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City of Salisbury – Wicomico County

PLANNING AND ZONING COMMISSION
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JOHN D. PSOTA
ACTING COUNTY EXECUTIVE

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MINUTES

The Salisbury-Wicomico County Planning and Zoning Commission ("Commission") met in regular session on October 20, 2022 in Room 301, Council Chambers, Government Office Building with the following persons participating:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
Jim Thomas, Vice Chairman
Mandel Copeland
Joe Holloway
Kevin Shertz
Matt Drew

PLANNING STAFF:

Brian Soper, City of Salisbury, Department of Infrastructure and Development ("DID")
Henry Eure, DID
Lori A. Carter, MBA, Wicomico County Department of Planning, Zoning, and Community Development ("PZCD")
Marilyn Williams, Land Development Planner, PZCD
Ben Zito, Preservation & Development Review Planner, PZCD

Laura Hay, City of Salisbury, Department of Law
Paul Wilber, Wicomico County, 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 the September 15, 2022, meeting were brought forward for approval. Mr. Shertz, Mr. Drew and Mr. Holloway abstained from approving the minutes.

Chairman Dashiell announced there was not a quorum, the September minutes will be reviewed and approved at the next meeting.

PUBLIC HEARING – FINAL MAJOR SUBDIVISION PLAT – THE POND AT NUTTERS CROSSING – Pottermore, LLC rep. by Parker and Associates – Stonehaven Drive – R-20 and Airport Overlay - M-0048, G-0022, P-0171, 0443, 0446, and 0447 (M. Williams)

Mr. Paul Wilber read the advertisement for the Public Hearing.

Mr. Wilber administered the oath to witnesses Ms. Marilyn Williams, as well as to Mr. Brock Parker. No additional persons from the public wished to provide testimony.

Ms. Williams presented the Staff Report. The Sketch Plat for the re-designed development was approved by the Planning Commission in May, 2019; the Preliminary Plat and Tier Map revision were approved October 17, 2019; a one-year extension of the Preliminary Plat was granted on October 15, 2020 and again on October 21, 2021. There has been one (1) change, Parcel B has been combined with adjoining Lot 7; Lot 7 is larger and there is no Parcel B. There are now seventeen (17) building lots and the creation of Parcel A, which is the pond.

The Health Department and the Maryland Department of the Environment ("MDE") have approved the perk sites as shown. Their final approval is pending a Water and Sewer Plan amendment. The proposed amendment must go to the County Council for approval prior to MDE signing the amendment.

As part of its Tier Map change review, the Maryland Department of Planning referenced Section 5-104 of the Land Use Article referring to major subdivision requirements in a Tier III area. Two requirements for the Planning Commission's review are:

1. Review the cost of providing local governmental services to the subdivision (unless a local jurisdiction's adequate public facilities law already requires a review of government services); and
2. Review the potential environmental issues or a natural resources inventory related to the subdivision.

Since this is the first major subdivision in a Tier III since the Septic Bill was enacted in 2012, there is no specific guidance to meet these two (2) requirements. Planning Staff has confidence in the first requirement is met by the Sketch Plat review process, which requires a review of the project by a comprehensive list of agencies (including but not limited to the State Police, Board of Education, several County Departments, private business organizations, etc.). No concerns were noted from any of the agencies during the Sketch Plat review process.

With regards to the second requirement noted above, the following environmental reviews have been completed:

1. There is a stream bordering the property; therefore, non-tidal wetlands have been professionally delineated and surveyed. The limits of the non-tidal wetlands occurring near Lots 13, 14 and 15 are shown on the plat with the required 25' buffer;
2. A topographical survey has been completed and the regulated floodplain line is being shown based on actual elevations. Lots 13, 14 and 15 have been modified to remain outside of the regulated floodplain;
3. A review of endangered species from the Department of Natural Resources has been requested and the results are pending; however, mapping does not indicate any concerns;
4. The proposed subdivision preserves the woodland along Tony Tank Creek in a forest conservation easement; and
5. Based on the topographical survey, grading plans for Lots 7, 8, 9, 13, 14 and 15 are being required.

