CECIL COUNTY PLANNING COMMISSION
MEETING MINUTES
Wednesday, January 23, 2019
6:00 p.m.

PRESENT: Bill Miners, Wyatt Wallace, Don Harmer, Peter Kirsh, Cameron Brown, Esq., Bill Coutz (Ex-Officio), Lloyd Harmon (DEH), Kordell Wilen (LUDS/DPR), Tony Di Giacomo (LUDS/P&Z), Eric Sennstrom (Director/LUDS), Steve O’Connor (LUDS/P&Z) and Jennifer Bakeoven (LUDS/P&Z.)

ABSENT: Pat Doordan - Chairman, Chad Johnston.

MINUTES: Motion was made by Mr. Miners, seconded by Mr. Kirsh and unanimously carried to approve the December 17, 2018, 6:00 p.m.

2019 Cecil County Master Water & Sewer Plan

Eric Sennstrom, Director of Land Use & Development Services, appeared and presented an overview of the plan. Title 9, Subtitle 5, Sub-section 9-503 of the Environment Article of the Annotated Code of Maryland requires the County to have Master Water & Sewer Plan. It also requires a review of the plan on a three (3) year basis. Cecil County is currently operating under the 2015 MW&S Plan. This document is proposed to replace the 2015 document. Per Title 9, Sub-section 9-503 D (1)(ii) and Title 9 Sub-section 9-506 A(1)(ii) of the Environment Article, a copy of the plan was mailed to all municipalities for review and comment. This matter will be introduced before the County Council on February 5, 2019, public hearing on March 5, 2019 and a decision will be made on March 19, 2019. If the Council approves the document, the plan will be sent to MDE, who has sixty (60) days to review and approve the document. If they are unable to render a decision within the initial sixty (60) days, two (2) additional forty-five (45) day periods will be given for review and approval.

HEALTH DEPARTMENT: No Health Department comment.

COMMENTS IN SUPPORT: None.

COMMENTS IN OPPOSITION: None.

RECOMMENDATION:
Staff recommended approval.

ACTION: Motion to recommend approval made by Mr. Kirsh.
Motion seconded by Mr. Miners.

VOTE: The recommendation of approval carried.

The next meeting for the review of this plan will be February 5, 2019 before the County Council.
SUBDIVISIONS:

Amy DiPietro, Morris & Ritchie Associates, Inc. and Andy Freeman, Kline Industries, appeared and presented an overview of the project.

COMMENTS IN SUPPORT: None.

COMMENTS IN OPPOSITION: None.

Mr. Kirsh read the comments of the Health Department:
A Water allocation has been granted for 64 lots by Artesian Water Maryland. A sewer allocation has been granted for 64 lots by Public Works.

A statement that “Use of public water and sewer is in conformance with the Master Water and Sewer Plan” is required on the record plat. Another statement that “Public water and sewer will be available to all lots offered for sale” is also required on the record plat.

Mr. Di Giacomo, LUDS/P&Z, read the comments of the department:
This project is in compliance with §3.8 regarding public notification.

With regard to the posting of plats on the County’s website, notice is hereby given the jpg file submissions can be only 11 inches, maximum, in any direction. Adherence to that requirement will enable the County to better serve the public.

Zoning:

As originally approved: SR, M1, BG, and RCA & LDA (Critical Area) – PUD Proposal

Current for Phase 2: ST

Density: The SR zone permitted a base density of 1 du/1 ac, 2/1 with community facilities, or 4/1 in a Planned Unit Development.

Per §256 of the Zoning Ordinance, the PUD “Sketch Plat/Special Exception Application” was granted a Special Exception on 9/28/04 by the Board of Appeals1 – conditioned on the following issues being adequately addressed:

1) No lots are proposed in the M1 zone;
2) No lots are proposed in the nontidal floodplain;
3) The complete estimated staging of construction has been shown on the plat and narrative, as required in §6.1.1 (e);
4) The perennial stream buffers have been accurately depicted;
5) No dwellings are depicted in the perennial stream buffers;
6) The nature of the proposed uses in the “employment” area in the SR zone have been declared and they are, in fact, permitted in the BL zone;
7) The total number of off-street parking spaces and the space to unit ratio for the proposed townhouse condominiums has been provided on the plat, consistent with §4.0.13 (m);
8) The townhouse condominium lot boundaries are differentiated from the townhouse structure footprints, as required in §4.0.13 (m);

1 Because a PUD is permitted in the SR zone only by Special Exception.
9) A note to the effect that the Critical Area portion of the property is exempt from the Forest Conservation Regulations, per §3.2B;
10) All contradictions between the plat and the narrative have been eliminated;
11) Reference to §29.5.a in Note # 7 has been corrected;
12) The elevations of each building type have been provided, per §256.1.a;
13) The Variance needed to create the townhouse lots on the proposed private roads has been cited on the plat, or the proposed private roads are eliminated;
14) The proposed density has been cited on the plat submitted for review by the Planning Commission and Board of Appeals;
15) A draft of the terms and provisions of the public works agreement being provided in the narrative, as required by §256.1.c;
16) Any townhouse units in excess of 20% are to be considered substituted for permitted semi-detached or duplex units, with the condition that the total number of townhouse units not exceed the proposed 176 units; and
17) A Traffic Impact Study (TIS) being completed prior to Preliminary Plat and/or Preliminary Plat/Site Plan reviews by the TAC. The TIS must account for the full impact of the full potential build-outs in all zoning classifications on the parcel, regardless of whether or not they are specifically part of the PUD proposal.

