



City of
Salisbury
Jacob R. Day, Mayor

AGENDA

Regular Meeting

September 5, 2019

Government Office Building
Route 50 & N. Division Street
Council Chambers, Room 301, Third Floor

6:00 P.M. - Call to Order – Gil Allen

Board Members: Gil Allen, Jordan Gilmore, Alex Paciga, Brian Soper and Shawn Jester.

MINUTES – June 6, 2019

PUBLIC HEARINGS:

#SA-19-702 **John and Charleen Burik** – Special Exception to operate a bed and breakfast – 401 N. Division Street – R-8 Residential District.

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MINUTES

The Salisbury Board of Zoning Appeals met in regular session on June 6, 2019, in Room 301, Government Office Building at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Albert G. Allen, III, Chairman (Absent)
Jordan Gilmore, Vice Chairman
Shawn Jester
Brian Soper
Alex Paciga

CITY STAFF:

Henry Eure, Project Manager
Beverly Tull, Recording Secretary

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Mr. Gilmore, Vice Chairman, called the meeting to order at 6:00 p.m.

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MINUTES:

Upon a motion by Mr. Jester, seconded by Mr. Soper, and duly carried, the Board **APPROVED** the minutes of the April 10, 2019 meeting as submitted.

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Mr. Eure requested that anyone wishing to testify in the case before the Salisbury Board of Zoning Appeals stand and be sworn in. Mr. Eure administered the oath. Mr. Gilmore explained the procedure for the public hearing.

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#SA-19-418

Northwood Professional Center, LLC – Special Exception for an enlargement of a Daycare Center and a 50 sq. ft. Sign Variance to erect a 150 sq. ft. freestanding sign – 2324 W. Zion Road – Light Industrial District.

Mr. Gilmore requested that the requests be done separately starting with the daycare.

Mr. Charles Holland, Mr. Bruce Rogers, and Mrs. Ashley South came forward. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant proposes to enlarge an existing daycare center or nursery school for up to 99 infants and children on this property. Board approval of a Special Exception for the enlargement is requested. The applicant also requests permission to erect a 168 sq. ft. freestanding sign on the site.

Mr. Holland explained that the daycare opened in March and was the first tenant in the complex. They are already at capacity and need the ability to expand. He added that he had no issues with the providing the required landscaping.

Mr. Rogers discussed the photographs that he handed out to the Board. This daycare is an asset to Salisbury and is providing a need in the area. The daycare is also providing jobs in the Salisbury area.

Mrs. South explained that with the expansion, she will hire six (6) additional employees. She added that she also works with Lower Shore Enterprises to give opportunities to individuals with special needs.

Mr. Soper questioned if 99 children would be the maximum number of children allowed. Mrs. South responded in the affirmative. Mr. Soper questioned if the playground expansion would affect the stormwater management. Mr. Holland responded in the negative. Mr. Soper questioned if the setbacks along Zion Road would be affected. Mr. Eure responded in the negative.

Mr. Gilmore questioned if they were previously approved for 60 children. Mrs. South responded in the affirmative, explaining that they will now have before and after school care as well as infants with the expansion.

Mr. Jester questioned if there would be any interruptions in the daycare with the expansion. Mr. Holland responded that there is a two (2) hour rated fire wall that will remain while the expansion is being done and then it will be removed on a weekend so there is no disruption in the daycare.

Mr. Soper questioned if the playground would be sufficient for the 99 children. Mr. Holland responded in the affirmative.



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Upon a motion by Mr. Soper, seconded by Mr. Paciga, and duly carried, the Board **APPROVED** a Special Exception to enlarge the existing Day Care Center for up to 99 children and infants, subject to the following Condition of Approval:

CONDITION:

1. The outdoor play area shall be provided with additional landscaping along the north side as required by the Salisbury Zoning Code.

Mr. Eure summarized the signage portion of the Staff Report.

Mr. Holland explained that the sign would be visible from both roads and was needed to identify the businesses in the complex. Mr. Rogers added that the sign would be attractive.

Mr. Gilmore questioned if there was any signage on the site now. Mr. Rogers responded that there is temporary signage stating that the complex would be coming soon. The temporary sign will come down with the installation of the permanent sign.

Mr. Holland requested to install wall plaques for each tenant on the outside of the building to identify each unit in addition to the freestanding sign.

Mr. Eure stated that the Staff would agree to a small plaque sign.

Mr. Soper questioned the size. Mr. Holland requested plaque sizes of 10 inches by five (5) to six (6) feet in size which are being done by Gardner Signs, with a total of 15 signs.

Mr. Jester questioned if there were 15 units. Mr. Holland stated that one (1) tenant took a unit and a half.

Mr. Rogers stated that they wanted all the signs to be aesthetically pleasing.

