

MSA-5-1829-5090

PG 707-05 Florida on the Potomac
Rezoning

Lisa-FY1

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**
1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

March 12, 2003

Mr. Tom Deming
506 Sunwood Lane
Annapolis, Maryland 21401

RE: Critical Area Commission Growth Allocation Policy

Dear Mr. Deming:

I am writing to follow up on our telephone conversation earlier today regarding the proposed revisions to the Critical Area Commission Growth Allocation Policy. These revisions were presented in Program Subcommittee memos dated November 6, 2002 and December 4, 2002. As we talked about, the Program Subcommittee discussed revisions to the policy at both the November 6, 2002 and December 4, 2002 Commission meetings; however, no action was taken by the Commission. Following the December 4 meeting, the Program Subcommittee did not request further action on the matter; therefore, there has been no further discussion or official action by the Commission regarding revisions to the policy.

If you have any questions, please feel free to call me at (410) 260-3480.

Sincerely yours,

Mary R. Owens, Chief
Program Implementation Division

cc: Mr. John Markovich, M-NCPPC
Ms. Careen Wallace, M-NCPPC

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974- 2609 D.C. Metro: (301) 586-0450

PG-544-02



August 7, 2002

Ms. Lisa Hoerger
Natural Resources Planner
Chesapeake Bay Critical Area Commission
1804 West Street, Suite 100
Annapolis, MD 21401

Re: A-9955, Florida on the Potomac; Amended Concept Plan

Dear Ms. Hoerger:

Attached is a copy of the amended Concept Plan for the above referenced zoning application. The purpose of the amendment is to include the access to the proposed pier and boat-launching ramp within the requested L-D-O Zone. This information is consistent with the survey plat previously forwarded to you and referenced in your comments of April 18, 2002.

For your information, the technical staff report is expected to be released on August 28, 2002; and the case will be placed on the Planning Board Agenda of September 5. If the Board votes to hear the case, it will be scheduled for a hearing at least 30 days later.

Please don't hesitate to contact me if you have additional comments.

Sincerely,

A handwritten signature in cursive script that reads 'Catherine H. Wallace'.

Catherine H. Wallace
Planner Coordinator



LAND & COMMERCIAL, INC.

7901 Branch Avenue, Clinton, Maryland 20735-1633

Metro: 301-868-7900 • 1-800-296-7901 • Fax: 301-856-1717

www.LandCommercial.com • LeoBruso@LandCommercial.com

Leo Bruso, SIOR
President

April 3, 2002

Mr. Ulysses Jones
Maryland-National Capital Park
and Planning Commission
County Administration Building, 4th Floor
Upper Marlboro, Maryland 20772

Re: Application No. A-9955

Dear Mr. Jones:

The referenced Zoning Map Amendment application was previously filed for Florida on the Potomac, L.L.C., the owner of the property which is the subject of the application. The area of the property which was the subject of the rezoning was 9.5470 acres. As a result of the staff's review of the application, it has become necessary to amend the area of the proposed rezoning to include a strip of land 60 feet wide and 306 feet long. The addition of this land to the property which is the subject of the rezoning application increases the total area of the proposed rezoning to 9.9685 acres. Since the revised area of the proposed rezoning does not exceed 10 acres, no new fee is required to be submitted with this revision. I am also submitting an amended Statement of Justification, revised zoning plat and revised sketch, which address the increase in the acreage. On behalf of Florida on the Potomac, L.L.C., please accept this amendment to increase the area of the property which is the subject of the rezoning application.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to contact me.

Very truly yours,

FLORIDA ON THE POTOMAC, L.L.C.

Leo Bruso, Managing Member

RECEIVED

APR 10 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

AMENDED

A9955

LAW OFFICES
GIBBS AND HALLER
4640 FORBES BOULEVARD
LANHAM, MARYLAND 20706

(301) 306-0033
FAX (301) 306-0037

EDWARD C. GIBBS, JR.
THOMAS H. HALLER

KATHRYN TURNER MAY
ANTHONY G. BROWN

April 1, 2002

Mr. Ulysses Jones
Technical Staff
Maryland-National Capital Park
and Planning Commission
County Administration Building, 4th Floor
Upper Marlboro, Maryland 20772

Re: A-9955

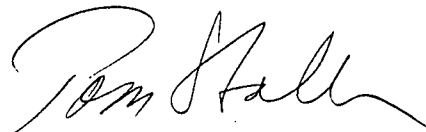
Dear Mr. Jones:

Pursuant to our recent telephone conversations, an amendment to the referenced zoning application is necessary in order to include additional land area. Since the case has not yet been transmitted to the District Council, an amendment to the application increasing the land area is permitted. I am enclosing a copy of a letter from the owner of the property, Florida on the Potomac, L.L.C., requesting the amendment, a revised Statement of Justification, a revised zoning plat and a revised sketch. In addition, I am including a letter from a contract purchaser of the property requesting that the Disclosure Statement be revised to list the contract purchasers, Hyman and Goldstein L.L.P. as parties having a greater than 5% interest in the subject property.

Please call me if you have any questions regarding either of these matters.

Very truly yours,

GIBBS AND HALLER



Thomas H. Haller

THH/pcr:Bruso\Jones

Enclosures

AMENDED

A 9955

AMENDED STATEMENT OF JUSTIFICATION IN SUPPORT OF
CHESAPEAKE BAY AREA CRITICAL AREA OVERLAY ZONE AMENDMENT
A-9955

Florida on the Potomac, L.L.C. previously submitted a petition to modify the Chesapeake Bay Critical Area Overlay Zone for 9.547 acres located on the west side of Riverview Road from the R-C-O (Resource Conservation Overlay) Zone to the L-D-O (Limited Development Overlay) Zone. In conformance with Section 27-213.13(b)(1)(B)(ii)(bb), the area of the proposed rezoning was located at least 300 feet from the tidal waters of the Potomac River. During staff review of the application, an issue was raised regarding the continued use of an existing boat ramp which extends from the property proposed for rezoning to the water, running through the required 300-foot setback. After consultation with staff, it was agreed that use of the boat ramp could only continue if the area within which the boat ramp is located is also placed in the L-D-O Zone. The classification of land within 300 feet of the tidal waters of the Potomac is permitted for water dependent uses. As a result, the purpose of this amendment is to add .4215 acres to the property which is the subject of the original application in order to allow access to the boat ramp by the community. This 60-foot strip extends from the water about 300 feet.

The addition of this area to the property which is proposed for the rezoning does not in any way modify the merits of the application. The inclusion of this area recognizes an existing

facility which will be a benefit to the overall community. Continued use of the existing boat ramp is preferred to adding private piers to the waterfront area to service individual lots. Increasing the area of the proposed rezoning by .4215 acres can still be accommodated within the remaining growth allocation available in Prince George's County. Use of the existing boat ramp minimizes impact on habitat protection areas in the R-C-O Zone because it eliminates the need for additional private piers. As a result, the applicant submits that the addition of the proposed land to the property proposed for rezoning to the L-D-O Zone conforms with all of the applicable statutory requirements and is appropriate for the proposed use of the property as an upscale residential community.

Finally, the proposed rezoning, including the increased area addressed by this amendment, conforms with the purposes for the L-D-O Zone as set forth in Section 27-548.14. Specifically, three purposes are listed for the L-D-O Zone. The first purpose is to maintain or if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay. The applicant maintains that the proposed development will improve the quality of runoff and ground water entering the Potomac River. Prior to the acquisition of the property by the current owner, the property was used as a field for cattle. No controls were provided on site for runoff emanating from the animals. The proposed development will include low impact development techniques which

will ensure that stormwater management is provided for all new improvements, as well as existing runoff. In addition, in its current state the property has virtually no trees. Under the proposed rezoning and development, a 300-foot buffer will be maintained, with the exception of the 60-foot wide strip providing access to the existing boat ramp. This 300-foot area will be vegetated to improve water quality naturally flowing across the property.

The second purpose of the L-D-O Zone is to maintain existing areas of natural habitat. As indicated above, the property is devoid of virtually all vegetation. The applicant will be vegetating an area 300 feet from the water, actually increasing the ability of the property to support natural habitats. Thus, the proposed development will maintain if not increase existing habitats.

Finally, the third purpose of the L-D-O Zone is to accommodate additional low or moderate intensity development in accordance with the Conservation Manual. The proposed development of the property is in accordance with the underlying R-E zoning, which permits low density residential development. All development on the property will be in conformance with the Conservation Manual.

Based upon the above, the proposed rezoning, as amended, conforms with all of the purposes of the L-D-O Zone and the applicant respectfully submits that the subject property, as

amended, is eligible for reclassification from the R-C-O Zone to the L-D-O Zone.

Respectfully submitted,

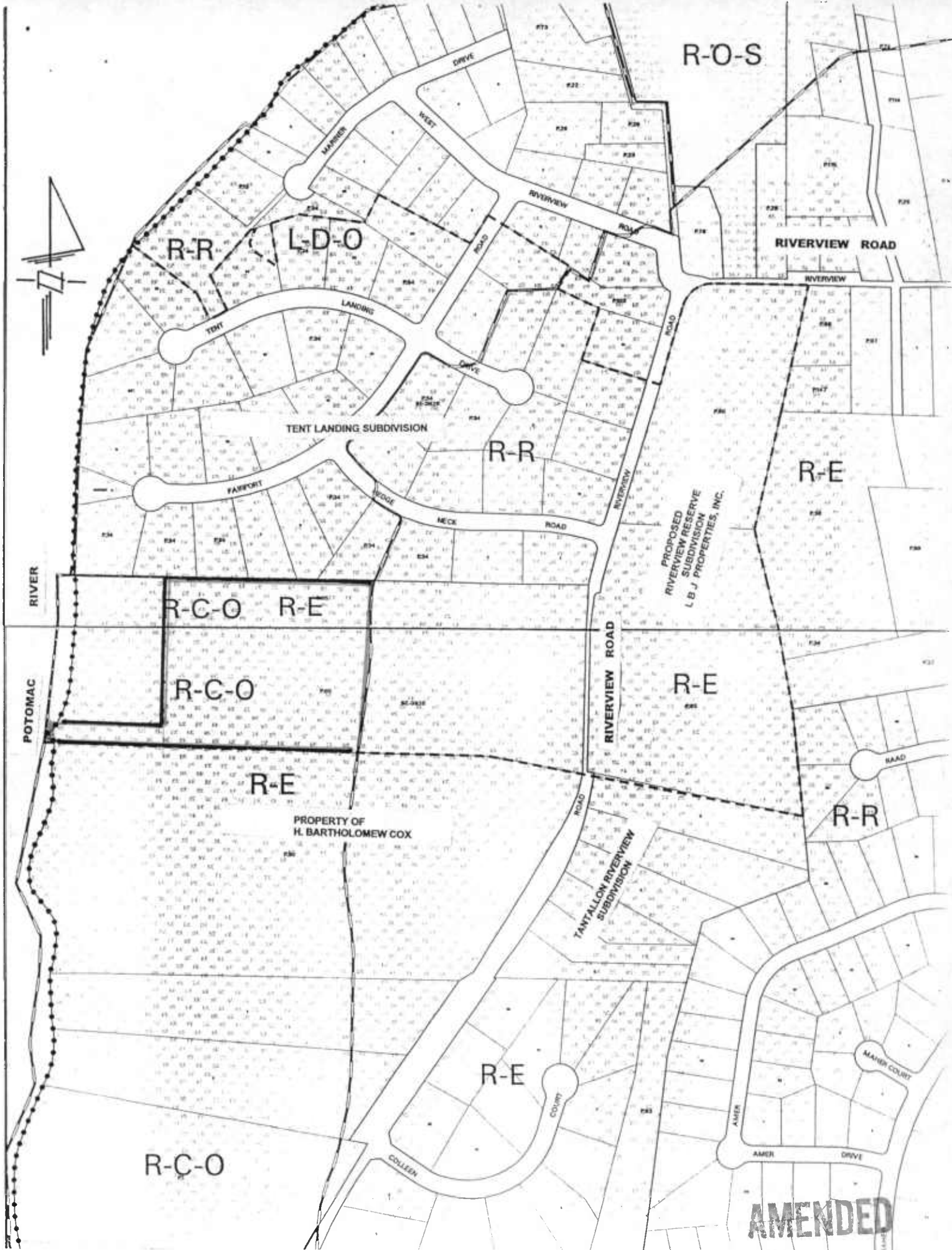


Thomas H. Haller

GIBBS AND HALLER
4640 Forbes Boulevard
Lanham, Maryland 20706
(301) 306-0033

AMENDED

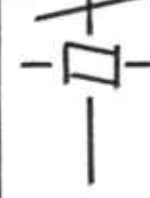
A9955



ZONING/VICINITY MAP SCALE 1"=400'

AMENDED
A9955

SCALE
1" = 200'



RIVER

POTOMAC

AMENDED
A 9955

OUTLET A

P34

P34

P34

P34

P34

P34

P34

R-R

FAIRPORT

HEDGE

NECK

ROAD

RIVERVIEW

RIVERVIEW ROAD

ROAD

R-C-O

R-E

214 SW 01

215 SW 01

300'

700'

AREA TO BE REZONED

R-C-O

P85

SE-3826

R-E

P30

ZONING MAP
SCALE 1" = 200'

SPIRITUAL ASSEMBLY OF
THE BAHAI'S OF MONTGOMERY
COUNTY, MD., INC.
L. 14606 F. 636



Joseph A. Behun, Jr.
3/28/02

POTOMAC RIVER

N18°11'57"E 263.71'
N07°45'21"E

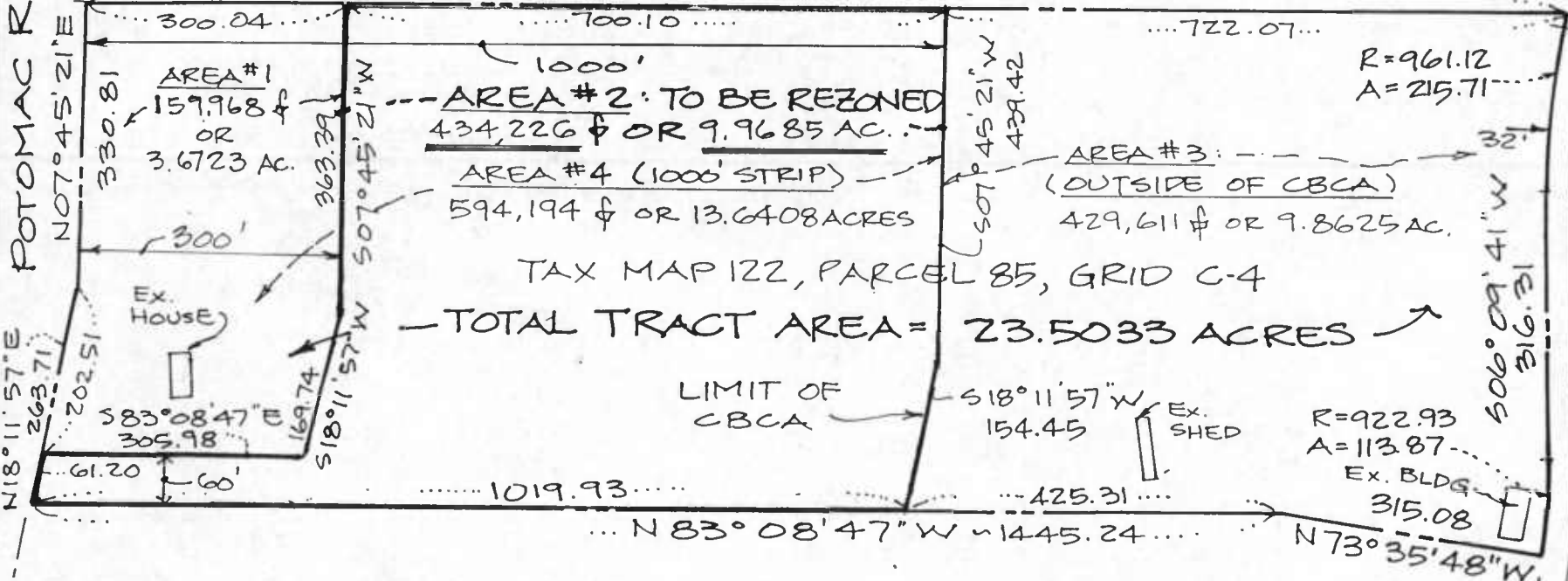


HEDGE NECK



AMENDED

A 9955



H. BARTHOLOMEW COX
L. 5382 F. 329

ZONING PLAT
PROPERTY OF
FLORIDA ON THE POTOMAC, LLC.

PREPARED BY:
MARLBORO ENGR. CONS., INC.
301-249-8022

LIBER 14894 FOLIO 008
5th ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MD

PLAT #2: CBCA AREA
OR 11 2 72 02

TANTALLON
RIVERVIEW
YJ 158@40
LOT 6

RECEIVED

APR 10 2002

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

SPIRITUAL ASSEMBLY OF
THE BAHAI'S OF MONTGOMERY
COUNTY, MD., INC.
L. 14606 F. 636

FAIRPORT ROAD

HEDGE NECK ROAD

1650' ± TP & WEST
RIVERVIEW ROAD

002 = "1"
BLVD'S
SEP 28 2001

A9955

"TENT LANDING"
PLAT WWW 66030
(UNIMPROVED)
L-D-O (R-R) ZONE
S 83° 13' 50" E ~ 1722.21

POTOMAC RIVER
N 18° 11' 57" E
263.71

N 07° 45' 21" E
330.81

AREA #1
178,327 \$
OR
4.0938 AC.