In accordance with §256.5, which stipulates, in part, that “Following approval of the PUD Special Exception by the Board of Appeals the PUD or section thereof shall be processed in accordance with the provisions of the Cecil County Subdivision Regulations,” the Preliminary Plat, proposing 592 lots\(^2\) at a density of 2.63/1, was approved\(^4\) on 4/18/05, conditioned on:

1) Health Department requirements being met;
2) DPW requirements being met;
3) The forest retention areas being depicted on the Final Plat;
4) The FCP and the Landscape Plan being approved prior to the Planning Commission’s review of the Final Plat;
5) Landscape Plan for this PUD proposal including the §187.2 zoning district-separating bufferyards details for that part of the M-1 area associated with the proposed water tank, filtration station, and wells;
6) A Site Plan being approved for the Community Center prior to the Planning Commission’s review of the Final Plat;
7) A Plans being approved by DPW for the water tower and the water filtration building prior to the Planning Commission’s review of the Final Plat;
8) No street trees being planted within 20 of sewer laterals and cleanouts;
9) Confirmation of sewer allocation being received from the Cecil County DPW prior to Final Plat review by the Planning Commission;
10) Confirmation of water allocation being received from the water provider prior to Final Plat review by the Planning Commission;
11) MDE verifying that the water provider has adequate capacity to serve these lots prior to Final Plat review by the Planning Commission;
12) MDE verifying that the GAP is adequate to serve these lots prior to Final Plat review by the Planning Commission;
13) Plans for water facilities demonstrating the ability to provide and maintain adequate quality and pressure, and being verified by MDE and the Cecil County Department of Public Works prior to Final Plat review by the Planning Commission;
14) Fee simple access being provided to all stormwater management facilities;

\(^2\) On 224.73 SR-zoned acres
\(^3\) The Special Exception that was granted allowed 176 townhouses, in excess of the 118 allowed per §250.2 at that time.
\(^4\) The Planning Commission has authority for the approval of the Preliminary Plat for PUD proposals.
15) The Landscape Plans for all BG- and M1-zoned site plan projects including the zone-separating bufferyards depicted on this PUD plat;
16) The details of the proposed E.M.S. building being reviewed by the County EMS Dept. and/or the Charlestown Fire Co. prior to Final Plat review;
17) The appropriate Charlestown Crossing Boulevard widening being shown on the Final Plat;
18) The zoning boundaries being corrected;
19) The proposed uses being made consistent with those permitted in the respective zones; and
20) Documentation confirming that the Charlestown Volunteer Fire Department deems the cul-de-sac radii and roadway width are acceptable being received prior to Final Plat review by the Planning Commission.

Per §4.1.18, 1-year Preliminary Plat extensions were granted 3/19/07, 1/23/08, & 12/15/08.

The Phase 1 Final Plat, for 50 lots, was approved on 6/16/08, conditioned on:
1) Health Department requirements being met;
2) DPW requirements being met;
3) The full balance of the common open space being provided in future phases and sections;
4) The 10’ street tree planting easement being depicted and noted on the Record Plat;
5) Deed restrictions for the long-term protection of the street trees & any Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;
6) A Landscape Agreement’s being executed prior to recordation;
7) A Homeowners’ Association for maintenance of common open space being established with $50 per recorded lot placed in escrow for improvements prior to recordation;
8) The Record Plat’s containing a statement, signed by the Health Department approving authority, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
9) The Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale;
10) A Maintenance Association for the maintenance of the private mini-roads being established prior to recordation; and
11) No lots fronting on any of the private roads.

Also on 6/16/08, for INFORMATION ONLY, an amended Preliminary Plat overview was presented to the Planning Commission.

Again for INFORMATION ONLY, an alternate layout for Phase 1 townhouses was presented to the Planning Commission on 3/16/09, when Mr. Bechtel, counsel for Clark Turner Homes indicated that a Variance would be sought from the Board of Appeals. In non-binding action, Planning Commission members agreed that they favored the modified design.

On 4/29/09, a Variance (File No. 3450) was granted to allow more than 4 units per townhouse building, as was reflected in lots 74-78. Variance No. 3450 must be cited on the Record Plat.

Other design modifications included in the revised Phase 1A Final Plat were:
- Single family lots had increased minimum width from 50’ to 52’.
- Townhouse lots had increased in length from 80’ to 82’.
- The proposed private Henrietta Lane was made 18’ wide.
- Common open space parcels were designed into the proposed Charlestown Crossing Blvd. right-of-way to facilitate “entry features” and medians.

5 Unless either a Final Plat is approved and recorded or, as requested, the Preliminary Plat’s validity is again extended in the interim, said validity will expire on 12/15/09.
• Common open space parcels were placed adjacent to proposed Lots 66 and 87.
• The TND design included street trees to be planted between the curb and sidewalk.

