MAYLOR MILL ROAD For: SALISBURY 77, LLC CITY OF SALISBURY, WICOMICO COUNTY, MARYLAND	
DATE	03/20/2023	PROJECT	5489																		
BY	JOL	SCALE	1/8"																		
CHECKED	MAV	DATE	03/20/2023																		
PROJECT	INC. SITE																				
SITE PLAN																					
MILL POND VILLAGE - PHASE III																					
Road Name: EAST MAYLOR MILL ROAD For: SALISBURY 77, LLC CITY OF SALISBURY, WICOMICO COUNTY, MARYLAND																					



SYMBOL	DESCRIPTION
	3" CALIBER 6 TALL (AT PLANTING) DECIDUOUS SHADE TREE PLANTING LOCATION TO CONSIST OF LONDON PLANE RED MAPLE, RIVER BIRCH, SYCAMORE, PIN OAK OR SIMILAR SPECIMEN TREE
	3" SMALL DECIDUOUS FLOWERING ORNAMENTAL SPECIMEN TREE PLANTING LOCATION TO CONSIST OF NATCHEZ CREPE MYRTLE, NISSANURA CREPE MYRTLE, FLOWERING KWAZANZA CHERRY OR SIMILAR SPECIMEN TREE
	KNOCKOUT ROSE 3 GAL
	DENOTES FOUNDATION PLANTING (SEE NOTE #1 BELOW)

NOTE

- FOUNDATIONS TO BE PLANTED AND CONSIST OF A MIXTURE OF DECIDUOUS AND EVERGREEN SHRUBS (PINK SUMMERWEET, BURNING BUSH, HYDRANGEA, SPICE AZALEAS AND JUNIPERS) AND A MIXTURE OF GROUND COVERS AND PERENNIALS (LILYPERS AND FLOWERS WITH ANNUAL COLOR) TO BE SUPPLEMENTED WHERE APPLICABLE
- MINIMUM 4" OF TOPSOIL IN ALL LANDSCAPE BEDS
- MINIMUM 2" OF MULCH IN ALL LANDSCAPE BEDS

SYMBOL	DESCRIPTION
	DENOTES WITCH HAZEL (HAMAMELIS VIRGINIANA) 3 GALLON
	DENOTES SOUTHERN HAWBERRY (MADRELLA PENNSYLVANICA) 3 GALLON
	DENOTES ILEX GLABRA (HAWBERRY) 3 GALLON
	DENOTES CLETHRA ALA FLORA (PERPER BUSH SWEET) 3 GALLON
	DENOTES WINTERBERRY (LIX VERTICILLATA) 3 GALLON

REVISIONS	DATE	BY	CHKD.	APP.