AREA #2: TO BE REZONED
415,867 \$ OR 9.5470 AC.

AREA #4 (1000' STRIP)
594,194 \$ OR 13.6408 ACRES

R-E ZONE
AREA #3:
(OUTSIDE OF CBCA)
429,611 \$ OR 9.8625 AC.

TAX MAP 122, PARCEL 153, GRID C-4

TOTAL TRACT AREA = 23.5033 ACRES

R-C-O (R-E) ZONE
LIMIT OF CBCA

Ex. HOUSE

Ex. SHED

R=922.93
A=113.87

Ex. BLDG
315.08

Critical Area

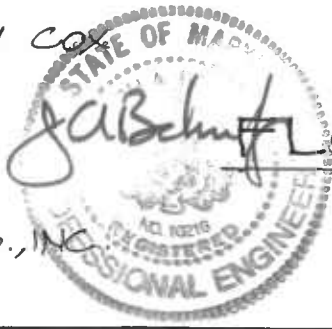
out of Critical Area

RIVERVIEW ROAD

"RIVERVIEW RESERVE" #1
4-01027

TANTALLON
RIVERVIEW.
YJ 158040
LOT 6

H. BARTHOLOMEW CO.
L. 5382 F. 329
R-C-O (R-E) ZONE

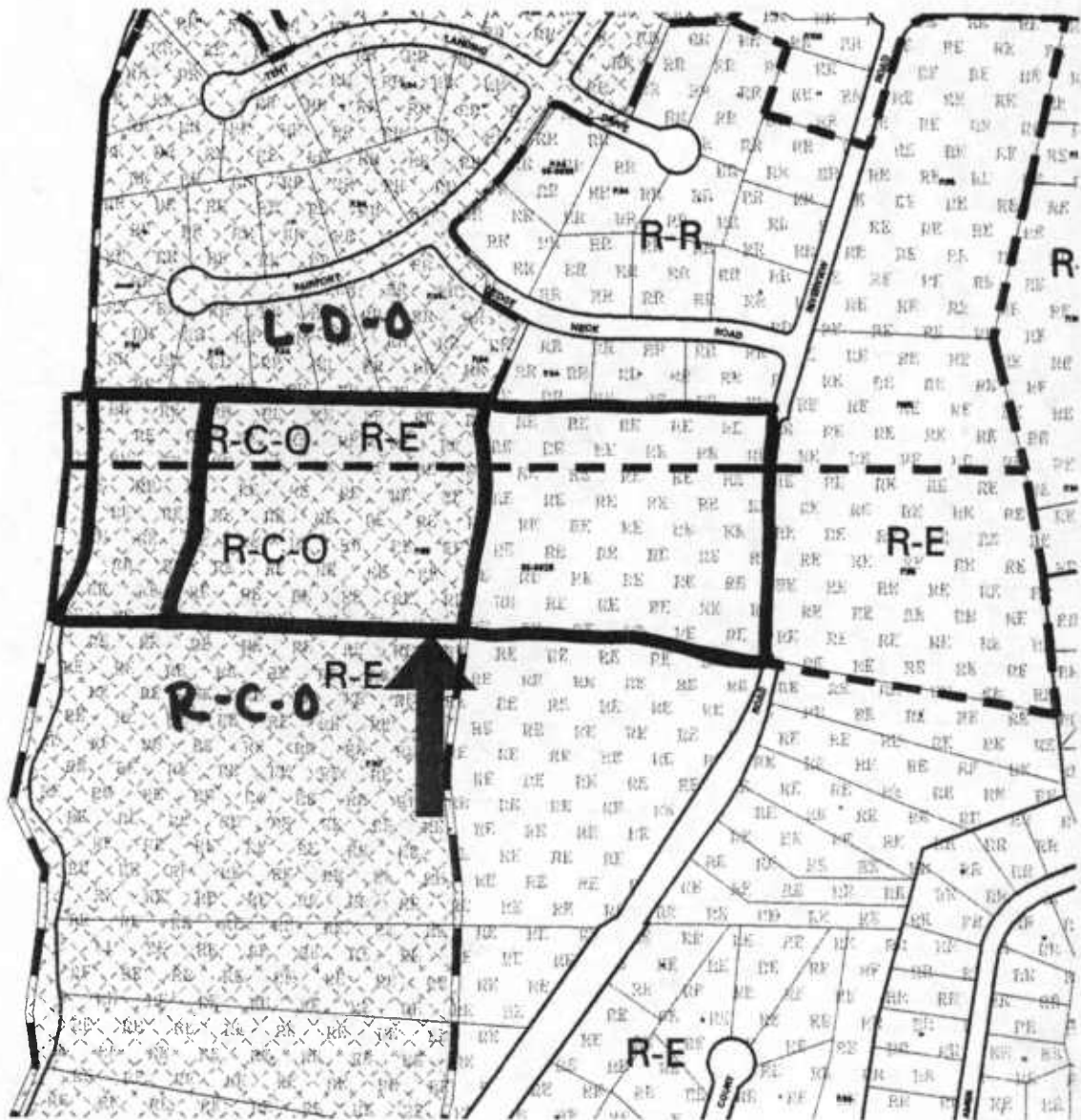


ZONING PLAT
PROPERTY OF
FLORIDA ON THE POTOMAC, LLC.

LIBER 14894, FOLIO 008
5th ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MD

PREPARED BY:
MARLBORO ENGR. CONS., INC.
301-249-8022

PLAT #2: CBCA AREA



ZONING MAP: 215SW01
 SCALE: 1" = 471'
 TAX MAP: 122
 TAX GRID: C4
 PRINTED: October 02, 2001



APPLICATION NO: A 9955
 REQUEST: Rezoning from R-E/R-C-O
to R-E/L-D-O
 EXISTING ZONE: R-E/R-C-O
 PLANNING AREA: 80

STATEMENT OF JUSTIFICATION IN SUPPORT OF
CHESAPEAKE BAY CRITICAL AREA OVERLY ZONE AMENDMENT

Florida on the Potomac L.L.C. is the owner of 23.5 acres of land located on the eastern shore of the Potomac River, west of Riverview Road. This property is more particularly described as that part of Parcel 153 located west of Riverview Road, found on Tax Map 122, Grid C-4. The portion of the property which is the subject of this application consists of 9.5470 acres beginning 300 feet east of the mean high tide line of the Potomac River and extending to 1,000 feet east of the mean high tide line (the "Subject Property"). The Subject Property is located in the Chesapeake Bay Critical Area. The underlying zoning of the Subject Property is R-E (Residential Estate) and the overlay zone is R-C-O (Resource Conservation Overlay). The purpose of this application is to rezone the subject property from the R-C-O Zone to the L-D-O (Limited Development Overlay) Zone. The residue of the applicant's property is not included in this application either because it is located outside of the Chesapeake Bay Critical Area or is being retained in the R-C-O Zone.

Description of Subject Property

The Subject Property is bounded on the north by the Tent Landing Subdivision, an as yet undeveloped subdivision in the L-D-O (R-R) Zone. The Subject Property is bounded to the east by the residue of the applicant's property, zoned R-E. The Subject Property is bounded to the south with undeveloped property also

located in the R-C-O (R-E) Zone. Finally, the property is bounded to the west by 300 feet of additional land owned by the applicant and proposed for retention in the R-C-O (R-E) Zone.

The Subject Property is currently improved with an existing house, pool and a shed, with the remainder of the property maintained as open fields. The Subject Property is not wooded and occupies approximately 600 feet of the Potomac River shoreline. The portion of the property which is the subject of this zoning map amendment application consists of 9.5470 acres. The area of the Subject Property which is proposed for the rezoning of the Overlay Zone lies within an area beginning 300 feet from the mean high tide line of the Potomac River and extends to 1,000 feet from the mean high tide, where the Chesapeake Bay Critical Area ends.

The property owner is desirous of developing the property with upscale executive homes, taking advantage of the location of the property abutting the Potomac River and its proximity to National Harbor. The remaining portion of the larger property of which the Subject Property was originally a part, known as Riverview Reserve, is proposed for development with similar executive type development and will be served by public water and sewer. As part of the development of Riverview Reserve, public water and sewer will be extended to the Subject Property. Although single family dwellings are permitted on one acre lots in the R-E Zone, that portion of the Subject Property located within the R-C-O Zone, is limited to a development density of one dwelling unit per 20 acres. The purpose

of this application is to request the District Council to adopt a program refinement to the Chesapeake Bay Critical Area Plan and amend the overlay zoning designation for the Subject Property from the R-C-O Zone to the L-D-O Zone. This rezoning will permit the development of the property at a density of one dwelling unit per acre. Pursuant to Section 27-213.12(b)(3)(A)(vii), the applicant has prepared and included with the application a concept plan depicting the proposed development. The property is proposed to be developed in a single phase, beginning in the fall of 2002.

Zoning History of Subject Property

The Subject property is within the area of the Subregion VII Master Plan, which was adopted on October 20, 1981. This plan recommends permanent low density residential estate land use for the area west of Riverview Road between Tent Landing and Tantallon Subdivision. In the 1984 Subregion VII Sectional Map Amendment, the property was rezoned from the R-R Zone to the R-E Zone in accordance with the Master Plan recommendation. Subsequently, on September 27, 1988, the Prince George's County Council, sitting as the District Council, adopted the Chesapeake Bay Critical Area Plan and Overlay Zoning Map Amendment. That portion of the applicant's property lying within 1,000 feet of the mean high tide of the Potomac River was placed in the R-C-O Zone because at that time, water and sewer was not available to serve the property. The property was placed in the R-C-O Zone along with six other parcels

described as not being served by public water and sewer (Change No. 21). The immediately adjacent Tent Landing subdivision, with an approved and recorded subdivision, was placed in the Limited Development Overlay (L-D-O) Zone. The total area of the applicant's property located within the R-C-O is 13.6408 acres, with 9.547 acres included in this application.

In 1988, the Subject Property was the subject of two applications. Zoning Map Amendment A-9783 sought the rezoning of the property from the R-C-O Zone to the L-D-O Zone. Concurrently, the same applicant sought approval of Special Exception application SE-3826 to construct a retirement community on the subject property and approximately 78 adjacent acres (the remainder of the applicant's property and the Tent Landing Subdivision). While the special exception application was ultimately approved, the rezoning application was denied. The basis of the denial of the prior rezoning was that the applicant did not establish that the District Council erred when the property was placed in the R-C-O Zone. As is set forth below, the applicable statutes do not require a finding of mistake in this application.

LEGAL BASIS FOR GRANTING ZONING MAP AMENDMENT

The Prince George's County Chesapeake Bay Critical Area Regulations were prepared as the result of State legislation which required each local jurisdiction to prepare a critical area protection program to control the use and development of that part

of the Chesapeake Bay Critical Area located within its territorial limits. Each of the locally developed programs is required to be submitted to the State Critical Area Commission for review and approval. Any amendment to an adopted critical area program is also required to be approved by the Critical Area Commission before it can take effect. Section 8-1809 of the Natural Resources Article of the Annotated Code of Maryland contains provisions which address amendments to an adopted critical area program. Amendments can be made to a critical area program in one of two ways. First, Section 8-1809(g) permits amendments to be made to the critical area program as a result of a review of the entire program which is mandated to occur at least every four years. Second, Section 8-1809(h) permits a local jurisdiction to make program amendments and refinements as often as necessary but not more than four times per calendar year. Such program amendments and refinements can occur through the approval of a zoning map amendment application. Zoning map amendment applications may be granted by a local approving authority only upon proof of a mistake in the existing zoning, unless the proposed zoning map amendment is wholly consistent with the land classifications in the adopted program or propose the use of a part of the remaining growth allocation in accordance with the adopted program (Section 8-1809(h)(2)(i) and (ii)).

Consistent with the provisions of the Natural Resources Article of the Annotated Code of Maryland, Prince George's County

has adopted procedures for amendments to the approved Chesapeake Bay Area Overlay Zones. These provisions are set forth in Sections 27-213.12 and 27-213.13 of the Prince George's County Zoning Ordinance. Section 27-213.13 specifically states that no application for an amendment of the Chesapeake Bay Critical Area Overlay Zone shall be granted without the applicant proving that there was a mistake in the original zoning or subsequent rezoning, unless the application complies with the provisions of Section 27-213.13(b). Section 27-213.13(b) states as follows:

(b) Expansion of Intense Development and Limited Development Overlay Zones.

(1) The boundaries of the Intense Development and Limited Development Overlay Zones may be expanded with the Chesapeake Bay Critical Area only in accordance with the following:

(A) Acreage. The maximum area of future additional Intense Development or Limited Development Overlay Zones shall be five percent (5%) of the total area designed as Resource Conservation Overlay Zones at the time of adoption of the initial Chesapeake Bay Critical Area Overlay Zoning Map Amendment. A maximum of fifty percent (50%) of the permissible growth increment may be used to rezone a Resource Conservation Overlay Zone to another Chesapeake Bay Critical Area Overlay Zone.

(B) Location. Expanded Intense Development or Limited Development Overlay Zones may be approved subject to the following locational criteria:

(i) New Intense Development Overlay Zones shall:

(aa) Be located in existing Limited Development Overlay Zones or contiguous to existing Intense Development Overlay Zones;

(bb) Be located at least three hundred (300) feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses; and

(cc) Minimize impacts on Habitat Protection Areas and on land in Resource Conservation Overlay Zones in proximity to an expanded Intense Development Overlay Zone.

(ii) New Limited Development Overlay Zones shall:

(aa) Be located contiguous to existing Limited Development Overlay Zones or Intense Development Overlay Zones;

(bb) Be located at least three hundred (300) feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses; and

(cc) Minimize impacts on Habitat Protection Areas and land in Resource Conservation Overlay Zones in proximity to an expanded Limited Development Overlay Zone.

(C) Additional requirements. Prior to developing land in an expanded Chesapeake Bay Critical Area Overlay Zone, the area shall be mapped and submitted to the Chesapeake Bay Critical Area Commission for information purposes only. This submission shall include an analysis of:

(i) The manner in which the proposed expansion conforms to the locational criteria;

(ii) How the proposed expansion affects the total growth allocation; and

(iii) How the proposed expansion will accommodate the growth needs of municipalities impacted by the Chesapeake Bay Critical Area Overlay Zones.

As will be more specifically set forth below, the applicant submits that it complies with each of the requirements set forth above and that this Zoning Map Amendment Application constitutes a program refinement of Prince George's County's approved Chesapeake Bay Critical Area Program.

COMPLIANCE WITH APPLICABLE CRITERIA

As set forth above, the criteria for approval of a program refinement is set forth in Section 27-213.13(b) of the Prince George's County Code. In this case, the applicant is requesting that land classified in the R-C-O Zone be rezoned to the L-D-O Zone. The underlying zoning of the property will remain the R-E Zone.

The first criteria is that the maximum area of future additional Intense Development Overlay (I-D-O) or L-D-O Zones shall be 5% of the total area designated as R-C-O Zones at the time of the adoption of the initial Chesapeake Bay Critical Area Overlay Zone map amendment. A maximum of 50% of the permissible growth increment may be used to rezone a R-C-O Zone to another Chesapeake Bay Critical Area Overlay Zone. Pursuant to information provided by Jim Stasz of the Natural Resources Division of The Maryland-National Capital Park and Planning Commission, the County initially established a total of 328± acres of growth allocation for changing R-C-O zoned property to the L-D-O Zone or I-D-O Zone. A total of 108.8 acres is currently available to be used to convert R-C-O

zoned property to either L-D-O or I-D-O zoned property. As a result, the subject application, which proposes to rezone 9.5470 acres from the R-C-O to the L-D-O Zone complies with the requirements of Section 27-213.13(b)(1)(A). Further, this application proposes to utilize less than ten (10) percent of the remaining growth allocation available under the adopted program.

The second criteria is that the expanded L-D-O Zone must be located contiguous to an existing L-D-O Zone or I-D-O Zone. The Subject Property meets this requirement as the subdivision immediately abutting the Subject Property to the north, Tent Landing, is located in the L-D-O Zone.

The third criteria is that the new L-D-O Zone be located at least 300 feet from tidal waters or tidal wetlands if the land was originally designated in the R-C-O Zone. The subject application includes only that portion of the applicant's property located greater than 300 feet from the mean high tide line of the Potomac River. Approximately 4.0938 acres of the applicant's property is proposed to be retained in the R-C-O Zone in order to comply with this requirement. As a result, the area of the proposed amendment is located at least 300 feet from the tidal waters of the Potomac River.

