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MINUTES

The Salisbury-Wicomico County Planning and Zoning Commission ("Commission") met in regular session on October 19, 2023, in Room 301, Council Chambers, Government Office Building with the following persons participating:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
Jim Thomas
Joe Holloway
Kevin Shertz
Matt Drew
April Jackson

PLANNING STAFF:

Henry Eure, City of Salisbury, Department of Infrastructure and Development ("DID")
Brian Soper, City of Salisbury, DID
Lori A. Carter, MBA, Wicomico County Department of Planning, Zoning, and Community Development ("PZCD")
Janae Merchant, PZCD

Laura Ryan, City of Salisbury, Department of Law
Andrew Illuminati, Wicomico County, Department of Law

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

MINUTES: The minutes from August 24, 2023, were brought forward for approval. Mr. Jim Thomas submitted a motion to approve, seconded by Mr. Kevin Shertz and duly carried. Mr. Matt Drew abstained from voting since he was not at the meeting. The minutes from the August 24, 2023 meeting were **APPROVED** as submitted.

The next set of minutes, from September 21, 2023, were brought forward for approval. Mr. Thomas submitted a motion to approve, seconded by Ms. April Jackson and duly carried. The minutes from the September 21, 2023 meeting were **APPROVED** as submitted.

The third and final set of minutes, from October 5, 2023, were brought forward for approval. Mr. Thomas submitted a motion to approve, seconded by Mr. Joe Holloway and duly carried. The minutes from

the October 5, 2023 meeting were **APPROVED** as submitted.

PUBLIC HEARING – TEXT AMENDMENT – City of Salisbury Zoning Code – Amending Chapter 17.04.120 – Definitions, Chapter 17.36 – General Commercial, Chapter 17.76 – Light Industrial, Chapter 17.80 – Industrial Park – To regulate the cannabis business to include the growing, processing, dispensing, and on-site consumption establishments. (B. Soper)

Ms. Laura Ryan read the Public Hearing notice. Mr. Henry Eure administered the oath to Mr. Brian Soper.

Staff recommended the Planning Commission forward a favorable recommendation to the Mayor and City Council for the proposed amendments, based on the findings in the Staff Report.

Chairman Dashiell confirmed there were no additional members of the public who wished to testify. He thanked Mr. Soper for his work on this topic.

As there were no additional comments, Chairman Dashiell said he would entertain a motion to forward a favorable recommendation to the Mayor and City Council for the proposed amendments. Mr. Thomas entered a motion to forward a favorable recommendation to the Mayor and City Council for the proposed amendments as shown in attachment six (6), which was seconded by Mr. Matt Drew.

Ms. Jackson requested clarification on consumption, there would be none allowed at the establishment. Mr. Soper said the definition of on-site establishments says it is prohibited in the city. The General Commercial District under “prohibited uses” prohibits the use and in each of the other definitions for Light Industrial and the Industrial Park, it says that on-site consumption is prohibited. Chairman Dashiell said it is clear the growing process and the processing is considered an industrial process and limited to the Light Industrial and Industrial Park Districts and the dispensaries, permitted by ordinance, will be in the General Commercial District. He added that consumption is prohibited throughout the City.

The motion was duly carried, and the Planning Commission forwarded a **FAVORABLE** recommendation to the Mayor and City Council for the proposed amendments.

Chairman Dashiell said the Commission will look forward to hearing how the Mayor and City Council view their prospective legislation for cannabis in the city. He thanked Mr. Andrew Illuminati for his participation and assistance in researching this topic on behalf of the County.

REVISED FINAL COMPREHENSIVE DEVELOPMENT PLAN - VILLA'S AT AYDELOTTE FARMS – Aydelotte Villas LLC, rep. by Parker and Associates - Still Meadow Blvd. – The Villages at Aydelotte Farm PRD #7 – M-0038 & 0029, G-0006 & 0024, P-0219 - #19-043 (B. Soper)

Mr. Soper was joined by Mr. Brock Parker (Parker & Associates) and Mr. Stanley Markofsky (owner of Aydelotte Farms). Mr. Soper presented the Staff Report.

