



City of Salisbury – Wicomico County

DEPARTMENT OF PLANNING, ZONING AND COMMUNITY DEVELOPMENT
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MINUTES

The Salisbury-Wicomico Planning and Zoning Commission met in regular session on March 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
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:

Gloria Smith, Planner, Wicomico County Planning and Zoning
Amanda Rodriguez, Recording Secretary

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

MINUTES: The minutes from the February 21, 2019 meeting were placed on the table for review. Mr. Rogers stated that the final paragraph in the Marina Landing Preliminary Approval should instead read *“Upon a motion by Mr. Rogers, seconded by Mr. Heath, and duly carried, the Commission granted Revised Preliminary Approval subject to all 11 conditions as submitted.”*

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission **APPROVED** the minutes of the February 21, 2019 meeting with the aforementioned amendment. Mr. Kilmer abstained from voting as he was absent from the February meeting.

ANNEXATION ZONING – Delmar Assisted Living – East Line Road Annexation – 31091 & 31093 East Line Road – 10.81 acres; M-12, P-4, G-20, L-1AA & 3A (G. Smith)

Ms. Gloria Smith and Robert Benson, attorney for the Town of Delmar, came forward. Ms. Smith stated the applicant is before the Commission for Annexation Zoning approval.

Ms. Smith explained that during the most recent Comprehensive Rezoning in September 2004, the area was reclassified to the current category of Town Transition, and is in the growth area. She stated the Town of Delmar proposes Community Business zoning upon annexation. The Community Business District permits Multi-Family dwellings by Special Exception and a minimum lot of 7,000 sq. ft.

Ms. Smith stated Staff recommends that the Planning Commission concur with the Community Business zoning proposed by the Town of Delmar, and that the Commission determine that the proposed use is not inconsistent or substantially different to the existing use.

Upon a motion by Mr. Rogers, seconded by Mr. Thomas, and duly carried, the Commission determined the proposed use is consistent with the existing use, and adopted the Town of Delmar's Community Business zoning for this property.

ANNEXATION ZONING – PITTSVILLE – DHW Landholding – U.S. Route 50 Annexation – off Friendship Road – 13.089 acres; M-41, P-184, G-3, (G. Smith)

Chairman Dashiell recused himself from this matter, Scott Rogers sat as acting Chairman for the duration of this request.

Ms. Gloria Smith, and Paul Wilber, attorney for the Town of Pittsville, came forward. Ms. Smith presented the Staff Report and stated the applicant is before the Commission for Annexation Zoning approval.

Ms. Smith gave a history of the property stated it was originally zoned Agricultural in 1968. Ms. Smith noted that during the most recent Comprehensive Rezoning in September 2004, the area was reclassified to the current category of Town Transition. The Town proposes M-1 Light Industrial zoning upon annexation. The Light Industrial District permits such uses as Bakery and Bakery Products,

Electronic or Electrical Equipment parts and Appliance Manufacturing, Warehouses, Wholesale Distributors, and Car Dealerships with Service Area. This property is intended to be used in conjunction with the Pittsville Ford dealership.

Ms. Smith stated Staff recommends that the Planning Commission concur with the Light Industrial zoning proposed by the Town of Pittsville, and that the Commission determine that the proposed use is not inconsistent or substantially different to the existing use.

Upon a motion by Mr. Thomas, seconded by Mr. Copeland, and duly carried, the Commission determined the proposed use is consistent with the existing use, and adopted the Town of Pittsville's Light Industrial zoning for this property.

AGRICULTURAL LAND PRESERVATION EASEMENT APPLICATION – Holloway – Ocean Gateway – 160.0 acres - M-18, P-6, G-5 (G. Smith)

Chairman Dashiell recused himself from this matter, Scott Rogers sat as acting Chairman for the duration of this request.

Ms. Gloria Smith presented the Staff report and described the Holloway property. She stated it is located in an area designated as Agriculture/Resource and within the Priority Preservation Area in the County Plan, which encourages the sale of Agricultural Preservation Easements. In addition, the property is zoned Agricultural-Rural and meets all other criteria necessary in regards to size, soil composition, location, and potential productivity of the land.

Ms. Smith stated Staff recommends that the Commission forward a Favorable recommendation to the Council for support of the sale of an Agricultural Land Preservation Easement on the Holloway property based on compliance with the County Comprehensive Plan.

Upon a motion by Mr. Kilmer, seconded by Dr. McNaughton, and duly carried, the Commission forwarded a favorable recommendation to the County Council for support of the sale of an Agricultural Land Preservation Easement on the Holloway – Littleton Farm – Ocean Gateway property based on compliance with the County Comprehensive Plan.