Mr. Jester questioned if the tenants were agreeable to the signage proposal. Mr. Holland stated that the tenants would prefer to have wall signage in addition to the freestanding sign.

Mr. Gilmore questioned the construction timeline on the main sign. Mr. Holland responded that the timeline for the freestanding sign would be 45 days.

~~Mr. Soper questioned if anyone besides the daycare had a sign up. Mr. Holland responded in the negative. Mr. Soper questioned if the signage on the~~



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daycare was just the name. Mrs. South responded that the signage had the name and phone number of the daycare. Mr. Soper questioned if the plaques counted as wall signage. Mr. Eure responded in the affirmative. Mr. Soper questioned if window signage would be prohibited. Mr. Eure responded that the City does not regulate interior window signage. Mr. Holland stated that the plaques would mimic the signs on the freestanding sign. Mr. Rogers added that they want the window signs removed. Mr. Soper questioned if the recommendation needed to be amended. Mr. Eure responded in the negative, adding that the condition of approval listed in the Staff Report would need to be struck. There was discussion regarding the total square footage of signage. Mr. Eure suggested limiting the square footage per unit for the wall signage.

Upon a motion by Mr. Jester, seconded by Mr. Paciga, and duly carried, the Board **APPROVED** the variance request to erect a 168 sq. ft. freestanding sign, subject to the following Conditions of Approval:

CONDITIONS:

1. No other freestanding signs shall be erected on the property.
2. Identifying wall signage shall be no larger than 6 sq. ft. on each unit.
3. Signage on exterior window of the daycare center shall be removed/placed on the inside of the window.

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#SA-19-419

Wade Rentals, LLC – Special Exception for a Restaurant – 2305 Northwood Drive – Light Industrial District.

Mr. Alex Fisher and Mr. Taylor Wade came forward. Mr. Henry Eure presented and entered the Staff Report and all accompanying documentation into the record. He summarized the report explaining that the applicant proposes establishment of a restaurant (brewery and brew pub) on this property. Board approval of a Special Exception for the restaurant is requested.

Mr. Fisher passed out an exhibit list to the Board members to use for his case. He stated that this property is optimal for a brew pub/restaurant. He further requested that after the Board hears the testimony given, that they respectfully approve the requested Special Exception.

Mr. Fisher requested that Mr. Wade state his address for the record. Mr. Wade responded that he resided at 1105 Riverside Drive, Salisbury, Maryland. Mr. Fisher questioned Mr. Wade's affiliation with Wade Rentals. Mr. Wade responded that he is a managing member. Mr. Fisher questioned if Wade Rentals owned the subject property. Mr. Wade responded in the affirmative. Mr. Fisher questioned how long Wade Rentals had owned the subject property. Mr. Wade responded that they had owned the

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property for about eight (8) years. Mr. Fisher questioned how often Mr. Wade was present on the property. Mr. Wade responded that he is on the property daily. Mr. Fisher questioned Mr. Wade's affiliation with the proposed restaurant tenant on this property. Mr. Wade responded that he is a member of that LLC. Mr. Fisher questioned Mr. Wade that he is qualified to answer questions about the property as well as the proposed use. Mr. Wade responded in the affirmative. Mr. Fisher questioned what **Exhibits 1-3** showed. Mr. Wade responded that the exhibits show the proposed site for the brew pub and the location on the northwest corner of property. Mr. Fisher questioned if the northwest corner of the property would be used for the restaurant. Mr. Wade responded in the affirmative. Mr. Fisher questioned Mr. Wade what **Exhibit 4** was. Mr. Wade responded that Exhibit 4 was a floor plan of the proposed restaurant area as well as architectural drawings of the proposed brew pub. Mr. Fisher questioned Mr. Wade what **Exhibit 5** was. Mr. Wade responded that it is an overall aerial photo of where the restaurant is situated on the property and the available parking. Mr. Fisher questioned how many parking spaces were available as labeled on the exhibit as available off-street parking. Mr. Wade responded that there were over 200 spaces available. Mr. Fisher questioned how far the entrances for ingress/egress were from the Naylor Mill/Northwood intersection. Mr. Wade responded that both exits are over 100 yards away from the intersection. Mr. Fisher questioned the nature of the surrounding area. Mr. Wade responded that the area is all commercial or light industrial. Mr. Fisher questioned how putting a restaurant in this area would affect the future development of the surrounding area. Mr. Wade responded that the restaurant and brew pub will fit in fine in the area. Mr. Fisher questioned if there was any way that this project would inhibit future development. Mr. Wade responded in the negative. Mr. Fisher explained that **Exhibit 6** was an excerpt from the 2017 Wicomico County Comprehensive Plan on roads where he referenced the Northwood Drive extension and questioned Mr. Wade on what the extension would cover. Mr. Wade responded that the proposal is to extend Northwood Drive north up to Foskey Lane. Mr. Fisher questioned Mr. Wade on the last sentence in that referenced section regarding Northwood Drive and asked him to summarize what it meant. Mr. Wade responded that the plan references signaling the intersection of Northwood Drive and Naylor Mill Road. Mr. Fisher questioned if the proposed growth to the north would inhibit this project. Mr. Wade responded in the negative, adding that it would complement it well. Mr. Fisher requested Mr. Wade identify **Exhibits 7-8**. Mr. Wade stated that Exhibit 7 is the current zoning and Exhibit 8 is the future growth area where this property is in the Industrial area and surrounded by commercial. Mr. Fisher questioned what was located across Naylor Mill Road from the site. Mr. Wade responded that it is currently undeveloped county land. Mr. Fisher questioned what zone was proposed to be annexed into the City limits across Naylor Mill Road from the site. Mr. Wade responded that more commercial zoning is proposed to be annexed into the City limits. Mr. Fisher requested Mr. Wade look at **Exhibit 9** which was an excerpt from the 2010 City of Salisbury Comprehensive Plan and list the permitted uses in the commercial zoning district. Mr. Wade responded that the uses included banks, retail, grocery stores, bakeries, florists, eating and drinking establishments, to medical facilities, clubs and places of worship. Mr. Fisher questioned if a restaurant in the light industrial zone bordering a commercial zone would provide a

