

**RESOLUTION NO.: 2009 - 02**

**RESOLUTION OF THE COMMISSIONERS OF THE TOWN OF ST. MICHAELS  
EXTENDING UNTIL DECEMBER 31, 2011 THE TIME WITHIN WHICH THE  
PROJECT KNOWN AS HATTON'S GARDEN SHALL BE COMPLETED  
PURSUANT TO THE TOWN OF ST. MICHAELS' AWARD OF  
GROWTH ALLOCATION**

**WHEREAS**, on or about April 23, 2008, the Commissioners of the Town of St. Michaels (the "Commissioners") approved an award of Growth Allocation for a project consisting of 39.54 acres of limited development area to be applied to the property of Hatton's Garden LLC which is generally referred to as the Hatton's Garden Farm ("Hatton's Garden"), subject to the final review and decision of the Chesapeake Bay Critical Area Commission (the "CAC"); and

**WHEREAS**, the award of growth allocation is limited to projects, that can be completed within two years after approval of the project, unless the Town Commissioners, in their sole discretion specify in their written decision to grant growth allocation for a longer period of time after approval within which the project is required to be completed, or impose conditions for progress of the approved project that will automatically allow the growth allocation granted for such project to continue in effect indefinitely, provided that such conditions are met; and

**WHEREAS**, although Town Code, §340-28 authorizes project approval and award of growth allocation for "a project, or phases(s) of a project, that can be completed within two years" after approval of the project or phases(s) of a project, Hatton's Garden LLC did not, in conjunction with its request for Growth Allocation, request that the project be approved in phases; and

**WHEREAS**, when the Commissioners granted the Growth Allocation as outlined above, it stated that "the project shall be completed within two years of the date of final approval, unless the Applicant requests an extension and such extension is granted pursuant to §340-28.E;" and

**WHEREAS**, after obtaining the award of Growth Allocation from the Town, Hatton's Garden LLC went before the CAC and obtained its approval in August 2008, and thereafter obtained conditional final subdivision approval for the 16 lot subdivision known as Hatton's Garden from the Town Planning Commission on November 20, 2008; and

**WHEREAS**, since the award of Growth Allocation by the Commissioners, Hatton's Garden, LLC has experienced delays with the Maryland Department of the Environment relating to the processing of its Non-tidal Wetlands Permit, furthermore, wastewater allocations for the project will be acquired over a period of two to three years, accordingly, given the slow down in the housing market, 2011 is more consistent with the expected pace of sales and buildout of the development; and

**WHEREAS**, Hatton's Garden LLC has determined that it would be in its best interest and that of the Town to phase in the Hatton's Garden Project in three phases such that all utilities, roads, infrastructure, open space, public amenities, and lots 2, 8,9, 12, 14 and 15 would constitute Phase 1; Lots 1, 3, 4, 7, 10 and 13 would constitute Phase 2 and Lots 5, 6, 11 and 16 would constitute Phase 3; with all three Phases to be completed by December 31, 2011. Accordingly, Hatton's Garden LLC requests an extension of the two year requirement for the completion of the project; and

**WHEREAS**, the Commissioners clearly intended by their original award of Growth Allocation in this matter to consider an extension of the two year requirement contained in Town Code, §340-28.E (See last line of the Commissioners' April 28 decision); and

**WHEREAS**, the request for extension was filed prior to the expiration of the two year period and therefore was timely filed; and

**WHEREAS**, the Town Code, §340-28.E. provides that Commissioners "may by public vote grant an extension of the time limit within which the project is required to be completed"; and

**WHEREAS**, the Commissioners deem it to be in the best interest of the Town and the residents and citizens thereof to have a viable project and to grant the requested extension of time.

**SECTION 1**

**NOW, THEREFORE, BE IT RESOLVED** by the Commissioners of the Town of St. Michaels that, having considered the request of Hatton's Garden LLC for an extension of the two year requirement for completion of the Hatton's Garden project established in the Commissioners award of Growth Allocation for Hatton's Garden, the Growth Allocation for the Hatton's Garden Project previously granted and identified hereinabove shall be extended until December 31, 2011, at which time the entire project known as Hatton's Garden shall be completed as that term is defined in Town Code, §340-28.E.

**SECTION 2**

**AND, BE IT FURTHER RESOLVED** that this Resolution shall take effect upon the date of its adoption.

THIS RESOLUTION NO. 2009-02 HAVING BEEN PASSED by the following yea and nay vote of the Commissioners of St. Michaels on the 28th day of January, 2009, at 6:30 o'clock p.m. in the meeting room of the Town Office, 300 Mill Street, St. Michaels, Maryland.

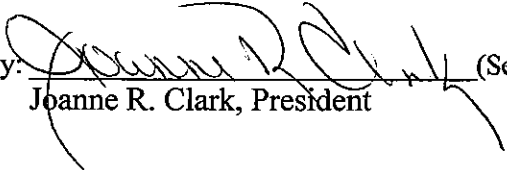
Brady	_____	yea
Clark	_____	yea
Hunt	_____	yea
Snyder	_____	yea
VACANT	_____	

I HEREBY CERTIFY that Resolution No. 2009-02 was passed by a yea and nay vote of the Commissioners of St. Michaels on the 28th day of January, 2009.

ATTEST:

THE COMMISSIONERS OF ST. MICHAELS

  
Cheril S. Thomas, Town Clerk/Manager

By:  (Seal)  
Joanne R. Clark, President