ST. MARY'S COUNTY GOVERNMENT DEPARTMENT OF LAND USE AND GROWTH MANAGEMENT

Phillip Shire, Director William B. Hunt, AICP, Deputy Director



BOARD OF COUNTY COMMISSIONERS

Francis Jack Russell, President Lawrence D. Jarboe, Commissioner Cynthia L. Jones, Commissioner Todd B. Morgan, Commissioner Daniel L. Morris, Commissioner

Notice of Public Hearing

NOTICE IS HEREBY GIVEN that the St. Mary's County Board of County Commissioners will conduct a public hearing in the main meeting room of the Chesapeake Building, located at 41770 Baldridge Street, Leonardtown, MD, on December 3, 2013, beginning at 10:15 a.m., for the purpose of receiving public testimony and to consider an amendment to the text of Chapters 264 and 285, of the Code of St. Mary's County. The Amendments proposed for consideration are as follows:

Proposed amendments to the Subdivision Ordinance:

§30.3 of Chapter 264 of the Code of St. Mary's County, Maryland, is amended by adding:

- 7. Subdivision Around Lawfully Existing Dwellings.
 - a. A parcel containing more than one lawfully existing dwelling may be divided into not more than seven (7) residential lots of record each of which contains one such lawfully existing single-family dwelling.
 - b. Subdivision standards and adequate public facility requirements are not applicable to a minor subdivision around lawfully existing dwellings approved pursuant to Section 30.3.7; provided however, that any existing nonconformity of such lots shall not be increased.

Article 5 of Chapter 264 of the Code of St. Mary's County, Maryland, is, amended by adding: **Dwelling, Single Family:** A building containing one (1) dwelling unit as a principal use.

Proposed amendments to the **Zoning Ordinance**:

§52.7 of Chapter 285 of the Code of St. Mary's County, Maryland, is amended by adding:

4. Development standards and adequate public facility requirement provisions of Chapter 70 are not applicable to lots in a minor subdivision around lawfully existing dwellings approved pursuant to Section 30.3.7 of the St. Mary's County Subdivision Ordinance; provided however, that any existing nonconformity of such lots shall not be increased.

Note that as a result of the evidence and comments made at the public hearing, amendments may be made to the proposed ordinance.

Copies of the proposed amendment are available to the public at each public library within the County, at the Public Information Office located in the Chesapeake Building at 41770 Baldridge Street in Leonardtown, and for viewing or downloading through links on the St. Mary's County Government web page: www.stmarysmd.com.

Robert E. Bowles, Sr., Planner IV, FCQP Manager, Development Services Division St. Mary's County Department of Land Use and Growth Management (301) 475-4200 ext 1522

Please publish as a Legal Notice in The Enterprise on November 15, 2013 and November 22, 2013

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BOARD OF COUNTY COMMISSIONERS

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MEMORANDUM

To:

Board of County Confinissioners

From:

Phil Shire, Director

Bob Bowles, Planner IV

Date:

November 15, 2013

Subject: Proposed zoning text amendment to Chapters 264 and 285 of the Code of St. Mary's County, to

provide approval of subdivision around lawfully existing single family dwellings.

Purpose: Text amendments to provide an administrative method for subdividing around lawfully existing single-family dwellings on a single parcel or lot. And provision of definition for single-family dwelling.

Background: Subdivision around multiple existing dwellings on a single parcel is nothing new. There are a number of older parcels in St. Mary's County that contain multiple dwellings, typically built for family members. Current density standards often cannot be met for such subdivisions because many of these homes predate current zoning density requirements, but they have been determined to be a lawfully existing by either pre-existing development regulations, or they met the density requirements at the time permits were issued.

In 1992, Planning staff was delegated authority to approve subdivisions around lawfully existing dwellings by the Planning Commission (see attached Policy #92-1), as long as noncompliance (i.e. density) was not increased by the subdivision.

It has been determined that there are legal obstacles relating to the BOA's ability to make the necessary findings for a density variance when existing structures are involved. The required findings must be related to the unique characteristics of the land itself – not the existence of the structures on it. The text amendment to allow administrative approval of this type of subdivision has been suggested by the County Attorney as an alternative to the BOA variance process.

A definition for single family dwelling is also being proposed for the Subdivision Ordinance (identical to the definition contained in the Zoning Ordinance).

This text amendment was introduced to the Board of County Commissioners on July 16, 2013 and they directed the Planning Commission to proceed with the Public Hearing. It was suggested that the requirement for TDRs for such subdivisions be discussed during the hearing process.

On August 12, 2013 the Planning Commission opened the Public Hearing, and continued it to October 28, 2013, where they heard from staff, opened and accepted public comment, unanimously approved the text amendment and authorized the Chairman to sign a Resolution on its behalf transmitting its findings and recommendation to the Board of County Commissioners. (Minutes attached).

Although not specified in the Planning Commission recommendation, the issue of requirement for TDR's was discussed and determined that in accordance with CZO 26.4.4, TDR's are not required for legally pre-existing dwellings.

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Attachments:

Policy #92-1

Planning Commission Minutes Planning Commission Resolution

Draft Ordinance