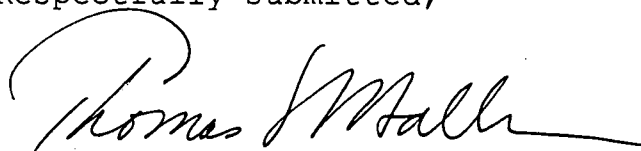
The fourth criteria is that the expanded L-D-O Zone minimizes impacts on Habitat Protection Areas and on land in R-C-O Zones in proximity to the expanded L-D-O Zone. As referenced above, the Subject Property was previously the subject of an application for

a rezoning from the R-C-O to the L-D-O Zone. At that time, no Habitat Protection Areas were identified which would be impacted by development of the property. Development of the property will minimize impacts on adjacent lands in the R-C-O Zones. The remaining portion of the applicant's property as well as the property immediately to the south will still be located in the R-C-O Zone. The applicant's proposed development of the Subject Property is consistent with the Master Plan recommendation for residential estate development. The property will be developed on public water and sewer and is currently in water and sewer category 3. Development of the Subject Property with single-family detached homes will require the installation of stormwater management facilities which will ensure protection of the adjoining properties and potentially improve the quality of stormwater runoff off site.

CONCLUSION

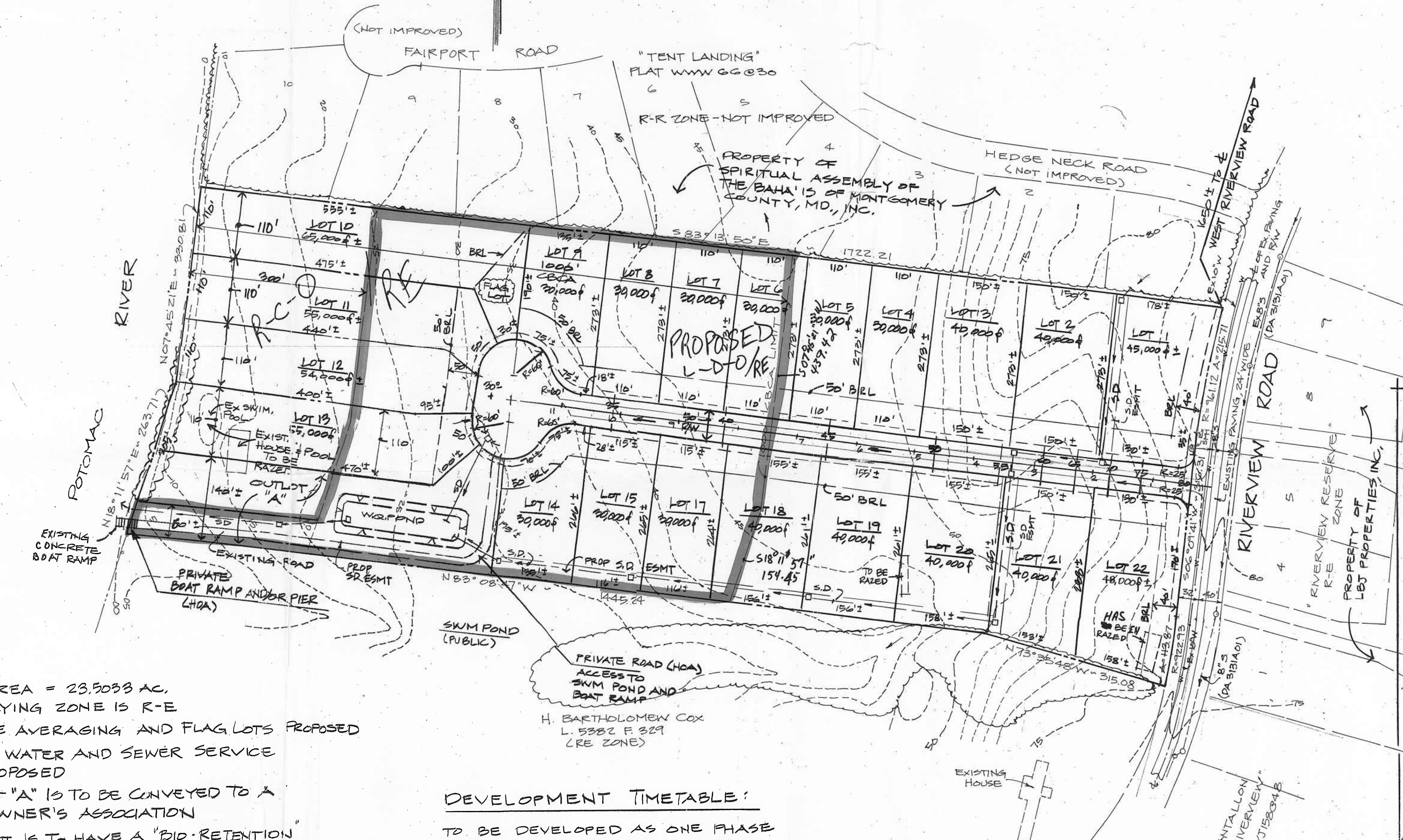
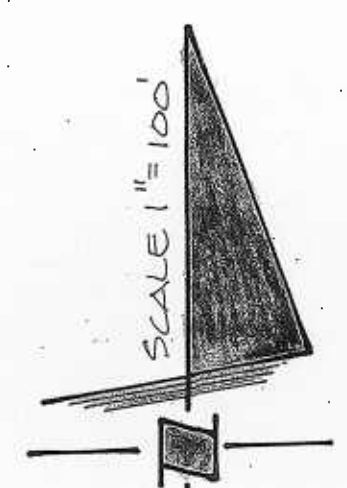
For the reasons set forth above, the applicant submits that the criteria set forth in Section 27-213.13(b) are satisfied and that the Subject Property is eligible for reclassification from the R-C-O Zone to the L-D-O Zone.

Respectfully submitted,



Thomas H. Haller

GIBBS AND HALLER
4640 Forbes Boulevard
Lanham, Maryland 20706
(301) 306-0033



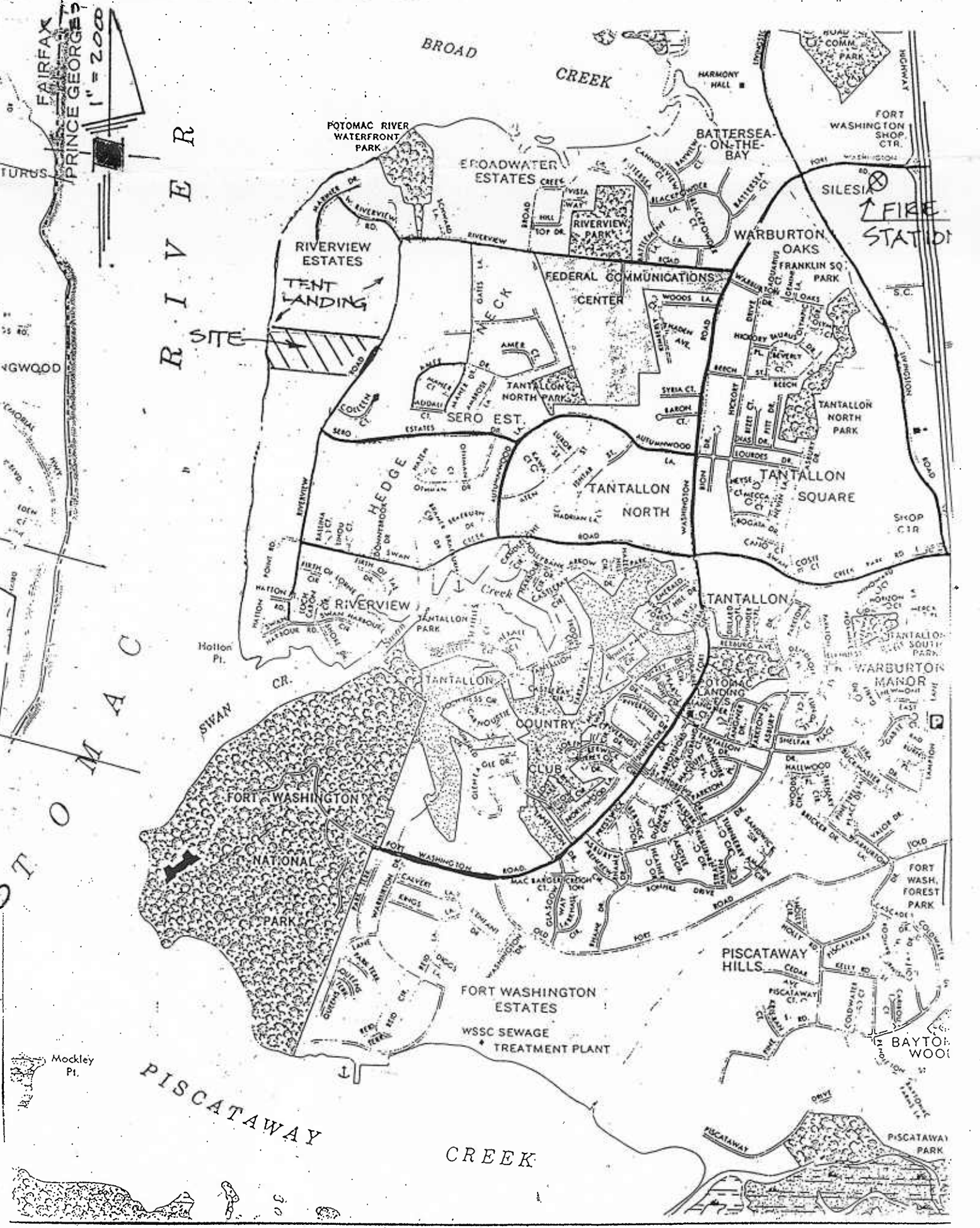
NOTES

1. TOTAL AREA = 23.9033 AC.
2. UNDERLYING ZONE IS R-E
3. LOT SIZE AVERAGING AND FLAG LOTS PROPOSED
4. PUBLIC WATER AND SEWER SERVICE IS PROPOSED
5. OUTLOT "A" IS TO BE CONVEYED TO A HOMEOWNER'S ASSOCIATION
6. EACH LOT IS TO HAVE A "BIO-RETENTION" SYSTEM FOR ON-SITE WATER QUALITY (W.Q.) CONTROL; W.Q. CONTROL FOR STREET AREA IS TO BE PROVIDED BY A W.Q. POND (SEE PLAN)
7. THERE ARE NO EXISTING WOODLANDS ON THIS PROPERTY.

DEVELOPMENT TIMETABLE:

TO BE DEVELOPED AS ONE PHASE BEGINNING IN THE FALL OF 2002
 CONSTRUCTION OF ROAD AND UTILITIES TO BE COMPLETED BY SPRING OF 2003

RECEIVED
 AUG 2 2002
 CHESAPEAKE BAY
 CRITICAL AREA COMMISSION



ADC ATLAS PG 30 GRID B-4 WSSC 214:215 SW1
 VICINITY MAP SCALE 1" = 2000'

7/30/02	Include access ramp to L-D-O
DATE	DESCRIPTION



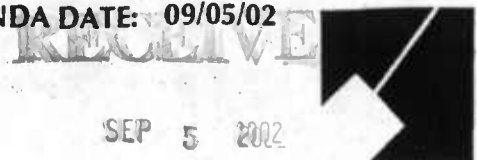
MARLBORO ENGINEERING CONSULTANTS, INC.
 Civil Engineers - Land Planners
 P.O. Box 2239
 Upper Marlboro, MD 20773-2239
 Phone 301-249-8022

CONCEPT PLAN
 PROPERTY OF
FLORIDA ON THE POTOMAC, L.L.C.
 LIBER 14894 FOLIO 008
 5TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND

DATE: SEPT 2001
 SCALE: 1"=100'
 SHEET 1 OF 1
 M-NCPPG
 PG PLANNING DEPARTMENT
 JUL 30 2002
 DEVELOPMENT REVIEW DIVISION

Maryland-National Capital Park and Planning Commission
 Prince George's County Planning Department
 Development Review Division
 952-3530

AGENDA ITEM: 19
 AGENDA DATE: 09/05/02



Note: Staff reports can be accessed at www.mncppc.org/pgco/planning/plan.htm

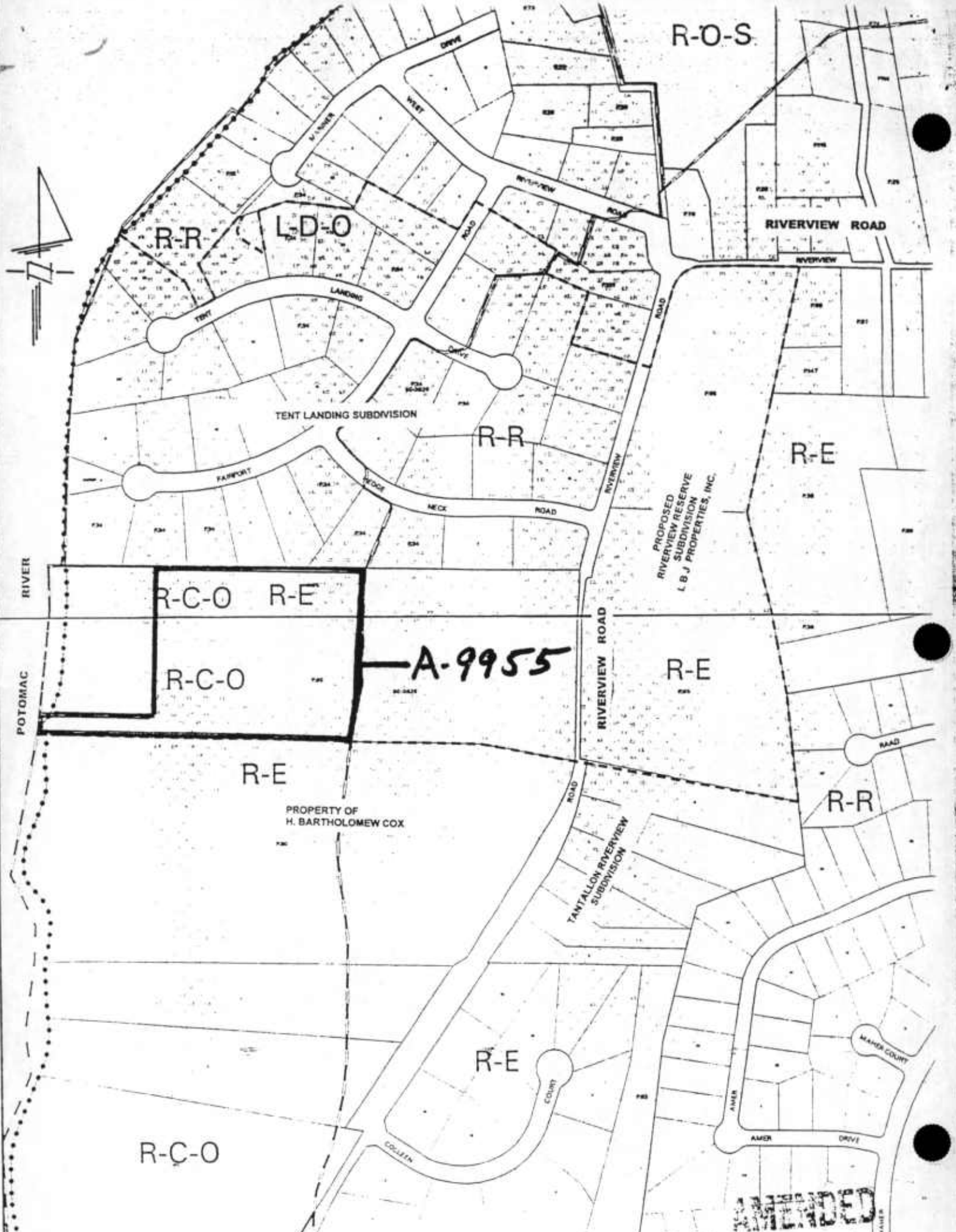
CHESAPEAKE BAY
 CRITICAL AREA COMMISSION

ZONING MAP AMENDMENT PETITION A-9955

Application	General Data
Project Name: Rivers Edge Location: Eastern shore of the Potomac River, approximately 720 feet west of Riverview Road and approximately 1,600 feet south of West Riverview Road. Applicant/Address: Florida on the Potomac, L.L.C. 7901 Branch Avenue Clinton, Maryland 20735	Date Accepted 9/28/01
	Planning Board Action Limit N/A
	Tax Map and Grid 122 C-4
	Plan Acreage 9.96
	Zone R-E/R-C-O
	Dwelling Units N/A
	Square Feet N/A
	Planning Area 80
	Council District 09
	Municipality None
	200-Scale Base Map 215SW1

Purpose of Application	Notice Dates
Rezoning from R-E/R-C-O Zone to the R-E/L-D-O Zone	Adjoining Property Owners (CB-15-1998) October 4, 2001
	Previous Parties of Record (CB-13-1997) N/A
	Sign(s) Posted on Site N/A
	Variance(s): Adjoining Property Owners N/A

Staff Recommendation			Staff Reviewer: Catherine H. Wallace
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	DISCUSSION
	X		



ZONING/VICINITY MAP SCALE 1" = 400'



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

August 28, 2002

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Catherine H. Wallace, Planner Coordinator *CHW*

SUBJECT: **Zoning Application No. A-9955**

REQUEST: Rezoning from the R-E (Residential Estate)/R-C-O (Resource Conservation Overlay)
Zone to the R-E/L-D-O (Limited Development Overlay) Zone

RECOMMENDATION: **APPROVAL; with conditions**

NOTE:

This application is on the agenda for the Planning Board to decide whether or not to schedule a public hearing. If the Planning Board decides to hear the application, it will be placed on a future agenda.

Any person may request the Planning Board to schedule a public hearing. The request may be made in writing prior to the agenda date or in person on the agenda date. All requests must specify the reasons for the public hearing. All parties will be notified of the Planning Board's decision.

