



DEPARTMENT OF COMMUNITY PLANNING & BUILDING
MEMORANDUM

TO: Planning Commission
VIA: Mary Beth Cook, Acting Director *NEC*
VIA: Carolyn Sunderland, AICP, Planning Commission Administrator *[Signature]*
FROM: Jenny Plummer-Welker, AICP, Long Range Planner *[Signature]*
DATE: May 9, 2016
SUBJECT: The Sustainable Growth and Agricultural Preservation Act – Proposed Adoption of the Growth Tiers

Background:

In 2012, the State of Maryland adopted the Sustainable Growth and Agricultural Preservation Act (the “Act”) to limit creation of new residential subdivisions served by on-site sewage disposal systems (private septic systems). The Act, also known as the “Septics Law,” was adopted to meet U.S. Environmental Protection Agency limits on Chesapeake Bay nutrient and sediment pollution. The Act establishes four levels, or tiers, to identify the type and intensity of residential subdivision that may occur (minor or major), and the type of sewage disposal system to serve them.

Local jurisdictions, like Calvert County, are prohibited from approving any major residential subdivision served by on-site sewage disposal systems, community sewerage systems or shared systems until they have adopted Growth Tiers consistent with the Act. Until the Calvert County Government adopts the Growth Tiers, the County cannot approve the creation of major subdivisions which are not served by public sewer. The County can, however, approve major subdivisions served by public sewer and minor subdivisions served by public sewer or private systems.

Adoption of the Growth Tiers is a two-step process. Tiers may be initially adopted administratively by a letter from the jurisdiction’s planning director or chief elected official. Tiers must be incorporated into the local jurisdiction’s comprehensive plan during its next update, which will require approval by the Calvert County Planning Commission and adoption by the Board of County Commissioners (BOCC). Several Maryland counties’ boards of commissioners/councils formally adopted their Growth Tier maps by resolution or bill.

The Maryland Department of Planning (MDP) reviews local jurisdictions’ Growth Tiers; MDP does not have approval authority of a local jurisdiction’s Growth Tiers. Under the Act, MDP may comment on the Growth Tiers adopted by a local jurisdiction. If MDP comments on any of the Tiers or an area within one of the Tiers, the local legislative body or planning commission shall hold at least one public hearing on MDP’s comments. If the planning commission holds the hearing, the planning commission shall recommend to the local legislative body that either the Tiers or an area within the Tiers be changed or that the adopted Tiers remain unchanged.

The Sustainable Growth and Agricultural Preservation Act
May 9, 2016
Page 2

The BOCC and Planning Commission held a joint public hearing on the adoption of the proposed Growth Tier Map on January 29, 2013. The record was kept open until April 30, 2013, so that the public could comment. No written comments were received during that time period. The map proposed in 2013 was not adopted. Since the public hearing in 2013, County staff has worked with MDP staff to refine the draft map. The main point of discussions between the County and State staffs was what land to designate as Tier III and what land to designate as Tier IV.

Key points about the Act (attached) were prepared by County staff. Descriptions of each of the four Growth Tiers are included in the key points.

Discussion:

A revised draft proposed Calvert County Growth Tier Map (attached) has been prepared for consideration of the Planning Commission and BOCC. This draft proposed map was prepared based upon the descriptions of the Tiers in the State's Act. We believe that the May 2016 draft map is consistent with the requirements set forth in the State's Act.

Recommendation:

1. Review the Draft Proposed Growth Tier Map.
2. Recommend to the BOCC that the BOCC and the Planning Commission hold a joint public hearing on adopting the Draft Proposed Growth Tier Map.

