

## Proposed Ordinance 13-24

### Lot Consolidation

Waterman Realty Company advises you that Queen Anne's County Commissioners have proposed ordinance 13-24 which may have impact upon property you are considering, have under contract, or are selling. This ordinance has not been adopted, so it is not in effect.

If adopted, under certain fairly common circumstances it will require the combination of certain adjacent lots zoned NC, if owned by the same person or entity, to meet certain standards. If adopted the law will require disclosure of this obligation by owners. The effective dates of both the requirement to combine and the obligation to disclose are proposed to be retroactively effective as of November 12, 2013 regardless of what future date the law may be adopted.

The original proposed version of this ordinance is attached along with a Background/Propose statement issued by the County Commissioners. You are encouraged to contact the Department of Planning and Zoning at 410-758-1255 for answers to how this proposed ordinance may impact any specific property. You can also view the County's website which has information about this at <http://www.qactv.com/home/ski-sanitary-project/>

By your signature below you acknowledge receipt of this disclosure:

**Lot Consolidation Ordinance, Number 13-24**  
**Background/Purpose**

- Commissioners introduced Ordinance # 13-24 on November 12 that if passed would require that lots not conforming to existing zoning be consolidated with adjoining lots titled to the same person so as to create, to the extent possible, a lot conforming to existing zoning. Application is limited to Neighborhood Conservation (NC) Districts, which are generally older established subdivisions, and to areas now without public sewer service.
- The zoning classification for the affected areas has been in effect since 1987 with the sewer service designation for those areas being in effect since 2006. So, underlying laws are longstanding and are not being changed.
- Before passage can be considered, there will be opportunity for citizen input at public meetings before the Planning Commission and then the County Commissioners. A public outreach meeting is also planned. This process will take at least three to four months.
- The ordinance's introduction reflects ongoing efforts to resolve the decade's long public health problem in South Kent Island (SKI) arising from failing septic systems. County staff and officials have been coordinating with State government counterparts in an effort to secure State funding to enable extension of public sewer to nine communities in South Kent Island now burdened with failing septic systems. Managing development arising from sewer extension to the SKI communities has been a concern.
- There are approximately 3500 lots in the nine communities with 1518 existing homes. The ordinance will reduce lots available for new home construction to approximately 650. Experience in similar communities where public sewer has been provided under similar circumstance indicates development will be extended over many years with new homes being constructed on only approximately 85% of the lots, i.e. approximately 560 developed lots.
- The extension of public sewer to the nine SKI communities will require that homeowners pay sewer fees and, if the ordinance passes, limit new development. Therefore, perspectives will be sought from existing households in the nine SKI communities through a survey. The survey will be conducted by the Center for the Study of Local Issues at the Anne Arundel Community College.
- State funding will be needed to assure that, with the development limits, monthly sewer charges in the SKI communities will not be excessive. State legislation will be required to enable access to such funding, hopefully from the Bay Restoration Fund (BRF). Securing that legislation is a priority for the County Commissioners.
- The County Commissioners and staff have committed significant time and effort in seeking a solution to the SKI communities' public health challenges. These efforts have included commissioning a comprehensive engineering study, retention of counsel to ensure a fair and legally defensible implementation strategy, and multiple meetings with State officials and staff. The interest and cooperation of the State officials and staff is appreciated and most encouraging.

COUNTY ORDINANCE NO. 13-24

AN EMERGENCY BILL ENTITLED

AN ACT CONCERNING the Use and Merger of Certain Substandard Lots in the Neighborhood Conservation (NC) District;

FOR THE PURPOSE of requiring that certain contiguous, substandard lots in the NC District be merged to comply with current Zoning Regulations and land use policies; and for the purpose of requiring such merger without interfering with rights guaranteed by the United States and Maryland Constitutions as interpreted by Federal and State Courts; and for the express purpose and intent of giving this Bill retroactive application by imposing such merger requirements based on lot ownership as of November 12, 2013, the date of introduction of this Bill to prevent individuals from defeating or undermining the purposes of this Bill by altering the ownership of properties between the date of introduction of this Bill and the Bill's effective date;

BY ADDING a new Subsection 18:1-19G. to Section 18:1-19 of the Code of Public Local Laws.