TIER MAPS – CITY OF SALISBURY – (T Gordy)

Ms. Tracy Gordy, Director of the Lower Shore office of Maryland Department of Planning, came forward to present the Commission with a brief

explanation of the new Tier Maps for the City of Salisbury. She stated that the Commission did not need to take any action today on these maps, but that her presentation was simply informational.

Ms. Gordy noted that the last time tier maps were approved was in 2012. She explained that the purpose of tier maps is to identify public areas that are currently served by sewer, as well as to identify areas of growth that will be served by public sewer in the future.

Ms. Gordy also stated that a text amendment can be made to the Comprehensive Plan to keep the currently approved tier maps valid. She further explained that tier maps can be updated as often as one would like, however, it's usually in the best interest of all parties to wait until substantial annexation occurs.

Dr. McNaughton asked if the public is involved in the review or approval process of the tier maps via public hearing, etc. Ms. Gordy responded that the Comprehensive Plan was subject to the public hearing process, and that tier maps are created based off of areas of growth identified in the Comprehensive Plan. Ms. Gordy also stated that the Maryland Department of Planning is required to review the mapping process and to ensure consistency with the Comprehensive Plan.

**REVISED COMPREHENSIVE DEVELOPMENT PLAN – Boscov's – 2300 N. Salisbury Blvd.
– General Commercial District - #201900173 – M-119; P-237; G-15 (H.
Eure)**

Mr. Henry Eure, Tony Santiago and Frank Russo of Bergmann Architects Engineers Planners, and Gareth Donly, construction manager for Boscov's, came forward. Mr. Eure reviewed the Staff Report and stated the applicants are proposing a 17, 985 sq. ft. addition to be located where the old Garden Center stands.

Mr. Eure stated the applicants have not submitted a formal sign plan, but proposed signage can be seen on the elevations as submitted. Mr. Eure also stated the applicants are currently seeking approvals from other agencies to meet the terms and conditions of an approval from this Commission.

Staff recommends approval for the Revised Comprehensive Development Plan and Wellhead Protection Plan as submitted with the following three conditions:

1. A Sign Plan shall be submitted for Commission review and approval prior to installation of any signage for Boscov's.

2. Site work shall be subject to further review and approval by the Salisbury Department of Infrastructure and Development.
3. Forest Conservation shall be subject to further review and approval by the Wicomico County Planning and Zoning Department.

Mr. Santiago stated Boscov's intends to move the customer service desk to the first floor to make it more readily accessible to customers, especially ADA customers, and wants to relocate the back of house operations, such as offices, to the second floor. This addition would supply the additional floor space needed on the ground level to accommodate the new layout.

Chairman Dashiell noted that the Commission has the ability to waive the studies that would be associated with this project, if that were an agreeable condition to the rest of the Commission members.

Mr. Heath asked if the amount of impervious surface would increase, or if it would remain the same as the existing garden center is on top of the parking lot. Mr. Eure responded that the impervious square footage would not change with this project.

Upon a motion by Mr. Rogers, seconded by Mr. Heath, and duly carried, the Commission granted approval as submitted with the three Conditions of Approval, and agreed to waive the Community Impact Statement and Statement of Financial Capability and Intent to Proceed for this project.

PALEOCHANNEL SITE PLAN – PTV Capital Partners Salisbury – Dagsboro Road – General Commercial District - #18-015 – M-20; P-184; G-24 (B. Wilkins)

Before beginning, Ms. Roane introduced additional materials (letters, environmental fact sheets, etc.) supplied by concerned adjacent property owners submitted to the Infrastructure and Development office after the deadline for packet materials.

Ms. Anne Roane, Jeff Harmon, of Becker Morgan Group, and William Owen, of Penn-Tex Ventures, LLC, came forward. Ms. Roane summarized the Staff Report and stated the applicant is seeking approval for the Comprehensive Development Plan for two standalone restaurants to be located behind the newly-constructed ALDI.

Staff recommends approval with the following nine conditions:

1. The site shall be developed in accordance with the approved Comprehensive Development/Paleochannel District Plan. Minor

- adjustments may be approved by the Salisbury Department of Infrastructure & Development.
2. Effective annexation of the site is required.
 3. Modification of the Wicomico County Comprehensive Water/Sewerage Plan. The site is currently designated as W-6/S-6.
 4. A resubdivision of the parcels is to be recorded in the land records.
 5. Provide detail of dumpster enclosures.
 6. Provide sign details and elevation plans for Planning Commission approval prior to installation of any signage.
 7. Site work and Stormwater Management shall be subject to further review and approval by SDID.
 8. Approval of the Salisbury Fire Marshal.
 9. Forest Conservation shall be subject to further review and approval by the Wicomico County Planning & Zoning Department.

