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MINUTES

The Salisbury-Wicomico County Planning and Zoning Commission ("Commission") met in regular session on October 21, 2021, in Room 301, Council Chambers, Government Office Building with the following persons participating:

COMMISSION MEMBERS:

Charles "Chip" Dashiell, Chairman
Dr. James McNaughton
Jim Thomas
Scott Rogers
Mandel Copeland
Joe Holloway
Jack Heath

PLANNING STAFF:

Henry Eure, City of Salisbury, Department of Infrastructure and Development ("DID")
Brian Soper, City of Salisbury, DID
Brian Wilkins, City of Salisbury, DID
Marilyn Williams, Wicomico County Department of Planning, Zoning and Community Development ("PZCD")
Adam Gibson, Wicomico County, PZCD
Clark Meadows, Wicomico County, PZCD
Keith D. Hall, AICP, Wicomico County, PZCD
Lori A. Carter, MBA, Wicomico County, PZCD

Paul Wilber, Wicomico County Department of Law
Laura Hay, City of Salisbury Department of Law

The meeting was called to order at 1:30 p.m. by Mr. Dashiell, Chairman and mentioned the Public Hearing will start at 2:30 p.m.

MINUTES: Chairman Dashiell noted there were two (2) sets of minutes brought forward for review and approval from the August 12, 2021 and September 16,

2021 meetings. At the September 16, 2021 meeting, Mr. Wilber was asked to review and listen to the audio recording of the August 12, 2021 meeting and compare to the written minutes. He was asked to confirm if the minutes were appropriate and to recommend any necessary revisions.

Mr. Wilber was welcomed and he proceeded to say he had listened to the August audio recording and did not identify any editing or redactions. Also, Mr. Wilber reviewed the written minutes and determined they were an accurate reflection of the transcript of the meeting. All agenda items were covered, motions and votes were in the minutes. Mr. Wilber's final comment was the requisites for the August 12, 2021 meeting minutes were appropriate and accurate. Dr. McNaughton asked about the review of minutes for the April 28, 2016 meeting. Mr. Wilber stated it was a Board of Appeals meeting and is available to discuss the matter. He agreed to discuss this topic with him the week of October 25th.

Chairman Dashiell requested a motion to approve the August 12th minutes. Upon a motion from Mr. Rogers, seconded by Mr. Thomas. With exception of Dr. McNaughton, who refrained from the vote, all other members voted in favor and the August 12, 2021 minutes were approved as submitted.

Chairman Dashiell requested a motion to approve the September 16th minutes. Upon a motion from Mr. Rogers, seconded by Mr. Heath. With exception of Dr. McNaughton, who refrained from the vote, all other members voted in favor and the September 16, 2021 minutes were approved as submitted.

REVISED COMPREHENSIVE DEVELOPMENT PLAN APPROVAL – East Fields Development LLC – The Preserve at Aydelotte Farm – Stream Valley Court & Middle Neck Drive – Planned Residential District #7 – 202100911, M-38, G-6 & P-432, Lots 1 – 10, 20 – 26, and 58 – 61 (B. Wilkins)

Chairman Dashiell acknowledged Mr. Kirk Kinnamon, managing member of East Fields LLC, and asked Mr. Wilkins to present the Staff Report.

The applicant is requesting a product change to the remaining 21 undeveloped lots in The Preserve at Aydelotte Farm. The applicant has submitted a narrative, floor plan rendering and landscape plan to accommodate a 20 ft. wide concrete driveway at each residence instead of a narrower driveway and one-car garage, which was originally approved.

A Final Comprehensive Development Plan was approved for this project on December 16, 2004.

Mr. Wilkins presented the Staff review comments for the comprehensive development plan. This included 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, Paleochannel Protection District, Forest Conservation Program, and Wicomico County Board of Education.

Planning staff has no concerns with this project at this time.

Staff recommends approval with the following three (3) 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 Department of Infrastructure and Development. Detailed building elevations, landscaping and lighting plan shall be incorporated in the Final Comprehensive Plan.
2. Forest Conservation requirements, if any, shall be addressed with the Wicomico County Department of Planning.
3. This approval is subject to further review and approval by the Salisbury Department of Infrastructure and Development and the Salisbury Fire Department.