You are encouraged to become a person of record in this application. The request must be made in writing and sent to the Office of the Zoning Hearing Examiner at the address indicated above. Questions about becoming a person of record should be directed to the Hearing Examiner at 301-952-3644. All other questions should be directed to the Development Review Division at 301-952-3530.

FINDINGS:

- A. Location and Field Inspection: The subject property is a ten-acre site that is part of a larger 23.5-acre tract extending from the eastern shore of the Potomac River to Riverview Road. It is also located about 1,600 feet south of West Riverview Road. With the exception of a 60-foot-wide strip running to the water's edge, the subject site is located 300 feet east of the tidal waters and about 720 feet west of Riverview Road. The property consists of open fields.

Development Data Summary

	EXISTING	PROPOSED
Zone(s)	R-E/R-C-O	R-E/L-D-O
Use(s)	Open fields	Maximum of 9 single-family detached dwellings
Acreage	9.96 acres	9.96 acres

B.

- C. History: The zoning map for the area is the Subregion VII Sectional Map Amendment, adopted in 1984. At that time the property was rezoned from the R-R (Rural Residential) to the R-E (Residential Estate) Zone, permitting residential development at a density of one dwelling unit per acre.

In June 1984, the Maryland General Assembly adopted the Chesapeake Bay Critical Area Law (Subtitle 18) after finding that there exists a critical and substantial state interest in fostering more sensitive development along the shoreline of the Chesapeake Bay so as to minimize damage to water quality and natural habitats. Prince George's County developed a comprehensive program which meets all of the requirements set forth by the Chesapeake Bay Critical Area Commission. The framework for the Prince George's County Chesapeake Bay Critical Area Program was created when the District Council adopted CB-72-1987, CB-73-1987, and CB-74-1987 on November 17, 1987. CR-120-1987 directed the Planning Board to initiate an overlay zoning map amendment to add the Chesapeake Bay Critical Area with the following overlay zones: Intense Development Overlay Zone (I-D-O), Limited Development Overlay Zone (L-D-O), and Resource Conservation Overlay Zone (R-C-O).

The initial Chesapeake Bay Critical Area Overlay Zones were adopted and approved in September 1989. That portion of the applicant's property lying within 1,000 feet of the mean high tide of the Potomac River was placed in the R-C-O (Resource Conservation Overlay) Zone, permitting the development of one dwelling per 20 acres.

In 1989, this property was the subject of a rezoning application (A-9783) and, together with 78 adjacent acres, the site of a special exception application for a retirement community (SE-3826). The special exception application was approved; however, the rezoning application was denied.

- D. Master Plan Recommendation: The recommendation of the 1981 *Master Plan for Subregion VII* is for residential estate development at a maximum density of one dwelling unit per acre. The property is located in the Developing Tier as reflected in the adopted *General Plan (2000)*.
- E. Request: The applicant requests a rezoning from the R-C-O to the L-D-O Overlay Zone.
- F. Neighborhood and Surrounding Uses: The neighborhood boundaries for this application are defined as follows:

North – Broad Creek

East – Fort Washington Road

South – Swan Creek and Swan Creek Road

West – Potomac River

With the exception of the Federal Communications Center located in the eastern part of the neighborhood, the area is developed with a mixture of R-R zoned subdivisions such as Sero Estates and Tantallon North and more sparsely developed acreage in the R-E Zone along the riverfront.

- F. Zoning Requirements:

Sec. 27-213.13. Map amendment approval.

- (a) **Mistake rule.**

- (1) **Except for Subsection (b), no application for amendment of a Chesapeake Bay Critical Area Overlay Zone shall be granted without the applicant proving that there was a mistake in the original zoning or subsequent rezoning.**

The proposed rezoning complies with Subsection (b) below; and therefore is not required to show mistake in the original or subsequent rezoning.

- (b) **Expansion of Intense Development and Limited Development Overlay Zones.**

- (1) **The boundaries of the Intense Development and Limited Development Overlay Zones may be expanded within the Chesapeake Bay Critical Area only in accordance with the following:**
- (A) **Acreage. The maximum area of future additional Intense Development or Limited Development Overlay Zones shall be five percent (5%) of the total area designated as Resource Conservation Overlay Zones at the time of adoption of the initial Chesapeake Bay Critical Area Overlay Zoning Map Amendment. A maximum of fifty percent (50%) of the permissible growth increment may be used**

**to rezone a Resource Conservation Overlay Zone to another
Chesapeake Bay Critical Area Overlay Zone.**

The applicant's request meets this criterion. The growth allocation process and the current status of that process are more fully described in the August 15, 2002, memorandum from John Markovich, M-NCPPC Environmental Planning Section, which is attached to this report. Prince George's County had a total growth allocation (future L-D-O or I-D-O potential) of 328.4 acres, of which half (164.2 acres) was available for conversion from the R-C-O Zone. Of this, 117.5 acres have not been allocated and are potentially available. This application requests a growth allocation of 10.0 acres to L-D-O from R-C-O. If approved, this would leave 107.5 acres for future growth allocation of R-C-O zoned properties. There are no pending applications to use additional growth allocation at this time.

**(B) Location. Expanded Intense Development or Limited Development
Overlay Zones may be approved subject to the following locational
criteria:**

(ii) New Limited Development Overlay Zones shall:

**(aa) Be located contiguous to existing Limited
Development Overlay Zones or Intense Development
Overlay Zones;**

This application meets the above requirement because the original zoning map amendment for the Chesapeake Bay Critical Area placed the abutting property to the north in the Limited Development Overlay Zone, (L-D-O).

**(bb) Be located at least three hundred (300) feet from tidal
waters or tidal wetlands if the land was originally
designated in the Resource Conservation Overlay
Zone, except for Water-Dependent Uses;**

Because this property is currently in the Resource Conservation Overlay Zone, most of the proposed rezoning is for the portion of the property located between 300 feet and 1,000 feet from the tidal waters. (There are no tidal wetlands on this property.) A 60-foot by 300-foot-wide strip down to the water's edge for access to the boat ramp is also included because it is a water-dependent use. The required criteria of this subparagraph have been met because the land located between the head of tide and inland 300 feet, with the exception of the water-dependent facility access, will retain the current zoning of Resource Conservation Overlay Zone.

**(cc) Minimize impacts on Habitat Protection Areas and
land in Resource Conservation Overlay Zones in
proximity to an expanded Limited Development
Overlay Zone.**

The Environmental Planning Section staff finds that this resource protection criterion has been met as well:

"There are no Habitat Protection Areas on the subject property, abutting properties, or other nearby R-C-O zoned lands. Habitat Protection Areas are defined as containing Natural Heritage Areas; Rare, Threatened, or Endangered Species; Colonial Waterbird Nesting Sites; Forests with Interior Dwelling Bird Species; Waterfowl Staging and Concentration Areas; Anadromous Fish Propagation Areas; and/or Non-tidal Wetlands."

"The closest land remaining in the Resource Conservation Overlay Zone, other than that portion of the subject property to remain in R-C-O, abuts the subject application to the south and includes six properties over a distance of 2,300 feet. Between 2,300 and 3,000 feet there is a property which was rezoned from R-C-O to L-D-O and then subdivided in accordance with the requirements for the L-D-O zone. As with this current application, that rezoning did not include the land between the head of tide and 300 feet inland. Proceeding further south the properties are zoned L-D-O (see Figure 1 for an illustration of the surrounding properties.)

"Within the R-C-O proceeding south from the subject application the properties within the first 1,200 feet have very little woodland and there are no Habitat Protection Areas. The next 500 feet includes a property on which a dwelling has been built, and the balance of the property is woodland. The next 320 feet includes a property on which there has been no construction, and the property is partially wooded. The balance of the 2,300 feet includes a property on which a dwelling has been built and is almost entirely wooded."

(C) Additional requirements. Prior to developing land in an expanded Chesapeake Bay Critical Area Overlay Zone, the area shall be mapped and submitted to the Chesapeake Bay Critical Area Commission for informational purposes only. This submission shall include an analysis of:

- (i) The manner in which the proposed expansion conforms to the locational criteria;**
- (ii) How the proposed expansion affects the total growth allocation; and**
- (iii) How the proposed expansion will accommodate the growth needs of municipalities impacted by the Chesapeake Bay Critical Area Overlay Zones.**

If the requested rezoning is approved, Prince George's County will submit to the Chesapeake Bay Critical Areas Commission (CBCAC) a request for approval of a 10.0-acre growth allocation with a submission addressing the above requirements. The first two criteria have been addressed in subsection (b)(1) above. The remaining criterion (iii) is satisfied in that the requested rezoning will permit development in conformance with the underlying zone and in a similar manner to that for the adjacent property located immediately north of this application.

H. Conformance with the Purposes of the Zone Requested:

Sec. 27-548.14. L-D-O (Limited Development Overlay) Zone.

(a) **Purposes.**

(1) **The purposes of the L-D-O Zone are to:**

- (A) **Maintain, or if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay;**
- (B) **Maintain existing areas of natural habitat; and**
- (C) **Accommodate additional low- or moderate-intensity development in accordance with the *Conservation Manual*.**

The subject application meets the purposes of the L-D-O Zone. The Environmental Planning Section referral reply (August 15, 2002) states that:

“Although the western property line is the Potomac River, the portion of the property which is the subject of this application does not include streams, wetlands, floodplains or the associated buffers to these features. No areas of steep slopes with highly erodible soils or areas of severe slopes have been found to occur on the property. No adverse noise impacts have been identified in the vicinity of the property, and the proposed development is not a noise generator. The soils found to occur according to the Prince George’s County Soil Survey include Aura gravelly loams, Elkton silt loam, Galestown loamy sand, Keyport fine sandy loam, and Sassafras sandy loam. The most significant limitations associated with these soils include high water tables and impeded drainage which would have the greatest impact on sites requiring septic systems; however, public water and sewer are proposed. The sewer and water service categories are S-3 and W-3. Marlboro clay is not found to occur in the vicinity of this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication, entitled Ecologically Significant Areas in Anne Arundel and Prince George’s Counties, December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property...”

Development of the property will be subject to the Prince George’s County Stormwater Management Ordinance. Furthermore, the Chesapeake Bay Critical Program Conservation Manual will require the applicant to provide additional woodland cover of at least 15 percent of the site. Based on the above information, the development of this property in the L-D-O Zone will not lower the quality of runoff and groundwater entering this tributary of the Chesapeake Bay nor will it threaten the existence of natural habitats. It will accommodate additional low-density development in accordance with the underlying R-E Zone.

1. Applicant’s Position:

The applicant has submitted an application for rezoning of property within the Chesapeake Bay Critical Areas Overlay Zone which he believes meets the specific criteria for rezoning and will result in development consistent with that permitted on adjoining L-D-O/RE zoned land to the north. The applicant furthermore believes the requested rezoning to be in accordance with state law: “Zoning Map amendment applications may be granted by a local approving authority only upon proof of a mistake in the existing zoning, unless the proposed zoning map amendment is wholly consistent with the land classifications in the adopted program or propose the use of a part

of the remaining growth allocation in accordance with the adopted program (Section 8-1809(h)(2)(i) and (ii)."

J. Staff's Analysis:

Staff concurs with the applicant's arguments in support of this rezoning. The Chesapeake Bay Critical Area Overlay Zone was created to foster more sensitive development along the shoreline of the Chesapeake Bay and its tributaries so as to minimize damage to water quality and natural habitats. Balancing these environmental interests with the interests to use and enjoy the scenic and recreational opportunities offered in these areas of critical state concern has led to a program that provides for a limited amount of development opportunities. A maximum five percent growth factor was built into the program to allow for some expansion of the development envelope, as long as this expansion occurred in logical locations. These locations were limited to an extension of existing L-D-O or I-D-O (Intense Development) zoned lands and to areas not known to contain significant natural habitats.

Rezoning the subject property to the L-D-O Zone will permit a logical extension of the L-D-O Zone to the north into an area that contains neither wetlands nor animal habitats. It will provide for single-family residential development on one-acre lots, which is compatible with development in the surrounding neighborhood. It is furthermore noted that the proposed rezoning will have no adverse effects upon the surrounding transportation system. (See memorandum from Tom Masog, attached.)

It should be noted that the subject property is part of a parcel on which a special exception for a retirement community was approved in 1989. It appears that this applicant's proposed development of single-family detached units will effectively invalidate the approved site plan for SE-3826. Furthermore, the special exception has been approved for more than two years, but the property has not been developed. It is therefore recommended that SE-3826 be revoked in accordance with Section 27-328 of the Zoning Ordinance.

K. Concept Plan

The applicant submitted a concept plan in conformance with the submittal requirements of Section 27-213.12(b)(3). The concept plan shows 22 lots ranging in size from 30,000 to 65,000 square feet on the 23.5-acre parcel, of which the subject property occupies the central 9.96 acres. The plan also shows a proposed residential street, a stormwater management pond, and a 60-foot-wide strip providing access to an existing boat ramp and/or future pier. The Chesapeake Bay Critical Areas Commission staff has indicated that the CBCAC policy is to prohibit lot lines (unless the lots are a minimum 20 acres in size) on land within the 300-foot setback. (See letters dated October 15, 2001, and April 18, 2002.) The location of lot lines is, however, not a zoning issue and will be addressed at time of subdivision.

Section 27-313.13 (c) provides for conditional approval of a CBCA overlay zone:

(c) **Conditional approval.**

- (1) **When it approves a Zoning Map Amendment for a Chesapeake Bay Critical Area Overlay Zone, the District Council may impose reasonable**

requirements and safeguards (in the form of conditions) which the Council finds are necessary to:

- (A) Protect surrounding properties and property within the Chesapeake Bay Critical Area Overlay Zones from adverse effects which might accrue from the requested amendment; or**
 - (B) Further enhance the coordinated, harmonious, and systematic development of land within the Chesapeake Bay Critical Area Overlay Zones, including the use of time limitations for the commencement of construction.**
- (2) In no case shall these conditions waive or lessen the requirements of, or prohibit uses allowed in, the approved Overlay Zone.**

Staff recommends three revisions to the proposed concept plan. First, the lot lines should be removed from the plan. The location of lots should be determined through the subdivision process; it is premature to consider their location prior to that process. Second, the concept plan should indicate that the proposed development of the property is for single-family detached residences and related accessory uses, as well as the proposed water-dependent activities. Finally, it is recommended that the narrow strip of trees located along the riverfront be shown on the concept plan. This information will be important in the eventual review of the Conservation Plan.

L. Historic Preservation Issues

The following information was provided by Susan Pearl, M-NCPPC Planning and Preservation Section, Community Planning Division (August 14, 2002):

Background and Findings:

The 23.6-acre property (formerly part of Parcel 85, now known as Parcel 153, Tax Map 122) is listed as Historic Resource 80-14 (Site of Tent Landing) in the *Historic Sites and Districts Plan*. Errors in the original identification of the property (1973) and in the subsequent (1981 and 1992) listing of the property in the *Historic Sites and Districts Plan*, have recently been discovered, indicating that the property probably should not have been included in the Inventory of Historic Resources. Recent research has proven conclusively that the site of historic Tent Landing was **not** on this property, but actually one-fourth mile to the north.

The property was scheduled for evaluation by the Historic Preservation Commission. On December 18, 2001, by decision of the Historic Preservation Commission, the property was deleted from the Inventory of Historic Resources.

The Lyles Family Cemetery was located in the northeast corner of the subject property near Riverview Road. Five low altar ("table-top") tombs, with inscribed stones laid upon brick substructures, marked the burials of Dennis Magruder Lyles (1797-1828), and his four children, all of whom died in 1826—William J. Lyles, who died in July just before his first birthday; Sarah M. Lyles, who died in August at age 5; Eliza S. Lyles, who died in September at age 2, and Henrietta B. Lyles, who died in December less than two months old. All of the grave furniture was in

reasonably good condition, although the larger horizontal stone of Dennis M. Lyles was broken into two large pieces.

In anticipation of development of the property, the applicant applied to the State's Attorney for permission to remove the Lyles family burials and inscribed stones from this property, and to reinter the burials and re-establish the inscribed stones at St. John's Church, Broad Creek. Although the State's Attorney denied permission to remove the burials, his decision was appealed and reversed by the Circuit Court in June 2002. Accordingly, in June 2002, the Lyles family remains were disinterred and reinterred at St. John's Church, Broad Creek.

Conclusion and Recommendation

The subject 23.6-acre property, Parcel 153 on Tax Map 122, was evaluated for Historic Site status by the Historic Preservation Commission in December 2001 and was deleted from the Inventory of Historic Resources. The property is no longer subject to the Historic Preservation Ordinance and, therefore, Preservation Section staff will have no further comment on this property. (The December 18, 2001, decision of the Historic Preservation Commission to delete Historic Resource 80-14 from the Inventory of Historic Resources has been appealed and is presently being reviewed by the Zoning Hearing Examiner. No decision has yet been announced.)

Additional Comments

Although the subject property has not been determined to be subject to the Historic Preservation Ordinance, there is evidence that the site has a prehistoric significance. An August 26, 2002 memorandum from Susan Pearl notes the following:

Located on the same property (Tax Map 122, Parcel 153) and also on the adjoining property to the north (now owned by the Baha'i congregation) is a prehistoric site of considerable importance. It is identified in the Maryland inventory as Archaeological Site 18PR131 and represents a multi-component Native American base camp with cultural manifestations ranging from the Late Archaic to the Late Woodland periods (circa 4000 B.C. to 1600 A.D.). This archaeological site, professionally investigated in several phases between 1987 and 1990, has been determined eligible for listing in the National Register of Historic Places. The site was backfilled and, we believe, has not been disturbed since the closing of the excavation units in June 1990. But because of the prehistoric significance of the site, any development of this property, and consequent disturbance of the site, should be professionally monitored.