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smooth transition between the two. Mr. Wade responded in the affirmative. Mr. Fisher questioned that there are no churches, schools, or public places of gathering nearby. Mr. Wade responded in the negative. Mr. Fisher questioned the accessibility of the site for fire and police protection. Mr. Wade responded that there is adequate access to the site. Mr. Fisher questioned the location of the Sheriff's Department. Mr. Wade responded that the Sheriff's Department is down the street from the site and the State Police Barracks is less than a mile away. There are fire stations nearby. Mr. Fisher questioned if the facility had adequate access roads, drainage and utilities. Mr. Wade responded in the affirmative.

Mr. Soper questioned if there was any intention to do can releases and is there adequate parking. Mr. Wade responded in the affirmative, adding that there is plenty of parking available.

Mr. Gilmore questioned what other businesses were in the existing building. Mr. Wade responded that Delaware Elevator and Delmarva Power as well as other tenants rent space. Mr. Fisher added the most of the rentals is used for storage and warehouse space.

Mr. Jester questioned if the brew pub and brewery were approved would the existing storage continue. Mr. Wade responded in the affirmative. Mr. Fisher referenced the exhibits that showed the layout of the proposed restaurant and the existing layout of the building.

Mr. Jester questioned if the Planning Commission didn't permit the beer garden would this still be feasible. Mr. Fisher responded in the affirmative.

Mr. Soper questioned if this was handled by City services. Mr. Wade responded in the affirmative.

Mr. Jester questioned if the water capacity was sufficient. Mr. Wade responded in the affirmative.

Mr. Jester questioned if the Brew Company currently exists or has to wait for the building to be built. Mr. Fisher responded that they exist as an entity but are working on the formalities to start the restaurant and start to brew beer.

Mr. Jester questioned if the restaurant would be a feasible option in the industrial zone. Mr. Wade responded that there are plenty of restaurants on the north end of town that are always busy. Mr. Fisher added that the brewery is confident that the beer drinking enthusiast will travel far and wide to visit the establishment. It is not uncommon for small brew pubs to be established in industrial parks.



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Mr. Scott Hursch, Jubilant Cadista Pharmaceuticals, stated that he hoped for their success but the only concern was with traffic at the Northwood and Naylor Mill intersection. He questioned if he had heard that a traffic signal was proposed for that intersection. Mr. Gilmore stated that the signal was in the County Comprehensive Plan. Mr. Fisher stated that in recent discussions with the Mayor it has come to life that Naylor Mill Road is in the County. Both the City and the County would like a light there. In the intermediate plans for the future which are for the next five (5) years there is discussion of a light. Mr. Gilmore questioned the location of Cadista to this parcel. Mr. Eure responded that Cadista is on Kiley Drive. Mr. Fisher added that it is also in the plan to extend Northwood towards Delmar. Mr. Wade added that the City wants the traffic to be in these areas and the ingress/egress is 100 yards away from the intersection.

Mr. Soper questioned how many employees are at Cadista. Mr. Hursch responded that there are approximately 350 employees at Cadista. Mr. Fisher added that this building is the former Bayliner building which had several hundred employees.

