



**CITY OF SALISBURY - WICOMICO COUNTY  
DEPARTMENT OF PLANNING, ZONING  
AND COMMUNITY DEVELOPMENT**



Tel: 410-548-4860

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Planning & Zoning Commission  
Historic District Commission  
Metropolitan Planning Organization

Wicomico County Board of Appeals  
Salisbury Board of Zoning Appeals  
Agricultural Land Preservation Advisory Board

May 16, 2005

TO: John Pick, City Administrator

FROM: John F. Lenox, AICP, Director, Salisbury/Wicomico Planning & Zoning

SUBJECT: **PUBLIC HEARING – Text Amendment – Section 17.32.020 – Permitted Uses in the Neighborhood Business District - To Add Apartments Above the First Floor – Planning Commission Recommendation**

**I. INTRODUCTION.**

On April 21, 2005, the Salisbury Planning Commission held a public hearing on a proposal to amend the text of Section 17.32.020, Permitted uses in the Neighborhood Business District of the Salisbury Municipal Code. The proposal would permit Apartment units above the first floor in commercial structures. (See Attachment #A.)

**II. RECOMMENDATION.**

After considering the staff report and following discussion by the Commission, the Salisbury Planning Commission forwarded a **Favorable** recommendation to the Mayor and City Council for adoption of the following amendment:

**AMEND SECTION 17.32.020, PERMITTED USES IN THE NEIGHBORHOOD BUSINESS DISTRICT BY ADDING THE FOLLOWING:**

**S. APARTMENTS ABOVE THE FIRST FLOOR IN ACCORDANCE WITH A COMPREHENSIVE SITE PLAN.**

The Draft Ordinance for the proposed Text Amendment is included as Attachment #C.

**III. BACKGROUND.**

The Planning Commission noted that the proposed amendments follow infill and redevelopment guidelines as well as smart growth guidelines that encourage compact mixed-use development of properties.

Attachments

cc: Mayor Barrie P. Tilghman  
William Holland, Director, Building, Housing and Zoning Dept.  
Paul Wilber, City Solicitor



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**STAFF REPORT**

**MEETING OF APRIL 21, 2005**

**CASE NO.:** #SP-0508

**APPLICANT:** Michael Schneider, represented by  
Parker and Associates

**REQUEST:** PUBLIC HEARING - Text  
Amendment to Section 17.32 -  
Neighborhood Business District - To  
permit Apartments Above the First  
Floor.

**I. REQUEST:**

Mr. Brock Parker has submitted a request on behalf of Mr. Schneider, to amend the text of the Salisbury Municipal Code. Specifically the applicant has requested an amendment to the text of the Neighborhood Business District to permit Apartment Units Above the First Floor. (See Attachment #1.)

In accordance with the requirements of Section 17.228 of the Salisbury Municipal Code, the Planning Commission must hold a Public Hearing on proposed Text Amendments to the Code. The Commission must forward a recommendation (within six months) to the City Council. The City Council must also hold a public hearing before granting final approval to Code text amendments (by Ordinance).

**II. DISCUSSION:**

On February 24, 2005, the Commission reviewed an annexation request for a .57 acre site on Pemberton Drive. Following annexation, the site is proposed for redevelopment with a 2,550-sq. ft. office building that would also contain two four-bedroom apartments on the second floor, parking, and stormwater management for this site and the appliance sales office/showroom.

The applicant requested Select Commercial zoning for the site, which permits apartments above the first floor. The Commission recommended Neighborhood

Business zoning, a classification consistent with adjoining and nearby City properties. The Commission also recommended that the applicant pursue a text amendment to the Neighborhood Business District.

The Neighborhood Business District zoning classification is applied to 11 areas throughout the City. Pecan Square, the Pemberton Drive-Parsons Road area, and Gateway Village are the larger Neighborhood Business Districts. Most others are very small, located at intersections with major collector streets, and developed with convenience stores and markets and the like.

The district currently permits apartment buildings or projects on a 3-acre site by special exception subject to approval of a Comprehensive Development Plan. The maximum building height permitted by the district is 40 feet. The Apartment Standards section of the Code requires an additional ten-foot setback for each story above three to be provided in any combination to provide distance and separation from lower profile residential development.

