City of Salisbury

AGENDA

REGULAR MEETING **January 4, 2024**

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, Maurice Ngwaba, Ed Torbert, William Hill.

MINUTES – November 2, 2023 and December 7, 2023.

ZONING PUBLIC HEARINGS: Case #202301591 - Snowfield, LLC – Special Exception to Utilize the Entire Property for Residential Use to Construct 195 Residential Units – Northeast Corner of Toadvine Road and Snow Hill Road – R-8 Residential and General Commercial District.

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****PUBLIC INPUT – Public comments as part of the public hearings for each case are welcome but are subject to a time allotment of two (2) minutes per person.**

The Board of Appeals reserves the right to convene in Closed Session as permitted under the Annotated Code of Maryland, General Provisions Article, Section 3-305(b).

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

MINUTES

The Salisbury Board of Appeals met in regular session on November 2, 2023, in Room 301, Government Office Building at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Shawn Jester
William Hill
Maurice Ngwaba
Sandeep Gopalan
Miya Horsey (VIA ZOOM)

Edward Torbert (Absent)

CITY STAFF:

Brian Soper, City Planner
Henry Eure, Senior Planner
Beverly Tull, Recording Secretary
Laura Ryan, City Solicitor
Reena Patel, Acting City Solicitor for Salisbury Town Center case only

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Mr. Soper, City Planner, called the meeting to order at 6:01 p.m. and turned the meeting over to Mr. Jester.

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MINUTES:

Mr. Jester noted that there was an amendment to the Agenda, explaining that the minutes are for the July 6, 2023 meeting. Upon a motion by Mr. Hill, seconded by Mr. Ngwaba, and duly carried, the Board **APPROVED** the July 6, 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.

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Case #SA23-1263 Alexander G. Fisher, Esq., on behalf of Wade Rentals - Special Exception to Utilize the Property for Outdoor Storage – 2305 Northwood Drive – Light Industrial District.

Mr. Alex Fisher and Mr. Taylor Wade came forward. Mr. Eure presented the Staff Report and all accompanying documentation into the record. Mr. Eure explained that the applicant requested a special excpetion to utilize the south portion of the property for outdoor storage.

Mr. Jester moved the Staff Report into the record.

Mr. Fisher had Mr. Wade explain what the reasoning request. Mr. Wade responded that he would have a sole tenant for the outdoor storage, Exelon which is the parent company of DP & L, and that the intention was for it to be kept clean. Mr. Wade added that per the Staff Report, the fence would have slats in it. Mr. Fisher discussed the road frontage and if it would have landscaping. Mr. Wade resonded that the only raod frontage is along Northwood Drive and it will have landscaping. Mr. Fisher discussed th stormwater management and questioned Mr. Wade on what was beng done to handle the stormwater requirements. Mr. Wade responded that he will be installing a wet swale in front of the ditch, which will take up one-third of the property. Mr. Fisher questioned if the tree plantig would make it difficult to maintain the stormwater management pond. Mr. Wade responded that it would make it difficult as it is already a struggle to maintain the existing stormwater pond and with the plantings it will be harder to get to the stormwater easement. Mr. Fisher entered Applicant's Exhibit #1 into the record and had Mr. Wade list th e properties on Page 1. He questioned Mr. Wade on the photos and what was shown as to whether these properties were all in the neighborhood of his property. Mr. Wade responded in the affirmative. Mr. Wade stated that he feels that the fencing will be sufficient screening and that the plantings will prohibit the machinery from getting to the stormwater ponds for maintenance.

Mr. Fisher requested approval of the Special Exception with the elimination of Condition #2.

Mr. Ngwaba stated that he would have liked to have seen an aerial of the property showing the visual angles. Mr. Wade stated that he was agreeing to planting additional trees along Northwood Drive. Mr. Ngwaba stated that stormwater

management was required by law. Mr. Eure stated that the stormwater requirement was because of the stabilizatin of the additional area.

Mr. Jester questioned Mr. Wade about the issue of maintaining the stormwater easement. Mr. Wade responded that the fence around the easement makes it difficult to reach with equipment. Mr. Jester questioned Mr. Eure if the City was going to maintain the easement. Mr. Eure repsonded that the stormwater easement appears to have been neglected in the past but stormwater maintenance is handled by the engineers.

Mr. Gopalan questioned how important was the tree plantings. Mr. Eure responded that it is more important to maintain the stormwater pond.

Upon a motion by Mr. Gopalan, seconded by Mr. Ngwaba, and duly carried, the Board **APPROVED** the requested Special Exception for an outdoor storage yard, based on Section V (c) of the Staff Report and subject to the following Condition of Approval:

CONDITION OF APPROVAL:

1. Install a solid or chain link fence with slat inserts on the east, west, and south sides of the storage yard.

The Board vote was as follows:

Miya Horsey	**Aye**
Maurice Ngwaba	**Aye**
Sandeep Gopalan	**Aye**
William Hill	**Aye**
Shawn Jester	**Aye**

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Case #SA-23-1265 Parker & Associates, Inc. on behalf of Vestoge Salisbury MD, LLC – Special Exception to Increase Density to 14.98 Units per Acre – 10591 Dagsboro Road – R-10A Residential District.

Mr. Brock Parker came forward. Mr. Eure presented the Staff Report and all accompanying documentation into the record. Mr. Eure explained that the applicant proposes to construct 96 apartment units on 6.41 acres of a 34.67 acre lot. Board approval of a Special Exception for increased density is requested.

Mr. Jester moved the Staff Report into the record.

Mr. Parker explained that the Planning Commission had granted Preliminary Comprehensive Development Plan approval for this mixed-use community. This request pertains to the apartment section of the development. The apartments will be 24-unit buildings shown in a pod. The requested density increase would be for the apartment side of the project. The special exception criteria have all been met. Additional open space is being provided. The design is a stand alone apartment project that is part of the overall project and will share amenities with the single family homes and the townhomes. The apartments will be for rent and the single family and townhomes will be for sale. The design has kept like products next to like products. Once a connection is made with future developments, it will connect to the hub on the north end of Salisbury. The entire project is in strict conformance with the Zoning Code.

Mr. Ngwaba questioned if the buildings were three (3) stories in height. Mr. Parker responded in the affirmative. Mr. Ngwaba questioned if there were two (20 types of townhomes. Mr. Parker responded in the affirmative.

Mr. Jester questioned how tall the buildings would be. Mr. Parker responded that three (3) story buildings are usually about 35 ft. tall.

Mr. Bob Taylor, N. Park Drive, stated that only a variance could be used for an increased density request, not a special exception. He entered into the record, ***Protestant's Exhibit #1Neighboring Property Photographs***. He suggested that the City Legal Department should contact the Attorney General's Office regarding only a variance being allowed for an increased density request. He stated that the Salisbury Zoning Code provides a special exception for increased density which is unlawful. He further stated that these cases would be appealed due to the obvious conflict of State law. Mr. Taylor requested that the emails that he sent in to the Staff last week be made part of the record. He also requested that the email that he sent in the week of the meeting be made part of record.

Mr. Ngwaba questioned Mrs. Ryan regarding the combination of the Bords. Mrs. Ryan responded that the Board of Appeals can grant variances and special exceptions.

Mr. Taylor stated that the Boards may have combined but the function of the Boards didn't change. He added that he has never seen any other Boards use special exceptions for density increases. In the 1970's State law changed to make it clear that you must use a variance. Mr. Taylor added that he had submitted an extract from a publication from the Maryland Department of Planning that's consistent with what he has said.

