

Article VI. Floating Zone Districts.

NOTE: Recommend the Growth Allocation be administered as a floating zone with the Town Commissioners as the approving authority.

§ 340-42. GA Growth Allocation Floating Zone District.

[A. The Growth Allocation District GA is floating zone district that provides for changing the land management classification of Resource Conservation Areas (RCA's) and Limited Development Areas (LDA's) in the Critical Area Overlay District.]

B. Description.

- (1) "Growth allocation" means the number of acres of land in the Chesapeake Bay Critical Area that the Town may use to create new Intensely Developed and new Limited Development Areas. The area of Town within the Critical Area comprises about 458 acres or 64.5%. Within the Critical Area, 276 acres of land were classified as IDA and 66 acres were classified as LDA. One hundred sixteen acres were classified as RCA. The purpose of growth allocation is to permit expansion and/or intensification of the originally mapped land use management districts. This is accomplished through the conversion of an existing district (RCA or LDA) to a more intense district (LDA or IDA). However, the expansion and/or intensification is subject to an overall acreage limitation and to the guidelines, application requirements, process, and deduction methodology outlined below.
- (2) The State Critical Area Law permits the County to allocate 5% of its RCA for use for future growth as either IDA or LDA. Of this 5%, 245 acres were given to the Town of St. Michaels. **As of January 23, 2013, 206.44 acres remain for conversion.**

NOTE: Is this the current GA available?

C. Guidelines. Growth allocation is a finite resource and must be managed to address the most meritorious current needs of the Town and conserved to meet the future needs of the Town. **[The GA Growth Allocation Floating Zone will only be applied to]** Growth allocation ~~(GA) shall only be permitted on sites or portions of sites which have been approved as amendments to the **St. Michaels' Critical Area program [St. Michaels Chesapeake Bay Critical Area Overlay district]** by the Town Commissioners and the Critical Area Commission.~~ When **[granting growth allocation for a]** ~~creating~~ new Intensely Developed or Limited Development Areas, the Town shall apply the following guidelines:

NOTE: Is there an official Critical Area Program anymore? Isn't the Town's Critical Area Program embedded in the Zoning Chapter?

- (1) Locate a new Intensely Developed Area in a Limited Development Area or adjacent to an existing Intensely Developed Area.
- (2) Locate a new Limited Development Area adjacent to an existing Limited Development Area or an Intensely Developed Area.
- (3) New Intensely Developed Areas (IDA) shall be at least twenty (20) acres in size unless:
 - (a) They are contiguous to an existing IDA or LDA; or
 - (b) They are a grandfathered commercial or industrial use which existed as of the date of the original Town program approval. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
- (4) Locate a new Limited Development Area or an Intensely Developed Area in a manner that minimizes impacts to a habitat protection area as defined in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality.
- (5) A new Intensely Developed Area should be located where it will minimize impacts to the defined land uses of the Resource Conservation Area (§ 340-27.4).
- (6) Locate a new Intensely Developed Area or a Limited Development Area, served by Town water and sewer, in the Resource Conservation Area at least three hundred (300) feet beyond the landward edge of tidal wetlands or tidal waters. All applicants not proposing a three-hundred-foot Buffer setback shall propose alternatives to the three-hundred-foot setback Buffer that demonstrates benefits to increased water quality and wildlife habitat on the site.
- (7) For growth allocation areas proposed in the RCA, on private well and septic, a three-hundred-foot naturally vegetated setback Buffer shall be required.
- (8) New Intensely Developed or Limited Development Areas shall conform to the Town program **[to the applicable provisions of this chapter]** for such areas, shall be so designated on the Town **[Official]** Zoning Map and shall ~~constitute an amendment to the Town program~~ **[be]** subject to review ~~and approval~~ by the Town Planning Commission **[and approval by]** the Town Commissioners, and the Critical Area Commission.

NOTE: Bringing a floating zone to ground is a legislative act amending the official Chesapeake Bay Critical Area Overlay District map. The approving authority is the Town Commissioners. The role of the Planning Commissions is to review the application and make a recommendation.

- (9) In addition to meeting the minimum requirements of the Critical Area regulations, the project design shall enhance the habitat value or improve water quality in the area. For

example, afforestation may exceed the fifteen-percent requirement, or best management practices for stormwater management may be installed on portions of the site to remain in agricultural use.

(10) For residential development, a community pier shall be strongly encouraged rather than individual private piers. **See Table 4.1, Table of General Land Uses, and 340 Attachment 6, Notes to Table of General Land Uses**.**

(11) Open space requirements shall be met as specified in this chapter, subdivision regulations and/or through the process of concept plan review. Naturally vegetated Buffer[s] is [are] strongly encouraged.

€ [D]. Application.

(1) It is the intent of the Town of St. Michaels to award growth allocation based on specific projects.

NOTE: It may be the case where the Town will want to pre-map areas for growth allocation, e.g., in support of the Maritime Museum's master plans and/or to encourage infill development in area south of Rail Road Avenue and west of Chesapeake Avenue. Both of these locations present issues if developed under the Limited Development Area (LDA) land use management designation. The Maritime Museum property is already nearly 12 percent impervious and nearly 60 percent forest. The Rail Road Avenue properties are almost entirely forest (+/- 90%).

(a) Therefore an application for growth allocation **[the Growth Allocation Floating Zone]** shall include the following submissions:

[1] The subdivision history of parcels designated as RCA. The date of December 1, 1985, is the date used for the original Critical Area mapping and shall be used as a beginning point of analysis;

[2] ~~Concept plans as defined in this chapter~~ **[Information required by COMAR 27.01.02.06-1];**

[3] ~~Appropriate environmental reports~~ **[Environmental report as per COMAR 27.01.02.06-2;]**

[4] A schedule of project development. If the development is to be in sections or phases, the request shall include the schedule on which the project sections or phases will be developed; and

[5] Such other information and documentation as the Planning Commission or the Town Commissioners may require.

- (b) Ten (10) copies of the application for ~~growth allocation~~ **[the GA Growth Allocation Floating Zone]** and all required submissions shall be submitted to the Town Commissioners.

(2) Multiple applications:

- (a) With the approval of the Town Commissioners, an applicant may withdraw an application for the ~~award of growth allocation~~ **[GA Growth Allocation Floating Zone]**; however, such withdrawal shall not relieve the applicant from the duty to pay the fees and costs incurred by the Town to the time of such withdrawal. Within twelve (12) months after the withdrawal of an application for the ~~award of growth allocation~~, no subsequent application shall be filed with the Town by an applicant, or accepted by the Town for processing for the ~~award of growth allocation~~, involving some or all of the same land which is the subject of such withdrawn application, except that the Town Commissioners may, in their sole discretion, upon such conditions as they deem in the best interest of the Town, by resolution, specify that the said time limitation shall not apply to a particular subsequent application and allow the filing and processing of such subsequent application. Under no circumstances shall there be more than one application for **[a GA Growth Allocation Floating Zone]** ~~growth allocation~~ relating to some or all of the same land being actively processed by the Town or on appeal at the same time.
- (b) An application for the ~~award of growth allocation~~ **[GA Growth Allocation Floating Zone]** shall not be filed with the Town by an applicant, or accepted for filing by the Town, if that application is for the same land which is in whole or in part the subject of a previously filed application that is a pending application for the ~~award of growth allocation~~ filed with the Town, except that the Town Commissioners may, in their sole discretion, upon such conditions as they deem in the best interest of the Town, by resolution, permit the filing of an application for the ~~award of growth allocation~~ for the same land which is in whole or in part the subject of a previously filed application that is pending if the applicant agrees to stay the previously filed pending application until a final decision is rendered on the subsequent application.
 - [1] If the subsequently filed application for ~~growth allocation~~ is granted, the previously filed application that was stayed shall be automatically deemed withdrawn.
 - [2] If the subsequently filed application is denied by a final decision, thereafter, upon written request by the applicant, the previously filed and stayed application shall be activated for processing by the Town.
 - [3] Under no circumstances shall there be more than one application for ~~growth allocation~~ **[a GA Growth Allocation Floating Zone]** relating to some or all of

the same land being actively processed by the Town or on appeal at the same time.

- (c) Within twelve (12) months after the date of a final decision on the merits regarding an application for the ~~award of growth allocation~~ [GA Growth Allocation Floating Zone], no subsequent application ~~for the award of growth allocation~~ shall be filed with the Town by an applicant, or accepted by the Town for processing ~~for the award of growth allocation~~, involving some or all of the same land which was the subject of such previous final decision. However, the time limitation imposed by this **Subsection C(2)*** shall not apply to prohibit or delay the processing of a previously filed application that has been reactivated pursuant to **Subsection C(2)(b)[2]***.

D[E]. Process.

- (1) All applications will be reviewed by the Planning Commission for consistency with the Town of St. Michaels' Comprehensive Plan, Critical Area requirements as set out in Chapter 340 (Zoning) of the Code of St. Michaels and, where applicable, the Subdivision Ordinance. ^[1] The Planning Commission shall make a determination of consistency and make additional recommendations concerning conditions of approval.

[1] Editor's Note: See Ch. 290, Subdivision of Land.

- (2) After revising the site plan or plat based on the Planning Commission review, the developer shall submit a preliminary site plan or plat and such other information as the Planning Commission may request.

NOTE: Consider allowing applicants to submit a detailed concept plan instead of the more expensive site plan or subdivision plat. Conditions imposed later in the process may result in major modification of original plans.

- (3) Within sixty (60) days after the submission by the developer of the ***preliminary site plan or plat** to the Planning Commission, or within such extension of time to which the applicant may agree, the Planning Commission shall begin a public hearing on all submissions by the developer relating to the request for growth allocation. Submissions shall include the following:

- (a) Presentation of projects by the developer/applicant;
- (b) Staff and/or consultant review comments; and
- (c) Public comments.

NOTE: The Land Use Article does not require the Planning Commission to conduct a public hearing on zoning map amendments. In the interest of streamlining this process consider eliminating the requirement for a Planning Commission public hearing.

- (4) Within ninety (90) days after the Planning Commission begins its public hearing, or within such extension of time to which the applicant may agree, the Planning Commission shall then make its final recommendation, and thereafter forward the application and recommendation to the Town Commissioners for their review and consideration of approval.

NOTE: This timeline should be reduced to thirty (30) days at least, sixty (60) days at most.

- (5) Within sixty (60) days, but not sooner than fifteen (15) days, after receiving the final recommendation of the Planning Commission, the Town Commissioners shall begin a public hearing **[advertised a provided in § 340-***] on the application. The hearing shall include the following:
 - (a) Presentation of the project by the developer/applicant;
 - (b) Comments by Town staff and/or consultants;
 - (c) Planning Commission recommendations;
 - (d) Public comments; and
 - (e) Such other relevant information and documentation as the Commissioners may require or elect to receive.
- (6) A complete record of the hearing shall be kept. Within ninety (90) days after beginning their public hearing, the Town Commissioners shall make the final decision on awarding growth allocation, and **[may approve or disapprove the proposed Growth Allocation Floating Zone map amendment]** ~~may grant the request for the award of growth allocation,~~ subject to the final review and decision of the Chesapeake Bay Critical Area Commission. A complete record of the votes of all members of the Town Commissioners shall be kept.
 - (a) In considering an application ~~for award of growth allocation,~~ the Town Commissioners shall make findings of fact with regard to the proposed development of the land for which the award of growth allocation is sought, including but not limited to the following matters:
 - [1] Change in the Town's population;
 - [2] Availability of public facilities;
 - [3] Effect on present and future transportation patterns;
 - [4] Compatibility with existing and proposed development for the area;

- [5] The recommendation of the Planning Commission; and
- [6] ~~Compatibility~~ **[Consistency]** with the Town's Comprehensive Plan including recommendations concerning:
- (i) Policies;
 - (ii) Timing of the implementation of the plan;
 - (iii) Timing of development;
 - (iv) Timing of rezoning;
 - (v) Development patterns;
 - (vi) Land uses; and
 - (viii) Densities or intensities

NOTE: See COMAR 27.01.02.06-3

- (b) The Town Commission may ~~award~~ **[approve]**, but shall not be required to ~~award~~, ~~growth allocation~~ **[approve the Growth Allocation Floating Zone map amendment]** based upon a finding that all express criteria for ~~the award of growth allocation~~ **[approval]** will be satisfied.
- (c) The Town Commissioners **[also]** may ~~also~~ establish conditions of approval ~~to accompany the growth allocation~~, including a time limitation for completion of the proposed project.
- (7) Upon approval of the ~~growth allocation request~~ **[Growth Allocation Floating Zone map amendment]** by the Town Commissioners, the Town shall send a request to the Critical Area Commission to use a portion of its growth allocation ~~for the project~~. When making such submittal, the request shall state how the Town has applied the preceding guidelines. The Critical Area Commission shall ensure that the guidelines set forth in this section have been applied in a manner that is consistent with the purposes, policies, goals, and provisions of the Critical Area Law and all criteria of the Critical Area Commission. The request shall be accompanied by pertinent plans and environmental reports and/or studies. Upon receipt of the request from the Town, the Critical Area Commission shall notify the Town regarding the processing of the request as an amendment or refinement to the Town's Critical Area Program. ~~Refinements shall be acted on within thirty (30) days of the Commission's notification to the Town of a complete submission. Amendments shall be acted on within ninety (90) days of the Commission's notification to the Town of a complete submission.~~

NOTE: Does this need to be in the zoning chapter? The Town is not in a position to insure this time limit. What happens if the Critical Area Commission does not act within these limits? What about mutually agreed to extensions?

- (8) Following approval of the ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]** request by the Critical Area Commission, the Town shall amend the Critical Area Maps within one hundred twenty (120) days, and a copy of the amended map shall be provided to the Commission and to the County.

NOTE: Four months - why so long?

- (9) Following approval of the ~~growth allocation request~~ **[Growth Allocation Floating Zone map amendment]** by the Critical Area Commission, the Town Commissioners shall implement the change, and the applicant may proceed to the preparation of the final site plan or subdivision plat for recordation.
- (10) Prior to approving the final site plan or subdivision plat, the Planning Commission or its designee shall ensure that all conditions of approval are incorporated into the final plan, public works agreement, deed covenants, etc.
- (11) Final subdivision plats and site plans shall be processed in accordance with the requirements of this chapter and/or the Town's Subdivision Regulations. (See Chapter 290.)
- (12) Any of the time limitations specified in this Subsection D for processing the application may be extended by a majority of the Planning Commission or the Town Commissioners, as the case may be, with the written consent of the applicant.

E [F]. Conditions of approval.

- (1) Project approval and ~~award~~ **[approval]** of ~~growth allocation~~ **[the Growth Allocation Floating Zone map amendment]** shall be limited to a project, or phase(s) of a project, that can be completed within two (2) years after approval of the project or phase(s) of a project, unless the Town Commissioners, in their sole discretion:
 - (a) Specify in their written decision to ~~grant growth allocation~~ **[approve a Growth Allocation Floating Zone map amendment]** for a longer period of time after approval within which the project or phase(s) is required to be completed; or
 - (b) Impose conditions for progress of the approved project or phase(s) thereof that will automatically allow the ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]** granted for such project or phase(s) thereof to continue in effect indefinitely, provided that such conditions are met.

- (2) If, upon the expiration of two (2) years, or upon the expiration of such longer period of time as may have been specified upon ~~the award of growth allocation~~ **[approval of a Growth Allocation Floating Zone map amendment]**, or upon the failure of such condition that may have been imposed ~~upon the award of growth allocation~~, the project is not completed, ~~the growth allocation awarded~~ **[approval of a Growth Allocation Floating Zone map amendment]** for the project or area of the project that remains incomplete shall be automatically revoked, unless before such automatic revocation the owner of the project ~~for which growth allocation was awarded~~ requests an extension in writing.
- (a) The filing of such written request for extension of time to complete the project shall automatically extend such time for the shorter period of one hundred eighty (180) days following the original expiration date of the award of growth allocation, or until the Town Commissioners issue a written denial of the request for extension of time, which denial may be issued upon a vote thereon at a public meeting, without a hearing.
- (b) Before the expiration of the time within which the project is otherwise required to be completed, as such time may have been automatically extended in accord with Subsection E(2), the Town Commissioners, upon such timely written request for extension, in their sole discretion, may by public vote grant an extension of the time limit within which the project is required to be completed.
- (c) For the purpose of this Subsection E, a project or phase(s) thereof shall be considered completed when the construction or installation of all improvements relating to governmental infrastructure (including roads, curbs, sidewalks, streetlights, water supply facilities, stormwater management, and sewage collection facilities) and public utility infrastructure (including electricity distribution facilities, and telephone, cable television and internet communication facilities), as required by or pursuant to applicable law or governmental regulation, have been completed to each lot **[or proposed use]** in the project or phase(s) thereof. The Town Commissioners shall have the sole power to make the determination as to whether a project or a phase is "completed," as that term is defined in this subsection.
- (3) If a project or phase(s) thereof, for which ~~growth allocation~~ **[a Growth Allocation Floating Zone map amendment]** has been awarded **[approved]**, is not approved within eighteen (18) months after the date on which ~~growth allocation~~ **[the Growth Allocation Floating Zone map amendment]** was awarded **[approved]** thereof, then all of the ~~growth allocation awarded~~ **[Growth Allocation Floating Zone map amendment]** for such project or phase(s) thereof shall be automatically revoked and **[the growth allocation acres]** returned to the Town's allotment. For the purpose of this subsection, a project shall be considered "approved" when all governmental permits and approvals that

are required by all applicable land use laws and regulations have been issued for such project or phase(s).

F [G]. [Growth Allocation Deduction. Calculation of the amount of growth allocation to be deducted from the Town total shall be approved in COMAR 27.01.02.06-4.] ~~Deduction methodology. The Town shall calculate the number of acres of growth allocation used for each application based on the following deduction criteria:~~

- ~~(1) Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where development of the parcel requires the use of growth allocation, shall result in the acreage of the entire parcel not in tidal wetlands counting against the growth allocation, unless the development concept outlined in Subsection F(2) below is used.~~
- ~~(2) In order to allow some flexibility in the use of growth allocation when development is only proposed on a portion of the property, the following methodology may be used. On a parcel proposed for the use of growth allocation, a single development envelope may be specified, and the acreage of the development envelope rather than the acreage of the entire parcel shall be deducted from the Town's growth allocation if the development envelope meets the following criteria:
 - ~~(a) The development envelope shall include individually owned lots, required Buffers, impervious surfaces, roads, utilities, stormwater management areas and structures, on-site sewage disposal areas, any acres subject to human use, such as active recreation acres, and any additional acreage needed to meet the development requirements of the criteria. The required Buffers refer to the minimum one-hundred-foot Buffer and the twenty five foot nontidal wetlands Buffer.~~
 - ~~(b) Only one development envelope shall be established per parcel of land.~~
 - ~~(c) If a development envelope is proposed in the RCA, a minimum of twenty (20) acres must remain outside of the development envelope or the acreage of the entire parcel must be deducted. If the original parcel in the RCA is less than twenty (20) acres, then the acreage of the entire parcel must be deducted. If there is a permanently protected Resource Conservation Area (an area protected by easement) adjacent and contiguous to a residue that is less than twenty (20) acres, that will result in a minimum twenty acre residue, then the entire parcel does not have to be deducted.~~
 - ~~(d) The minimum twenty acre residue outside of the development envelope may be developed at an RCA density unless some type of permanent protection exists that restricts development.~~~~

- ~~(3) For growth allocation areas proposed in the RCA, on Town sewer, where a three-hundred foot (300) setback is provided, the three hundred foot (300) setback acreage shall not be deducted. Naturally vegetated Buffer is strongly encouraged and where it is provided it shall not be deducted even if the Buffer does not meet the twenty-acre minimum requirement. All applicants not proposing a three hundred foot Buffer shall propose alternatives to the three hundred foot Buffer that demonstrate benefits to increased water quality and wildlife habitat on the site.~~
- ~~(4) For growth allocation areas proposed in the RCA, on private well and septic, with a three hundred foot naturally vegetated setback, the three hundred foot (300) setback is required and shall not be deducted, even if the Buffer does not meet the twenty-acre minimum requirement.~~

~~G-[H]. Applications to amend a growth allocation [for a Growth Allocation Floating Zone map amendment].~~

- ~~(1) Conditions for filing a growth allocation amendment [a Growth Allocation Floating Zone map amendment] application. No application to amend an approved growth allocation [Growth Allocation Floating Zone map amendment] (hereafter "growth allocation amendment application") shall be submitted to or accepted or considered by the Town unless each of the following conditions is satisfied:~~
- ~~(a) The growth allocation amendment application shall relate to an approved growth allocation.~~
 - ~~(b) The person submitting a growth allocation amendment application (the "applicant") shall be the current legal or equitable owner of the land that is the subject of the approved growth allocation.~~
 - ~~(c) The approved growth allocation [Growth Allocation Floating Zone map amendment] to which the growth allocation amendment application relates shall not have been rendered invalid by a final judicial decision.~~
 - ~~(d) The growth allocation amendment application shall be based on a concept plan that, as compared to the concept plan approved in conjunction with the approved growth allocation (the "approved concept plan"):~~
 - ~~[1] Does not materially change the location or the area of the land included in the approved concept plan;~~
 - ~~[2] Does not increase the maximum number of dwelling units included in the approved concept plan;~~

- [3] Does not increase the average number of dwelling units per acre on the land that is included in the approved concept plan;
- [4] Does not increase the maximum land area to be devoted to commercial uses included in the approved concept plan;
- [5] Does not increase the maximum interior floor space to be devoted to commercial uses included in the approved concept plan;
- [6] Does not reduce the combined width of the tidal and nontidal buffer, tributary stream buffer, and setback areas included in the approved concept plan at any point, extending landward from the mean high water line, or the landward edge of tidal wetlands, whichever is more landward;
- [7] Does not reduce the combined area of the tidal and nontidal wetland buffer and setback areas included in the approved concept plan;
- [8] Does not change the nature or increase the extent of any structures within the tidal or nontidal wetland buffer, tributary stream buffer, or setback areas included in the approved concept plan;
- [9] Does not reduce the land area to be devoted to open space included in the approved concept plan;
- [10] Does not impact the habitat protection areas as identified in the approved concept plan; and
- [11] Does not alter or adversely affect any condition imposed by the Critical Area Commission relating to the approved concept plan.

NOTE: This section seems to imply that the original application and approval was based on a “concept plan” as opposed to preliminary site plan or subdivision plat,

- (e) The growth allocation amendment application does not seek to change a finding of fact, a conclusion, or a condition in the decision of the Town Commissioners relating to the approved ~~growth allocation~~ [**Growth Allocation Floating Zone map amendment**] unless there is a change in the concept plan, site conditions or other facts or circumstances in the record of the growth allocation amendment application process sufficient to justify such a change.
- (2) Filing the growth allocation amendment application.
- (a) A growth allocation amendment application shall be submitted to the Town Commissioners in writing, in such form as the Town Commissioners may approve, with at least fifteen (15) copies thereof, shall be signed under oath or affirmation as to

the truth of its contents by the applicant, and shall include the following supporting information:

- [1] Identification of all applicants by name, address and telephone number and, if represented by legal counsel, the name, address and telephone number of legal counsel;
- [2] Identification of all land which is the subject of the growth allocation amendment application by street address, Tax Map and parcel numbers, and deed reference;
- [3] The written findings of fact and decision of the Town Commissioners, and the Critical Area Commission, if the approved growth allocation was acted on by the Critical Area Commission or the Chair of the Critical Area Commission, relating to the approved growth allocation, which purports to approve the approved growth allocation, address whether and how the criteria for the award of growth allocation are satisfied, state the grounds for approval, and state the conditions upon which approval was granted.
- [4] A complete concept plan depicting the subject land and the development sought by the growth allocation amendment application, drawn to the same scale, in the same manner as, and containing the same information as the concept plan as approved in conjunction with the approved growth allocation, to facilitate visual identification and comparison of the differences between concept plan for the approved growth allocation with the concept plan for the development sought by the growth allocation amendment application. The concept plan submitted to the Town as part of the growth allocation amendment application shall not thereafter be changed by the applicant except as requested by the Town Commissioners or with the express permission of the Town Commissioners. Any change in the concept plan may result in a delay of the proceedings to give other interested parties ample time to review and comment on the change.
- [5] A written explanation of each amendment to the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]** (whether to the concept plan, the conditions of the approval, or otherwise) as proposed by the growth allocation amendment application, including what about the approved growth allocation that is sought to be amended by the growth allocation amendment application and, if amended, how the ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]** as amended (the "amended growth allocation") would differ from the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]**;
- [6] A summary of the evidence upon which the applicant intends to rely in support of the growth allocation amendment application; and

[7] A summary explanation of how the evidence justifies approval by the Town Commissioners of each amendment being sought to the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]**, including what additions to evidence and/or changes in the applicable laws, regulations and/or rules justify changes in the findings of fact, conclusions and conditions, as found by the Town Commissioners granting the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]**, to grant the amendments sought by the growth allocation amendment application.

- (b) A growth allocation amendment application shall be accompanied by the filing fee, in the amount established by resolution of the Town Commissioners.
- (c) A growth allocation amendment application that is not accompanied by the required filing fee and the required supporting information shall not be accepted for filing by the Town and shall be returned to the applicant with a statement identifying the required, but missing or incomplete, material.

(3) Procedures.

- (a) After a growth allocation amendment application has been filed, and before the applicant shall be permitted to proceed any further, the applicant shall obtain from the Town Commissioners, after a public hearing of which public notice has been given in accordance with the **Town Code § 340-93A(1) and (2)**:**

[1] Consent to proceed with the growth allocation amendment application must first be granted by the affirmative vote of at least a majority of the Town Commissioners based on a finding that acceptance and processing of the growth allocation amendment application may be in the public interest of the citizens of the Town, which consent may be withheld in the sole discretion of the Town Commissioners.

[2] A growth allocation amendment application shall not be permitted where it is solely for the tactical or other advantage of the applicant but may be permitted where, on balance, acceptance and processing of a growth allocation amendment application may be in the public interest; consent by the Town Commissioners to accept and process a growth allocation amendment application need not hinge on whether:

[a] The time for filing a petition for judicial review relating to the approved growth allocation has expired; or

[b] A petition for judicial review relating to the approved growth allocation has been filed and is pending; or

- [c] The Critical Area Commission has completed its processing and rendered its decision relating to the approved ~~growth allocation~~ [**Growth Allocation Floating Zone map amendment**] (and/or any prior amendment thereof); provided, however, that the Town agrees to either withdraw from consideration by the Critical Area Commission and resubmit the pending approved growth allocation (and/or all prior pending amendments thereof) or to grant the Critical Area Commission one or more extensions of time for action on the pending approved growth allocation (and/or all prior pending amendments thereof), such that the Critical Area Commission is not placed in the position of having to simultaneously process and consider two or more separate submissions for growth allocation by the Town relating to the same project in order for the Critical Area Commission to meet the time provisions for processing such applications provided by law.
- [3] A written scheduling order must be adopted by at least a majority of the Town Commissioners, which shall be made a part of the record, setting forth the deadline dates by which the applicant, the interveners (as defined among the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings), and other interested parties to the growth allocation amendment application shall comply with the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings, and setting the date of the quasi-judicial hearing.
- [a] The Town Commissioners may shorten the times for compliance with the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings, and the time before the scheduled public hearing on the merits of the growth allocation amendment application, based on the apparent lack of complexity of the application and apparent lack of opposition expressed at the hearing held for the purpose of adopting a scheduling order.
- [i] The apparent complexity of the application and/or apparent opposition to the application notwithstanding, the Town Commissioners may shorten the times for compliance with the applicable prehearing procedures then in effect relating to Town quasi-judicial hearings, if they find:
- [A] The concept plan, upon which the growth allocation was granted, is not proposed to be materially changed;
- [B] The proposed amendment does not appear to adversely affect water quality or wildlife habitat; and

[C] The proposed amendment does not appear to adversely affect consistency of the proposed development with the Comprehensive Plan.

- (b) After the applicant has obtained the consent and a scheduling order from the Town Commissioners, as required by **Subsection G(3)(a)***, above, the growth allocation amendment application shall be processed according to the rules of prehearing procedures then in effect applicable to quasi-judicial hearings, after which a hearing shall be conducted by the Town Commissioners according to the rules of procedure then in effect applicable to quasi-judicial hearings.
 - (c) Within a reasonable time after the close of the quasi-judicial hearing and the record relating to the growth allocation amendment application, the Town Commissioners shall render a written decision, including findings of fact, conclusions and any conditions they deem appropriate, based on the evidence in the record and the applicable laws and regulations.
- (4) Limited scope of the proceeding. Because a growth allocation amendment application must relate to an approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]**, the processing of a growth allocation amendment application shall not include a rehearing of the same issue or issues that were raised, or reasonably could have been raised, and substantially the same evidence that was or reasonably could have been presented, by an interested person at the public hearing of the Town Commissioners relating to the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]** unless such issue or evidence:
- (a) Relates to a change in the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]** as proposed by the growth allocation amendment application; and
 - (b) Is sufficient, either alone or cumulatively when considered with other issues and evidence relating to a proposed change in the approved ~~growth allocation~~ **[Growth Allocation Floating Zone map amendment]**, to either:
 - [1] Reasonably lead to a different conclusion by the Town Commissioners relating to the applicable criteria necessary to ~~award growth allocation~~ **[approve the Growth Allocation Floating Zone map amendment]** as it relates to the growth allocation amendment application; or
 - [2] Reasonably lead to the addition, deletion or change in the concept plan or one or more conditions imposed by the Town Commissioners relative to the growth allocation amendment application, as compared to the concept plan and

conditions imposed by the Town Commissioners relative to the approved growth allocation.

(5) Acceptance of amendment by applicant.

(a) The written decision of the Town Commissioners on the growth allocation amendment application, including all conditions of approval, if any, shall be promptly mailed or hand-delivered by the Town Manager to the applicant.

(b) If the growth allocation amendment application is approved by the Town Commissioners, without alterations or conditions other than or in addition to those requested by the applicant, then the growth allocation amendment application shall become effective immediately, subject to Subsection G(6), and all inconsistencies therewith in any previously existing growth allocation approval shall be rendered immediately void and of no effect.

