

ARTICLE 2. ADMINISTRATION
CHAPTER 20 AUTHORITY OF REVIEWING/DECISION MAKING BODIES AND OFFICIALS

Sections:

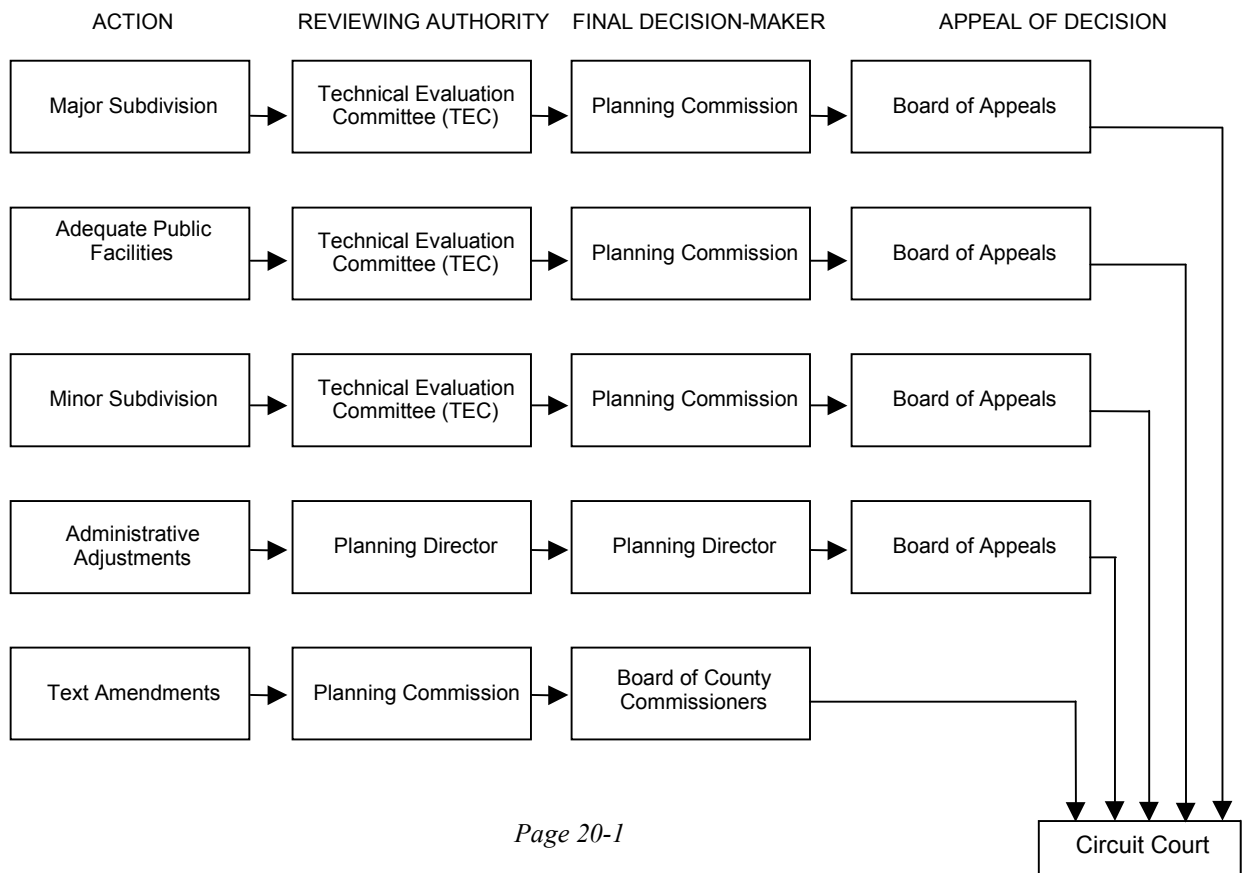
- 20.1 Board of County Commissioners.
- 20.2 Planning Commission.
- 20.3 Board of Appeals.
- 20.4 Director of Department of Land Use and Growth Management.
- 20.5 Technical Evaluation Committee (TEC).

20.1. Board of County Commissioners.

1. **Powers and Duties.** In addition to any authority granted by general or special law, the Board of County Commissioners shall have the following powers and duties under the provisions of this Ordinance:
 - a. To initiate, review, hear, consider and approve or disapprove the adoption of an Ordinance to amend the text of this Ordinance pursuant to Chapter 25 of this Ordinance.
2. **Decision-Making Responsibilities.** See Figure 20.1 for a summary of the Board's decision-making responsibilities as they relate to Planning Commission, the Board of Appeals and the Planning Director.