The archeological excavations, begun in 1987, were not completed. Based on the above information, it is recommended that the applicant include the Maryland Archaeological Site Inventory identification number on the preliminary plan of subdivision submission. Due to the archeological importance of the site, it is further recommended that, prior to the issuance of building permits, the applicant shall complete and submit to the Planning Board the Phase III archaeological investigation report.

Finally, it is noted that State law mandates that all work be stopped on the property should there be any future discovery of burial sites on the property:

...the developer should be alert to the possibility of discovering additional burials near the site of the Lyles Family Cemetery, either of members of the Lyles family or of the plantation's slaves. If any evidence of burials is discovered during grading or subsequent development, Maryland State Law requires that all work be stopped (Sections 265 and 267 of Article 27 of the *Annotated Code of Maryland*).

CONCLUSION:

The requested rezoning meets the requirements for expansion of the existing Limited Development Overlay Zone inventory in the Chesapeake Bay Critical Areas Overlay Zone through a rezoning from the R-E/R-C-O Zone to the R-E/L-D-O Zone. It is located adjacent to land in the L-D-O Zone and does not contain significant wildlife habitat areas. The request is within the limitations of the permitted growth allocation established for the critical areas within Prince George's County. Although the property was once a part of a large working plantation, it has been determined by the Prince George's Historic Preservation Commission that the site is not of historic importance to warrant inclusion in the County Inventory of Historic Resources. However, the site has been determined to be of prehistoric significance by the State of Maryland, and it is recommended that the applicant complete the archaeological investigative report begun earlier for the site.

Based on the above analysis, the requested rezoning from the R-E/R-C-O Zone to the R-E/L-D-O Zone is recommended for APPROVAL, subject to the following conditions:

1. The concept plan shall be revised to show the following:
 - a. The elimination of proposed lot lines.
 - b. The proposed uses.
 - c. The location of the existing tree line along the riverfront.
2. SE-3826 shall be revoked in accordance with Section 27-328 of the Zoning Ordinance.
3. The preliminary plan of subdivision shall contain the Maryland Archaeological Site Identification Number (18 PR 131).
4. Prior to the issuance of any building permits, the applicant shall submit to the Planning Board the completion of the Phase III archaeological investigation report prepared by a registered archaeologist.

Insert A

The Chesapeake Bay Critical Areas Commission staff has indicated that the CBCAC policy is to prohibit lot lines (unless the lots are a minimum 20 acres in size) on land within the 300-foot setback. (See letters dated October 15, 2001 and April 18, 2002.) The location of lot lines is, however, not a zoning issue and will be addressed at time of subdivision.

It should

9-1 9-9855.2

Careem: The nullification of mentioned only applies when a 2.0 text amendment makes the SE unnecessary (27-320.0). However, this is how Joyce addressed a similar situation w/ SE-4318:

INSERT # 2

← It appears that this applicant's proposed development of single-family detached units will effectively invalidate the approved site plan for SE-3826.

Therefore, ~~it is recommended~~ Furthermore, the special exception has been approved for more than two years, but the property has not been developed.

It is therefore recommended that SE-3826 shall be revoked in accordance with 27-328.

<input checked="" type="checkbox"/> Md. State Planning	(410) 974-2228 - Linda C. Janey, application & sketch	
<input type="checkbox"/> Md. Water Resources	(410) 260-8770 - C. Edmon Larrimore	Set
<input type="checkbox"/> National Park Services	(3) 699-2407 - Lynn Pilgrim, application & sketch	Set
<input type="checkbox"/> NASA	(3) 286-2000 - John E. Hodge	Set
<input type="checkbox"/> NCPC	(2) 482-7200 - Robert Crosby	Set
<input checked="" type="checkbox"/> Property Standards	(3) 883-6025 - Cindy Barry	Set
<input checked="" type="checkbox"/> DPW&T	(3) 883-5600 - Haitham A. Hijazi - Dale Coppage (Sand & Gravel only)	Set
<input type="checkbox"/> Soil Conservation	(3) 574-5162 - David Bourdon	Set
<input type="checkbox"/> University of Maryland	(3) 405-1000 - Irene Redmiles, application & sketch	Set
<input checked="" type="checkbox"/> WSSC	(3) 206-8000 - Joseph Mantua, PE., Leader, Development Services	Set

MUNICIPALITIES:

OTHER JURISDICTIONS:

<i>Chesapeake Bay Critical Area Commission</i>



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Countywide Planning Division
Environmental Planning Section
301-952-3650



August 15, 2002

MEMORANDUM

TO: Careen Wallace, Zoning Section

VIA: Cecilia Lammers, Supervisor, Environmental Planning Section *CSL*

FROM: John Markovich, Senior Planner, Environmental Planning Section *JPM*

SUBJECT: Rivers Edge; A-9955

The Environmental Planning Section has reviewed the above referenced application as amended and received by the Environmental Planning Section and Development Review Division on July 30, 2002. The rezoning application has been found to address the required environmental findings with respect to the Chesapeake Bay Critical Area Ordinance and the environmental constraints of the property. This memorandum includes a recommended condition of approval for your consideration.

Background

This site has not been previously reviewed by the Environmental Planning Section. This 23.50 acre property includes 13.64 acres of land in the Chesapeake Bay Critical Area (CBCA) which is currently zoned R-E/R-C-O. This application is intended to rezone 9.97 acres of the property from the Resource Conservation Overlay Zone to the Limited Development Overlay Zone. The portion of the property being rezoned is located between 300 feet and 1000 feet from the mean high tide line with the exception of a 60-foot wide strip leading to the Potomac River for access to the proposed boat ramp which is allowed as a water-dependent facility. The property is located in the Developing Tier as reflected in the adopted General Plan.

In June 1984, the Maryland General Assembly adopted the Chesapeake Bay Critical Area Law (Subtitle 18) after finding that there exists a critical and substantial State interest in fostering more sensitive development along the shoreline of the Chesapeake Bay so as to minimize damage to water quality and natural habitats. Prince George's County has developed a comprehensive program which meets all of the requirements set forth by the Chesapeake Bay Critical Area Commission. The framework for the Prince George's County Chesapeake Bay

Critical Area Program was created when the District Council adopted CB-72-1987, CB-73-1987, and CB-74-1987 on November 17, 1987.

CR-120-1987 directed the Planning Board to initiate an overlay zoning map amendment to add the Chesapeake Bay Critical Area with the following overlay zones: Intense Development Overlay Zone (I-D-O), Limited Development Overlay Zone (L-D-O), and Resource Conservation Overlay Zone (R-C-O). The initial Chesapeake Bay Critical Area Overlay Zones were adopted and approved in September, 1989.

Site Description

The property is located on the west side of Riverview Road approximately 1000 feet south of the intersection of Riverview Road and West Riverview Road. Although the western property line is the Potomac River the portion of the property which is the subject of this application does not include streams, wetlands, floodplains or the associated buffers to these features. No areas of steep slopes with highly erodible soils or areas of severe slopes have been found to occur on the property. No adverse noise impacts have been identified in the vicinity of the property and the proposed development is not a noise generator. The soils found to occur according to the Prince George's County Soil Survey include Aura gravelly loams, Elkton silt loam, Galestown loamy sand, Keyport fine sandy loam, and Sassafras sandy loam. The most significant limitations associated with these soils include high water tables and impeded drainage which would have the greatest impact on sites requiring septic systems, however, public water and sewer are proposed. The sewer and water service categories are S-3 and W-3. Marlboro clay is not found to occur in the vicinity of this property. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled "Ecologically Significant Areas in Anne Arundel and Prince George's Counties," December 1997, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. There are no designated scenic or historic roads in the vicinity of the property. This property is located in the Potomac River watershed.

Analysis of the Subject Application

The subject application, as amended, requests a rezoning from the Resource Conservation Overlay Zone to the Limited Development Overlay Zone within the Chesapeake Bay Critical Area. Section 27-213.13(b)(1) of the Zoning Ordinance permits the expansion of the Limited Development Overlay Zone within the Chesapeake Bay Critical Area in accordance with subparagraphs A, B, and C.

The acreage requirement is stated in subparagraph A as follows:

- "(1) The boundaries of the Intense Development and Limited Development Overlay Zones may be expanded within the Chesapeake Bay Critical Area only in accordance with the*

following:

- (A) *Acreage. The maximum area of future additional Intense Development or Limited Development Overlay Zones shall be five percent (5%) of the total area designated as Resource Conservation Overlay Zones at the time of adoption of the initial Chesapeake Bay Critical Area Overlay Zoning Map Amendment. A maximum of fifty percent (50%) of the permissible growth increment may be used to rezone a Resource Conservation Overlay Zone to another Chesapeake Bay Critical Area Overlay Zone."*

Subparagraph Analysis:

Table 1 summarizes the current status of the approved growth allocation. When the initial Chesapeake Bay Critical Area Overlay Zones were established, a benchmark to allow for future growth was also established. In addition, an analysis of the growth allocation was prepared which assumed certain areas would experience growth based on the underlying zoning and proximity to other L-D-O and I-D-O zones. One area that was evaluated was the subject property which was assumed to be a likely choice for use of the growth allocation. The growth allocation may be used to change Resource Conservation Overlay Zone to Limited Development Overlay Zone or Intense Development Overlay Zone or to change Limited Development Overlay Zone to Intense Development Overlay Zone if other provisions of Section 27-213.13(b)(1) are met. By regulation, the total allocation of 328.4 acres was divided in half to allow 164.2 acres of change from R-C-O to L-D-O or I-D-O and 164.2 acres from L-D-O to I-D-O.

TABLE 1

CHESAPEAKE BAY CRITICAL AREA GROWTH ALLOCATION CURRENT STATUS ¹			
Change from R-C-O	(acres)	Change from L-D-O	(acres)
R-C-O Allocation	164.2	L-D-O Allocation	164.2
Waterside (SMA)	-36.9	Port America	-98.0
Tepaske (A-9849)	-9.8		
Remaining Balance	117.5	Remaining Balance	66.2

¹ Total allocation available was 328 acres.

The application requests a growth allocation of 9.9685 acres, however, growth allocation has typically been measured in tenths of an acre, resulting in a request to convert 10.0 acres to L-D-O

River Edge, A-9955

Page 4

from R-C-O. This would leave 107.5 acres for future growth allocation of R-C-O zoned properties. There are no pending applications to use additional growth allocation at this time.

Recommended Finding:

The area criteria for an Overlay Zoning Map Amendment in Section 27-213.13(b)(1)(A) has been met.

The contiguity and resource protection requirements are stated in Subparagraph B as follows:

- "(B) Location. Expanded Intense Development or Limited Development Overlay Zones may be approved subject to the following locational criteria:*
- (ii) New Limited Development Overlay Zones shall:*
 - (aa) Be located contiguous to existing Limited Development Overlay Zones or Intense Development Overlay Zones;*
 - (bb) Be located at least three hundred (300) feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses; and*
 - (cc) Minimize impacts on Habitat Protection Areas and land in Resource Conservation Overlay Zones in proximity to an expanded Limited Development Overlay Zone."*

Subparagraph Analysis:

- (aa) The original zoning map amendment for the Chesapeake Bay Critical Area placed the abutting property to the north in the Limited Development Overlay Zone, L-D-O. Therefore the first criteria would be satisfied because the proposed Limited Development Overlay Zone is contiguous to an existing Limited Development Overlay Zone.
- (bb) The second criteria requires that the proposed Limited Development Overlay Zone be located at least 300 feet from tidal waters or tidal wetlands if the land was originally designated as Resource Conservation Overlay Zone. Because this property is currently in the Resource Conservation Overlay Zone, the proposed rezoning is for the portion of the property located between 300 feet and 1,000 feet from the tidal waters and tidal wetlands, and for a 60 foot by 300 foot wide strip down to the water's edge for access to the boat ramp, a water-dependent use. The required criteria of this subparagraph has been met because the land located between the head of tide and inland 300 feet, with the exception of the water-dependent facility access, will retain the current zoning of Resource Conservation Overlay Zone.

- (cc) There are no Habitat Protection Areas on the subject property, abutting properties, or other nearby R-C-O zoned lands. Habitat Protection Areas are defined as containing Natural Heritage Areas; Rare, Threatened, or Endangered Species; Colonial Waterbird Nesting Sites; Forests with Interior Dwelling Bird Species; Waterfowl Staging and Concentration Areas; Anadromous Fish Propagation Areas; and/or Non-tidal Wetlands.

The closest land remaining in the Resource Conservation Overlay Zone, other than that portion of the subject property to remain in R-C-O, abuts the subject application to the south and includes six properties over a distance of 2300 feet. Between 2300 and 3000 feet there is a property which was rezoned from R-C-O to L-D-O and then subdivided in accordance with the requirements for the L-D-O zone. As with this current application, that rezoning did not include the land between the head of tide and 300 feet inland. Proceeding further south the properties are zoned L-D-O (See Figure 1 for an illustration of the surrounding properties.)

Within the R-C-O proceeding south from the subject application the properties within the first 1200 feet have very little woodland and there are no Habitat Protection Areas. The next 500 feet includes a property on which a dwelling has been built and the balance of the property is woodland. The next 320 feet includes a property on which there has been no construction and the property is partially wooded. The balance of the 2300 feet includes a property on which a dwelling has been built and is almost entirely wooded.

Recommended Finding:

The contiguity and resource protection criteria for an Overlay Zoning Map Amendment under subparagraph (cc) have been met.

Figure 1. Proximity of Subject Property



Additional requirements are stated in subparagraph C as follows:

- (C) *Additional requirements. Prior to developing land in an expanded Chesapeake Bay Critical Area Overlay Zone, the area shall be mapped and submitted to the Chesapeake Bay Critical Area Commission for informational purposes only. This submission shall include an analysis of:*
- (i) *The manner in which the proposed expansion conforms to the locational criteria;*
 - (ii) *How the proposed expansion affects the total growth allocation; and*
 - (iii) *How the proposed expansion will accommodate the growth needs of*

municipalities impacted by the Chesapeake Bay Critical Area Overlay Zones."

Subparagraph Analysis:

To address the requirements in subparagraph C, if the subject application is approved, the applicant shall submit the required information to the Chesapeake Bay Critical Area Commission and provide documentation to the M-NCPPC Environmental Planning Section that the information was submitted, prior to approval of any Critical Area Conservation Plans.

Recommended Finding:

The approval of this change from R-C-O to L-D-O, will permit development to proceed in conformance with the underlying zoning and in a similar manner to that for the adjacent property located immediately north of this application.

Environmental Review

As revisions are made to the plans submitted the revision boxes on each plan sheet shall be used to describe revisions were made, when, and by whom.

1. A Simplified Forest Stand Delineation (FSD) was submitted for review with this application and was found to satisfy the requirements for an FSD in accordance with the Prince George's County Woodland Conservation and Tree Preservation Technical Manual.

Discussion: No additional information is required.

2. The entire 23.50 acre property is exempt from the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because 13.64 acres is located in the Chesapeake Bay Critical Area which has more stringent requirements than the Woodland Conservation Ordinance and the 9.86 acre portion of the property located outside the CBCA has less than 10,000 square feet of existing woodland.

Discussion: No additional information is required at this time. During the review of the Preliminary Plan of Subdivision and CBCA Conservation Plan, afforestation requirements will be addressed.

3. There are two revisions that are needed to the plans as submitted. The Concept Plan currently shows lot lines that are proposed. Because the subdivision of the property is not part of this review or approval the proposed lot lines should be removed from the plan. In addition, it is noted that both the Statement of Justification and Concept Plan submitted state that the site is not wooded, however, a narrow strip of woodlands occurs along the river bank and along the southern property line. While these areas may not meet the definition of woodlands according to the Woodland Conservation Ordinance, there are measurable areas of woods with respect to the Chesapeake Bay Critical Area Ordinance that should be shown on the Concept Plan submitted with the application. (The Woodland Conservation Ordinance does not apply to sites in the Critical Area - these sites must comply with the Conservation Manual which requires an accurate illustration of the existing tree line.)

Recommended Condition: Within 90 days of final approval of the rezoning case by the District Council, the Concept Plan, shall be revised as follows:

- a. *Remove the proposed lot lines from the plan.*
- b. *Revise the existing tree line to reflect accurately the existing conditions.*

If you have any questions concerning these comments, please contact me at 301-952-5404 or by e-mail at john.markovich@ppd.mncppc.org

JPM:jpm

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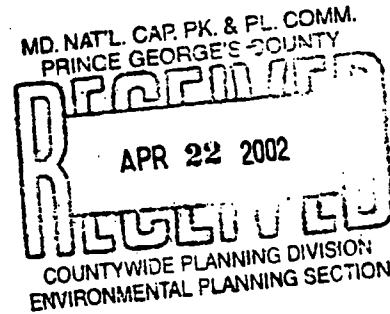
Judge John C. North, II
Chairman



Ren Serey
Executive Director

STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338



April 18, 2002

Mr. John Markovich
Development Review Division, Zoning Section
Maryland National Capital Park and Planning Commission
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Chesapeake Bay Critical Commission Program Subcommittee
Discussion of Florida on the Potomac/Amended Site Plan

Dear Mr. Markovich:

Thank you for attending the Commission's March Program Subcommittee meeting to continue the discussion of the Florida on the Potomac growth allocation request. I will provide you with the determination of the Subcommittee.

After reviewing the issue of whether lot lines can run through the RCO without deducting that area, the Program Subcommittee decided that deduction is necessary. The Subcommittee believes that when a setback is provided, it should not have lot lines running through it, otherwise it needs to be deducted as part of the growth allocation request.

Configuration of the development envelope (i.e. 9.5 acres beyond the 300-foot setback plus an approximately 50-foot wide section through the RCO to the Potomac) is acceptable due to the County's requirement in its Zoning Ordinance that a 300-foot setback shall be provided and that water-dependent facilities are permitted only in LDOs.

Since that time, I have received a copy of the revision to this application. The revision includes the new area proposed for rezoning which now includes a strip of land 60 x 306 foot long that extends from the upland portion of the parcel currently proposed for rezoning to the water's edge. I believe this width will be acceptable to the Commission.

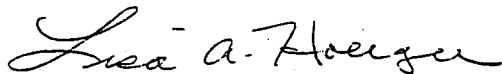
Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

Mr. Markovich
Page Two
April 18, 2002

Thank your again for your attendance and input. If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,



Lisa A. Hoerger
Natural Resources Planner

cc: Ms. Careen Wallace, MNCPPC
Ms. Sherry Conway Appel, DER
Mr. Thomas Haller, Esquire

Judge John C. North, II
Chairman



Ren Serey
Executive Director

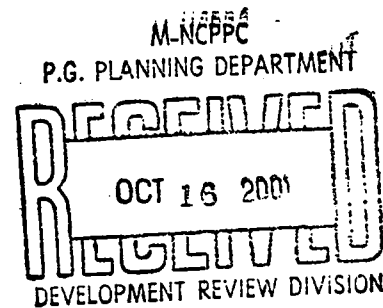
STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338

October 15, 2001

Ms. Careen Wallace
Development Review Division, Zoning Section
Maryland National Capital Park and Planning Commission
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: Rezoning from R-E/R-C-O to R-E/L-D-O
A-9955



ZONING SECTION

Dear Ms. Wallace:

Thank you for forwarding the above-referenced rezoning request to this office for review and comment. The applicant proposes to rezone 9.5470 acres from R-E/R-C-O to R-E/L-D-O. The remaining area of the parcel will be in RCO. Based on the site plan provided, it appears the existing house to remain is located on the area of the parcel proposed to remain RCO, which will be less than 20 acres. This makes proposed Lot 13 nonconforming with respect to the one unit per 20-acre requirement in the RCO. Therefore, it appears the entirety of the parcel must be deducted.

If the existing house were to be removed, there would be no issue with nonconformance; however, the proposed lot lines through the RCO to the water would not be permitted if the applicant still proposed the 300-foot setback area to remain as RCO. The RCO could remain only if the 300-foot setback area were placed in an easement and owned by the community association and not included in individual lots.

If you have any questions, please do not hesitate to contact me at (410) 260-3478.

Sincerely,


Lisa A. Hoerger
Natural Resources Planner

cc: Mr. Jim Stasz
Mr. Richard Thompson

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093

TTY For The Deaf:
Annapolis: (410) 974-2609 D.C. Metro: (301) 586-0450

CHESAPEAKE BAY CRITICAL AREA COMMISSION

1804 West Street, Suite 100

Annapolis, Maryland 21401

MEMORANDUM

To: Program Subcommittee

From: Mary Owens, Lisa Hoerger

Date: January 25, 2002

Subject: Florida on the Potomac Growth Allocation Request - Prince George's County

This project is located on the Potomac River, west of Riverview Road. The parcel is 23.5 acres of which 13.64 acres are in the Critical Area. The parcel is an open field with little vegetation. The requested growth allocation is for 9.5470 acres to be changed from RCA to LDA. There will be 4.0938 acres remaining in RCA. This area is within the 300-foot setback (see attached map).

Issues for Discussion

Deduction methodology - Usually, the entirety of this parcel would be deducted because there is less than 20 acres remaining in the RCA; however, the County's Ordinance at Section 27-213.13 (b)(1)(B)(ii)(bb) states that new Limited Development Overlay Zones shall, "Be located at least three hundred feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses." The Commission's Policy states that if a 300-foot setback is provided, it does not need to be deducted. Currently there is a dwelling located in the setback and the dwelling will need to be removed in order for the setback to remain RCA. If the dwelling were to remain it would not meet the 20-acre density requirement on the remaining RCA portion of the property.

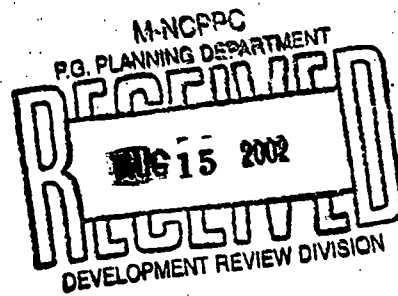
Development envelope - The project will provide for a 300-foot setback except for one portion of the shoreline where there is currently a driveway that extends to the shoreline and an existing boat ramp. Under the County's Ordinance language cited above, it appears this may qualify as the water-dependent use permitted to become LDO at less than 300 feet. The question now becomes whether this "pipe-stemming" of the development envelope through the 300-foot setback to the shoreline is acceptable.

Lot lines - The proposed waterfront lots have lot lines that extend through the 300-foot setback to the shoreline. Generally the Commission has required that if a 300-foot setback is provided and is not to be deducted then lot lines must not extend into the setback. Prince George's County has concerns that it will be difficult to manage and maintain this small area if it is not located within individual lots. Commission staff believe that it will be difficult to maintain the area as a vegetated Buffer if it is included within lot boundaries.

At the February Subcommittee Meeting, the applicant and County staff will be present to discuss the proposal before it is officially submitted to Prince George's County as a growth allocation request. Commission staff will be meeting with County staff prior to the Commission meeting to discuss these issues, so additional information will likely be provided at the Subcommittee meeting.

MEMO

THE PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT



DATE: 14 August 2002
TO: Careen Wallace, Zoning Section, Development Review Division
FROM: Susan G. Pearl, Planning & Preservation Section, Community Planning
RE: Rezoning Application A-9955

Background and Findings:

The 23.6-acre property (formerly part of Parcel 85, now known as Parcel 153, Tax Map 122) is listed as Historic Resource 80-14 (Site of Tent Landing) in the *Historic Sites and Districts Plan*. Errors in the original identification of the property (1973) and in the subsequent (1981 and 1992) listing of the property in the *Historic Sites and Districts Plan*, have recently been discovered, indicating that the property probably should not have been included in the Inventory of Historic Resources. Recent research has proved conclusively that the site of historic Tent Landing was **not** on this property, but actually one-fourth mile to the north.

The property was scheduled for evaluation by the Historic Preservation Commission. On 18 December 2001, by decision of the Historic Preservation Commission, the property was deleted from the Inventory of Historic Resources.

The Lyles Family Cemetery was located in the northeast corner of the subject property near Riverview Road. Five low altar ("table-top") tombs, with inscribed stones laid upon brick substructures, marked the burials of **Dennis Magruder Lyles** (1797-1828), and his four children, all of whom died in 1826 - **William J. Lyles** who died in July just before his first birthday; **Sarah M. Lyles** who died in August at age 5; **Eliza S. Lyles** who died in September at age 2, and **Henrietta B. Lyles** who died in December less than two months old. All of the grave furniture was in reasonably good condition, although the larger horizontal stone of Dennis M. Lyles was broken in two large pieces.

In anticipation of development of the property, the applicant applied to the State's Attorney for permission to remove the Lyles family burials and inscribed stones from this property, and to reinter the burials and re-establish the inscribed stones at St. John's Church, Broad Creek. Although the State's Attorney denied permission to remove the burials, his decision was appealed and reversed by the Circuit Court in June 2002. Accordingly, in June

Careen Wallace, A-9955

14 August 2002

Page 2

2002, the Lyles family remains were disinterred and reinterred at St. John's Church, Broad Creek.

Conclusion and Recommendation

The subject 23.6-acre property, Parcel 153 on Tax Map 122, was evaluated for Historic Site status by the Historic Preservation Commission in December 2001, and was deleted from the Inventory of Historic Resources. The property is no longer subject to the Historic Preservation Ordinance, and therefore Preservation Section staff will have no further comment on this property.

* The 18 December 2001 decision of the Historic Preservation Commission (to delete Historic Resource 80-14 from the Inventory of Historic Resources) has been appealed, and is presently being reviewed by the Zoning Hearing Examiner. No decision has yet been announced.

cc: Area Planner Craig Rovelstad
Inventory file 80-14
File A-9955
Reading file
Notebook

G:\Referrals\Zoning\A-9955_sgp.doc

DATE: 26 August 2002
TO: Careen Wallace, Zoning Section, Development Review Division
FROM: Susan G. Pearl, Planning & Preservation Section, Community Planning
RE: Rezoning Application A-9955

In response to your request for further information on this case, I am transmitting the following:

Circuit Court Judge Martin over-ruled State's Attorney Johnson, and gave Leo Brusco authorization to move the burials of Dennis Magruder Lyles (who died in 1828) and his four children (all of whom died in 1826). Accordingly, Mr. Brusco undertook the disinterment of the five graves on Friday, 14 June, accompanied by a professional archaeologist as required by the judge's orders. They removed all evidence of the burials, as well as the inscribed stones, and took them to the Kalas Funeral Home. A reinterment ceremony was conducted at St. John's Church graveyard, Broad Creek, 25 June. When I visited St. John's during the week of 6 August, the inscribed stones had not yet been installed. However, the archaeologist's report on the disinterment (a copy of which I received on 16 August) indicates that the funeral home has now turned the stones over to St. John's Church.

Located on the same property (Tax Map 122, Parcel 153) and also on the adjoining property to the north (now owned by the Baha'i congregation) is a prehistoric site of considerable importance. It is identified in the Maryland inventory as Archaeological Site 18PR131 and represents a multi-component Native American base camp with cultural manifestations ranging from the Late Archaic to the Late Woodland periods (circa 4000 B.C. to 1600 A.D.). This archaeological site, professionally investigated in several phases between 1987 and 1990, has been determined eligible for listing in the National Register of Historic Places. The site was backfilled and, we believe, has not been disturbed since the closing of the excavation units in June 1990. But because of the prehistoric significance of the site, any development of this property, and consequent disturbance of the site, should be professionally monitored.

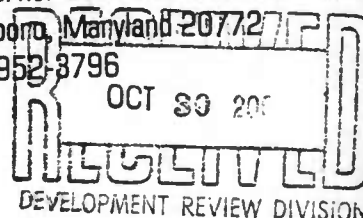
The 23.6-acre subject property was part of one of the large antebellum plantations of the Lyles family; this particular plantation was known as the "Tent Landing Farm" or the "Cottage Farm" and consisted of nearly 500 acres. The Lyles were extensive landowners. Before his death in 1815, William Lyles had maintained four large plantations and a labor force of 80 Negro slaves. His son, Dennis Magruder Lyles, inherited part of that wealth, and at the time of his death in 1828, owned and operated a fishery at the "Tent Landing Farm;" he also owned some additional acreage including

Harmony Hall on Broad Creek, where he resided. At that time, Dennis Magruder Lyles was the owner of 20 slaves. When his four young children died in 1826, D. M. Lyles chose a burial spot on the "Tent Landing Farm" near the fishery that he operated on the Potomac River, rather than on the grounds of Harmony Hall. He was himself also buried in this cemetery when he died at a young age in 1828. Several other members of the Lyles family were buried in the graveyard at St. John's Church, Broad Creek, including Dennis Magruder Lyles' first wife, who had died in 1825.

The only known burials on the "Tent Landing Farm" property are of Dennis Magruder Lyles and his four children, but it is possible that there are additional family members buried there - it is not uncommon for tombstones to be destroyed, or to disappear, and therefore one must never assume that the marked graves are the only ones. One would ordinarily assume a 40- to 50-foot square boundary for a family cemetery, allowing for the possibility of additional unmarked burials. It is also possible that the slaves of the Lyles plantation were buried in the area near the known cemetery site. This nearly-500-acre plantation extended west to the shore of the Potomac, north to the shore of Broad Creek and inland to the east, and slaves could have been buried at any location on this land. In the case of most Prince George's County plantations of this period, the location of the slaves' burials is simply not known, but in several cases we know that slaves were buried fairly close to the private burial grounds of the plantation proprietors' families. Therefore, the developer should be alert to the possibility of discovering additional burials near the site of the Lyles Family Cemetery, either of members of the Lyles family or of the plantation's slaves. If any evidence of burials is discovered during grading or subsequent development, Maryland State Law requires that all work be stopped (Sections 265 and 267 of Article 27 of the *Annotated Code of Maryland*).

MN
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
PP
MC

14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772
 TTY: (301) 952-3796



October 29, 2001

MEMORANDUM

TO: Careen Wallace, Zoning Section, Development Review Division ZONING SECTION
FROM: Tom Masog, Transportation Planning Section, Countywide Planning Division
SUBJECT: A-9955, Rivers Edge (R-E/R-C-O to R-E/L-D-O)

The Transportation Planning Section has reviewed the Zoning Map Amendment application referenced above. The subject property consists of 9.55 acres of land in the R-E zone, with the Resource Conservation Overlay. The parcel is located between Riverview Road and the Potomac River, about 1,650 feet south of its intersection with Riverview Road South. The applicant is requesting a rezoning to R-E with the Limited Development Overlay.

Trip Generation

Although the underlying zone in each case is R-E, the overlay zones make a difference in the density which can be achieved. In this case, the R-C-O would limit development to one residence per 20 acres, while the L-D-O would allow development at the R-E density of one residence per acre. Under these assumptions, trip generation rates for development yield on the site indicate the following table:

Comparison of Estimated Trip Generation, A-9955, 9.55 acres					
Zoning or Use	D.U.'s or Square Feet	AM Pk. Hr. Trips		PM Pk. Hr. Trips	
		In	Out	In	Out
Existing Zoning R-E/R-C-O	1 D.U.	0	1	1	0
Proposed Zoning R-E/L-D-O	9 D.U.'s	1	6	6	2
Difference		+1	+5	+5	+2

The comparison of estimated site trip generation indicates that the proposed rezoning would have a small but detrimental impact during the AM or the PM peak hours. A traffic analysis was done for preliminary plan of subdivision 4-01027, however, and transportation staff determined that the critical

intersection, Fort Washington Road at Riverview Road, operates at Level-of-Service A in both peak hours both now and in the future. Furthermore, traffic counts along Riverview Road in the vicinity of the subject property indicate that peak hour traffic does not exceed 80 vehicles. These findings were made earlier this year based on 2001 counts. Therefore, there is not a transportation issue associated with the request.

The site does not have frontage on any Master Plan transportation facilities.

The transportation staff has no comment on the justification statement as presented.

Conclusions

This Section is aware that the adequacy or inadequacy of transportation facilities is not a central issue pertaining to the change or mistake finding required for a Euclidean rezoning. Based on the potential trip generation, the proposed rezoning would potentially have a small detrimental impact on the existing and programmed transportation facilities in the area of the subject property. In a 2001 traffic analysis done for an adjacent property, the transportation staff identified no transportation adequacy issues which would affect the development of this property.



Development Review Division

**** REFERRAL REQUEST ****

Date: October 9, 2001

To: Caren Wallace, Development Review Division, Zoning Section

From: Haitham Hijazi, P.E., Associate Director, OE

Subject: Riverview Road, 4-5684
(Rezoning from R-E/R-C-O to R-E/L-D-O - A-9955)

REFERRAL REPLY DUE DATE: October 31, 2001

M-NCPPC
P.G. PLANNING DEPARTMENT
RECEIVED
OCT 16 2001
DEVELOPMENT REVIEW DIVISION
ZONING SECTION

Related Cases: _____

- NEW PLAN
- REVISION

Please review and comment on this proposal by the above due date.

REFERRAL COMMENTS: The subject property is located along the frontage of Riverview Road, a County-maintained collector roadway. The property contains 23.5 acres of land located on eastern shore of the Potomac River, west of Riverview Road. This request is for the portion of the property, 9.5470 acres, to rezone from R-E/R-C-O to R-E/L-C-O zone. This will allow the property owner to develop a single family dwelling unit per acre instead of unit per 20 acres as permitted under the current zone. Street construction and right-of-way dedication for Riverview Road, in accordance with the Department of Public Works and Transportation's Standard No.15, are required.