Staff has confidence in these actions addressed the environmental review process required by the Land Use Article.

The Planning Staff recommended approval of the final plat for The Ponds at Nutters Crossing subject to the nine (9) Proposed Conditions listed below. Per Senate Bill 236, the Planning Commission must hold a public hearing before recommending approval of a major subdivision in a Tier III area.

1. The Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations;
2. County Council approval of a Comprehensive Water and Sewer Plan amendment and Health Department signature is required prior to recordation;
3. The Final Plat shall comply with all requirements of the Forest Conservation program, including: 1) County Council approval of the removal of a portion of the previously platted forest conservation easement; 2) recordation of a Deed of Easement Removal for that portion of the forest conservation easement to be removed; 3) approval of a revised Forest Stand Delineation and Forest Conservation Plan, and 4) deed of easement and long-term management agreement shall be recorded prior to recordation of the Final Plat. Staff recommended any existing forest conservation easement located along the U.S. 13 Bypass, not proposed as a platted sewage reserve area, remain. The current proposed Forest Conservation Plan, attached as an exhibit, shows a significant portion of existing easement (and trees) to be removed along the Bypass, including some areas not needed for sewage reserve areas;
4. All lots will become members of The Pond at Nutters Crossing Homeowners Association and the Articles of Incorporation must be completed prior to the

recordation of the Final Plat. In addition, a Covenants and Restrictions document shall be recorded in the Land Records of Wicomico County with the Final Plat;

5. A deed conveying the existing pond parcel to the Homeowners Association shall be recorded in the Land Records for Wicomico County with the Final Plat. The Homeowners Association will be responsible for maintenance of all stormwater facilities;
6. A deed conveying the roads within the subdivision must be provided to Planning and Zoning prior to Final Plat recordation;
7. A cluster mailbox pad with adequate access is to be constructed outside of all easement areas and in accordance with U.S. Postal Service requirements, or, a letter from the local USPS office confirming individual mail delivery is required prior to the recordation of the Final Plat;
8. Individual grading plans will be required on Lots 7, 8, 9, 13, 14 and 15 due to the existing slopes and the fill required for construction. The Final Plat will prominently note this requirement; and
9. This approval is subject to further review and approval and conditions imposed by the Planning and Zoning and Public Works Departments.

While two (2) County Council actions are required prior to plat recordation, Staff recommends the approval of the Final Plat of The Ponds at Nutters Crossing. Action is being taken to finalize the Forest Conservation and the Water and Sewer Plan requirements for Council review and action in the near future. Staff confirmed that MDE has approved the perk tests and the Health Department is prepared to sign the plat as soon as the Water and Sewer Plan amendment is adopted. Recommending approval of the Final Plat is preferable to requesting another one-year extension of the Preliminary Plat.

Mr. Parker said this project was originally The Pond at Nutters and was part of a bigger package plan to spray irrigation and it was more intensely developed. There were roads, curbs, gutters, stone and utilities installed around the pond in preparation for development.

Mr. Parker is working with Ms. Williams concerning Forest Conservation; the engineering has been approved by Department of Public Works, but the new lot line configuration needs to be added. In his opinion, the Plat is ready to be recorded provided the Commission agrees and grants an approval. The next step will be to get the Water and Sewer Plan amended.

Mr. Parker commented on the Forest Conservation condition mentioned in number three (3) above. There is already a berm with stock-piled top soil undulating along the Bypass, and they will do their best to maintain the buffers along the Bypass. Also, there are two (2) sewage areas planned along this area. Mr. Parker indicated this is the first section and they will more than likely come back with a second and final

section project once this is done and settled. He will work with Ms. Williams to ensure there will be enough buffering between the Bypass and the lots.

Mr. Holloway inquired about an unpaved road people are using and complaining that it is not paved. This road may be part of a different area; Ms. Williams and Mr. Parker will look into the purpose of the road.

Mr. Drew inquired about the future of the project since there are building setbacks and sewer connections stubbed out. Mr. Parker indicated the unused water and sewer infrastructure will be abandoned in place and man-holes filled. Mr. Parker will be returning with a Phase II for the remainder of the project.