Mr. Jester questioned Mrs. Ryan if the Board could grant a special exception. Mrs. Ryan responded that the Zoning Code, as written, is proper. She stated that it is not within the Board's purview to declare the Zoning Code unlawful. The Board is hearing the case to determine if the criteria has been met.

Upon a motion by Mr. Ngwaba, seconded by Mr. Hill, and duly carried, the Board **APPROVED** the requested Special Exception to increase the density to 14.98 units per acre, based on Section V (c) of the Staff Report and subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL:

2. Obtain a Final Comprehensive Development Plan Approval from the Salisbury Planning Commission prior to construction.
3. Subject to further review and approval by the Salisbury Department of Infrastructure and Development, the Salisbury Fire Department, and other agencies as necessary.

The Board vote was as follows:

William Hill	**Aye**
Maurice Ngwaba	**Aye**
Sandeep Gopalan	**Aye**
Miya Horsey	**Aye**
Shawn Jester	**Aye**

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Case **#SA-23-1266 Parker & Associates, Inc. on behalf of Salisbury Town Center Apartments, LLC – Special Exception to Increase Density to 77 Units per Acre – Lot 3, District 09, Account #061002; Lot 4, District 09, Account # 060987, Lot 5, District 09, Account #055207; and Lot 6, District 09, Account # 052534 (which are commonly known as part of municipal parking lot 1, and all of parking lots 11 and 15) – Central Business District.**

Mrs. Ryan recused herself from this case and turned it over to Ms. Reena Patel.

Mr. Michael Sullivan, Mr. Brad Gillis, Ms. Wendy Oberer, Mr. Kevin Carney, Mr. Dave Laikin, Mr. Brock Parker, and Mr. Michael Connor came forward. Mr. Eure presented the Staff Report and all accompanying documentation into the record. Mr. Eure explained that the applicant proposes to construct a 222-unit apartment building on Lots

3, 4, 5, and 6 as shown on Attachment #5 and is requesting approval of a Special Exception under 17.24.040B.2.c to increase density to 77 units per acre for the project area. The inherent density per 17.24.040B.2.b is 40 units per acre.

Mr. Jester moved the Staff Report into the record. He also moved Mr. Bob Taylor's comments from the previous case into the record.

Mr. Sullivan introduced everyone, adding that Ms. Betty Tustin was in the audience and is the traffic study person. He explained that the LDA brings this before the Board and it sets forth the project must be done. There are four (4) buildings that equal 222 luxury apartments across 2.92 acres which equals 77 units per acre. In comparison, there were 144 units per acre for The Ross property. He discussed the lots and stated that lots 3, 4, 5, and 6 would be where the development was constructed.

Ms. Oberer displayed and discussed images in the packet. This is a non-contributing site in the Historic District. Mr. Jester moved the aerial into the record.

Mr. Sullivan entered ***Applicant's Exhibit #1 Parking Study Memo,*** which was a memo from Desman Consultants about the parking study. Mr. Connor completed the parking study and he discussed his work to create the study. He further discussed the parking spaces needed and being provided.

Mr. Parker stated that the design of the project will adhere to all Codes. The project will maintain the same streetscape as Main Street.

Mr. Ngwaba questioned Ms. Tustin if she had considered the round-about in the study. Ms. Tustin responded that she used peak hour trips for the traffic study. The traffic circle was not analyzed because this development will not effect it with more than a few trips. Mr. Jester questioned Ms. Tustin regarding the number of trips being 86 and if that number was larger. Ms. Tustin responded that the data used was standard and that she was confident with the numbers. Mr. Jester questioned Ms. Tustin on if there were 50 additional trips to the round about as the residents will use all different ways to leave the development.

Mr.Ngwaba questioned Mr. Connor if the spaces rented from the City are in the study. Mr. Connor responded in the affirmative. Mr. Jester questioned the parking if all beds at The Ross was occupied. Mr. Connor responded that the parking study included The Ross being fully occupied. Mr. Jester questioned what the 222 luxury apartments meant. Mr. Carney responded that it's not just 222 units but amenities as well. All buildings are connected by elevated bridges. Mr. Jester questioned if the bridges were walking bridges. Mr. Sullivan responded that The Ross had their bridge installed this week. Mr. Jester questioned the desirability of having people walk through buildings to get to other buildings or the parking garage. Mr. Carney responded that the bridges are

secured so there will be limited access to the residents only. Mr. Jester questioned the parking. Mr. Connor responded that there would be 216 spaces, which do not include the 191 spaces at Unity Square. There will be parking in the parking garages as well as curbside parking. There will be a total of 1401 parking spaces after the development of the new parking garage and curbside spaces. Mr. Jester questioned how long it would take to build the parking garage. Mr. Carney responded that the parking garage would take approximately seven (7) to ten (10) months to construct.

Mr. Bob Taylor, 203 N. Park Drive, stated that he had spoken with Mrs. Ryan about the cases on West Law. He explained that there is a 1995 case that states a special exception can't be a substitute for a variance. Mr. Taylor submitted his exhibits into the record. He went on to discuss ***Protestant's Exhibit #5, an aerial photograph from Google Earth showing the three (3) parking lots and the area around them***. He stated in the photograph that there were 276 spaces utilized in the three (3) lots on the day that he counted. Mr. Taylor explained that a lot of people have stopped coming downtown because of the construction and S. Division Street being closed. The parking study excluded Lot 16 and Lot 10 which are further to the east. Lot 10 will be a hotel and parking will be eliminated. Currently, Lot 10 provides excess parking when needed. Parking meters will not be fed by parking permit holders once Lot 10 is gone. Lot 16 is permit parking and currently has approximately 49 cars and is being sold for luxury apartments. Tenants of The Ross pay $35/month while other permit holders pay $70/month. Approximately 220 people will have first right of refusal to the new parking garage. This development will have 369 bedrooms and the rent for the units will range from $1795 to $2495 per month. Mr. Taylor questioned who would rent the units at that price point, adding that if they could afford that rent that they would likely have multiple vehicles. He concluded his parking comments with the notion that there will not be any parking on the west side of Route 50 once all the parking lots are developed. Mr. Taylor also discussed the FEMA flood map and the parking that would be in the floodplain.

Mr. Parker stated that the development is 2 ft. above flood elevation and FEMA will approve it. Mr. Taylor stated that there is flooding on Market Street already and the barriers will flood the other properties and the streets. He stated that the Planning Commission gave Site Plan approval and were misled by Mr. Sullivan and Mr. Soper about the parking criteria. The Code was amended for the Central Business District as laid out in, ***Protestant's Exhibit #8***. The Commission has not made a recommendation on parking. Mr. Jester moved all of Mr. Taylor's exhibits into the record.

Mr. Jester questioned Mr. Gillis about Mr. Taylor's comments. Mr. Carney responded that the elevation will be 2 ft. above floodplain. He added that they don't have to take into consideration where the water goes and that the FEMA map change is being done. Mr. Gillis added that they are subject to some standards as all developments are. Market studies have been done and they are moving forward with this development at their own risk.