Manny Senjalia, Dist Eng - 301-883-5710

**** ATTENTION MUNICIPALITIES ****

If you wish to become a Party of Record to this application, you must make the request IN WRITING to the Development Review Division

MEMO

THE PRINCE GEORGE'S COUNTY PLANNING DEPARTMENT

Prince George's County Planning Department
Community Planning Division

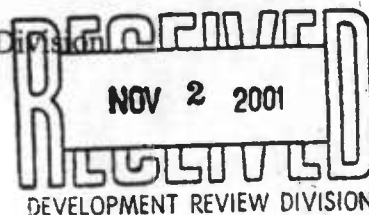
301-952-4225
www.mncppc.org

November 1, 2001

MEMORANDUM

TO: Caren Wallace, Zoning Section, Development Review Division
FROM: Craig Rovelstad, Planner Coordinator
SUBJECT: A-9955, R-E/R-C-O to R-E/L-D-O

M-NCPPC
P.G. PLANNING DEPARTMENT



DETERMINATION

ZONING SECTION

- The proposal to develop the subject property in the R-E Zone is in general conformance with the land use recommendations of the 1981 *Subregion VII Master Plan*.
- Issues and recommendations pertaining to the requested reclassification from the Chesapeake Bay Critical Area R-C-O, Resource Conservation Overlay Zone to the L-D-O, Limited Development Overlay Zone should be addressed by the Environmental Planning Section, Countywide Planning Division.

BACKGROUND

Location: West side of Riverview Road approximately 1,60 feet south of West Riverview Road, and extending to the Potomac River shoreline.

Size: 9.5 acres located in the center portion of a 23.5 acre tract of land.

Existing Uses: One dwelling unit, undeveloped land, grave sites in northeast corner.

Proposal: Change in Chesapeake Bay Critical Area (CBCA) Overlay Zones to allow more development according to the underlying R-E, Residential-Estate Zone.

2000 Interim General Plan: Developing Area.

MASTER PLAN AND SMA

Master Plan: 1981 *Master Plan for Subregion VII*.

- Planning Area/Community: PA 80/Broad Creek-Fort Washington.
- Land Use: Residential Estate land use at up to 1.0 dwelling unit per acre.
- Environmental: The master plan map indicates an area of Floodplain or Floodplain Soils along the Potomac River Shoreline, and a Conditional Reserve Area across the eastern side of the site corresponding to a small drainage shed.
- Historic Resources: This site is identified as a Historic Resource #80-14, Tent Landing. (See memo dated 10/30/01 by Susan Pearl, Planning and Preservation Section).
- Transportation: Riverview Road is a local residential street.
- Public Facilities: No public facilities are planned on or adjacent to this property.
- Parks & Trails: A Hiker-Biker trail is proposed along Riverview Road.

SMA/Zoning: The 1984 *Subregion VII SMA* classified this property in the R-E Zone. The 1989 CBCA Overlay Zoning Map Amendment classified the western part of this property in the R-C-O, Resource Conservation Overlay Zone.

PLANNING ISSUES

- The recommendations of the 1981 Master Plan are for residential estate development at a maximum density of up to one dwelling unit per acre along this part of the Potomac River shoreline. The subject proposal in the R-E Zone appears to be in general conformance with this recommendation.
- The CBCA Overlay Zone classified this property in the R-C-O, Resource Conservation Overlay Zone in September, 1989. This effectively restricted development within 1,500 feet of the shoreline to lots greater than 20 acres. Issues and recommendations pertaining to the requested reclassification for the L-D-O, Limited Development Overlay Zone, in order to allow more of the property to be developed in accordance with the R-E

Zone, are addressed by the Environmental Planning Section, Countywide Planning Division. (See memo dated 10/31/01 by John Markovich.)

c: Fred Shaffer, Countywide Planning Division
John Markovich, Countywide Planning Division
Susan Pearl, Community Planning Division

AMENDED STATEMENT OF JUSTIFICATION IN SUPPORT OF
CHESAPEAKE BAY AREA CRITICAL AREA OVERLAY ZONE AMENDMENT
A-9955

Florida on the Potomac, L.L.C. previously submitted a petition to modify the Chesapeake Bay Critical Area Overlay Zone for 9.547 acres located on the west side of Riverview Road from the R-C-O (Resource Conservation Overlay) Zone to the L-D-O (Limited Development Overlay) Zone. In conformance with Section 27-213.13(b)(1)(B)(ii)(bb), the area of the proposed rezoning was located at least 300 feet from the tidal waters of the Potomac River. During staff review of the application, an issue was raised regarding the continued use of an existing boat ramp which extends from the property proposed for rezoning to the water, running through the required 300-foot setback. After consultation with staff, it was agreed that use of the boat ramp could only continue if the area within which the boat ramp is located is also placed in the L-D-O Zone. The classification of land within 300 feet of the tidal waters of the Potomac is permitted for water dependent uses. As a result, the purpose of this amendment is to add .4215 acres to the property which is the subject of the original application in order to allow access to the boat ramp by the community. This 60-foot strip extends from the water about 300 feet.

9.54
.42
9.96

The addition of this area to the property which is proposed for the rezoning does not in any way modify the merits of the application. The inclusion of this area recognizes an existing

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facility which will be a benefit to the overall community. Continued use of the existing boat ramp is preferred to adding private piers to the waterfront area to service individual lots. Increasing the area of the proposed rezoning by .4215 acres can still be accommodated within the remaining growth allocation available in Prince George's County. Use of the existing boat ramp minimizes impact on habitat protection areas in the R-C-O Zone because it eliminates the need for additional private piers. As a result, the applicant submits that the addition of the proposed land to the property proposed for rezoning to the L-D-O Zone conforms with all of the applicable statutory requirements and is appropriate for the proposed use of the property as an upscale residential community.

Finally, the proposed rezoning, including the increased area addressed by this amendment, conforms with the purposes for the L-D-O Zone as set forth in Section 27-548.14. Specifically, three purposes are listed for the L-D-O Zone. The first purpose is to maintain or if possible, improve the quality of runoff and groundwater entering the tributaries of the Chesapeake Bay. The applicant maintains that the proposed development will improve the quality of runoff and ground water entering the Potomac River. Prior to the acquisition of the property by the current owner, the property was used as a field for cattle. No controls were provided on site for runoff emanating from the animals. The proposed development will include low impact development techniques which

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will ensure that stormwater management is provided for all new improvements, as well as existing runoff. In addition, in its current state the property has virtually no trees. Under the proposed rezoning and development, a 300-foot buffer will be maintained, with the exception of the 60-foot wide strip providing access to the existing boat ramp. This 300-foot area will be vegetated to improve water quality naturally flowing across the property.

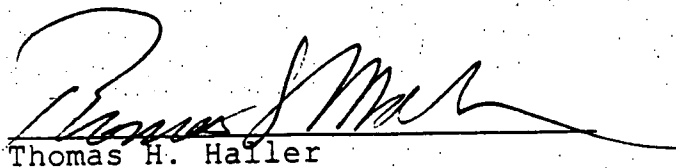
The second purpose of the L-D-O Zone is to maintain existing areas of natural habitat. As indicated above, the property is devoid of virtually all vegetation. The applicant will be vegetating an area 300 feet from the water, actually increasing the ability of the property to support natural habitats. Thus, the proposed development will maintain if not increase existing habitats.

Finally, the third purpose of the L-D-O Zone is to accommodate additional low or moderate intensity development in accordance with the Conservation Manual. The proposed development of the property is in accordance with the underlying R-E zoning, which permits low density residential development. All development on the property will be in conformance with the Conservation Manual.

Based upon the above, the proposed rezoning, as amended, conforms with all of the purposes of the L-D-O Zone and the applicant respectfully submits that the subject property, as

amended, is eligible for reclassification from the R-C-O Zone to the L-D-O Zone.

Respectfully submitted,



Thomas H. Haller

GIBBS AND HALLER
4640 Forbes Boulevard
Lanham, Maryland 20706
(301) 306-0033

AMENDED

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STATEMENT OF JUSTIFICATION IN SUPPORT OF
CHESAPEAKE BAY CRITICAL AREA OVERLY ZONE AMENDMENT

Florida on the Potomac L.L.C. is the owner of 23.5 acres of land located on the eastern shore of the Potomac River, west of Riverview Road. This property is more particularly described as that part of Parcel 153 located west of Riverview Road, found on Tax Map 122, Grid C-4. The portion of the property which is the subject of this application consists of 9.5470 acres beginning 300 feet east of the mean high tide line of the Potomac River and extending to 1,000 feet east of the mean high tide line (the "Subject Property"). The Subject Property is located in the Chesapeake Bay Critical Area. The underlying zoning of the Subject Property is R-E (Residential Estate) and the overlay zone is R-C-O (Resource Conservation Overlay). The purpose of this application is to rezone the subject property from the R-C-O Zone to the L-D-O (Limited Development Overlay) Zone. The residue of the applicant's property is not included in this application either because it is located outside of the Chesapeake Bay Critical Area or is being retained in the R-C-O Zone.

Description of Subject Property

The Subject Property is bounded on the north by the Tent Landing Subdivision, an as yet undeveloped subdivision in the L-D-O (R-R) Zone. The Subject Property is bounded to the east by the residue of the applicant's property, zoned R-E. The Subject Property is bounded to the south with undeveloped property also

located in the R-C-O (R-E) Zone. Finally, the property is bounded to the west by 300 feet of additional land owned by the applicant and proposed for retention in the R-C-O (R-E) Zone.

The Subject Property is currently improved with an existing house, pool and a shed, with the remainder of the property maintained as open fields. The Subject Property is not wooded and occupies approximately 600 feet of the Potomac River shoreline. The portion of the property which is the subject of this zoning map amendment application consists of 9.5470 acres. The area of the Subject Property which is proposed for the rezoning of the Overlay Zone lies within an area beginning 300 feet from the mean high tide line of the Potomac River and extends to 1,000 feet from the mean high tide, where the Chesapeake Bay Critical Area ends.

The property owner is desirous of developing the property with upscale executive homes, taking advantage of the location of the property abutting the Potomac River and its proximity to National Harbor. The remaining portion of the larger property of which the Subject Property was originally a part, known as Riverview Reserve, is proposed for development with similar executive type development and will be served by public water and sewer. As part of the development of Riverview Reserve, public water and sewer will be extended to the Subject Property. Although single family dwellings are permitted on one acre lots in the R-E Zone, that portion of the Subject Property located within the R-C-O Zone, is limited to a development density of one dwelling unit per 20 acres. The purpose

of this application is to request the District Council to adopt a program refinement to the Chesapeake Bay Critical Area Plan and amend the overlay zoning designation for the Subject Property from the R-C-O Zone to the L-D-O Zone. This rezoning will permit the development of the property at a density of one dwelling unit per acre. Pursuant to Section 27-213.12(b)(3)(A)(vii), the applicant has prepared and included with the application a concept plan depicting the proposed development. The property is proposed to be developed in a single phase, beginning in the fall of 2002.

Zoning History of Subject Property

The Subject property is within the area of the Subregion VII Master Plan, which was adopted on October 20, 1981. This plan recommends permanent low density residential estate land use for the area west of Riverview Road between Tent Landing and Tantallon Subdivision. In the 1984 Subregion VII Sectional Map Amendment, the property was rezoned from the R-R Zone to the R-E Zone in accordance with the Master Plan recommendation. Subsequently, on September 27, 1988, the Prince George's County Council, sitting as the District Council, adopted the Chesapeake Bay Critical Area Plan and Overlay Zoning Map Amendment. That portion of the applicant's property lying within 1,000 feet of the mean high tide of the Potomac River was placed in the R-C-O Zone because at that time, water and sewer was not available to serve the property. The property was placed in the R-C-O Zone along with six other parcels

described as not being served by public water and sewer (Change No. 21). The immediately adjacent Tent Landing subdivision, with an approved and recorded subdivision, was placed in the Limited Development Overlay (L-D-O) Zone. The total area of the applicant's property located within the R-C-O is 13.6408 acres, with 9.547 acres included in this application.

In 1988, the Subject Property was the subject of two applications. Zoning Map Amendment A-9783 sought the rezoning of the property from the R-C-O Zone to the L-D-O Zone. Concurrently, the same applicant sought approval of Special Exception application SE-3826 to construct a retirement community on the subject property and approximately 78 adjacent acres (the remainder of the applicant's property and the Tent Landing Subdivision). While the special exception application was ultimately approved, the rezoning application was denied. The basis of the denial of the prior rezoning was that the applicant did not establish that the District Council erred when the property was placed in the R-C-O Zone. As is set forth below, the applicable statutes do not require a finding of mistake in this application.

LEGAL BASIS FOR GRANTING ZONING MAP AMENDMENT

The Prince George's County Chesapeake Bay Critical Area Regulations were prepared as the result of State legislation which required each local jurisdiction to prepare a critical area protection program to control the use and development of that part

of the Chesapeake Bay Critical Area located within its territorial limits. Each of the locally developed programs is required to be submitted to the State Critical Area Commission for review and approval. Any amendment to an adopted critical area program is also required to be approved by the Critical Area Commission before it can take effect. Section 8-1809 of the Natural Resources Article of the Annotated Code of Maryland contains provisions which address amendments to an adopted critical area program. Amendments can be made to a critical area program in one of two ways. First, Section 8-1809(g) permits amendments to be made to the critical area program as a result of a review of the entire program which is mandated to occur at least every four years. Second, Section 8-1809(h) permits a local jurisdiction to make program amendments and refinements as often as necessary but not more than four times per calendar year. Such program amendments and refinements can occur through the approval of a zoning map amendment application. Zoning map amendment applications may be granted by a local approving authority only upon proof of a mistake in the existing zoning, unless the proposed zoning map amendment is wholly consistent with the land classifications in the adopted program or propose the use of a part of the remaining growth allocation in accordance with the adopted program (Section 8-1809(h)(2)(i) and (ii)).

Consistent with the provisions of the Natural Resources Article of the Annotated Code of Maryland, Prince George's County

has adopted procedures for amendments to the approved Chesapeake Bay Area Overlay Zones. These provisions are set forth in Sections 27-213.12 and 27-213.13 of the Prince George's County Zoning Ordinance. Section 27-213.13 specifically states that no application for an amendment of the Chesapeake Bay Critical Area Overlay Zone shall be granted without the applicant proving that there was a mistake in the original zoning or subsequent rezoning, unless the application complies with the provisions of Section 27-213.13(b). Section 27-213.13(b) states as follows:

(b) Expansion of Intense Development and Limited Development Overlay Zones.

(1) The boundaries of the Intense Development and Limited Development Overlay Zones may be expanded with the Chesapeake Bay Critical Area only in accordance with the following:

(A) Acreage. The maximum area of future additional Intense Development or Limited Development Overlay Zones shall be five percent (5%) of the total area designed as Resource Conservation Overlay Zones at the time of adoption of the initial Chesapeake Bay Critical Area Overlay Zoning Map Amendment. A maximum of fifty percent (50%) of the permissible growth increment may be used to rezone a Resource Conservation Overlay Zone to another Chesapeake Bay Critical Area Overlay Zone.

(B) Location. Expanded Intense Development or Limited Development Overlay Zones may be approved subject to the following locational criteria:

(i) New Intense Development Overlay Zones shall:

(aa) Be located in existing Limited Development Overlay Zones or contiguous to existing Intense Development Overlay Zones;

(bb) Be located at least three hundred (300) feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses; and

(cc) Minimize impacts on Habitat Protection Areas and on land in Resource Conservation Overlay Zones in proximity to an expanded Intense Development Overlay Zone.

(ii) New Limited Development Overlay Zones shall:

(aa) Be located contiguous to existing Limited Development Overlay Zones or Intense Development Overlay Zones;

(bb) Be located at least three hundred (300) feet from tidal waters or tidal wetlands if the land was originally designated in the Resource Conservation Overlay Zone, except for Water-Dependent Uses; and

(cc) Minimize impacts on Habitat Protection Areas and land in Resource Conservation Overlay Zones in proximity to an expanded Limited Development Overlay Zone.

(C) Additional requirements. Prior to developing land in an expanded Chesapeake Bay Critical Area Overlay Zone, the area shall be mapped and submitted to the Chesapeake Bay Critical Area Commission for information purposes only. This submission shall include an analysis of:

(i) The manner in which the proposed expansion conforms to the locational criteria;

(ii) How the proposed expansion affects the total growth allocation; and

(iii) How the proposed expansion will accommodate the growth needs of municipalities impacted by the Chesapeake Bay Critical Area Overlay Zones.

As will be more specifically set forth below, the applicant submits that it complies with each of the requirements set forth above and that this Zoning Map Amendment Application constitutes a program refinement of Prince George's County's approved Chesapeake Bay Critical Area Program.

COMPLIANCE WITH APPLICABLE CRITERIA

As set forth above, the criteria for approval of a program refinement is set forth in Section 27-213.13(b) of the Prince George's County Code. In this case, the applicant is requesting that land classified in the R-C-O Zone be rezoned to the L-D-O Zone. The underlying zoning of the property will remain the R-E Zone.

The first criteria is that the maximum area of future additional Intense Development Overlay (I-D-O) or L-D-O Zones shall be 5% of the total area designated as R-C-O Zones at the time of the adoption of the initial Chesapeake Bay Critical Area Overlay Zone map amendment. A maximum of 50% of the permissible growth increment may be used to rezone a R-C-O Zone to another Chesapeake Bay Critical Area Overlay Zone. Pursuant to information provided by Jim Stasz of the Natural Resources Division of The Maryland-National Capital Park and Planning Commission, the County initially established a total of 328± acres of growth allocation for changing R-C-O zoned property to the L-D-O Zone or I-D-O Zone. A total of 108.8 acres is currently available to be used to convert R-C-O

zoned property to either L-D-O or I-D-O zoned property. As a result, the subject application, which proposes to rezone 9.5470 acres from the R-C-O to the L-D-O Zone complies with the requirements of Section 27-213.13(b)(1)(A). Further, this application proposes to utilize less than ten (10) percent of the remaining growth allocation available under the adopted program.