Figure 20.1

Decision Making Responsibilities Under this Ordinance



1 **20.2. Planning Commission.**

- 2 1. **Establishment.** The St. Mary's County Planning Commission, (the "Commission"), is
3 established pursuant to Section 3.01 of Article 66B of the Maryland Annotated Code.
- 4 2. **Commission Membership.** The Commission consists of seven members appointed by the
5 County Commissioners.
- 6 3. **Powers and Duties.** Without limiting the authority otherwise denied, the Commission
7 shall have the following powers and duties under this Ordinance:
- 8 a. To review, hear, consider, and make recommendations to the County
9 Commissioners to approve or disapprove the adoption of an ordinance to amend
10 the text of this Ordinance.
- 11 b. To report annually to the Board of County Commissioners on development and
12 planning activities and Comprehensive Plan implementation.
- 13 c. Within six (6) months after appointment to the Planning Commission and once a
14 year thereafter, a member shall complete an education course as prescribed in
15 article 66B, § 3.02.
- 16 4. **Meetings and Rules.** The Commission shall meet at least once a month. One such
17 meeting shall be a regular meeting that shall be selected and published annually prior to
18 the first regular meeting scheduled in January. Additional meetings may be scheduled at
19 the call of the Chairman at such times as the Commission may determine. In accordance
20 with Maryland Annotated Code, Article 24, Section 4-201, et seq., all meetings shall be
21 open to the public. Any person may appear and testify at a public hearing either in person
22 or be represented by duly authorized agent or attorney. The Commission may request
23 testimony at its hearings for purposes of securing technical and/or factual evidence from
24 experts or any County agency or office. The Commission shall keep minutes of its
25 proceedings, showing the vote of each member upon each question, or if absent abstains,
26 shall indicate such fact.

27 **20.3. Board of Appeals.**

- 28 1. **Establishment.** The Board of Appeals for St. Mary's County is established and
29 designated the "Board of Appeals" pursuant to Section 4.07 of Article 66B of the
30 Maryland Annotated Code.
- 31 2. **Board Membership.** The Board consists of five members appointed by the County
32 Commissioners.
- 33 3. **Powers and Duties.** Without limiting the authority otherwise denied, the Board of
34 Appeals shall have the following powers and duties under this Ordinance:
- 35 a. To hear and decide appeals when it is alleged by an aggrieved person that there is
36 an error in any order, requirement, decision, or determination made in regard to
37 the administration of this Ordinance or of any amendments adopted pursuant
38 thereto.
- 39 b. To authorize, upon appeal in specific cases, a variance from the terms of this
40 Ordinance as will not be contrary to the public interest, and when, owing to
41 special conditions, the enforcement of the provisions of this Ordinance will result
42 in practical difficulty or unwarranted hardship. Only those variances shall be
43 allowed that accomplish the purpose and intent of the regulations of this
44 Ordinance and are consistent with the Comprehensive Plan.

- 1 c. To adopt and promulgate such rules and regulations as it shall deem necessary in
2 the conduct of its hearings.
- 3 4. **Meetings and Rules.** All meetings of the Board of Appeals shall be held at the call of the
4 chairman, and at such other times as the Board may determine. In accordance with
5 Maryland Annotated Code, Article 24, Section 4-201, et seq. all hearings conducted by
6 the Board shall be open to the public. Any person may appear and testify at a hearing
7 either in person or be represented by a duly authorized agent or attorney. The chairman,
8 or in his absence the acting chairman, may administer oaths and compel attendance of
9 witnesses. The Board may request testimony at its hearings for purposes of securing
10 technical and/or factual evidence from experts or any County agency or office. The
11 Board may require a report and recommendation from the Planning Commission on
12 variances and the Planning Commission shall file said report within 30 days of the
13 request by the Board. The Board shall keep minutes of its proceedings, showing the vote
14 of each member upon each question and indicating if a member is absent or abstains.
- 15 5. **Decision of Board of Appeals.** The Board of Appeals shall have all the powers of the
16 administrative officer from whom the appeal is taken. In exercising its powers, the Board
17 of Appeals may, in conformity with the provisions of this Ordinance:
- 18 a. Wholly or partly reverse the order, requirement, decision, or determination from
19 which the appeal is taken;
- 20 b. Wholly or partly affirm the order, requirement, decision, or determination from
21 which the appeal is taken;
- 22 c. Modify the order, requirement, decision, or determination from which the appeal
23 is taken; or
- 24 d. Issue a new order, requirement, decision, or determination. The Board of
25 Appeals shall have all the powers of the administrative officer from whom the
26 appeal is taken.
- 27 6. **Finality of Decisions of the Board of Appeals.** All decisions and findings of the Board of
28 Appeals on appeals or on applications for a variance shall be final administrative
29 decisions and shall be subject to judicial review as prescribed in Section 4.08 of Article
30 66B of the Maryland Annotated Code. All decisions of the Board of Appeals shall
31 become final upon the adoption of a written order, which shall be rendered in writing
32 within 60 days of the close of the public hearing.
- 33 **20.4. Director of Department of Land Use and Growth Management.**
34 This Ordinance shall be administered and enforced by the Director of the St. Mary's County
35 Department of Land Use and Growth Management, (the "Planning Director"), who shall be
36 appointed by the County Commissioners.
- 37 1. **Powers and Duties.** The Planning Director shall have the following powers and duties:
- 38 a. To administer and enforce the provisions of this Ordinance.
- 39 b. To approve or disapprove applications for a variance from dimensional
40 requirements pursuant to 22.4, Administrative Variances..
- 41 c. To determine, with input from other agencies, the adequacy of public facilities
42 (APF) affected by applications for minor subdivision approval.
- 43 d. To provide expertise and technical assistance to the Board of County
44 Commissioners, Planning Commission, Board of Appeals, or Historic
45 Preservation Commission, upon request.

- 1 e. To establish application requirements and schedules for review of applications
2 and appeals, to formulate and promulgate rules and procedures, and to take any
3 other actions necessary to implement and enforce the provisions of this
4 Ordinance.
- 5 f. To ensure that the Department of Land Use and Growth Management (LUGM)
6 will conduct and manage various planning studies, accept and process
7 applications, collect and file applicant data, and maintain files. Coordinate input
8 from other agencies, assure that cooperating agencies have conducted their
9 normal reviews and provide recommendations to the Planning Commission and
10 the Board of County Commissioners on various planning issues and development
11 applications.

12 2. ***Specific Enforcement Responsibilities.*** The Planning Director shall have all necessary
13 authority on behalf of the Board of County Commissioners to enforce the provisions of
14 this Ordinance, including remedying any condition found to be in violation of this
15 Ordinance, by bringing appropriate legal action or proceedings to gain compliance with
16 the Ordinance. The Planning Director shall be guided in all actions pursuant to this
17 Ordinance by the purposes, intent, and standards set forth in the respective articles of the
18 Ordinance.

- 19 a. *Enforcement of Planning Commission and Board of Appeals decisions.* It shall
20 be the duty of the Planning Director to assure compliance with the decisions of
21 the Planning Commission and the Board of Appeals.
- 22 b. *Enforcement of Minimum Requirements.* In enforcing the minimum requirements
23 and standards of this Ordinance and assuring compliance with decisions of the
24 Board of Appeals, Planning Commission or Board of County Commissioners and
25 conditions imposed by these bodies on planned developments, the Planning
26 Director shall have the authority to:
- 27 (1) Investigate inquiries and complaints relating to building and land use
28 activities and to take action when appropriate; and
- 29 (2) Issue civil citations and penalties, as may be prescribed by resolution of
30 the Board of County Commissioners, against any person, firm, or
31 corporation that shall violate this Ordinance; and
- 32 (3) Post stop work orders on any lot, parcel, site, structure, or property that is
33 in violation of any section of this Ordinance. The Planning Director may
34 require that all work and activity shall immediately cease on the
35 designated premises, and may remove and suspend the zoning permit
36 issued for the project until the violation is rectified. A fine may be levied
37 against any person, firm, or corporation that shall violate the stop work
38 order.

39 3. ***Records of the Planning Director.*** The Planning Director shall keep records of all
40 subdivision plats and variances or appeals and decisions of the Planning Commission and
41 Board of Appeals.

42 **20.5. Technical Evaluation Committee (TEC).**

43 The Technical Evaluation Committee (TEC) is established and consists of a designated
44 representative from the St. Mary's County Department of Land Use and Growth Management, the
45 State Highway Administration, the St. Mary's Soil Conservation Service, St. Mary's Health
46 Department, the St. Mary's Metropolitan Commission and the St. Mary's County Department of

1 Public Works and Transportation, and from other state and County departments and agencies as
2 designated by the Board of County Commissioners. A citizen appointed by the Board of County
3 Commissioners serves on the TEC as well. For purposes of reviewing development in the
4 Critical Area, the TEC shall also include the County's environmental planner. The Planning
5 Director shall serve as the chair of the TEC. The TEC shall be responsible for advising the
6 Planning Director in the review of subdivision applications and any other application for a
7 proposed activity requiring approval pursuant to this Ordinance.

1 **CHAPTER 21 GENERAL APPLICATION AND PUBLIC HEARING PROCESS**

2 Sections:

- 3
- 4 21.1 General Application Procedures.
- 5 21.2 Actions Requiring Public Hearings.
- 6 21.3 Public Hearing Notice Requirements.
- 7 21.4 Public Hearing Procedures.

8 **21.1. General Application Procedures.**

9 All applications that the provisions of this Ordinance require to be reviewed by the Technical
10 Evaluation Committee shall be processed in accordance with the following procedures:

- 11 1. **Determination of Completeness of Application.** Applications for development approvals
12 shall be submitted on the appropriate form designated by the Planning Director. After
13 receipt of an application, the Planning Director shall determine whether the application is
14 complete. The time period allowed for review of an application shall not begin until the
15 application is determined to be complete. If the application is not complete, the Planning
16 Director shall notify the applicant in writing within three days, specifying the deficiencies
17 of the application and the additional information that must be supplied and advising the
18 applicant that the County will take no further action on the application until the
19 deficiencies have been corrected.
- 20 2. **Remedy of Deficiencies.** If the applicant fails to correct the specified deficiencies by the
21 end of the business day following the notification of deficiency, the application for
22 development approval shall be deemed withdrawn and will be returned to the applicant
23 with any fees that have been paid.
- 24 3. **Extensions of Time.**
- 25 a. Upon written request, the Planning Director may, for good cause shown and
26 without any notice or hearing, grant extensions of any time limit imposed on an
27 applicant by this Ordinance. An extension of time may also be granted by any
28 body acting pursuant to this Ordinance unless this Ordinance expressly provides
29 otherwise. The cumulative extension(s) of time granted by such extension or
30 extensions shall not exceed twice the length of the original period.
- 31 b. Notwithstanding the above paragraph, and in light of economic conditions, for
32 approvals subject to the discretion of the Planning Director and needing
33 extension between the dates of January 1, 2008 and December 31, 2010, the
34 Planning Director may, upon written request, extend valid approvals for an
35 additional two years. This provision applies to any projects that have received
36 approvals or extensions under any prior ordinance and that are grandfathered
37 pursuant to the provisions of Chapter 27 of the Ordinance.
- 38 4. **Fees.** The application shall be accompanied by all required fees. The applicant shall also
39 be responsible for payment of all expenses incurred providing any public notice required
40 by Section 21.3. Application fees and refund policy shall be as established by resolution
41 of the Board of County Commissioners.
- 42 5. **General Development Review Process.** Figure 21.1 summarizes the general
43 development review process under this Ordinance, which is described in detail in the
44 following parts of this chapter.