Mr. Anthony Gorski, 2661 River Road, entered into the record ***Protestant's Exhibit #9, a letter protesting the requested Special Exception.*** He stated that he represented several people to include Holly Worthington, Randy Taylor, and Back Street Investments. He stated that the City Code is not in compliance with State law. He stated that he would appeal this case if it was approved. Mr. Gorski stated that he had spent several years in the Attorney General's office and that an opinion on this matter could be requested for free. He stated that it is the Board's obligation to act as Planning Officials per State law. Salisbury's Code is just wrong. Other property owners will be adversely affected by this development. The scale of the development is a problem, as is the displacement of parking. Based upon the City's promise to give permit holders spaces in the parking garage, half of the parking spaces will be gone. He questioned where the Library patrons would park. Mr. Gorski stated that lenders for commercial space look at parking as part of the loan process. He voiced his agreement with Mr. Taylor in regards to parking. Mr. Gorski discussed the effect this development would have on Market Street Inn's business and employees. There is a contract that is approved by the Mayor and City Council and the Board can't be objective hearing this case. The City put the Board in this position. If the density change isn't approved, this project goes away. This is illegal contract zoning. The citizens do not have confidence in the Board because the City told the Board what they want. The City has no Adequate Public Facilities Ordinance. Mr. Gorski stated that the City currently has parking needs and questioned why they are paying to build a $10 million parking garage. The approval of this project should not create a financial burden on the City. The Comprehensive Plan is out of date and should have been updated in 2020. The 2010 Comprehensive Plan says that the Central Business District should be increased by 15 units. The Board has to make factual findings of fact that give legal support as to why the request was approved. Mr. Gorski argued the density because Lot 4 was taken out because it didn't have apartments on it. The density should be 93 units per acre not 77 units per acre. He went on to discuss the City not being up to date on stormwater management. Market Street will be under water when it rains because of this development. The Historic District Commission has a separate approval process. The approval of materials does not dictate to this Board. There are not enough details in this plan. Mr. Gorski stated that parking for the Opportunity Shop is a concern for the Pastor of Asbury United Methodist Church and he entered ***Protestant's Exhibit #10, a letter from the Pastor of Asbury UMC***. Mr. Gorski concluded his comments by stating that this project will cause his clients harm.

Mr. Rob Mulford, 130 W Market Street, stated that his concerns included stormwater and the financial impacts this development would have on his business. Currently where there are torrential downpours and high tide at the same time, his business will flood. He stated that there are EPA issues as the stormwater goes into his grease trap and that goes into the river. Installing retaining walls will be the death of his building because the water will be pushed to his property. The bulkhead in parking Lot 12 is washing away. He discussed the financial loss his business has taken since 2001 and stated that without parking, he will be out of business. Mr. Mulford added that his business

has already suffered with the construction of Unity Square.

Mrs. Sharon Dashiell, Russell Avenue, stated that she was one (1) of the owners of the Cannon building on Circle Avenue. She questioned parking be available for the public that utilizes her building and other businesses downtown.

Ms. Lisa Gingrich, 316 N. Division Street, stated that the historic guidelines address new construction and not just what exists. This is a generic, modern architecture design. The City will have big brown buildings. This project gives no nod to the historic area.

Mr. Randy Taylor, 403 Camden Avenue, stated that he owns a building downtown and has served on the Historic District Commission. He stated that he does preservation work. There are lots of problems with this. The City Administration is not listening to the citizens. Mr. Taylor stated that he has held up his project for fear of something like this happening. The parking garage loses $425,000 per year in cash flow now. He stated that he was not against development but this project sucks. He requested that the Board table the case until more information could be received.

Ms. Brandi Nichole Wallace, 225 W. Main Street, stated that there is confusion with her clients about parking now. She stated that she was born and raised here and has come back to her home to build her business. Parking is needed for her business and her elderly clients and wheelchair bound clients don't know where to park or how to work the new parking meters. Her clients are at her business for approximately 30 minutes to two (2) hours. They do benefit from the free hour of parking but the older clients don't have the ability to use the new technology of the parking meters. She discussed the clientele that utilize the Opportunity Shop on Thursdays and need parking. Ms. Wallace requested that the Board think of the business owners. Due to the construction, there is already a fight for the parking spots between business owners.

Ms. Sharmeen Bolden, 304 W. Main Street, Apartments 3, stated that she has lived downtown for eight (8) years and with this development, she will be losing her parking. The residents and business owners of downtown were not consulted. She discussed the increase number of people that would be brought downtown. Ms. Bolden also discussed the housing crisis and that luxury apartments don't help with the housing needs. She further discussed the ongoing issues with traffic and the backups that take place at the roundabout. Ms. Bolden requested that the Board think of the people who already live downtown before making a decision.

Mr. Michael Weisner, 438 Rolling Road, spoke in opposition to the request. He stated that a lot of adverse conditions had been brought up to the Board. Mr. Weisner stated that there was no necessity for the requested density and that the project could be built within the cap. The Central Business District doesn't require parking,

however, over the last few years the parking lots have been sold. The developers are not providing parking and the City is spending $10 million on building a new parking garage. He requested that the Board deny the request.

Mrs. Carolyn Wohlgemuth, 1118 Gransby Run, stated that the City did not provide the information for the public to review in a timely manner and that information was left out of the packet in regards to parking and the parking garage. She listed several issues that she had with the City and requested denial.

Mrs. Nancy Roisum, 209 Beaverdam Drive, stated that the Community Impact Statement was not provided to the Planning Commission. She discussed the issues with the parking. The density increase upsets the balance of the Central Business District. Due to lack of information, the Board does not have enough information to make an informed decision. Mrs. Roisum also discussed her concerns about the parking and loading ordinance not being followed by the Developer.

Ms. Christine Adams, 100 W Main Street, stated that she owns Adams Housing and doesn't want her business to be collateral damage to this development. Her business and tenants require 27 parking spaces. She stated that there is no talk of where people will park during construction. She requested that the Board table this request until all issues are worked out.

Ms. Holly Worthington, 300 W. Main Street, stated that she purchased her building in 2021. There is historical significance on more than just Main Street. There is a need for affordable housing and The Ross and this development do not provide affordable housing. She stated that when she purchased her building, she was told that Lot 15 was parking for her building. Her tenants and her clients will lose their parking with this project. Ms. Worthington requested that the Board take into consideration all the comments that have been made before making a decision. This project will devalue her investment.

Mr. Bob Taylor stated that the Envision Salisbury Plan stated that Lot 15 would remain parking.

Mr. Sullivan questioned Mr. Parker about the stormwater. Mr. Parker responded that there is tidal, runoff, and true stormwater. A lot of the flooding comes from the river. Flood waters don't get displaced. The predominate flooding is due to the tides. Mr. Sullivan questioned if any agency had reviewed the stormwater. Mr. Parker responded that FEMA has reviewed the stormwater and given preliminary approval for the map amendment. Mr. Parker explained that the site is almost all impervious now and this development will reduce the impervious surface. The remainder of the stormwater is being managed on-site. This project will reduce the runoff.

Mr. Sullivan questioned Mr. Connor if there would be sufficient parking during construction. Mr. Connor responded in the affirmative, and that there would be a surplus during construction. Mr. Connor added that the permit holders do not use their parking spots 24/7.

Mr. Sullivan stated that the request is for the special exception for increased density. The Code provides for a special exception for increased density. He stated that he had reviewed the minutes from the April 2019 Board of Zoning Appeals meeting and several comments were made about the parking lots. The City declared the parking lots as surplus. The Mayor and Council made decisions that the public property was no longer needed for public use. We are here for eight (8) general and eight (8) specific standards. Between 2018 and now, the Board has considered over nine (9) requests for increased density. Mr. Sullivan requested approval of the applicant's request.

Mr. Anthony Gorski stated that the FEMA map amendment is about the elevation of the ground floor of the property.

Ms. Lisa Gingrich stated that the mention of the 2019 meeting doesn't mean this should just be approved. There have been a lot of concerns raised that are valid. She requested that the Board table the request.

