

ORDINANCE NO. 2785

AN ORDINANCE OF THE CITY OF SALISBURY AMENDING SECTIONS 17.136.010, 17.136.030 AND 17.136.050 OF THE SALISBURY CITY CODE TO PERMIT ADDITIONAL RESIDENTIAL USES AND REVISE DEVELOPMENT STANDARDS FOR HARBOR POINTE PHASE III

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, the Planned Residential District No. 3B – Harbor Pointe, Phases III and IV zoning district permitted multifamily dwelling units. The inclusion of a care home and apartment building for the elderly and handicapped will provide needed housing options;

WHEREAS, the Mayor and Council find that the health, safety and general welfare of the citizens of the City will be furthered by amending sections 17.136.010, 17.136.030 and 17.136.050 of the Salisbury City Code to permit care homes and apartment buildings for the elderly and handicapped in Planned Residential District No. 3B – Harbor Pointe, Phases III and IV;

WHEREAS, pursuant to § 17.228.020 of the Salisbury City Code, any amendment to the Salisbury Zoning Code requires the recommendation of the Salisbury Planning and Zoning Commission (the “**Planning Commission**”) prior to the passage of an ordinance amending Chapter 17. 136;

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 February 16, 2023;

WHEREAS, at the conclusion of its February 16, 2023 meeting, the Planning Commission recommended, by a vote of 4-0, that the amendments to Sections 17.136.010, 17.136.030 and 17.136.050 of the Salisbury City Code set forth herein be approved by the Mayor and Council; and

WHEREAS, the Mayor and Council have determined that the amendments to Sections 17.136.010, 17.136.030 and 17.136.050 of the Salisbury City Code set forth shall be adopted as set forth herein.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that Title 17 of the Salisbury City Code is hereby amended by adding the bolded and underlined language and removing the strikethrough language as follows:

Section 1. By amending Section 17.136.010 of the Salisbury City Code, entitled “Purpose” as follows:

17.136.010 Purpose.

- A. The purpose of planned residential district No. 3B* is to provide for the development of certain lands between Pemberton Drive and the Harbor Pointe, Phase II, planned residential district No. 3A, with a multifamily development and a neighborhood business area in a planned and attractive natural environment with connection and continuation of the large area of open space in Phases I and II of Harbor Pointe planned residential district No. 3 and planned residential district No. 3A.
- B. Phase III provides for development of those lands between the community recreation area and cluster lots in Phase II and the neighborhood business area in Phase IV ~~with a multifamily development in a~~

~~mixture of one, two and three story units, to be sold as condominiums~~ **with a care home, apartment building for elderly and handicapped, and single-family, two-family, three-family, or four-family buildings.**

- C. Phase IV provides for development of those lands along Pemberton Drive on the west side of Harbor Pointe Drive and north side of Phase III with a low-scale small neighborhood business area designed to primarily serve the residents of Harbor Pointe Drive.

Section 2. By amending Section 17.136.030 of the Salisbury City Code, entitled “Permitted uses.” as follows:

17.136.030 Permitted uses.

- A. Permitted uses shall be as follows for Phase III:

1. ~~Multifamily dwelling units as shown on the approved and recorded final development plan.~~ **Single-family, two-family, three-family, or four-family buildings;**
2. **Care home; and**
3. **Apartment building for elderly and handicapped.**

- B. Permitted uses shall be as follows for Phase IV:

1. Uses listed in the neighborhood business district, section 17.32.020.
2. Day care center or nursery school in accordance with chapter 17.220.

Section 3. By amending Section 17.136.050 of the Salisbury City Code, entitled “Development standards.” as follows:

17.136.050 Development standards.

Development standards for the planned residential district No. 3B shall be as follows:

- A. Minimum Lot or Building Area Requirements.

1. Phase III: ten and twenty-four hundredths (10.24) acres as shown on the approved and recorded final development plan;
2. Phase IV: two and two hundred forty-seven thousandths (2.247) acres as shown on the approved and recorded final development plan.

- B. Minimum Perimeter Setback Requirements.

1. Minimum perimeter setback requirements for all structures shall be as follows:

- a. Phase III.

- i. Perimeter: forty (40) feet from west property line;
- ii. Harbor Pointe Drive: fifty (50) feet from property line;
- iii. Phase III recreation area: ten (10) feet from property line;
- vi. Phase II cluster lots: thirty (30) feet from property line;
- vii. Phase IV: thirty (30) feet from property line.

