



**Lisa Pearson**  
Director of Planning  
and Development  
[lpearson@salisburyma.gov](mailto:lpearson@salisburyma.gov)

**Sue Johnson**  
Planning Board Secretary  
[planningdept@salisburyma.gov](mailto:planningdept@salisburyma.gov)

Phone: 978-463-2266  
Fax: 978-462-3915

**Planning Board**  
Town of Salisbury  
5 Beach Road  
Salisbury, MA 01952

**Salisbury Planning Board:**

**John "Marty" Doggett,**  
*Chairperson*  
**Deborah Rider** *Vice Chairperson*  
**Gil Medeiros,**  
**Lou Masiello**  
**Don Egan,**  
**John Schillizzi,** *Alternate &*  
*Clerk*

**DECISION**  
**MAJOR SITE PLAN APPROVAL**

January 11, 2022

Town Clerk  
5 Beach Road  
Town of Salisbury  
Salisbury, MA 01952

Applicant: **ABCAP Properties, LLC**  
Address of Applicant: PO Box 5514, Salisbury, MA 01952  
Address of Project: 7 Broadway  
Deed: Foreclosure Deed, Certificate # 90070 & Document # 578464



*To the Town Clerk:*

*This is to certify, at a duly noticed meeting of the Salisbury Planning Board regarding a Major Site Plan review that opened on December 8, 2021, continued to and closed on December 22, 2021, by a motion duly made and seconded, it was voted:*

"We, the Salisbury Planning Board, as requested by **ABCAP Properties, LLC**, under the provisions of Article XVIII. Site Plan Review of the Zoning By-Laws of the Town of Salisbury, considered Major Site Plan approval to **ABCAP Properties, LLC**, at a property addressed as 7 Broadway (Assessors Map 33, Lot 182 ), as shown on plans ("The Plans") entitled: **Progress Set Flying Horses Carousel Plans dated 12/14/21 (34 sheets) & Existing Conditions Plan, Site Plan & Site Detail dated 12/20/21 (3 sheets)**

and **do hereby vote:**

## **WAIVER REQUEST**

---

Provided that it is in the public interest and not inconsistent with the intent and purpose of the Planning Board Rules and Regulations, the Board is permitted to waive compliance on requirements of Site Plan Review.

The applicant did **NOT** petition for waivers for Major Site Plan review.

## **MAJOR SITE PLAN DETERMINATION**

---

Motion for **approval** of the site plan pursuant to Article XVIII, Site Plan Review of Salisbury Zoning Bylaw, subject to the standard conditions numbered 1-31 in this decision and the following conditions presented at the meeting:

- Daily communication with the abutters throughout for all traffic plan changes.
- Communicate with the abutters regarding fencing near the dumpster prior to final approval.
- Soil test pit and groundwater information to be provided for the trench once the building is demolished to finalize review.
- Town approval needed for final construction, fencing plan and traffic management plan.
- Replace sidewalks on Central Ave. Replace or repair sidewalks on Driftway and Broadway if damage is done. Final approval from the DPW Director.
- Bond for all utility work and work in public right of way
- Bond will be finalized with the Planning Director, Engineer and DPW Director. Final approval on specifications from DPW Director.

**Motion presented by: Gil Medeiros**

**Seconded by: Don Egan**

**Vote on motion: 4-0**

**Motion: Passed**

## **MATERIALS**

(Included, but not limited to:)

---

- **Application:**
  - Site Plan Review received and stamped by Town Clerk on 11/16/21
  - Project Narrative received 11/16/21 and dated 11/8/21
  - Stormwater Report received 11/16/21 and dated 11/8/21
- **Plans received:**