The applicants proposed to convert Parcel L of the Villages at Aydelotte Farm into 99 3-unit apartments with two (2) or three (3) bedrooms each. Several of these units will have a one (1) car garage. Included will be a 5,000 +/- sq. ft. community center and pool.

Staff presented the Comprehensive Site Plan Review consisting of the Site Plan, building Elevations/Floor Plans, Sign Plan, Landscaping Plan, Development Schedule, Community Impact Statement, Statement of Intent to Proceed and Financial Capability, Fire Service, Stormwater Management, Forest Conservation Program, Recreational Amenities, and Transportation.

Planning Staff recommended approval for the Revised Final Comprehensive Development Plan for The Villas at Aydelotte Farm, subject to the following six (6) conditions:

1. The site shall be developed in accordance with the Revised Final Comprehensive Development Plan Approval that meets all Code Requirements. Minor plan adjustments may be approved by the Salisbury DID. Detailed building elevations, landscaping and lighting plan shall be incorporated in the Final Comprehensive Plan.
2. Areas not proposed for development at this time shall be maintained in grass until the time of future development.
3. Condition #3 of the original FCDP has been met.
4. Provide a detailed signage plan for approval by the Planning Commission.
5. Provide a detailed landscaping plan for review by the Salisbury DID.
6. This approval is subject to further review and approval by the Salisbury DID and the Salisbury Fire Department.

Mr. Parker added, that previously the density permitted on this property was nine (9) units per acre, 60 acres, so 540 units. We have proposed three (3) split-level units instead of two (2) one-story units. These changes have provided an increase in density but it will allow them to keep rents at a more marketable rate. It has also allowed a more diverse product, some of the units will have garages as well as parking in the front of the unit. Mr. Markofsky has several products in Salisbury – Mill Pond Village, Addison Court, and Coventry Square Apartments. There are five (5) different styles of apartments.

Ms. Jackson asked if the proposed units were apartments, as the description sounds more like townhomes. Mr. Parker said these are townhouse-style apartments in the City Zoning Code, the only real distinction between apartments and townhouses is a fee simple party wall or property line beneath the party wall. We have proposed 299 units on one piece of property the fact that there are more units, classifies them as apartments regardless of their appearance from the street. There are no lot lines, it is one large property with rental townhouse-style apartments. The affordability of the townhomes will be based on the availability of materials, construction costs, and interest rates at the time of renting.

Chairman Dashiell inquired if this is the first three-unit apartment complex in our City. Mr. Parker believes it is the first. Chairman Dashiell asked about parking minimums and maximums. Mr. Soper explained it, Chapter 196 of the Zoning Code for Planned Residential Developments ("PRD") does not regulate parking. Parking requirements are established in the PRD part of the Zoning Code and that's why the word minimum is in there and for this section of the development, there is no maximum.

Mr. Thomas asked if there was an active rail spur behind the development. Mr. Parker indicated it was a heavy-duty power line.

Mr. Shertz mentioned he noticed none of the units proposed are handicapped accessible and believes there is no way for them to become legally handicapped accessible. He went on to say the bathrooms are not sized to allow for a wheelchair or grab bars to be installed. Mr. Markofsky responded saying the final building plans have not been submitted to the City for permitting. What has been

submitted is an architectural rendering but then it must meet all the codes. Mr. Shertz added, that according to the renderings, he does not see any of the units having the ability to be handicapped accessible. Additionally, Mr. Shertz said he is seeing several inaccuracies in the renderings. Mr. Markofsky added, these are renderings and were submitted for Site Plan approval. Once approval is received, plans will be created and everything will meet all the codes, accessibilities, and insulation. Mr. Eure interjected stating there is a percentage of the units that need to be handicap accessible, this is checked at the building permit phase.

As there were no additional comments, Mr. Thomas entered a motion to approve the Revised Final Comprehensive Development Plan, Villa's at Aydelotte Farms, subject to the six (6) conditions listed in the Staff Report. Mr. Holloway seconded the motion. All Commissioners voted aye except Mr. Shertz who was opposed to the plan.