- b. Phase IV.

- i. Perimeter: one hundred (100) feet from west property line;
- ii. Pemberton Drive: fifty (50) feet from property line;
- iii. Harbor Pointe Drive: fifty (50) feet from property line;
- iv. Phase III: ten feet from property line.

2. Phase III lot setbacks shall be as shown on the recorded subdivision plat approved by the Planning Commission. Modifications to these setbacks shall require Planning Commission approval prior to recordation of a resubdivision plat.

23. All other setbacks shall be as shown on the final development plan.

C. Density requirements shall be as follows:

1. Phase III: ~~nine and thirty-eight hundredths (9.38) units per acre;~~

a. One Hundred (100) unit care home;

b. One Hundred (100) unit apartment building for elderly and handicapped; and

c. Twenty-four (24) units: one-family, two-family, three-family, or four-family cottages.

2. Phase IV: ten thousand (10,000) square feet of building area for a neighborhood shopping center.

D. Height requirements shall be as follows:

1. Phase III: ~~forty (40)~~ **forty-eight (48)** feet;

2. Phase IV: thirty (30) feet.

E. Parking requirements shall be as follows:

1. **Phase III:**

a. One-family, two-family, three-family, or four-family cottages: a minimum of one (1) space per unit (permitted to be either on or off street);

b. Lot 25 (Care Home): a minimum of one (1) space per five (5) beds, plus one (1) space per employee on the largest working shift;

c. Lot 26 (Apartments for the elderly and handicapped): a minimum of one (1) space for every two (2) units, plus one (1) space per employee on the largest working shift;

2. Phase IV: one space per two hundred (200) square feet of floor area.

F. Landscaping. Landscaping shall be in accordance with the final landscaping plan as approved by the planning commission.

G. Sign requirements shall be as follows:

1. Phase III: Signs shall be in accordance with section 17.216.070;

2. Phase IV: Signs, both ground and wall signage, shall be in accordance with a sign plan approved by the Salisbury planning commission.

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

Section 4. 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 5. 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 6. 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 6.


Section 7. This Ordinance shall take effect from and after the date of its final passage.

THIS ORDINANCE was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 13th day of March, 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 10th day of April, 2023

ATTEST:

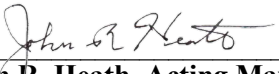


Kimberly R. Nichols, City Clerk



Muir W. Boda, City Council President

Approved by me, this 10 day of May, 2023.



John R. Heath, Acting Mayor



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

Infrastructure and Development Planning and Zoning Commission Staff Report

Meeting of February 16, 2023

Public Hearing - Text Amendment - To amend Title 17,
Zoning, Chapter 17.136 entitled "Planned Residential District No. 3B – Harbor Pointe Phases III
and IV"

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 text amendments to the Code. 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 to code text amendments.

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

II. REQUEST:

MCAP Salisbury LLC the owner of Harbor Pointe Phase III has submitted a request to amend Sections 17.136.010.B entitled "Purpose", 17.136.030 entitled "Permitted uses", and 17.136.050 entitled "Development standards", of the Salisbury City Code.

A draft of Chapter 17.136 is shown in Attachment 2 with the proposed amendments bolded and underlined. Language to be deleted is shown with a strikethrough.

III. PLANNING AND ZONING:

The amendments will provide consistency and clarity with the existing and proposed development of Harbor Pointe Phase III. The mix of cottages, elderly and handicapped apartments, and a care home is an appropriate development pattern to meet the current housing shortage and needs of residents.

Department of Infrastructure & Development
125 N. Division St., #202 Salisbury, MD 21801
410-548-3170 (fax) 410-548-3107
www.salisbury.md



City of Salisbury

John "Jack" R. Heath, Mayor

The draft amendment has been reviewed by the City Solicitor for legal sufficiency.

IV. 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 amendments as shown in Attachment 2 and on the findings in the staff report.

**SALISBURY PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING
TEXT AMENDMENT**

In accordance with the provisions of Section 17.228, Amendments and Rezoning, of the Salisbury Municipal Code, the City of Salisbury proposes amendments to the text of Title 17, Zoning, Chapter 17.136., entitled “Planned Residential District No. 3B – Harbor Pointe, Phases III and IV” to include new uses and revised development standards for Phase III.