- **Progress Set Flying Horses Carousel Plans dated 11/2/21** (29 sheets: T-1, T-2, C1, C2, C3, AD100, A001, A002, A100, A111, A121, AR111, A201, A401, A501, A502, A503, A504, A601, A602, A603, S000, S100, S101, S102, S200, S201, L1 & L2) prepared by Gienapp Architects, Millennium Engineering, Inc., TLH Consulting, Dry Air Systems, Inc. & Boston Light Source
- **Progress Set Flying Horses Carousel Plans dated 12/14/21** (34 sheets: T-1, T-2, AD100, A001, A002, A100, A111, A121, AR111, A201, A202, A401, A405, A431, A432, A501, A502, A504, A601, A602, A603, S000, S100, S101, S102, S103, S104, S105, S106, S200, S201, S300, L1 & L2) prepared by Gienapp Architects, Millennium Engineering, Inc., TLH Consulting, Great Country Timber Frames, Dry Air Systems, Inc. & Boston Light Source
- **Existing Conditions Plan, Site Plan & Site Detail dated 12/20/21** (3 sheets: C-1, C-2 & C-3) prepared by Millennium Engineering Inc.
- **Peer Review Comments**
  - Comments from the Town Engineer dated 12/5/21
  - Comments from the Town Engineer dated 12/14/21
  - Comments from Millennium Engineering dated 12/20/21
  - Comments from the Town Engineer dated 12/20/21
- **Memo's**
  - Construction activity memo dated 12/17/21
  - Construction activity memo dated 12/22/21
- **Planning Board Meeting Agendas**
  - 12/8/21 – Public hearing opened
  - 12/22/21 – Public hearing closed and project approved

## **PROCEDURAL HISTORY**

On November 16, 2021 a request was filed with the Town Clerk by the Applicant for Site Plan Review for a Major Project located at 7 Broadway [Map 33, Lot 182], an approximately 10,882 square foot lot located in the Beach Commercial Zoning District (BC). The applicant is demolishing the existing building and constructing a 6,641 square foot octagonal timber framed carousel house with attached support and commercial/retail space. The building will be elevated on an open pile foundation. Associated infrastructure improvements include stormwater management system, utility connections, lighting and landscaping.

Owner: **ABCAP Properties, LLC**

The plans and other submittals were reviewed by the Planning Board, its consulting engineer, Joseph J. Serwatka, P.E., Planning Director, Lisa Pearson. Also, present during the hearing was Planning Board Secretary Sue Johnson.

The Public Hearing opened on December 8, 2021.

The applicant sought no waivers.

On 8/24/21 the Applicant was granted a Petition for Relief – Variance under Section 300-14 of the Salisbury Zoning Bylaws, to request relief from the maximum height requirements by the Town of Salisbury Zoning Board of Appeals and An Order of Conditions was issued by the Town of Salisbury Conservation Commission on 10/25/21. These recorded decisions shall be noted by Deed Book and Page Number on final plans.

The meeting on the application was opened December 8, 2021 and closed, on December 22, 2021. Throughout its deliberations, the Planning Board was mindful of the statements of the applicants and their representatives, all as made at the meeting. Public comments were made by the general public in support and with concerns about the project proposal. These concerns are addressed below.

## FINDINGS

---

1. The Site Plan contains a design that has provided the foundation for the Planning Board to determine that the requirements, standards and guideline of the Salisbury Planning Board Rules and Regulations and the general requirements, design and performance standards of Article XXIII of the Zoning By-laws of the Town of Salisbury have been completed in a satisfactorily manner.
2. Currently, 7 Broadway, the proposed site, is the location of a derelict commercial structures. Historically it was an amusement, retail, and real estate office and was last occupied in 2016. The property was constructed circa 1976 and predates the Town of Salisbury's adoption of zoning on May 15, 1978.
3. Situated in the Town's BC [Beach Commercial] zoning district and Flood Plain Overlay District, parcel consists of 10,882 SF, having 129 linear feet of frontage along Broadway, 125 linear feet of frontage along Driftway and 88 linear feet of frontage along Central Ave. The parcel is intersected by three (3) FEMA flood Zones: VE, X, and AO. The topography rises from an elevation of eight (8) feet to 19 feet west to east approximately 200 feet.
4. The existing structures will be demolished. Site improvements include commercial carousel building and bank, to be constructed as designed by Gienapp Architects Millennium Engineering, Inc., TLH Consulting, Great Country Timber Frames, Dry Air Systems, Inc. & Boston Light Source, with associated access, parking, drainage, landscape, and lighting improvements.
5. The application demonstrated it will not impair the integrity of the land, nor the land ad natural resources of the abutting properties. The project will remove concrete at grade; ground surface will be comprised of materials that are compatible with coastal dune function.