Mr. Kinnamon mentioned the homes previously built were 2-story with a single driveway and a one-car garage. Over the past 17 years, the Homeowners Association has recognized most people use the garage for storage, resulting in residents parking on the street. The owners desire to keep the housing affordable, in the low \$200,000 range, so they have recommended some revisions. The revisions consist of removing the garage and adding longer and wider driveways to allow more off-street parking for the residents. This will necessitate residents to obtain an off-site storage unit instead of using their garage. The City's request for the same brick and siding for new construction, increased planting, and landscaping to blend into the existing development will be accommodated.

Upon a motion by Mr. Rogers to approve the revision with the three (3) Staff conditions and adding a fourth, waiving the Community Impact Statement, Statement of Intent to Proceed and Financial Capability. The motion was seconded by Mr. Thomas, and carried unanimously, the Commission approved the Plan.

Chairman Dashiell stated the motion was approved.

COMPREHENSIVE DEVELOPMENT PLAN APPROVAL – Morea Realty LLC – 227 Florida Ave – Neighborhood Business Zoning District – 202100913, M-111, G-16, & P-338 (H. Eure)

Chairman Dashiell acknowledged Mr. Eure and Mr. Brock Parker. Also present were Mr. Chris Adamopolous, manager of the applicant, and Mr. Gary Spence from Phillips Signs. Chairman Dashiell asked Mr. Parker to proceed.

Mr. Parker indicated the shopping center was purchased by Mr. Adamopolous, it was constructed in the mid-70s. Mr. Adamopolous has purchased the structure and would like to freshen up the center. The goals are to redo the signage and the parking lot. There are three (3) trees in the parking lot where the roots have destroyed the parking lot. They desire to clean up the asphalt and add some curb appeal with landscaping. The plan illustrates three (3) upside-down T's, which are landscaping beds that will be mulched and filled with crepe myrtles and knock-out roses. The parking configuration shown on the plan illustrate the proposal is above the minimum requirements and the dimension of parking spaces are adequate. In reconfiguring the parking lot, a handicapped ramp will be installed on the face of the building and the handicap spaces will be brought up to code. Minor modifications to the building will include new awnings to match the ones across the street. The current dumpster in the back is not currently code compliant, which the pad will be enclosed to meet the code.

Mr. Eure presented items 5 and 6 contained in the Staff report. He mentioned the recommended changes will enhance the building. It is currently non-conforming since the building has never had a Comprehensive Development Plan because it existed prior to the adoption of the current City Zoning Code. There are no problems with the proposed changes and Staff recommends approval.

Chairman Dashiell agrees the plan suggests making important improvements to the complex and asked if there are any comments or questions from the Commissioners.

Mr. Eure added the sign is compliant as submitted as long as the size of the sign remains the same or smaller there are no concerns and the Commission is approving the style of the sign.

Hearing no questions or comments from the Commissioners, Chairman Dashiell called for a motion.

Mr. Rogers entered a motion to approve the plan as submitted, seconded by Mr. Thomas, and carried unanimously, the Commission approved the plan.

Chairman Dashiell stated the motion was approved.

PRELIMINARY/FINAL PLAT APPROVAL – Dedicated Properties, LLC (5 Lots) – Mr. and Mrs. Robert Ringgold, Minor Subdivision - Warren Road and Morris Road – A-1 Zoning District – M-41, G-3 & P-63 (M. Williams)

Chairman Dashiell welcomed Ms. Williams. She was joined by Robert and Julie Ringgold (the owners) and C.H. Brittingham (representative for the Ringgolds). Chairman Dashiell asked Ms. Williams to present the Staff Report.

This plat proposes the creation of five (5) lot minor subdivision from Parcel 63, with Lots 4 and 5 have to meet the 1:15 density requirements because the property is located in the A-1 Zoning District. The lots will be the first lots subdivided from the parent parcel since our regulatory date, and the proposed lots are a minimum of 2 acres per the Health Department requirements; and the remaining lands are proposed at 51.39 +/- acres. Most of the acreage is farmland with a couple of small wooded areas.