Mr. Gopalan questioned Mr. Soper about Section 17.24.040b3 in regards to the $10 million parking garage and what factor was used to determine that there was no undue burden. Mr. Soper responded that the LDA required that the parking garage be built. The Parking Authority grants the City the ability to build a garage.

Mr. Soper noted for the record that the Planning Commission approved the Certificate of Design and Site Plan which is the requirement of the Central Business District. The Certificate of Design and Site Plan approval does not require a Community Impact Statement.

Mr. Ngwaba questioned Mr. Soper if the documents were complete. Mr. Soper responded in the affirmative. He explained that the link to the documents were sent Thursday evening. There was an issue with the website and it was corrected.

Ms. Roisum stated that sending out the packet on Thursday, the week before the meeting, was too short of notice.

Mr. Gopalan questioned Mr. Soper if the increase in density was good for the environment, why wasn't it mentioned in the Staff Report. Mr. Soper responded for the Staff Report they only dealt with stormwater and the reduction of impervious surface. The undue burden is listed strictly as financial.

Mr. Sullivan noted for the record that the City's Capital Improvement Plan had the parking garage listed.

Mr. Gorski argued that anything that Mr. Sullivan said was biased.

Mr. Ngwaba thanked the community and the developers for everything. He stated that there were concerns raised that were significant. He suggested that a meeting between all parties should take place.

Mr. Gillis stated that if they were to come back to the Board, they wouldn't be able to come back in 30 days due to the filing requirements. He stated that they had done a good job with transparency and everything is on the up and up. The request was before the Board to discuss specific issues.

Upon a motion by Mr. Hill, seconded by Ms. Horsey, and duly carried, the Board **DENIED** the requested Special Exception to increase the inherent density of 40 units per acre by 37 units to 77 units per acre, not to exceed 222 units over the project area. The Board's decision was based on the failure to meet all the criteria in 17.232.020B, specifically Item 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 Board vote was as follows:

William Hill	**Aye**
Maurice Ngwaba	**Aye**
Sandeep Gopalan	**Nay**
Miya Horsey	**Aye**
Shawn Jester	**Nay**

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ADJOURNMENT

With no further business, the meeting was adjourned at 11:01 p.m.

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

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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.

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Shawn Jester, Chairman

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Richard Baldwin, Secretary to the Board

_____
Beverly R. Tull, Recording Secretary

Department of Infrastructure & Development
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410-548-3170 (fax) 410-548-3107
www.salisbury.md

City of Salisbury

MINUTES

The Salisbury Board of Appeals met in regular session on December 7, 2023, in Room 301, Government Office Building at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Shawn Jester
William Hill
Edward Torbert

Miya Horsey (Absent)
Maurice Ngwaba (Absent)
Sandeep Gopalan (Absent)

CITY STAFF:

Henry Eure, Senior Planner
Beverly Tull, Recording Secretary
Laura Ryan, City Solicitor

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Mr. Jester called the meeting to order at 6:02 p.m.

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MINUTES:

Due to lack of a quorum from the November 2, 2023 meeting, the approval of minutes from the November 2, 2023 minutes were postponed until the next meeting.

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

City of Salisbury

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Case #SA23-1487 Zachary & Cathleen Goodman – 2 ft. Fence Height Variance to Erect a 6 ft. Tall Fence Within the Required 25 ft. Front Yard Setback – 1001 N. Division Street – R-8 Residential District.

Mr. Zachary Goodman and Mrs. Cathleen Goodman came forward. Mr. Eure presented the Staff Report and all accompanying documentation into the record. Mr. Eure explained that the applicant requested permission to retain a recently installed 6 ft. tall fence located within the front yard setback.

Mr. Jester moved the Staff Report into the record.

Mr. Goodman explained that the fence is also for safety as his wife has been accosted by men when she is out in the yard. He stated that Attachment #8 is a visual example of the safety the fence will provide so that his wife would be safe in the yard.

Mr. Hill questioned Attachment #2 and the notes listed on the attachment and if the fence was pre-existing. Mr. Eure responded that the fence was pre-existing and had been 4 ft. along the sidewalk and 6 ft. with shrubbery and brush between the properties.

Mr. Torbet noted that he understood the need for prviacy and safety as the homes are close together in this neighborhood.

Mr. Emanuel Maldonado, 926 N. Division Street, came in support of the request and noted that the Goodman's are excellent neighbors who are trying to increase the value of their property.

Upon a motion by Mr. Hill, seconded by Mr. Torbert, and duly carried, the Board **APPROVED** the requested 2 ft. Fence Height Variance to retain a 6 ft. tall fence within the front yard setback along London Avenue, based on Section V (c) of the Staff Report.

The Board vote was as follows:

William Hill	**Aye**
Edward Torbert	**Aye**
Shawn Jester	**Aye**

City of Salisbury

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ADJOURNMENT

With no further business, the meeting was adjourned at 6:18 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.

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Shawn Jester, Chairman

_____

Richard Baldwin, Secretary to the Board

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Beverly R. Tull, Recording Secretary

City of Salisbury

STAFF REPORT

MEETING OF JANUARY 4, 2024

Case No.	**202301591**
Applicant:	**Snowfield, LLC**
Property Owner:	**Snowfield, LLC**
Location:	**NW Corner of Snow Hill Road & Toadvine Road** **Map: #0048, Grid #0011, Parcel #0492**
Zoning:	**R-8A & General Commercial**
Requests:	**Special exception request to construct 195 residential units in the R-8A and General Commercial zoning districts**

I. SUMMARY OF REQUEST:

The Applicant requests permission to construct a 195 unit residential subdivision to be known as the Village at Snowfield. The site is located within the R-8A Residential and General Commercial zoning districts. A special exception is being requested to construct residential units in the General Commercial district pursuant to Zoning Code standards. **(Attachment 1)**

II. ACCESS TO THE SITE:

The property has frontage along Snow Hill Road and Toadvine Road. Access is proposed along both frontages. **(Attachments 2 - 4)**

III. DESCRIPTION OF PROPERTY:

The site is an unimproved agricultural field that is 42.146 acres in size. **(Attachment 2)**

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

The property is adjacent to Marley Manor and across Snow Hill Road from Summersgate residential developments. Allen Memorial Baptist Church is also across Snow Hill Road from the site. These sites all lie within the City of Salisbury's jurisdiction. To the south and west, the properties are located in Wicomico County's R-20 Residential zoning district

and are a mixture of single-family dwellings and agricultural areas. **(Attachment 2)**

V. EVALUATION:

(a) **Discussion:** Section 17.08.030C. of the Zoning Code indicates that "When a zoning district boundary line crosses a 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." The property is zoned 60.3% R-8A Residential and 39.7% General Commercial. **(Attachment 3)**

The applicant, on behalf of the developer, proposes to utilize the entire site for 195 residential units, consisting of 104 single family dwellings and 91 townhouse units. A special exception is requested in order to construct single-family and townhouse residential units in the General Commercial portion of the property. Currently, the Zoning Code only allows multi-family units in the General Commercial district. Both residential styles are permitted in the R-8A district. **(Attachments 4 - 7)**

(b) **Impact:** The proposed construction of The Village at Snowfield will help to contribute to the City's housing stock, which is currently in short supply, as the City is the top growing city in the state of Maryland, according to the City's website. Traffic, primarily along Snow Hill Road, will be increased due to the development. Currently, a roundabout is proposed at the Snow Hill Road entrance to the site, as a traffic calming device that will also improve traffic flow. Additionally, a traffic analysis is planned to determine if any changes or improvements will be necessary to accommodate the added volume.

