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MINUTES

The Salisbury-Wicomico County Planning and Zoning Commission ("Commission") met in regular session on May 19, 2022 in Room 301, Council Chambers, Government Office Building with the following persons participating:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
Jim Thomas
Mandel Copeland
Joe Holloway
Jack Heath
Kevin Shertz

PLANNING STAFF:

Henry Eure, City of Salisbury, Department of Infrastructure and Development ("DID")
Brian Soper, City of Salisbury, DID
Clark Meadows, PZCD
Lori A. Carter, MBA, PZCD
Stacie Johnston, PZCD

Laura Hay, City of Salisbury, Department of Law

The meeting was called to order at 1:30 p.m. by Chairman Charles Dashiell.

MINUTES: The minutes from the April 21, 2022 meeting were brought forward for approval. Upon a motion by Mr. Jim Thomas, seconded by Mr. Jack Heath, and duly carried, the minutes from the April 21, 2022 meeting were **APPROVED** as submitted. Mr. Joe Holloway abstained, as he did not attend the meeting.

PUBLIC HEARING – TEXT AMENDMENTS - City of Salisbury Zoning Code – Amending Section 17.36.020 “Permitted Uses” and Section 17.224 “Townhouse Development” - to Permit Townhouse Developments in the General Commercial District. (B. Soper)

Ms. Laura Hay read the advertisement for the public hearing.

Mr. Henry Eure administered the oath to witness Mr. Brian Soper, who provided the proposed Text Amendment.

This request is to amend Section 17.36.020 of the Salisbury City Code, entitled “Permitted Uses,” by adding number (36) “Townhouse development, in accordance with Chapter 17.224.”

This request will also amend Section 17.224 entitled “Townhouse Development,” to read as the following:

17.224.040 Requirements in General Commercial District.

Townhouse developments in the General Commercial District shall comply with all the requirements of this chapter and the following:

- A. Contiguity.
 - 1. The parcel on which townhouses are to be built shall have a continuous boundary line in common, of at least 200', with a parcel(s) in the R-8A or R-10A zoning districts;
 - 2. A road dividing zoning districts cannot be used to establish contiguity.
- B. Density.
 - 1. Townhouse developments shall be at the density requirements for R-5A of this chapter.

The proposed amendment will provide additional housing options close to employment, retail, and service centers. Townhouse developments with higher density would serve as a transitional land use adjacent to residential districts.

Mr. Holloway asked if the permitted uses would create a problem for the residents of the townhomes. Mr. Soper stated that, since the apartments currently there are permitted in the General Commercial District, there is already an inherent residential use associated with them. Mr. Soper added that the “Land Use” Chapters are specific to ensure the uses are compatible.

Upon a motion by Mr. Thomas, seconded by Mr. Heath, and duly carried, the Commission forwarded a favorable recommendation to amend Section 17.36.020, and Section 17.224 to the Mayor and City Council.

Chairman Charles "Chip" Dashiell stated the motion was **APPROVED**, and the public hearing was closed.

PRELIMINARY COMPREHENSIVE DEVELOPMENT PLAN APPROVAL – Village at Snowfield –Heritage Revival Holdings, LLC, rep. by Parker & Assoc. – Snow Hill & Toadvine Roads – R-8A Residential & General Commercial Districts
M-48, G-11, P-492 - #22-008 (B. Soper)

Mr. Soper, joined by Mr. Brock Parker (Parker and Associates), provided the Staff Report.

This request from Parker and Associates, on behalf of the owner, is for a Preliminary Comprehensive Development Plan (PCDP) for 104 single family lots, and 91 townhouse lots to be accessed by public streets. The applicant proposes to develop an existing agricultural field into a 195-unit residential subdivision. The property is adjacent to the existing Marley Manor residential development, and across Snow Hill Rd from the existing Summersgate residential development.

Chairman Dashiell asked if the PCDP needed to go through the Board of Zoning Appeals. Mr. Soper stated that although it still meets the 60/40 code requirement, the Board of Appeals still has to grant a special exception.

Mr. Kevin Shertz presented a concern in regards to the storm water management elements. Mr. Shertz recommended an open access route for maintenance, as opposed to an easement, to allow the ability to put up a fence. Mr. Parker agreed, and Mr. Soper stated that if possible, fee simple would be preferred with the option to consider other alternatives.