6. The Planning Board determined that the developer shall provide a plan detailing the installation of the stormwater infiltration system. The stormwater infiltration system shall comply with MassDEP policy requirements.
7. The Planning Board has been advised through Town staff and consultants that utilities and public works updates as shown on the final plans are sufficient for the proposed use.

**8. Consistency with Salisbury Master Plan:**

The vision statement of the Master Plan states:

- I. New development is sustainable, conserves land, protects resources, and balances current and future needs;
- II. Neighborhoods are safe, affordable and pleasant, meeting the needs of all Salisbury's residents;
- III. The town's open space system is well maintained and includes a diversity of facilities and resources to meet the needs of all residents;
- IV. Expanded commercial development contributes to a high-quality built environment and creates a stable financial base to fund municipal facilities and services.

The Planning Board determined that this project will be an improvement for the neighborhood, as it removes derelict structures from the neighborhood and provide the neighborhood with a safer environment. In order to comply with design standards, relative to building massing and scale of structure as it relates to the pedestrian environment, public realm, and the neighborhood the Board referred to. The plans include these amenities

In addition, in order to comply with design standards, relative to building massing and scale of structure as it relates to the pedestrian environment, public realm, and neighborhood the Board referred to the Town of Salisbury Zoning Code §465-13(F)(4) "Parking should be located to the side or rear of the building. Parking under buildings in areas shall only be permitted to the extent that provision has been made for the front elevation to be no higher than the minimum required by state and local regulations". The two spots are on the Driftway side and employee only.

The new structure will meet construction requirements for FEMA zones. During a coastal flood event, because of the open pile foundation, waters may move through the area unimpeded.

In order to comply with design standards, relative to building massing and scale of structure as it relates to the pedestrian environment and public realm and the neighborhood, the Board referred to the Town of Salisbury Zoning Code §465-13 B. Landscaping and screening shall be provided with regard to the impact of the adjacent properties, and to the site itself.

Construction of the quality project will provide local jobs for the community.

The following Conditions shall be required at the Applicant's sole expense, unless otherwise noted:

## **CONDITIONS**

---

1. The developer shall provide to the Town of Salisbury a plan detailing the installation of the stormwater infiltration system prior to the preconstruction meeting. The stormwater infiltration system shall comply with MassDEP policy requirements. Soil test pit and groundwater information to be provided to finalize engineering.
2. Down spouts, conducting water from the roof, shall have semi-annual maintenance inspections. These Operation and Maintenance inspections shall be provided to the Planning Department for their records.
3. This approval shall apply to any successor in interest or successor in control and to any contractor or other person performing work.
4. Contact information for any successor in interest or successor in control shall be provided to the Planning Department as soon as changes are known.
5. This approval is not final until all administrative appeal periods from this approval have elapsed, or if such an appeal has been taken, until all proceedings have been completed.
6. The work shall conform to the plans and conditions referenced in this approval. No change to an approved plan shall be made until the applicant receives written permission from the Planning Board.
7. Applicant must obtain compliance with all zoning requirements before a building permit is issued.
8. Snow shall be stored on site per plan and the snow shall not block roadways, sidewalks/pathways, parking areas, turnarounds, or stop the drainage from properly functioning. If the snow storage areas are at capacity, snow is to be carted off site. This will be the responsibility of the applicant.