SECTION I

BE IT ENACTED BY THE COUNTY COMMISSIONERS OF QUEEN ANNE'S COUNTY, MARYLAND that Chapter 18:1 (Zoning and Subdivision Regulations) of the Code of Public Local Laws be amended by adding the following Subsection 18:1-19G. to Section 18:1-19.

*Chapter 18:1  
Zoning and Subdivision Regulations*

...

*§ 18:1-19. Neighborhood Conservation (NC District).*

...

**G. Use and merger of lots of substandard area or dimensions in Neighborhood Conservation (NC) District in areas designated S-2 or higher in the Comprehensive Water and Sewerage Plan.**

(1) The provisions of this subsection shall apply in the NC District in areas designated S-2, S-3, S-4, S-5, and S-6 in the Comprehensive Water and Sewerage Plan and shall apply notwithstanding any other provision in this Article, including, without limitation, those relating to non-conforming uses or lots. The provisions of this subsection shall not be construed to affect the non-conforming use or lot status of lots in Zoning Districts or areas to which this subsection does not apply.

(2) Except as provided in subsections (3) and (4) of this subsection, a dwelling may be constructed on a lot that does not comply with the minimum area or dimensional requirements of the zoning district in which the lot is located, provided that the lot complied with applicable minimum area and dimensional requirements, if any, at the time it was created.

(3) A dwelling may not be constructed on an unimproved lot that does not comply with the minimum area or dimensional requirements of the zoning district in which the lot is located if the unimproved lot is contiguous with an improved lot under the same ownership on November 12, 2013. An unimproved lot governed by this subsection shall be administratively merged with the contiguous improved lot under the same ownership as of November 12, 2013 prior to the extension of public sewer service to the improved lot. Further, an unimproved lot that must be merged with an improved lot under this subsection shall be merged with an additional contiguous unimproved lot or lots with the same ownership on November 12, 2013 that is or are necessary to prevent leaving an unimproved lot that does not satisfy the minimum area and dimensional requirements of the zoning district. The owner conducting a merger pursuant to this subsection must execute an administrative subdivision prior to the extension of public sewer service to the improved lot. If the owner of a lot or lots required to be merged under this subsection G(3) fails to execute and record an administrative subdivision, the Director of Planning and Zoning shall do so promptly.

(4) Except as provided in subsection (5) of this subsection, an unimproved lot that does not comply with the minimum area or dimensional requirements of the NC District in effect at the time an application for a building permit is submitted may not be used for the construction of a dwelling if the lot was contiguous to and under the same ownership as one or more unimproved lots on November 12, 2013.

(5) A lot described in subsection (4) of this subsection may be used for the construction of a dwelling if the lot is merged with the contiguous, unimproved lot or lots in order to create a lot that (i) complies with, or comes as close as possible to complying with, the minimum area and dimensional requirements of the NC District, and (ii) does not leave a contiguous lot under the same ownership that does not comply with minimum area and dimensional requirements of the zoning district. The owner conducting a merger pursuant to this subsection must execute and record an administrative subdivision as a condition precedent to receiving a building permit for the dwelling.

(6) The seller of a lot subject to merger under this subsection G. must disclose in writing to any buyer of the lot the fact that the lot is subject to merger with another lot or lots under subsection G. This disclosure shall also be contained in all contracts of sale, deeds or similar documents relating to the sale and shall cite this subsection G. and be displayed prominently with the heading "Notice of Required Lot Merger."

SECTION II

BE IT FURTHER ENACTED that it is the County Commissioners' express purpose and intent that the provisions of this Bill be given retroactive application to the extent that the provisions impose merger requirements based on lot ownership as of November 12, 2013.

SECTION III

BE IT FURTHER ENACTED that the provisions of this Act shall be severable and a determination that one or more provision is invalid shall not affect the validity of the remaining provisions.

SECTION IV

BE IT FURTHER ENACTED that this shall be declared an emergency bill affecting the public health, safety and welfare of the County and upon the affirmative vote of at least four-fifths of the total membership of the Board of County Commissioners shall take effect immediately, otherwise the same shall not be deemed an emergency bill and shall take effect on the forty-sixth (46<sup>th</sup>) day following its passage.

INTRODUCED BY: Commissioner Dunmyer

DATE: November 12, 2013

PUBLIC HEARING HELD:

VOTE:

DATE OF ADOPTION:

EFFECTIVE DATE: