

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2020 Legislative Session

BILL NO. 2020-03

Introduced by: Charles County Commissioners

**ZONING TEXT AMENDMENT #19-155 THE MODIFICATION OF THE
TRANSITIONAL AND GRANDFATHERING PROVISIONS WITHIN THE
WATERSHED CONSERVATION DISTRICT (WCD) ZONE**

Date introduced: 03 / 03 / 2020

Public Hearing: 05 / 19 / 2020 @ 6:00 p.m.

Commissioners Action: 06 / 16 / 2020

Commissioner Votes: RBC: Y, BR: Y, GB: Y, TC: Absent, AS: Y

Pass/Fail: Passed

Effective Date: 07 / 31 / 2020

Remarks: _____

NOTE: CAPITALS indicate matter added to existing text.
[Brackets] indicate matter deleted from existing law.

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3 COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

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5 2020 Legislative Session

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7 Bill No. 2020-03 Zoning Text Amendment #19-155

8 Chapter No. 297

9 Introduced by Board of County Commissioners

10 Date of Introduction March 3, 2020

11
12 WATERSHED CONSERVATION DISTRICT (WCD)

13
14 AN ACT concerning:

15
16 THE MODIFICATION OF THE TRANSITIONAL AND GRANDFATHERING
17 PROVISIONS WITHIN THE WATERSHED CONSERVATION DISTRICT (WCD)
18 ZONE

19
20 FOR the purpose of

21
22 Amending certain provisions of the Zoning Ordinance of Charles County, Maryland to reduce
23 the percentage of lots and associated infrastructure required to allow a project to be exempt
24 from the development constraints imposed by the WCD Zone.

25
26 BY Amending:

27
28 Chapter 297 – ZONING ORDINANCE
29 Article VI, Base Zone Regulations
30 Section 297-98, WCD Watershed Conservation District.
31 *Code of Charles County, Maryland*

32
33 SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF
34 CHARLES COUNTY, MARYLAND, that the laws of Charles County, Maryland be read
35 as follows:

36
37 * * * * *
38 * *

39
40 Chapter 297. ZONING ORDINANCE
41 Article VI, Base Zone Regulations
42 Section 297-98, WCD Watershed Conservation District.

43
44 A. Objectives.

Asterisks *** mean intervening code language remaining unchanged |
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- 1
2
3 (1) To implement the direction and intent of the Comprehensive Plan with regards to protection of
4 the Mattawoman Creek Stream Valley and the headwaters of the Port Tobacco River and to
5 protect the watershed area's natural resources for its long-term value to the community, the
6 ecological, aesthetic and scenic values and its recreation and economic value as a sustainable
7 resource.
8
9 (2) To further protect the Resource Protection Zone and limit forest fragmentation.
10
11 (3) To allow for the transfer of development rights in appropriate locations.
12
13 (4) To limit sprawl development and protect water resources and Tier II streams and wildlife
14 habitat and implement the total maximum daily load (pollutant restrictions).
15
16 (5) To guide development away from vulnerable natural hazards, including flooding, storm surge,
17 and shore erosion.
18
19 B. General regulations. Residential development is limited to a gross density of one unit per 20
20 acres. Minimum lot area, area per dwelling unit, building setback from adjacent lot lines, lot
21 width, front yard, side yard, rear yard, and maximum building height are displayed on Figure
22 VI-10, shall apply, and are subject to other requirements of this chapter. Legal lots of record
23 less than one unit per 20 acres are permitted to obtain one single-family dwelling unit building
24 permit (and accessory use permits) per legal lot of record.
25
26 C. Special regulations: site design.
27
28 (1) Impervious surface restrictions. In order to protect the natural resources in this area,
29 impervious surface coverage, such as buildings, pavement or other man-made materials, is
30 limited to 8% of the property. Legal lots of record of three acres in size or smaller may have an
31 impervious surface coverage up to but not to exceed 10,500 square feet. Development areas
32 shall be designated on any site development plan, development services permit plans, clearing
33 or grading permit or building permit. The applicant shall demonstrate how much impervious
34 surface is located on the subject property. Calculations shall be provided to determine that
35 impervious surface is no greater than 8% of the subject property.
36
37 (2) Exemptions from impervious surface restrictions:
38
39 (a) Minor combined or cumulative additions up to 25% of the main structure, or accessory uses of
40 existing legally permitted uses and legal lots of record. Property under three acres can build up
41 to a maximum of 10,500 square feet even if it exceeds 25% as noted above.
42
43 (h) Development that utilizes best management practices (BMP), mitigates impervious surface
44 coverage and also has an inspection and maintenance agreement may exceed the eight-percent
45 impervious surface restriction by an equivalent area that is treated by the BMP.
46

- 1 (c) Development within the Watershed Conservation Zoning District which is not serviced by
2 public water and sewer is required to utilize the best available technology (BAT) septic system
3 to further reduce nitrogen entering the groundwater and streams.
4
- 5 (d) Churches and schools are exempt from impervious surface coverage.
6
- 7 (3) Stream and Resource Protection Zone buffers:
8
- 9 (a) The County's Critical Area Zone (Overlay Zone), Article IX of the Zoning Ordinance, or the
10 Resource Protection Zone RPZ (Overlay Zone), Article XI of the Zoning Ordinance, whichever
11 is applicable, shall govern buffer requirements for the Watershed Conservation District (WCD)
12 Zoning District.
13
- 14 (b) Streams shall be designated on any application for site development plan. Development
15 services permit, land clearing, grading or building permit applications, and conceptual
16 subdivision plans and shall clearly illustrate buffer areas of no disturbance in compliance with
17 the Zoning Ordinance.
18
- 19 D. Zoning Map boundary and criteria. The Watershed Conservation District (WCD) Zoning Map
20 is based on the Watershed Conservation District Land Use Map. The Land Use Map is a
21 generalized conceptual map, and the Zoning Map is more site-specific. For small developed
22 parcels on the edge of the district, the property line was used as the WCD boundary. Some
23 other parcels have split or multiple zones. For those properties where the boundary was set as
24 the Stream Valley's top of slope, boundary modifications related to the exact location of the top
25 of slope can be considered by the Planning and Growth Management staff upon approval by
26 the Zoning Officer based on site-verified conditions and data.
27
- 28 (1) Properties with multiple zoning districts. When properties contain more than one zoning
29 district and a proposed project falls within the WCD Zoning District, the following rules will
30 apply.
31
- 32 (a) The WCD shall be consistent with § 297-22 of the Zoning Ordinance and subject to all the
33 regulations applicable to the zone in which it is located in accordance with those provisions;
34
- 35 (b) The density calculation of the WCD area is to be based on one unit per 20 acres;
36
- 37 (c) The area with WCD zoning can only include permitted uses allowed by the Table of
38 Permissible Uses for that zone;
39
- 40 (d) WCD areas can include open space, forest conservation, public uses, stormwater management
41 and access to support the entire project, provided it meets the impervious surface and other
42 development requirements for the WCD area;
43
- 44 (e) WCD areas can be used for residue and reserved as open space for future development,

1 provided the future development complies with the WCD regulations.

2
3 (2) Except as specified below in this subsection, commercial and business park zoning areas shall
4 not be included in the WCD boundary area and shall be allowed to retain their commercial-
5 related zoning:

6
7 (a) The County-owned Indian Head Science and Technology Site shall remain in the WCD
8 boundary area;

9
10 (b) The commercial and mixed-use commercial areas in the Bryans Road area shall remain in the
11 WCD boundary in order to plan its future as a village and not a growth area;

12
13 (c) The commercial and industrial lands around the airport shall remain in the WCD boundary.

14
15 E. Transitional and grandfathering provisions. These provisions will take place at the effective
16 date of this section and as follows:

17
18 (1) Existing developments. Existing developments that are no longer considered to be permitted
19 uses within the WCD Zoning District as of adoption of this WCD section are considered
20 legally nonconforming uses and may continue to exist per the requirements of Article XXVIII,
21 Nonconforming Uses, of this Zoning Ordinance.

22
23 (2) Pending development applications. Pending development applications that are located within
24 the WCD area and have not been approved but are under review at the time of adoption of this
25 section may continue for review and approval under the previous regulations in place, provided
26 they have one of the following:

27
28 (a) An executed and valid development rights and responsibilities agreement (DRRA) or similar
29 development contract;

30
31 (b) An approved site development plan;

32
33 (c) A development services permit under review, not issued, but with a posted bond and associated
34 developer's agreement;

35
36 (d) Preliminary plans [that are in compliance with § 278-25 of the Charles County Subdivision
37 Ordinance (commencement of construction - recorded 25% of lots and associated infrastructure
38 has been built);] **WHICH HAVE RECORDED AT LEAST 10% OF THE LOTS
39 ASSOCIATED WITH THE PROJECT, AND HAVE COMPLETED AT LEAST 10%
40 OF THE PHYSICAL IMPROVEMENTS BEYOND EXCAVATION, GRADING AND
41 FILLING, THAT MAY INCLUDE:**

42
43 **[1] CONSTRUCTION OF ROADS, OR A PORTION OF ROADS FOR THE ENTIRE
44 PROJECT (AT LEAST 10%) OR FOR AN ENTIRE PHASE OF THE PROJECT AS**

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PREVIOUSLY DEFINED ON A PRELIMINARY PLAN; OR

[2] CONSTRUCTION AND INSTALLATION OF STORMWATER MANAGEMENT FACILITIES FOR THE PROJECT (AT LEAST 10%) OR FOR AN ENTIRE PHASE OF THE PROJECT; OR

[3] FOR THOSE PROJECTS ON SHARED OR PUBLIC SEWER AND WATER SYSTEMS, CONSTRUCTION OF A PORTION OF THE SEWER AND WATER FACILITIES (AT LEAST 10%) FOR THE PROJECT OR FOR AN ENTIRE PHASE OF THE PROJECT AS PREVIOUSLY DEFINED.

(e) The request is for a residential building permit application or other application relating to an existing legal lot of record.

(3) Previously approved development applications not completed. Applications that are located within the WCD Zone with previous approvals at the time of adoption of this section may continue for review and development under the previous regulations in place, provided they have one of the following:

(a) An executed and valid development rights and responsibilities agreement (DRRA) or similar development contract;

(b) An approved site development plan;

(c) An approved development services permit;

(d) Preliminary plans [that are in compliance with § 278-25 of the Charles County Subdivision Ordinance (commencement of construction - recorded 25% of lots and associated infrastructure has been built);] **WHICH HAVE RECORDED AT LEAST 10% OF THE LOTS ASSOCIATED WITH THE PROJECT, AND HAVE COMPLETED AT LEAST 10% OF THE PHYSICAL IMPROVEMENTS BEYOND EXCAVATION, GRADING AND FILLING, THAT MAY INCLUDE:**

[1] CONSTRUCTION OF ROADS, OR A PORTION OF ROADS FOR THE ENTIRE PROJECT (AT LEAST 10%) OR FOR AN ENTIRE PHASE OF THE PROJECT AS PREVIOUSLY DEFINED ON A PRELIMINARY PLAN; OR

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1 **OF THE PROJECT AS PREVIOUSLY DEFINED.**

- 2
- 3 (e) The request is for a residential building permit application or other application relating to an
- 4 existing legal lot of record.
- 5
- 6 (4) New development. New development applications that are located within the WCD Zone and
- 7 are submitted after the time of adoption of this section must comply with all development
- 8 regulations and uses as outlined in this section.
- 9
- 10 (5) Contract or other property rights. Any property owner who asserts they have contractual or
- 11 property zoning rights and thus should be exempt from the Watershed Conservation District
- 12 zoning regulations may apply to the Zoning Officer for a letter of determination of exemption.
- 13
- 14 F. Permitted uses. The permitted uses within the Watershed Conservation District shall be in
- 15 conformance with the uses permitted in the Table of Permissible Uses (see Figure IV-1).
- 16
- 17 G. Development consistency. Development within the Watershed Conservation District shall be
- 18 consistent with Figure VI-10, Schedule of Zone Regulations, and Article XIII, Minimum
- 19 Standards for Special Exceptions and Uses Permitted With Conditions.
- 20
- 21 H. Transfer of development rights (TDRS) and purchase of development rights (PDRS). The
- 22 Watershed Conservation District shall serve as a TDR "sending area" per Article XVII,
- 23 Transferable Development Rights (TDRs) in Designated Agricultural Land Preservation
- 24 Districts.
- 25
- 26 I. Intrafamily transfers of property within the Watershed Conservation District (WCD) is to
- 27 recognize the family legacy associated with the land and to allow for the limited transfer of
- 28 land from the property owner to an immediate family member as sale or gift for their use in this
- 29 zoning district that otherwise would not be permitted due to density restrictions.
- 30
- 31 (1) "Immediate family" is defined as mother, father, son, daughter, grandfather, grandmother,
- 32 grandson, granddaughter, stepparents, stepchildren, and legal wards and guardians.
- 33
- 34 (2) Total number of parcels or lots. Intrafamily transfers will be permitted on parcels of land in the
- 35 Watershed Conservation District (WCD) Zoning District where a portion of such parcel in the
- 36 WCD is at least 10 acres and not more than 60 acres in size.
- 37
- 38 (3) A notation shall be placed on the final subdivision plat denoting the lot(s) and residue that are
- 39 created under these provisions of the Code.
- 40
- 41 (4) Subdivision of land within the WCD under the bona fide intrafamily transfer provisions
- 42 contained herein shall be subject to the following limitations:
- 43
- 44 (a) Parcels of 10 acres to 60 acres cannot be subdivided into more than three lots (two intrafamily