Mr. Drew wanted to know what changes are being made to the Plan Amendment. Ms. Williams indicated she did not have the numbers available because the Engineering Department is handling this information. However, it is being changed to individual septic and onsite well.

A new Homeowners Association ("HOA") will be created for the new section so not to overburden the existing HOA. Mr. Thomas asked if the new HOA will take on the additional section of the property; this was confirmed by Mr. Parker.

Chairman Dashiell confirmed there were no additional people who wanted to be heard for this case. He also asked if a favorable motion was issued, would wording, as it relates to condition number three (3) Forest Conservation, need to be added or modified. Ms. Williams assured the Commission that Cassie Dyson, Wicomico County Forest Conservation Planner, had been involved and will work with Mr. Parker going forward. Mr. Parker agreed with that statement.

Upon a motion by Mr. Thomas to approve the Final Major Subdivision Plat – The Pond at Nutters Crossing subject to nine (9) conditions in the Staff Report, seconded by Mr. Drew, and duly carried, the Commission approved the plan.

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

Chairman Dashiell closed the Public Hearing at 2:00 p.m.

SITE PLAN REVIEW – SELF-STORAGE BUILDING – Bierman Family LLC, rep. by Parker and Associates – Westerly Side of Ocean Gateway – C-1 (Commercial District) – M-0038, G-0007, P-0268 (B. Zito)

Mr. Zito was joined at the table with Ms. Williams and Mr. Parker.

Mr. Zito presented the Staff Report.

The applicant requested approval for a 3,900 square foot self-storage building to be constructed on the westerly side of Ocean Gateway. The site is currently unimproved and was previously a gas station that was reported to be in operation until the early 1990s. The property is located at the intersection of Nanticoke Road and West Isabella Street.

Staff recommended the Planning Commission grant Site Plan approval for Bierman Family, LLC subject to the following seven (7) conditions:

1. The site shall be developed in accordance with the approved Site Plan.
2. Subject to building permit approval by the Planning and Zoning permits and Inspections Division.
3. Subject to further review and approval for stormwater management by the Wicomico County Public Works Department.
4. Subject to Maryland Department of Environment Approval and letter of Authorization for the disturbance and discharge into non-tidal wetlands.
5. Subject to the approval of a Forest Conservation Plan.
6. Subject to State Highway approval.
7. Subject to the lighting requirements in 225-73 of the Code.

Mr. Parker added there have been several approvals received thus far for this property – Stormwater, State Highway and Wetlands. He is aware this area is a gateway into Salisbury and special attention is needed for elevations. The architect has designed it so it does not resemble typical storage units.

Mr. Holloway mentioned there have been environmental concerns for this property. Mr. Parker reassured everyone the site has been cleared for development and no water service will be proposed.

Mr. Shertz inquired if an analysis was completed on vehicle turning radiuses. Mr. Parker said there is an unobstructed 24' band around the building which will allow for two-way traffic and 3-point turns. However, if a larger vehicle was used it would have to exit by going around the building. Mr. Shertz asked if bollards would be installed. At the recommendation of Chairman Dashiell, a condition was added stating bollards to be installed at outside corners of the structure.

Mr. Thomas wanted to know the status of State Highway approval. Mr. Parker said approval has been received; it will be a right turn in and right turn out of the facility. The entrance/exit was moved further north to not allow people to cross Route 50 to make a U-turn to go westbound.

Mr. Shertz asked for clarification on the entrance gate and how it will open. Mr. Parker mentioned it will be key fob or key pad entry; there will not be an office on-site.

There have been no final decisions on how the gates will open but they have discussed, gates opening into the site or straight up. The signage and gate detail have not been finalized.

Mr. Drew requested clarification about the mention of “use of this property as a self-storage building is permitted by Special Exception” in the Staff Report. Mr. Zito said the request for a Special Exception will be submitted to the Board of Appeals after the Commission’s approval.

Chairman Dashiell inquired about landscaping and encouraged whatever can be done will be great aesthetically to the property. Mr. Parker indicated there were no detailed plans of landscaping due to stormwater within the plan. He said there will be a plethora of plants.

