

MARYLAND

ORDINANCE NO. 2077

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 17.08.030.C, INTERPRETATION OF DISTRICT BOUNDARIES RELATIVE TO THE 60/40 RULE.

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 amendment to the Interpretation of District Boundaries, Section 17.08.030.C, 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 March 19, 2009; and,

WHEREAS, the Planning Commission did recommend approval of the proposed text changes at a Public Hearing on March 19, 2009;

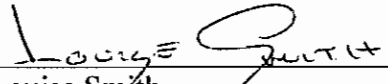
NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Title 17, Zoning, of the Salisbury Municipal Code are hereby amended by adding the wording in bold print as follows:

AMEND SECTION 17.08.030.C INTERPRETATION OF DISTRICT BOUNDARIES AS FOLLOWS:

- C. When a zoning district boundary line crosses a lot **LOT OF RECORD THAT WAS EXISTING AS OF MAY 23, 1983** and sixty (60) percent of the lot is in one zoning district and forty (40) percent is in another zoning district, a special exception may be granted to use the entire property for uses allowed in the zoning district that applies to the sixty (60) percent portion of the lot. In addition to the sixty (60) percent requirement, the following restrictions shall apply:

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,

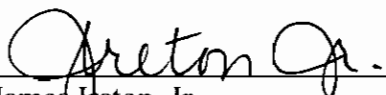
THE ABOVE ORDINANCE was introduced at a meeting of the Council on the 13th day of April, 2009, and having been published as required by law, in the meantime, was finally passed at its meeting on the 11th day of May, 2009.



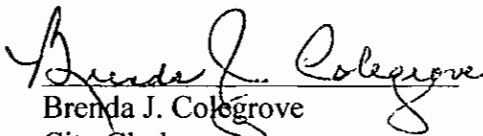
Louise Smith
President of the City Council of
the City of Salisbury

Approved by me this 14th
day of May; 2009.

Witness:



James Ireton, Jr.
Mayor of Salisbury



Brenda J. Colgrove
City Clerk



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



Tel: 410-548-4860


Fax: 410-548-4955

Planning & Zoning Commission
Historic District Commission
Metropolitan Planning Organization

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

March 24, 2009

TO: John Pick, City Administrator

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

SUBJECT: **PUBLIC HEARING – Text Amendment to Section 17.08.030.C – Interpretation of District Boundaries – relative to the 60/40 Rule when a zoning district boundary crosses a lot or parcel - Planning Commission Recommendations**

I. INTRODUCTION.

On March 19, 2009, the Salisbury Planning Commission held a public hearing on an amendment to Section 17.08.030 – Interpretation of District Boundaries relative to the interpretation of use of a lot or parcel when the zoning district boundary crosses the lot. This Code section is commonly referred to as the 60/40 Rule. (See Attachment A.)

II. RECOMMENDATION.

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

AMEND SECTION 17.08.030.C, INTERPRETATION OF DISTRICT BOUNDARIES AS FOLLOWS:

- C. When a zoning district boundary line crosses a ~~lot~~ **LOT OF RECORD THAT WAS EXISTING AS OF MAY 23, 1983** and sixty (60) percent of the lot is in one zoning district and forty (40) percent is in another zoning district, a special exception may be granted to use the entire property for uses allowed in the zoning district that applies to the sixty (60) percent portion of the lot. In addition to the sixty (60) percent requirement, the following restrictions shall apply:

1. A nonresidential use shall not extend over a lot in a residential district closer than twenty-five (25) feet to a street in a residential district; and the twenty-five-foot area shall be maintained as a landscaped front yard;
2. When a nonresidential use is extended over a lot in a residential district, a ten-foot-wide screening area shall be provided adjacent to all lot lines in the residential zoning district. (Ord. 1599 Section 2, 1995; Prior Code Section 150-20)

Unless you or the Mayor has further questions, please forward this memo to the City Council.

III. BACKGROUND.

The Staff Report contained 21 lots or parcels where a zoning district boundary line crosses that lot or parcel. This may not be an all-inclusive list of affected properties in the City and all of the properties noted may not be affected by the 60/40 Rule.