(c) If the growth allocation amendment application is approved by the Town Commissioners with alterations or conditions other than those requested by the applicant, then the decision of the Town Commissioners shall be stayed for **thirty (30)** days from the date on which it was mailed or hand-delivered to the applicant by the Town Manager, and that decision shall take effect automatically, subject to Subsection G(6), at the end of that thirty-day period unless either:

[1] A written notice of rejection by the applicant is delivered to the Town Manager within said thirty-day period, at which time the decision of the Town Commissioners on the growth allocation amendment application shall be rendered void, as if it had never existed; or

[2] A written notice of unconditional acceptance by the applicant is delivered to the Town Manager within said thirty-day period, at which time the decision of the Town Commissioners on the growth allocation amendment application shall become effective immediately, and all inconsistencies therewith in any previously existing growth allocation approval shall be rendered immediately void and of no effect. Any acceptance other than unconditional shall be tantamount to a rejection.

(6) Critical Area Commission. Upon approval of a growth allocation amendment application by the Town Commissioners, and upon acceptance of such approval of such growth allocation amendment by the applicant as provided above, the Town shall promptly notify the Critical Area Commission of such approval, and shall provide to the Critical Area Commission a copy of the written decision on the growth allocation amendment application by the Town Commissioners and so much of the Town's record relating thereto as the Town deems appropriate and/or the Critical Area Commission requests for the Critical Area Commission to take such action thereon, if any, as the Commission or

the Chair of the Commission deems appropriate under the circumstances pursuant to the applicable provisions of Maryland Code, Natural Resources Article, Title 8 (Waters), Subtitle 18 (Chesapeake Bay Critical Area Protection Program), and the Code of Maryland Regulations, Title 27 (Critical Area Commission For the Chesapeake and Atlantic Coastal Bays), as amended from time to time.

- (7) Enactment of ordinance to effect final approval of a growth allocation amendment application. Upon completion of the required procedures and approval of a growth allocation amendment application by the Town Commissioners, and upon the approval of the Critical Area Commission, if any is required, the Town Commissioners shall, without further procedures except those required by the Town Charter, enact an ordinance to effect the change in land management classification and map amendment relating to the approved growth allocation amendment application, and/or the amendments to the concept plan and/or conditions relating thereto, in accordance with all terms and conditions of such approval, within **one hundred twenty (120)** days of receiving notice of such approval or lack of necessity to take action by the Critical Area Commission.

§ 340-43. PR Planned Redevelopment Overlay District.

NOTE: Consider making this a floating zone.

A. Application and review.

- (1) An application for [PR] Planned Redevelopment Overlay District shall be filed with the Town Manager and referred to the Planning Commission for a recommendation before proceeding to the Commissioners.
- (2) The application for PR Overlay District zoning shall include a map of the area proposed for the designation and shall be accompanied by a metes and bounds description of the proposed zoning boundaries as well as a complete listing of the names and addresses of all property owners within the proposed PR Overlay District Zoning.
- (3) The area proposed for PR Overlay District zoning shall be contiguous and at least 20,000 square feet in size, unless the proposed PR Overlay District Zoning is an extension of an existing PR Overlay District Zoning.
- (4) The application for establishing a PR Overlay District zoning shall be accompanied by a land use and housing/building survey which analyzes the appropriateness of the existing zoning the conditions of the housing or commercial or industrial buildings within the proposed PR Zone, etc.
- (5) **The application shall include a petition or similar device indicating the support of the owners of at least 51% of the lots within the proposed PR District.**

NOTE: Questions concerning legality – discuss with Brynja.

- (6) The application shall include specific references to those sections of the Town's Comprehensive Plan which support the request as submitted.
- (7) The Planning and Zoning Commission may require whatever additional studies or reports it deems necessary to adequately analyze the application.
- (8) The Planning Commission shall make and forward a recommendation to the Commissioners who shall schedule and hold a public hearing on the application in accordance with the provisions of **Article **, Amendments**, of this chapter.
- (9) Actions by the Town Commissioners.
 - (a) After receiving the recommendation of the Planning Commission, and prior to holding a public hearing, the Town Commissioners may suggest, and the applicant may make, revisions to the application. Such revisions, provided they address or incorporate Planning Commission recommendations, shall not require referral of the revised application to the Planning Commission. No revision to the application shall be made without the consent of the applicant.
 - (b) The Commissioners shall vote as to whether or not to approve the proposed PR Overlay District. Before approving a request, the Commissioners must make the following findings:
 - [1] The structures within the proposed PR District are predominately in need of rehabilitation, deteriorated, or built to zoning (or before any zoning) that no longer is appropriate for the area; or
 - [2] Will allow for the rehabilitation, development and redevelopment of an area of the Town of St. Michaels that is consistent with the goals and objectives of the Town's Comprehensive Plan and in keeping with the general character of the area.
 - [3] The creation of the PR Overlay District will not cause undue traffic nor overburden the Town's community facilities (water, sewer, solid waste, etc.).
 - (c) If the Commissioners make an affirmative finding of fact as to each of the criteria listed above, the Commissioners may enact an ordinance granting the proposed PR application. The fact that an application for a PR Zoning Map amendment complies with the specific requirements listed above shall not require the Commissioners to grant the application. In addition to the factors outlined above, other factors it deems appropriate, including but not limited to the degree to which the proposed PR development:

- [1] Helps accomplish the coordinated, adjusted, and harmonious development of the Town and its environs in accordance with present and future needs;
- [2] Promotes health, safety, morals, order, convenience, prosperity, and general welfare; including, among other things, adequate provisions for traffic, the promotion of public safety, adequate provision for light and air, conservation of natural resources, the prevention of environmental pollution, the promotion of the healthful and convenient distribution of population;
- [3] Exemplifies good civic design and arrangement and the stewardship of the Chesapeake Bay and the land as a universal ethic;
- [4] Encourages the conservation of resources, including a reduction in resource consumption;
- [5] Is located in a location suitable for it, given existing and reasonably foreseeable development; and
- [6] Encourages appropriate and sustainable economic growth.

C. Development standards. Development within the Planned Redevelopment Overlay District shall meet the following requirements:

- (1) The area proposed for a planned redevelopment shall be in one ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of the property included in the development plan.
- (2) The site shall be of a configuration suitable for the development proposed.
- (3) Public water and sewerage shall be available.
- (4) The site shall be located adjacent to adequate transportation facilities capable of serving existing traffic and that expected to be generated by the proposed development.
- (5) The owners or developers must indicate that they plan to begin construction of the development within **one (1) year** after final approval. If there is no substantial action on the part of the applicant at any point in the process for a period of one year, the planned redevelopment application shall be null and void and it will be necessary to begin the PR review process over from the beginning in order to develop in accordance with such provisions unless a time extension is requested by the developer and granted by the Planning Commission.
- (6) The planned redevelopment project shall not contain more than **twenty-five (25)** structures (residential and or commercial) per gross acre. Each structure shall not contain more than **two (2)** units. For calculation purposes, each residential unit within a

multifamily structure shall be considered as a separate structure. For the purposes of this subsection, the gross area shall include all land within the area intended to be used for residences, residential parking space, commercial structures with associated parking spaces and reservation for community recreation and education facilities. The Planning Commission may require a lower density if review of the proposed indicates that the maximum allowable density is excessive for the surrounding area.

- (7) Adequate common open space shall be provided for new infill development projects. Such space shall include land area to be developed as recreational areas or which is designated for the common use of all occupants of the planned redevelopment but shall not include streets, off-street parking areas or incidental landscaping within off-street parking areas. The Planning Commission must be furnished satisfactory evidence that such open space will be continued and that provision is made for its perpetual maintenance.
- (8) For new infill development projects, the setback lot size, lot coverage, height and yard requirements shall be established for each individual project by the Planning Commission. In establishing these requirements, the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.
- (9) Adequate parking shall be provided for the proposed use as approved by the Planning Commission.