The revised Phase 1A Final Plat included 14 single family and 36 townhouse lots; it was approved on 6/15/09, conditioned on:

1) Health Department requirements being met;
2) DPW requirements being met;
3) The full balance of the common open space being provided in future phases and sections;
4) Any necessary revisions to the FFCP/Landscape Plan being approved prior to recordation;
5) Deed restrictions for the long-term protection of the street trees & any Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;
6) A Landscape Agreement’s being executed prior to recordation;
7) A Homeowners’ Association for maintenance of common open space being established with $50 per recorded lot placed in escrow for improvements prior to recordation;
8) The Record Plat’s containing a statement, signed by the Health Department approving authority, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
9) The Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale; and
10) The lot numbers’ being included in the respective Record Plat title blocks, per §4.2.12 (a) 2.

The Phase 1A recordation plats were signed on 12/11/09 and 3/29/10.6

The Special Exception that was granted allowed 176 townhouses.7

The Phase 1B (Lots 146-149 & 154-156) & 1C (Lots 141-145 & 157-160) Final Plat was approved on 11/15/10, conditioned on:

1) Health Department requirements being met;
2) DPW requirements being met;
3) The full balance of the common open space being provided in future phases and sections;
4) Any necessary revisions to the FFCP/Landscape Plan being approved prior to recordation;
5) Deed restrictions for the long-term protection of planted buffers, street trees & any Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;
6) The 10’ Street Tree Planting Easement being labels on the Record Plat;
7) A Landscape Agreement’s being executed prior to recordation;
8) A Homeowners’ Association for maintenance of common open space being modified to include these lots, with $50 per recorded lot placed in escrow for improvements prior to recordation;
9) The Record Plat’s containing a statement, signed by the Health Department approving authority, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
10) The Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale;
11) The Record Plat’s signature block for DPW indicating “Director of Chief Engineer” under the signature line;
12) The Record Plat’s signature blocks for the Health should indicating “Approving Authority” under the signature lines; and
13) References to private roads being eliminated from the Record Plat.

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6 This extended Preliminary approval until 3/29/12.
7 In the SR zone, no more than 20% of the PUD dwelling units can be townhouse or apartment units.
The Phase 1B (Lots 146-149 & 154-156) & 1C (Lots 141-145 & 157-160) Record Plat was signed on 12/21/10.8

The separate Garden Apartment Concept Plat was approved on 12/20/10, conditioned on:

1) All DPW requirements being met;
2) The TIS and associated transportation issues being resolved to the satisfaction of SHA and DPW prior to the Planning Commission’s review of the Preliminary Plat; and
3) The granting of the waiver for the parking to 1.8 spaces per dwelling unit, with the additional contingent, future spaces being located and noted on the plat.

The separate Garden Apartment Preliminary Plat was approved on 2/22/11, conditioned on:

1) Health Department requirements being met;
2) DPW requirements being met;
3) The revised FCP and revised Landscape Plan being approved prior to the submission of the Final Plat;
4) The major site plan for the clubhouse being approved prior to Final Plat approval(s);
5) Documentation of water allocation being provided by the applicant prior to the submission of the Final Plat;
6) Documentation of sewer allocation/capacity being provided by the applicant prior to the submission of the Final Plat; and
7) Deed restrictions for the long-term protection of the Forest Retention/ Afforestation Areas (FRAs) must being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Final and Record Plats.

The separate Garden Apartment Final Plat was approved on 8/15/11, conditioned on:

1) Health Department requirements being met;
2) DPW requirements being met;
3) The Landscape Agreement's being executed prior to recordation;
4) Deed restrictions for the long-term protection of the Forest Retention/ Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;
5) Unless it is to be owned by the HOA, all open space being labeled and referenced as “open space,” rather than as common open space;
6) The Record Plat’s again containing a statement signed by the Health Department, “approving authority”, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water & Sewer Plan; and
7) The Record Plat’s also again containing a statement, signed by the owner, to the effect that such facilities will be available to all apt. units offered for lease.

The separate Phase 1 Garden Apartment Recordation Plat was signed on 3/02/12, but that recordation had no bearing on extending the validity of the 4/18/05 Preliminary Plat.

The Phase 1B (Lots 116-125 & 165-170) & 1C (Lots 126-140 & 161-164) Final Plat was approved on 5/21/12, conditioned on:

1) Health Department requirements being met;
2) DPW requirements9 being met;
3) The full balance of the common open space being provided in future phases and sections;
4) Any necessary revisions to the FFCP/Landscape Plan being approved prior to recordation;
5) Deed restrictions for the long-term protection of planted buffers, street trees & any Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;

8 Its recordation extended the Preliminary approval until 12/21/12.
9 This should include the maintenance of the street trees in the right-of-way by adjacent homeowners or the Homeowners’ Association.
6) A Landscape Agreement’s being executed prior to recordation;
7) A Homeowners’ Association for maintenance of common open space being modified to include these lots, with $50 per recorded lot placed in escrow for improvements prior to recordation;
8) The Record Plat’s containing a statement, signed by the Health Department approving authority, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
9) The Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale;
10) References to private roads being eliminated from the Record Plat; and
11) The Record Plat’s containing the current zoning of the property.

The Phase 1B (Lots 38-65 & Lots 102-105) Final Plat was approved on 9/17/12, conditioned on:

1) Health Department requirements being met;
2) DPW requirements\(^{10}\) being met;
3) The full balance of the common open space being provided in future phases and sections;
4) Any necessary revisions to the FFCP/Landscape Plan being approved prior to recordation;
5) Deed restrictions for the long-term protection of planted buffers, street trees & any Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;
6) A Landscape Agreement’s being executed prior to recordation;
7) A Homeowners’ Association for maintenance of common open space being modified to include these lots, with $50 per recorded lot placed in escrow for improvements prior to recordation;
8) The Record Plat’s containing a statement, signed by the Health Department approving authority, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan; and
9) The Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale.