It was noted that it appeared the *original intent* of the language in 1983 was to govern existing lots of record, not lots that may be created through the subdivision or resubdivision process.

Attachments

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



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



Tel: 410-548-4860

Fax: 410-548-4955

Planning & Zoning Commission
Historic District Commission
Metropolitan Planning Organization

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

STAFF REPORT

MEETING OF MARCH 19, 2009

CASE NO.: #SP-0902

REQUEST: PUBLIC HEARING – Text
Amendment to Section 17.08.030C –
Parcels with Split Zoning – when a
zoning district boundary crosses the
property.

I. REQUEST:

The Planning Staff has been asked to review the language of the Salisbury Municipal Code with respect to Section 17.08.030 - Interpretation of District Boundaries. Specifically, the language of Section 17.08.030C was reviewed regarding the “60/40 Rule” regarding uses on a property when a district boundary line crosses the property.

On January 12, 2009, Ordinance #2070 was adopted by the City Council to enact a six-month moratorium on the acceptance of special exceptions to permit use of an entire property for uses permitted in a zoning district that covers 60 percent of a property. A work session with the City Council is tentatively scheduled for April 6, pending receipt of the Commission’s recommendation.

In accordance with the provisions of Section 17.228, Amendments 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 to the Mayor and City Council. The Council will hold a public hearing before granting final approval to the necessary Ordinance.

II. DISCUSSION:

Currently, Section 17.08.030C of the Salisbury Municipal Code reads as follows:

C. When a zoning district boundary line crosses a lot and sixty (60) percent of the lot is in one zoning district and forty

Attachment A

(40) percent is in another zoning district, a special exception may be granted to use the entire property for uses allowed in the zoning district that applies to the sixty (60) percent portion of the lot. In addition to the sixty (60) percent requirement, the following restrictions shall apply:

- 1. A nonresidential use shall not extend over a lot in a residential district closer than twenty-five (25) feet to a street in a residential district; and the twenty-five-foot area shall be maintained as a landscaped front yard;*
- 2. When a nonresidential use is extended over a lot in a residential district, a ten-foot-wide screening area shall be provided adjacent to all lot lines in the residential zoning district. (Ord. 1599 Section 2, 1995; Prior Code Section 150-20)*

Staff reviewed the Salisbury Zoning Map and found that the following parcels/lots exist with a Zoning Boundary Line crossing the property (21 locations). This list may not be all-inclusive. **Attachments #1, 2, 3, and 4** are maps that include 12 of the 21 locations.

Study Areas:

- 1. North Division Street, north of Wilson Street:** Neighborhood Business and General Commercial zoning districts. The area, located on the easterly side of North Division Street, contains the railroad right-of-way and a warehouse building. (M. 104, P. 598 & 2590). Parcel 2590 is mostly General Commercial, while Parcel 598 appears to be evenly split, although a survey would indicate if the 60-40 split has been achieved.
- 2. North Division Street (west side), across from Baltimore Avenue:** Neighborhood Business and R-8 Residential zoning districts. This one lot is improved with a residential structure that, according to the State Assessment records, contains "apartments." The property appears to be zoned mostly Neighborhood Business, although without a survey it is difficult to determine if a 60-40 split exists. (M. 104, P. 905)
- 3. East of North Division Street, between Wilson and Elizabeth Streets:** R-8 Residential and General Commercial zoning districts. These three lots contain three residences (one of which is the Poplar Hill Mansion) and appear to be zoned mostly residential, although without a survey it is difficult to determine if the 60-40 split is obtained. Regardless, it does appear that the General Commercial zoning would not reach the 60%

threshold that would allow an application to be submitted to extend a commercial use over the entire property. (M. 104, P. 610, 611 & 615)