Mr. Shertz asked about adding language in regards to the cul-de-sac change. Mr. Soper responded that it would be addressed at the time of Subdivision, since that is in the Subdivision ordinance.

Staff recommends approval of the PCDP for the Village at Snowfield with the following (5) 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.
5. Deeded access points to the storm water management areas are preferred by the Commission

Upon a motion by Mr. Thomas, seconded by Mr. Heath, and duly carried, the Commission approved the PCDP for Heritage Revival Holdings, LLC, subject to the (5) conditions of approval.

Chairman Dashiell stated the motion was **APPROVED**.

FINAL COMPREHENSIVE DEVELOPMENT PLAN APPROVAL – Millers Edge Subdivision – 153 Apartment Units - Skymark Real Estate, Inc., rep. by Parker & Assoc. - Pemberton Drive –R-8A Residential District – M-113, G-15, P-1136 - #202200397 (H.Eure)

Mr. Eure, joined by Mr. Parker, provided the Staff Report.

Parker and Associates, on behalf of the owners, have submitted a final plan to develop the site with a (153) unit, two- and three-bedroom apartment project on property located on Pemberton Drive adjoining the Harbor Pointe subdivision.

The site plan indicates (30) one story town-house style apartment buildings are proposed for the property. The buildings consist of one- and three-bedroom units, and range in size from (3) unit to (7) unit buildings. A community building and swimming pool are proposed at the entrance to the site. A playground, dog park area, and maintenance/storage building are also proposed.

Mr. Heath posed a concern in regards to the single entrance. Mr. Parker stated that the divided entrance was added because of this issue, since there was little space to work with.

Mr. Thomas asked if the island between Lot 140 and Lot 141 has any proposed connection to other Subdivisions. Mr. Parker stated that it is a landscaped micro-bioretenion area.

Mr. Heath asked how far Millers Edge would be from Harbor Pointe. Mr. Parker stated that the rear line of the single family lots at Harbor Pointe would be the Southern line of Millers Edge.

Staff recommends Final Comprehensive Development Plan approval for Millers Edge, subject to the following (6) conditions:

1. Subject to final approval of the Forest Conservation plan.
2. Provide trees for shade in landscaped islands.
3. Obtain comprehensive Sign Plan approval prior to the installation of any signs.
4. Subject to further review and approval by the Salisbury Fire Department.
5. Subject to further review and approval by the Salisbury Department of Infrastructure and Development.
6. Waivers of Community Impact Statement and Statement of Intent to Proceed and Financial Capability.

Upon a motion by Mr. Thomas, seconded by Mr. Holloway, and duly carried, the Commission approved the Final Comprehensive Plan for Millers Edge Subdivision – 153 Apartment Units, subject to the (6) conditions of approval.

Chairman Dashiell stated that the motion was **APPROVED**.

REVISED COMPREHENSIVE DEVELOPMENT PLAN APPROVAL – COLLEGE AVENUE SHOPPES - 720 E. College Ave. – A Salt Shack Restaurant – Outdoor Seating – General Commercial – M-116; G-10; P-3274 - #202200407 - (H. Eure)

Mr. Eure, joined by Ms. Tori Drake, representing the owners of A Salt Shack Restaurant, and Ms. Debbie Palmer (managing partner of Peninsula Physical Therapy), provided the Staff Report.

This request from A Salt Shack Restaurant is a Revised Comprehensive Development Plan (RCDP) for a new outdoor seating area that was recently constructed in the parking area in front of the applicant's tenant space. This is a result of enforcement procedures enacted on March 24, 2022 by the City's Department of Infrastructure and Development. As the seating area did not receive Planning Commission approval prior to construction, it is in violation of Section 17.212.020 of the City's Zoning Code. The applicant has elected to seek

approval for a RCDP rather than remove the structure as instructed by the violation notification.

The construction of the seating area raises the following concerns:

-No protection has been provided between the seating area and drive aisles around the building and parking lot.

-The materials used for the construction of the seating area do not appear to be compatible with the building materials, and overall appearance of the site.

-The elimination of the landscaped island is in direct conflict with the City's Zoning Code.

-The deck was constructed without the benefit of a building permit, and staff cannot ensure that was constructed in compliance with the 2018 International Building Code.