1 **21.2. Actions Requiring Public Hearings.**

2 1. ***Variations and Appeals of Administrative Decisions.*** The Board of Appeals shall hold at
3 least one public hearing to review, consider, and approve, approve with conditions, or
4 deny each application for a variance, or to consider an appeal from any administrative
5 decision made pursuant to this Ordinance. Such hearing shall be held after public
6 notification pursuant to Section 21.3.

7 2. ***Amendments to the Text of this Ordinance.*** The Planning Commission shall conduct at
8 least one public hearing to formulate a recommendation regarding any text amendment to
9 this Ordinance. The Board of County Commissioners shall hold at least one public
10 hearing on an amendment to the text of this Ordinance following receipt of the Planning
11 Commission recommendation. Such hearings may be held jointly upon the concurrence
12 of the Planning Commission and the Board of County Commissioners.

13 **21.3. Public Hearing Notice Requirements.**

14 Providing all the information necessary for notice of all public hearings required under this
15 Ordinance shall be the responsibility of the applicant. The applicant shall supply the information
16 in the form established by the Planning Director, and the information is subject to the approval of
17 the Planning Director pursuant to the standards and requirements of this section.

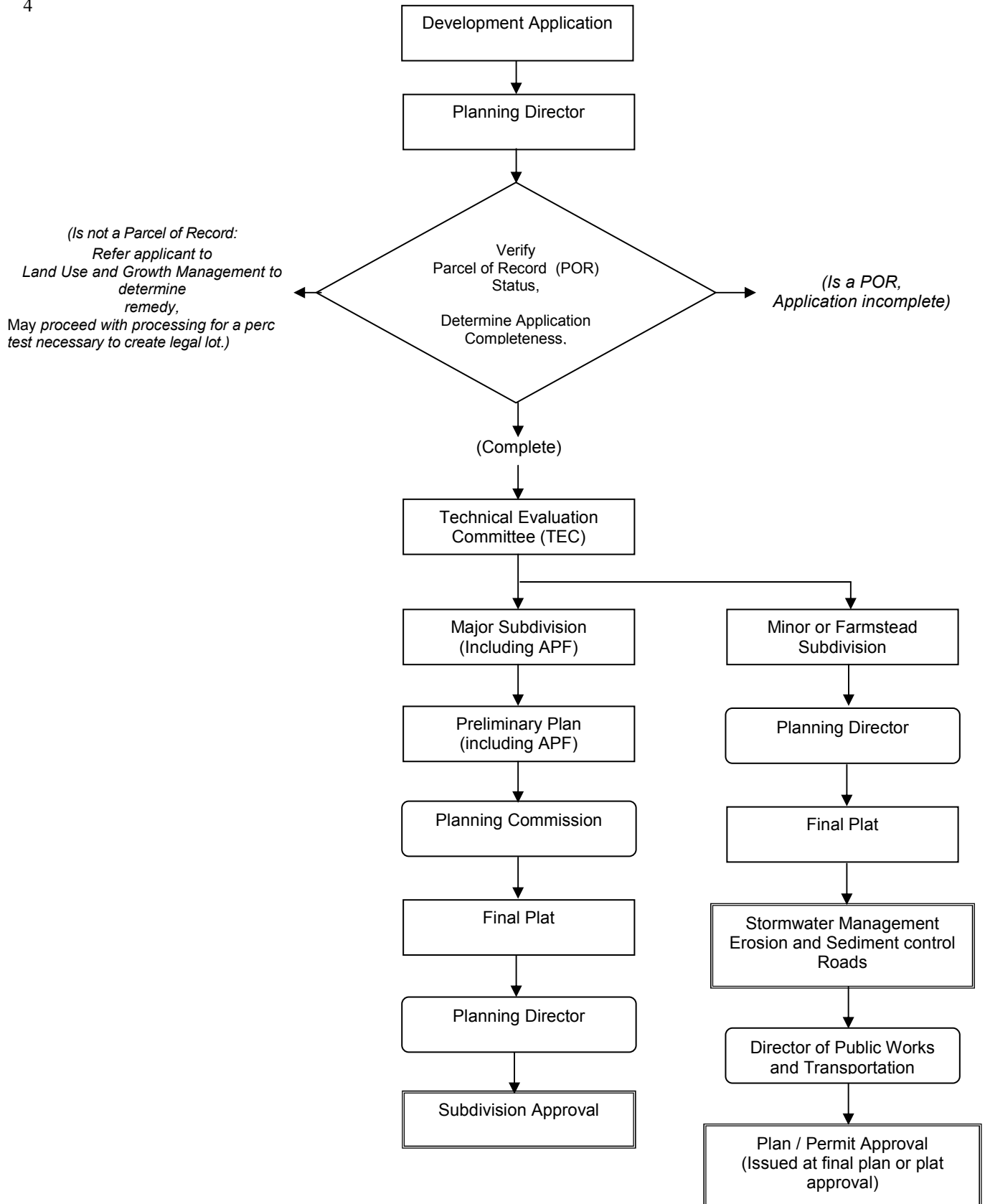
18 1. ***Publication.*** At least 15 calendar days in advance of the public hearing on an application
19 for any development approval, Ordinance amendments or appeal listed in Section 21.2,
20 the Department of Land Use and Growth Management shall give notice of such public
21 hearing. Notice shall be published in a newspaper of general circulation in St. Mary's
22 County once each week for two successive weeks.