4. **North of East Church Street, across from Walston Avenue:** General Commercial and R-8 Residential zoning districts. These six lots contain residences. (M. 108, P. 1820, 1821, 1822, 1823, 1824 & 1825). Lots 1821, 1822, 1823 and 1825 are zoned mostly General Commercial. Lots 1820 and 1824 are zoned mostly residential.
5. **North of East Church Street, across from North Saratoga Street:** General Commercial and R-8 Residential zoning districts. (M. 105, P. 1783 & 1791). Lot 1791 is mostly General Commercial and contains a mini-storage facility. Lot 1783 is mostly R-8 Residential and contains a residence.
6. **Jersey and Naylor Mill Roads, Lockman Annexation:** R-10A Residential and Neighborhood Business zoning districts. This area remains undeveloped at this time. The split zoning was imposed at the request of the developer and based upon a concept development plan submitted at the time of annexation.
7. **Snow Hill Road, Causey-Carey Annexation,** between Johnson Road and Toadvine Road (parts of both sides of Snow Hill Road): R-8A Residential and General Commercial zoning districts. The portion of this annexation located on the southwesterly side of Snow Hill Road between Robbins Avenue and Toadvine Road is undeveloped. (Marley Manor was a separate annexation.) The area on the northeasterly side of Snow Hill Road has been partially developed. Summersgate is under construction on the R-8A portion of the property. The General Commercially zoned area remains vacant.
8. **Riverside Drive, east side toward Camden Avenue:** This one property is zoned Central Business District and R-10 Residential, and appears to be zoned mostly CBD. It is improved with a small shopping center. (M. 111, P. 1532)
9. **Vicinity of Wicomico Street and Oak Hill Avenue:** Two lots (M. 111, P. 1403 & 1406) zoned R-10 Residential and R-5A Residential. The lots are improved with the Beth Israel Synagogue and a residence that contains apartments (according to the State Assessment records). Both lots appear to be zoned mostly R-10 Residential.
10. **Maryland Avenue, between Smith Street and Camden Avenue:** One lot (M. 111, P. 288) zoned R-8 Residential and R-10 Residential. The lot is improved with a residence that, according to the State Assessment records, contains apartments. The lot is zoned mostly R-8 Residential.
11. **Locust Terrace:** Two lots (M. 111, P. 177 & 178) at the end of Locust Terrace zoned R-8 Residential and R-10 Residential. The lots are improved with residences and are zoned mostly R-8 Residential.

12. **Riverside Drive near Ridge Road:** One lot (M. 111, P. 1116) zoned R-5A Residential and R-10 Residential. Zoned mostly R-5A residential, the parcel contains Oak Hill Townhouses with an undeveloped portion that is undeveloped and zoned R-10 Residential. However, this portion of the property is severely restricted by wetlands and is unlikely to be developed.
13. **South Division Street and Eastern Shore Drive:** Office Service Highway and R-8 Residential zoning districts. These three lots (M. 112, P. 2210, 2211 & 2212) are improved with residences. They appear to be equally split by the zoning districts, and without a survey it is difficult to determine if a 60-40 split exists.
14. **Snow Hill Road – Deaf Independent Living/Surgery Center:** General Commercial and R-8 Residential zoning districts. Both properties are developed. The Deaf Independent Living facility and Chesapeake Surgery Centers are located on these lots.
15. **Snow Hill Road and College Avenue:** Zoned General Commercial and R-5A Residential, this property (M. 116, P. 3274) is improved with a shopping center.
16. **Bateman Street, on both sides of Wayne Street:** Zoned Industrial and General Commercial, this property consists of two lots (M. 115, P. 3114, Lots 5A & 1A). Zoned mostly Industrial, Lot 1A is owned by Dresser and used as a parking lot by Salisbury University, while Lot 5A is currently vacant and is owned by Salisbury University.
17. **Elks Golf Course along Richwil Drive:** A portion of the golf course fronting on the south side of Richwil Drive east of Sheffield Avenue is zoned R-10 Residential, while the remaining portion of the golf course (and the majority of the property) is zoned R-5A Residential. The property is shown on Tax Map 112 as Parcel 1887.
18. **East Locust Street and Oak Street (Pepsi Property):** This property (M. 112, P. 3293) is zoned General Commercial and R-5A Residential. Improved with the Pepsi plant, the majority of the property is zoned General Commercial. This zoning split occurred with the closing of a section of Locust Street in 2003.
19. **East Carroll Street and Oak Street:** This property (M. 112, P. 1603, Lot 2) is zoned General Commercial and R-8 Residential. The property is improved with a commercial business and a house. The majority of the property is zoned General Commercial.
20. **Middle Neck Lane next to Middle Neck Branch:** This property (M. 103, P. 2367) is zoned R-8A Residential and General Commercial. Currently undeveloped, the majority of the property is zoned R-8A Residential.