Ms. Drake stated that the construction stopped once they received a violation letter, but had planned to continue to put bollards around the deck to ensure the safety of the patrons. Ms. Drake added that the ADA parking space was not compliant before the deck was built. Their intention was to have a stripe marking on the first parking space, and have the second space for ADA parking, to make this compliant. She also stated that they believe adding a landscaped island would not enhance the appearance of the strip.

Ms. Palmer commented on the traffic in the parking lot. She stated that since the deck was built, the traffic in the parking lot has slowed down, making it safer for the shopping center as a whole.

Mr. Heath stated that if A Salt Shack Restaurant had followed the correct procedures upfront, this wouldn't be a current issue. He believes that approving the RCDP will show the community that it is okay to build without going through the proper channels of approval.

Chairman Dashiell agreed with Mr. Heath, and stated that the guidelines and zoning codes are in place so that all businesses are treated equally. He believes that the best outcome would be to deny the request, and give the restaurant an opportunity to come back and work with the Planning Staff to develop a plan that is amenable for the restaurant, the city, as well as the patrons of the business.

Mr. Shertz added that this is a good opportunity for the property owner to comprehensively look at the ADA circumstances. Mr. Shertz also asked if fines

would be back dated if the request was denied. Mr. Eure explained that the notice gave the applicant (30) days to take care of this matter. Ms. Drake came to Staff within those (30) days, which put a hold on whether or not fines were enforced. Ms. Drake stated that the deck will be taken down by May 31, 2022.

Upon a motion by Mr. Thomas, seconded by Mr. Heath, and duly carried, the Commission denied the RCDP for A Salt Shack Restaurant – Outdoor Seating. As stated by the staff in the recommendation report, the island and parking spaces will need to be restored by June 1, 2022.

DISCUSSION – Wicomico County Zoning Code – Private Solar Utility - (A. Illuminati and C. Meadows)

This is a follow-up to last month's introductory in regards to Solar Energy Systems in the County.

Mr. Holloway asked how much land (2) megawatts encompasses. Mr. Clark Meadows stated that it would depend on spacing of racking systems. From experience, a (2) megawatts facility is more than (10), but less than (15) acres. Facilities that are larger than (2) megawatts are handled by the Public Service Commission, with consideration given to local zoning. The Representative Table of Uses, 225-67 in the County Zoning Code explains the three sizes of facilities, accessory solar, minor solar, and utility grade solar, and whether they would be permitted as an inherent use, or by special exception in those specific zoning districts. Chairman Dashiell asked if this was consistent with what other counties are doing in the area. Mr. Andrew Illuminati responded, yes.

Mr. Holloway asked what the process was in regards to decommissioning. Mr. Illuminati responded that when the acreage is under (2) megawatts (minor solar), the agreement between the land holder and the solar company would be on file with the County, and the County would be notified of the change and follow-up regarding decommissioning. When the facility is being sold or shut down, the facility must prepare a new decommissioning plan and cost, since prices of the debris are constantly changing. This proposal in decommission also requires that a licensed engineer, every (5) years, submit the estimated decommission cost to the Department of Planning and Zoning. This ensures that decommissioning is fair to the County, the land owner, and the business.

For accessory solar, the lease agreement between the solar company and property owner should be worked out before coming to the County for consideration. Once it comes before the County, an intake of the application would be done. The site plans will be in the process of being prepared, or will

have already been prepared. The County would then move along with the special exception process, followed by the decommissioning process.

If the acreage is over (2) megawatts the Public Service Commission would handle the decommissioning requirements. This language is extensive, but ever evolving and adapting to conditions in the field.

Chairman Dashiell asked if the County has encountered issues with projects that are problematic. Mr. Meadows stated that he is not aware of any situations that have been problematic.

Mr. Shertz asked if something happens at the State level, would the Planning Commission have to revisit this matter to change figures and revise legislation. Mr. Illuminati responded, yes.

A Public Hearing will be held at the next Planning Commission meeting. The public comment period would be (15) days prior to the Public Hearing, and (15) days after.

Upon a motion to adjourn, seconded, and carried unanimously, the Commission meeting was adjourned at 3:50 p.m.

The next regular Commission meeting will be on June 16, 2022.

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 Wicomico County Department of Planning and Zoning, and Community Development Office.


Charles "Chip" Dashiell, Chairman


Lori A. Carter, MBA, Secretary


Stacie Johnston, Recording Secretary