A PUBLIC HEARING WILL BE HELD ON

Thursday, February 16, 2023, 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: February 2, 2023
 February 9, 2023

Chapter 17.136 PLANNED RESIDENTIAL DISTRICT NO. 3B—HARBOR POINTE, PHASES III AND IV

17.136.010 Purpose.

- A. The purpose of planned residential district No. 3B* is to provide for the development of certain lands between Pemberton Drive and the Harbor Pointe, Phase II, planned residential district No. 3A, with a multifamily development and a neighborhood business area in a planned and attractive natural environment with connection and continuation of the large area of open space in Phases I and II of Harbor Pointe planned residential district No. 3 and planned residential district No. 3A.
- B. Phase III provides for development of those lands between the community recreation area and cluster lots in Phase II and the neighborhood business area in Phase IV ~~with a multifamily development in a mixture of one-, two- and three-story units, to be sold as condominiums~~ **with a care home, apartment building for elderly and handicapped, and single-family, two-family, three-family, or four-family buildings.**
- C. Phase IV provides for development of those lands along Pemberton Drive on the west side of Harbor Pointe Drive and north side of Phase III with a low-scale small neighborhood business area designed to primarily serve the residents of Harbor Pointe Drive.

(Prior code § 150-165.54)

* Editor's Note: The planned residential district No. 3B—Harbor Pointe, Phases III and IV, Map is included at the end of this chapter.

17.136.020 Area of reclassification.

The area to be rezoned as planned residential district No. 3B—Harbor Pointe. Phases III and IV, consists of twelve and forty-nine-hundredths (12.49) acres of land being part of land known as the "Bell Farm," situated in the city of Salisbury, Wicomico County, Maryland, on the northerly side of and binding upon the Harbor Pointe Phase II, planned residential district No. 3A and southerly side of Pemberton Drive; adjoining Harbor Pointe Drive and the community recreation area in Phase II, on the east and the lands of Wicomico County Historical Park on the west; the same being as shown on the preliminary subdivision plat of the Phases III and IV area prepared by Davis, Bowen & Friedel, Inc., dated May 1988, with the land surveyor of record, Philip Parker & Associates, noted thereon. The site is shown on Assessment Map No. 37 as Part of Parcels 304 and 296.

(Prior code § 150-165.55)

17.136.030 Permitted uses.

- A. Permitted uses shall be as follows for Phase III:
 - 1. ~~Multifamily dwelling units as shown on the approved and recorded final development plan.~~ **Single-family, two-family, three-family, or four-family buildings;**
 - 2. **Care home; and**
 - 3. **Apartment building for elderly and handicapped.**
- B. Permitted uses shall be as follows for Phase IV:
 - 1. Uses listed in the neighborhood business district, section 17.32.020.

-
2. Day care center or nursery school in accordance with chapter 17.220.
- (Ord. 1779, 2001; Prior code § 150-165.56)

17.136.040 Accessory uses and structures.

- A. Accessory uses and structures shall be as follows for Phase III:
 1. Maintenance building;
 2. Gazebo;
 3. Uses clearly incidental to, customary to and associated with the permitted use.
- B. Accessory uses and structures shall be as follows for Phase IV:
 1. Kiosk;
 2. Uses clearly incidental to, customary to and associated with the permitted use.

(Prior code § 150-165.57)

17.136.050 Development standards.

Development standards for the planned residential district No. 3B shall be as follows:

- A. Minimum Lot or Building Area Requirements.
 1. Phase III: ten and twenty-four hundredths (10.24) acres as shown on the approved and recorded final development plan;
 2. Phase IV: two and two hundred forty-seven thousandths (2.247) acres as shown on the approved and recorded final development plan.
- B. Minimum Perimeter Setback Requirements.
 1. Minimum perimeter setback requirements for all structures shall be as follows:
 - a. Phase III.
 - i. Perimeter: forty (40) feet from west property line;
 - ii. Harbor Pointe Drive: fifty (50) feet from property line;
 - iii. Phase III recreation area: ten (10) feet from property line;
 - vi. Phase II cluster lots: thirty (30) feet from property line;
 - vii. Phase IV: thirty (30) feet from property line.
 - b. Phase IV.
 - i. Perimeter: one hundred (100) feet from west property line;
 - ii. Pemberton Drive: fifty (50) feet from property line;
 - iii. Harbor Pointe Drive: fifty (50) feet from property line;
 - iv. Phase III: ten feet from property line.
 2. **Phase III lot setbacks shall be as shown on the recorded subdivision plat approved by the Planning Commission. Modifications to these setbacks shall require Planning Commission approval prior to recordation of a resubdivision plat.**