21. **West Main Street and Catherine Street:** This property (M. 106, P. 1176) is zoned General Commercial and R-5A Residential. The property is improved with three residences and a larger building that appears to be a warehouse. It is uncertain, without a survey, if a 60/40 ratio exists as the property appears to be evenly split between the two zoning districts.

In addition, with the existing Code language, an applicant could subdivide or resubdivide property and create a new property with split-zoning. This could occur virtually anywhere in the City.

III. PLANNING STAFF COMMENTS.

In Staff's opinion, it was intended to apply to current Code language to existing lots of record. It was not anticipated that lots could be resubdivided to create a larger parcel that then has a zoning district boundary line crossing the property.

An immediate remedy to the situation is to add language that clarifies that this applies only to existing lots of record and include only those lots that were in existence at the time of adoption of the current (1983) Zoning Code.

IV. RECOMMENDATION.

Staff recommends that the Commission forward a **Favorable** recommendation to the Mayor and Salisbury City Council for the following:

AMEND SECTION 17.08.030C BY ADDING THE FOLLOWING:

- C. When a zoning district boundary line crosses ~~a lot~~ **AN EXISTING LOT OF RECORD THAT WAS EXISTING AS OF MAY 23, 1983** and sixty (60) percent of the lot is in one zoning district and forty (40) percent is in another zoning district, a special exception may be granted to use the entire property for uses allowed in the zoning district that applies to the sixty (60) percent portion of the lot. In addition to the sixty (60) percent requirement, the following restrictions shall apply:

COORDINATOR: Gloria Smith, Planner

DATE: March 12, 2009

- Historic Districts**
 - Camden Historic District
 - Downtown Historic District
 - Newtown Historic District
- Tax Maps**
- Water**
- City Zoning**
 - CBD
 - College & University
 - Commercial
 - Conservation
 - Hospital
 - Industrial
 - Industrial Park
 - LBI
 - Light Industrial
 - Neighborhood Business
 - OSH
 - OSR
 - PDD
 - PRD
 - R-10
 - R-10 A
 - R-5
 - R-5A
 - R-8
 - R-8A
 - Regional Commercial
 - Riverfront Redevelopment
 - Select Commercial