Attachments:

Key Points of the Sustainable Growth and Agricultural Preservation Act
Draft Proposed Calvert County Growth Tier Map
Presentation Slides

cc: Susan Cox, Chair, Agricultural Commission
Hagner Mister, Chair, Agricultural Preservation Advisory Board
Chis Moore, Chair, Economic Development Commission
Scott Sinex, Chair, Environmental Commission
Patricia Haddon, Department of Community Planning & Building
Rachel O'Shea, Department of Community Planning & Building
Rai Sharma, Department of Public Works
Linda Vassallo, Department of Economic Development
Mark Willis, Department of Public Works

Key Points of the Sustainable Growth and Agricultural Preservation Act of 2012 (SB 236)

- State law establishes four growth tiers based upon specific land use categories, which may be adopted by local jurisdictions.
 - Tier I areas are locally designated growth areas served by public sewerage systems or a municipality that is a Priority Funding Area served by public sewerage systems.
 - Tier II areas are proposed to be served by public sewerage systems or mapped as locally designated growth areas.
 - Tier III areas are planned and zoned for large lot or rural development, not planned for sewerage service and not dominated by agricultural or forest land, and not planned or zoned for land, agricultural or resource protection.
 - Tier IV areas are not planned for sewerage service and are areas planned or zoned for land, agricultural or resource protection; areas dominated by agricultural, forest lands or other natural areas; or Rural Legacy Areas, Priority Preservation Areas or areas subject to preservation easements.
- Until a local jurisdiction adopts growth tiers, a local jurisdiction may only authorize the creation of minor residential subdivisions served by an on-site sewage disposal system or minor subdivisions and major subdivisions in areas served by public sewer. In Calvert County, a minor subdivision is a subdivision of 7 lots or less, a major subdivision is 8 lots or more.
- Tier adoption is a two-step process. Tiers may be initially adopted administratively (by the planning director or chief appointed or elected official) but must be incorporated into the local comprehensive plan during the next review cycle.
- The law does not allow the creation of major residential subdivision (8 or more lots) in Tier IV areas.
- The law does not apply to covenants, restrictions, conditions, or conservation easements for conserving natural resources or agricultural land held by a state agency or local government. In Calvert County, these would include preserved County Agricultural Preservation Districts and lands protected by Maryland Agricultural Land Preservation Foundation or Rural Legacy easements.
- Tier II restricts the creation of major subdivisions until sewer service is provided. Minor subdivisions are allowed and can be served by public sewer or an on-site sewage disposal system.
- Minor subdivisions in Tier III and Tier IV can be served by individual on-site sewage disposal system.
- Major subdivisions can be served by an on-site sewage disposal system, a community system, or a shared facility located in a Tier III area.

Maryland's Sustainable Growth and Agricultural Preservation Act: Proposed Local Adoption of Growth Tiers

Calvert County Planning Commission
May 18, 2016



2011: State Task Force on
Sustainable Growth and
Wastewater Disposal made
recommendations

2012: State passed new law,
Sustainable Growth and
Agricultural Preservation Act,
a.k.a. "Septics Law"



Ben Fertig, Integration and Application Network, University of Maryland
Center for Environmental Science (tan.umces.edu/imagelibrary/)

Act's Goal:
Limit impact of
large residential
subdivisions
on farm and forest
land, streams, rivers
and Chesapeake and
coastal bays



3

How?
By restricting the
spread of residential
subdivisions on septic
systems, based upon
an area's "growth
tier" category



4

Growth Tiers

4 Categories

Tier I – Served by sewer

Tier II – Proposed to be served by sewer or locally designated growth area

5

Growth Tiers

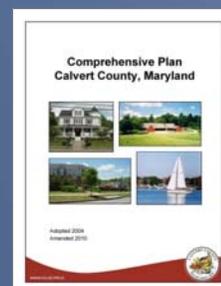
Tier III – Planned/zoned for large lot or rural development, not planned for sewer service

Tier IV – Planned/zoned for land, agricultural, or resource protection; not planned for sewer service; areas subject to easements; etc.