Apartments above the first floor are permitted in five (5) districts. Apartments only above the first floor were permitted in the General Commercial District until 1995 (Ordinance #1599) when the district was amended to permit apartments inherently subject to approval of a Comprehensive Development Plan.

The text of the Neighborhood Business District has been included as Attachment #2.

Infill and Redevelopment guidelines encourage mixed-use neighborhood commercial and residential development on vacant, abandoned or passed-over properties. Smart Neighborhood development guidelines encourage compact mixed-use design because such development reduces the cost of on-site infrastructure and excess consumption of land. In addition, mixed-use residential and commercial development creates after-hours activity that could serve as a deterrent to crime.

### III. RECOMMENDATION.

The Planning Staff finds that the proposed amendment to permit apartment units above the first floor in the Neighborhood Business District is a logical Code amendment to help accommodate the housing needs of our community. However, because all of the permitted uses in the Neighborhood Business District are commercial in nature, consideration should be given to residential uses being permitted by special exception.

Staff recommends that the Commission forward a **Favorable** recommendation to the Mayor and City Council for amendment of the text of the Neighborhood Business District as follows:

**AMEND SECTION 17.32.030, USES PERMITTED BY SPECIAL  
EXCEPTION IN THE NEIGHBORHOOD BUSINESS DISTRICT BY  
ADDING THE FOLLOWING LANGUAGE:**

**C. APARTMENTS ABOVE THE FIRST FLOOR.**

COORDINATOR: Gloria Smith, Planner  
DATE: April 5, 2005

**Salisbury Zoning Districts  
 Apartments above the first floor  
 and Apartment Buildings**

Apartments above the first floor:

District	Permitted	Special Exception
Central Business District	X	
Select Commercial District	X	
Office Service Highway Districts #1, #2, and #3	X	

Apartment Buildings:

District	Permitted	Special Exception
Central Business District	X	
Light Business and Institutional	X	
Neighborhood Business District – 3 ac. Minimum		X
General Commercial	X	
Regional Commercial – 4 ac or less site		X
Hospital	X	
Riverfront Redevelopment Multi-Use	X	
R-5A, R-8A, R-10A	X	



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 WWW.PARKERANDASSOCIATES.ORG

LAND SURVEYING • CIVIL ENGINEERING • LAND PLANNING • FORESTRY SERVICES

Wicomico County Planning and Zoning  
 Attn: Gloria Smith

RE: Requested Text Amendment to Salisbury Municipal Code

Gloria,

2-28-05  
 PLANNING DEPARTMENT  
**RECEIVED**  
 DATE 2/28/05 BY *gp*

In response to the Planning and Zoning meeting of Feb. 24, 2005, we would like to respectfully request that the text of Salisbury's Municipal Zoning Code be amended. More particularly, we wish to have the Neighborhood Business Zoning District be amended to include apartments above the first floor as a permitted use. We feel that this provision certainly fits the intent of this zoning and will not have a detrimental impact on the areas surrounding this zoning district. It will also provide some quality, affordable housing in this district. If you have any questions or require further information regarding this matter, please do not hesitate to contact me, here at my office.

Sincerely,

Brock E. Parker, P.E., R.L.S.  
 Vice President, Parker and Associates  
 528 Riverside Drive  
 Salisbury, MD 21801  
 410-749-1023 (Phone)  
 410-749-1012 (Fax)  
 brock@parkerandassociates.org

Chapter 17.32

NEIGHBORHOOD BUSINESS DISTRICT

Sections:

- 17.32.010 Purpose.
- 17.32.020 Permitted uses.
- 17.32.030 Uses permitted by special exception.
- 17.32.040 Uses permitted by ordinance permit.
- 17.32.050 Accessory uses and structures.
- 17.32.060 Development standards.