-
- 23.** All other setbacks shall be as shown on the final development plan.
- C. Density requirements shall be as follows:
1. Phase III: ~~nine and thirty-eight hundredths (9.38) units per acre;~~
a. One Hundred (100) unit care home;
b. One Hundred (100) unit apartment building for elderly and handicapped; and
c. Twenty-four (24) units: one-family, two-family, three-family, or four-family cottages.
 2. Phase IV: ten thousand (10,000) square feet of building area for a neighborhood shopping center.
- D. Height requirements shall be as follows:
1. Phase III: ~~forty (40)~~ **forty-eight (48)** feet;
 2. Phase IV: thirty (30) feet.
- E. Parking requirements shall be as follows:
1. **Phase III:**
a. One-family, two-family, three-family, or four-family cottages: a minimum of one (1) space per unit (permitted to be either on or off street);
b. Lot 25 (Care Home): a minimum of one (1) space per five (5) beds, plus one (1) space per employee on the largest working shift;
c. Lot 26 (Apartments for the elderly and handicapped): a minimum of one (1) spaces for every two (2) units, plus one (1) space per employee on the largest working shift;
 2. Phase IV: one space per two hundred (200) square feet of floor area.
- F. Landscaping. Landscaping shall be in accordance with the final landscaping plan as approved by the planning commission.
- G. Sign requirements shall be as follows:
1. Phase III: Signs shall be in accordance with section 17.216.070;
 2. Phase IV: Signs, both ground and wall signage, shall be in accordance with a sign plan approved by the Salisbury planning commission.

(Ord. 1989, 2006; prior code § 150-165.58)

17.136.060 Street standards.

- A. Accessways and street entrances shall be provided as shown on the final development plan as recorded.
- B. Entrances from Harbor Pointe Drive and Pemberton Drive shall be provided and constructed in accordance with the requirements of the city department of infrastructure and development.
- C. A turning lane from Pemberton Drive to Phase IV shall be provided and constructed on the public right-of-way dedicated for the future widening of Pemberton Drive as required by the city director of infrastructure and development.

(Prior code § 150-165.59)

(Ord. No. 2459, 10-9-2017)

17.136.070 Amendments.

Amendments to planned residential development district No. 3B shall be in accordance with the procedures established in Chapters 17.12, 17.204 and 17.228.

(Prior code § 150-165.60)

17.136.080 Final development plan.

A final development plan shall be prepared, submitted to and approved by the planning commission in accordance with chapter 17.204, section 17.204.070.

(Prior code § 150-165.61)

17.136.090 Control of development during construction and after completion.

Once the preliminary development plan and all related development controls are adopted by the city council, development of the area shall be controlled by the final development plan as approved by the planning commission and recorded in the land records of Wicomico County and any amendments thereto. Where specific regulations are not addressed in this district, all other regulations of Title 17 of the city Code shall govern.

(Prior code § 150-165.62)



Planned Residential District No. 3B—Harbor Pointe, Phases III and IV
City of Salisbury, Maryland



City of Salisbury

John "Jack" R. Heath, Mayor

To: Andy Kitzrow, Acting City Administrator
From: Richard D. Baldwin, Director of Infrastructure and Development *RD*
Date: 2/28/2023
Re: Zoning Code Text Amendment to Chapter 17.136

MCAP Salisbury LLC the owner of Harbor Pointe Phase III has submitted a request to amend Sections 17.136.010.B entitled "Purpose", 17.136.030 entitled "Permitted uses", and 17.136.050 entitled "Development standards", of the Salisbury City Code.

The text amendments to Chapter 17.136 – Planned Residential District No. 3B-Harbor Pointe Phases III and IV, Sections 17.136.010.B, 17.136.030, and 17.136.050 were reviewed by the City Attorney and received a favorable recommendation from the Planning Commission following a public hearing on February 16, 2023.

The amendments enable a mix of cottages, elderly and handicapped apartments, and a care home. This is an appropriate development pattern to meet the current housing shortage and needs of residents.

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**