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

LANDSCAPING AND LIGHTING PLAN APPROVAL – PARSON'S LAKE SINGLE FAMILY – Becker Morgan Group for LC Management – Parson's Lake Drive and Brown Road – R-10A Residential – M-0030, G-0007, P-223 & 398 - #2023000195 (H. Eure)

Mr. Henry Eure, Mr. Jeff Hastings (Civil Engineer, Becker Morgan Group), and Mr. Ted Hastings (Becker Morgan Group) approached the table. Mr. Eure presented the Staff Report.

The applicants submitted Landscaping and Lighting Plans for the Parson's Lake Single Family site which consists of 329 single-family homes, a community center, and a pool.

Staff presented the Comprehensive Development Plan Review consisting of a Site Plan Review for Landscaping and Lighting.

The Planning Staff comments indicated the proposed landscaping and lighting plans satisfy the Final Comprehensive Development Plan conditions of approval and are compliant with City standards. However, other conditions of approval from the Final Comprehensive Development Plan will need to be met before building permits are issued, including 1) the applicant providing the Commission with correspondence between the applicant and the Wicomico County Board of Education regarding the Commission's concern about school capacity; and 2) typical building materials and elevation review and approval for the single-family dwellings.

Staff recommended approval of the Landscaping and Lighting Plan for Parson's Lake Single Family, subject to completion of the remaining Final Comprehensive Development Plan's four (4) conditions from the March 16, 2023 Salisbury-Wicomico County Planning Commission meeting.

- ~~1. Approval of Community Impact Statement and Statement of Intent to Proceed and Financial Capability waiver request. However, the applicant shall provide the Commission with correspondence with the Wicomico County Board of Education regarding the Commission's concerns regarding the capacity of schools impacted by this project.~~
2. Obtain typical building elevation approval from the Salisbury/Wicomico Planning Commission before construction of any single-family dwellings.
- ~~3. Install a roundabout at the intersection of East Naylor Mill Road and Parsons Lake Drive.~~
4. Obtain Sign Plan approval from the Salisbury/Wicomico Planning Commission prior to the installation

of any signs.

5. Subject to further review and approval by the Salisbury Fire Department.
6. Subject to further review and approval by the Salisbury DID.

Mr. Holloway asked when would it be decided if a roundabout or other traffic improvement was needed. Mr. Hastings said there was a meeting in March with the Public Works Department; an agreement was made to add an additional turn lane on Parsons Lake Drive where it intersects with Naylor Mill Road. Mr. Holloway believes traffic will be a challenge on Brown Road due to the high volume of tractor-trailer traffic.

Mr. Harmon provided a synopsis of what has been accomplished thus far, which included, that they have coordinated street lights and trees (they were alternating one side of the street had a tree the other side had a street light), coordinated that with things like water meters, sewer services, catch basins, driveway locations, fire hydrants, and property lines. He also addressed another concern from a previous conversation with the Commissioners, which was about how the Board of Education calculates its projections. Mr. Harmon met with Ms. Kayla Campbell, at the Board of Education, to find out how the projections were calculated. There are different scenarios for each development because they use different techniques to project, depending on the demographics of the neighborhood. Ms. Campbell offered to visit and bring some of her colleagues if a further explanation was desired.

Mr. Drew wanted to hear more about the proposed roundabout as he believes it would add to the development and improve traffic on East Naylor Mill Road. Mr. Harmon indicated they would identify what right-of-way is required by completing the concept design for the roundabout.

Mr. Thomas had concerns about the student projections. He appreciated the information Mr. Harmon brought forth on the Board of Education and their projection process. However, Mr. Thomas believed it is a very tough thing for the Planning and Zoning Commission to get a feel for what the overall impact would be on the project we are approving.

Mr. Harmon added the State Highway Administration (SHA) and the City encouraged him to look at a broader study area for the traffic study. The study included Zion Road and Rt. 13; Rt. 13 and Naylor Mill Road; Rt. 13 and Dagsboro Road and Brown Road where its intersected by Zion Road.

As there were no additional comments, Mr. Thomas entered a motion to approve the Parsons Lake Single Family Landscaping and Lighting Plan subject to conditions two (2), four (4), five (5), and six (6) as stated in the Staff Report; striking one (1) and three (3). The motion was seconded by Mr. Holloway and duly carried.