Per §4.1.16, the recordation of a Record Plat from any section of a Preliminary Plat “shall extend the Preliminary Plat approval for an additional two (2) year period from the date of said recordation.”

The Phase 1B (Lots 38-65 & Lots 102-105) Record Plat was signed on 2/28/13 (extending the Preliminary Plat’s validity until 2/28/15).

A Resubdivision Plat was signed on 11/8/13 (extending the Preliminary Plat’s validity until 11/8/15).

At the 6/15/15 Planning Commission review of the Phase 1C Final Plat, the applicant was reminded that unless there was another recordation\(^{11}\) or Preliminary Plat extension granted prior to 11/8/15, the Preliminary Plat’s approval would expire on that date.

The Phase 1C, Lots 1-37, Final Plat was approved on 6/15/15, conditioned on:

1) Health Department requirements being met;
2) DPW requirements\(^{12}\) being met;
3) The full balance of the common open space being provided in future phases and sections, with any future phases or section requiring a full accounting of the balance due (combination of open space and/or common open space);
4) Any necessary revisions to the FFCP/Landscape Plan being approved prior to recordation;

\(^{10}\) This should include the maintenance of the street trees in the right-of-way by adjacent homeowners or the Homeowners’ Association.

\(^{11}\) The recordation of a Final Plat would extend the Preliminary Plat’s approval for a period of two (2) years from the date of said recordation.

\(^{12}\) This should include the maintenance of the street trees in the right-of-way by adjacent homeowners or the Homeowners’ Association.
5) Deed restrictions for the long-term protection of planted buffers, street trees & any Forest Retention/Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plat;
6) A Landscape Agreement’s being executed prior to recordation;
7) A Homeowners’ Association for maintenance of common open space being modified to include these lots, with $50 per recorded lot placed in escrow for improvements prior to recordation;
8) The Record Plat’s containing a statement, signed by the Health Department approving authority, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
9) The Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale;
10) Variance No. 3450’s being cited on the Record Plat; and
11) The submission of future phases or sections including an accounting of the dwelling type ratios for consistency with overall project PUD recommendations.

The Phase 1C Recordation Plat was signed on 11/2/15, extending Preliminary Plat validity until 11/2/17.

A revised Phase 1C Recordation Plat was signed on 6/22/16, extending Preliminary Plat validity until 6/22/18.

The separate Phase 2 Garden Apartment Concept Plat was approved13 on 12/21/15, conditioned on:
1) All Health Department requirements being met;
2) All DPW requirements being met;
3) The detailed parking plan’s being included within the Preliminary Plat, prior to TAC review;
4) The parking plan’s including details relating to §278.2 and §279;
5) The open space sensitive areas thresholds’ being calculated and included on the Preliminary Plat, prior to TAC review;
6) The requested (Site Data note # 17) design waivers relating to §28.4.a, §28.4.d, §28.4.h and §28.4.i being granted;
7) Site Data Note 16’s reference to “MUTGD” signage being corrected to “MUTCD;”
8) All references to “multifamily Residential” for the RM zone being corrected to “High Density Residential;”
9) The Parking Schedule’s ADA surface space count being made consistent with what is depicted on the plat;
10) The Land Use Summary’s spelling of “residents” being corrected;
11) The correct nomenclature, “open space”, being used in the entirety of all Preliminary and Final Plat submissions;
12) The correct spelling of “delineation” being used in Site Data note # 10 for all Preliminary and Final Plat submissions; and
13) Fire hydrant locations being selected in consultation w/Charleston Fire Co. and DPW prior to Preliminary Plat submission for TAC review.

Subsequently, the Phase 2 Preliminary Plat was reviewed by the Technical Advisory Committee (TAC) on 4/6/16, consistent with §’s 4.1.1 & 4.1.2.

The separate Phase 2 Garden Apartment Preliminary Plat was approved14 on 6/20/16, conditioned on:
1) All Health Department requirements being met;
2) All DPW requirements being met;

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13 This project location is situated within the 2010 Comprehensive Plan’s Medium Density Growth Area land use district, and, as established by the County’s adoption of the Sustainable Growth and Agricultural Preservation Act’s tier map, this site is located within a Tier II area. Tier II areas are those planned to be served by public sewerage systems in locally designated growth areas needed to satisfy demand for development at densities consistent with the long term development policy after consideration of the capacity of land available for development including infill and redevelopment within the County. The County may only grant approval if all lots will be served by public sewer or if a minor subdivision is served by on-site sewage disposal systems.

14 In addition to the Preliminary Plat, a Site Plan for the same project was also submitted, which was confusing and redundant to the review and approval process.
3) The requested (Site Data note # 17) design waivers relating to §28.4.a, §28.4.d, §28.4.h and §28.4.i being granted;
4) Documentation of water allocation and sewer allocation/capacity being provided by the applicant prior to the Planning Commission’s review of the Final Plat;
5) The Final and Record Plats’ containing a statement to be signed by the Health Department, “approving authority”, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
6) The Final and Record Plats’ also containing a statement, to be signed by the owner, to the effect that such facilities will be available to all units offered for lease or rent; and
7) The final Forest Conservation Plan (FCP)/Landscape Plan and SWM Final Plan being approved prior to Planning Commission review of the Final Plat.

