



# City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT  
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DIRECTOR OF ADMINISTRATION

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## MINUTES

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The Salisbury-Wicomico Planning and Zoning Commission met in regular session on February 21, 2019, in Room 301, Council Chambers, Government Office Building, with the following persons in attendance:

### **COMMISSION MEMBERS:**

Charles "Chip" Dashiell, Chairman  
Scott Rogers  
Marc Kilmer (Absent)  
Mandel Copeland  
James McNaughton  
Jack Heath  
Jim Thomas

### **CITY/COUNTY OFFICIALS:**

Henry Eure, Infrastructure and Development Dept.  
Anne Roane, Infrastructure and Development Dept.  
Marilyn Williams, Land Development Coordinator, Wicomico County Planning and Zoning

### **PLANNING STAFF:**

Keith Hall, Deputy Director  
Gloria Smith, Planner, Wicomico County Planning and Zoning  
Amanda Rodriguez, Recording Secretary

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

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**MINUTES:** Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission **APPROVED** the minutes of the January 17, 2019 meeting as written.

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**REVISED COMPREHENSIVE DEVELOPMENT PLAN – College Town Center Shopping Center – Adamopoulous Limited Partnership, rep. by Fisher Architecture – 1303 South Salisbury Blvd. – General Comm. District - #201900103; M-117, P- 3119, G-3, (H. Eure)**

Mr. Henry Eure, Keith Fisher of Fisher Architecture, and Kristos Adamopoulous, of Adamopoulous Limited Partnership, came forward. Mr. Eure explained that the applicants want to modify the façade of the property to match the adjoining shopping center located at 1305 S. Salisbury Blvd.

Mr. Fisher noted that his client wants to create unity between the buildings architecturally to brand the units as a whole within “College Towne Center.”

Mr. Eure stated that Staff recommends approval of the Revised Development Plan as submitted.

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission granted the Revised Comprehensive Development Plan approval as submitted.

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**REVISED COMPREHENSIVE DEVELOPMENT PLAN – North Pointe Plaza Shopping Center – Wendy’s Restaurants, represented by Lickel Architecture – 2710 North Salisbury Blvd. – General Comm. District - #201900070; M-29, P-507, G5, (H. Eure)**

Mr. Henry Eure and Frank Selari, representative for Wendy’s, came forward. Mr. Eure presented the Staff Report and stated that the applicant is seeking approval to update the building façade and signage.

Staff recommends approval as submitted with the following condition:

1. Outlying dumpster shall be relocated to the confines of the existing dumpster enclosure OR an enclosure shall be added to the existing location of the outlying dumpster for concealment.

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission granted approval as submitted with the one aforementioned condition.

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**CERTIFICATE OF DESIGN AND SITE PLAN APPROVAL – Revised Preliminary Plan –  
Marina Landing – Salisbury Development Group, LLC – Fitzwater Street  
– RRMU #2 and CBCA IDA - #16-014; M-106, P- 1108, G-22 (A. Roane)**

Ms. Anne Roane, Brock Parker of Parker and Associates, and Keith Fisher of Fisher Architecture, representatives for the applicant, came forward. Ms. Roane presented the Staff Report and stated that the applicant is seeking Revised Preliminary approval for the development of a site located in the Riverfront Development Multi-Use District #2. The proposed site would consist of three structures, containing 56 residential units and 25,646 square feet of commercial space. The plan also includes an outdoor gathering area with a large, outdoor projection screen.

Staff recommends approval of the Revised Preliminary Plan, as submitted, with the following conditions:

1. Address to the satisfaction of the Salisbury Department of Infrastructure and Development, their comments outlines in correspondence of January 11, 2019. Final plans to demonstrate compliance with the MDE Stormwater Design Manual. Any changes to the site plans due to meeting the State code will need to be reviewed and approved by the Commission.
2. Comply with all requirements of the Chesapeake Bay Critical Area Program, including submission of a Buffer Management Plan. A Certificate of Compliance must be obtained from the Planning Office prior to the disturbance of any land.
3. Parking lot islands should be shown that comply as closely as possible with the apartment standards of the Zoning Code.
4. Provide an explanation for subdividing the parcel into 5 parcels. Additional access and service easements need to be referenced and proposed building setbacks detailed.
5. On-street parking for Fitzwater Street is to be coordinated with City plans for street enhancement, including pedestrian and bicycle improvements.
6. Coordinate with the Salisbury Fire Department to assure that site design provides for necessary emergency access.
7. Coordinate with the County Fire Marshall regarding details associated with the separation and/or relocation of Marina fuel tanks.
8. The plan to relocate the sewer pumping station to the corner of Pearl Street, along with intended parking improvements, should include retaining wall and landscape provisions to minimize any impact to adjacent residential properties. Provide details.
9. Construction details for the proposed Riverwalk segment should comply with all City standards, and clearly define the intended connection in the vicinity of the Dock Master's Office.
10. All site appurtenances (i.e. lighting, benches, and signage) shall be consistent with the adopted City specifications of the Downtown area.

11. A Development Schedule should be submitted, along with a Final Plan subject to further review and approval by the Salisbury Public Works Department.

Mr. Fisher stated that the applicant wants to create a link between the River's Edge Apartments and the Downtown Area. He also noted that the developer can only own a certain amount of the property as much of the project is being funded by Project Open Space and must remain public.

Mr. Thomas noted that he remembers this coming before the Commission a few years ago, and believed it was supposed to be fast tracked. After discussion, many Commission members were concerned about the lack of progress this project had made.

Mr. Fisher stated the applicant has created a demanding development schedule that will keep the project on track for the future. He stated that it is a complicated site and the applicants are working through the various issues with the proposed site as rapidly as possible.

Mr. Parker stated that they can modify the site as the Commission requests with no hesitation.

Chairman Dashiell explained although this was the second preliminary review, there was still much work to be done before approval is granted, and that the Commission looks forward to closure and finality on this project.

Ms. Roane stated that condition #11 should read, "**A Development Schedule should be submitted, along with a Final Plan subject to further review and approval by the Salisbury Department of Infrastructure and Development.**"

Upon a motion by Mr. Rogers, seconded by Mr. Heath, and duly carried, the Commission granted Revised Preliminary Approval as submitted, subject to the Conditions in the Staff Report and with the amended condition #11.

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**CERTIFICATE OF DESIGN AND SITE PLAN – Probst Beer Garden – R. Miller Properties, LLC – 200 E. Market Street – Central Bus. District - #18-007; M-107, P-901, G-15 (A. Roane)**

Ms. Anne Roane, Brock Parker of Parker and Associates, and Keith Fisher of Fisher Architecture, representatives for the applicant, came forward. Ms. Roane presented the Staff Report and stated that the applicant is seeking approval for the Preliminary Certificate of Design and Site Plan for a beer garden located at 200 East Market Street.

Ms. Roane confirmed that Historic District Commission granted their approval for this project at the meeting of February 12, 2019.

Ms. Roane stated the Staff recommends approval with the following conditions to be addressed to Final Approval:

1. Demonstrate compliance with the MDE Stormwater Design Manual, and all local, State and Federal requirements regarding construction in the floodplain.
2. Comply with all requirements of the Chesapeake Bay Critical Area Program, including submission of a Buffer Management Plan. A Certificate of Compliance must be obtained from the Planning Office prior to the disturbance of any land.
3. Prior to the issuance of a building permit, detailed information shall be submitted for the Commission's files regarding all exterior colors, textures, and materials for all four sides of the buildings.
4. Coordinate with the Salisbury Fire Department to assure that site design provides for necessary emergency access.
5. All site appurtenances (i.e. lighting, benches, and signage) shall be consistent with the adopted City specifications for the Downtown area.

Chairman Dashiell inquired about the proposed live music, and the hours that the stage would be occupied. He noted that there are many surrounding businesses, specifically a nursing home, that could be negatively impacted by loud music.

Mr. Fisher explained that the music would all be acoustic, as this was not intended to be a late-night concert venue. He stated that it is proposed as a family-friendly venue.

Chairman Dashiell stated that he appreciates the element of safety that fencing around the garden creates. He was glad it was required by the Liquor Board as a functional design element.

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission granted approval as submitted with the five Conditions of Approval.