Mr. Gilmore questioned the hours of operations. Mr. Wade responded that they anticipate being open seven (7) days a week but the hours of operation have not been decided. It won't be open late. Mr. Gilmore questioned what time frame was being considered for not open late. Mr. Wade responded that they anticipate closing around 10 pm.

Mr. Soper questioned if a traffic analysis had been done. Mr. Fisher responded that a traffic analysis had not been done.

Mr. Soper noted that the traffic will increase when businesses let out.

Mr. Fisher noted that they anticipate the majority of the traffic and patrons will be on the weekend. The can releases will be done on Saturdays once a month.

Mr. Soper questioned if Cadista worked seven (7) days a week or five (5) days a week. Mr. Hursch responded that they work three (3) shifts, five (5) days a week. He added that when needed there are overtime shifts on the weekends.

Upon a motion by Mr. Soper, seconded by Mr. Paciga, and duly carried, the Board **APPROVED** the Special Exception for a restaurant, brewery and brew pub, based on the criteria listed in Section V(c) of the Staff Report and subject to the following Condition of Approval:



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CONDITION:

1. Obtain Paleochannel and Wellhead Protection site plan approval from the Salisbury Planning Commission.

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ADJOURNMENT

With no further business, the meeting was adjourned at 7:11 p.m.

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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.

Jordan Gilmore, Vice Chairman

Amanda Pollack, Secretary to the Board

Beverly R. Tull, Recording Secretary



STAFF REPORT

MEETING OF SEPTEMBER 5, 2019

Case No. 201900702
Applicant: John and Charleen Burik
Property Owner: John and Charleen Burik
Location: 401 N. Division Street
Tax Map: #107
Grid #0003, Parcel #678
Zoning: R-8 Residential
Request: Special Exception – Permission to Operate a Bed and Breakfast Inn

I. SUMMARY OF REQUEST:

The applicants are requesting a Special Exception to open and operate a bed and breakfast at the referenced address. **(Attachment 1)**

II. ACCESS TO THE SITE AREA:

The site has frontage along both North Division and East William Streets, and access on the north side of East William Street.

III. DESCRIPTION OF PROPERTY:

The property is an “L – shaped” parcel, totaling 16,000 sq. ft. in area, and has been improved with an approximate 4,000 sq. ft., 3-story dwelling. The structure was constructed in 1887. **(Attachments 2-4)** The site is located within the Newtown Historic District, and is zoned R-8 Residential.

IV. DESCRIPTION OF SURROUNDING AREA/NEIGHBORHOOD:

Surrounding properties are also primarily residential uses, and are also located in both the R-8 Residential Zoning and Newtown Historic Districts. Bethesda United Methodist Church is across North Division Street from the site.

V. EVALUATION:

- (a) Discussion:** The applicants propose to utilize three bedrooms on the second floor of the existing 3-story dwelling as guest rooms for a bed and breakfast inn.

(Attachments 5-6) A bed and breakfast inn is permitted by Special Exception within the Newtown Historic District.

Parking for both guests and the owners is proposed to be provided along the east side of the property. Currently, based on the submitted site plan, three parking spaces are located in a stabilized driveway. Two additional spaces are shown in a grassy area south of the existing carriage house. **(Attachments 7-9)**

- (b) **Impact:** Staff believes the proposed use, due to guests staying at the bed and breakfast, may have a small increase on traffic in the neighborhood, but otherwise should have a minimal impact on adjacent properties, as the property will be virtually unchanged.
- (c) **Relationship to Criteria:** Section 17.232.020 of the Salisbury Municipal Code contains the criteria the Board should consider when approving special exceptions. Staff finds that this request complies with the Special Exception criteria as follows:

- [1] The proposal will be consistent with the Metro Core Plan, the objectives of the Zoning Ordinance and any other applicable policy or plan adopted by the Planning Commission or City Council for development of the area affected.**

The site is situated in the Newtown Historic District. The City Council approved a text amendment in 2015 permitting bed and breakfast inns within this Historic District. The existing use of the property as a single-family home that operates a bed and breakfast is compatible with the city's Zoning Code and Metro Core Plan.

- [2] The location, size, design and operating characteristics under the proposal will have minimal adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area.**

The use of the property will still primarily function as a single-family dwelling. There should be not be any negative impacts on the adjoining properties or neighborhood.

- [3] The design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.**

There are no changes proposed to the either the building or site.

- [4] The proposal will not be detrimental to or endanger the public health, security, general welfare or morals.**



Staff does not find that the proposed use will have a negative effect on any of these items.

- [5] **The proposal will not impair an adequate supply of light or air to adjacent property or overcrowd the land or create any undue concentration of population or substantially increase the congestion of the streets or create hazardous traffic conditions or increase the danger of fire or otherwise endanger the public safety.**

Parking for the bed and breakfast will be provided on site, eliminating the need for on-street parking for guests. No other exterior changes are proposed for the property.