The separate Phase 2 Garden Apt. Final Plat was approved on 9/19/16, conditioned on:
1) All Health Department requirements being met;
2) All DPW requirements being met;
3) Any sheet(s) submitted being labeled to start as sheet 1 of … ;
4) The Title Block citing this as Phase 2;
5) The Title Block citing this as a “Final Plat” (a note can state that with the recordation of this plat, the non-tidal wetland details of the previously recorded Phase 1’s sheet 5 of 5 is thus supplanted);
6) General Note # 10 being revised or struck so as not to erroneously convey that a Phase 2 Plat was previously recorded;
7) General Note # 11 also being revised or struck so as not to erroneously convey that a Phase 2 Plat was previously recorded;
8) The unnumbered note referencing “lots created by this subdivision” being corrected;
9) General Note # 1 citing the zoning as RM;
10) Subdivision Data Note # 5 citing the zoning as RM;
11) General Note # 1 being corrected to describe the RM zone as “High Density Residential;”
12) Adequate explanatory graphics being provided;
13) The inclusion of a citation of required setbacks in addition to a note citing the previously-granted design waivers being included;
14) The structures’ be demarked by a bold line; and
15) A note being included that fully explains all detail changes between the approved Preliminary Plat and the Final/Record Plat.
16) The Record Plats’ containing a statement to be signed by the Health Department, “approving authority”, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
17) The Record Plats’ also containing a statement, to be signed by the owner, to the effect that such facilities will be available to all units offered for lease or rent;
18) The Landscape Agreement’s being executed prior to recordation;
19) Deed restrictions for the long-term protection of the Forest Retention/ Afforestation Areas (FRAs) being recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Record Plats; and
20) All plat references to “Board of County Commissioners” being changed to “Cecil County Government” prior to recordation.

The separate Phase 2 Garden Apartment Recordation Plat was signed on 9/14/17, but that recordation had no bearing on extending the validity of the 4/18/05 Preliminary Plat.

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15 An FCP and Landscape Plan were approved on 4/29/08. A revised FCP and Landscape Plan were approved on 12/11/09 and 12/14/09, respectively.
16 This is required, per §4.2.13(l).
As was commented during the Phase 1C (Lots 1-37) Final Plat review, “The submission of future phases or sections will necessitate an accounting of the dwelling type ratios per consistency with PUD requirements.”

Currently, per §250.2 recommends that PUDs in ST zone consist of maximums of 30%, 60%, and 40% for detached, semi-detached/duplex, and townhouse or apartment dwellings, respectively. Since those percentages total 130%, those are obviously maximums, not minimums.

In the previous Zoning Ordinance, under which this PUD was approved, in the SR zone, there was no percentage limit on detached dwellings, 30% on semi-detached/duplex, and 20% on townhouses or apartments. The applicant was reminded that the 16th condition of the 2004 Special Exception approval permitted the project to exceed the number of townhomes allowed, but with no more than 176.

A total of 592 dwelling units were approved for this PUD, and again, the 16th condition of the 2004 Special Exception approval allowed for no more than 176 townhomes.

Since all 64 lots are proposed to be single family, the townhouse issue is moot.

As commented at TAC review, since, the purpose of this Preliminary Plat is the revise the Phase 2 details of Preliminary Plat approved on 4/18/05 – which will have expired prior to the Preliminary Plat’s review and possible approval by the Planning Commission – the issue of the validity of the 4/18/05 Preliminary approval is also moot.

With no valid Preliminary approval, we must next examine Concept approval validity. Per §4.0.9 of the Subdivision Regulations, when originally approved, Concept Plats were valid for two years.

As a PUD, however, per §256 of the Zoning Ordinance, a Sketch Plat/Special Exception application, approved by the Board of Appeals served in lieu of Concept Plat approval. §’s 256, 307, 308 and 313 were silent as to a Special Exception’s duration of validity.

§312.3 provided that the Board of Appeals may (could) prescribe a time limit, which in it’s 9/28/04 approval, it did not. Therefore, the 9/28/04 Special Exception, serving as this project’s Concept approval, remained valid at the time of the 6/6/18 TAC review.

Subsequently, on 10/23/18, the Board of Appeals, considering the evolution of this project, including that:

- the original Special Exception’s including permission to exceed the then-20% recommended maximum for town homes;
- the granting of the Variance (File No. 3450 on 4/29/09) to allow design flexibility with more than 4 units per townhouse building;
- the 424 apartment units, though from a separate applicant, have, in fact, become an integral part of the Charlestown Crossing layout;

APPROVED, the modifications to the Special Exception, conditioned on:

1) All still-applicable conditions of the original 9/28/04 Special Exception remaining in effect; and
2) All provisions of the 4/29/09 Variance (File No. 3450) remaining in effect.

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17 The 2004 Special Exception approval allowed no more than 176 townhomes.
18 The 332 in the apartment component + the 170 towns and singles will have consumed 502 of the 592 approved.
19 Currently, per §4.0.9, Concept Plat are valid for three years.
20 The TIS, for example, has already been completed.
This Preliminary Plat is consistent with that reviewed by the TAC on 6/6/18 and the Special Exception Sketch Plat approved by the Board of Appeals on 10/23/18.