The second criteria is that the expanded L-D-O Zone must be located contiguous to an existing L-D-O Zone or I-D-O Zone. The Subject Property meets this requirement as the subdivision immediately abutting the Subject Property to the north, Tent Landing, is located in the L-D-O Zone.

The third criteria is that the new L-D-O Zone be located at least 300 feet from tidal waters or tidal wetlands if the land was originally designated in the R-C-O Zone. The subject application includes only that portion of the applicant's property located greater than 300 feet from the mean high tide line of the Potomac River. Approximately 4.0938 acres of the applicant's property is proposed to be retained in the R-C-O Zone in order to comply with this requirement. As a result, the area of the proposed amendment is located at least 300 feet from the tidal waters of the Potomac River.

The fourth criteria is that the expanded L-D-O Zone minimizes impacts on Habitat Protection Areas and on land in R-C-O Zones in proximity to the expanded L-D-O Zone. As referenced above, the Subject Property was previously the subject of an application for

a rezoning from the R-C-O to the L-D-O Zone. At that time, no Habitat Protection Areas were identified which would be impacted by development of the property. Development of the property will minimize impacts on adjacent lands in the R-C-O Zones. The remaining portion of the applicant's property as well as the property immediately to the south will still be located in the R-C-O Zone. The applicant's proposed development of the Subject Property is consistent with the Master Plan recommendation for residential estate development. The property will be developed on public water and sewer and is currently in water and sewer category 3. Development of the Subject Property with single-family detached homes will require the installation of stormwater management facilities which will ensure protection of the adjoining properties and potentially improve the quality of stormwater runoff off site.

CONCLUSION

For the reasons set forth above, the applicant submits that the criteria set forth in Section 27-213.13(b) are satisfied and that the Subject Property is eligible for reclassification from the R-C-O Zone to the L-D-O Zone.

Respectfully submitted,










Thomas H. Haller

GIBBS AND HALLER
4640 Forbes Boulevard
Lanham, Maryland 20706
(301) 306-0033

**SITE
VICINITY MAP
A-9955**

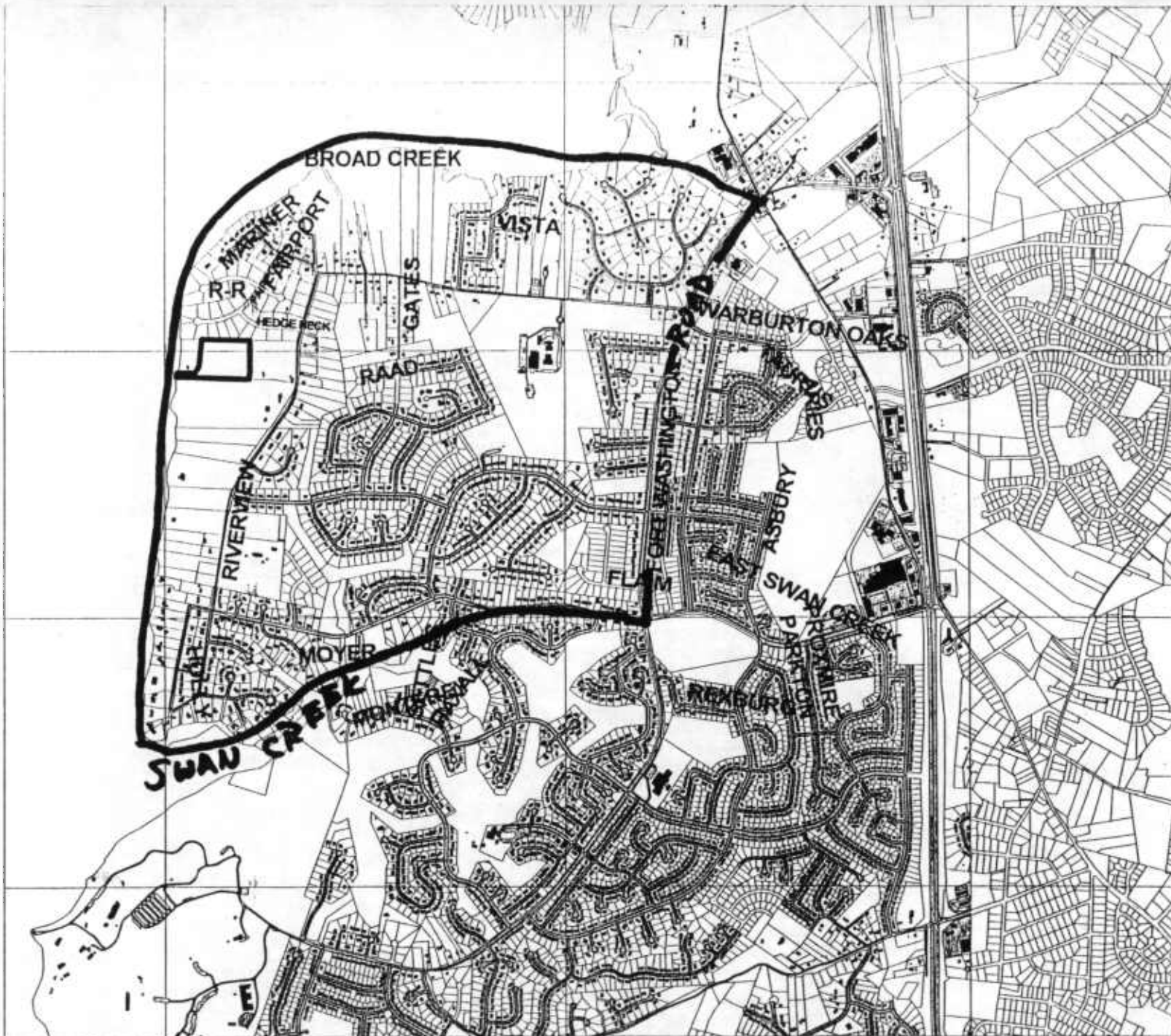
August 28, 2002

LEGEND

	Property Lines
	Center Line
	Railroad
	Buildings
	Bridges
	Roads
	Index



SCALE 1:22888.2



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Neighborhood Boundaries

SPIRITUAL ASSEMBLY OF
THE BAHAI'S OF MONTGOMERY
COUNTY, MD., INC.
L. 14606 F. 63G



"TENT LANDING"
PLAT WWW 66030
(UNIMPROVED)

POTOMAC RIVER

N 18° 11' 57" E 263.71'
N 07° 45' 21" E 300.04'

FAIRPORT ROAD

HEDGE

1650' ± TO & WEST
RIVERVIEW ROAD

RIVERVIEW ROAD

"RIVERVIEW RESERVE" # 4-01027

ANTALLON
RIVERVIEW.
YJ 158040
LOT 6

--- AREA #2: TO BE REZONED ---
434,226 \$ OR 9.9685 AC.

AREA #4 (1000' STRIP)
594,194 \$ OR 13.6408 ACRES

AREA #3
(OUTSIDE OF CBCA)
429,611 \$ OR 9.8625 AC.

TAX MAP 122, PARCEL 85, GRID C-4

- TOTAL TRACT AREA = 23.5033 ACRES

LIMIT OF
CBCA

R=922.93
A=113.87

Ex. BLDG
315.08

Ex. SHED

Ex. House

H. BARTHOLOMEW COX
L. 5382 F. 329

ZONING PLAT
PROPERTY OF
FLORIDA ON THE POTOMAC, LLC.

PREPARED BY:
MARLBORO ENGR. CONS., INC.
301-719-8022

LIBER 14894 FOLIO 008
5th ELECTION DISTRICT
PRINCE GEORGE'S COUNTY, MD

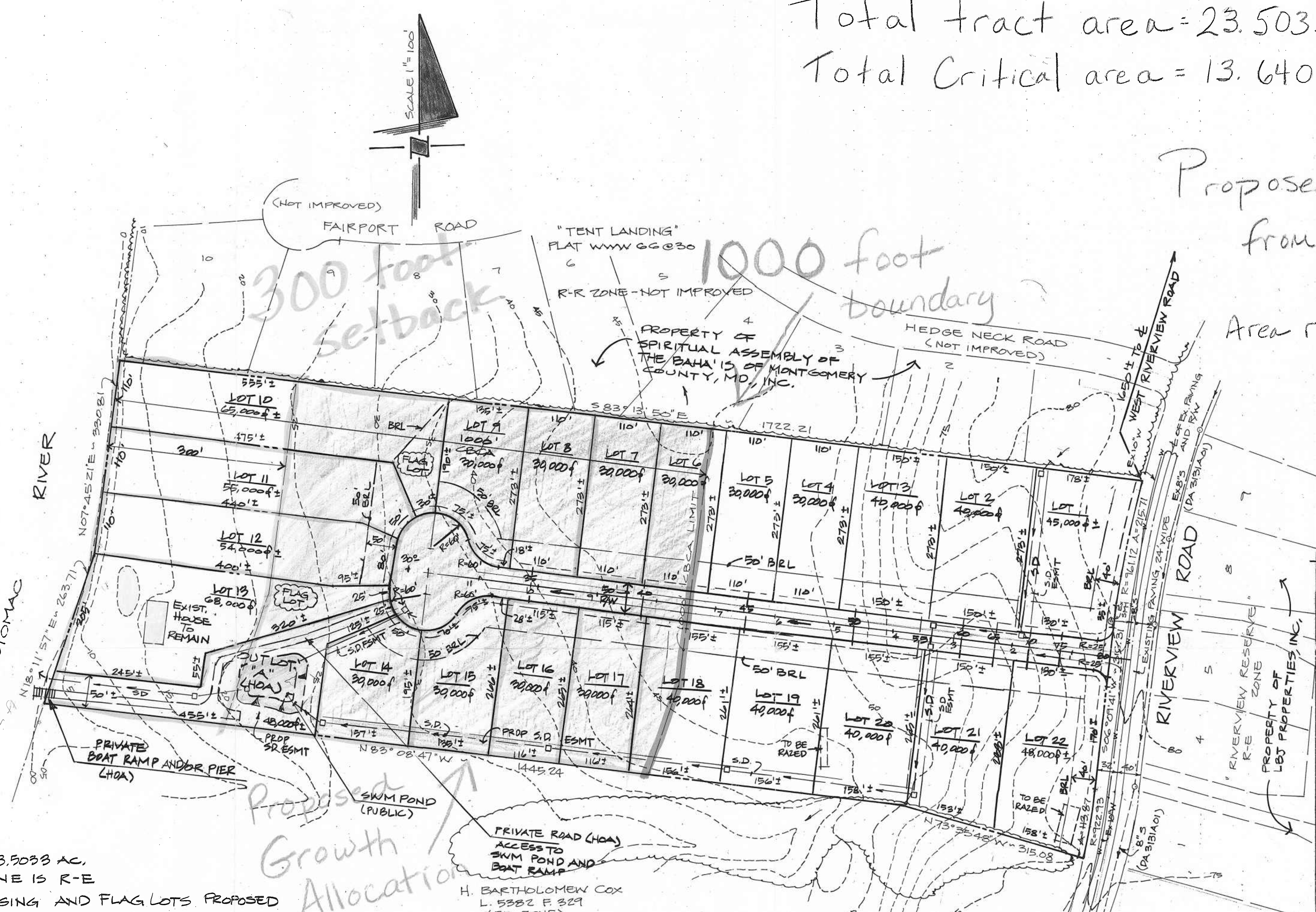
PI AT #2: CBCA AREA

AMENDED

BOOK

Total tract area = 23.5033 acres
 Total Critical area = 13.6408 acres

Proposed Growth Allocation
 from RCA to LDA = 9.5470 acres
 Area remaining in 300 foot setback =
 4.0938 acres

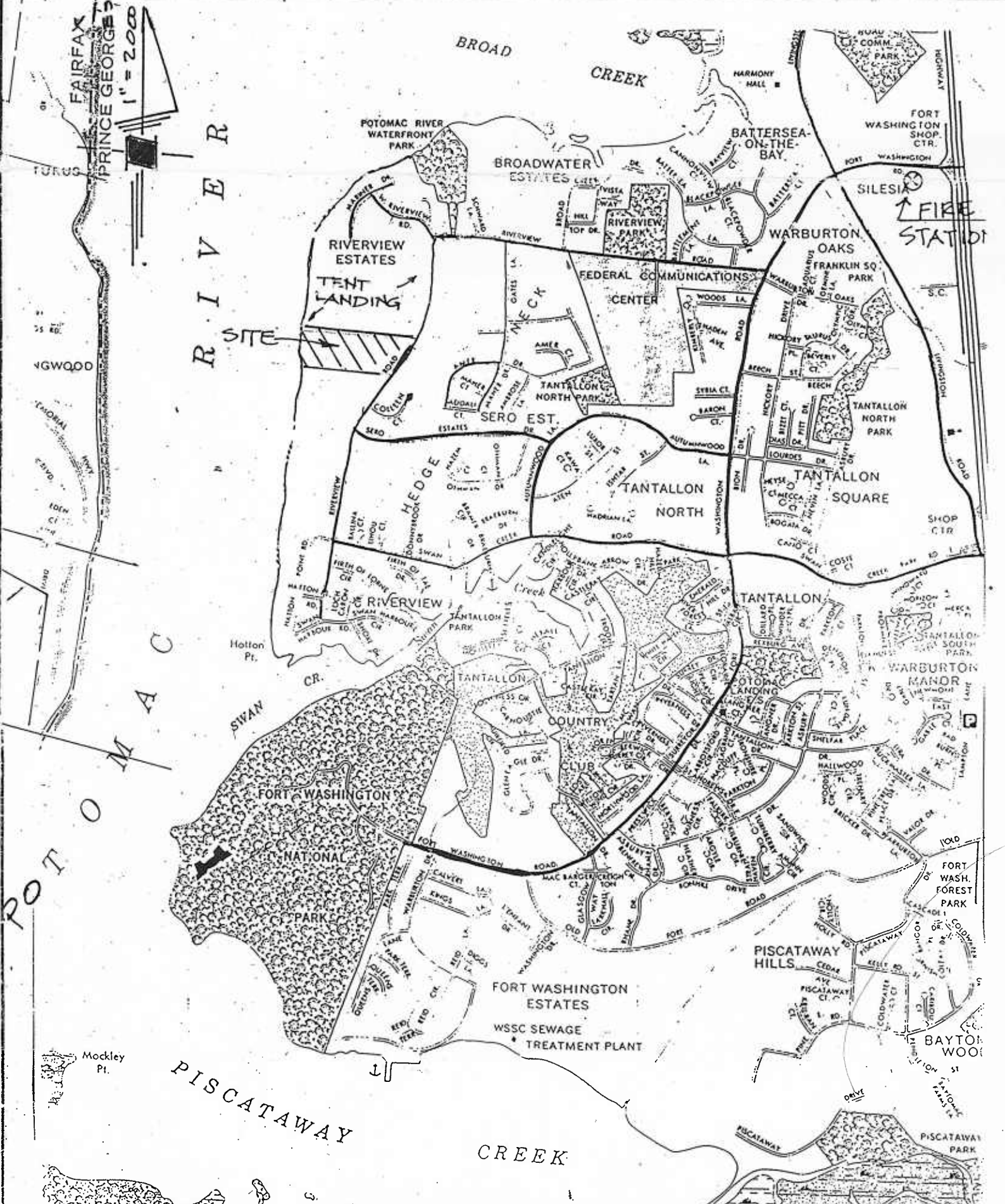


NOTES

1. TOTAL AREA = 23.5033 AC.
2. UNDERLYING ZONE IS R-E
3. LOT SIZE AVERAGING AND FLAG LOTS PROPOSED
4. PUBLIC WATER AND SEWER SERVICE IS PROPOSED
5. OUTLOT "A" IS TO BE CONVEYED TO A HOMEOWNER'S ASSOCIATION
6. EACH LOT IS TO HAVE A "BIO-RETENTION" SYSTEM FOR ON-SITE WATER QUALITY (W.Q.) CONTROL; W.Q. CONTROL FOR STREET AREA IS TO BE PROVIDED BY A W.Q. POND (SEE PLAN)
7. THERE ARE NO EXISTING WOODLANDS ON THIS PROPERTY.

DEVELOPMENT TIMETABLE:

TO BE DEVELOPED AS ONE PHASE
 BEGINNING IN THE FALL OF 2002
 CONSTRUCTION OF ROAD AND UTILITIES
 TO BE COMPLETED BY SPRING OF 2003



DATE	DESCRIPTION

MARLBORO ENGINEERING CONSULTANTS, INC.
 Civil Engineers - Land Planners
 P.O. Box 2239
 Upper Marlboro, MD 20773-2239
 Phone 301-249-8022

CONCEPT PLAN
 PROPERTY OF
FLORIDA ON THE POTOMAC, L.L.C.
 LIBER 14894 FOLIO 008
 5TH ELECTION DISTRICT
 PRINCE GEORGE'S COUNTY, MARYLAND

DATE: SEPT. 2001
 SCALE: 1" = 100'
 SHEET 1 OF 1
 SEP 28 2001
 A9955

ADC ATLAS PG 30 GRID B RECEIVED 214 215 SWI
 VICINITY MAP OCT 4 2001 SCALE 1" = 2000'