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**COUNTY SUBDIVISION PLAT - (M. Williams) -Fieldstone Manor, Sec. 2 Resubdivision-  
2 Lots- Mt. Hermon Church Road – M-49;P-59 &65; G-2**

Ms. Marilyn Williams, and Mr. Brock Parker, of Parker and Associates, came forward. Ms. Williams stated that the applicant proposes to re-subdivide Lots 5, 6 and 7, as well as Parcel 1 of the subdivision known as Fieldstone Manor,

Section 2 to eliminate the interior road, Lot 7 and Parcel 1. The revised Lots 5A and 6A will have frontage on and direct access to Mt. Hermon Church Road, a minor collector road. A portion of Parcel 1 will be conveyed, and become a part of, Lot 1A of the Howard & Brenda Malone subdivision.

Staff recommends approval with the following four conditions:

1. The Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations.
2. Health Department approval is required prior to recordation of the Final Plat.
3. This Property is within the Airport Overlay District and is subject to the restrictions of the Horizontal Surface.
4. This approval is subject to further review and approval and conditions imposed by the County Departments of Planning and Zoning and Public Works.

Upon a motion by Mr. Rogers, seconded by Dr. McNaughton, and duly carried, the Commission granted approval as submitted with the four Conditions of Approval.

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**COUNTY SUBDIVISION PLAT - (M. Williams) Ray Lewis- Preliminary/Final, 3 Lots  
Powellville Road – M-42; P-61; G-1**

Ms. Marilyn Williams, and Mr. Doug Williams, agent for the Applicant, came forward. Ms. Williams stated that the applicant proposes the creation of two new lots from Parcel 61 on Tax Map 42. The two new lots are proposed at 1.3 acres and 1.2 acres. The remaining lands will become Lot 3 with 1.0 acre. Planning Commission approval is required since the remaining lands are less than 15 acres in the A-1 zone.

Staff recommends approval with the following four conditions:

1. The Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations.
2. Health Department approval is required prior to recordation of the Final Plat.
3. State Highway Administration approval of two new entrances is required.
4. This approval is subject to further review and approval and conditions imposed by the County Departments of Planning and Zoning and Public Works.

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission granted approval as submitted with the four Conditions of Approval.

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**COUNTY SUBDIVISION PLAT - (M. Williams) Nassawango Estate, Sec. 1- Preliminary/Final-1 Lot- Nassawango Church & Coulbourn Mill Roads – M-59; P-117; G-14**

Ms. Marilyn Williams came forward. Ms. Williams stated that the applicant is proposing the creation of a large, 11-acre lot from this 79-acre farm. The proposed lot will be the sixth lot created from the parent parcel since the County's regulatory date.

Staff recommends approval with the following five conditions:

1. The Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations.
2. Health Department approval is required prior to recordation of the Final Plat.
3. This property is located within the Airport Overlay District and is subject to the restrictions of the Horizontal Surface.
4. Approval is subject to the recordation of an Open Space Easement in the Land Records of Wicomico County.
5. This approval is subject to further review and approval and conditions imposed by the County Departments of Planning and Zoning and Public Works.

The Commission requested another condition be added to state, ***“The entrance for the 11-acre lot will be approved by County Public Works to avoid interference with the intersection located at Nassawango Church Road.”***

Upon a motion by Mr. Rogers, seconded by Mr. Heath, and duly carried, the Commission granted approval as submitted with the six Conditions of Approval, as amended.

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**COUNTY SUBDIVISION PLAT - (M. Williams) Hall/Brumbley- Tingle Road – M-23; P-123 & 213; G-10**

Ms. Marilyn Williams, and Mr. Paul Wilber, County Attorney, came forward. Ms. Williams stated that this is a unique situation wherein two separate parcels of land were joined via a Consolidation Plat in 1977, but when the owner died in 2010, his estate attorney did not honor the plat and instead, the deed from the estate listed two separate items in the deed.