D. Uses in PR District Zone.

- (1) Permitted uses. In addition to those uses permitted in the underlying zone classification, the following uses shall be permitted:
 - (a) Short-term rentals as defined in Article XV, Definitions, of this chapter.

E. The change/mistake rule.

- (1) The "change/mistake" rule as codified in Maryland Annotated Code, **Article 66B, § 4.05 [Land Use Article § 4-204(b)(2)]**, is not applicable to PR Zoning Map amendment applications.
- (2) The Commissioners shall have the authority to impose conditions upon the grant of a PR Zoning Map amendment application and may require the recordation of covenants and restrictions, in a form approved by the Town Attorney, to assure compliance with said conditions or with any of the provisions of the Code.
- (3) If the Commissioners fail to enact an ordinance granting the PR application, no application for a PR Zoning Map amendment will be accepted for filing by the Town for

a period of **one (1)** year after the date of the Commissioners' decision or the date of finality of any judicial review of the Commissioners' decision, whichever is later.

F. Amendments to approved PR applications. Amendments to approved PR applications shall be reviewed under the same standards prescribed above for new projects.

G. Site plan/subdivision plat review. Applications for PR projects shall be reviewed in accordance with the following procedures, depending upon the type of project:

- (1) The applicant shall prepare and submit for review by the Planning Commission a preliminary and final site/subdivision plan in accordance with the site plan requirements specified in Chapter 110 of the Code and/or the requirements of the Town of St. Michaels Subdivision Regulations. The design of the preliminary and final site plan and/or subdivision shall be consistent with the ordinance granting the PR application.
- (2) Applications for the ~~adaptive~~ **[adaptive]** reuse of existing buildings shall be reviewed as follows:
 - (a) Requests to change to a permitted use (in the underlying zoning district) that requires less parking than the previous use shall be approved with no review beyond that required for a building permit (if any).
 - (b) Requests to change to a permitted use (in the underlying zoning district) that requires more parking than the previous use shall be reviewed in accordance with the site plan review standards as outlined in Chapter 110 of the Code.
 - (c) Request to change to a use that is not permitted in the underlying zoning district may be reviewed in accordance with the standards for site plan review (Chapter 110 of the Code) as a special exception and processed in accordance with the provisions of § **340-* of this chapter.**
- (3) Applications which violate underlying zoning district:
 - (a) Applications for renovations, alterations or additions to existing improved lots which violate the prescribed setback of the underlying zoning district, but are no closer to the property line than the existing structure, shall be reviewed by the Zoning Inspector. The application shall furnish the Zoning Inspector with a site plan with enough information to permit an adequate review of the request. If approved by the Zoning Inspector, nothing more than a building permit shall be required for such requests. Nothing in this provision, however, shall permit construction in violation of the Town's Building Code without a variance from said Code.
 - (b) Applications for renovations, alterations or additions to existing improved lots which both violate the prescribed setbacks of the underlying zoning district and are closer to

the property line than the existing structure(s) shall be reviewed by the process prescribed above for new infill development (i.e., the site plan review standards of this Code as prescribed in Chapter 110 of the Code).

§ 340-44. PD Planned Development Floating Zone.

NOTE: Consider deleting this development option.

A. Location and area requirements.

- (1) The PD Planned Development District is hereby established as a floating district and may be permitted in accordance with the provisions hereof, upon review of the Planning Commission and Approval by the Town Commissioners.

~~A. The intent of the planned development regulations is to allow departure from the minimum yard (building setback) and minimum lot size requirements of the Schedule of Zone Regulations (§§ 340 **, 340 ** and 340 **), to permit a variety of residential building types and configurations, to promote more efficient land use in the Town, and to assure that open spaces, common elements, utilities, services and density requirements are maintained.~~

B. A [PD Planned Development] planned development is:

- (1) On land under unified ownership or control, planned and developed as a whole and consisting of not less than:
 - (a) Five (5) acres in an R-1 District; or
 - (b) Three (3) acres in a R-2 District; or
 - (c) One (1) acre in a R-3 District; and
- (2) In a single development consisting of not more than **thirty (30)** acres; or a single development consisting of more than **thirty (30)** acres, to be developed in a defined series of development phases, each phase being no more than **thirty (30)** acres; and
- (3) For dwellings and related subordinate facilities; and
- (4) According to detailed plans which include not only streets, utilities, lot or building sites, and the like, but also site plans, floor plans, and elevations for all buildings intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings; and
- (5) With a program for operation and maintenance of such areas, improvements, and facilities as will be in common ownership or use by or for some or all of the occupants of the development, but will not be provided or maintained at general public expense.

C. A ~~planned development~~ **[PD Planned Development]** may be permitted in any residential zoning district. The Planning Commission, in approving subdivision plats consistent with provisions of this section, may permit modifications in lot area, lot width, yards, or other requirements. Use regulations are governed by the underlying zoning district in which the development is located **[except, the Planning Commission may recommend and the Town Commissioners approve multifamily dwellings in a R-1 and/or R-2 district.]**

~~D. After compliance with those procedures and satisfaction of those conditions hereafter set forth, and compliance with the procedures and requirements of this chapter generally for obtaining a special exception, the Board of Zoning Appeals may approve planned development areas for permitted uses and multifamily dwellings in R-1, R-2 and R-3 Zones.~~

E[D]. The average dwelling-unit density will be no greater than the permitted density for the underlying zoning district in which the units are located. For the purposes of this section, "density" means the maximum number of dwelling units which could be built on the net developable land area in the planned development based on the underlying zoning district. Net developable land is the land remaining after flood-prone areas, wetlands and rights-of-way for streets have been deducted from the gross site area.

(1) In the R-1 District, no more than 30% of the maximum number of dwelling units permitted, approved and actually constructed in a planned development may be multifamily units. For the area of multi-phased planned developments in the R-1 District, the limitation on multifamily dwellings shall apply on a phase-by-phase basis, such that no more than 40% of the number of dwelling units actually constructed on the land in the R-1 District in a single phase may be multifamily dwelling units, and the applicant shall demonstrate to the satisfaction of the ~~Board of Zoning Appeals~~ **[Planning Commission and Town Commissioners]** that there is sufficient undeveloped land area under the control of the applicant and committed to the planned development which will permit the applicant to comply with the overall limitation of 30% on the number of multifamily dwelling units in the entire planned development when it is completed. The interim phase limitation of 40% shall not be waived unless the applicant demonstrates undue hardship other than mere delay of profits. Any planned development found out of strict compliance with the requirements of this subsection shall not receive approval of an additional multifamily dwelling unit until the development is brought into compliance with the requirements of this subsection.

(2) In the R-2 District, no more than 40% of the maximum number of dwelling units permitted, approved and actually constructed in a planned development may be multifamily units. For the area of multi-phased planned developments in the R-2 District, the limitation on multifamily dwellings shall apply on a phase-by-phase basis, such that no more than 50% of the number of dwelling units actually constructed on the land in the R-2 District in a single phase may be multifamily dwelling units, and the applicant shall

demonstrate to the satisfaction of the ~~Board of Zoning Appeals~~ **[Planning Commission and Town Commissioners]** that there is sufficient undeveloped land area under the control of the applicant and committed to the planned development which will permit the applicant to comply with the overall limitation of 40% on the number of multifamily dwelling units in the entire planned development when it is completed. The interim phase limitation of 50% shall not be waived unless the applicant demonstrates undue hardship other than mere delay of profits. Any planned development found out of strict compliance with the requirements of this subsection shall not receive approval of an additional multifamily dwelling unit until the development is brought into compliance with the requirements of this subsection.