- [6] **The proposal will not adversely affect transportation or unduly burden water, sewer, school, park, stormwater management or other public facilities.**

The proposed use should have minimal impacts on transportation, water, sewer, stormwater management or other public facilities.

- [7] **The proposal will preserve or protect environmental or historical assets of particular interest to the community.**

The proposed use has to potential to enhance tourism to both the Newtown Historic District and Salisbury.

- [8] **The applicant has a bona fide intent and capability to develop and use the land as proposed and has no inappropriate purpose for submitting the proposal, such as to artificially alter property value for speculative purposes.**

The applicants will continue to reside in the existing dwelling. There does not appear to be any intent to sell the property for speculative purposes.

VI. STAFF COMMENTS:

When the Salisbury Planning Commission and City Council entertained the idea of permitting bed and breakfast inns within the Newtown Historic District, care was taken to ensure that the dwellings would not be used as multi-family rental units, and incorporated standards to protect the integrity of the surrounding properties and neighborhood. This was achieved by two methods: 1. permitting the use only by special exception from the Board of Zoning Appeals, which gives the board the opportunity to review the request and place conditions on the proposal if necessary in order to protect surrounding properties, and 2. providing a clear definition of "bed and breakfast inn." Section 17.04.120 of the Zoning Code defines the use as follows: "Bed and breakfast inn" means the renting of not more than three rooms in



an owner-occupied dwelling for lodging and serving of breakfast to not more than six casual and transient adult roomers (and the children of those six adults”), provided that:

1. The renting of such rooms for such purpose is incidental and subordinate to the principal use of the dwelling;
2. No roomer’s stay shall exceed fourteen (14) days in any six month period;
3. All meals and all amenities connected with the guest rooms shall be solely for use by the owner, the owner’s family and the owner’s registered guests;
4. There shall be only one kitchen and no guest room shall include cooking facilities;
5. The owner shall maintain a guest register, shall preserve all registration records for no less than three years, and shall consent to and thereafter make such records available immediately to the housing official upon request;
6. The owner may display a single exterior sign, as provided for under Section 17.216.060 “sign standards”; and
7. The owner has been issued a permit for the use and operation of the owner occupied dwelling as a bed and breakfast inn by the housing official pursuant to the requirements established by the ordinance.

Section 17. 196.030 of the city’s Zoning Code indicate that a total of 5 parking spaces should be provided for the bed and breakfast and the owners/residents. The applicant’s site plan indicates that 5 parking spaces are to be provided. However, two of the spaces are proposed to be in a grassy area between the existing driveway and the carriage house, located on the north end of the property. These additional parking spaces should be stabilized with an all-weather material (gravel, paved, concrete, etc.) as is required by the Zoning Code.