Mr. Harmon stated that the surrounding property owners have been very vocal with their concerns for the proposed development of this site, but that they have also been very attentive and receptive to the proposed solutions to their concerns.

Mr. Harmon also noted that there had been concerns about protecting the adjacent waterway, lighting and noise levels, and Stormwater management on site. To address these issues, they intend to plant native species heavily along the waterline, use low-level pedestrian grade lighting in conjunction with positioning the buildings to prevent light and noise from the parking lots from filtering through, and multiple best management practices for Stormwater including permeable pavement and bioswales.

Ms. Roane stated that while the applicants were requesting additional parking area to keep up with future demand, the applicants had gone above and beyond the required mitigation in regards to landscaping.

Chairman Dashiell asked if there had already been an annexation hearing for this property. Ms. Roane replied that it was scheduled for April 8th, 2019.

Dr. McNaughton inquired about Fire Marshal concerns, if there were any, and if a traffic study had been conducted in regards to the proposed entrances for this property. Mr. Harmon replied that the site plan showed the best configuration as submitted per the review of the State Highway Administration.

Phillip Lebel, of 30408 Mallard Drive, stated that he and a few other neighbors, were not protesting the development and commended Becker Morgan Group as well as the site owners for addressing the concerns of the neighbors and for taking steps to mitigate the potential impacts this

development could have on the surrounding areas. Mr. Lebel did reinforce the concern about the late night noise coming from the proposed establishments. Mr. Harmon assured Mr. Lebel that the establishments would be subject to the conditions of the City Noise Ordinance and would be restricted to normal hours of operation.

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

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 Heather Morrison of Fisher Architecture, came forward. Ms. Roane stated that the applicant is seeking Final Certificate of Design and Site Plan Approval for the Probst Beer Garden, which had been granted Preliminary Approval by the Commission at the February 21, 2019 meeting.

Staff recommends approval with the following four conditions:

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. Coordinate with the Salisbury Fire Department to assure that site design provides for necessary emergency access.
4. All site appurtenances (i.e. lighting, benches, and signage) shall be consistent with the adopted City specifications for the Downtown area.

Mr. Thomas asked for clarification on the changes to the building from the previous review of the plan. Mr. Parker explained that the building had to be modified to include indoor seating to make this more of a restaurant as well as a beer garden.

Mr. Rogers asked if there would be access to the bathrooms and facilities from the indoor as well as the outdoor portion. Mr. Parker stated that you would have to go around the outside portion to access the restrooms.

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

**ANNEXATION ZONING – Court Plaza – South Salisbury Annexation – 2.33 acres;
#19-003; M-48, P-146, 147, 148, 592, G-7; (A. Roane)**

Ms. Anne Roane, Jeff Harmon, of Becker Morgan Group, and Sam Rajamanickam, of Design Collective, came forward. Ms. Roane stated that the applicant is proposing 3 separate buildings to be used as student housing, with 15,000 sf of commercial/retail/office space below. This request would require Annexation Zoning approval for the City's General Commercial district. The GC zoning would allow residential units as well.

Chairman Dashiell asked is an annexation hearing date had been scheduled. Ms. Roane responded in the negative and explained that there was still some information needed but that the developers wanted to move quickly on this project.

Dr. McNaughton questioned if the City Administration approved of the project. Ms. Roane explained that the annexation has been to a Work Session for a briefing, and that the Commission would see this project again in the future for Site Plan Development Approval.

Mr. Jeff Harmon added that they held a meeting with the City Department Heads and SHA introducing the project and discussing questions and concerns.

Mr. John Seipp, attorney representing Salisbury Bible Fellowship and Pine Bluff Storage, came forward to express concerns on behalf of his clients. Mr. Seipp stated that there is an existing cross parking easement between the Court Plaza shopping center and Salisbury Bible Fellowship. He noted his clients were concerned that there will not be available parking for congregation members on Sunday mornings if students are filling the lot over the weekend, as parking is not enforced by the University on Saturdays and Sundays. Mr. Seipp added that they are working with the SU Foundation to work out an agreement but there hasn't been a solution worked out yet. Chairman Dashiell thanked Mr. Seipp for his feedback, but reminded everyone that this matter is before the Commission for zoning approval only today.

