

ORDINANCE NO.407

AN ORDINANCE TO AMEND THE TOWN OF ST. MICHAELS CRITICAL AREA MAP TO REFLECT THE CHANGE IN THE DESIGNATION OF 2.99 ACRES OWNED BY WINDWARD INVESTMENT, LLC IN THE TOWN OF ST. MICHAELS CONSISTING OF 2.99 ACRES IDENTIFIED ON TAX MAP 200, GRID 21, AS PARCELS 1783 AND 1785, A PORTION OF WHICH CONSISTS OF THE ROAD BED OF CHESAPEAKE AVENUE THAT IS OWNED BY THE COMMISSIONERS OF ST. MICHAELS FROM LIMITED DEVELOPMENT AREA TO INTENSELY DEVELOPED AREA ; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY; AND GENERALLY RELATING TO THE AWARD OF GROWTH ALLOCATION FOR THE WINDWARD INVESTMENT, LLC PROPERTY.

WHEREAS, the Natural Resources Article of the Annotated Code of Maryland, Title 8 "Waters," Subtitle 18 "Chesapeake and Atlantic Coastal Bays Critical Area Protection Program," Section 8-1808 "Program Development" provides that each local jurisdiction shall have primary responsibility for developing and implementing a critical areas protection program (including amendment thereto) (hereinafter referred to as the Critical Area Program") subject to review and approval by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (the "Critical Area Commission"); and

WHEREAS, subject to the authority contained in Title 8, Subtitle 18 of the Natural Resources Article, The Commissioners of St. Michaels (hereafter the "COSM"), as the legislative body of the municipal corporation of the Town of St. Michaels (the "Town"), enacted various provisions of Town Code, Chapter 340, including Sections 340-27 "Critical Area Overlay District" through 340-28 "Growth Allocation; and

WHEREAS, the Town's Critical Area Program was reviewed and approved by the Critical Area Commission; and

WHEREAS, pursuant to Town Code, Section 340-28, Windward Investment, LLC submitted an application to the Town requesting growth allocation to change the Critical Area designation of property which it owns in the Town of St. Michaels consisting of 2.99 acres formerly identified as Lots 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 in Block B and Lots 12 and 13 in Block C, being a part of the Willey's Terrace Subdivision recorded in 1913; identified on Tax Map 200, Grid 21, as Parcels 1783 and 1785, a portion of which consists of the road bed of Chesapeake Avenue and is owned by the Commissioners of St. Michaels (the "Property") from limited development area ("LDA") to intensely developed area ("IDA"); and

WHEREAS, the COSM, after a full hearing on the merits of Windward Investment, LLC 's request for growth allocation found that the request will meet a current need of the Town, will be beneficial for the Town and meets all of the requirements for the award of growth allocation under §340-28 of the Code of the Town of St. Michaels The COSM, therefore, granted the Applicant's request for the award of Growth Allocation to change the Critical area designation of the Property from LDA to IDA, subject to the final review and decision of the Chesapeake Bay Critical Area Commission. The action of the COSM is contained in a Decision dated March 25, 2009; and

WHEREAS on July 8, 2009 the Critical Area Commission approved the Town's request for growth allocation to change the Critical Area designation of the Property from LDA to IDA with specific conditions as set forth in their letter of approval, dated July 10, 2009; and

WHEREAS, §340-28 D(8) of the Town Code requires that following approval of the growth allocation request by the Critical Area Commission, the Town shall amend the Critical Area Maps within 120 days, and a copy of the amended map shall be provided to the Critical Area Commission and to the County; and

WHEREAS, for all of the reasons that are set forth in the Decision of the COSM, dated March 25, 2009 and the grant of approval issued by the Critical Area Commission dated July 8, 2009, the COSM wish to amend the Town of St. Michaels Critical Area Map to change the classification of the Property from LDA to IDA in accordance with the requirement of Town Code, Section 340-28. A copy of the Growth Allocation plat is hereby made a part of this Ordinance; and