VII. RECOMMENDATION:

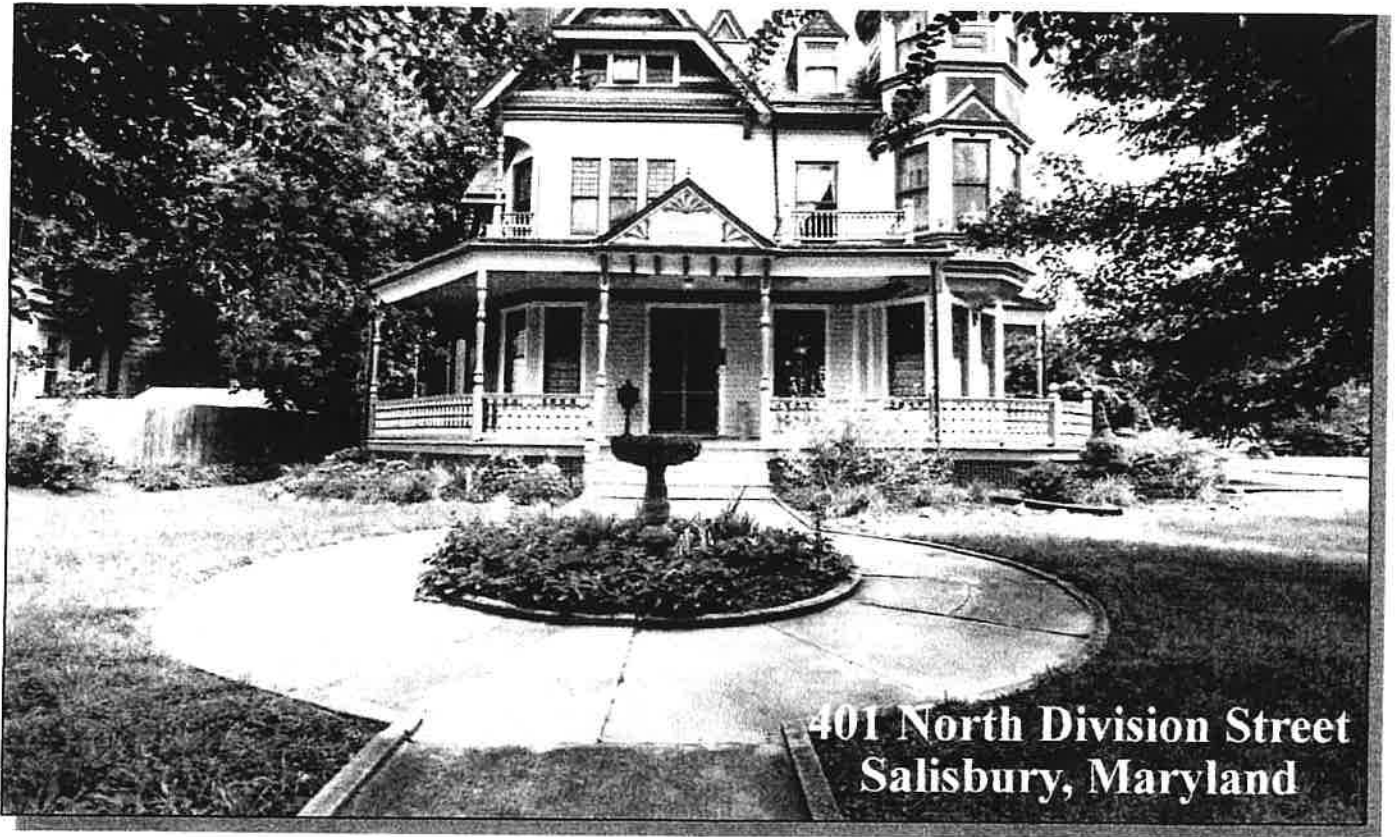
Based on the criteria for approval as discussed above in this staff report, Section V (c), Staff recommends **Approval** of the Special Exception request to operate a bed and breakfast inn at the referenced address with the following condition:

1. All parking spaces shall be stabilized with an all-weather material.

COORDINATOR: Henry Eure, Project Manager
DATE: August 28, 2019



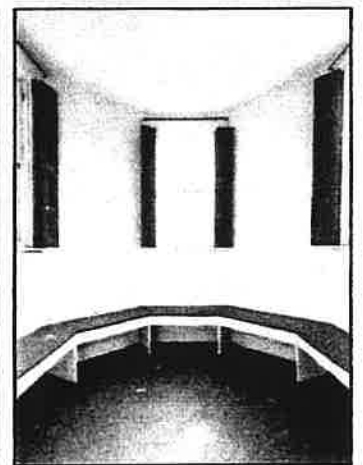
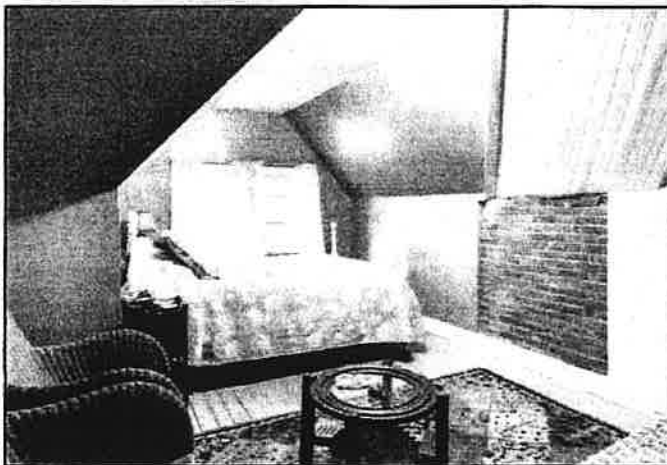
Attachment 1



**401 North Division Street
Salisbury, Maryland**

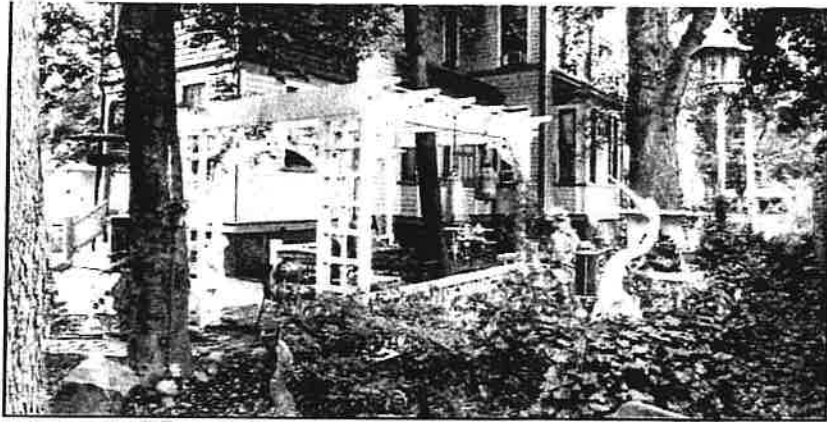


The beautiful turning staircase continues on to the third floor with three additional bedrooms, a sitting room, an exercise room and another full bath. A separate set of stairs leads to the attic.