6

Adoption: 2-Step Process

1. Adopt Administratively – letter from Planning Director or Chief Elected Official
2. Include in next Comprehensive Plan update – requires approval by Planning Commission & adoption by County Commissioners



7

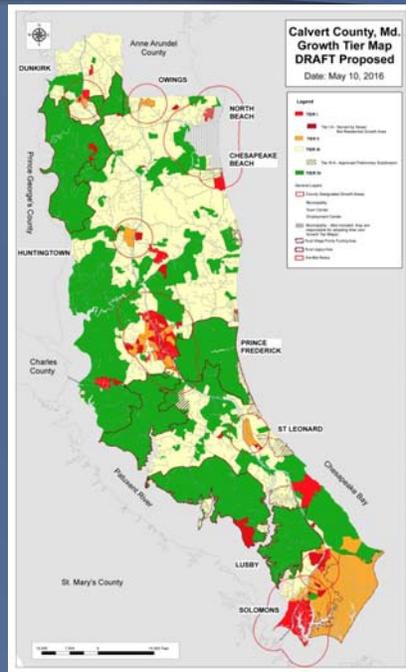
Without Adoption

County authority to approve residential subdivisions is limited.

Subdivision Type	On Public Sewer	Not On Public Sewer
MINOR	YES	YES
MAJOR	YES	NO

8

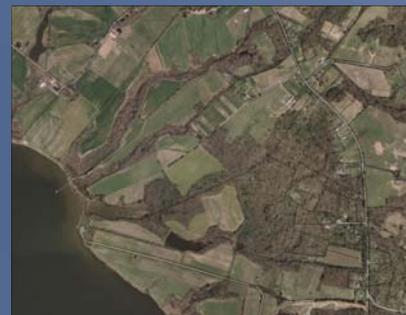
Draft Proposed Map of Growth Tiers



9

Tier IV: State Law

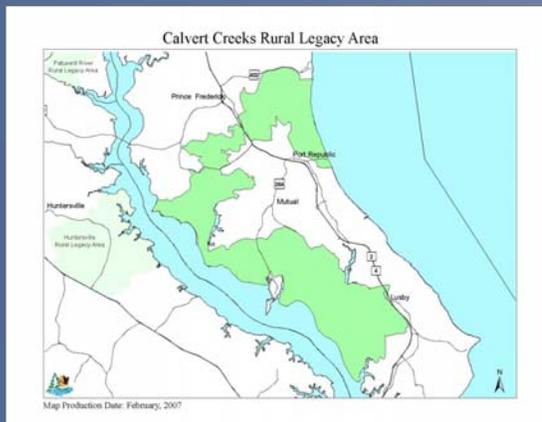
1. Areas not planned for sewerage service;
2. Areas subject to preservation easements;
3. Areas planned/zoned for land, agricultural or resource protection;



10

Tier IV: State Law

4. Rural Legacy Areas and Priority Preservation Areas; and
5. Areas dominated by agricultural, forest lands or other natural areas.



11

Recommendations



1. Review Draft Proposed Growth Tier Map
2. Recommend to the Board of County Commissioners that the Board & Planning Commission hold a joint public hearing to hear comments on the map



12



Calvert County, Md. Growth Tier Map DRAFT Proposed

Date: May 10, 2016

DUNKIRK

Anne Arundel
County

OWINGS

NORTH
BEACH

CHESAPEAKE
BEACH

Prince George's County

HUNTINGTOWN

PRINCE
FREDERICK

Charles
County

ST LEONARD

Patuxent River

Chesapeake Bay

LUSBY

St. Mary's County

SOLOMONS

15,000 7,500 0 15,000 Feet

Legend

- TIER I
 - Tier I A - Served by Sewer
Not Residential Growth Area
 - TIER II
 - TIER III
 - Tier III A - Approved Preliminary Subdivision
 - TIER IV
- General Layers
- County Designated Growth Areas
 - Municipality
 - Town Center
 - Employment Center
 - Municipality - (Not included: they are responsible for adopting their own Growth Tier Maps)
 - Rural Village Priority Funding Area
 - Rural Legacy Area
 - One Mile Radius