One difference between the 4/18/05 Preliminary Plat and this Phase 2 Preliminary Plat is that 64 single family lots are now proposed where there were 59 townhomes. If approved, then that would bring the lot total to 234 of 592.

Another difference is the absence of the then-proposed clubhouse, pool, bocce and tennis courts.21

All common open space must continue to be labeled and referenced as ‘common open space’.

The lot areas and dimensions have been included, as required.

Site Data Note # 31 needs to cite the 10/23/18 Special Exception.

The Charlestown Fire company has been consulted with respect to the proposed fire hydrant locations and cul-de-sac turning radii.

Rows of street trees with 10’ planting easements are required, outside the right-of-way, along both sides of all internal roads. Where feasible, the natural vegetative equivalent may be used to satisfy the bufferyard and street tree requirements. In areas with community facilities, no street trees shall be planted within 20 feet of sewer laterals and cleanouts.

Street trees have not been depicted, so, therefore, APPROVAL can be recommended only with the condition that the Final Plat remedy that omission.

Records indicate that a JD was previously completed. Permits are required from the (US Army) Corps of Engineers and MDE for all non-tidal wetland and stream impacts prior to recordation.

20% common open space is required in the ST zone.22

The submission of future sections will necessitate an accounting of the balance due for open space.

Previously a note (Site Data Note # 7) reference a future E.M.S. site. Is one still planned? Ms. DiPietro said no.

The PFCP and Preliminary SWM Plan have been approved.23

A Landscape Agreement must be executed prior to recordation.

Deed restrictions for the long-term protection of planted buffers, street trees & Forest Retention/ Afforestation Areas (FRAs) must be recorded and noted on the plat prior to recordation, with the metes and bounds description of the FRA being shown on the Final/Record Plats.

The Homeowners’ Association, for maintenance of common open space, has already been established for improvements. $50 per each recorded Phase 2 lot must be placed in escrow prior to recordation.

Water allocation documentation must be received prior to Final plat review.

21 As previously commented, the proposed community center must be served by water & sewer systems approved by the Health Department. A major site plan submittal shall be required for the community center. Any major site plan must be approved prior to Final Plat approval(s). The requirements of §291 and Appendix A of the Zoning Ordinance must be adhered to.

22 47% was proposed, overall.

23 An FSD and a conceptual Environmental Assessment for the portion within the Critical Area were approved on 9/17/04. The site contains FIDS habitat, but it is not home to any of rare, threatened, and endangered species. The PFCP and Preliminary Environmental Assessment were previously approved.

The FCP/ Landscape Plan for Phase 1 (north of the stream) was approved on 4/29/08. A revised FFPC was approved on 12/11/09, and the Final Forest Conservation Plan for this phase was approved on 7/18/11. A revised Landscape Plan was approved on 12/14/09.
Sewer capacity for these 64 proposed lots must be verified prior to Final plat review.

The Final and Record Plats shall contain a statement to be signed by the Health Department, “approving authority”, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan.\(^{24}\)

The Final and Record Plats shall also contain a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale.

Mr. Wilen, LUDS/DPR, read the comments of the division:

1. The Development Plans Review Division has approved the Preliminary Stormwater Management Plans.
2. A Final Environmental Site Design Plan must be approved prior to submittal for Final Plat Approval.
3. Private drainage easements must be shown for storm drain pipes on the lots.
4. DPR has received the necessary Road Code Variances and made recommendations for approval with conditions to DPW.
5. DPR has reviewed the Road and Storm Drain & Sanitary Sewer Plans and there are only administrative items remaining that are typically completed with the Final Plat submittal. Road and Storm Drain & Sanitary Sewer Plans must be approved prior to grading permit application.
6. An Inspection and Maintenance Agreement for the Stormwater Management Facilities must be prepared.
7. Public Works Agreements for Road and Storm Drain & Sanitary Sewer improvements must be prepared.
8. The following standard notes and requirements apply to this plat and project: The details of these notes and requirements will be identified in the record but will not be read at this time:
   - **8.1** The Final Plat Lot Grading, and Lot Grading Plan Construction Limits Notes.
   - **8.2** Requirements for Stormwater Inspection and Maintenance Agreements.
   - **8.3** Requirements for Final Plat - Public Works Agreement for Antego Drive.
   - **8.4** Requirements for Driveway paving.
   - **8.5** Requirements for the portion of Antego Drive to be dedicated for Public Use.
   - **8.6** Compliance with Section 2.13 of the Cecil County Road Code.

**Notes and requirements identified for record:**

9. The **Final Plat** must include the Lot Grading Plan standard note and a note indicating that sidewalk maintenance will be required of the adjacent property owner (if sidewalks are required). The **Lot Grading Plan** must include the standard construction limits note.
   - **9.1** Final Plat: “A lot grading plan has been approved by the CCDLUDS for the construction shown hereon. A site construction as built shall be submitted to the CCDLUDS prior to use and/or occupancy of any of the sites shown hereon. Any change to the Forest Retention, Forestation, and/or Reforestation will require a consistency review, of the SWM approval, with CCDLUDS.”
   - **9.2** Grading Plan: “No clearing or grading is permitted beyond the limits of disturbance shown hereon. Any expanded clearing and/or grading in the absence of an approved revised lot grading plan may be considered non-compliance with Chapter 325 of the Cecil County Code and either or both the developer and/or Builder may be subject to the enforcement of the penalty provisions therein.”
   - **9.3** All driveways must be paved at least to the right of way. The driveway paving must be complete for all lots at the time when the surface course for the internal roads is installed. This requirement includes any vacant but platted lots. Any driveway exceeding 5% up-gradient-slope form the roadway must be paved to the crest.