17.32.010 Purpose.

The purpose of the neighborhood business district is to provide areas along major roads or intersections in residential neighborhoods for clustering of limited business and service uses. The areas are exposed to large amounts of traffic, have good vehicular access and are unlikely to develop with residential lots. The uses permitted in these districts are intended to provide services, light retailing and food products as a convenience to the neighborhoods within walking or short driving distance. The following uses, standards and area regulations have been developed based upon this purpose, which is in accord with findings and recommendations of the City's adopted land use element of the Metro Core Comprehensive Plan. (Prior Code Section 150-54)

17.32.020 Permitted uses.

Permitted uses shall be as follows:

- A. Business, government, professional and financial office;
- B. Church and other place of worship, in accordance with Chapter 17.220, excluding vehicle storage and maintenance;
- C. Convenience store;
- D. Custom repair and service shop;
- E. Day-care facilities for the elderly and handicapped;
- F. Drive-in bank;
- G. Dry-cleaning pickup station or dry-cleaning plant and a pickup station not to exceed three thousand (3,000) square feet in gross floor area;
- H. Drugstore;
- I. Firehouse;
- J. Hairdresser shop;
- K. Laundromat
- L. Medical and dental office and clinic;
- M. Pet-grooming shop;
- N. Police station;



- O. Restaurant and fast-food carry-out restaurant;
- P. Neighborhood shopping center containing no more than thirty thousand (30,000) square feet in gross floor area, in accordance with Chapter 17.212;
- Q. Specialty shop;
- R. Studio. (Prior code Section 150-55)

**17.32.030 Uses permitted by special exception.**

Uses permitted by special exception shall be as follows:

- A. Neighborhood shopping center, containing more than thirty thousand (30,000) square feet in gross floor area but not exceeding one hundred thousand (100,000) square feet, on a minimum site of ten acres, and in accordance with Chapter 17.212;
- B. Apartment building and or project on a minimum lot of three acres in accordance with Chapter 17.168. (Prior code Section 150-56)

**17.32.040 Uses permitted by ordinance permit.**

Uses permitted by ordinance permit shall be as follows:

- A. Day-care center or nursery school, in accordance with Chapter 17.220;
- B. Utility substation in accordance with Chapter 17.220. (Prior code Section 150-56.1)

**17.32.050 Accessory uses and structures.**

Accessory uses and structures shall be as follows

- A. Gasoline pumps as an accessory use to a convenience store in accordance with Section 17.04.220;
- B. Other accessory uses and structures clearly incidental to, customary to and associated with the permitted use;
- C. Communication towers for broadcasting and receiving, not exceeding seventy-five (75) feet in height;
- D. Day-care services for employees or patrons of a permitted use. (Prior code Section 150-57)

**17.32.060 Development standards.**

Development standards for the neighborhood business district shall be as follows:

- A. Minimum Lot Requirements. All lots hereafter established shall meet the following minimum requirements:
  1. Lot area: ten thousand (10,000) square feet;
  2. Interior lot width: eighty (80) feet;
  3. Corner lot width: one hundred (100) feet.

- B. Minimum yard requirements shall be as follows:
1. Front: fifty (50) feet;
  2. Rear: fifteen (15) feet;
  3. Side: ten (10) feet each; two (2) required;
  4. Corner, side: same as front yard.
- C. The height limitation shall be forty (40) feet. (Amended 7/24/2000 by Ord. #1774.)
- D. Parking, loading and unloading areas shall be provided in accordance with Chapter 17. 196.
- E. Access. Direct access onto a major highway shall be reduced or eliminated wherever the City Department of Public Works determines that alternate or unified points of access are available to a site resulting in better traffic flow and less traffic congestion.
- F. Stacking Lanes. Wherever a use provides drive-in window service, a reservoir of five spaces shall be provided on site for each drive-in stall.
- G. Lighting shall be designed so as not to throw glare on surrounding properties. Flashing lights are prohibited.
- H. Signs. See Chapter 17.216.
- I. Landscaping and Screening. In addition to the requirements of Chapter 17.220, the following shall be required:
1. All areas not devoted to building or required parking areas shall be landscaped as defined in Section 17.04.120 and maintained in accordance with Section 17.220.080. (Prior code Section 150-58)



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April 25, 2005

SALISBURY-WICOMICO  
**FILE COPY**  
PLANNING

Mr. Brock Parker  
Parker & Associates  
528 Riverside Drive  
Salisbury, Maryland 21801

**RE: #SP-0508 – PUBLIC HEARING – TEXT AMENDMENT –  
SALISBURY MUNICIPAL CODE – Michael Schneider – To  
permit Apartments above the first floor in the Neighborhood  
Business District.**

Dear Mr. Parker:

The Salisbury Planning Commission at its meeting of April 21, 2005, forwarded a **FAVORABLE** recommendation to the Mayor and City Council for amendment of the text of the Neighborhood Business District as follows:

**AMEND SECTION 17.32.020, PERMITTED USES IN THE NEIGHBORHOOD  
BUSINESS DISTRICT BY ADDING THE FOLLOWING LANGUAGE:**

- S. APARTMENTS ABOVE THE FIRST FLOOR IN ACCORDANCE  
WITH A COMPREHENSIVE SITE PLAN.**

This request and recommendation will be forwarded to the Mayor and City Council for scheduling at a public hearing on the Council's agenda. You will be notified of the hearing date. Additional advertising fees will be required.