## **PRIOR TO ANY SITE WORK**

---

9. The lastly revised plans dated 12/14/21 (34 Sheets) & 12/20/21 (3 sheets) shall be updated as may be Conditioned in this Decision and three (3) complete sets shall be provided to the Planning Department,

properly stamped, dated and indexed. An electronic file will also be submitted, in the form of a USB, containing revised plans and other pertinent revised submittals. These plans shall indicate compliance with all applicable Zoning By-Laws, except where relief has been expressly given by the proper authority.

10. The Applicant shall coordinate with the Planning Department a pre-construction meeting with the Town staff prior to the start of any construction to review these conditions, and any and all final construction sequencing, details, and/or plans for this Project. Commencement of construction includes any site clearing or grading. The limit of work line for the particular area or phase being developed shall be demarcated at this time through the placement of temporary snow fence material and erosion control barriers. Weekly status reports during active construction shall be submitted to the Town outlining the general status of the construction and major milestones completed. When construction is no longer active, status reports shall be delivered monthly to the Planning Department.
11. The Applicant shall provide a Construction Sequencing Plan, subject to the approval of the Town Engineering Consultant or designee.
12. The Applicant is to meet with the Planning Department and the Department of Public Works to ensure compliance with any requirements, including bonding.

## **PRIOR TO THE ISSUANCE OF A BUILDING PERMIT**

---

13. No building permit shall be issued until all finalized plans are submitted to the Planning Department, and a pre-construction meeting has occurred.
14. All other requirements and permits shall be sought and received, including, but not limited to, utility connections. The Applicant shall bear the burden of ensuring all state and local permitting has been sought and received. The "Applicant" refers to the person or entity holding the fee interest to the title to the site from time to time, which can include but is not limited to the Applicant, Developer and Owner.
15. Prior to the Site Meeting, the Applicant shall provide to the Planning Board the name, address and telephone number of the person immediately responsible for supervision of all work and maintaining compliance with the approval. This person shall serve as project manager until a Certificate of Completion is issued, or until another project manager is designated. Should the project manager change during the course of the project, the Planning Board shall be notified as soon as practical of this change.
16. Prior to site work, the Applicant shall inform all contractors and subcontractors of the conditions and provisions of this approval. This approval shall be included in all construction contracts and subcontracts dealing with the work and shall supersede other contract requirements.
17. The Applicant shall deliver a final set of site development plans to the Town's Engineering Consultant and DPW Director prior to the commencement of construction, which shall indicate labels of all wetland's boundaries, buffer zones and marsh areas.
18. The Applicant shall coordinate with the DPW Director all Town and public easements for water, drainage and sewer, if applicable.

19. The Fire Suppression System, hydrant locations and alarm design if applicable shall be subject to approval by the Fire Chief or his designee. The Final Plan as approved by the Fire Chief or his designee shall be submitted to the Town Planner.
20. The work authorized hereunder must have active development or at least substantial progress toward implementation of the approved Site Plan occurring within **five years** or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.
21. The easement between 5 and 3 Broadway shall not be blocked. Abutters shall have keys if locked.
22. The applicant will work with the abutters and tenant to finalize the fencing near the dumpster. The final design will be submitted to the Planning Director for review and approval.
23. Daily communication with abutters regarding traffic management plan, including obstructions to sidewalk/street if parking will be lost parking spaces will be available at Seaglass if on street parking is blocked.

## **DURING CONSTRUCTION**

---

24. Hours of Construction shall be adhered to and said hours shall be posted in a conspicuous place at the entrance prior to any work on the site. These hours are:

Hours of Construction Operations:

Construction activity shall not take place on site or in any building  
contained therein except during the following hours:

Mondays through Fridays inclusive: 7:00 AM to 5:00 PM,  
Saturdays: 8:00 AM to 5:00 PM,  
Sundays and Legal Holidays: none

25. Town staff or their designee shall have reasonable access to inspect the site to determine compliance with this Decision. All water, sewer and drainage facilities shall be subject to inspection by the Town, and all water and sewer facilities shall be constructed in accordance with Town specifications.
26. Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, and proper storage and disposal methods.
27. The temporary access at the existing public right of way of Broadway, Driftway and Central Ave. shall be kept clear and passable at all times. No construction equipment, refuse containers, trailers or construction materials of any kind shall be placed or stored upon the street. Refer to construction activity narrative dated 12/17/2021 and amended on 12/22/2021.