SHEET 3

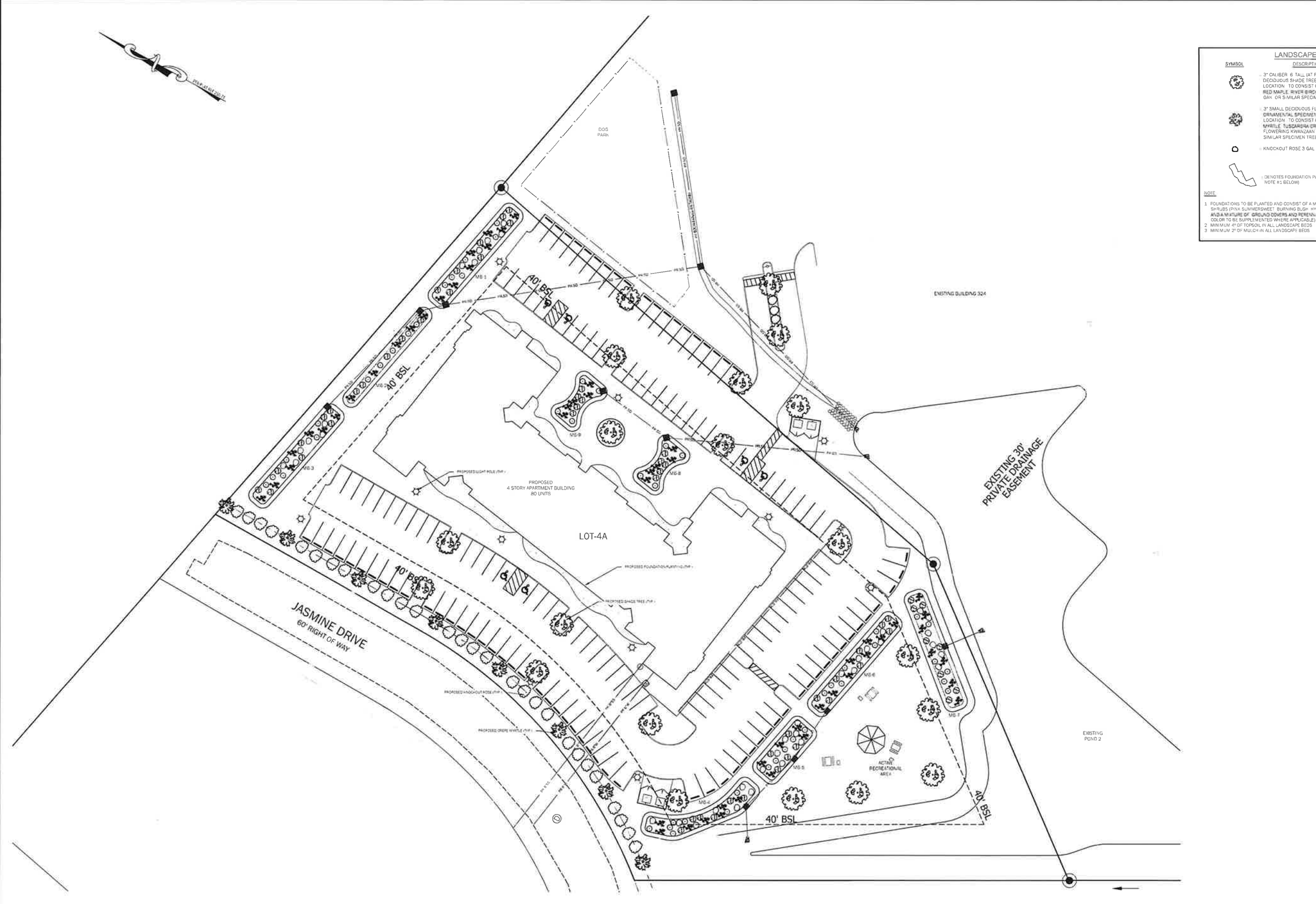
GRAPHIC SCALE
1" = 30' HOR

REVISIONS	DATE	BY	CHKD.	APP.

