

**ORDINANCE NO. 2778**

**AN ORDINANCE OF THE CITY OF SALISBURY TO REZONE TWO PROPERTIES LOCATED AT 401 SNOW HILL ROAD AND 409 SNOW HILL ROAD FROM R-10 RESIDENTIAL TO GENERAL COMMERCIAL**

**WHEREAS**, the ongoing application, administration and enforcement of Title 17 (Zoning) of the City Code of the City of Salisbury (the “**Salisbury City Code**”) demonstrates a need for its periodic review, evaluation and amendment, in order to keep the provisions of Title 17 current, comply with present community standards and values, and promote the public safety, health and welfare of the citizens of the City of Salisbury (the “**City**”);

**WHEREAS**, the Mayor and Council of the City of Salisbury (the “**Mayor and Council**”) are authorized by MD Code, Local Government, § 5-202 to adopt such ordinances, not contrary to the Constitution of Maryland, public general law or public local law, as the Mayor and Council deem necessary to assure the good government of the municipality, to preserve peace and order, to secure persons and property from damage and destruction, and to protect the health, comfort and convenience of the citizens of the City;

**WHEREAS**, the Mayor and Council may amend Title 17 (Zoning) of the Salisbury City Code pursuant to the authority granted by MD Code, Land Use, § 4-102, subject to the provisions set forth in § 17.228.020 of the Salisbury City Code;

**WHEREAS**, pursuant to § 17.228.020 of the Salisbury City Code, any amendment to the Salisbury Zoning Map requires the recommendation of the Salisbury Planning and Zoning Commission (the “**Planning Commission**”) prior to the passage of an ordinance amending the Salisbury Zoning Map;

**WHEREAS**, a public hearing on the proposed amendment was held by the Planning Commission in accordance with the provisions of § 17.228.020 of the Salisbury City Code on December 15, 2022;

**WHEREAS**, at the conclusion of its December 15, 2022 meeting, the Planning Commission recommended, by a vote of 7-0, that rezoning set forth herein be approved by the Mayor and Council;

**WHEREAS**, the City Council, after a Public Hearing did, in a public meeting, adopt the Findings of Fact as required by Chapter 17.228.030A of Title 17, Zoning, of the Salisbury Municipal Code, as to the following matters:

- (a) Population change;
- (b) Availability of public facilities;
- (c) Present and future transportation patterns;
- (d) Compatibility with existing and proposed development for the area;
- (e) The recommendation of the Planning Commission;
- (f) The relationship of such proposed amendment to the jurisdiction’s plan.

**WHEREAS**, said Findings have been duly set forth, shall be found in the minutes of the meeting or meetings at which these matters were discussed;

**WHEREAS**, the City Council has found that there was mistake in the existing zoning of the properties due to a land use designation error in the City of Salisbury’s 2010 Comprehensive Plan; and

**WHEREAS**, the Mayor and Council have determined that the amendments to the Salisbury Zoning Map set forth shall be adopted as set forth herein.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND**, as follows:

**Section 1.** The existing zoning of the properties as shown in Exhibit A attached hereto and made part hereof, shall be changed as follows: Reclassification of the R-10 Residential areas of 401 Snow Hill Road and 409 Snow Hill Road to General Commercial.

**BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND,** as follows:

**Section 2.** It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

**Section 3.** It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Ordinance shall remain and shall be deemed valid and enforceable.

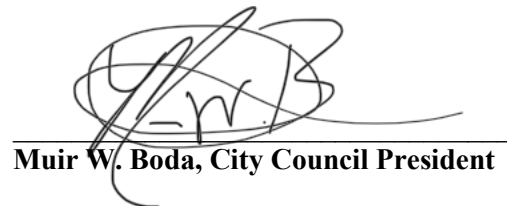
**Section 4.** The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 4.