(c) **Relationship to Criteria**:

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 compliant with comprehensive development standards as

required by the Salisbury Zoning Code. A Preliminary Comprehensive Development Plan was approved for the project by the Salisbury Planning Commission on May 19, 2022. **(Attachment 8)** A Final Comprehensive Development Plan must be approved by the Commission prior to construction. In addition, the City's Comprehensive Plan targets the future growth of this site as a mixture of residential and commercial. Extending the residential development into the commercial area is permitted by special exception from the Board of Zoning Appeals.

[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 development will increase the housing market in the neighborhood and City. Allowing residential development in the General Commercial portion of the site will eliminate the possibility of less desirable uses that are permitted within the General Commercial district.

[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 project will be subject to the Planning Commission's review, as part of a Comprehensive Development Plan which will help to ensure attractiveness of the both the buildings and the site.

[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 use 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 project should have minimal negative effects on neighboring properties. A roundabout is proposed at the Snow Hill Road entrance to the site, and a traffic analysis is planned to determine if any additional changes or improvements will be necessary.

City of Salisbury

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

The proposal should have minimal impacts on transportation, water, sewer, stormwater management or other public facilities. The project has been sent to the Wicomico County Board of Education for comments, but Staff has not received a reply to date regarding the project.

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

The proposal will not impact environment or historical assets either negatively or positively.

[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 developer has in the past demonstrated an interest in maintaining the economic growth of Salisbury by investing in other residential projects. Multiple projects are in various stages of development, and are proceeding as planned.

VI. RECOMMENDATION:

Based on the findings contained in this Staff Report, Staff recommends **Approval** of the applicant's request to construct single-family residential and townhouse units in the General Commercial portion of the site with the following condition:

1. Subject to further review and approval by the Salisbury Department of Infrastructure and Development, the Salisbury Fire Department, and other agencies as appropriate.

PARKER & ASSOCIATES INC

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

4/8/2022

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

Attn: Brian Wilkins
Ref: Village at Snowfield - Comprehensive Development Plan

Dear Brian,

Attached hereto, please find our proposed comprehensive development plan for the Village at Snowfield residential project. It is the intent of this submittal to respectfully seek approval of this plan, in accordance with sections 17.156 and 17.224 of the zoning code, so that we may finalize engineering and development plans based upon the confidence that this is acceptable to the commission.

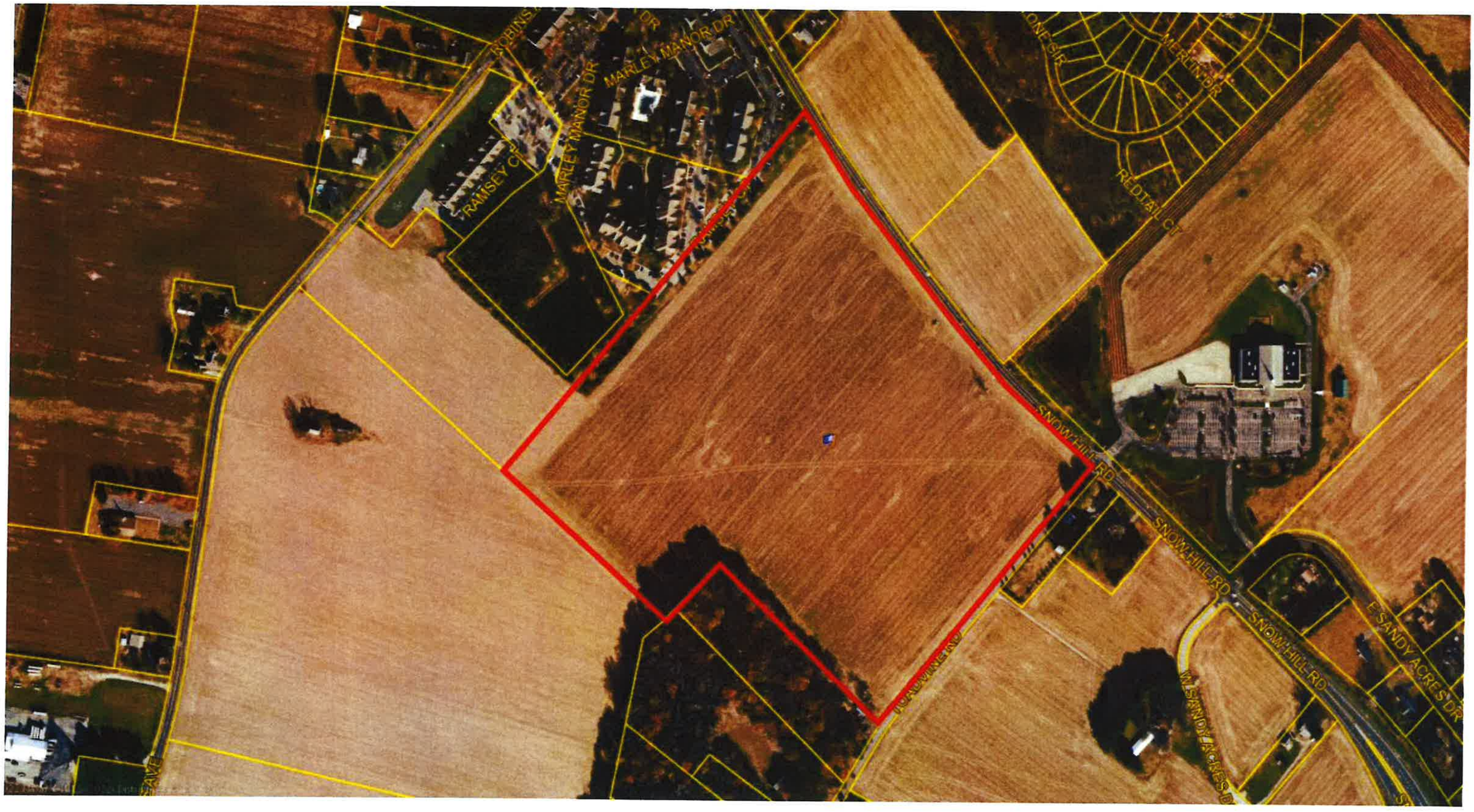
This comprehensive development plan proposes 104 single family lots and 91 townhouse lots, 195 units in total, all to be accessed by proposed City streets. We are proposing a traffic roundabout at the entrance to Snowhill Road pending approval of SHA and a standard entrance with planted island on Toadvine Road. The current zoning of this property is R8-A with an area 500 feet deep along Snowhill Road currently zoned General commercial. 61% of the site is in the R8-A zoning and we are also requesting special exception to rezone 100% of the property to R8-A. Single family lots proposed have a minimum of 8,000 square feet, with a minimum lot width of 60 feet (75 feet for corner lots). Each townhouse unit will be on its own lot of at least 2,000 square feet or greater with a minimum width of 20' per City zoning requirements. Areas of open space have been methodically placed throughout the site. All construction and development on this project will be in accordance with the zoning code, as well as the City of Salisbury construction specifications. All sewer, roads, and water will be public entities, while trash collection will be private. Each single-family unit proposes a 1-car driveway and 2-car garage, while each townhouse unit proposes a 2-car driveway, therefore no additional off-street parking will be required.

Additionally, I would also like to respectfully request waivers of the community impact statement, the letter of financial capability, and of intent to proceed.