Split zonings - North Division Street area



Historic Districts

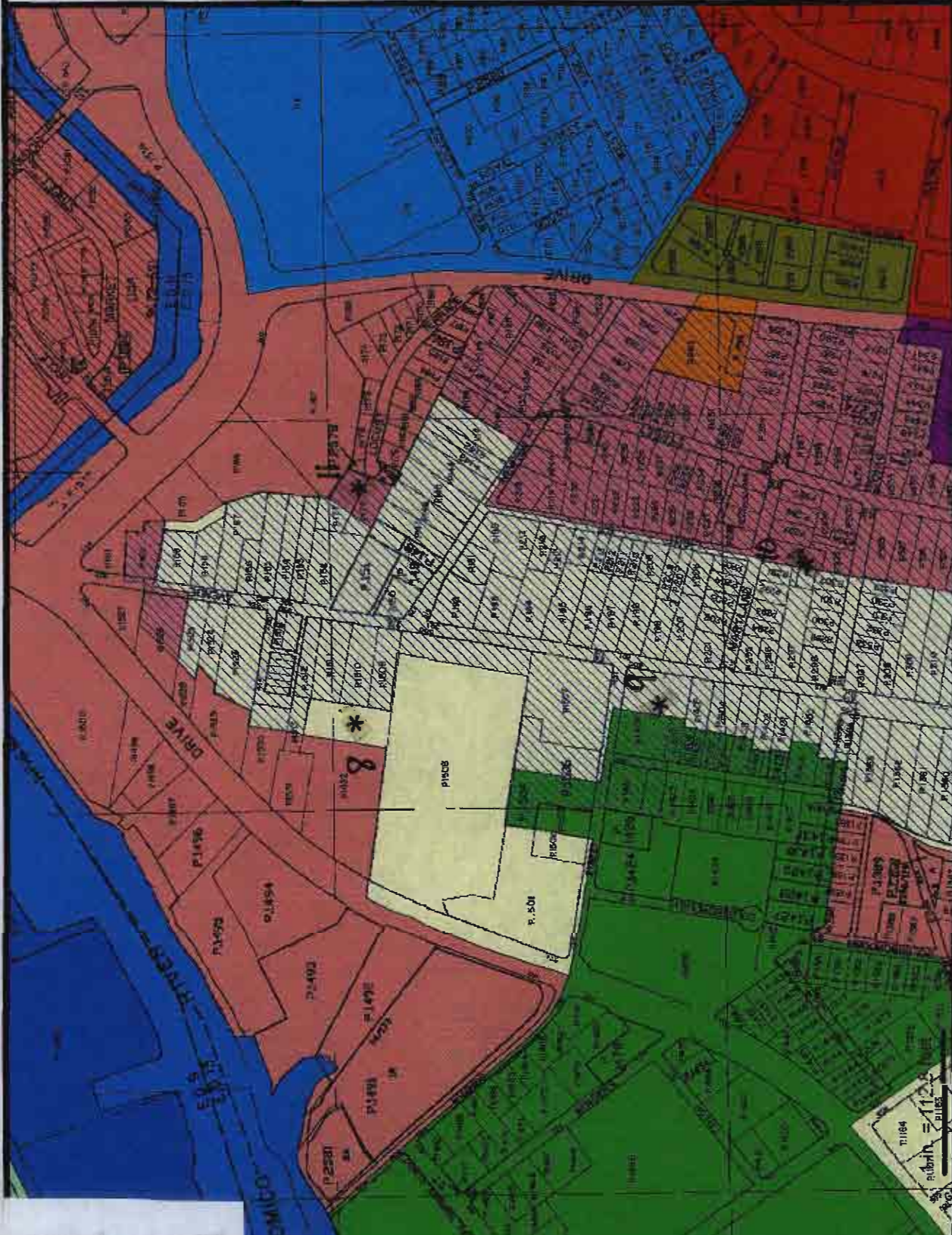
- Camden Historic District
- Downtown Historic District
- Newtown Historic District

Tax Maps

Water

City Zoning

- CBD
- College & University
- Commercial
- Conservation
- Hospital
- Industrial
- Industrial Park
- LBI
- Light Industrial
- Neighborhood Business
- OSH
- OSR
- PDD
- PRD
- R-10
- R-10A
- R-5
- R-5A
- R-8
- R-8A
- Regional Commercial
- Riverfront Redevelopment
- Select Commercial