Recently, the Ringgold's received approval from the Board of Appeals to construct a building on the remaining lands near Morris Road for the purpose of operating their electrical business. Also, the Ringgold's intend to construct a residence on the remaining lands.

There is a cemetery located on the property, which is not part of the parcel of land as it was exempted out of an earlier land transfer. The cemetery and its deeded right-of-way are shown on the proposed subdivision.

The Planning Staff recommends approval of the subdivision as proposed. There will be no more rural density lots available from this parcel under current subdivision regulations.

The Planning Staff would like to make an additional recommendation with regards to Lot 4 and the remote sewage reserve area. The County's subdivision regulations do not currently address a minimum width of a piece of land, except with regards to road frontage and the width of the lot at the building setback line. There currently is no language addressing a strip of land leading to a remote sewage reserve area. For that reason, the Planning Staff is recommending the strip of land on proposed Lot 4 be a minimum of 20 feet in width to allow for machinery to access the sewage reserve area.

The proposed minor subdivision requires Planning Commission approval since more than three (3) lots are proposed.

Staff recommends approval with the following seven (7) conditions:

1. The Final Minor Subdivision Plat shall comply with all requirements of the Wicomico County Subdivision Regulations.
2. Health Department approval is required prior to the recordation of the Minor Subdivision Plat.

3. The Minor Subdivision Plat shall comply with all requirements of the Forest Conservation Regulations.
4. An Open Space Easement agreement will be recorded in the land records of Wicomico County.
5. A stormwater management plan is required and will need approval from the Department of Public Works prior to recordation of the plat.
6. The strip of land on Lot 4 leading to the remove sewage reserve area is to be a minimum of 20 feet wide.
7. This approval is subject to further review and approval and conditions imposed by the Planning and Zoning and Public Works Departments.

Chairman Dashiell asked Ms. Ringgold if she had anything to add, which she did not. Mr. Brittingham wanted to make sure any questions were answered.

Chairman Dashiell inquired if Commissioners had any questions or comments. Mr. Holloway offered advice concerning the 20' strip of land leading to the sewage reserve area. He suggested for them to keep it clear and well-marked for subsequent owners.

Upon a motion by Mr. Rogers to approve the subdivision of lands for Dedicated Properties LLC in accordance with the seven (7) provisions contained in the Staff report and reinforcing condition #6 regarding the 20' wide easement to be kept clear to allow for access of vehicles, seconded by Mr. Holloway, and carried unanimously, the Commission approved the preliminary/final subdivision plat.

Chairman Dashiell stated the motion was approved.

**REVISED SITE PLAN REVIEW – ACCESSORY STORAGE BUILDING – Witchmill, LLC
- Southwesterly side of Snow Hill Road, 800 Snow Hill Road – C-1 Select
Commercial Zoning District – M-38, G-22, P-32, Lots 17, 33, 34 (M. Williams)**

Chairman Dashiell confirmed Mr. Parker from Parker & Associates and Mike King (owner) were present. Chairman Dashiell asked Ms. Williams to present the Staff Report.

At the October 15, 2020 Planning Commission meeting, the applicant presented a Site Plan for the construction of a 65' x 70' accessory storage building on this site. However, the applicant is requesting approval for a revised Site Plan for a 50' x 92' accessory storage building, which will be located closer to the southeasterly property line. The revised Site Plan depicts the location of the

existing building, paved parking, proposed access fencing and access gate, the proposed building, and landscaping. The proposed size and location conform to all setbacks and code requirements.

Staff recommends approval with the following two (2) conditions:

1. The site shall be developed in accordance with the approved Site and Landscaping Plan.
2. Subject to further review and approval, if required, by the Wicomico County Public Works Department.

Mr. King addressed the Commissioners to discuss the reasons for changing the location of the building. The first impactful reason was due to trailers not having adequate room to safely turnaround without hitting the building. The second reason is to accommodate an elderly neighbor, who they would like to protect from noise and not have the building sit directly on her property line.

Mr. Parker indicated he was reconfiguring the shape of the building and moving it further back to provide for separation between structures.

Hearing no questions or comments from the Commissioners, Chairman Dashiell called for a motion.