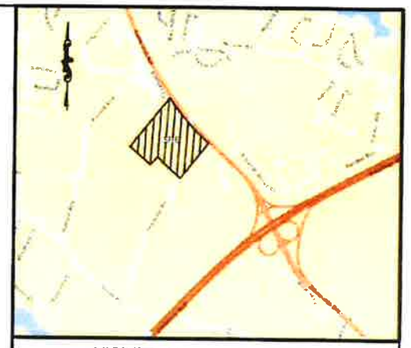
If I may be of further service to you whatsoever, please do not hesitate to ask. Thank you for your help on this matter

Sincerely,
Brock E. Parker, P.E., R.L.S.

Attachment 1



Attachment 2



VICINITY MAP 1" = 2000'

SNOW HILL ROAD

ROUTE 12

TOADVINE ROAD

N/F
VANTAGE POINT SALISBURY PARTNERS LLC
DEED REF 4202/88
PLAT REF 15/335
PARCEL 415

N/F
WESTWOOD DEVELOPMENT LLC
DEED REF 1711/415
PLAT REF 13/341
PARCEL 395

N/F
WALTER P ALLEN MEMORIAL BAPTIST CHURCH OF SALISBURY
DEED REF 1073/581
PLAT REF 17/133
PARCEL 2N/

N/F
DOLINA TOADVINE HOCH
DEED REF 752/136
PARCEL 489

N/F
GAYLE M DIXON
DEED REF 2143/615
PARCEL 488

AREA TO BE RECLASSIFIED FROM GENERAL COMMERCIAL TO RBA RESIDENTIAL
724,198.96 SQ.FT.
16.736 ACRES
29 LOT

PARCEL 492
1 F3): 653.0C SC FT
42.15± ACRES

AREA TO BE MAP, ZONED RBA RESIDENTIAL
1,140,310.4H SQ.FT.
26.42± ACRES
00 LOT

N/F
KENSINGTON MANOR II LLC
DEED REF 3164/ 767
PLAT REF 15/ 249
PARCEL 401, LOT 2A

N/F
KENSINGTON MANOR I LLC
DEED REF 3711/415
PLAT REF 13/341
PARCEL 491, LOT 1

N/F
KENSINGTON MANOR III LLC
DEED REF 3877/299
PLAT REF 15/926
PARCEL 492, LOT 3B

N/F
KENSINGTON MANOR III LLC
DEED REF 3877 /299
PARCEL 298

N/F
BARBARA J FOSKEY
DEED REF 5237/168
PARCEL 493

N/F
CHURCH OF CHRIST IN EXPECTATION
DEED REF 840, 152
PARCEL 155

GENERAL NOTES

1. THE PROPERTY SHOWN HEREON IS CURRENTLY OWNED BY:
   WESTWOOD DEVELOPMENT LLC
   31564 FITCH ADAMS ROAD
   PARSONSBURG MD 21849
2. DEED REFERENCE: 1123/ 465
3. PLAT REFERENCE: 307/331
4. TOTAL AREA OF PROPERTY: 42.15± ACRES
5. THE PRESENT ZONING OF THIS PROPERTY IS: GENERAL COMMERCIAL: RBA- RESIDENTIAL
6. THE PROPOSED ZONING OF THIS PROPERTY IS: RBA - RESIDENTIAL
7. THE PROPERTY IS SHOWN ON F.I.R.M. COMMUNITY PANEL 240136025B PANEL 25 OF 375) DATED 08/17/2010 AS BEING IN FLOOD ZONE X, AREA OF MINIMAL FLOODING
8. THIS REZONING PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO ANY ENCUMBRANCES RESTRICTIONS, EASEMENTS AND/OR RIGHTS OF WAY THAT MIGHT BE REVEALED BY A THOROUGH TITLE SEARCH
9. PROPERTY LINES AS SHOWN HEREON WERE DERIVED FROM EXISTING DEEDS AND PLAT OF RECORD A BOUNDARY SURVEY WAS NOT RUN.

PROFESSIONAL CERTIFICATION. I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED OR APPROVED BY ME, AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MARYLAND LICENSE NUMBER 21143, EXPIRATION DATE 5/27/2024

BROCK E. PARKER DATE

REVISIONS	
NO.	DATE

SPECIAL EXCEPTION DETAIL
SNOW HILL ROAD, PARCEL 492
FOR JASON MALONE

NUTTERS ELECTION DISTRICT, WICOMICO COUNTY, MARYLAND

SCALE: 1" = 100'	DATE: 01/25/2022	TAX MAP: 46	
S2408-SPECIAL EXCEPTION	S2408	CDR	PARCEL: 492

SURVEYING PLANNING
PARKER ASSOCIATES
CIVIL ENGINEERING SITE PLANNING

Attachment 3

VILLAGE AT SNOWFIELD

COMPREHENSIVE DEVELOPMENT PLAN

GENERAL NOTES

14. ALL NON CITY UTILITIES SUCH AS, BUT NOT LIMITED TO, ELECTRIC, TELEPHONE, GAS AND CATV, SHALL BE INSTALLED OUTSIDE THE CITY OF SALISBURY UTILITY EASEMENTS. PERPENDICULAR CROSSINGS WILL BE ALLOWED.
15. PRIVATE IRRIGATION LINES SHALL NOT BE INSTALLED IN CITY RIGHT OF WAYS OR EASEMENTS WITHOUT WRITTEN APPROVAL OF SALISBURY PUBLIC WORKS.
16. PRIVATE UTILITY MAINS REQUIRE INSPECTION BY CITY PLUMBING INSPECTOR.
17. VERTICAL DATUM IS BASED ON NAVD88.