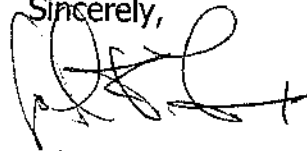
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**Attachment #B**

Mr. Brock Parker  
Page 2  
April 25, 2005

If you have any questions concerning this matter, please don't hesitate to contact Gloria Smith at 410-548-4860.

Sincerely,



John F. Lenox, AICP  
Director  
Salisbury/Wicomico Planning & Zoning

JFL:brt

cc: John Jacobs, Director of City Department of Public Works  
Bill Holland, Director of Building, Housing and Zoning Department  
Assessments  
Mr. Mike Schneider/Tugboat Ferry, LLC/1227 Pemberton Dr./Salisbury, MD  
21801



MARYLAND

ORDINANCE NO. 1946

**AN ORDINANCE OF THE MAYOR AND THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND PURSUANT TO CHAPTER 17.228 OF TITLE 17, ZONING, OF THE SALISBURY MUNICIPAL CODE, AND SECTION 4.04 OF ARTICLE 66B OF THE ANNOTATED CODE OF MARYLAND, FOR THE PURPOSE OF AMENDING CHAPTER 17.32.020, PERMITTED USES IN THE NEIGHBORHOOD BUSINESS DISTRICT.**

**WHEREAS**, the ongoing application, administration, and enforcement of Title 17, Zoning, of the Salisbury Municipal Code, demonstrates a need for its periodic review, evaluation, and amendment that will keep Title 17 current; and,

**WHEREAS**, the Mayor and City Council may amend Title 17, Zoning, of the Salisbury Municipal Code pursuant to the authority granted by Article 66B of the Maryland Annotated Code and in accordance with specific provisions of Chapter 17.228, Amendments and Rezoning of Title 17, Zoning; and,

**WHEREAS**, the Mayor and City Council have requested that the Salisbury Planning and Zoning Commission periodically review Title 17 in light of existing development trends and practices and current City development policies as well as to review all individual amendment requests from private citizens;

WHEREAS, a Public Hearing on said text amendments to the Permitted uses and Development Standards in the Neighborhood Business District, Section 17.32.020, Title 17, Zoning, of the Salisbury Municipal Code was held by the Planning Commission in accordance with the provisions of Chapter 17.228, of Title 17, Zoning, of the Salisbury Municipal Code on April 25, 2005; and,

WHEREAS, the Planning Commission did recommend approval of the proposed text changes at a Public Hearing on April 25, 2005;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Title 17, Zoning, of the Salisbury Municipal Code are hereby amended by adding the wording in bold print as follows:

**AMEND SECTION 17.32.020, PERMITTED USES IN THE NEIGHBORHOOD BUSINESS DISTRICT BY ADDING THE FOLLOWING:**

**S. APARTMENTS ABOVE THE FIRST FLOOR IN ACCORDANCE WITH A COMPREHENSIVE SITE PLAN.**

AND BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that this Ordinance shall take effect from and after the date of its final passage but in no event until ten (10) days after the date of the Council's Public Hearing, and,

**THE ABOVE ORDINANCE** was introduced at a meeting of the Council on the \_\_\_\_ day of \_\_\_\_\_, 2005, and having been published as required by law, in the meantime, was finally passed at its meeting on the \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Michael P. Dunn  
President of the City Council of  
the City of Salisbury

Approved by me this \_\_\_\_  
day of \_\_\_\_\_, 2005.

Witness:

\_\_\_\_\_  
Barrie Parsons Tilghman  
Mayor of Salisbury

\_\_\_\_\_  
Brenda J. Colegrove  
City Clerk