10. Development Plans Review has no objection to the approval of The Preliminary Plat of Charlestown Crossing – Phase 2.

\(^{24}\) The Master Water & Sewer Plan identifies this site as W2 and S2.
Mr. Di Giacomo read the recommendation of staff:

APPROVAL, conditioned on:
1) Health Department requirements being met;
2) DPR/DPW requirements being met;
3) All future phases/sections’ accounting for the balance due for common open space to ensure that the ST zone’s 20% requirement is met;
4) A Site Data Note’s citing the 10/23/18 Special Exception prior to the submission of any Phase 2 Final Plat;
5) Water allocation documentation’s being received prior to the submission of any Phase 2 Final Plat;
6) Sewer capacity for these 64 proposed lots being verified prior to the submission of any Phase 2 Final Plat;
7) The Landscape Plan’s being approved prior to the submission of any Phase 2 Final Plat;
8) The Final SWM Plan’s being approved prior to the submission of any Phase 2 Final Plat;
9) The Final FCP’s being approved prior to the submission of any Phase 2 Final Plat;
10) The Final and Record Plat’s containing a statement, to be signed by the Health Department, “approving authority”, to the effect that use of the community water supply and community sewerage system is in conformance with the Master Water and Sewer Plan;
11) The Final and Record Plat’s containing a statement, signed by the owner, to the effect that such facilities will be available to all lots offered for sale;
12) The ‘variances’ cited in Site Data Notes 21 and 22 being granted; and
13) The requested § 174.1-2 waivers being granted (consistent with those granted in conjunction with the 4/18/05 Preliminary Plat approval).

A motion for approval with conditions was made by Mr. Kirsh.
The motion was seconded by Mr. Miners.

All approve. Motion for approval with conditions carried.

AGRICULTURAL PRESERVATION DISTRICT:
FILE CE-19-03 -APPLICANT: Leon King.
FOR: Preservation District Establishment.
PROPERTY LOCATION: Tonys Road, Elkton, MD 21921, Election District: 5, Tax Map; 19, Parcel: 186.
ACREAGE: 101.4091.
PROPERTY OWNERS: Leon King.
PRESENTLY ZONED: Northern Agricultural Residential, (NAR).

Steve O’Connor, Zoning Administrator, appeared and presented an overview of the application. The proposed district property is located at Southwest corner of Warburton and Tony’s Roads intersection in Elkton, MD 21921; and further identified as Tax Map 19, Grid 16 Parcel 186. Zoned NAR, the property is located in the 9th Election District, and contains 101.4091 acres. The entire property will be located within the district. The proposed district is located outside of current and planned Master Water & Sewer Plan service areas. Chapter A385-3 of the Code of Cecil County set the regulatory Criteria for the establishment of an Agricultural Preservation District. Subsection C of Chapter A385-3 requires that all Districts consist of a minimum of 50 contiguous acres. This proposed District contains 101.41 acres and does meet this requirement. Subsection D of Chapter A385-3 requires that all districts consist of "a minimum of 50% of USDA soil capability classes I, II, & III; and if the property is wooded than at least 50% of the soils shall be woodland groups 1 and 2. This proposed district contains a total of 40 acres of class I, II, and III soils, and the proposed

25 This should include the maintenance of the street trees in the right-of-way by adjacent homeowners or the Homeowners’ Association.
district contains a total of 57.43 (57.1%) acres of woodland groups 1 and 2 soils. Thus 97.4 or 96.91% of the proposed district consists of the required soil types.

HEALTH DEPARTMENT:
No Health Department comment required.

COMMENTS IN SUPPORT: None. Mr. O’Connor stated that a letter of support was received from George and Barbara Balog.

COMMENTS IN OPPOSITION: None.

RECOMMENDATION:
Staff recommended approval. Additional, Mr. O’Connor explained that Agricultural Preservation Advisory Board (APAB) also recommended approval for this district.

ACTION: Motion to recommend approval made by Mr. Harmer.
Motion seconded by Mr. Kirsh.

VOTE: The recommendation of approval carried.

The next meeting for this application will be February 5, 2019 before the County Council.

SPECIAL EXCEPTIONS:
FILE: 3918 - APPLICANT: Christopher Kendall.
FOR: Special Exception Renewal to operate a sawmill.
PROPERTY LOCATION: 361 Leeds Road, Elkton, MD 21921, Election District: 3; Tax Map: 20, Parcel: 118.
PROPERTY OWNER: Barbara Saletnig, Christopher Kendall & Scott Kendall.
PRESENTLY ZONED: Northern Agricultural Residential, (NAR).

Christopher Kendall appeared and presented an overview of his application. Mr. Kendall explained that he is requesting to have his Special Exception to operate a sawmill, renewed.

HEALTH DEPARTMENT:
The Cecil County Health Department has no objection to the Special Exception.

COMMENTS IN SUPPORT: None.

COMMENTS IN OPPOSITION: None.

RECOMMENDATION:
Staff recommended approval, for as long as the applicant owns the property and operates the sawmill.

ACTION: Motion to recommend approval for as long as the applicant owns the property and operates the sawmill made by Mr. Kirsh.
Motion seconded by Mr. Harmer.