SITE DATA

TOTAL SITE = 40.146 ACRES
SINGLE FAMILY LOTS = 104
TOWNHOMES = 91
TOTAL UNITS = 195

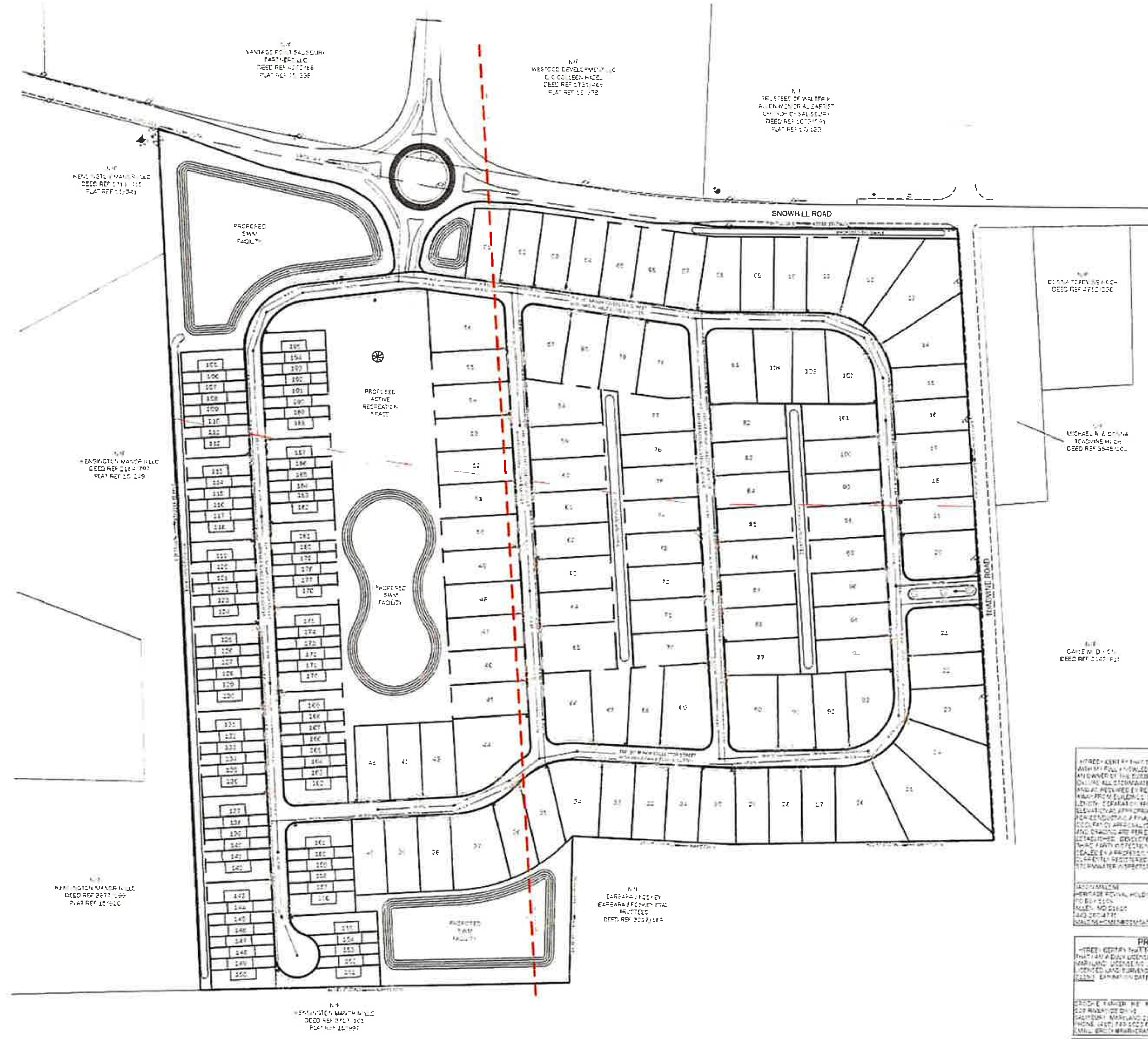
ESTIMATED WATER & SEWER USAGE

PARKING

TOWNS = 2 DRIVEWAY EACH
SINGLE LOTS = 2 DRIVEWAY, 2 GARAGE

SPECIAL ZONING NOTE

60.80% OF SITE IS ZONED R8-A THEREFORE A SPECIAL EXCEPTION IS REQUESTED TO REZONE 100% OF PROPERTY TO BE R8-A



VICINITY MAP SCALE: 1"=2000'

SHEET INDEX

1. TITLE SHEET

LANDSCAPE LEGEND:

OWNER'S CERTIFICATION

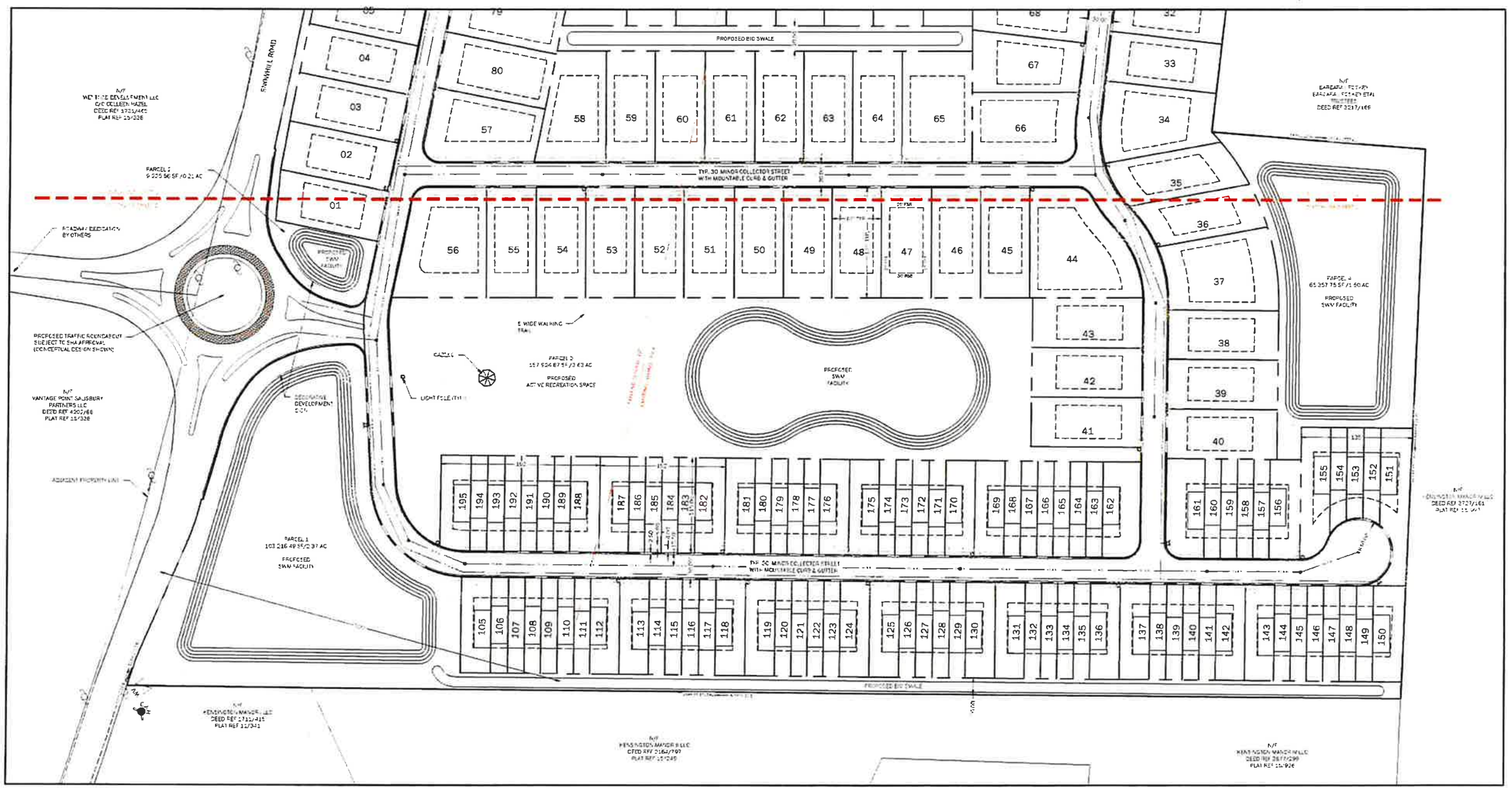
PROFESSIONAL CERTIFICATION

SHEET 1

TITLE SHEET
VILLAGE AT SNOWFIELD

PARKER

Attachment 4



COMPREHENSIVE DEVELOPMENT PLAN

SITE PLAN
VILLAGE AT SNOWFIELD

Road Name: SNOWHILL ROAD & TOADVINE ROAD
For: JASON MALONE - HERITAGE REVIVAL HOLDINGS LLC.
CITY OF SALISBURY, MARYLAND

STATE OF MARYLAND
ROBERT W. KING
PROFESSIONAL ENGINEER

SHEET 2

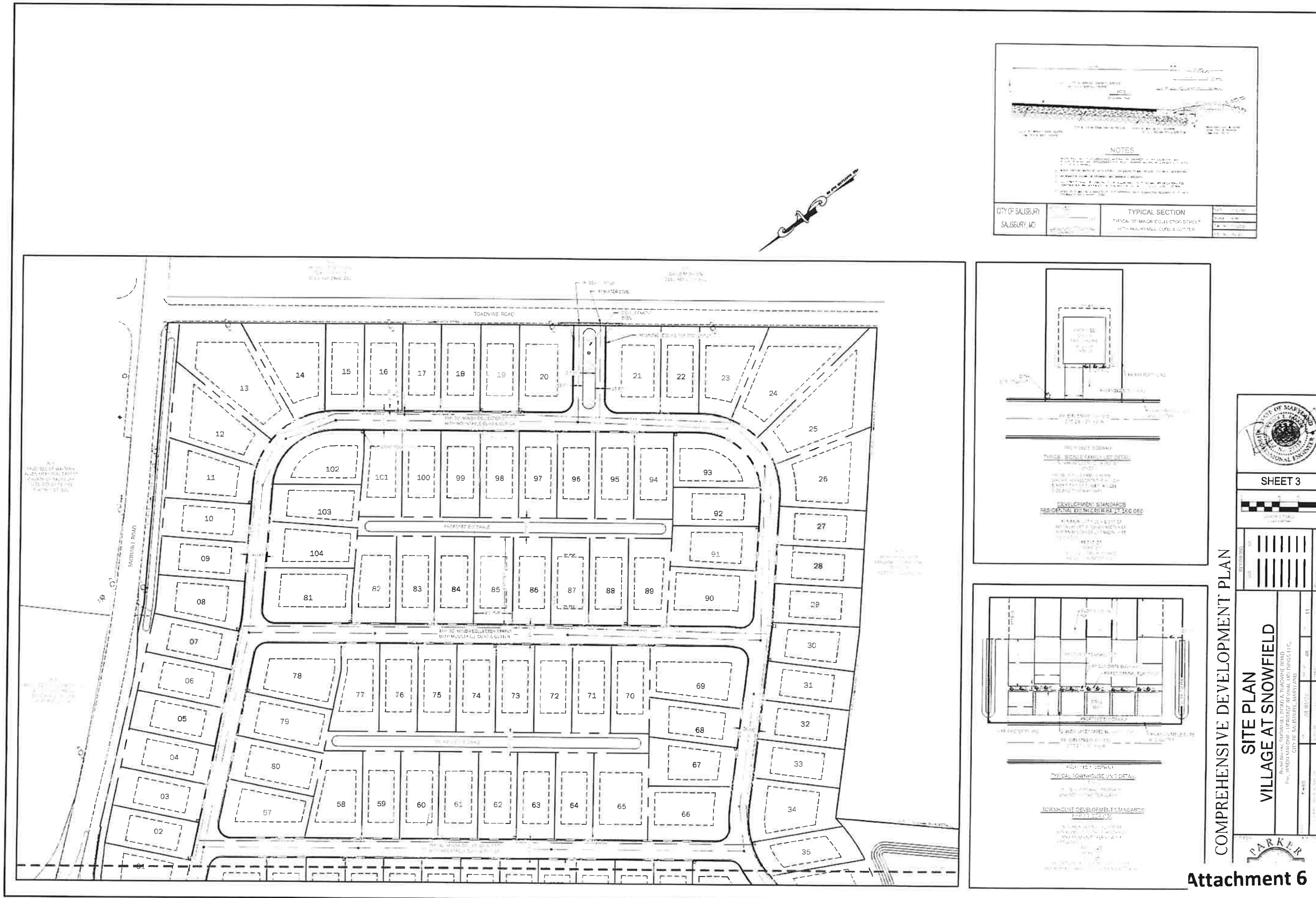
GRAPHIC SCALE
1 inch = 60' feet

REVISIONS	NO.
	02

SCALE	1"=60'
DATE	09/01/22
DESIGN	MB
DRAWN	WLK
CHECK	
JOB NO.	453

PARKER & ASSOCIATES

Attachment 5



Attachment 6

D·R·HORTON

HAYDEN

D·R·HORTON

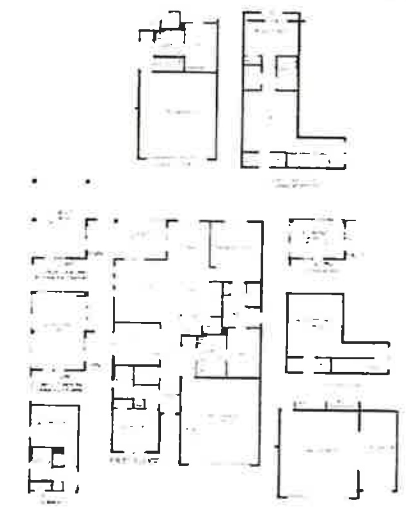
HAYDEN

D·R·HORTON

BRISTOL

D·R·HORTON

BRISTOL



D·R·HORTON

JEFFERSON

D·R·HORTON

GALEN

D·R·HORTON

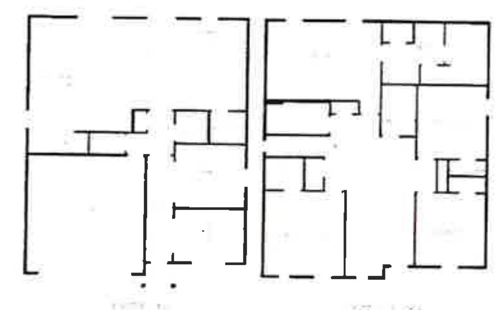
GALEN

D·R·HORTON

HANOVER

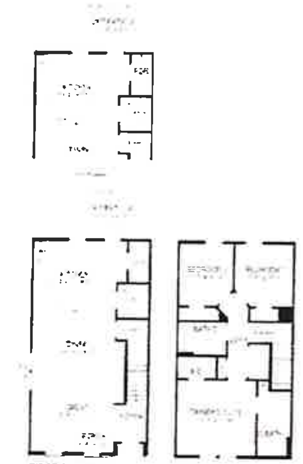
D·R·HORTON

HANOVER



D·R·HORTON

JEFFERSON



COMPREHENSIVE DEVELOPMENT PLAN

ARCHITECTURALS
VILLAGE AT SNOWFIELD

Road Name: SNOWHILL ROAD & TOADVINE ROAD
For: JASON MALONE - HERITAGE REVIVAL HOLDINGS LLC.
CITY OF SALISBURY, MARYLAND

SHEET 4

NOT TO SCALE

PARKER & ASSOCIATES

Attachment 7

City of
Salisbury
Jacob R. Day, Mayor

May 23, 2022

Brock Parker, PE, RLS, QP
Parker & Associates, Inc.
528 Riverside Dr.
Salisbury, MD 21801

RE: CASE # 21-032 – PRELIMINARY COMPREHENSIVE DEVELOPMENT PLAN APPROVAL – Village at Snowfield – R-8A Residential and General Commercial Districts – M-48, G-11 P-492

Dear Mr. Parker,

The Salisbury Planning Commission, at its May 19, 2022, meeting, **APPROVED** the Preliminary Comprehensive Development Plan for the proposed Village at Snowfield development at the referenced property as submitted, subject to the following Conditions of Approval:

CONDITIONS:

1. The site shall be developed in accordance with a Final Comprehensive Development Plan Approval. Detailed building elevations, landscaping and lighting plan shall be incorporated in the Final Comprehensive Plan;
2. Provide a Development Schedule;
3. Waive the Statements of Intent to Proceed, Financial Capability, and Community Impact Statement requirements based upon the staff report findings;
4. This approval is subject to further review and approval by the Salisbury Department of Infrastructure and Development, the Salisbury Fire Department, and other agencies as appropriate; and
5. Deeded access points to the storm water management areas are preferred by the Commission.

If you have any questions or concerns regarding this matter, please call our office at 410-548-3130.

Sincerely,

Brian Soper
City Planner

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

Attachment 8