**Section 5.** 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.

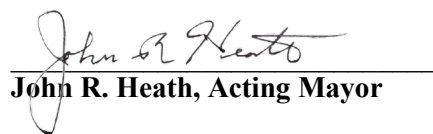
**THIS ORDINANCE** was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 23<sup>rd</sup> day of January, 2023 and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the City of Salisbury on the 13<sup>th</sup> day of February, 2023

**ATTEST:**

  
Kimberly R. Nichols, City Clerk

  
Muir W. Boda, City Council President

Approved by me, this 14th day of March, 2023.

  
John R. Heath, Acting Mayor


# 401 Snow Hill Rd and 409 Snow Hill Rd Existing Zoning Map



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City of  
**Salisbury**  
John "Jack" R. Heath, Mayor

To: Julia Glanz, City Administrator  
From: Jennifer Lind, Deputy Director of Infrastructure and Development   
Date: 1/27/2023  
Re: Rezoning of 401 and 409 Snow Hill Rd from R-10 Residential to General Commercial

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The owner of the properties referenced above has requested a change of zoning from R10 – Residential to General Commercial.

The properties are located along Snow Hill Rd and Park Heights Ave across from Johnson McKee Animal Hospital. The current use at 401 Snow Hill Rd is the Backstreet Grill restaurant and 409 Snow Hill Rd is an existing single-family dwelling that was recently purchased. The owner is proposing to expand the restaurant use to 409 Snow Hill Rd.

401 Snow Hill Rd is currently split between the General Commercial and R10 – Residential zoning districts. A resubdivision to consolidate two properties created the split zoning however the zoning was not changed to reflect the commercial use.

Per 17.228.020 a public hearing was held by the Planning Commission at their December 15, 2022 meeting. Following the public hearing the Planning Commission, by a vote of 7-0, provided a **FAVORABLE** recommendation to the City Council for approval of the rezoning based on a mistake with the original zoning of the property. Attached are staff findings provided to the Planning Commission detailing said mistake.

Per 17.228.030 the City Council shall adopt Findings of Fact based on the criteria listed and may grant reclassification that there was a mistake in the existing zoning classification. The mistake in the existing zoning for these properties is due to an error in the Future Land Use Map of the 2010 Comprehensive Plan.

Unless you or the Mayor has further questions, please forward a copy of this memo, ordinance and staff report to the City Council.

**ATTACHMENTS (2):**

1. **ORDINANCE**
2. **PLANNING COMMISSION STAFF REPORT**



**Infrastructure and Development  
Planning and Zoning  
Commission  
Staff Report**

**Meeting of December 15, 2022**

Public Hearing – Rezoning 401 Snow Hill Road and 409 Snow Hill Road

**I. CODE REQUIREMENTS:**

In accordance with the requirements of Section 17.228 of the Salisbury Municipal Code, the Planning Commission shall hold a Public Hearing on proposed rezoning. The Commission shall forward a recommendation within six (6) months to the City Council. In accordance with the Salisbury Zoning Code the City Council shall also hold a public hearing before granting final approval.

Public notice was provided in accordance with the requirements of 17.04.150. (Attachment 1)

**II. PROPERTY INFORMATION**

Owner: SMMR Inc  
Address: 401 Snow Hill Rd and 409 Snow Hill Rd  
Tax Map: 0112 Grid: 0009 Parcels: 1817 and 1819  
Zoning: R-10, Residential

**III. REQUEST:**

To rezone 401 Snow Hill Road and 409 Snow Hill Road from R-10, Residential to GC, General Commercial.

**IV. DISCUSSION:**

The Backstreet Grill property, 401 Snow Hill Road, is currently split zoning with General Commercial and R-10 Residential zoning (Attachment 2). The property is improved with the restaurant, outdoor seating area, and parking.



409 Snow Hill Road was recently purchased by the owners of Backstreet Grill. The property is currently improved with an existing single-family dwelling that the owner intends to convert to a commercial use.

The surrounding area consists of commercial uses along the Snow Hill Road corridor and medium density single family dwellings on side streets that lead to the City Park.