WHEREAS, public notice was published on August 24, 2009 and August 31, 2009, that a public hearing would be held by the Town Commissioners on September 9, 2009, concerning the change in the Town's Critical Area; and

WHEREAS, after having given due public notice, the Town Commissioners conducted a public hearing on September 9, 2009 to receive public comment on the aforesaid amendments; and

#### SECTION 1

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF ST. MICHAELS that the Town of St. Michaels Critical Area Map shall be and is hereby amended to change the classification of 2.99 acres formerly identified as Lots 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 in Block B and Lots 12 and 13 in Block C, being a part of the Willey's Terrace Subdivision recorded in 1913; identified on Tax Map 200, Grid 21, as Parcels 1783 and 1785, owned by Windward Investment, LLC and a portion of which consists of the road bed of Chesapeake Avenue and is owned by the Commissioners of St. Michaels as set forth above and which is located in the Town, from Limited Development Area (LDA) to Intensely Developed Area (IDA). Furthermore, Town staff is hereby directed to provide a copy of the amended Critical Area Map to the Critical Area Commission and to the Commission of Talbot County.

#### SECTION 2

AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect twenty (20) days from the date of its enactment, having been read at two (2) meetings of The Commissioners of St. Michaels and having been passed by a ye and nay vote of The Commissioners of St. Michaels.

HAVING BEEN INTRODUCED, read for the first time, and ordered posted for public review at a Public Meeting of The Commissioners of St. Michaels held on the 9<sup>th</sup> day of September, 2009, at 5:00 o'clock p.m., in the meeting room at the Edgar M. Bosley, Jr. Municipal Building, (Town Office), 300 Mill Street, St. Michaels, Maryland.

I HEREBY CERTIFY THAT A COPY OF THE ORDINANCE AS INTRODUCED WAS POSTED for public review in the lobby of the Town Office from 8:30 a.m. on the 10<sup>th</sup> day of September, 2009 to 8:30 a.m. on the 23<sup>rd</sup> day of September, 2009.

 (SEAL)  
CHERIL S. THOMAS  
Town Clerk/Manager

HAVING BEEN READ for the second time and passed by a yea and nay vote of The Commissioners of St. Michaels at a Public Meeting of The Commissioners of St. Michaels held on this 23<sup>rd</sup> day of September, 2009, at 6:30 o'clock p.m., in the meeting room at the Town Office, St. Michaels, Maryland.


Brady	-	<u>yea</u>
Clark	-	<u>yea</u>
Dinkel	-	<u>yea</u>
Hunt	-	<u>yea</u>
Snyder	-	<u>yea by absentee ballot</u>

I HEREBY CERTIFY that the above Ordinance No. 407 was passed by a yea and nay vote of The Commissioners of St. Michaels on the 23<sup>rd</sup> day of September, 2009.

ATTEST:

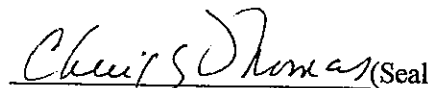
THE COMMISSIONERS OF ST. MICHAELS

  
Cheril S. Thomas, Town Clerk\Manager

By:  (Seal)  
Michael W. Brady, President

I HEREBY CERTIFY that an exact copy of this Ordinance, as adopted, was posted for public review from the 24<sup>th</sup> day of September, 2009, at 8:30 o'clock a.m. to the 15<sup>th</sup> day of October, 2009, at 8:30 o'clock a.m., in the lobby of the Town Office in St. Michaels, Maryland, and that a summary of the aforesaid Ordinance No. 407, the date of its passage, its effective date and the fact that the entire text of the Ordinance may be read in the lobby of the Town Office, St. Michaels, Maryland, for at least twenty (20) days following the passage, has been published at least once each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper having general circulation in the Town of St. Michaels

Date: October 15, 2009

 (Seal)  
Cheril S. Thomas, Town Clerk\Manager