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

DISCUSSION – COMMUNITY IMPACT STATEMENT – (B. Soper and H. Eure)

Mr. Soper joined Mr. Eure at the table. Mr. Soper discussed the definition of the Community Impact Statement and stated it is not universal across the Zoning Code it is only applied when there is a Comprehensive Development Plan and not every use or Zoning District requires a Comprehensive Development Plan. In his presentation, Mr. Soper said 17.180.060 in the Comprehensive Development chapter, does grant the ability of the Planning Commission and or the Board of Appeals the ability to waive any or all statements or studies after the consideration of the extent and impact of development

whether the requirement is necessary and in the best interest of the City and the hardship imposed by the requirement upon the applicant and that definition and code language has not changed since 1983.

Mr. Holloway inquired if at any point, did somebody want a waiver and the City responded saying they did not want the waiver granted. Mr. Soper was not able to find any situation like that in the past minutes. Mr. Soper was able to identify waivers were allowed for the Community Impact Statement but there was no documentation indicating why it was waived. He believes the next step should be to develop a waiver policy that is consistent with the requirements of the code. The other item would be for Staff to address each item of the Community Impact Statement and Staff Reports going forward. This means City Staff would look through and determine if there are parts of the impact statement that could be waived (commercial does not need to address schools) or items that they could address before the development when it is submitted, related to water and sewer, that our engineering staff could review. They could have an answer before they need to provide an impact statement.

Mr. Soper believes they are ready to discuss with the Planning Commission so a plan can be developed, he wants to create the best path forward so they are consistent with what the City is trying to accomplish but also giving clear guidance to developers so they know what to expect when they come here.

Chairman Dashiell thanked Mr. Soper and Mr. Eure for researching the background of this topic. He thinks this was a timely discussion for everyone, it was like a work session. There were people in the audience who wanted to speak on behalf of this topic.

Ms. Nancy Roisum (Beaver Dam Drive in Salisbury) wanted to discuss waivers in general. I understand the granting of waivers is an option that the Planning and Zoning Commission currently can give but I find it very concerning that City and County Staff are requesting waivers or recommending approval of waivers that are requested by developers. She believes this provided an appearance of a conflict of interest. Three waivers have typically been granted to certain local developers: 1) the Community Impact Study; 2) the Letter of Financial Capability; and 3) the Letter of Intent to Proceed. In her opinion, these are good construction procedures and to waive any of them for the larger development projects shows a disregard to the current and future citizens and business community of Wicomico County and the City of Salisbury.

Mr. John Wohlgemuth (Granbys Run in Salisbury) mentioned standard requirements are things like environmental impact studies in the Community Impact, that is environmental impacts from past use. Another impact is the parking needs, it has been required in standards to do a study of what the parking needs are of the development. There are also increases in city services like fire, police, field services, etc. All of these extra services will require the City to increase its budget to support these developments.

Ms. Carol Wohlgemuth's (Granbys Run in Salisbury) discussion was based on the Public Hearing of the City Board of Appeals, a case concerning Salisbury Town Center. After a few minutes, Chairman Dashiell interjected stating the conversation was moving in the direction of a specific development. The focus today was to discuss the Community Impact Statement and what modifications we may want to consider for all developments. Ms. Wohlgemuth asked for the Commissioners to reconsider decisions made on current projects to waive the Community Impact Statement and rescind their preliminary approval.

Chairman Dashiell added it was timely that we go back now and take a look at what has been a long history of various ways in which we have interpreted the waiver. There are three items typically found in a Staff Report, the Community Impact Statement, the Statement of Intent to Proceed, and the Statement of Financial Capability. He said it would be helpful for the Planning Commission to have some guidelines around the Community Impact Statement we need to be consistent in what we do and we need to be fair. He requested criteria to ensure consistency and fairness to improve the Commission's ability to come to a fair decision. Chairman Dashiell asked Ms. Carter and Mr. Soper to develop a criterion on which decisions could be made concerning the Community Impact Statement. Then, when Staff Reports were submitted, Staff would recommend a waiver to be granted or not.