Upon a motion by Mr. Thomas to approve the Site Plan Review for the Bierman Family, LLC on Lot defining County Tax Map #38 - M-0038, G-0007, P-0268 subject to seven (7) conditions in the Staff Report in addition to number 8 subject to bollards being installed on the outside corners of the buildings, and number 9 subject to more details on the gate entrance. The motion was seconded by Mr. Shertz, and duly carried, the Commission approved the plan.

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

PRELIMINARY/FINAL SUBDIVISION APPROVAL – THE CENTRE AT SALISBURY - Salisbury Mall Realty Holdings LLC, rep. by Parker and Associates – 2300 N. Salisbury Blvd./Centre Drive – General Commercial District – M-0119, P-0237, Lot Par 1A (H. Eure)

Mr. Eure was at the table with Mr. Soper and Mr. Parker.

Mr. Eure presented the Staff Report.

The applicants propose subdivision of a 44-acre parcel into three (3) lots ranging from 5.14 acres to 28.7 acres in size. The parcels are as follows: Parcel 1AA – 28.7 acres; Parcel 13 – 10.43 acres, and Parcel 14 – 5.14 acres. All lots will have frontage on Centre Drive, with City services and utilities available. The proposed subdivision plan requires Planning Commissions approval. The most recent approved subdivision occurred in November of 2021, when Parcels 10, 11, and 12 were created.

A Forest Conservation Plan shall be approved prior to recordation of the plat.

The Planning Staff recommended granting Preliminary/Final Subdivision Plat Approval for the Centre at Salisbury, subject to the following four (4) conditions:

1. The Final Plat shall comply with all requirements of the Salisbury Subdivision Regulations;
2. Health Department approval is required prior to the recordation of the Final Plat;
3. The Final Plat shall comply with all requirement of the Forest Conservation Program; and
4. This approval is subject to further review and approval by the Salisbury Department of Infrastructure and Development.

Mr. Parker mentioned they are carving off the bigger boxes of the Mall; there are no structural or strategic plans at this time. He was contacted and asked if they could subdivide the boxes on to their own lots and that is the purpose of this request.

Chairman Dashiell clarified this proposal was for an additional subdivision of three (3) parcels, in addition to the three (3) last year. At this point, no one knows what will happen to the parcels being subdivided.

Mr. Shertz asked if there are any special mechanics involved when subdividing parcels from a single building, as in Boscov's. Mr. Eure does not believe there is anything special to do as the request is still compliant with Building Code standards. In fact, since the inception of the mall, Macy's was always on its own parcel.

Mr. Drew inquired about a shared parking arrangement between the parcel owners. Mr. Eure said there is already one in place.

Upon a motion by Mr. Thomas to approve the Preliminary/Final Subdivision for adding three (3) Parcels to The Centre at Salisbury subject to four (4) conditions in the Staff Report; seconded by Mr. Drew, and duly carried, the Commission approved the plan.

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

REVISED COMPREHENSIVE DEVELOPMENT PLAN AND WELLHEAD PROTECTION SITE PLAN APPROVAL – PERDUE HENSON JUNIOR ACHIEVEMENT – The Oak Ridge Baptist Church, rep. by Davis, Bowen & Friedel, Inc. – Tilghman Road – RC (Regional Commercial) – M-0110, G-0017, P-4491 - #22-020 (H. Eure)

Mr. Shertz recused himself from this case due to his employment with Davis, Bowen & Friedel.

Mr. Eure was joined by Mr. Mike Wigley (architect with Davis, Bowen & Friedel), Ms. Kate Bleile (Vice President of Junior Achievement of the Eastern Shore) and Mr. Soper.

Mr. Eure corrected the agenda item to be a "Revised Comprehensive Development Plan and Wellhead Protection Site Plan Approval" then presented the Staff Report.

The applicants proposed to convert a portion of the former K-Mart department store and create an educational facility for Junior Achievement of the Eastern Shore. Approximately 25,000 sq. ft. of the building will be renovated, and a new outdoor patio with landscaping is proposed at the west end of the building. Revised parking, including two (2) van accessible parking spaces are also proposed for the west end.