- (3) For the purposes of Subsection E(1) and (2), the terms "flood-prone areas," "wetlands," and "rights-of-way for streets" shall each have the meaning as defined in **§ 340-108 [11]*** of this chapter.

~~F.~~**[E]** Compatibility with existing development. Where a planned development adjoins a single-family residence district at other than real lot lines without an intervening major street or other permanent open space of **one hundred (100)** feet in minimum dimension, the portion of the development perimeter so adjoining shall be planned and developed for uses permitted in the adjoining residential district and in accordance with the other requirements for such district. However, in lieu of permitted residential or other permitted development in such perimeter area, common open space with appropriate screening and having a minimum dimension of **one hundred (100)** feet from the boundary of such adjacent single-family residential district shall be permitted.

~~G. Administrative procedures. Administrative procedures are generally those of Article VII of this chapter. However, in the case of planned developments, the following additional requirements must be met:~~

- ~~(1) The developer shall submit, concurrently with his/her request for a special exception, five copies of a site plan, showing the proposed use, location and type of all lands and structures or other improvement, five copies of proposed floor plans by building type, and five copies of elevations in sufficient detail to establish the architectural theme for the development. Site plans will include topography and the existing zoning of the site.~~
- ~~(2) The developer shall submit five copies of deed restrictions, and copies of such agreements as may be proposed to manage and maintain common open space and other facilities and improvements.~~
- ~~(3) The Board of Zoning Appeals shall furnish copies of the proposed development plans and other documents furnished under Subsection G(1) and (2) above to the Planning Commission and such other bodies as may be involved for review and comment. In particular, the Planning Commission shall review the proposed plans to determine~~

~~whether the proposed development adequately provides for light, air, traffic movement (to include emergency vehicles), open spaces, and community facilities. Further, they will evaluate the development as to its effect on adjoining properties and its conformity with the plan for the Town.~~

- ~~(4) The developer will comply in all respects with the Subdivision Regulations for the Town,[1] and when the plan for development is found to be in compliance with these regulations, the Planning Commission will forward notice of compliance, together with such other comments as may be appropriate, to the Board of Zoning Appeals.~~

~~[1] Editor's Note: See Ch. 290, Subdivision of Land.~~

- ~~(5) The Board of Zoning Appeals may approve the plan for the development after considering the recommendation of the Planning Commission and other public bodies, and after public hearing, and after making such changes and stipulating such conditions as do not have the effect of modifying the Subdivision Regulations.~~

- ~~(6) Subsequent to approval by the Board of Zoning Appeals, the Planning Commission will approve the subdivision plat (providing subdivision is involved).~~

- ~~(7) All conditions imposed by the Board of Zoning Appeals, and the provisions of the site plan, floor plans, elevations, uses, types or other documents relating to the development, shall be prepared as covenants to the satisfaction of the Board, signed by the owners of the land, and recorded in the land records of Talbot County, such that they shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any of the planned development area.~~

- ~~(8) Amendments or modifications may be made to the site plan or conditions applied thereto by using the same procedure outlined above.~~

F. Application. Application for a floating zone amendment for a Planned Development approval shall be made to the Commissioners of St. Michaels. Applications shall include:

- (1) A written petition for location of a PD Planned Development District map amendment and approval of a Master Development Plan, signed by the owners, and contract purchasers, if any, of the property that is the subject of the petition.

(2) A narrative describing the following:

(a) Statement of present and proposed ownership of all land within the development;

(b) Overall objectives of the proposed Master Development Plan and a statement of how the proposed development concept corresponds to and complies with the goals and objectives of this Chapter, the proposed Planned Development district, and the St. Michaels Comprehensive Plan;

- (c) Method of providing sewer and water service and other utilities, such as, but not limited to, telephone, gas, and electric services;
 - (d) Description of Stormwater management concepts to be applied;
 - (e) Method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;
 - (f) General description of architectural and landscape elements, including graphic representations; and
 - (g) If the applicant desires to develop the property in phases, a preliminary phasing plan indicating:
 - [1] The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.
 - [2] If different residential types are to be included within the Master Development Plan, the plan shall include the mix residential units anticipated to be built in each phase.
- (3) A Concept Master Development Plan, which includes:
- (a) Boundary survey of the area subject to the application;
 - (b) Graphic and tabular presentation of proposed site development information that clearly depicts the following, as applicable:
 - [1] Total acreage of subject property and identification of all adjoining landowners;
 - [2] Description of proposed land uses, including residential, institutional, and recreational;
 - [3] Maximum number of dwelling units, approximate densities of residential areas and anticipated population;
 - [4] Land area and locations generally allocated to each proposed use; and
 - [5] Location of proposed roads, public open space, any sensitive resource areas (environmental or cultural), and public facilities.
- B. Referral of Application to Planning Commission. Upon submission to the Commissioners of an Application for a PD Planned Development zoning amendment and a Master Development Plan, the Commissioners shall refer said Application and Master Development Plan to the Planning Commission for its review and recommendations. The referral shall authorize the Planning Commission, the Town staff, and any consultants or professionals on

behalf of the Planning Commission or the Town to analyze said Application and Master Development Plan, in accordance with all applicable review processes and procedures. The Planning Commission or the Commissioners may require the cost of any analysis or consultant or professional be paid for by the applicant. No development may occur until:

- (1) A PD Planned Development floating zone has been applied to the property by legislative action of the Commissioners;
- (2) A Master Development Plan is approved for the floating zone by the Commissioners; and
- (3) A building permit has been issued, following, if applicable, final subdivision plat and/or site plan approval by all agencies with jurisdiction.

C. Master Development Plan Submittal to the Planning Commission. After the Commissioners refer the Application and Master Development Plan, the applicant shall submit the following to the Planning Commission for review and recommendations to the Commissioners:

(1) Graphic Master Development Plan Requirements:

(a) Master Development Plan that includes the following individual sheets: Single sheets shall not exceed 36" x 48". Plans shall be presented at a scale no smaller than 1" = 400' such that the entire site may be shown on a single sheet.

[1] The referred Master Development Plan;

[2] Boundary Survey, including identification of adjacent property owners;

[3] Existing condition information, including (information may be displayed on more than one sheet for clarity):

(i) Topographic survey (minimum 1' contour interval);

(ii) Soils;

(iii) Forested areas and tree lines;

(iv) Wetlands, hydric soils, streams, and water features;

(v) Habitat protection areas;

(vi) Steep slopes;

(vii) Easements and deed restrictions;

(viii) Roads, driveways, and right-of-ways;

(ix) Existing buildings;

(x) General location of historic and projected storm surge boundaries for all categories of storm events; and

(xi) Existing land uses.

[4] Proposed open space, protected areas, and public and private parks;

[5] Pedestrian and vehicular master plan showing dominant street configuration and pedestrian walking and biking alignments;

[6] Detailed plan of at least one (1) phase, showing:

(i) Road alignments;

(ii) Lot configuration;

(iii) Public and private open space(s);

(iv) Perspective streetscape (typical for represented phase);

(v) Examples of proposed residential architecture;

(vi) Plan view, perspective and elevations of private and/or public community facilities; and

(vii) Plan view, perspective and elevations of entrances including gateway improvements, if applicable.

[7] Phasing plan, including:

(i) The general boundaries or location of each phase. Although the Phasing Plan shall include the information required by (b) and (c) below (in narrative, tabular or graphical form), it is not required to depict the location of the land uses, densities or public facilities within each phase.

(ii) The phase(s) in which the project will be developed, indicating the approximate land area, uses, densities, and public facilities to be developed during each phase.