- 1 lots and one existing or primary lot);
- 2
- 3 (b) Minimum parcel size for intrafamily lots is one acre;
- 4
- 5 (c) In order to qualify for an intrafamily transfer, the existing property owner must have owned the
- 6 land at the time of adoption of this section, and for a period of at least 10 years;
- 7
- 8 (d) Lots created pursuant to these provisions shall not be created for the purpose of ultimate
- 9 commercial sale. A lot created pursuant to these provisions may not be subsequently conveyed
- 10 to any person except as provided herein:
- 11
- 12 [1] Where the conveyance is to a member of the owner's immediate family; or
- 13
- 14 [2] Where the conveyance of the lot is part of a default on a mortgage or deed of trust.
- 15
- 16 (5) Any lot created under this subsection may not be transferred or sold to a third party who is not
- 17 a member of the owner's immediate family or holder of a mortgage or deed of trust on the
- 18 property unless and until the Planning Commission has determined the following conditions
- 19 apply:
- 20
- 21 (a) A change in circumstances has occurred since the original transfer, which would warrant
- 22 permitting a subsequent transfer, when such circumstances are consistent with the warrants and
- 23 exceptions contained herein;
- 24
- 25 (b) A change in circumstances may include situations where the intrafamily transfer recipient has
- 26 not resided in the County for the past five consecutive years and signs an affidavit verifying
- 27 their intent not to reside in Charles County or demonstrates significant financial hardship; or
- 28
- 29 (c) Other circumstances necessary to maintain land area to support protective uses of agriculture,
- 30 forestry, open space and natural habitats in the Watershed Conservation District warrant an
- 31 exception.
- 32
- 33 (6) Deeds of transfer shall include a covenant stating that the lot is subject to the provisions of this
- 34 subsection and be approved for legal sufficiency by the County Attorney's Office prior to
- 35 recordation of the intrafamily lot(s). These covenants shall restrict the subsequent transfer or
- 36 sale of the lot or lots created pursuant to the intrafamily transfer provisions contained herein to
- 37 a third party who is not a member of the owner's immediate family or a holder of a mortgage or
- 38 deed of trust on the property except as otherwise provided herein.
- 39
- 40 (7) Once the intrafamily transfer has occurred, additional transfers for subsequent generations of
- 41 the original owner cannot qualify for further intrafamily transfers.
- 42
- 43 (8) All other subdivisions regulations shall apply to intrafamily transfers except for the density
- 44 provisions of the Zoning Ordinance as allowed and stated herein.

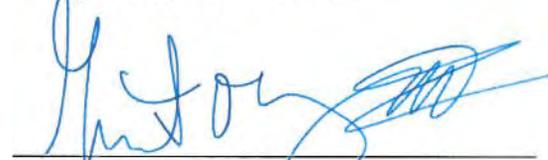
1 **SECTION 2.** BE IT FURTHER ENACTED that this act shall take effect forty-five (45)
2 calendar days after it becomes law.

3
4 ADOPTED this 16th day of June 2020.

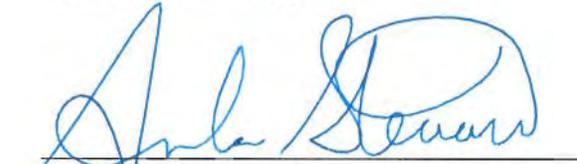
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6 COUNTY COMMISSIONERS
7 CHARLES COUNTY, MARYLAND

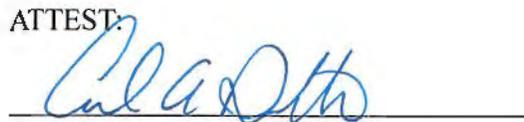
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11 _____
12 Reuben B. Collins, II, Esq. President

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15 _____
16 Bobby Rucci, Vice President

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18 
19 _____
20 Gilbert O. Bowling, III

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22 
23 _____
24 Thomasina O. Coates, M.S.

25
26 
27 _____
28 Amanda M. Stewart, M.Ed.

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34 ATTEST:
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36 _____
37 Carol DeSoto
38 Clerk to the Commissioners
39