VOTE: The recommendation of approval for as long as the applicant owns the property and operates the sawmill, carried.
The next meeting for this application will be January 29, 2019 before the Board of Appeals

FOR: Special Exception to operate a home occupation.  
PROPERTY LOCATION: 490 Hopewell Road, Rising Sun, MD 21911, Election District: 6; Tax Map: 10, Parcel: 494.  
PROPERTY OWNER: Domenic & Angelina Vadala, LE, and Pete, Nick, Leon Vadala  
PRESENTLY ZONED: Northern Agricultural Residential, (NAR).

Paul Felty appeared and presented an overview of the application. Mr. Felty is looking to purchase approximately an acre of land from the Vadala family. Once purchased, he would like to place a building on the property to which he will run his electrical business.

**HEALTH DEPARTMENT:**  
The Cecil County Health Department has no objection to the Special Exception request. Subdivision of Land must go through the normal subdivision process. Mr. Felty indicated in a phone conversation that approximately 1 acre would be added to his existing lot.

**COMMENTS IN SUPPORT:** None.  
**COMMENTS IN OPPOSITION:** None.  
**RECOMMENDATION:**  
Staff recommended approval for three (3) years.

**ACTION:** Motion to recommend approval, contingent on the applicant acquiring no more than 1.2 acres of land from the Vadala Family and the lesser of 3 years or Mr. Felty no longer operating the business made by Mr. Kirsh.  
Motion seconded by Mr. Miners.

**VOTE:** The recommendation of approval, contingent on the applicant acquiring no more than 1.2 acres of land from the Vadala Family and the lesser of 3 years or Mr. Felty no longer operating the business carried.

The next meeting for this application will be January 29, 2019 before the Board of Appeals.

FOR: Special Exception to operate a power generation facility.  
PROPERTY LOCATION: 60 North Simpers Road, Elkton, MD 21921, Election District: 3; Tax Map: 20, Parcel: 896, Lot 3.  
PROPERTY OWNER: Charles F. Birney.  
PRESENTLY ZONED: Northern Agricultural Residential, (NAR).

Benjamin Wexler, Esq., Greg Werner, Nexamp and Dan Speakman, McCrone, Inc., appeared and presented an overview of the application.

**HEALTH DEPARTMENT:**  
The proposed access road and utility poles run directly through the designated sewage area for lot 3 of Minor Subdivision 3250. If this sewage area is no longer available, lot 3 may lose its status as a building lot.

**COMMENTS IN SUPPORT:** None.
COMMENTS IN OPPOSITION: None.

RECOMMENDATION:
Staff recommended approval, conditioned on:
1. A major site plan being submitted and approved by LUDS; and
2. A Bufferyard around the entire perimeter of the site as required in § 22.4 (a) (b) of the Zoning Ordinance.

ACTION: Motion to recommend approval per staff’s recommendations made by Mr. Miners.
Motion seconded by Mr. Kirsh.

VOTE: The recommendation of approval, conditioned on: 1) A major site plan being submitted and approved by LUDS; and 2) A Bufferyard around the entire perimeter of the site as required in § 22.4 (a) (b) of the Zoning Ordinance carried.

The next meeting for this application will be January 29, 2019 before the Board of Appeals.

   FOR: Special Exception to operate a power generation facility.
   PROPERTY LOCATION: 1787 Blue Ball Road, Elkton, MD 21921, Election District: 3; Tax Map: 20, Parcel: 76.
   PROPERTY OWNER: Charles F. Birney.
   PRESENTLY ZONED: Northern Agricultural Residential, (NAR).

Benjamin Wexler, Esq., Greg Werner, Nexamp and Dan Speakman, McCrone, Inc., appeared and presented an overview of the application.

HEALTH DEPARTMENT:
The Cecil County Health Department has no objection to the Special Exception.

COMMENTS IN SUPPORT: None.

COMMENTS IN OPPOSITION: None.

RECOMMENDATION:
Staff recommended approval, conditioned on: 1) A major site plan being submitted and approved by LUDS; and 2) A Bufferyard around the entire perimeter of the site as required in § 22.4 (a) (b) of the Zoning Ordinance with the caveat that bufferyard requirements may be modified by staff through the review process made by Mr. Kirsh.

ACTION: Motion to recommend approval, conditioned on:
1. A major site plan being submitted and approved by LUDS; and
2. A Bufferyard around the entire perimeter of the site as required in § 22.4 (a) (b) of the Zoning Ordinance with the caveat that bufferyard requirements may be modified by staff through the review process made by Mr. Miners.
Motion seconded by Mr. Miners.

VOTE: The recommendation of approval, conditioned on: 1) A major site plan being submitted and approved by LUDS; and 2) A Bufferyard around the entire perimeter of the site as required in § 22.4 (a) (b) of the Zoning Ordinance with the caveat that bufferyard requirements may be modified by staff through the review process carried.

The next meeting for this application will be January 29, 2019 before the Board of Appeals.
GENERAL DISCUSSION
None.

The meeting adjourned at 7:22 p.m.

NEXT PLANNING COMMISSION MEETING: The next meeting will be on Wednesday, February 20, 2019 at 6:00 p.m. located in the Elk Room.

Respectfully submitted:

___________________________________
Jennifer Bakeoven
Administrative Assistant
Department of Land Use & Development Services
Division of Planning & Zoning