(iii) If different unit types are to be included, the Master Development Plan shall include the approximate mix of uses anticipated to be built in each phase.

b. Studies and reports by qualified professionals:

[1] Traffic study that evaluates traffic impacts on proposed entrances on existing public (state, county, and town) roads and major existing intersections within one (1) mile of the project that may be impacted by traffic generated by the proposed project;

- [2] Nontidal wetlands delineation;
 - [3] Habitat protection areas study prepared by qualified professionals; and
 - [4] A concept plan indicating how storm water will be managed on the site in accordance with applicable State, County or Town regulations.
- c. The Master Development Plan Design Standards shall provide specific detail regarding:
- [1] Site design standards in designated neighborhood areas including: permitted uses, building types, frontage, setbacks, floor area ratios and lot sizes, building heights, parking, street widths and cross-sections, sidewalks, lighting, and road geometry.
 - [2] Building standards for designated neighborhood including: size and orientation, building facades, regulated architectural elements (windows, trim, etc.), rooflines, architectural styles, fencing, parking, and signage.
 - [3] Landscape, buffer, and environmental standards, including: location, scope, materials, and scheduling.
- d. Project Scheduling Information, including: anticipated permitting hearings, approvals, construction start, phasing, anticipated absorption, and completion of key site elements. (Note: This information is understood to be representative of a best estimate and will be used by the Town as a tool for long-range planning activities, but shall not be binding.)
- e. The Master Development Plan shall also include a management statement regarding the anticipated ownership, construction, operation, and maintenance of:
- [1] Sanitary and storm sewers, water mains, culverts, and other underground structures;
 - [2] Streets, road, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems; and
 - [3] Parks, parkways, walking paths, cycle ways, playgrounds, and open spaces.
- (2) The Master Development Plan shall comply with requirements of this section and the requested floating zone and may be accompanied by such other written or graphic material that may aid the decisions of the Planning Commission and the Commissioners.
- (3) The Commissioners may establish additional and supplemental requirements for the Master Development Plan prior to its referral of the Application, if the Commissioners determine such requirements are necessary to enable the Commissioners to evaluate the particular floating zone amendment request.
- D. Planning Commission Review and Recommendation – Floating Zone Amendment and Master Development Plan.

- (1) The Planning Commission shall review the floating zone amendment request and Master Development Plan for compliance with the requirements of this Chapter and consistency with the Comprehensive Plan.

NOTE: Design guidelines if applicable.

- (2) The Planning Commission shall evaluate the degree to which the proposed floating zone request and Master Development Plan incorporate furthers the goals and objectives of Comprehensive Plan.
- (3) The Planning Commission may make reasonable recommendations to the applicant regarding changes to the Master Development Plan proposal, which, in the judgment of the Planning Commission, shall cause the proposal to better conform to the requirements of the Comprehensive Plan and purpose of the district as set forth in this Chapter. The applicant may resubmit the Master Development Plan to the Planning Commission in light of the Planning Commission's comments.
- (4) If, after four (4) Master Development Plan submissions, the Master Development Plan has not received a favorable recommendation from the Planning Commission, the Planning Commission shall make a negative recommendation to the Commissioners setting forth its reasons as to why the Master Development Plan should not be approved.
- (5) After a public hearing **[advertised as provided in § 340-***], the Planning Commission shall consider and comment on the findings required of the Commissioners, as set forth in E(2), herein, and shall make a favorable or negative recommendation to the Commissioners.
- (6) The Planning Commission shall forward the Master Development Plan, with any revisions, together with written comments and recommendations, and its floating zone comments, to the Commissioners for action pursuant to the floating zone and Master Development Plan approval process.

D. Commissioners Approval of Floating Zone and Master Development Plan.

- (1) The Commissioners shall review the Master Development Plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.
- (2) After a public hearing **[advertised as provided in § 340-***], the Commissioners may approve or disapprove the proposed floating zone map amendment and associated Master Development Plan, and shall follow the procedures set forth in **§340-*** of this Chapter. Concurrently with the location of a floating zone, the Commissioners may approve the Master Development Plan, which, in addition to the provisions of PD shall govern the subdivision and/or development of the property. In approving PD Planned Development

floating zone map amendment, the Commissioners shall make findings of fact, including, but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the areas, and the relationship of the proposed amendment to the Comprehensive Plan. The Commissioners may approve the Planned Development District map amendment if it finds that the proposed floating zone amendment is:

- (a) consistent with the St. Michaels Comprehensive Plan;
 - (b) consistent with the stated purposes and intent of the PD Planned Development District;
 - (c) complies with the requirements of this Chapter; and
 - (d) is compatible with adjoining land uses.
- (3) When a Planned Development is to be constructed in phases, final subdivision plat(s) shall not be required for a phase until such time as applications are filed for a federal, state, or local permit for construction of that particular phase.
 - (4) As part of the final Master Development Plan approval, the Commissioners shall approve a date for initiation of the proposed development.
 - (5). In the event that a floating zone amendment is approved by the Commissioners without subdivision and approval of an associated Master Development Plan, the subject property may not be subdivided until the owner complies with the Master Development review and approval provisions of this Chapter, and may not be developed except in conformance with a site plan as required by and in conformance with this Chapter.

F. Additional Required Procedures.

- (1) The administrative procedures for approval of a site plan for property located within the Planned Development District are set forth in **Chapter 110 of the Code of St. Michaels**. Site plans shall conform to the approved Master Development Plan, including the Master Development design standards.
- (2) The administrative procedures for approval of a subdivision located within the Planned Development District are set forth in Chapter 290 of the Code of St. Michaels. Final subdivision plats shall conform to the approved Master Development Plan.
- (3) Any development, site plan or subdivision approval for land in a PD Planned Development District shall be consistent with the provisions of the PD District as applicable, and the specific Master Development plan applicable to the property, as approved or amended by the Commissioners.

G. Amendment of Master Development Plan. The procedure for amendment of an approved Master Development Plan shall be the same as for a new application, except that minor amendments of a Master Development Plan may be approved by the Planning Commission at a regular meeting. The phrase “minor amendments” includes, but is not limited to, changes to: the location, number or types of uses within the Planned Development or any phase(s) thereof, subject to guideline (3), below; internal road locations or configurations; the number, type or location of dwelling units, subject to guideline (5) below; and the location of public amenities, services, or utilities. The Planning Commission may only approve minor amendments that increase residential density or intensify nonresidential uses if the amendments provide for enhancement of the architectural design and landscaping of the area subject to the amendment. Any amendment of a Master Development Plan that adversely impacts upon the delivery or the Town’s cost of public utilities, public services, public infrastructure, or otherwise adversely affects amenities available to the public or the public health and safety shall not be considered a minor amendment. Using the guidelines set forth below, the Planning Commission shall determine whether the proposed amendment is a “minor amendment. In addition to the foregoing, an amendment shall be deemed a “minor amendment”, provided that such amendment:

- (1) Does not conflict with the applicable purposes and land use standards of this Chapter;
- (2) Does not prevent reasonable access of emergency vehicle access or deprive adjacent properties of adequate light and air flow;
- (3) Does not significantly change the general character of the land uses of the approved Master Development Plan;
- (4) Does not result in any substantial change of major external access points;
- (5) Does not increase the total approved number of dwelling units or height of buildings; and
- (6) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.

H. Conflict with other Articles. Provisions of the PD Planned Development Floating Zone, when found to be in conflict with other provisions of this Chapter, shall supersede those other provisions with which they conflict. Provisions of the Planned Development Floating zone, when found to be in conflict with provisions of the Subdivision Code, shall supersede those provisions with which they conflict.

I. A Planned Development District shall be considered to be a “floating zone” and, under the laws of the State of Maryland, these districts are analogous to special exceptions. The criteria for each Planned Development district shall be as set forth in St. Michaels Code and

shall be the basis for approval or denial by the Commissioners of St. Michaels without the necessity of showing a mistake in the original zoning or a change in the neighborhood.

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