Mr. Holloway added, that if the Commissioners do not have a good statement, what would the liability be for the County, the City, or the Planning Commission if waivers were granted and then there is a problem in the future? He also agreed that standards need to be set to be fair for everyone.

Ms. Lori Carter added the Commission's decisions back in the 80's were based on different parameters than in the 90's and also going forward.

Ms. Ryan said the Code sets out what this Commission is supposed to look at in granting a waiver and it is in fairly broad terms, what could happen is that we develop a policy on how we review the terms. We should go deeper into it to determine what we want to see when a developer is asking for a waiver based on a hardship. We could develop a policy expanding upon what is already in our Code of what we are supposed to consider and granting the waiver, then when a developer comes and asks for the waiver, the burden is on them to show why their project fits within the different things that we have outlined that would justify a waiver. Then the Commission's job is to weigh whether or not they have met the criteria.

Ms. Jackson agreed a revision needs to be made to the Community Impact Statement. It has been in existence since 1983 and needs some revision because things have changed - dynamics, demographics, and population.

Ms. Carter added, that concerning financial capabilities, individuals have come before the Commission and had already been through the process of talking with lenders. I do not know if we could or should get that information.

Mr. Holloway did not know how far we could go with financial capabilities but it could save Staff and the developer time if we had a letter of credit from the bank.

Mr. Soper brought up two cases (Village of Aydelotte and Village of Salisbury Lake), where situations out of the control of the developers, were held up due to interest rates or COVID.

There was a brief discussion on Financial Capability then Chairman Dashiell requested the concentration be on the Community Impact Statement and Statement of Intent for now. He asked the Staff to develop criteria on which the Commissioners would make a reasonable decision and make it consistently. Once the information is compiled, time will be scheduled to review it. The new process would begin with new Comprehensive Development Plans, not those already in the process.

Ms. Carter stated there would be several conversations to discuss this topic. They have started looking at some of the other counties to determine what they are doing.

Chairman Dashiell thanked the individuals who were there and took the time to share their concerns. He asked Ms. Cory Huston to approach the podium to share her concerns.

Ms. Huston (Gunby Road in Salisbury adjacent to the Glenn Heights property) came forward to discuss the privacy fence that was to be installed along her property line. It has taken several attempts to contact the City, she had tried to speak with Mr. Brock Parker to no avail, she was referred to Mr. Shawn Waters (D.R. Horton) and has not been able to connect with him. A new lawn company has created a path through the woods and is dumping long cuttings on her property. Another concern is she did not receive the fence she was granted in a prior Planning Commission meeting. The fence in existence now has gates opening up onto her property. Mr. Soper agreed to work with Ms. Huston to get her a resolution.

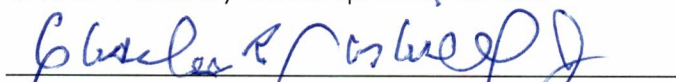
Mr. Soper announced he has a meeting with the Comprehensive Plan Consultants for the City. They plan to be at November's meeting to make their introductions and present background information they have been working on. After they have met with the Commission, they will begin scheduling public outreach items. It is one of those things that encourages participation, they will make use of every available media outlet and media relations that the City has available, to make sure that the public is aware and trying to encourage participation. The City does have a good mechanism related to community relations to be able to distribute materials and awareness of when meetings are going to be. Mr. Drew inquired if they would be presenting a road map of how they foresee the process working. Mr. Soper indicated he would know more after their meeting. On the team is Allysha Lorber with Mead and Hunt; she has done work previously with the City. They have also partnered with Amanda Pollack for the Water Resources Element.

Ms. Carter stated the County may have one item for next month's agenda. She also reminded the Commissioners, that the minutes are a summary of a meeting, not a transcript. Chairman Dashiell added the official minutes are the recordings. He said the essential elements of what took place at the meetings are interpreted well and not everything can be included. If anyone needs the best record, they will need to use the recordings.

As there were no additional comments, Chairman Dashiell asked for a motion to adjourn. Upon a motion by Mr. Thomas, seconded by Ms. Jackson, and carried unanimously, the Commission meeting was adjourned at 4:07 p.m.

The next regular Commission meeting will be on November 16, 2023.

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


Janae Merchant, Recording Secretary