LANDSCAPE/LIGHTING PLAN
MILL POND VILLAGE - PHASE III

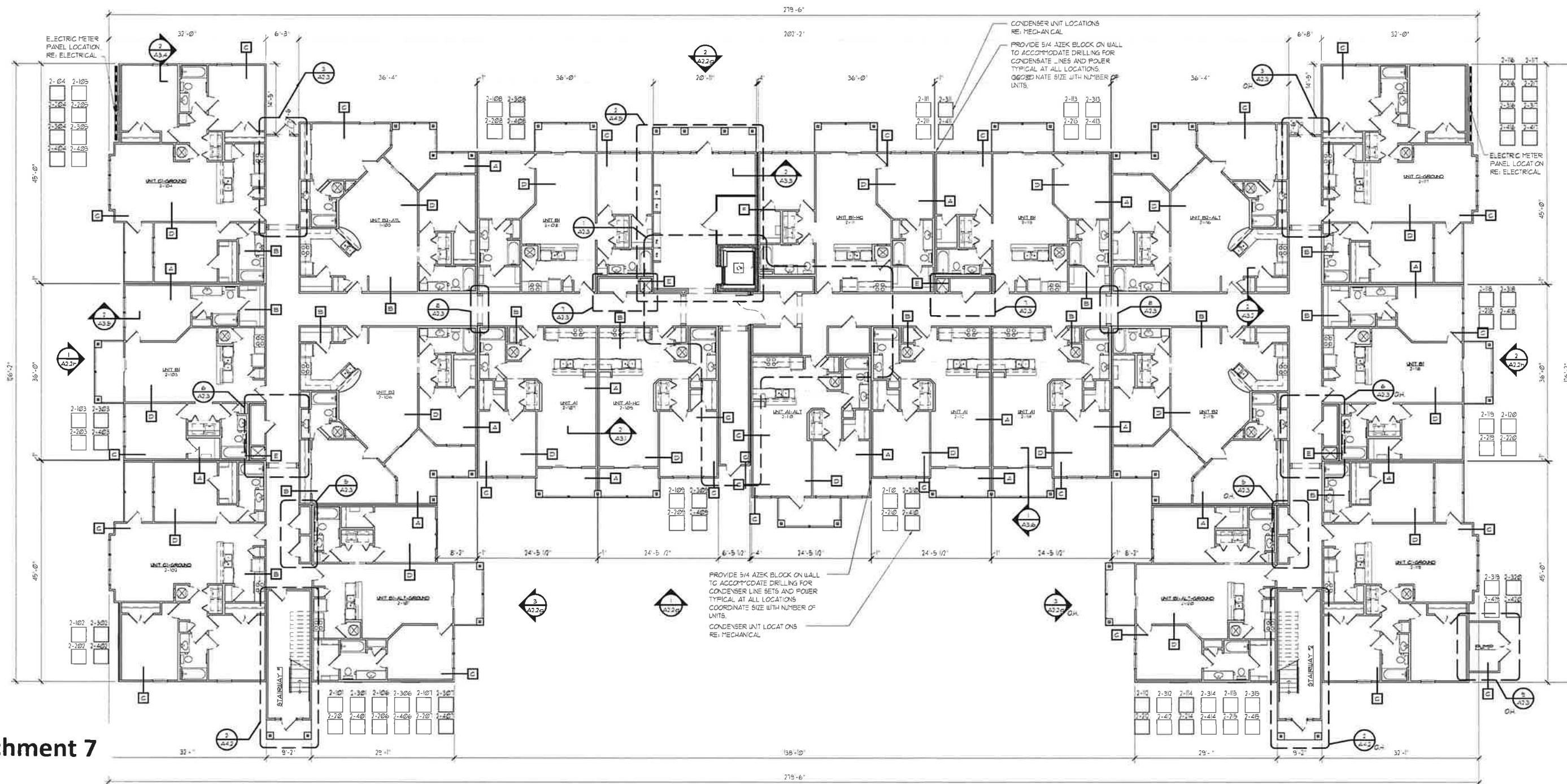
Road Name: EAST MAYLOR MILL ROAD
For: SALISBURY 77, LLC
CITY OF SALISBURY, WICOMICO COUNTY, MARYLAND