23 2. ***Mailing.*** At least 15 calendar days before the public hearing on an application for any
24 variance appeal or Ordinance amendment, listed in Section 21.2, the applicant shall send
25 notice by registered or certified mail in a format provided by the County to all owners of
26 contiguous property (as shown on the latest published property tax records of the
27 Maryland Department of Assessment and Taxation), including lands across any public or
28 private rights-of-way adjacent to the land subject to the application. Notice shall be
29 given to each individual property owner if an affected property is held in common
30 ownership. In the case of a request for a variance from Section 30.14.3 the maximum
31 allowable lots on a private right-of-way, all property owners, whether their property is
32 contiguous or not contiguous with the subject property, shall be informed of the
33 scheduled public hearing by registered or certified mail. Required notice shall also be
34 given to a municipality if the application concerns land adjacent to its municipal
35 boundaries. The applicant shall provide the Planning Director, in an approved form, with
36 names and addresses of all property owners required to receive notice of a public hearing
37 pursuant to this Ordinance.

38 a. ***Contents of Notice for Mailing.*** The notice for any public hearing or meeting to
39 be mailed required by this section shall state the substance of the application and
40 the date, time, and place of the public hearing or meeting, and the place where
41 such application may be inspected by the public. The notice shall also advise that
42 interested parties may appear at the public hearing or meeting and be heard with
43 respect to the application.

1 Figure 21.1
 2
 3
 4

Development Review Process to Create New Lots



1
2 3. **Requirements for Posting Notice.** At least 15 calendar days in advance of the public
3 hearing, the property(ies) subject to an application listed in Section 21.2 shall be posted
4 by the applicant with a notice on a block printed sign at least 24 inches x 36 inches. The
5 applicant shall notify the Department of Land Use and Growth Management the same
6 day notice is posted.

7 a. Content. Posted notice shall contain the following information:

8 (1) Application number and property owner name

9 (2) Request (as defined by the Department of Planning & Zoning).

10 (3) Date, time, and location of the hearing.

11 (4) A statement that the file is available at the Department of Land Use and
12 Growth Management for public review and comment.

13 b. Location. One notice shall be posted for each 500 feet of frontage along a public
14 street. The sign(s) shall be located on the property no more than 25 feet from the
15 front property line and shall be clearly visible from the nearest public road or
16 street. Where the land does not have frontage on a public street, signs shall be
17 posted within the nearest street right-of-way with an attached notation indicating
18 generally the direction and distance to the land that is the subject of the
19 application.

20 c. Removal. The applicant shall remove the sign after the hearing on the
21 application has concluded. If the sign is removed through no fault of the
22 applicant before the hearing, such removal shall not be deemed a failure to
23 comply with the standards or grounds to challenge the validity of any decision
24 made on the application.

25 d. Exemption. This posting requirement shall not apply during amendment of these
26 regulations generally, which would apply to the entire County.

27 **21.4. Public Hearing Procedures.**

28 A public hearing held pursuant to the provisions of this Ordinance shall comply with the
29 following procedures:

30 1. **Scheduling the Public Hearing.** When an application requires a public hearing, the
31 hearing shall be scheduled to occur within a reasonable time, allowing for the complexity
32 of the case, available staff resources, and public notice requirements.

33 2. **Conduct of Public Hearing.**

34 a. **Rights of All Persons.** Any person may appear at a public hearing and submit
35 evidence orally or in writing, either individually or upon written authorization as
36 a representative of a person or an organization. Each person who gives testimony
37 at a public hearing may be duly sworn, shall be identified as to name and address,
38 and, if appearing on behalf of a person or an organization, shall state the name
39 and mailing address of the person or organization being represented.

40 b. **Exclusion of Testimony.** The body conducting the public hearing may exclude
41 testimony or evidence that it finds to be irrelevant, immaterial, unduly
42 repetitious, or otherwise inadmissible.

43 c. **Ruling on Objections.** The body or official conducting the hearing shall rule on
44 all objections made during the hearing.

- 1 d. *Continuance of Public Hearing.* The body or official conducting the public
2 hearing may, upon the body's or official's own motion, continue the public
3 hearing or meeting to a fixed date, time, and place without additional
4 notification. Two-thirds of the voting members present at the hearing or meeting
5 at which a quorum is present shall be required for a continuance. An applicant
6 may request and be granted a continuance at the discretion of the body or official
7 conducting the public hearing only upon good cause shown.
- 8 3. ***Record of Public Hearing or Meeting.***
- 9 a. *Recording of Public Hearing or Meeting.* Except where required otherwise by
10 statute, the body or official conducting the public hearing or meeting shall record
11 the public hearing or meeting by any appropriate means. A copy of the public
12 hearing or meeting record may be acquired upon request to the Planning Director
13 and payment of a fee to cover the cost of duplication of the record.
- 14 b. *The Record.* The minutes; tape recordings; all applications, exhibits, papers and
15 reports submitted in any proceeding before the decision-making body or official;
16 and the decision of the decision-making body or official shall constitute the
17 record.
- 18 c. *Location of Record and Inspection.* All records of decision-making bodies or
19 officials shall be public records, open for inspection at the offices of the decision-
20 making body or official during normal business hours and upon request.
- 21 d. *Examination and Copying of Application and Other Documents.* Any person
22 may examine an application and materials submitted in support of or in
23 opposition to an application in the appropriate County office. Copies of such
24 materials shall be made available at reasonable cost, subject to copyright laws.
- 25 4. ***General Procedures for Findings and Decisions.***
- 26 a. *General.* Action shall be taken in compliance with any time limits established in
27 this Ordinance and as promptly as possible in consideration of the interests of the
28 citizens of St. Mary's County and the applicant, and shall include a clear
29 statement of approval, approval with conditions, or disapproval.
- 30 b. *Findings.* Except for those of the Board of County Commissioners, whose
31 decisions shall be made by motion, ordinance, or resolution, as appropriate, all
32 decisions made following a public hearing shall be in writing and shall include at
33 least the following elements:
- 34 (1) A summary of the information presented before the decision-making
35 body or official;
- 36 (2) A summary of all documentary evidence submitted to the decision-
37 making body or official and which the decision making body or official
38 considered in making the decision;
- 39 (3) A statement of the policies of the Comprehensive Plan and the general
40 purposes of this Ordinance that are relevant to the findings and the
41 standards as required by this Ordinance;
- 42 (4) A statement of specific findings of fact or other factors considered, as
43 appropriate, with specific reference to the relevant standards set forth in
44 this Ordinance; and
- 45 (5) A statement of approval, approval with conditions, or disapproval.

1 c. *County Attorney Signature.* Before any decision shall become final, the County
2 Attorney or designee shall approve the decision as to form and legal sufficiency.

3 5. ***Notification.***

4 A letter notifying the applicant of the decision of the decision-making body or official shall be
5 sent by first-class mail, postage prepaid, within 10 days of the decision. A copy of the decision
6 shall also be made available to the applicant at the offices of the decision-making body or official
7 during normal business hours, within a reasonable period of time after the decision has been
8 rendered.

1 **CHAPTER 22 ADMINISTRATIVE DECISIONS**

2 Sections:

- 3 22.1 Environmental Permits.
- 4 22.2 Parcel of Record; Lot of Record.
- 5 22.3 Forms, Information, and Specifications Required.
- 6 22.4 Administrative Variances.
- 7 22.5 Zoning and Building Permits.
- 8 22.6 Schedule of Fees, Fines, and Penalties.

9 **22.1. Environmental Permits.**

10 No building, structure, or land or any part thereof shall be used, created, enlarged or subdivided
11 until an environmental permit is issued if required pursuant to Chapter 71, Resource Protection
12 Standards of the St. Mary's County Comprehensive Zoning Ordinance.

13 **22.2. Parcel of Record; Lot of Record.**

14 Except as provided herein, no permit pertaining to the use of land or buildings shall be issued by
15 any cooperating agency, department, or employee unless a parcel of record or lot of record exists.
16 Any permit or authorization issued in conflict with the provisions of this Ordinance shall be null
17 and void.

18 **22.3. Forms, Information, and Specifications Required.**

19 An application for subdivision approval shall be made to the Director of Land Use and Growth
20 Management on forms provided for that purpose. The Planning Director shall require and be
21 furnished with all plans and documents as may be required to determine compliance with the
22 provisions of this Ordinance and decisions of the Board of Appeals, the Planning Commission
23 and the Board of County Commissioners. Subdivision applications shall be accompanied by the
24 items specified in Chapter 30, or as many thereof as the Planning Director deems pertinent, and
25 such additional information as the Planning Director may require to determine compliance with
26 the provisions of this Ordinance and decisions of the Board of Appeals, the Planning
27 Commission, and the Board of County Commissioners.

28 **22.4. Administrative Variances.**

- 29 1. An applicant seeking a variance may request the same directly of the Board of Appeals,
30 pursuant to Chapter 21, without first applying to the Planning Director.
- 31 2. **Purpose.** The purpose of Administrative Variances is to delegate to the Planning Director
32 approval authority to apply the standards for variance for proposed construction activities
33 requesting relaxation of the minimum lot dimensions or minimum setback standards of
34 Schedule 32.1 of the St. Mary's County Comprehensive Zoning Ordinance, or the
35 elevation requirement for substantially renovated historic structures located in the 100-
36 year floodplain.
- 37 3. **Variance from Dimensional Requirements.**
 - 38 a. **Application.** A person may apply to the Planning Director for a variance from the
39 dimensional requirements specified in the Comprehensive Zoning Ordinance. An
40 administrative variance may not reduce specified dimensional requirements by
41 more than 50 percent. The application shall be made on a form and in a manner
42 prescribed by the Planning Director.
 - 43 b. **Procedure.** The Planning Director shall conduct a public hearing on the
44 application for the variance. The hearing shall be open to the public, and anyone

1 in attendance shall have an opportunity to be heard concerning the application.
2 Prior to the hearing, the applicant shall provide notice in the manner provided in
3 this Section 21.3 of the Ordinance.