Ms. Williams provided the following timeline for the benefit of the Commission members:

- **November, 1974** - Robert A. Hixon purchases two parcels of land via deed 830/162. The two parcels of land are described as Items 1 and 2 and each of the items is described as per plats 764/306 (Item 1 at 4.393 acres) and 764/305 (Item 2 at 5.087 acres). [See Attachments #B and #C for these two plats.]
- **July, 1977** – Mr. Hixon has his property re-surveyed and obtains County approval to dissolve the common property line between his deeded Items 1 and 2, via the plat, entitled, “Consolidation of Two Parcels of Land of Robert A. Hixon”, which gets recorded in the deed books (without an accompanying deed) at 879/73. There is a statement on the consolidation plat which reads, “I hereby indicate my desire and approval of the consolidation of these parcels of land as shown hereon”, and Mr. Hixon signed that statement. [Consolidation Plat is Attachment #A]
- **August, 1981** – The same Consolidation Plat gets re-recorded in the plat books at 7/9-35
- **October, 2010** – Mr. Hixon dies. In his estate inventory, the property known as 35114 Tingle Road, Willards is listed and a copy of the assessments sheet showing the property as being 9.48 acres is included in the estate records (Estate #18805).
- **August, 2011** – The Personal Representative of the Robert A. Hixon Estate, Denise Louise Nemcik, transfers the property to herself via deed 3341/462, however, instead of honoring the Consolidation Plat, the estate attorney describes the property as the original Items 1 and 2 as found in the deed when Mr. Hixon purchased the property.
- **August 21, 2017** – Mid-Atlantic Title & Escrow sends a request to the tax assessments office for the two parcels in the deed listed under a single parcel account number be separated into two tax accounts. The assessments office assigns a new account and parcel number to what is now known as Parcel 213 and currently owned by Mr. Ray Hall.



The currently available tax map was never changed to reflect two different parcels – it remains reflective of the Consolidation Plat and the new Parcel 213 is not shown.

- **August 24, 2017** – Denise Louise Nemcik sells the property to Molnar Investment Properties, LLC and again, the deed lists the original Items 1 and 2. Following the metes and bounds description, the deed qualifies, “The improvements thereon being known as 35114 Tingle Road, Willards, MD 21874, Tax Map 0023, Parcel 0123, Tax ID 04-007247”.
- **September, 2017** – Molnar Investment Properties, LLC sells only deeded Item 2 (the 5.087 acre piece) to Ray E. Hall via deed 4230/43. The deed provides the same metes and bounds description found in the original plat for the 5.087 acres (plat 764/305 – Attachment #C).
- **June, 2018** – Molnar Investment Properties then sells deeded Item 1 to Jonathan W. and Holly M. Brumbley via deed 4339/229. The deed description follows the description of the original Item 1 and references plat 764/306 (4.393 acres – Attachment #B).

Ms. Williams explained the request before the Planning Commission is to allow, in principle, the formal subdivision of Parcels 123 and 213, applying waivers as the Commission deems appropriate given the unusual circumstances.

Staff recommends the waiver of 1:15 density requirement and waiver of an Open Space Easement. Strict adherence to these regulations would cause practical difficulty for a new owner of the undeveloped lot, which that new owner did not create.

Mr. Wilbur has opined that under Section 126-4 (B)(3), this activity can be exempt from creating a forest conservation easement, provided that a Declaration of Intent is signed and all applicable requirements are met.

Mr. Wilber stated he recommends the Planning and Zoning Department require a new subdivision plat be recorded in the land records to correct the subdivision created by deeds – essentially, re-establishing the lands as they were prior to the 1977 Consolidation Plat was recorded.

Staff also recommends approval with the following conditions:

1. Once submitted, a Final Plat shall comply with all requirements of the Wicomico County Subdivision Regulations that are not specifically waived by the Planning Commission.

2. Health Department approval is required prior to recordation of the Final Plat.
3. Owners of both Parcels 123 and 213 will need to sign the Final Plat.
4. This approval is subject to further review and approval and conditions imposed by the County Departments of Planning and Zoning and Public Works once a Final Plat is submitted.

The Commission requested the addition of a fifth condition, stating, ***“The new subdivision plat shall be reviewed administratively by the appropriate agencies.”***

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission allowed in principle the formal subdivision, applying all three waivers, with the five Conditions of Approval, as amended.

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There being no further business, the Commission meeting was adjourned at 3:21 p.m. by Mr. Dashiell.

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

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Charles “Chip” Dashiell, Chairman

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Lori A. Carter, Director

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Amanda Rodriguez, Recording Secretary