Planning Commission granted the original approval for Gateway Crossing (formerly Shopper's World) Shopping Center in 1974. The property was annexed into the City in 1976, at which time the original building was constructed. In 2002, the Planning Commission approved a new Preliminary and Final Comprehensive Development Plan for redevelopment of the entire shopping center. This streamlined the approval process so applicants would no longer have to receive approval from the Salisbury Board of Zoning Appeals to alter a nonconforming use. The most recent approval occurred in 2019 to expand Oak Ridge Baptist Church by 24,500 sq. ft., which is completed.

Staff review comments for the Comprehensive Development Plan Review were presented. These included Parking, Building Elevations/Plans, Sign Plan, Landscaping Plan, Fire Service and Stormwater Management.

Staff questioned the need for four (4) signs advertising Junior Achievement. Staff also debated the necessity of several freestanding signs, which advertise Oak Ridge Baptist Church, while other tenants of the shopping center have no access to any freestanding advertisement. A Sign Plan for Junior Achievement and a Revised Sign Plan for the shopping center is necessary.

Staff recommended the Revised Final Comprehensive Development Plan and Final Wellhead Protection Site Plan approval for the Junior Achievement Center for the Eastern Shore, with the following five (5) conditions:

1. The site shall be developed in accordance with the Final Comprehensive Development Plan. Minor plan adjustments may be approved by the Salisbury Department of Infrastructure and Development;
2. A landscaped island shall be provided at the eastern end of the row of parking provided at the rear of the building;
3. A sign Plan shall be submitted and approved for both Junior Achievement and the entire shopping center. The unapproved Oak Ridge Baptist church signs along Rt. 50 shall be removed;
4. Bicycle parking/storage is strongly encouraged; and

5. This approval is subject to further review and approval by the Salisbury DID and the Salisbury Fire Department.

Mr. Wigley mentioned construction is underway on the inside of the building. He gave a quick overview of what Junior Achievement does for the kids. Once school starts, they bus in 100 students per day. These students experience living a mock life in a mock city. They are provided with a marital status, number of kids, their salary, etc. and they take this information and shop, open bank accounts, etc. The purpose of Junior Achievement is to teach financial literacy. There will be three (3) entrances to the building; one in the front for sponsors/donors, secure entrance on the side for students and an entrance in the back for staff.

Mr. Thomas believes the concept is a great opportunity for our kids.

Mr. Drew requested to hear how bus traffic and local traffic will be managed. Mr. Wigley indicated buses would enter the facility where delivery trucks used to enter the shopping center. Ms. Bleile added they come in where the old garden center used to be located.

Chairman Dashiell echoed what others were saying about Junior Achievement. He likes the idea of providing practical experience with life decisions.

Upon a motion by Mr. Thomas to approve the Revised Comprehensive Development Plan and Wellhead Protection Site Plan – Perdue Henson Junior Achievement subject to five (5) conditions in the Staff Report, seconded by Mr. Holloway, and duly carried, the Commission approved the plan.

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

PRELIMINARY COMPREHENSIVE DEVELOPMENT PLAN – NORTH POINTE COMMONS – Grapefruit Three LLC, applicant Parker and Associates – East North Pointe Drive – GC (General Commercial) – M-0029, G-0006, P-0078 - #22-019 (B. Soper)

Mr. Soper was joined by Mr. Parker and Mr. Jonathan Contant (K. Hovnanian Homes).

Mr. Soper presented the Staff Report.

The applicant proposed to develop an existing vacant parcel into a 233-unit townhouse development. The property is located behind the Target on E. North Pointe Drive across from Addison Court apartment complex. Existing uses in the area consists of multi-family and low density residential, as well as retail commercial. The text

amendment for townhouse use in the General Commercial zoning district was adopted by the City Council on September 26, 2022.

Staff review comments for the Comprehensive Development Plan Review were presented. These included Parking, 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, Transportation, Streets, and Pedestrians.