- 4 c. *Decision.* Within 15 days of the close of the hearing, the Planning Director shall
5 decide the issue raised by the application. The decision shall be in writing and
6 provide a brief explanation of the law, the standards for variance, and facts that
7 support the decision. In making the decision, the Planning Director may grant
8 the variance only in cases where strict compliance with the terms of the
9 Ordinance would result in practical difficulty or unwarranted hardship that have
10 not been caused by act of the applicant or the applicant's predecessors in title.
11 The Planning Director shall not grant a variance if to do so would violate the
12 spirit and intent of this Ordinance, the Comprehensive Plan, or functional or area
13 plans in the Comprehensive Zoning Ordinance, or cause or be likely to cause
14 substantial injury to the public health, safety, and welfare. The Planning Director
15 shall be guided in making this decision by the considerations set forth in Section
16 24.3, General Standards for Granting Variances of the Comprehensive Zoning
17 Ordinance.

18 4. ***Denial of Application.***

- 19 a. If the application is denied, the Planning Director shall take no further action on
20 another application for substantially the same proposal on the same premises
21 until after 2 years from the date of such denial.

22 5. ***Appeal of Administrative Decisions.***

- 23 a. Appeals of decisions made pursuant to this section may be filed to the Board of
24 Appeals by an aggrieved person within 30 days of the date of the Planning
25 Director's decision.

26 **22.5. Zoning and Building Permits.**

27 A zoning permit shall be required as specified in the Comprehensive Zoning Ordinance before
28 any application may be filed for subdivision approval. A building permit shall be required in
29 accordance with the building code adopted by the Board of County Commissioners before start of
30 construction.

31 **22.6. Schedule of Fees, Fines, and Penalties.**

32 The County Commissioners may establish by resolution a schedule of fees, charges, expenses,
33 and fines and a collection and refund procedure for subdivision approval, variances, appeals,
34 violations, and other matters pertaining to this Ordinance. The schedule of fees shall be available
35 from the Department of Land Use and Growth Management and may be altered or amended only
36 by the County Commissioners.

1 **CHAPTER 23 APPEALS**

2 Sections:

- 3 23.1 Scope of Appeals
4 23.2 Stay of Proceedings on Appeal.
5 23.3 Postponement.
6 23.4 Continuance.
7 23.5 Appeals.

8 **23.1. Scope of Appeals.**

- 9 1. An appeal may be filed with the Board of Appeals by:
10 a. Any person aggrieved by any order, requirement, decision, or determination
11 made in regard to the administration or the enforcement of this Ordinance, as
12 may be amended from time to time;
13 b. Any officer, department, board, or bureau of the County.
14 2. Such appeal shall be taken within 30 days of the date of the action being appealed by
15 filing an application for Board of Appeals review with the Department of Land Use and
16 Growth Management. An application for appeal shall identify with specificity all
17 grounds for the appeal.
18 3. The Planning Director shall process the application and forward it, along with all papers
19 constituting the record of the action appealed to the Board of Appeals.

20 **23.2. Stay of Proceedings on Appeal.**

21 An appeal shall stay all proceedings in furtherance of the action appealed unless, after notice of
22 the appeal has been filed with him or her, the Planning Director certifies to the Board of Appeals
23 that by reason of fact stated in the certificate a stay would, in his or her opinion, cause imminent
24 peril to life or property. In such case, proceedings shall only be stayed if the Board or court of
25 competent jurisdiction grants such an order.

26 **23.3. Postponement.**

27 Requests for postponement of a scheduled hearing shall be filed in writing with the secretary of
28 the Board of Appeals prior to the date of hearing, and shall be accompanied by a sum of money
29 sufficient to pay the cost of advertising the postponement and the rescheduled hearing. The
30 granting of such requests shall be at the discretion of the chairman of the Board of Appeals. The
31 Board may, upon its own initiative, postpone a scheduled hearing at any time. Hearings may not
32 be postponed for more than 30 days unless the Board of Appeals and all interested parties agree.
33 Failure of an appellant to reschedule a hearing within the agreed period in accordance with
34 Chapter 21 shall constitute withdrawal of the appeal.

35 **23.4. Continuance.**

36 The Board of Appeals may, at the Board's sole discretion, continue a hearing to another time
37 once the hearing has started. However, the Board shall announce the location, date and hour of
38 the continued hearing while in session, unless new notice is provided as required by Section 21.3.

39 **23.5. Appeals.**

40 The Board of Appeals shall render a decision within a reasonable time, but in no instance more
41 than 60 days following the close of the hearing. Any person or party aggrieved by a decision of
42 the Board may appeal that decision to the Circuit Court for St. Mary's County.

1 **CHAPTER 24 VESTED RIGHTS AND AUTHORITY TO CONTINUE**
2 **NONCONFORMING PROJECTS**

3 Sections:

- 4 24.1 Purpose.
- 5 24.2 Vested Rights.
- 6 24.3 Grandfathering Provisions.
- 7 24.4 Grandfathering of Phasing Plans and Schedules.
- 8 24.5 Effect of Previous Regulations.
- 9 24.6 Annual Update.

10 **24.1. Purpose.**

11 The purpose of this Chapter is to permit the continuation of projects for which certain plan
12 approval has been given prior to the effective date of applicable ordinance changes or revisions.

13 **24.2. Vested Rights.**

14 St. Mary's County recognizes and accepts the standard of vested rights as established by
15 Maryland common law.

16 **24.3. Grandfathering Provisions.**

17 Transitional provisions to be known as grandfathering provisions are hereby adopted to provide
18 for the continuance of certain development activities. No extensions of the stated time periods
19 below shall be granted, except as noted in Section 24.4.2, below.

20 1. **Subdivisions:** Subdivisions shall be vested pursuant to the provisions listed below.