DATE: 03/20/2023
DRAWN BY: MAV
CHECKED BY: JDL
DESIGNED BY: JB
PROJECT NO.: 5488

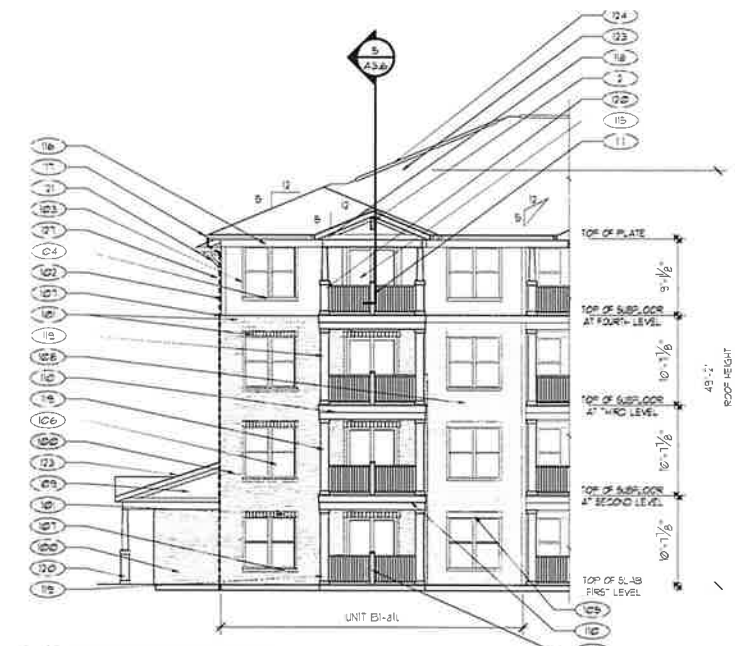


EASEMENT NOTE
SHARED PARKING, ACCESS, UTILITY, AMENITY, STORMWATER (ETC) EASEMENTS SHALL BE RECORDED TO PERMIT SHARING OF INFRASTRUCTURE AND AMENITIES

Detail Mark	Symbol	Description	Fire Rating	System	Sound Rating	Sound Test	Thickness (Finished)	Detail Number
A		Tenant Wall	1	WP-3370	45-49 STC	Estimated	9 1/2"	1/A0,2a
B		Corridor Wall	1	WP-3242	50-54 STC	NRCC TL93,103,3-98 NRCC TL93,118,3-98	5 3/8"	13/A0,2a
C		Exterior Bearing Wall	1	UL-U356	n/a	n/a	n/a	2/A0,2a
D		Interior Bearing Wall	1	WP-3605	30-34 STC	OR 64-8, 2-4-64	n/a	3/A0,2a
E		Chase Wall	1	UL-U336	n/a	OCF 448, 1967	6 7/8"	8/A0,2a(A)
F		Area Separation Wall	1	UL-U336	56 STC	OCF 448, 1967	12 1/2"	8/A0,2a(B)
G		CMU Shaft Wall (Elevator)	2	UL-U905	n/a	n/a	varies	9/A0,2a
H		Interior Bearing Wall (Equip. Room, Stair)	2	WP-4135	40-44 STC	NGC 2363,4-1-70	6 1/8"	5/A0,2a
I		Stair Wall	2	WP-3820	55-59 STC	NGC 3056,4-1-70	10 3/4"	7/A0,2a
J		Elevator Equipment	2	FC-5751	n/a	ULR#024,4-27-01	n/a	4/A0,2b



Material Schedule	
100	Manufactured Stone Veneer
101	Manufactured Stone Soldier Course
102	Traditional Supercorner with Foam Insert
103	3" x 7" Linear Vertical Trim
104	3" x 7" Linear Window Sill Trim
105	6" Linear Head Trim
106	Vinyl Windows (Typical)
107	Manufactured Stone Water Table / Window Sill
108	"Aluminumwood" Double 5" Vinyl Siding System
109	"Board n Batten" Vertical 7" Vinyl Siding System
110	1" x 10 over 1" x 12 Cementitious Trim Board
111	PVC Wrapped Aluminum Handrail System
112	Vinyl Panel Shutter
113	Not used
114	Not used
115	Fiberglass Full Life Balcony Door
116	2" x 12 Aluminum Wrapped Trim Board
117	Gutter System on 2" x 8 ALUM. Wrapped Fascia Trim Board
118	2" x 8 ALUM. Wrapped on 2" x 12 ALUM. Wrapped Trim Board
119	2" Field Manufactured Square Column (See Detail 23/AS.1)
120	2" Field Manuf. tapered Column, 8" Cap & Base (See Detail 24/AS.1)
121	Bracket, Typon #BK125X27
122	Bracket, Typon #BK117X17
123	Architectural Dimensional Shingles
124	Shingle Vent Ridge Vent to Match Shingles
125	2" x 8 Aluminum Wrapped Trim Board
126	1" Closed Cell PVC Panel for Meter Center
127	Downspout
128	Building Address Signage Location, 4" min. height w/ 1/2" min. stroke.



3 Inside Front Elevation
Scale: 3/32" = 1'-0"
Elevation



2 Rear Elevation
Scale: 3/32" = 1'-0"
Elevation



1 Front Elevation
Scale: 3/32" = 1'-0"
Elevation