Staff recommended the approval of the Preliminary Comprehensive Development Plan – North Pointe Commons (corrected by Mr. Soper, originally was "Preliminary Comprehensive Development Plan for the Village at Snowfield") with the following six (6) 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. Address all comments under K - Transportation, Streets, and Pedestrians of the Staff report except for number five (5) under K;
3. Provide open space compliant with Section 17.224.030.C.1;
4. Provide a Development Schedule;
5. Waive the Statements of Intent to Proceed, Financial Capability, and Community Impact Statement requirements based upon the staff report findings; and
6. 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.

Mr. Contant mentioned he is excited because they have been looking at the property for a while. He believes it is a great place for high-density townhomes.

Mr. Parker discussed the open space concern by Staff. In order to remedy the additional space needed, he will reduce the depth of the townhomes and add the extra space to the open space. Mr. Contant also mentioned the additional space will come from reducing the street width from 30' down to 26'.

Mr. Parker will also include off-street parking between the townhome buildings. There is 30' between the buildings which will fit three (3) parking spots.

Mr. Parker would like to work with Salisbury DID on Section K, which referenced Transportation, Streets, and Pedestrians. Mr. Soper agreed with the recommendation.

Chairman Dashiell requested clarification on wording for number two (2) under Staff conditions. It was agreed upon to add "unless otherwise directed by Salisbury DID."

Mr. Holloway asked if their intent is to open Arden Drive for traffic to Dagsboro Road. He believes there will be opposition to this recommendation. Mr. Parker added this was the reason they modified number two (2) under Staff conditions.

Mr. Holloway mentioned the line of homes on the backside of Avalon Park complain of flooding when we have a rain event. Mr. Parker believed it could be caused by a large berm on Oliphant Drive, which may have been created when building Target. Ms. Carter added we would address these concerns with our Engineering Staff.

Mr. Thomas inquired if the State Highway had factored in all the development happening up north. Mr. Parker responded saying State Highway does not usually get involved unless we are fronting a State roadway, disturbing the State or directly impacting the state right of way.

Mr. Holloway asked if Mr. Soper had contacted the Board of Education and wanted to know who was contacted. Mr. Soper said comments are sent to Kayla Campbell, she calculates the distribution for students based on the project.

Upon a motion by Mr. Thomas to approve the Preliminary Comprehensive Development Plan – North Pointe Commons subject to six (6) conditions and adding “unless otherwise directed by Salisbury DID” to number two (2) in the Staff Report, seconded by Mr. Holloway, and duly carried, the Commission approved the plan.

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

DISCUSSION – City of Salisbury Comprehensive Plan Corrective Action (B. Soper)

Mr. Soper mentioned there were no items provided for the discussion as it is in the early stages; the City was approached by a property owner. Mr. Soper believes there are potential coding issues, related to GIS, on Snow Hill Road. The area in question is the corridor from Pepsi down to Beaglin; the area shows as commercial use or future land use – commercial. There are three (3) residential homes behind Backstreet Grille. When a Comprehensive Plan was completed in 2010 there may have been a coding error because it was zoned as future land use - residential. There is nothing in the Comprehensive Plan that indicates they wanted residential use along this portion of Snow Hill Road. Comments were sent to Maryland Department of Planning (“MDP”) to get their opinion on the process. This was done previously in 2016 for the Panera Bread and Aldi property. A corrective action needed to be taken because the future land use for the City was not consistent with the County's future land use.

Mr. Soper added he will wait on comments from MDP before setting a date for a public hearing.

DISCUSSION – Wicomico County Zoning Code – Private Solar Utility (A. Illuminati)

Chairman Dashiell mentioned this was a discussion around the proposed Text Amendment. Mr. Illuminati made changes and highlighted them in the document provided to the Commission.

Mr. Illuminati said there were comments/questions raised at the last discussion regarding the proposed Text Amendment. He discussed these items with the Staff and has modified the Amendment and highlighted the areas.

One inquiry was to define "partial decommissioning." After Mr. Illuminati's discussion with Mr. Clark Meadows, partial decommissioning is something the County does not want to support. The preference would be a "fully decommissioned project" or an "active solar utility."