Upon a motion by Mr. Rogers to grant site plan approval for Miller Investment Properties LLC subject to the two (2) conditions presented in the Staff report, seconded by Mr. Heath, and carried unanimously, the Commission approved the Revised Site Plan.

Chairman Dashiell stated the motion was approved.

PRELIMINARY PLAT EXTENSION – THE POND AT NUTTERS CROSSING (18 Lots) – Pottermore, LLC – Thomas H. Ruark - Stonehaven Drive – R-20 Zoning District & Airport Overlay – M-48, G-22 & P-171, 446, 447, 443 (M. Williams)

Chairman Dashiell addressed Mr. Parker from Parker and Associates (presenting for Thomas Ruark) was present. Chairman Dashiell asked Ms. Williams to present the Staff Report.

The Department received a request for a one-year extension of the Preliminary Plat approval for this project. The Sketch Plat for the re-designed development was approved by the Planning Commission in May of 2019; the Preliminary Plat and Tier Map revision were approved October 17, 2019; and a one-year extension of the Preliminary Plat was granted on October 15, 2020.

Over the past year, several of the proposed conditions established by the Planning Commission have been met, including a topographic survey of the

property, establishment of the floodplain line based on true elevations, delineation of the non-tidal wetlands, approval of an Improvements Construction Plan, as well as the Stormwater Management Plan.

Lot 12 was modified as recommended to provide a larger building envelope, prompting re-evaluation by the Health Department. The Health Department also re-evaluated Lots 7 and 8. All of the lots have approved percs; however, it also requires MDE approval. In addition, an amendment to the Wicomico County Comprehensive Water and Sewerage Plan is necessary, which MDE is an approving authority.

According to the Public Works Department, application has been made for the amendment, but the State's review is ongoing. This subdivision had originally planned for a community water and sewerage facility, but is now being changed to not planned for services. This process requires MDE initial approval, followed by County Council approval.

The Planning Staff recommends approval of a one-year extension of the Preliminary Plat due to the unique and extensive requirements associated with this re-designed subdivision. Significant progress has been made over the past year, and once approval is received from MDE for the two (2) aforementioned facets, the Final Plat can be presented to the Planning Commission.

Staff recommends approval with the following eleven (11) conditions:

1. The Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations.
2. Health Department approval is required prior to the Planning Commission review of the Final Plat.
3. The Final Plat shall comply with all requirements of the Forest Conservation program.
4. Final approval of the stormwater management plan by the Department of Public Works is required prior to recordation of the Final Plat.
5. Improvements Construction Plans shall be approved by the Public Works Department prior to the recordation of the Final Plat.
6. All lots will become members of the Pond at Nutters Crossing Homeowners Association and a Covenants and Restrictions document shall be recorded in the Land Records of Wicomico County prior to the recordation of the Final Plat.
7. A deed conveying the existing pond parcel and Parcel B to the Homeowners Association shall be recorded in the Land Records for Wicomico County prior to recordation of the Final Plat. The Homeowners Association will be responsible for maintenance of all stormwater facilities.

8. A deed of Forest Conservation Easement and long-term management agreement shall be recorded in the Land Records for Wicomico County prior to recordation of the Final Plat.
9. 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.
10. 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.
11. This approval is subject to further review and approval and conditions imposed by the Planning and Zoning and Public Works Departments.

Mr. Parker mentioned the majority of subsidiary approvals to move forward have been obtained. Upon receiving all final approvals, the project will move expeditiously towards for recordation and construction. He finished with a brief history of the project, which was originally approved and never went anywhere.

Chairman Dashiell acknowledged it appeared substantial work had been completed and asked if Commissioners had any questions or comments.

Mr. Thomas requested clarification on the request. Ms. Williams responded a one-year extension was granted in 2020 and the Commission can provide extensions of up to one year. Chairman Dashiell clarified, this is the second time where they are requesting a one-year extension.

Hearing no additional questions or comments from the Commissioners, Chairman Dashiell called for a motion.

Upon a motion by Mr. Rogers to approve a one-year extension of the preliminary plat for The Ponds at Nutters Crossing in accordance with the 11 conditions presented in the Staff report, seconded by Mr. Holloway, and carried unanimously, the Commission approved the Preliminary Plat Extension.

Chairman Dashiell stated the motion was approved.

Chairman Dashiell announced a recess for the Commission until 2:30 P.M.

PUBLIC HEARING – TEXT AMENDMENTS - In accordance with the procedural provisions of Section 225-20 "Amendments", of the Wicomico County Code, the County Council has proposed amendments to the text of the County Zoning Code Chapter 225 of the Wicomico County Code, titled "Zoning" Part 3, titled "Basic Definitions and Interpretations," Article VI, titled "Terms Defined," Section 225-25; Part 8 titled "Special Standards for Particular Uses," Article XX, titled "Uses and Standards Enumerated," Section 225-76, titled "Agricultural Operation, Farming," and Part 6, titled "Accessory and Principal Uses," Article XVIII, titled "Principal Uses," Section 225-67, titled "Table of Permitted Uses-designations" to regulate, the construction, location and size of open top storage tanks.

The meeting was called to order at 2:30 p.m. by Chairman Dashiell.

Chairman Dashiell presented opening remarks. The purpose of this public hearing is to receive comments on the proposed text amendment legislation by Wicomico County Council to Chapter 225 of the Wicomico County Code, titled "Zoning" and other related sections of 225 to regulate the location and size of an above ground, open top structure, designed and used for storage of agricultural product, by-product, fertilizer or soil amendment. He welcomed the public and discussed the guidelines of the hearing and requested that there not be repetitive comments. Each speaker has a 10 minute time limit and Chairman Dashiell requested that everyone state their name prior to speaking. The Public Hearing is being recorded by PAC 14. He asked attendees to place their cell phone on mute during public hearing and, if needed, to take calls outside of the Council Chambers. The purpose of the meeting is to receive comments about the County Council's proposed amendments to Chapter 225, Zoning of the Wicomico County Code.

There has been a number of issues and concerns surrounding this use that have been discussed at previous forums. He tasked each speaker to stay focused on the proposed legislation. The Record is open and will remain open until 5:00 PM on October 29, 2021. Written comments will be accepted this afternoon, which comments can be directed to Ms. Carter or Mr. Hall; they will be included as part of the Record. At the conclusion of this meeting, we will not be taking any action nor discussing any items mentioned by the speakers. He mentioned an interested party sign-up sheet is available for anyone wanting to stay abreast of the proposed legislation. Chairman Dashiell asked Mr. Wilber to provide an overview of the proposed legislation.

An overview of the proposed legislation was provided by Mr. Wilber. He communicated, the proposed legislation is a text amendment to the existing Zoning Code. It provides a definition of an above ground open top storage tank

designed and used for the storage of an agricultural product, by-product, fertilizer or soil amendment.

The qualifications for an open top storage tank are as follows:

- 1) An open top storage tank less than 150,000 gallons in capacity, or multiple open top storage tanks with an aggregate capacity not exceeding 150,000 gallons, are only permitted in the I-1 and I-2 Zones.
- 2) An open top storage tank with a capacity exceeding 150,000 gallons, or multiple open top storage tanks with an aggregate capacity exceeding 150,000 gallons, are permitted by special exception in the I-1 and I-2 Zoned Districts.
- 3) An open top storage tank must have a minimum setback of 300 feet from all property lines, regardless of capacity or Zoning District.
- 4) An open top storage tank may only be accessed by vehicle, in the Zoning District, from a collector street.
- 5) An open top storage tank erected prior to the enactment of this legislation, pursuant to a permit by the County, may continue as a non-conforming use in its current location regardless of Zoning District.

In addition, the Bill proposes to amend §225-67 Table of Permitted Uses, Resource Conservation and Residential Districts to reflect the changes created by this legislation. Also, Commercial, Institutional, Business and Industrial Districts shall be amended to reflect the legislation.

Mr. Wilber read the Public Hearing notice into the record and administered the oath to the public attendees testifying at the Public Hearing.

Chairman Dashiell welcomed the public and directed speakers to state their name upon arriving at the podium.

Mr. Mark S. Cropper, partner of Ayres, Jenkins, Gordy & Almand, P.A., representing Edmund "Biff" H. Burns, IV came forward. He submitted a written comment on October 13th to Planning and Zoning along with numerous attachments. He said this legislation only refers to limiting the location of tanks to only industrially zoned lands. He mentioned most of the land in Wicomico County is zoned agricultural, allows for agricultural uses, or in the agricultural land use category in the Comprehensive Plan. If this legislation is approved, the vast majority of the County will be eliminated from having open top storage tanks. The Comprehensive Plan is extensive with provisions to preserve, protect, and encourage agricultural activities. The negative impact this would have on the farming community is large because you are requesting farmers to lease or purchase industrial land to place a tank on, then add in the expense of transferring the product back to the farming land. He added that at the recent

work session, Mr. Holloway noted if enacted, as proposed, it will not apply to closed tanks.

In 2019, a few of Mr. Burns' neighbors initiated litigation against Mr. Burns in regards to the permit issued by Wicomico County for the construction of an open top tank on his property. The tank was constructed consistent with the permit. He proceeded with providing a brief history of the court actions associated with his client's tank. A decision from the Maryland Court of Special Appeals is pending. He believes it is inappropriate for the Council to adopt any legislation that could impact upon the legality or the integrity of the tank that was permitted and built on Mr. Burns' property until a decision is made by the Court.

If the Wicomico County Council does adopt this legislation as proposed, it turns Mr. Burns' tank into non-conforming use and could have other impacts depending on the court's ruling.

Ms. Lynette Kenney lives on Porter Mill Road with her husband, about a quarter-mile from the open top storage tank. They derive most of their income from the agricultural sector and desire a strong viable agricultural industry, including poultry, on the Eastern Shore.

Ms. Kenney and the neighbors have been living through this ordeal for two and a half years. There are approximately 13 homes within a ¼ mile from the tank; 36 homes within a ½ mile and over 50 homes within a mile. The neighbors have been affected by the stench and heavy industrial tanker traffic generated by the existing tank. The roads were not built to withstand high industrial traffic. In addition to the environmental and health factors they are concerned about well-being of their loved ones because of having to share the roads not designed for industrial traffic

She questioned if DAF is an industrial waste or agricultural and continued with providing information related to an existing tank and permitting process. Ms. Kenney indicated other counties and states regulate use of storage tanks. Talbot County regulates an organic resource recovery facility, which uses poultry waste and processing waste in an anaerobic digester. Delaware considers DAF an industrial waste and regulations are stricter than Maryland. DAF is trucked to Wicomico County from Virginia and Delaware to be spread on our farmland. She expressed concerns about hazardous road conditions.

The neighbors were misled by Mr. Burns when he stated the tank is only used from December 15th to the end of February; it has been in use all year long.

Ms. Kenney recommends these tanks be placed on collector roads and not just anywhere in the County on agricultural land. She suggests considering lagoon storage and regulations requiring anaerobic digesters. She is in favor of such

facilities and it is a better environmental alternative. Tops cannot be placed on open top storage tanks because the waste decomposes and creates gas; the gas would cause the top to pop off.

Mr. John Groutt, Wicomico Environmental Trust ("WET"), started with a question if the County has determined if there is a need for additional DAF tanks in Wicomico County. He noted Perdue is the only plant producing DAF waste in the County. Perdue Farms has entered into a 20 year contract to have all of their waste processed in an anaerobic digester near Seaford; it is environmentally sound without nuisances. No processing plants in Wicomico County currently exist to send materials to such a tank. Materials will be coming from other counties and states. Does not know what is in the material or where it is coming from.

WET and Friends of the Nanticoke applaud Perdue Farms for their efforts. WET joins the Delmarva Chicken Association's in support of the anaerobic digester facility in Seaford.

Mr. Groutt asks the Council to consider who will benefit and who will bear the burden and costs of unregulated DAF tanks in Wicomico County. He believes this is not an agricultural operation, instead it is a large-scale industrial operation that belongs in zoning areas designed to accommodate the tanks. If used in industrial areas, they will be distanced from residential and business areas and located among other large-scale industrial operations. This is not against farmers, which WET supports. It is giving agriculture a bad name and this is a heavy industrial and commercial issue needing to be addressed. The proposed zoning change is modest and begins to recognize unaddressed issues.