**V. CRITERIA:**

Per Section 17.228.030 – Basis for rezoning approval, the City Council shall make a findings of fact that considers the following matters:

- a. Population Change;
- b. Availability of public facilities;
- c. Present and future transportation patterns;
- d. Compatibility with existing and proposed development for the area;
- e. The recommendation of the Planning Commission;
- f. The relationship of such proposed amendment to the jurisdiction's plan.

The City Council may grant the change in the zoning classification based on a finding that there has been a substantial change in the character of the neighborhood where the property is located or that there is (was) a mistake in the existing zoning classification.

**VI. FINDINGS OF FACT:**

Staff makes the following findings in relation to the criteria:

- a. Population Change – The 2020 Census counted a population of 3,217 for the tract this the properties are located in. The City population has grown by 2,707 since the 2010 Census. The population change in the City and area has been consistent with historical trends.
- b. Availability of public facilities – The properties are currently served by public water and sewer. The City has capacity for an increase in usage. Public safety services currently serve this area with close proximity to TidalHealth.



City of  
**Salisbury**  
Jacob R. Day, Mayor

- c. Present and future transportation patterns – Additional commercial uses along this corridor would not impact the existing level of service. There are no planned improvements for the Snow Hill Road corridor.
- d. Compatibility with existing and proposed development for the area – The existing development in the Snow Hill Corridor are commercial uses except for the single-family dwellings in the 400 block. Commercial uses in the area are an animal hospital, light manufacturing, Pepsi Bottling Facility, wholesale distribution, gas station, restaurant and office. The residential uses are single family dwellings on side streets. Large scale development has not been proposed for this area.
- e. Recommendation of the Planning Commission – This will be incorporated following a public hearing and decision by the Planning Commission.
- f. The relationship of such proposed amendment to the jurisdiction's plan – The City's Future Land Use Map in the 2010 Comprehensive Plan designates these properties as Medium Density Residential (Attachment 3). Staff finds this designation to be a coding error during the GIS review of the plan. The only residential designations along the corridor from Carroll St to Vine St are in the 400 block. The Backstreet Grill property was existing without a residential use prior to the 2010 Comprehensive Plan.

## **VII. STAFF RECOMMENDATION:**

The Department of Infrastructure and Development recommends that the Planning Commission forward a **FAVORABLE** recommendation to the Mayor and City Council for the proposed rezoning of 401 Snow Hill Road and 409 Snow Hill Road from R-10 Residential to GC – General Commercial based on the findings in the staff report of a mistake in the zoning due to a coding error in the Future Land Use Map of the 2010 Comprehensive Plan designating these properties as Medium Density Residential instead of Commercial.

**SALISBURY PLANNING AND ZONING COMMISSION  
NOTICE OF PUBLIC HEARING  
REZONING**

In accordance with the provisions of Section 17.228, Amendments and Rezonings, of the Salisbury Municipal Code, the City of Salisbury proposes to rezone two properties located at 401 Snow Hill Rd and 405 Snow Hill Rd from R-10 Residential to General Commercial.

**A PUBLIC HEARING WILL BE HELD ON**

Thursday, December 15, 2022, at 1:30 P.M. in the Council Chambers, Room 301, of the Government Office Building, 125 North Division Street, Salisbury, Maryland to hear opponents and proponents, if there be any.

Subsequent to the consideration of this proposal by the Salisbury Planning and Zoning Commission, a recommendation will be made to the Salisbury City Council for its consideration at a Public Hearing.

**The Commission reserves the right to close a part of this meeting in accordance with the Annotated Code of Maryland, General Provisions, section 3-305(b).**

(FOR FURTHER INFORMATION CALL 410-548-3170)

Charles “Chip” Dashiell, Chairman

Publication Dates:       December 1, 2022  
                                  December 8, 2022
















## Parcels 1817 and 1819 Zoning Map



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**Wicomico County, MD:  
Salisbury Future Land Use**

-  Business and Institutional
-  Central Business District
-  Commercial
-  High Density Residential
-  Industrial
-  Low Density Residential
-  Medians and ROW
-  Medium Density Residential
-  Mixed Use
-  Parks and Open Space
-  Peninsula Regional Medical Center
-  Salisbury University
-  Waterbodies



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