This information is deemed accurate but not guaranteed. Prospective purchasers should verify the information to their own satisfaction.



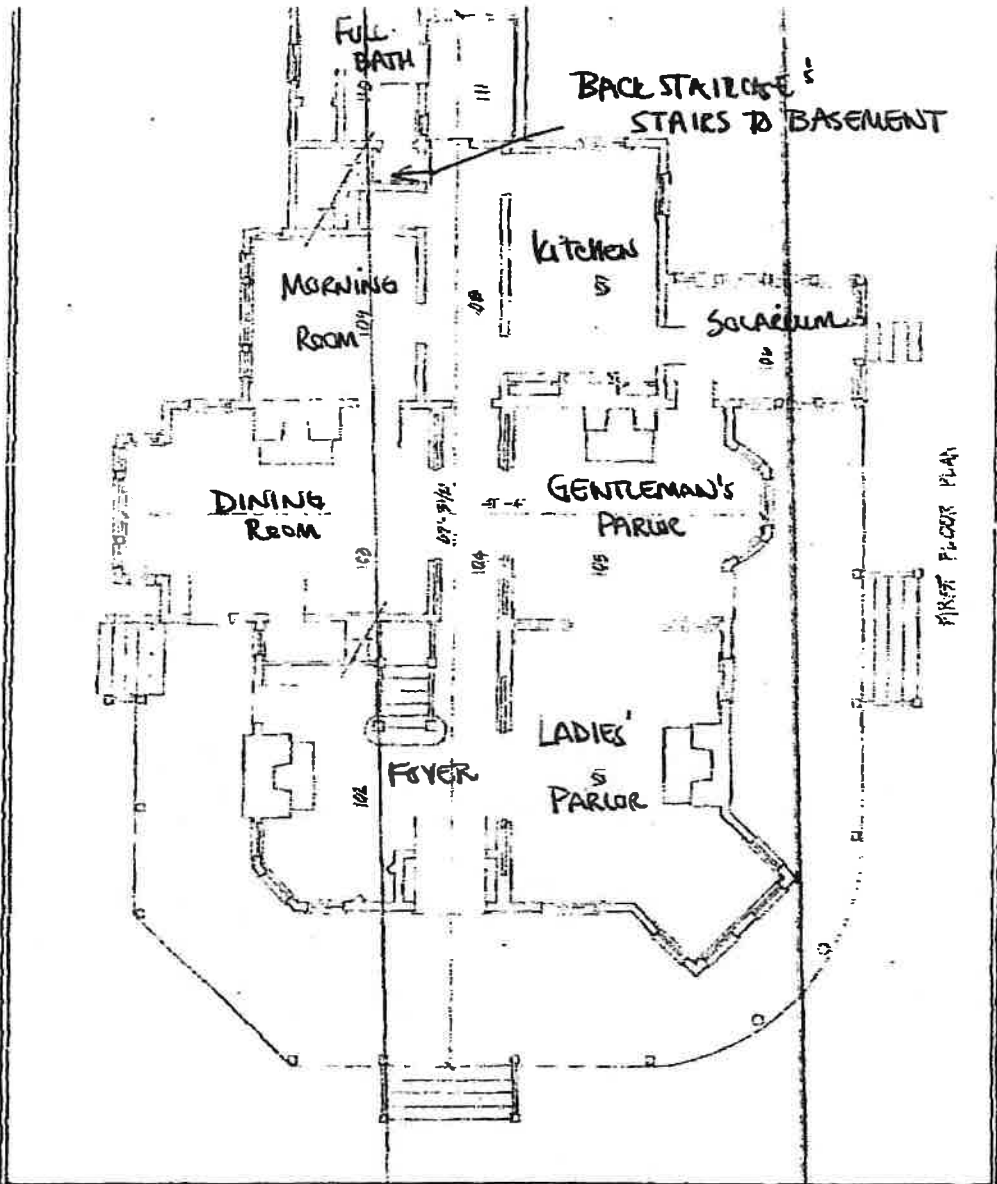


*a pergola,
marble fireplace mantle
with bottle wall insert,
ample off street parking,
and a 1 1/2 story
carriage house with its
own separate historic
designation from the
Maryland Historic Trust.*