Upon a motion by Mr. Rogers, seconded by Mr. Kilmer, and duly carried, the Commission approved the General Commercial zoning as consistent with the use of the property as well as the City's Comprehensive Plan after annexation.

**FINAL CERTIFICATE OF DESIGN AND SITE PLAN – Six-story Apartment Expansion –
132 East Main Street – Nicholas Simpson/First Move Properties, LLC -
Central Business District - #201800694 – M-107, G-15, P-856 (H. Eure)**

Mr. Henry Eure, Nick Simpson, of First Move Properties, LLC, Mike Sullivan, Attorney, Kevin Parsons, of Becker, Morgan Group, and Brittney Malone, of Fisher Architecture, came forward. Mr. Eure stated this project had received Preliminary Approval earlier this year from the Commission. Preliminary Approval had been granted under the premise that the building would be 6 floors, but the plan has since changed to double in size.

Mr. Eure stated the project will need to go before the City Board of Appeals for Special Exceptions for the height and density as the proposal exceeds current restrictions. Staff recommends approval subject to the following five conditions:

1. A special exception to increase height and density shall be obtained from the Salisbury Board of Zoning Appeals.
2. This site shall be developed in accordance with the approved Site Plan and all requirements of the Salisbury Municipal Code. Minor plan adjustments that do not conflict with the Chesapeake Bay Critical Area requirements may be approved by the Director of the Department of Infrastructure and Development.
3. A Chesapeake Bay Critical Area Certificate of Compliance must be obtained from the Planning Office prior to commencing construction, if required.
4. Any changes to exterior signage, including additional business signs for first floor tenants, shall be subject to Planning Commission review and approval.
5. Subject to further review and approval by the City Department of Infrastructure and Development.

Mayor Jake Day stated he was excited about the new development downtown and views this project as a great landmark for the City. He applauded the enthusiasm for this project and commended the developers for their work ethic.

Mr. John Robins, Attorney in Salisbury and property owner of the building to the west, objected to the project as proposed. He discussed the party wall and shared foundation between his property and The Ross property. He stated this project there will create an increased burden on the foundation and party wall. Mr. Robins also explained these buildings were built on a cranberry bog and experience frequent flooding. He questioned if the foundation was going to be sufficient for a 12-story building. Mr. Robins stated that a high-rise

building does not fit into the Downtown and he doesn't want to see the Downtown turn into San Francisco.

Mr. Robins also voiced his concerns regarding the proposed occupants being college students and moving the SU population into the Downtown. He added there is currently homeless living in the Downtown area behind his building. Mr. Robins was concerned about the security of his property with the additional population downtown.

Mayor Day stated the adopted Downtown Master Plan includes preparations for a significant increase in housing expansion. He continued to address Mr. Robins' concerns about partying by student residents by speaking briefly on the effectiveness of efforts by the Town-Gown group. Mr. Heath discussed the approval process of the Downtown Master Plan and stated that all who participated were both young and old and fully support the Plan.

Mr. Sullivan assured Mr. Robins the project would be a wasted financial investment if it were to be poorly constructed. He continued that the apartments are not at market value for students that intend to be wildly partying, but that they were more geared to graduate students.

Mr. Dashiell explained that the role of the Commission is strictly to approve the Certificate of Design and Site Plan. This project will bring a dramatic change to Downtown, making it look significantly different. He added that communication between the owners and Mr. Robins should have come sooner than this meeting. The height and density variances will go before the Board of Zoning Appeals.

Mr. Thomas stated that the height is not under the Planning Commission's purview. He stated that he was prepared to support this request. Mr. Thomas added that things are changing very quickly and parking needs to be considered.

Dr. McNaughton stated that the Downtown does have to change but he didn't feel that they had enough information or reasoning to approve this project.

Mr. Rogers stated that this project is a bold statement but sometimes you need to be bold to effect change.

Mayor Day stated that they are funding a comprehensive rewriting of the Zoning Code which does need to be updated. However, parking has recently been addressed in the Downtown and this project accurately addresses the parking for Downtown.

Mr. Dashiell reiterated that the Developer needed to make a stronger effort to communicate with others that are being impacted by this project.

Upon a motion by Mr. Rogers, seconded by Mr. Heath, and duly carried, the Commission approved the Certificate of Design and Site Plan with the five conditions as submitted. Mr. Kilmer was absent for this vote.

There being no further business, the Commission meeting was adjourned at 4:40 p.m. by Mr. Dashiell.

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.

Charles "Chip" Dashiell, Chairman

Lori A. Carter, Director

Amanda Rodriguez, Recording Secretary