21 a. **Major Subdivisions:** Projects that have been granted preliminary subdivision
22 plan approval prior to September 14, 2010 will have a maximum of two years
23 from the date of such approval to be granted final subdivision approval. From
24 the date of final subdivision approval a project will have one year in which to
25 record the record plat. Those projects that must be phased in accordance with the
26 Annual Growth Policy may continue toward recordation in accordance with the
27 yearly allocations allowed.

28 b. **Minor Subdivisions:** Projects that have been processed through the Technical
29 Evaluation Committee (TEC) prior to September 14, 2010 shall have twelve
30 months (from adoption of this amendment) to achieve final subdivision or site
31 plan approval.

32 2. **Planned Unit Developments:** Grandfathering of a Planned Unit Development as
33 approved by the Board of County Commissioners shall be governed by Chapter 44,
34 Section 44.4.3.b of the Comprehensive Zoning Ordinance

35 **24.4. Grandfathering of Phasing Plans and Schedules.**

36 1. All commercial or residential phasing plans and schedules approved prior to the
37 enactment of this Ordinance shall remain in effect. Construction and development
38 relating to such plans may be completed in accordance with the terms of the previously
39 approved phasing plan. Any revisions proposed under this chapter shall conform with all
40 Maryland state rules, regulations, and statutory provisions, and any construction
41 standards as set forth in the rules, regulations, and ordinances of St. Mary's County, in
42 effect when the applicant applied for a revision to the phasing plan and schedule, unless
43 said plans, schedules, and/or revisions are exempted under said rules, regulations
44 statutory provisions, and/or ordinances.

- 1 2. Any applicant shall be allowed to apply for a revision to any phasing plan and schedule
2 grandfathered under the provisions of this chapter, and such revisions may be approved
3 by the Planning Commission provided the applicant can show that there are compelling
4 circumstances to warrant a revision. The Planning Commission shall consider the
5 following factors in determining whether to approve applications for revisions:
- 6 a. The extent to which any delay was caused by the action or inaction of the appli-
7 cant as opposed to other factors beyond the control of the applicant;
 - 8 b. The amount of investment not including architectural and engineering costs made
9 in the project as of the date of the application for revision;
 - 10 c. Any impact to the health and welfare of the County cause by the revision or any
11 delay associated therewith; and
 - 12 d. Market conditions.
- 13 3. **Continuation of Project:** Project development may proceed in accordance with the plan
14 approved unless the approval expires by failure to act within the defined time periods as
15 stated above. In the case of expiration, re-approval shall be in conformity with all provis-
16 ions of this Ordinance.

17 **24.5. Effect of Previous Regulations.**

18 To the extent that projects are grandfathered under this section, the provisions of Ordinance 02-
19 01, as amended, and regulations in effect at the time of plan approval, shall remain in full force
20 and effect.

21 **24.6. Annual Update.**

22 An annual update of development commenced during the past year and plans for development in
23 the upcoming year shall be presented to the Planning Commission by the developer of the project.
24

1 **CHAPTER 25 AMENDMENTS**

2 Sections:

3 25.1 Purpose and Authority.

4 25.2 Requirements for Amendments.

5 25.3 Review Procedures.

6 25.4 Action by Board of County Commissioners on Receipt of Planning
7 Commission's Recommendation.

8 25.5 Record.

9 **25.1. Purpose and Authority.**

10 1. **Purpose.** The purpose of this Chapter is to provide a means for changing the text of this
11 Ordinance.

12 2. **Authority.** The Board of County Commissioners may, upon receipt of a recommendation
13 from the Planning Commission, supplement, modify, or repeal provisions of the text of
14 this Ordinance.

15 **25.2. Requirements for Amendments.**

16 Any application to amend, supplement, modify, or repeal any portion of this Ordinance shall be
17 filed with the Planning Director in such form and accompanied by such information and fees as
18 may be required by the Planning Director.

19 **25.3. Review Procedures.**

20 The Planning Commission upon application or upon its own motion shall promptly consider
21 amendment of this Ordinance through the conduct of a public hearing. Generally, within 60 days
22 from its final hearing, the Planning Commission shall transmit its recommendations for approval
23 or disapproval to the County Commissioners.

24 1. **Review by Departments and Agencies.** Upon determination by the Planning Director
25 that an application is complete the application shall be promptly submitted for comment
26 and review to TEC agencies. Following notification that this administrative review is
27 complete, the applicant must request in writing that the Planning Director submit an
28 application for amendment. The Planning Commission shall conduct a public hearing
29 according to the provisions of Chapter 21 and forward a recommendation to the Board of
30 County Commissioners.

31 **25.4. Action by Board of County Commissioners on Receipt of Planning Commission's**
32 **Recommendation.**

33 Before approving or disapproving any application for amendment, the Board of County
34 Commissioners shall hold at least one public hearing in accordance with the procedures for notice
35 and public hearings set forth in Chapter 21 of this Ordinance. At the sole discretion of the the
36 Board of County Commissioners, such public hearing may be held concurrent with the public
37 hearing of the Planning Commission on the application.

38 **25.5. Record.**

39 The record of all amendments shall include any request, all documents or communications
40 submitted regarding the proposal, the recorded testimony from all public hearings held on the
41 proposal, any reports or communications to or from any public officials or agencies concerning
42 the proposal, and the final decision of the County Commissioners. The record shall be open to
43 public inspection and shall be maintained in the office of the Planning Director.