Split zonings - Camden Area



Historic Districts

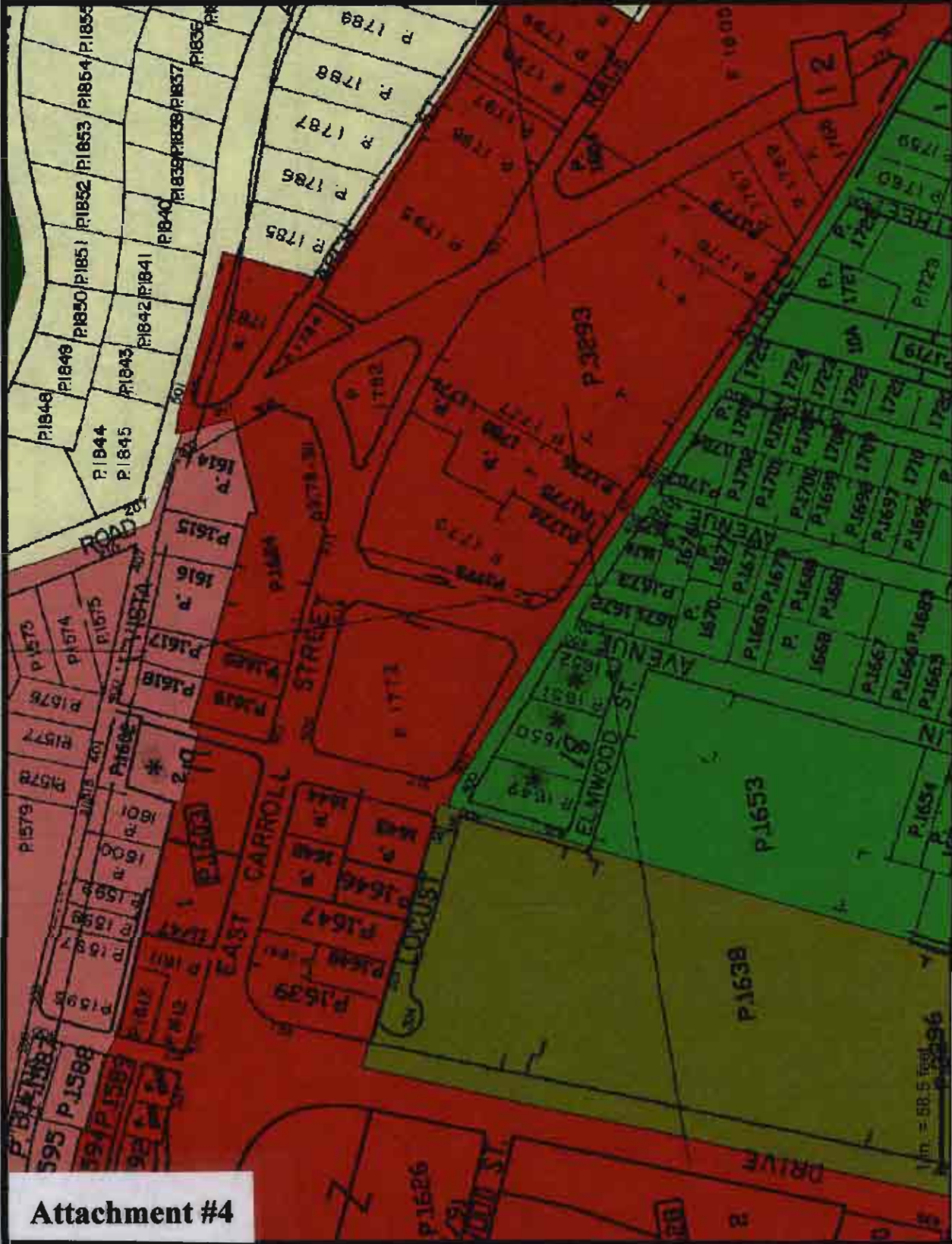
- Camden Historic District
- Downtown Historic District
- Newtown Historic District

Tax Maps

Water

City Zoning

- CBD
- College & University
- Commercial
- Conservation
- Hospital
- Industrial
- Industrial Park
- LBI
- Light Industrial
- Neighborhood Business
- OSH
- OSR
- PDD
- PRD
- R-10
- R-10A
- R-5
- R-5A
- R-8
- R-8A
- Regional Commercial
- Riverfront Redevelopment
- Select Commercial



Split zonings - E. Carroll Street area





MARYLAND

ORDINANCE NO. 2077

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 17.08.030.C, INTERPRETATION OF DISTRICT BOUNDARIES RELATIVE TO THE 60/40 RULE.

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 amendment to the Interpretation of District Boundaries, Section 17.08.030.C, 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 March 19, 2009; and,

WHEREAS, the Planning Commission did recommend approval of the proposed text changes at a Public Hearing on March 19, 2009;

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 17.08.030.C INTERPRETATION OF DISTRICT BOUNDARIES AS FOLLOWS:

- C. When a zoning district boundary line crosses a lot **LOT OF RECORD THAT WAS EXISTING AS OF MAY 23, 1983** and sixty (60) percent of the lot is in one zoning district and forty (40) percent is in another zoning district, a special exception may be granted to use the entire property for uses allowed in the zoning district that applies to the sixty (60) percent portion of the lot. In addition to the sixty (60) percent requirement, the following restrictions shall apply:

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 13th day of April, 2009, and having been published as required by law, in the meantime, was finally passed at its meeting on the _____ day of _____, 2009.

Louise Smith
President of the City Council of
the City of Salisbury

Approved by me this _____
day of _____, 2009.

Witness:

James Ireton, Jr.
Mayor of Salisbury

Brenda J. Colegrove
City Clerk