

Critical Area Commission

STAFF REPORT

September 2, 2020

APPLICANT:	St. Mary's County
PROPOSAL:	Text Amendment to Allow Nonadjacent Growth Allocation
COMMISSION ACTION:	Concurrence with Chairman's Determination of Refinement
STAFF RECOMMENDATION:	Approval with conditions
STAFF:	Annie Sekerak
APPLICABLE LAW/ REGULATIONS:	Natural Resources Article 8-1808.1 Natural Resources Article 8-1809 COMAR 27.01.02.06

DISCUSSION

On July 21, 2020, the Commissioners of St. Mary's County approved a text amendment to the St. Mary's County Comprehensive Zoning Ordinance (SMCZO). Ordinance No. 2020-36 will repeal and replace Section 41.9 of SMCZO, the County's growth allocation provisions. The proposed Ordinance will update the County's growth allocation requirements to make them consistent with State law and regulations, include an alternative adjacency standard for new Intensely Developed Areas (IDAs) and new Limited Development Areas (LDAs), and allow new IDAs less than 20 acres.

Ordinance 2020-36 is a revised version of Ordinance 2019-40, which was originally presented to the Commission on March 4, 2020. At that meeting, the Chairman decided to return the text amendment to the County with the request that the proposed ordinance be officially amended by the Commissioners of St. Mary's County in order to incorporate various corrections and edits. The resubmittal, Ordinance 2020-36, has been amended per staff recommendation. A copy of Ordinance No. 2020-36 is attached.

Growth Allocation Standards and Factors

The St. Mary's County Zoning Ordinance was last comprehensively reviewed and updated in 2002. Since that time, there have been significant changes to the growth allocation provisions in the State Statute and in the Criteria. This current proposal brings the County's provisions for growth allocation up to current State requirements. This includes amending locational 'guidelines' to locational 'standards', requiring adjacency for new IDAs and LDAs, requiring applications to meet the Commissions' submission requirements for site plans and environmental reports as well as information addressing the factors to be considered and the deduction methodology for growth allocation.

Proposed Non-Adjacency Standards and new IDAs less than 20 Acres

As noted above, updates to Natural Resources Article 8-1808.1 now require a local jurisdiction to locate a new IDA in an LDA or adjacent to an existing IDA, and to locate a new LDA adjacent to an existing LDA or an IDA. However, the statute also allows a local jurisdiction to propose an alternative standard for nonadjacent growth allocation if the alternative standard is consistent with the comprehensive plan and the Commission approves the alternative standard as part of the local program. Additionally, COMAR 27.01.02.03B(2) allows a local jurisdiction to propose an alternative standard for IDAs less than 20 acres if the Commission approves the alternative standard as part of the local program. Without such a standard, a new IDA must be at least 20 acres or must make up an area of IDA that is at least 20 acres. The purpose of allowing for smaller IDAs is to provide a local jurisdiction with the flexibility needed to accommodate certain commercial, industrial, or institutional uses provided it is consistent with the jurisdiction's adopted Comprehensive Plan. The St. Mary's County proposal includes both alternative adjacency standards for new IDAs and LDAs and a standard for new IDAs less than 20 acres under the following conditions:

1. The new IDA or LDA is located in an existing growth area, is zoned Corridor Mixed Use (CMX) or Village Mixed Use (VMX), is consistent with the County Comprehensive Plan, is served by public sewer or will use a Best Available Technology (BAT) onsite sewage disposal system (OSDS), and will have an overall economic benefit to the community; or
2. The new IDA or LDA is **not** located in an existing growth area, is zoned Commercial Marine (CM) or Rural Commercial Limited (RCL), will establish or reestablish a commercial, industrial, or institutional use on the property that previously included the same or a different commercial, industrial, or institutional use that was in existence as of March 27, 1990, will utilize a BAT OSDS for any future expansion or repair of an existing OSDS, and will have an overall economic benefit to the community; or
3. The project meets a public need for emergency or medical services including any facility that supports such services or will provide offsite minor utilities necessary to continue or reestablish a commercial, industrial, or institutional use that was in existence as of March 27, 1990 and will utilize a BAT for any OSDS and/or Environmental Site Design for stormwater management.

CMX or VMX Zoning: The St. Mary's Comprehensive Plan (Plan) targets growth to three types of defined growth areas, Development Districts, Town Centers, and Village Centers. The intent of these areas is to direct growth to existing population centers and protect natural resources and sensitive areas. The proposed alternative standards for nonadjacent growth allocation and new IDAs less than 20 acres in a growth area is restricted to a Corridor Mixed Use zoned property, which exists only in the two Development Districts, or to Village Mixed Use zones, which exists only in the five Village Centers. The purpose of those zones is to accommodate a central core of mixed uses surrounded by larger intermixed blocks of residential, commercial, industrial, and business uses in growth areas. Allowing nonadjacent growth allocation in growth areas in the CMX and VMX districts is consistent with the County's comprehensive plan since it will allow for infill development in growth areas and avoid new strip development along the principal roadways. According to information provided by the

County, there is currently one property in the CMX district and three properties in the VMX district that would be eligible for the alternative growth allocation location standards.

CM or RCL Zoning: The St. Mary's Comprehensive Plan also recognizes that some limited types of commercial uses are appropriate outside of the identified growth areas. In order to support existing businesses or the re-establishment of businesses, the County is proposing to allow non-adjacent growth allocation in non-growth areas for Commercial Marine or Rural Commercial Limited zoned properties provided it is established on a property that had some type of commercial, industrial or institutional use that existed prior to March 27, 1990.

The purpose of the CM district is to provide for commercial marine activities including marinas, dry boat storage, boatyards, boat and equipment sales and rentals, yacht clubs, visitor accommodations, and eating and drinking establishments. Allowing nonadjacent growth allocation outside existing growth areas in the CM district is consistent with the County's comprehensive plan since it will allow for the expansion of existing commercial marine activities. According to information provided by the County, there is currently only one property in the CM district that would be eligible for these alternative growth allocation standards.

The RCL district accommodates existing, small-scale commercial uses serving localized markets in the County that traditionally provide localized services to support agricultural activity and serve rural residents. Allowing nonadjacent growth allocation outside existing growth areas in the RCL district is consistent with the County's comprehensive plan since it would provide for the continuation and limited expansion of such uses. According to information provided by the County, there are currently six (6) properties in the RCL district that would be eligible for these alternative growth allocation standards.

Public Need: The Commission has approved similar language to allow nonadjacent growth allocation for emergency or medical services facilities in other County programs. Additionally, the language allowing for offsite utilities provides flexibility to allow for appropriate upgrades to those systems given site restraints such as poor soils.

STAFF RECOMMENDATION

Commission staff recommends that the Commission concur with the Chairman's determination that this text amendment be processed as a refinement to the St. Mary's County Critical Area Program. Further, because the proposed ordinance is consistent with the purposes, policies, and goals of the Critical Area law and regulations, staff recommends the Chairman approve the text amendment as proposed.