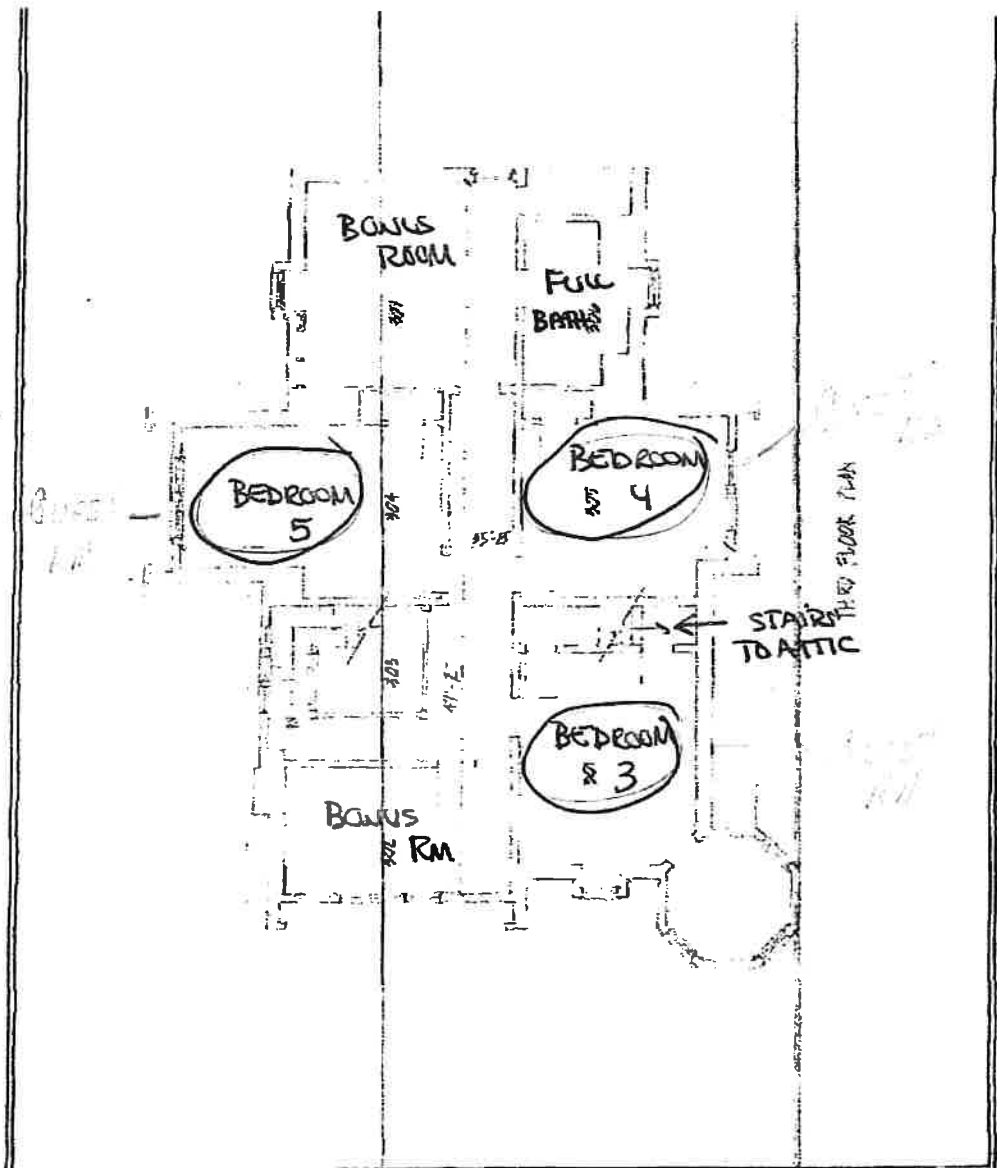


This information is deemed accurate but not guaranteed. Prospective purchasers should verify the information to their own satisfaction.





GULLIS-GRIER HOUSE SHELBY COUNTY WILSON COUNTY EASEMENT EXHIBIT NO. 3, page 15 of 18	SCALE: 1/8" = 1'-0" PREPARED: DRS & JLF MARYLAND HISTORICAL TRUST	NORTH
SIGNED ORIGINAL ON FILE WITH THE M.H.T.		GRANTOR <i>[Signature]</i> GRANTEE



MILL-SPRINK HOUSE SALESLEY WELDON COUNTY EASEMENT EXHIBIT NO. 18 of 19		SCALE: 1/8" = 1'-0" PREPARED: GRT & LF MARYLAND HISTORICAL TRUST	NORTH
SIGNED ORIGINAL ON FILE WITH THE M.H.T.		GRANTOR <i>[Signature]</i>	GRANTEE

44116 LINDEN C
SUNNYVALE, CA



Attachment 7