A comment was raised concerning decommissioning and would this be left up to the land owner. To protect the County, Mr. Illuminati modified number eight (8), Financial Surety, of the proposed Text Amendment with the following addition:

"ONCE A DECOMMISSIONING COST ESTIMATE HAS BEEN DETERMINED AND APPROVED BY THE COUNTY, THE LAND OWNER OF THE PROPERTY WHERE THE PROPOSED SOLAR ENERGY SYSTEM IS TO BE LOCATED, SHALL PROVIDE A PERFORMANCE BOND OR OTHER FINANCIAL GUARANTY, IN A FORM ACCEPTABLE TO THE COUNTY, IN THE AMOUNT OF THE ESTIMATED DECOMMISSIONING COST AND WHICH MUST REMAIN CONTINUOUSLY IN EFFECT UNTIL DECOMMISSIONING HAS BEEN COMPLETED AND APPROVED BY THE COUNTY. SUCH BOND OR OTHER GUARANTY SHALL NOT BE SUBJECT TO TERMINATION FOR ANY REASON, INCLUDING BUT NOT LIMITED TO THE FINANCIAL CONDITION OF THE LAND OWNER OR OTHER PRINCIPAL, NONPAYMENT OF BOND PREMIUM OR ASSIGNMENT OR SUBLEASE OF THE LAND OR FACILITIES. THE BOND OR OTHER GUARANTY MUST BE AMENDED IN ACCORDANCE WITH THE DECOMMISSIONING COST ESTIMATE PREPARED EVERY FIVE (5) YEARS."

A building permit will not be issued, nor construction begin, until a guaranty has been tendered.

Mr. Illuminati also added wording concerning the land owner maintaining an approved bond or other financial guaranty. If there is a breach, the County may revoke any special exception which was granted.

Mr. Illuminati clarified letter D - Standards under §225-115.2- Solar Utility stating the requirements can be modified by the Board of Appeals upon good cause. Also, all

structures related to the Solar Facility must be set back a minimum of 75' from all property lines.

Chairman Dashiell said there were four (4) major decision points where he needed to determine if a consensus could be reached. They were:

1. Defining Solar, Accessory, Solar, Minor, and Solar, Utility: Mr. Drew inquired about battery storage. Chairman Dashiell asked Mr. Illuminati and Ms. Carter to review the definition and determine where batter storage could be placed in the proposed Text Amendment. Chairman Dashiell announced a consensus was obtained for the other definitions;
2. Standards – Setbacks and Role of Board of Appeals: Mr. Holloway inquired if trees could be placed within or after the 75' setback. Mr. Illuminati said trees were not considered a structure related to a solar utility and is not part of this amendment. Chairman Dashiell announced a consensus was obtained;
3. Approval and Installation: Chairman Dashiell announced a consensus was obtained; and
4. Decommissioning: Chairman Dashiell announced a consensus was obtained after everyone agreed to remove the three (3) mentions of “approved by the County” as it relates to a Maryland licensed engineer.

Ms. Carter provided next steps. Mr. Illuminati will provide a draft at November's meeting with the modifications mentioned in today's discussion. She will prepare the Planning Director's report for review and action at the November meeting.

Ms. Carter had a few housekeeping items to mention:

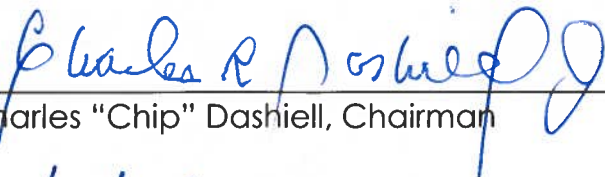
1. Judith Stribling with the Natural Resources group will be providing a 15-minute presentation on Green Infrastructure at next month's Commission meeting; and
2. A reminder there is a Planning Commissioner's Training on October 25th in Frederick, MD and there is money in the budget if you would like to attend in person. However, it is also available virtually.

Chairman Dashiell thanked everyone for attending and participating in today's meeting.

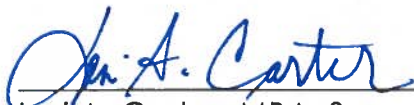
Upon a motion by Mr. Holloway, seconded by Mr. Drew, and carried unanimously, the Commission meeting was adjourned at 4:00 p.m.

The next regular Commission meeting will be on November 17, 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



Janae Merchant, Recording Secretary