28. Erosion and sedimentation control measures presented in the plan shall be adequate to retain all sediment within the site and away from wetlands, constructed wetlands, watercourses, and water bodies, both during and after construction.
29. Every Friday the Town and abutters will receive a 1 week look ahead report including any changes to be distributed via email to the DPW Director, Building Inspector, Town Engineer and Planning Director. If there are any questions or concerns a meeting will be called. There will be work on Town right of ways without consent from the Town. No roads shall be closed without approval from DPW and Police.

### **PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF COMPLETION**

---

30. Applicant shall apply for a Certificate of Completion, per §300-112.H of the Salisbury Zoning Bylaws.
31. If the construction period lasts more than two (2) years, the bond or surety may be increased to account for inflation, based on recent inflation rates.
32. The Applicant has proposed, and the Planning Board, hereby requires, that the following aspects of the development shall be and shall remain forever private, and that the Town of Salisbury shall not have, now or ever, any legal responsibility for operation or maintenance of the same except as the owner of the Site:
  - I. All driveways and parking areas
  - II. Sidewalks
  - III. Stormwater management system
  - IV. Driveway and parking area snow plowing and removal
  - V. Landscaping

### **AFTER OCCUPANCY**

---

33. The Applicant or future owner shall have the responsibility of maintaining or replacing the parking area, landscaping, stormwater, signage and lighting as indicated in the plans and shall be required to maintain a contract with professional landscaping and maintenance service provider. As determined by the Director of Planning, the Applicant shall use best practices, including properly maintained and professional landscape services, to maintain the landscape in a manner that frees the plants and trees from disease, prevents the overpopulation of weeds, provides the necessary conditions to prevent drought from damaging the plants and trees, and ensures longevity by replacing the required landscaping as necessary for the duration of the use.

34. The Applicant shall ensure daily that exterior areas of the site remain clear of debris and trash on the site.
35. The Applicant shall ensure that the required parking spaces are accessible and properly lined at all times. Snow storage shall not restrict sight lines or damage landscaping.

## **MODIFICATION OF PLANS**

---

The following shall be used in the event modifications to the approved plans and Decision are requested:

- a) Minor Modification – Changes to the approved Plan which, in the opinion of the Planning Board, do not substantially alter the concept of the approved Plan in terms of the qualities of the specific location, the proposed land use, the design of building form and approved building details and materials, site grading or egress points including but not limited to small changes in site layout, topography, architectural plans, landscaping plans, traffic circulation, parking, lighting plan, signage, open space or other criteria set forth in MGL must be submitted to and approved by the Planning Department.
- b) Major Modification– Substantial additions, deletions or deviations from the approved Plan including but not limited to large changes in site layout, topography, architectural plans, landscaping plans, traffic circulation, parking, lighting plan, signage, open space or other criteria set forth in MGL are subject to a Public Hearing and vote by the Planning Board.

(Note: Approval of the major modification shall be grounds for reconsideration of the Site Plan application and Special Permits. Denial of proposed major modification shall not invalidate the Site Plan in conformance with previously approved Plan.)

  
\_\_\_\_\_  
Marty Doggett, Chairperson  
Salisbury Planning Board

1/12/22  
Date

## **APPEAL NOTICE**

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem MA. The cost of the recording shall be borne by the Petitioner. A registered copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and the work authorized hereunder must have active development, or at least substantial progress toward implementation of the approved Site Plan occurring within five years, or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.

cc:     Applicant  
         Town Clerk  
         Assessor  
         Building Inspector  
         DPW Director  
         File