Ms. Carol Dunahoo, speaking on behalf of the Friends of the Nanticoke River and WET, addressed the arguments being mentioned today concerning restrictions on DAF waste storage are bad for local agriculture. Ms. Dunahoo or the organizations she represents are not anti-agricultural. The discussion is not about agriculture or the right to farm, it is waste management.

Ms. Dunahoo stated DAF is an organic waste from poultry processing plants or rendering plants such as Valley Proteins. She continued with a brief overview of the waste management companies. The proposed amendments would govern the storage of open DAF storage and Mr. Smethurst's alternative for open DAF storage of any kind. It's a challenge to understand what agricultural needs would necessitate to permit the unregulated storage of DAF waste. Other than Perdue, which will be sending materials to an anaerobic digester for the next 20-years, there are no rendering plants in Salisbury.

Ms. Dunahoo cited we are talking about waste that will be trucked in from other counties or states purely for storage in Wicomico County. Industrial zoned

storage will not make it impossible for farmers to use DAF on their fields. DAF has been applied directly on Wicomico County farms for the past twenty-five (25) years without onsite storage anywhere in the County. Storage should not be responsibility of farmers. If a farmer chooses to store DAF in its raw form rather than using an anaerobic digester, they should have to store it appropriately during the time when it cannot be applied to land. Surprised by some agricultural interest comments in opposition to the legislation. The amendment won't prevent farmers from storing manure or other organic matter produced on their farm. If any doubt about impacts of legislation on the storage of manure or other fertilizers, amend legislation to specifically apply only to DAF.

Mr. Sam Parker is a farmer and has no intentions to build or construct any DAF tanks as he lives and operates a farm in a highly residential area. He believes there are areas within the County where it makes sense to use this product and does not believe ruling it out entirely is a good choice. Uncertain if tanks only being permitted in industrial zones would bring any value to the farmers using the product. Not certain of truck traffic coming in and out of industrial zone near Henry S. Parker complex is wanted.

As this legislation is reviewed, Mr. Parker asks the Council to keep in mind unintended consequences that could come along with making a wide-sweeping legislation. Perhaps a solution may be to allow in A-1 land with special exemptions.

Mr. Steve Smethurst stated he is representing most of the neighbors protesting the tank on Porter Mill Road. He mentioned the legislation does not regulate the open top tank itself but its uses.

A problem of the proposed text amendment is that it is not the way to amend a zoning code for a use being regulated. As proposed, the legislation is regulating an open-storage tank. There is not a structure in the Zoning Code that needs a special exception. Uses are regulated not structures. Agrees with most agricultural community comments opposing the text amendment. The proposed text amendment may hurt agriculture because it might regulate the use in agricultural zones for things farmers do. The product comes from a facility not a farm. It comes from an industrial facility. According to the County Zoning office this use is acceptable in the agricultural zoning district, which it is not and is only permitted in the I-2 Zoning District by special exception. This legislation eliminates any controversy in the interpretation of the code. A composting facility is permitted in the I-2 by a special exception, a text amendment should eliminate any questions.

The Zoning office made a mistake, but it was based on wrong information provided by the applicant. The applicant had to go back for stormwater management and erosion control, which the County made them submit

documents. He notified the applicant, prior to constructing the tank, that his proposal is not in conformity of code and could expect a lawsuit. The case is in front of the Court of Special Appeals.

The substitute amendment deals with materials not originating on site, which takes care of most complaints from the agricultural community. The County's proposal doesn't address this. The alternate proposal focuses on the use instead of the structure.

He suggested looking at his alternative amendment. A composting facility definition deals with materials not originating on the site. It's about the storage rather than the structure. He did not attempt to establish an acreage or setback.

Chairman Dashiell stated the record remains open until October 29, 2021 and interested parties can sign up for updates. He thanked the public for attending the meeting and providing their comments on this important topic. He mentioned this particular issue is impacting our farm communities as well as all who live in Wicomico County. The comments made today will be taken under consideration.

There being no further business, upon a motion by Mr. Rogers, seconded by Mr. Heath and with all members voting in favor the Commission meeting was adjourned.

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, Zoning, and Community Development Office.



Charles "Chip" Dashiell, Chairman



Keith D. Hall, AICP, Secretary



Janae Merchant, Recording Secretary

